

## **Ram Kumar And Ors vs Union Of India And Ors on 21 February, 1991**

**Equivalent citations: 1991 SCR (1) 649, 1991 SCC (2) 247, 1991 AIR SCW 818, 1991 (2) SCC 247, (1991) 1 MAD LW 626, 1991 REVLR 1 365, (1991) 1 SCR 649 (SC), 1991 ALL CJ 1 676, (1991) 43 DLT 540, (1991) 2 MAD LJ 37, (1991) 2 MAHLR 380, (1991) 1 RRR 148, (1991) 2 CIVLJ 203, (1991) 20 DRJ 302, (1991) 2 LANDLR 17, (1991) 1 JT 582 (SC)**

**Author: N.M. Kasliwal**

**Bench: N.M. Kasliwal, K. Ramaswamy**

PETITIONER:

RAM KUMAR AND ORS.

Vs.

RESPONDENT:

UNION OF INDIA AND ORS.

DATE OF JUDGMENT 21/02/1991

BENCH:

KASLIWAL, N.M. (J)

BENCH:

KASLIWAL, N.M. (J)

RAMASWAMY, K.

CITATION:

1991 SCR (1) 649

1991 SCC (2) 247

JT 1991 (1) 582

1991 SCALE (1) 349

ACT:

Land Acquisition Act . 1894: Section 18 and 19. Land Acquisition-Compensation-Claimants application for reference under section 18 for claim of enhanced compensation in respect of the whole land acquired-But Land Schedule annexed with application indicating Khasra No. in respect of part of the lands-Collector making a statement under section 19 to the Reference Court restricted to lands specified by Khasra No. and not in respect of the whole land acquired-Held State acquiring land cannot take advantage of party's ignorance and consequent non-specification of Khasra No.-It is the duty of Collector to send full information to the Reference Court regarding the entire land acquired.

HEADNOTE:

The lands belonging to the appellants were acquired and they were awarded compensation for their lands. Being dissatisfied with the compensation they made an application for a reference to the Court under section 18 of the Land Acquisition Act, 1894. The Collector made a reference to the Additional District Judge and in its statement under Section 19 the Collector included only those lands which were included by the appellants in their application for reference under section 18. The appellants filed an application before the Additional District Judge under section 151-153 of the Code of Civil Procedure for a direction to the Collector to file a revised statement giving the details of the whole of their lands acquired for the purposes of claim of enhanced compensation. The Additional District Judge directed the Collector to furnish a correct statement under section 19. Against the order of the Additional District Judge the Union of India filed a revision petition before the High Court, which allowed the petition by holding that the power of the Collector to make a reference was restricted to what was stated by the appellants in their application for reference and only those Khasra Nos. which were specifically mentioned in the Schedule annexed with the application under section 18 could be considered for the purposes of enhancement of the claim of compensation and not the entire land acquired. Hence this appeal against the order of the High Court.

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Allowing the appeal and setting aside the order of the High Court, this Court,

HELD: 1. Under Section 18 of the Land Acquisition Act, 1894 the only requirement for the person interested who has not accepted the award is to move a written application to the Collector requiring that the matter be referred for the determination of the Court. One of the grounds for not accepting the award is the amount of compensation. Once such application is moved it is the duty of the Collector to make a reference to the Court. Under section 19 of the Act while making the reference the Collector is required to state for the information of the Court the particulars as mentioned in clause (a) to (d) of sub-section (1) of Section 19 of the Act. Thus it is the duty of the Collector to mention not only the situation and extent of land but even particulars of any trees, buildings or standing crops thereon. The agriculturist whose land is acquired may not be fully conversant with the Khasra No. or area as entered in the Revenue records and the Union of India or the State acquiring such land cannot be allowed to take any advantage of such ignorance of the agriculturists. Once an application is moved for making a reference under section 18 of the Act it becomes the duty of the Collector to send full

information to the Court regarding the entire land acquired and it is thereafter the duty of the Court to decide the matter in accordance with law. [657B-E]

