

NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY A

v.

OMVIR SINGH & ORS.

(Civil Appeal No. 9085 of 2022)

DECEMBER 15, 2022

[M. R. SHAH AND HIMA KOHLI, JJ.] B

Land Acquisition Act, 1894: ss. 4, 6, 18 – Land acquisition – Enhancement of compensation – Land in question acquired for the planned development by the NOIDA, vide Notification dated 22.11.1982 – Award of compensation at Rs.30,000/- per bigha – Reference u/s. 18 by original owner-father of the respondent, raising objections against the award and claiming enhanced compensation – Reference dismissed – Review application also dismissed – After a period of 16 years, from the date of rejection of review applications, the respondent filed an appeal – High Court while condoning delay, enhanced the compensation to Rs.297/- per sq. yard, however, denied the interest during the period of delay – On appeal, held: Compensation determined on the basis of the Notification 5 years later, cannot be a yardstick for determining the compensation for the land which is acquired five years before – Applying the law laid down by this Court in U.P. Awas Avam Vikas Parishad's case, to the instant case, the claimants would not be entitled to the same compensation as awarded with respect to the lands acquired after 5 years from the date of acquisition in the instant case – On facts, notification u/s. 4 was issued on 22.11.1982 and the relied upon decisions with respect to Village Makanpur and other villages are of the year 1986/88, which cannot be the basis – As regards, the delay of 16/26 years, the High Court while enhancing compensation, denied the interest for the period of delay thus, no reason to interfere with the order passed by the High Court condoning the delay – Thus, the impugned judgment and order passed by the High Court awarding compensation @ Rs.297/- per sq. yard is unsustainable and the original claimants would be entitled to compensation at the rate of Rs.120/- per sq.yard. C D E F G

Partly allowing the appeal, the Court

HELD: 1.1 The submissions made on behalf of the appellant that the High Court has erred in condoning the delay of 16/26

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- A years in preferring the appeal is concerned, in the peculiar facts and circumstances of the case and considering the fact that even while enhancing the amount of compensation and entertaining the appeal, the High Court has denied the interest for the period of delay and has exercised its discretion in favour of the claimants,
- B there is no reason to interfere with the order passed by the High Court condoning the delay in preferring the appeal. [Para 5.1][736-H; 737-A-B]
 - 1.2 The acquisition is of the year 1982 and in all other relied upon cases the acquisition(s) is/are of the year 1986/88. In all those cases, where the amount of compensation has been determined @ Rs.297/- per sq.yard, the acquisition(s) is/are of the years 1986/1988 with respect to the Village Makanpur and other nearby villages acquired for the development of NOIDA/Ghaziabad. In the case of *Narendra*'s case, this Court had enhanced the amount of compensation to Rs.297/- per sq.yard
- C with respect to the land acquired in Village Makanpur and other surrounding villages acquired for the very same project, but with respect to the acquisition of the years 1986/1988. However, subsequently in the case of *U.P. Awas Avam Vikas Parishad*'s case and after considering the decision of this Court in the case of *Narendra*'s case with respect to the village Makanpur and other surrounding villages with respect to the acquisition of the year 1982, this Court has determined the compensation at Rs.120/- per sq.yard. In the said decision, while refusing to accept the claim of Rs.297/- per sq.yard as awarded in the case of *Narendra*'s case which was with respect to the acquisition of 1988, this Court
- D has observed that the compensation determined on the basis of the Notification 5 years later, cannot be a yardstick for determining the compensation for the land which is acquired five years before. This Court has also taken note of the fact that between the year 1982 and 1987/1988, development activities had been undertaken. Applying the law laid down by this Court in the case of *U.P. Awas Avam Vikas Parishad* to the instant case, the claimants would not be entitled to the same compensation as awarded with respect to the lands acquired after 5 years from the date of acquisition in the instant case. In the instant case, Section 4 Notification had been issued on 22.11.1982 and the relied upon
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decisions with respect to Village Makanpur and other villages are of the year 1986/88, which as observed by this Court in the said decision in the case of *U.P. Awas Avam Vikas Parishad*'s case, cannot be the basis. Under the above circumstances, the impugned judgment and order passed by the High Court awarding compensation @ Rs.297/- per sq.yard is unsustainable and it is held that the original claimants would be entitled to compensation at the rate of Rs.120/- per sq.yard. [Para 5.2][737-B-H; 738-A-B]

