

A SH. RAM CHANDER (DEAD) THR LRS

v.

UNION OF INDIA

(Civil Appeal Nos. 2926 - 2927 of 2022)

B APRIL 20, 2022

[M. R. SHAH AND B. V. NAGARATHNA, JJ.]

C *Land Acquisition Act, 1894 – High Court vide order dated 12.05.2017 allowed the review petitions filed by Union of India and recalled the judgment and order dated 19.10.2001 determining the compensation at Rs. 2000/- per sq. yard relying upon the decision in the case of Bhola Nath, solely on the ground that the decision in the case of Bhola Nath which was relied upon by the High Court was set aside by Supreme Court vide order dated 08.12.2010 – Appellants-land owners filed recall applications, Division Bench*
D *refused to recall the order dated 12.05.2017 – On appeal, held: High Court recalled the judgment and order dated 19.10.2001 passed in the regular first appeals solely on the ground that the judgment in the case of Bhola Nath, which was relied upon while passing judgment and order dated 19.10.2001 in Regular First*
E *Appeal No. 416/1986 and other allied first appeals was set aside by Supreme Court vide judgment and order dated 08.12.2010 and the matter was remanded – However, it is required to be noted that during the pendency of the review petitions, on remand again the High Court decided the first appeals in the case of Bhola Nath vide judgment and order dated 23.03.2016 and again determined the*
F *compensation at Rs. 2000/- per sq. yard – Even against the subsequent judgment and order dated 23.03.2016, the SLP preferred by the DDA was dismissed by Supreme Court vide order dated 06.04.2017 – Therefore, when review applications/petitions were allowed on 12.05.2017 on the ground that pursuant to the decision of this Court in the case of DDA Vs. Bhola Nath Sharma dated*
G *08.12.2010, the first appeals are remanded and pending, in fact there was already a decision on remand vide judgment and order dated 23.03.2016 and even the SLP was dismissed – Therefore, the ground on which the High Court had allowed the review applications was thereafter not available – Impugned judgment and order dated*
H *12.05.2017 in R.P. No.309/2008 in RFA No.416/1986 and the order*

dated 07.07.2017 in CMA No.23091/2017 in R.P. No. 309/2008 in RFA No. 416/1986 and impugned judgment and order in R.P. No. 310/2008 in RFA No. 453/1986, allowing review petition and recalling judgment and order dated 19.10.2001 in RFA Nos. 416/1986 and 453/1986, are quashed and set aside – Consequently, common judgment and order passed by the High Court dated 19.10.2001 in RFA Nos.416/1986 and 453/1986 are restored.

Allowing the appeals, the Court

HELD: 1.1 The Court have gone through the impugned judgment and order passed by the High Court in Review Petition Nos. 309/2008 and 310/2008 in respective Regular First Appeal Nos. 416/1986 & 453/1986. From the orders passed by the High Court allowing the review applications and recalling the earlier judgment and order dated 19.10.2001 passed in RFA Nos. 416/1986 & 453/1986, it appears that the High Court has recalled the judgment and order dated 19.10.2001 passed in the aforesaid regular first appeals solely on the ground that the judgment in the case of *Bhola Nath*, which was relied upon while passing judgment and order dated 19.10.2001 in Regular First Appeal No. 416/1986 and other allied first appeals was set aside by this Court vide judgment and order dated 08.12.2010 and the matter was remanded. However, it is required to be noted that during the pendency of the review petitions, on remand again the High Court decided the first appeals in the case of *Bhola Nath* vide judgment and order dated 23.03.2016 and again determined the compensation at Rs. 2000/- per sq. yard. Even against the subsequent judgment and order dated 23.03.2016, the SLP preferred by the DDA has been dismissed by this Court vide order dated 06.04.2017. Therefore, when review applications/petitions were allowed on 12.05.2017 on the ground that pursuant to the decision of this Court in the case of *DDA Vs. Bhola Nath Sharma* dated 08.12.2010, the first appeals are remanded and pending, in fact there was already a decision on remand vide judgment and order dated 23.03.2016 and even the SLP was dismissed. Therefore, the ground on which the High Court had allowed the review applications was thereafter not available. Under the circumstances, and in view of the subsequent development, which was even pointed out to the High Court while

