

CASE DETAILS

MOHAR SINGH (DEAD) THROUGH LRS. & ORS.

v.

STATE OF UTTAR PRADESH COLLECTOR & ORS.

(Civil Appeal Nos.7504-7505 of 2023)

NOVEMBER 07, 2023

[SURYA KANT AND DIPANKAR DATTA, JJ.]

HEADNOTES

Issue for consideration: Appellants if entitled to seek parity with their co-villagers in the grant of compensation for their acquired land despite the inordinate delay in filing first appeals.

Land Acquisition Act, 1894 – Compensation – Parity sought with co-villagers – Delay of 13 years in filing of the first appeals – Condonation:

Held: Appellants are entitled to seek parity with their co-villagers in the grant of compensation for their acquired land – The inordinate delay in filing appeal in compensatory matters, per se, may not be fatal as the rights and equities between the parties can be well balanced by denying the statutory benefits, such as interest for the delayed period – Thus, the delay in filing the first appeal(s) could be condoned subject to the condition that the appellants would not be entitled to enure undue benefit for the delayed period – Such indulgence is being granted in the appellant's favour also because a batch of first appeals at the instance of other land owners was still pending consideration before the High Court – The delay of nearly 13 years in filing of their first appeals is being condoned, only to accord parity between the similarly placed land-owners on the anvil of Article 14 – If the appellants are granted compensation higher than their co-landowners, despite the fact that such counterparts were vigilant in pursuing their remedy promptly, it will lead to hostile discrimination viz those landowners whose fate already stands sealed upto this Court and will amount to granting premium on stale, belated and chance claim of the appellants – Appellants

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entitled to compensation @ Rs.150 per sq. yard for their respective acquired land – However, the compensation amount shall not include statutory interest, including on solatium, as per the rate prescribed u/s.34 of the Act for the period from the date of passing of the award by the Reference Court u/s.18 of the Act till the filing of the respective first appeals before the High Court – Constitution of India – Article 14.[Paras 12-14 and 15]

LIST OF CITATIONS AND OTHER REFERENCES

Jitendra and others vs. State of Uttar Pradesh and another C.A.
No.12631/2017 – referred to.

**OTHER CASE DETAILS INCLUDING IMPUGNED
ORDER AND APPEARANCES**

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos.7504-7505
of 2023.

From the Judgment and Order dated 09.03.2016 of the High Court of Judicature at Allahabad in FA No.228 of 2011 and DCA No.312574 of 2011.

Appearances:

Pradeep Kant, S.W.A. Qadri, Sr. Advs., Rohit Kumar Singh, Simranjeet Singh Rekhi, Atul Krishna, Shubham, Aditya Sharma, Saeed Qadri, Anurag Nagar, Varnit Sharma, K. S. Rana, Advs. for the Appellants.

Ravindra Kumar, Sr. Adv., Binay Kumar Das, Ms. Priyanka Das, Ms. Neha Das, Advs. for the Respondents.

JUDGMENT / ORDER OF THE SUPREME COURT

JUDGMENT

1. Leave granted.
2. The land of the appellants, situated in village Khora, Pargana Loni, Tehsil Dadri, District Ghaziabad, was part and parcel of the total land measuring 902.2046 acres which was proposed to be acquired by a notification dated 17.03.1988 published on 19.03.1988 under Section 4(1) of the Land Acquisition Act, 1894 (in short, “the Act”). It appears that finally, land measuring 337.892 acres only, including that of the appellants, was

acquired and the award was passed by the Special Land Acquisition Officer on 01.02.1991, granting compensation at the rate of Rs.70 per sq. yard.

3. Most of the land owners, including the appellants, filed reference under Section 18 of the Act. The Learned Xth Additional District Judge, Ghaziabad vide an award dated 06.04.1998 partly accepted those references and enhanced the compensation at the rate of Rs.106 per sq. yard.

4. Various land owners then approached the High Court by way of First Appeals, for further enhancement of compensation. These appeals included First Appeal No.491/1998 (Veer Singh & others vs. State of Uttar Pradesh and others), First Appeal No.493/1998 (Megh Singh and others vs. State of Uttar Pradesh) and First Appeal No.477/1998 (Amar Singh vs. State of Uttar Pradesh and others) etc.

5. The appellants, however, did not file any appeal before the High Court within a reasonable time. They eventually preferred the first appeals in the year 2011. Their appeals were barred by limitation; hence, they applied for condonation of delay of 12 years and 353 days. The grounds taken by the appellants for condonation of delay were that due to illiteracy and poverty, they could not arrange the Court Fee and that they were advised to file the appeal(s) in September, 2011. They also put forward the plea that the first appeals against the same reference award were pending consideration before the High Court.

6. The High Court has vide impugned order dated 09.03.2016 declined to condone the delay and consequently, the first appeal(s) preferred by the appellants have been dismissed.

7. Meanwhile, the batch of first appeals preferred by other land owners, came to be decided on 04.07.2016, wherein the High Court enhanced the compensation at the rate of Rs.130 per sq. yard. The operative part of the judgment dated 04.07.2016 reads as follows:

“19. In view of the above discussion, all the appeals filed by the Claimants-appellants deserve to be allowed to the extent that the appellants shall be entitled to receive compensation @ 130/- per Sq. yard along with all statutory benefits and interest after adjustment of the amount already received by them. The deficiency in Court fees shall

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be recovered from the Claimants-appellants at the time of preparation of final decree.”

8. It is also a matter of record that some of the land owners, being still dissatisfied with the rate of compensation determined by the High Court, approached this Court in C.A. No.12631/2017 (Jitendra and others vs. State of Uttar Pradesh and another) & connected matters. A coordinate Bench vide order dated 12.12.2017 allowed those appeals in part, in terms of the following order:

“Delay condoned.