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1.3 The impugned judgment and order passed by the High Court is modified. It is ordered and directed that the original claimants would be entitled to compensation at the rate of Rs.120/- per sq.yard along with all other statutory benefits and interest allowable under the provisions of Land Acquisition Act, 1894. However, the claimants would not be entitled to the statutory benefits including the interest under the Act, 1894 on the enhanced amount of compensation for the delayed period in preferring the appeal before the High Court i.e. from the date of rejection of the review application till the first appeal was filed before the High Court. [Para 6][738-C-D]

Asha Ram (Dead) through LRs and Others vs. U.P. Awas Avam Vikas Parishad and Another (2022) 2 SCC 567 – relied on.

Narendra and Others vs. State of Uttar Pradesh and Others (2017) 9 SCC 426 : [2017] 11 SCR 540 – referred to.

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| <u>Case Law Reference</u> | | |
|---------------------------|-------------|----------|
| [2017] 11 SCR 540 | referred to | Para 3.2 |
| (2022) 2 SCC 567 | relied on | Para 5.2 |

CIVIL APPELLATE JURISDICTION : Civil Appeal No.9085 of 2022.

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From the Judgment and Order dated 28.01.2020 of the High Court of Judicature at Allahabad in First Appeal Defective No.308 of 2015.

Ardhendumauli Kumar Prasad, AAG, Ravindra Kumar, Ranji Thomas, Yatindra Singh, Pradeep Kant, Sr. Advs., Binay Kumar Das, Ms. Priyanka Das, Ms. Neha Das, Ajai Kumar, Abhay Kumar Tayal,

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- A Ms. Manvi Dikshit Sharma, Ms. Taruna Ardhendumauli Prasad, Haraprasad Sahu, Pranaya Kumar Mohapatra, Ajit Singh Pundir, D. V. Singh, Arijeeet Singh, Ms. Shanti Swaroop Singh, Sourav Roy, Kaushal Sharma, Prabudh Singh, Vishal Malik, Rajnish Kumar Jha, Chandan Kumar, Vimal Johnson Kerketta, Ms. Sushma, Ms. Monika, Ms. Babila K. K., Ms. Saloni Saran, Mahesh Kr. Tiwari, Bishnu Prasad Tiwari, Kumar Rajeev, Ashutosh Sharma, Ms. Gunjan Sharma, Mahendra Kumar, Ram Sajjan Mishra, Ms. Swati Jain, R. K. Bali, Ms. Meghna Bali, Deepkaran Dalal, Anil Kaushik, Rajat Rana, Ms. Anju Kaushik, Ms. Arunima Dwivedi, Ms. Alka Sinha, Anuvrat Sharma, M. R. Shamshad, Mohd Waquas, Arijit Sarkar, Ms. Nabeela Jamil, Saleem Khan, Surendra Kr. Gupta, Nischal Kumar Neeraj, K. S. Rana, Sunil Kumar Jain, Ms. Reeta Chaudhary, Aneesh Mittal, Ms. Kamini Jaiswal, Akhilesh Kalra, Rohit Kumar Singh, Harsh Jain, Simranjeet Singh Rekhi, Shubham Kumar, Ms. Rani Mishra, Chiranjeev Johri, Pradeep Kumar Mathur, Ganga Sagar Singh, Ashish Kumar Chaurosiya, Rajesh Kumar Chaurasia, Anurag Nagar, Advs. for the appearing parties.
- D The Judgment of the Court was delivered by