A filing the recall application being CMA No. 23091/2017, the order(s) passed by the High Court in Review Petition Nos. 309/2008 and 310/2008 deserve(s) to be quashed and set aside. [Para 4][619-G-H; 620-A-E]

1.2 Even otherwise, it is required to be noted that earlier
 B also while passing judgment and order dated 19.10.2001 and allowing RFA Nos. 416/1986 and 453/1986, enhancing the compensation at Rs. 2240/- per sq. yard, the High Court relied upon the decision in the case of *Bhola Nath*. It is true that subsequently vide judgment and order dated 08.12.2010, the
 C decision in the case of *Bhola Nath*(First) was set aside and the matter was remanded. However, again on remand, the High Court has enhanced the compensation to Rs. 2000/- per sq. yard and the said judgment dated 23.03.2016 in the case of *Bhola Nath* (second) has been confirmed by this Court as the SLP has been dismissed. Therefore, even if the first appeals preferred by the
 D original land owners are heard again pursuant to the impugned order passed by the High Court in the review petitions, recalling judgment and order dated 19.10.2001, in that case also again the court will have to consider and rely upon the judgment in the case of *Bhola Nath*(second), which was earlier also relied upon. Therefore, the same will be nothing but an exercise in futility. In
 E any case, the cause and the reasons on which the High Court has allowed the review petitions and recalled judgment and order dated 19.10.2001 in RFA Nos. 416/1986 and 453/1986, did not exist in view of the subsequent development. The impugned judgment(s) and order(s) passed by the High Court allowing
 F review petitions hence deserve to be quashed and set aside and the judgment(s) and order(s) passed by the High Court given in RFA Nos. 416/1986 and 453/1986 are required to be restored. [Para 4.1][620-F-H; 621-A-B]

G *DDA v. Bhola Nath Sharma*; (2011) 2 SCC 54 – referred to.

Case Law Reference

(2011) 2 SCC 54 referred to Para 2.1

H CIVIL APPELLATE JURISDICTION : Civil Appeal Nos.2926-2927 of 2022.

From the Judgment and Order dated 12.05.2017 of the High Court of Delhi at New Delhi in Review Petition No.309 of 2008 in RFA No.416 of 1986 and CM No.12160 of 2008. A

With

Civil Appeal No.2928 of 2022

Yashraj Singh Deora, Siddhant Singh, Ms. Prakriti Roy, Ms. Manmeet Arora, Ms. Nidhi Mohan Parashar, Arpit Kumar Singh, Chaitanya Roy Wadera, Kartikeya Sharma, Shankar Divate, Advs. for the Appellants. B

Nachiketa Joshi, Kamendra Mishra, Ms. Neela Kadar Gokhale, Mrinal Elker Mazumdar, G. S. Makkar, Ms. Astha Tyagi, Advs. for the Respondent. C

The Judgment of the Court was delivered by

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 07.07.2017 in CMA No. 23091/2017 and order(s) dated 12.05.2017 in Review Petition Nos. 309/2008 & 310/2008, passed by the High Court of Delhi at New Delhi, the original land owners – appellants herein have preferred the present appeals. D

2. The present proceedings have a checkered history. The facts leading to the present appeals in a nutshell are as under: - E

2.1 A notification under section 4 of the Land Acquisition Act, 1894, was issued for acquiring land of the original land owners in village Jasola, Delhi. The Land Acquisition Officer declared award dated 29.01.1981, awarding compensation at Rs. 3500/- per bigha. The reference court enhanced the compensation to Rs. 22000/- per bigha vide judgment and order dated 03.05.1986. Thereafter, the High Court vide judgment and order dated 19.10.2001 enhanced the amount of compensation to Rs. 2240/- per sq. yard relying upon its own decision in the case of one Bhola Nath and others Vs. Union of India. At this stage, it is required to be noted that at the time when the High Court enhanced the amount of compensation in the year 2001 relying upon the decision in the case of Bhola Nath (supra), the Special Leave Petition (SLP) filed by the Union of India against the judgment in the case of Bhola Nath (supra) was already dismissed by this Court on 12.04.1999. F G