2. From a perusal of the application filed under Section 18 of the Act along with the Schedule annexed therewith it is clear that the appellants were claiming an enhancement in the compensation in respect of the entire land acquired and there was no question of asking for a reference for a limited portion of land. The appellants were not required to pay any Court fees ad valorem on a prayer for enhancement of compensation while moving an application to the Collector for making a reference to the Court under section 18 of the Act. The High Court unnecessarily went into the question of some statement made by the learned counsel for the appellants before the Additional District Judge and examining its validity under Order X of the Code of Civil Procedure and thus committed an error in deciding the matter with a wrong approach and in a technical manner. [655E, F-G, 657F]

Smt Jamilabai v. Shankarlal Gulabchand, A.I.R. 1975 S.C. 2202; cited.

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#### JUDGMENT:

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 195 of 1978.

From the Judgment and Order dated 10.8.1976 of the Delhi High Court in C.R. No. 354 of 1975.

Dr. Y.S. Chitale, K.B. Rohatagi, S.K. Dhingra and Shashank Shekhar for the Appellants.

V.C. Mahajan, R.B. Mishra, C.V.S. Rao and S.N. Terdal for the Respondents.

The Judgment of the Court was delivered by KASLIWAL, J. This appeal by special leave is directed against the judgment of Delhi High Court dated 10.8.1976 in Civil Revision No. 354 of 1975. Agricultural land measuring 78 bighas and 14 biswas belonging to the appellants situated in village Garhi Peeran was acquired under the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). The Land Acquisition Collector passed an award on 10.10.1967 allowing compensation for land in block 'A' @ Rs. 2300 per bigha and in block 'B' @ Rs. 1200 per bigha. The claimants/appellants submitted an application under Sec. 18 of the Act for making a reference to the Court. The Collector made a reference to the Court in pursuance to the said application submitted by the appellants. The Additional District Judge by Judgment dated 15.1.1971 increased the amount of compensation to Rs.4,000 per bigha for land in block 'A' and Rs.2,500 per bigha for land in block 'B'. The appellants filed an application on 16.1.1971 under Sections 151-153 C.P.C. before the Additional District Judge praying that the land in Khasra Nos. 408, 411, 763, 764, 891, 893, 410, 432, 433, 504, 506, 761, 900, 901, & 904 had not been shown by the Land Acquisition Collector in the statement under Section 19 of the Act although he had sent the names of all the Bhoomidars of

the aforesaid land. The mistake was on the part of the Land Acquisition Collector and the appellants should not suffer on account of the mistake or oversight of the Collector. It was thus prayed that in the interest of justice the Collector may be directed to file a revised statement under Sec. 19 of the Act giving the details of the whole of the land belonging to the claimants which had been left out on account of accidental slip or omission. The application was opposed on behalf of the Union of India. The Additional District Judge after hearing the parties at length, by order dated 18.2.1975 allowed the application and directed the Land Acquisition Collector concerned to furnish the correct statement under Sec. 19 of the Act regarding the land acquired of the appellants.

Aggrieved against the aforesaid order of the Additional District Judge, Union of India filed a revision before the High Court. The High Court by judgment dated 10.8.1976 allowed the revision and set aside the order of the Additional District Judge dated 18.2.1975. The appellants have now, come in appeal against the order of the High Court.

We have heard learned counsel for the parties and have perused the record. There is no manner of dispute that the land acquired was 78 bighas and 14 biswas and the appellants were entitled to the compensation of the entire land. The Land Acquisition Collector gave an award and the appellants being not satisfied with the amount of compensation submitted an application for making a reference to the Court under Sec. 18 of the Act. A perusal of the application submitted by the appellants under Sec. 18 of the Act shows that in para (1) it was stated as under:

"That the claimants' land details of which are given in the schedule has been acquired under the aforesaid Award. The Collector has awarded a very low rate of compensation to which claimants are not satisfied as their claims have not been adequately considered by the Collector."