Leave granted.

The notification under Section 4 of the Land Acquisition Act, 1894 was issued on 17th March, 1988. The Land Acquisition Officer granted compensation at the rate of Rs.70/- per square yard and the Reference Court enhanced it to Rs.106/- per square yard. The value determined by the High Court was Rs.130/- per square yard after making a deduction of 35% towards development cost.

In the facts and circumstances of the case, in our opinion, the only modification required in the impugned orders is with respect to the aspect that 25% deduction deserves to be made instead of 35% made by the High Court. We make deduction of 25% in the facts and circumstances of the case instead of 35%. Thus, the amount of compensation comes to Rs.150/- per square yard instead of Rs.130/- per square yard. The compensation amount is enhanced to Rs.150/- per square yard along with statutory benefits.

The appeals filed by the land owners are allowed to the aforesaid extent.”

9. Learned Senior Counsel for the appellants firstly seek parity with their co-land owners to whom the High Court granted compensation at the rate of Rs.130 per sq. yard, followed by further enhancement by this Court to Rs.150 per sq. yard. It is urged that the High Court ought to have condoned the delay and treated the appellants at par with their co-villagers, whose appeals were at that time pending consideration before the High Court. On the same analogy, he seeks the higher compensation as assessed by this Court

in Jitendra and others (Supra), without prejudice to the second contention raised hereinafter.

10. It is then canvassed that the Reference Court while assessing the market value of Rs.106 per sq. yard had relied upon the rate of compensation awarded for the adjoining land of village Makanpur and since, the High Court subsequently enhanced the compensation for the land of village Makanpur to Rs.297 per sq. yard in First Appeal No.522/2009 (Pradeep Kumar and another vs. State of Uttar Pradesh and others) decided on 21.04.2016, such revised rate deserves to be adopted to restore parity between the land of village Khora with that of village Makanpur. On this premise, it is asserted that the appellants too are entitled to be compensated with the higher rate of Rs.297 per sq. yard.

11. Contrarily, learned Senior Counsel for the NOIDA vehemently contends that there was an inordinate and unexplained delay of almost 13 years in filing the first appeal(s). The appellants who slept over the matter being satisfied with the rate of compensation as determined by the Reference Court, have rightly been non-suited by the High Court on account of their gross negligence. Consequently, the appellants forfeited their so called right to seek parity which was nothing but an afterthought claim made out of greed. He points out that the first appeal(s) were filed with certain defects, including deficient Court Fees and they never cured such defects. According to learned Senior Counsel, the plea of illiteracy or poverty was a lame excuse. Not only that the appellants are residents of an area which falls in NCR, they had also gotten a handsome compensation amount from the Reference Court, which fact alone belies their plea of poverty and ignorance.

12. Having heard learned Senior Counsel for the parties and on perusal of the material placed on record, we are satisfied that the appellants are entitled to seek parity with their co-villagers in the grant of compensation for their acquired land. This Court has consistently held in a catena of decisions that the inordinate delay in filing appeal in compensatory matters, *per se*, may not be fatal as the rights and equities between the parties can be well balanced by denying the statutory benefits, such as interest for the delayed period. We are thus of the considered opinion that the delay in filing the first appeal(s) could be condoned subject to the condition that the appellants would not be entitled to enure undue benefit for the delayed period. We

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grant such indulgence in the appellant's favour also for the reason that a batch of first appeals at the instance of other land owners was still pending consideration before the High Court. All that the High Court ought to have emphatically denied to the late-comers was the benefit of interest including on the solatium, under Section 34 of the Act for the period from the date of passing of the award by the Reference Court till the filing of the first appeals.

13. Adverting to the appellants' claim for enhanced compensation at the rate fixed by the High Court in respect of the land of village Makanpur, it may be noticed that such a plea was expressly raised by the land owners before the High Court when their first appeals were decided on 04.07.2016. The High Court unequivocally rejected the said claim while fixing the compensation at a lower rate of Rs.130 per sq. yard for the land of village Khora. This Court in further appeal partly accepted the claim of the land owners of village Khora and enhanced the compensation to Rs.150 per sq. yard. In other words, the claim of parity between the acquired lands of village Khora and Makanpur was impliedly rejected by this Court. We see no reason to take a different view. Consequently, we do not find any merit in the plea that the appellants are entitled to compensation at par with the land owners of village Makanpur.

14. There is one more plausible reason for us to turn down the appellant's claim for the higher rate of Rs.297 per sq. yard. We have condoned the delay of nearly 13 years in filing of their first appeals, only to accord parity between the similarly placed land-owners on the anvil of Article 14 of the Constitution. If the appellants are granted compensation higher than their co-landowners, despite the fact that such counterparts were vigilant in pursuing their remedy promptly, it will lead to hostile discrimination viz those landowners whose fate already stands sealed upto this Court. This will also amount to granting premium on, what can be aptly termed as stale, belated and chance claim of the appellants.

15. Having held so, the appeals are allowed in part; the appellants are held entitled to compensation at the rate of Rs.150 per sq. yard for their respective acquired land. However, the compensation amount shall not include statutory interest, including on solatium, as per the rate prescribed under Section 34 of the Act, for the period from the date of passing of the award by the Reference Court under Section 18 of the Act till the filing of

the respective first appeals before the High Court. The appellants shall be required to make good the deficiency in Court Fees before the High Court within four weeks, whereupon only the arrears of enhanced compensation shall be paid to them within eight weeks thereafter.

16. Ordered accordingly.

Headnotes prepared by:
Divya Pandey

Appeals partly allowed.