M. R. SHAH, J.

- E 1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 28.01.2020, passed by the High Court of Judicature at Allahabad in First Appeal Defective No.308 of 2015, by which the High Court has rejected the said appeal after a period of approximately 16 years (as per the appellant, there was a delay of 26 years) by which the High Court has enhanced the compensation payable to the land owners to Rs.297/- per sq.yard, NOIDA has preferred the present appeal.
- F 2. The facts leading to the present appeal in a nutshell, are as under:
 - G 2.1 That the land in question situated in Village Gheja Tilapatabad, Tehsil and Pargana Dadri, District Ghaziabad (now District Gautam Budh Nagar) was acquired for the planned development by the NOIDA, vide Notification issued under Section 4, dated 22.11.1982. A declaration under the provisions of Section 6 of the Land Acquisition Act, 1894 was issued on 23.11.1982. The possession of the acquired land was taken over by the State on 22.02.1983. The Land Acquisition Officer/Collector declared the Award dated 05.09.1983 and awarded/determined the compensation at Rs.30,000/- per bigha, relying upon the sale deed dated 02.11.1982 of

certain parcels of land in the village itself. The father of the contesting respondents accepted the compensation. At the instance of the original owners – father of the contesting respondents, a Reference under Section 18 of the Land Acquisition Act, 1894 raising objections against the Award was made. The original claimants claimed compensation @ Rs.60,000/- per bigha. On contest, by a detailed judgment and order dated 04.05.1989, the Reference Court dismissed the said Reference along with other references. Review applications were filed which came to be dismissed in the year 1998. That after a period of 16 years from the date of rejection of the review applications in the year 2014/2015, the respondents filed the present first appeal before the High Court and relied upon the judgment in some other first appeals by which the compensation was enhanced to Rs.297/- per sq.yard. By the impugned judgment and order, the High Court has condoned the delay of 16 years, however it has denied the interest during the period of delay, and has enhanced the amount of compensation to Rs.297/- per yard. Hence, the present appeal at the instance of the NOIDA.

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3. Learned Counsel appearing on behalf of the NOIDA has vehemently submitted that the High Court has materially erred in entertaining the appeal after a period of 16 years from the date of dismissal of the review application and after a period of 26 years from the date of the decision by the Reference Court.

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3.1 It is submitted that even otherwise, on merits also in view of the subsequent decision of this Court in the case of **Asha Ram (Dead) through LRs and Others vs. U.P. Awas Avam Vikas Parishad and Another, (2022) 2 SCC 567** with respect to the land acquisition of 1982, this Hon'ble Court has reduced the amount of compensation to Rs.120/- per sq.yard, the claimants shall not be entitled to compensation at the rate of Rs.297/- per sq.yard, as awarded by the High Court.

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3.2 It is submitted that as such, in the subsequent decision in the case of **U.P. Awas Avam Vikas Parishad (supra)**, this Court did consider its earlier decision in the case of **Narendra and Others vs. State of Uttar Pradesh and Others, (2017) 9 SCC 426**, by which this Court for the acquisition with respect to the nearby villages of the year 1988, has allowed compensation @ Rs.297/- per sq.yard. However, it is submitted that considering the development which took place between the year 1982-1986/1988 this Court in the case of **U.P. Awas Avam Vikas Parishad (supra)**, did not accept the case on behalf of the

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- A claimants for awarding Rs.297/-per sq.yard and determined the compensation for the lands acquired in the year 1982, at Rs.120/- per sq.yard.
4. While opposing the present appeal, learned counsel appearing on behalf of the original claimants has vehemently submitted that in the facts and circumstances of the case, the High Court has not committed any error in condoning the delay of 16/26 years by observing that the claimants are entitled to just compensation.
- 4.1 It is submitted that considering the case of the other land owners decided vide judgment and order passed in the year 2014 with respect to similar acquisition with respect to the nearby villages, the amount of compensation had been enhanced to Rs.297/- per sq.yard. Following the same, in the present case the amount of compensation has been awarded @ Rs.297/- per sq.yard, which cannot be said to be unreasonable and the High Court has not committed any error.
- D 4.2 Learned counsel appearing on behalf of the original claimants has heavily relied upon the following decisions of the High Court, confirmed by this Court by which the compensation has been determined at Rs.297/- per sq.yard.