Thereafter grounds of reference were stated and ground (9) which is relevant for our purpose is reproduced as under:

"9. That the claimant petitioners claim compensation for the whole of their land at the rate of Rs. 20,000 per bigha, Rs.10,000 for the well and Rs.200 each for each tree. They further claim Rs.60,000 each for their resettlement as their entire land in the village has been taken away under the acquisition and they have been uprooted. They also claim 15% solatium and interest at the rate of 6% per annum on the enhanced amount of compensation plus the solatium with effect from 4.3.1963."

A schedule of land belonging to claimant-petitioners was also annexed with the application which is as under:

SCHEDULE OF LAND BELONGING TO CLAIMANT PETITIONERS ACQUIRED UNDER AWARD NO. 2024 Kh. Nos. Area 898 4-16 899 0-11 417 1-03 431 2-09 407 0-05 405 1-11 507 5-06 514 4-16 515 4-16 520 2-04 406 2-17 416 3-08 etc. etc The High Court took the view that only those Khasra Nos. which were specifically mentioned in the schedule could alone be considered for the purpose of enhancement

of the claim of compensation and not the entire land acquired. The area of the above Khasra Nos. amounted to 34 bighas 2 biswas only though the total area of acquired land amounted to 78 bighas and 14 biswas. The High Court in this regard took the view that the reference was made by the Collector by sending a statement of the Court of the Additional District Judge under Sec. 19 of the Act. In this statement only those fields were included which had been listed in the schedule attached to the application under Sec. 18. The High Court further held that the power of the Collector to make the reference was restricted to what was stated in the claimants' application for reference under Sec. 18 and does not extend beyond it. If the claimant, does not include some fields in his reference application, the Collector cannot include it in the statement under Sec. 19. The High Court further held as under:

"In the original reference petition under section 18 by claimants the adjective "whole" was used in relation to the land of the claimants and the words "etc. etc."

were also used in the schedule. At the same time, certain fields of the claimants which were the subject-matter of the Collector's award were not included in the reference petition. There was certainly an ambiguity as to the intention of the claimants as expressed by the reference petition. The counsel for the Union of India was, therefore, justified in requesting the Additional District Judge to call upon the claimants either to admit the statement sent by the Collector under Section 19 or to file an amended reference petition stating their shares individually. The Additional District Judge was also justified in asking the counsel for the claimants to examine the preliminary objections and to make a statement. The power of the Court to call upon the counsel for the claimants to make a statement was derived from Order X, Civil Procedure Code. Under Rule 2 of Order X, the Court had power to examine a party or his pleader and to record his answer in relation to any material question relating to the reference before it. Under Order XIV rule 3, the materials on which issues had to be framed by the Court included such statements made by the pleaders of the parties under Order X. Accordingly, we find that the learned Additional District Judge used the statement made by the counsel for the claimants as the basis for dismissing the preliminary objections advanced by the Union of India. The Counsel for the claimants had authority to make the statement which he did. The Supreme Court has recently pointed out in *Smt. Jamilabai v. Shankarlal Gulabchand*, AIR 1975 S.C. 2202, that the implied authority of the counsel extends not only to make such a statement but even to compromise a suit or to admit a claim. Had the counsel for the claimants not made the statement there that the Collector's statement under Section 19 is correct, the Additional District Judge would have been found to call upon the claimants to clarify the schedule to the reference petition so that the Court could know precisely the fields in respect of which enhancement of compensation was claimed. It is because the claimants' counsel asked the Court to take the Collector's statement under Section 19 as correct that the Court decided to investigate only the correctness of the compensation regarding those fields."

The High Court ultimately took the view that the only conclusion possible was that the enhancement was restricted to the land in dispute and the land in dispute could only be such land in respect of which reference was demanded by the claimants.

