

NEW OKHLA INDUSTRIAL DEVELOPMENT AUTHORITY A

v.

RAMESHWAR @ RAMESH CHANDRA SHARMA (DEAD)
THROUGH LEGAL HEIR & ANR.

(Civil Appeal No. 8331-8345 of 2022) B

NOVEMBER 17, 2022

[M. R. SHAH AND M. M. SUNDRESH, JJ.]

Land Acquisition Act, 1894: Delay of 22 years in preferring first appeals – Acquisition notification was issued in 1982 – Reference court determined compensation at Rs.20 per yard – After a period of 22 years, land owners filed first appeals – By impugned judgment, the High Court condoned delay of 22 years and enhanced the amount of compensation to Rs.149 per sq.yard at par with the land owners in the case of Deo Karan & Ors. by which this Court with respect to the acquisition of the year 1982 determined the compensation at Rs.149/- per sq.yard – Held: The land owners were rightly held entitled to compensation at Rs.149/- per sq.yard at par with other land owners whose lands were acquired in the year 1982 – However, submission of the land owners that they are entitled to compensation @ Rs.297/- per sq.yard relying upon the decision of this Court in the case of Nanak (Deceased) cannot be accepted as the land owners had not preferred the appeals before this Court and it was NOIDA who had filed these appeals – However, to saddle with the liability to pay statutory benefits and interest for the delayed period of 22 years upon the beneficiary/acquiring body would be a financial burden upon the public body and it may increase the project cost which shall be against the public interests – Therefore, while condoning the delay and enhancing the amount of compensation at par with other land owners, the High Court ought not to have saddled the liability upon the appellant to pay statutory benefits and the interest payable under the Land Acquisition Act, 1894 for the delayed period – To that extent the impugned judgment is modified. C D E F G

Partly allowing the appeals, the Court

HELD: 1. The Notification under Section 4(1) of the Land Acquisition Act, 1894 was issued on 05.01.1982. The Reference H

- A Court determined the compensation at Rs.20/- per sq. yard by impugned judgment. After a period of 22 years, the land owners preferred the appeals before the High Court. By the impugned judgment, the High Court after condoning the delay of 22 years in preferring the appeals has enhanced the amount of compensation to Rs.149/- per sq.yard at par with the land owners in the case of *Deo Karan & Ors.* by which this Court with respect to the acquisition of the year 1982 determined the compensation at Rs.149/- per sq.yard. Therefore, in the present case, the land owners shall be entitled to compensation at Rs.149/- per sq.yard at par with other land owners whose lands were acquired in the year 1982. It cannot be disputed that the land owners, whose lands have been acquired under the provisions of Land Acquisition Act, 1984, are entitled to a reasonable and just compensation at par with the other similarly situated land owners. [Para 5][613-B-D]
- D 2. Now so far as the submission on behalf of the land owners that they shall be entitled to compensation at the rate of Rs.297/- per sq.yard relying upon the decision of this Court in the case of *Nanak (Deceased)* through LRS. is concerned, at the outset it is required to be noted that as such the land owners have not preferred the appeals before this Court. It is the NOIDA who has preferred the present appeals. Under the circumstances in the appeals preferred by the NOIDA questioning the determination of the compensation at Rs.149/-per sq.yard, the land owners cannot be permitted to say that they are entitled to the enhanced amount of compensation over and above Rs.149/- per sq.yard. So far as the land owners are concerned, the impugned judgment and order passed by the High Court determining and/or awarding the compensation of Rs.149/- per sq.yard has attained the finality. Even otherwise as rightly observed by the High Court, the land owners are not entitled to the compensation at Rs.297/- per sq.yard considering the decision of this Court in the case of *Nanak (Deceased)* through LRS. [Paras 5.1, 5.2][613-E-H]
- H *New Okhla Industrial Development Authority (NOIDA) v. Deo Karan & Ors. decided on 01.05.2018 in Civil Appeal No.4879 of 2018 – relied on*

Nanak (Deceased) through LRS. v. New OKHLA Industrial Development Authority and Another (2019)
17 SCC 522 – referred to

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3. In the present case, the delay of 22 years can be said to be a substantial delay. The High Court has erred in awarding other statutory benefits and interest for the delayed period. To saddle with the liability to pay statutory benefits and interest for the delayed period upon the beneficiary/acquiring body would be a financial burden upon the public body and it may increase the project cost which shall be against the public interests. [Para 5.3][614-C-D]

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Case Law Reference

(2019) 17 SCC 522 referred to Para 5.1

CIVIL APPELLATE JURISDICTION: Civil Appeal Nos. 8331-8345 of 2022.