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- A However, the SLP filed by the Delhi Development Authority (DDA) – beneficiary in the Bhola Nath acquisition case came to be allowed subsequently by this Court vide judgment and order dated 08.12.2010 [**DDA v. Bhola Nath Sharma; (2011) 2 SCC 54**]. The matter was remanded to the reference court. On remand, the reference court
- B determined the compensation at Rs. 250/- per sq. yard, which was subsequently enhanced to Rs. 2000/- per sq. yard by the High Court vide subsequent judgment and order dated 23.03.2016. The SLP against the subsequent judgment and order dated 23.03.2016 passed by the High Court in the case of Bhola Nath (supra) came to be dismissed by this Court vide order dated 06.04.2017.
- C 2.2 Before that and at the relevant time, when the SLP in the case of Bhola Nath (supra) against the original judgment and order was pending before this Court, the Union of India filed the SLP before this Court challenging the judgment and order dated 19.10.2001 passed by the High Court in the case of present land owners, which was filed in
- D the year 2007. There was a delay of 2316 days in preferring the SLP. This Court dismissed the SLP arising from the judgment and order dated 19.10.2001 passed by the High Court in Regular First Appeal (RFA) No. 416/1986 and other allied first appeals. Despite the dismissal of the SLP on the ground of delay, on the very ground that the decision in the case of Bhola Nath (supra) which was relied upon while passing the
- E judgment and order dated 19.10.2001 in RFA No. 416/1986 and other allied first appeals and determined the compensation at Rs. 2000/- per sq. yard was pending, the Union of India filed the present review application, which was also after a period of six months of the dismissal of SLP. As observed herein above, during the pendency of the review
- F application and on remand to the reference court by this Court in the case of Bhola Nath (supra), the High Court again determined the compensation at Rs. 2000/- per sq. yard vide judgment and order dated 23.03.2016 and even the SLP preferred by the DDA against the judgment and order dated 23.03.2016 filed in the case of Bhola Nath (supra) came to be dismissed by this Court vide order dated 06.04.2017. By the
- G impugned ex-parte judgment and order, the High Court has allowed the review petitions and recalled the judgment and order dated 19.10.2001 in RFA No. 416/1986 and other allied first appeals, determining the compensation at Rs. 2000/- per sq. yard relying upon the decision in the case of Bhola Nath (supra), solely on the ground that the decision in the
- H case of Bhola Nath (supra), which has been relied upon by the High

Court while passing the judgment and order in RFA No. 416/1986 was set aside by this Court vide order dated 08.12.2010. The appellants herein having come to know about the impugned order dated 12.05.2017, allowing review and recalling judgment and order dated 19.10.2001, immediately preferred a recall application being CMA No. 23091/2017. It was brought to the notice of the Division Bench that on remand again the High Court had enhanced the compensation at Rs. 2000/- per sq. yard in the case of Bhola Nath (supra) and the SLP against the said judgment and order has been dismissed by the Supreme Court. However, by the impugned order dated 07.07.2017 though the High Court has noted that the aforesaid facts were not brought to the notice of the Court when it heard and allowed the review petition, the Division Bench of the High Court refused to recall the order dated 12.05.2017 allowing Review Petition (R.P.) No. 309/2008 by observing that as the appeal itself was listed before the Roster Bench, it will be open to the original land owners – appellants to place the above facts before the Roster Bench for its consideration.

2.3 Feeling aggrieved and dissatisfied with impugned order dated 12.05.2017 passed by the High Court in R.P. No. 309/2008 allowing the said review application/petition and recalling the judgment and order dated 19.10.2001 passed in RFA No. 416/1986 and dismissing the recall application being CMA No. 23091/2017 by order dated 07.07.2017, the original land owners – appellants before the High Court in RFA No. 416/1986, have preferred the present appeals being Civil Appeal Nos. 2926 and 2927 of 2022.

2.4 Similar order has been passed by the High Court in R.P. No. 310/2008 in Regular First Appeal No. 453/1986, which is the subject matter of Civil Appeal No. 2928/2022.

3. We have heard Shri Yashraj Singh Deora and Ms. Nidhi Mohan Parashar, learned counsel appearing on behalf of the respective appellants and Shri Nachiketa Joshi, learned counsel appearing on behalf of the respondent – Union of India.