In our view the High Court was totally wrong and unnecessarily complicated the matter which seems to us, quite simple. It is an admitted position that 78 bighas and 14 biswas of land belonging to the appellants was acquired and the Land Acquisition Collector had given an award @ Rs.2,300 per bigha for block 'A' and Rs.1,200 per bigha for block 'B'. The appellants were not satisfied with the above rate of compensation and they had moved an application for making a reference under Sec. 18 of the Act. In the application it was clearly mentioned that the Collector had awarded a very low rate of compensation to which the claimants were not satisfied. In ground No. 9 the claimants/petitioners had mentioned that they were claiming compensation for the whole of their land @ Rs.20,000 per bigha. That apart in the schedule also some khasra Nos. were mentioned specifically but in the end the words used were 'etc. etc'. The Additional District Judge had passed the order on 15.1.1971 and immediately on the next day i.e. 16.1.1971 the appellants had submitted the application under Secs. 151-153 C.P.C. for correcting the mistake. The Additional District Judge who was seized of the matter allowed the said application by his order dated 18.2.1975. Thus from a perusal of the application filed under Sec. 18 of the Act alongwith the schedule we are fully satisfied that the appellants were claiming an enhancement in the compensation in respect of the entire land acquired and there was no question of asking for a reference for a limited portion of land measuring 34 bighas and 2 biswas only. The High Court unnecessarily went into the question of some statement made by the learned counsel for the appellants before the Additional District Judge and in examining its validity under Order X of the C.P.C. It was a simple matter to be decided on the basis of factual statements made in the application and we are fully convinced that the appellants had sought a reference for the entire land acquired and there was no reason whatsoever in leaving out some portion of the land when the grievance of the appellants was for enhancing the compensation which was awarded at a low rate. The appellants were not required to pay any Court fees ad valorem on a prayer for enhancement of compensation while moving an application to the Collector for making a reference to the Court under Sec. 18 of the Act. Learned counsel for the Union of India was unable to give any plausible explanation which might have persuaded the appellants to have left a large portion of the land in the application filed under Sec. 18 of the Act from claiming enhancement in the amount of compensation.

In order to appreciate the controversy we would like to Secs. 18 & 19 of the Act which are reproduced as under:

**Sec. 18. Reference to Court:**

(1) Any person interested who has not accepted the award may by written application to the Collector, require that the matter be referred by the Collector for the determination of the Court, whether his objection to the measurement of the land, the amount of the compensation, the persons to whom it is payable or the apportionment of the compensation among the persons interested. (2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made,-

(a) if the person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under Sec. 12, sub-section (2), or within six months from the date of the Collector's award, whichever period shall first expire. Sec. 19 Collector's statement to the Court-

(1) In making the reference, the Collector shall state for the information of the Court, in writing under his hand,-

(a) the situation and extent of the land, with particulars of any trees, buildings or standing crops thereon;

(b) the names of the persons whom he has reason to think interested in such land,

(c) the amount awarded for damages and paid or tendered under section 5 and 17, or either of them, and the amount of compensation awarded under section 11;and

(d) if the objection be to the amount of the compensation, grounds on which the amount of compensation was determined.

(2) To the said statement shall be attached a schedule giving the particulars of the notices served upon, and of the statements in writing made or delivered by the parties interested respectively."

Under Sec. 18 of the Act the only requirement for the person interested who had not accepted the award was to move a written application to the Collector requiring that the matter be referred for the determination of the Court. One of the grounds for the accepting the award was the amount of compensation. Once such application was moved it was the duty of the Collector to make a reference to the Court. Under Sec. 19 of the Act while making the reference the Collector was required to state for the information of the Court the particulars as mentioned in clauses (a) to (d) of sub-Sec. (1) of Sec. 19 of the Act. Thus it was the duty of the Collector to mention not only the situation and extent of land but even particulars of any trees, buildings or standing crops thereon. The agriculturist whose land is acquired may not be fully conversant with the khasra No. or area as entered in the Revenue records and the Union of India or the State acquiring such land should not be allowed to take any advantage of such ignorance of the agriculturists. Once an application is moved for making a reference under Sec. 18 of the Act it becomes the duty of the Collector to send full information to the Court regarding the entire land acquired and it is thereafter the duty of the Court to decide the matter in accordance with law.

Thus looking into the matter from any angle, we are fully satisfied that the Additional District Judge was justified in allowing the application filed by the appellants and the High Court committed an error in deciding the matter with a wrong approach and in a technical manner. In the result we allow this appeal, set aside the order of the High Court dated 10.8.1976 and uphold the order of the Additional District Judge dated 15.1.1971, with costs.

Appeal allowed.