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| F | 1. | Makanpur, (Vaishali) Distt. Ghaziabad, Tehsil Dadri | 12.09.1986/ 28.02.1987 [Rs. 297/-] | F.A. No. 910/2000 in re: GDA v. Kashi Ram. [DoJ: 13.11.2014]. SLP (C) No. 5815 of 2015, GDA v. Kashi Ram & Ors. dismissed on 05.05.2015 | 6-26 27-32 |
| G | | | | Review Petition (C) No. 2632 of 2015 dismissed on 06.10.2015 | 33-34 |
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NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY v. 735
 OMVIR SINGH & ORS. [M. R. SHAH, J.]

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| 2. | Makanpur, (Sector 62, Noida) Distt. Gautam Budh Nagar, Tehsil Dadri | 15.03.1988 [Rs. 297/-] | Judgment dt. 15.04.2015 of the High Court in F.A. No. 737 in re: NOIDA v. Surendra Singh , awarding compensation @ Rs. 135/- for Makanpur, was set-aside by this Court vide judgment dt. 16.02.2016, rendered in Civil Appeal No. 1506-1517 of 2016 in re: Pradeep Kumar v. State of U.P., reported as (2016) 6 SCC 308 and the case was remanded for consideration afresh. Pursuant to remand, the High Court dismissed F.A. No. 737 in re: NOIDA v. Surendra Singh along with other First Appeals of Noida and allowed the First Appeals filed by the farmers (F.A. No. 522 of 2009 Pradeep Kumar vs. State of UP, being the lead case) and awarded compensation of Rs. 297 per sq. yd. vide final judgment dt. 21.04.2016 . This has attained finality. <u>[Note: In the present bunch of cases, listed before this Court, the compensation has been awarded @ Rs. 297/- sq. yard based on this judgment dated 21.04.2016 only as they pertain to the same notification and the same village (Makanpur) and have arisen out of the same Reference Court order.]</u> | 38-95 96-98 99-124 | B |
| 3. | Makanpur, (Vaishali) Distt. Ghaziabad, Tehsil Dadri | 12.09.1986/ 24.02.1988 [Rs. 297/-] | This Court in Civil Appeal No. 10429-10430 of 2017, Narendra vs. State of UP, reported as (2017) 9 SCC 426 has awarded compensation @ Rs. 297/- | 125-135 | C |
| 4. | Makanpur, (Indirapuram) Distt. Ghaziabad, Tehsil Dadri | 16.08.1988 [Rs. 297/-] | This Court in Civil Appeal No. 16960 of 2017, Jaiprakash (D) V State of U.P. vide judgment dated 24.11.2017, reported as (2020) 11 SCC 770, increased compensation to Rs. 297/- (Followed In re: Narendra) | 136-137 | D |
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| A | 5. | Makanpur, (Indirapuram) Distt. Ghaziabad, Tehsil Dadri | 16.08.1988 [Rs. 297/-] | This Hon'ble Court in Civil Appeal No. 16961 of 2017, Om Prakash vs. State of UP vide the same judgment dated 24.10.2017 in Jai Prakash (supra) increased the compensation to Rs. 297/- | |
| B | 6. | Makanpur, (Vaishali) Distt. Ghaziabad, Tehsil Dadri | 12.09.1986/ 28.02.1987 [Rs. 297/-] | This case had also arisen out of the above-mentioned Kashi Ram judgment (supra) . After the judgment in Kashi Ram, an application bearing CMAN no. 194412 of 2016 was filed in one of the First Appeals bearing FA No. 484 of 2019, Ghaziabad Development Authority vs. Trilok Chand & Ors , which was also decided along with the bunch of Kashi Ram (supra) for 33% deduction as development charges from the compensation determined at the rate of Rs. 297/-sq. yard, but the same was rejected. | |
| C | | | | | 138-139 |
| D | | | | SLP bearing SLP (C) No. 12547/2017, Ghaziabad Development Authority vs. Trilok Chand & Ors was filed against the said dismissal, wherein while issuing notice, vide order dated 28.04.2017, it was especially recorded that the GDA was aggrieved by the non-deduction of 33% as development charges. | 140-141 |
| E | | | | However, the said SLP was dismissed vide order dated 03.08.2017. | |
| F | 7. | Makanpur, (Indirapuram) Distt. Ghaziabad, Tehsil Dadri | 16.08.1988 [Rs. 297/-] | This Court in Civil Appeal No. 9208-9211 of 2018, Mangu Singh Vs. State of UP , vide judgment dated 10.09.2018, increased compensation to Rs. 297/-. | 142-144 |

G Making the above submissions and relying upon the above decisions/orders passed by the High Court as well as this Court, it is prayed that the present appeal be dismissed.