4. We have gone through the impugned judgment and order passed by the High Court in Review Petition Nos. 309/2008 and 310/2008 in respective Regular First Appeal Nos. 416/1986 & 453/1986. From the orders passed by the High Court allowing the review applications and recalling the earlier judgment and order dated 19.10.2001 passed in RFA Nos. 416/1986 & 453/1986, it appears that the High Court has recalled

- A the judgment and order dated 19.10.2001 passed in the aforesaid regular first appeals solely on the ground that the judgment in the case of Bhola Nath (supra), which was relied upon while passing judgment and order dated 19.10.2001 in Regular First Appeal No. 416/1986 and other allied first appeals was set aside by this Court vide judgment and order dated 08.12.2010 and the matter was remanded. However, it is required to be
- B noted that during the pendency of the review petitions, on remand again the High Court decided the first appeals in the case of Bhola Nath (supra) vide judgment and order dated 23.03.2016 and again determined the compensation at Rs. 2000/- per sq. yard. Even against the subsequent judgment and order dated 23.03.2016, the SLP preferred by the DDA
- C has been dismissed by this Court vide order dated 06.04.2017. Therefore, when review applications/petitions were allowed on 12.05.2017 on the ground that pursuant to the decision of this Court in the case of DDA Vs. Bhola Nath Sharma (supra) dated 08.12.2010, the first appeals are remanded and pending, in fact there was already a decision on remand
- D vide judgment and order dated 23.03.2016 and even the SLP was dismissed. Therefore, the ground on which the High Court had allowed the review applications was thereafter not available. Under the circumstances, and in view of the subsequent development, which was even pointed out to the High Court while filing the recall application being CMA No. 23091/2017, the order(s) passed by the High Court in
- E Review Petition Nos. 309/2008 and 310/2008 deserve(s) to be quashed and set aside.

- 4.1 Even otherwise, it is required to be noted that earlier also while passing judgment and order dated 19.10.2001 and allowing RFA Nos. 416/1986 and 453/1986, enhancing the compensation at Rs. 2240/-
- F - per sq. yard, the High Court relied upon the decision in the case of Bhola Nath (supra). It is true that subsequently vide judgment and order dated 08.12.2010, the decision in the case of Bhola Nath (supra) (First) was set aside and the matter was remanded. However, again on remand, the High Court has enhanced the compensation to Rs. 2000/- per sq. yard and the said judgment dated 23.03.2016 in the case of Bhola Nath
- G (supra) (second) has been confirmed by this Court as the SLP has been dismissed. Therefore, even if the first appeals preferred by the original land owners are heard again pursuant to the impugned order passed by the High Court in the review petitions, recalling judgment and order dated 19.10.2001, in that case also again the court will have to consider and
- H rely upon the judgment in the case of Bhola Nath (supra) (second),

which was earlier also relied upon. Therefore, the same will be nothing but an exercise in futility. In any case, the cause and the reasons on which the High Court has allowed the review petitions and recalled judgment and order dated 19.10.2001 in RFA Nos. 416/1986 and 453/1986, did not exist in view of the subsequent development narrated hereinabove. The impugned judgment(s) and order(s) passed by the High Court allowing review petitions hence deserve to be quashed and set aside and the judgment(s) and order(s) passed by the High Court given in RFA Nos. 416/1986 and 453/1986 are required to be restored.

5. In view of the above and for the reasons stated above, all these appeals are allowed. Impugned judgment and order dated 12.05.2017 in R.P. No. 309/2008 in RFA No. 416/1986 and the order dated 07.07.2017 in CMA No. 23091/2017 in R.P. No. 309/2008 in RFA No. 416/1986 and impugned judgment and order in R.P. No. 310/2008 in RFA No. 453/1986, allowing review petition and recalling judgment and order dated 19.10.2001 in RFA Nos. 416/1986 and 453/1986, are hereby quashed and set aside. Consequently, common judgment and order passed by the High Court dated 19.10.2001 in RFA Nos. 416/1986 and 453/1986, are ordered to be restored. Now the original claimants shall have to be paid the compensation determined pursuant to the judgment and order dated 19.10.2001 passed in RFA Nos. 416/1986 and 453/1986 along with all other statutory benefits which may be available under the Land Acquisition Act, 1894 to be paid within a period of Twelve weeks from today. Present appeals are accordingly allowed. In the facts of the case, there shall be no order as to costs.

Divya Pandey
(Assisted by : Roopanshi Virang, LCRA)

Appeals allowed.