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From the Judgment and Order dated 07.09.2017 of the High Court of Judicature at Allahabad in First Appeal Defective Nos. 345/2015 (later renumbered as First Appeal No. 106/2019), 349/2015 (later renumbered as First Appeal No. 104/2019), 397/2015 (later renumbered as First Appeal No. 105/2019), 396/2015 (later renumbered as First Appeal No. 103/2019), 103/2006 and dated 18.12.2018 in First Appeal Defective Nos. 349/2015 (later renumbered as First Appeal No. 104/2019), First Appeal No. 657/2017, First Appeal Defective Nos. 68/2001, 206/2001, 339/2015 (later renumbered as First Appeal No. 108/2019), 345/2015 (later renumbered as First Appeal No. 106/2019), 396/2015 (later renumbered as First Appeal No. 103/2019), 397/2015 (later renumbered as First Appeal No. 105/2019), 179/2016 and dated 09.12.2021 in First Appeal No. 104/2019.

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Sourav Roy, Kaushal Sharma, Prabudh Singh, Advs. for the Appellant.

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Sanjay Mani Tripathi, Raj Narayan Tewari, Kamal Kant Tewari, Suraj Singh, Rameshwari Prasad Goyal, Advs. for the Respondents.

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- A The Judgment of the Court was delivered by
M. R. SHAH, J.
- B 1. Feeling aggrieved and dissatisfied with the impugned common judgment and order dated 18.12.2018 passed by the High Court of Judicature at Allahabad in respective First Appeals No.657 of 2017 and other allied First Appeals by which after condoning the delay of 22 years in preferring the respective first appeals, the High Court has enhanced the amount of compensation for the lands acquired to Rs.149 per sq.yard, the New Okhla Industrial Development Authority (NOIDA) has preferred the present appeals.
- C 2. Learned counsel appearing on behalf of the appellant (NOIDA) has vehemently submitted that there was a huge delay of 22 years in preferring the appeals by the land owners, which ought not to have been condoned by the High Court.
- D 2.1 In the alternative, it is submitted that in any case the acquiring body – NOIDA shall not be saddled with the liability to pay the statutory benefits and the interest for 22 years, as it would cause financial burden upon the NOIDA and it may affect the project cost.
- E 3. Learned Counsel appearing on behalf of the land owners have submitted that as such the land owners shall be entitled to compensation at Rs.297/- per sq.yard as determined by this Hon'ble Court in the case of **Nanak (Deceased) through LRS. Vs. New OKHLA Industrial Development Authority and another** decided on 26.9.2018 in **Civil Appeal No. 10013 of 2018**.
- F 3.1 It is submitted that in any case when it has been found that the land owners shall be entitled to compensation at Rs.149/- per sq.yard considering the decision of this Hon'ble Court in the case of **New Okhla Industrial Development Authority (NOIDA) VS. Deo Karan & Ors.** decided on 01.05.2018 in **Civil Appeal No.4879 of 2018** and when the same was with respect to the acquisition of the year 1982 and
- G the land owners are entitled to just compensation, no error has been committed by the High Court in entertaining the application for condoning the delay in preferring the appeals and awarding the compensation at par with other land owners whose lands came to be acquired in the year 1982.

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4. We have heard learned counsel for the respective parties at A length.