5. We have heard learned counsel appearing on behalf of the respective parties at length.

H 5.1 So far as the submissions made on behalf of the appellant that the High Court has erred in condoning the delay of 16/26 years in

preferring the appeal is concerned, in the peculiar facts and circumstances of the case and considering the fact that even while enhancing the amount of compensation and entertaining the appeal, the High Court has denied the interest for the period of delay and has exercised its discretion in favour of the claimants, we see no reason to interfere with the order passed by the High Court condoning the delay in preferring the appeal.

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5.2 Now so far as merits of the appeal and the impugned judgment and order passed by the High Court enhancing the amount of compensation at Rs.297/- per sq.yard is concerned and the reliance placed upon the decisions of the High Court and this Court referred to hereinabove and relied upon behalf of the claimants is concerned, at the outset it is required to be noted that in the present case, the acquisition is of the year 1982 and in all other relied upon cases the acquisition(s) is/are of the year 1986/88. In all those cases, where the amount of compensation has been determined @ Rs.297/- per sq.yard, the acquisition(s)is/are of the years 1986/1988 with respect to the Village Makanpur and other nearby villages acquired for the development of NOIDA/Ghaziabad. In the case of **Narendra & Ors. (supra)**, this Court had enhanced the amount of compensation to Rs.297/- per sq.yard with respect to the land acquired in Village Makanpur and other surrounding villages acquired for the very same project, but with respect to the acquisition of the years 1986/1988. However, subsequently in the case of **U.P. Awas Avam Vikas Parishad (supra)** and after considering the decision of this Court in the case of **Narendra & Ors. (supra)** with respect to the village Makanpur and other surrounding villages situated at Village Prahladgarh, Village Jhandapur, Village Sahibabad, Village Arthala with respect to the acquisition of the year 1982, this Court has determined the compensation at Rs.120/- per sq.yard. In the said decision, while refusing to accept the claim of Rs.297/- per sq.yard as awarded in the case of **Narendra & Ors. (supra)** which was with respect to the acquisition of 1988, this Court has observed that the compensation determined on the basis of the Notification 5 years later, cannot be a yardstick for determining the compensation for the land which is acquired five years before. This Court has also taken note of the fact that between the year 1982 and 1987/1988, development activities had been undertaken. Applying the law laid down by this Court in the case of **U.P. Awas Avam Vikas Parishad (supra)** to the present case, the claimants shall not be entitled to the same compensation as awarded with respect to the lands acquired after 5 years from the date of acquisition in the present case. As observed

- A hereinabove, in the present case, Section 4 Notification had been issued on 22.11.1982 and the relied upon decisions with respect to Village Makanpur and other villages are of the year 1986/88, which as observed by this Court in the aforesaid decision in the case of **U.P. Awas Avam Vikas Parishad (supra)**, cannot be the basis. Under the above circumstances, the impugned judgment and order passed by the High Court awarding compensation @ Rs.297/- per sq.yard is unsustainable and it is held that the original claimants shall be entitled to compensation at the rate of Rs.120/- per sq.yard.
- B 6. In view of the above and for the reason stated above, the present appeal succeeds in part. The impugned judgment and order passed by the High Court is hereby modified. It is ordered and directed that the original claimants shall be entitled to compensation at the rate of Rs.120/- per sq.yard along with all other statutory benefits and interest allowable under the provisions of Land Acquisition Act, 1894. However, the claimants shall not be entitled to the statutory benefits including the interest under the Act, 1894 on the enhanced amount of compensation for the delayed period in preferring the appeal before the High Court i.e. from the date of rejection of the review application till the first appeal was filed before the High Court.

Present appeal is accordingly allowed to the aforesaid extent. No costs.

Nidhi Jain
(Assisted by : Tamana, LCRA)

Appeal partly allowed.