5. At the outset, it is required to be noted that in the present case the Notification under Section 4(1) of the Land Acquisition Act, 1894 was issued on 05.01.1982. The Reference Court determined the compensation at Rs.20/- per sq.yard by impugned judgment dated 15.12.1993. After a period of 22 years the land owners preferred the present appeals before the High Court. By the impugned common judgment and order the High Court after condoning the delay of 22 years in preferring the appeals has enhanced the amount of compensation to Rs.149/- per sq.yard at par with the land owners in the case of **Deo Karan & Ors.** (*supra*) by which this Court with respect to the acquisition of the year 1982 determined the compensation at Rs.149/- per sq.yard. Therefore, in the present case the land owners shall be entitled to compensation at Rs.149/- per sq.yard at par with other land owners whose lands were acquired in the year 1982. It cannot be disputed that the land owners, whose lands have been acquired under the provisions of Land Acquisition Act, 1984, are entitled to a reasonable and just compensation at par with the other similarly situated land owners.

5.1 Now so far as the submission on behalf of the land owners that they shall be entitled to compensation at the rate of Rs.297/- per sq.yard relying upon the decision of this Court in the case of **Nanak (Deceased) through LRS.** (*supra*) is concerned, at the outset it is required to be noted that as such the land owners have not preferred the appeals before this Court. It is the NOIDA who has preferred the present appeals. Under the circumstances in the appeals preferred by the NOIDA questioning the determination of the compensation at Rs.149/- per sq.yard, the land owners cannot be permitted to say that they are entitled to the enhanced amount of compensation over and above Rs.149/- per sq.yard. So far as the land owners are concerned, the impugned judgment and order passed by the High Court determining and/or awarding the compensation of Rs.149/- per sq.yard has attained the finality.

5.2 Even otherwise as rightly observed by the High Court, the land owners are not entitled to the compensation at Rs.297/- per sq.yard considering the decision of this Court in the case of **Nanak (Deceased) through LRS.** (*supra*). Nothing was pointed out that how the case of the land owners was comparable with that of the case of **Nanak**

- A **(Deceased) through LRS.** (supra). On the contrary with respect to the acquisition of the year 1982, this Hon'ble Court determined the compensation at Rs.149/- per sq.yard in the case of **Deo Karan & Ors.**(supra).
- 5.3 However, at the same time the acquiring body and the beneficiary of acquisition shall not be saddled with the liability of statutory benefits and the interest which may be available under the Land Acquisition Act, 1894 for the delayed period. In the present case the delay of 22 years can be said to be a substantial delay. However, as the claimants are held to be entitled the enhanced amount of compensation, in the facts and circumstances of the case, the High Court can be said to be justified in condoning the delay. However, at the same time, the High Court has erred in awarding other statutory benefits and interest for the delayed period. To saddle with the liability to pay statutory benefits and interest for the delayed period upon the beneficiary/acquiring body would be a financial burden upon the public body and it may increase the project cost which shall be against the public interests. It cannot be disputed that the liability towards the statutory benefits and the interest under the Act, 1984 would be a huge liability considering the interest at the rate of 15% per annum, solatium, price rise etc. Therefore, while condoning the delay and enhancing the amount of compensation at par with other land owners, the High Court ought not to have saddled the liability upon the appellant to pay statutory benefits and the interest payable under the Land Acquisition Act, 1894 for the delayed period. To the aforesaid extent the impugned common judgment and order passed by the High Court is required to be modified and the present appeals are required to be partly allowed to the aforesaid extent.
- F 6. In view of the above and for the reasons stated above all these Appeals Succeed in part. The impugned common judgment and order passed by the High Court passed in respective appeals is hereby partly allowed to the aforesaid extent denying the statutory benefits and the interest which may be payable under the Land Acquisition Act, 1894 for the period between the judgment and award passed by the Reference Court i.e. 15.12.1993 till the respective first appeals were filed after curing the defects. Meaning thereby the original land owners/claimants shall not be entitled to any statutory benefits including the interest payable under the Land Acquisition Act, 1894 on the enhanced amount of
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compensation for the period between 15.12.1993 till the respective first A appeals after curing the defects were filed.

Present Appeals are Partly Allowed to the aforesaid extent. However, in the facts and circumstances of the case, there shall be no order as to costs.

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Devika Gujral

Appeals partly allowed.