

Kanwar Singh And Ors. Etc. Etc vs Union Of India on 30 October, 1998

Equivalent citations: AIR 1999 SUPREME COURT 317, 1998 (8) SCC 136, 1998 AIR SCW 3718, 1999 (1) UJ (SC) 13, 1999 (1) ALL CJ 386, (1999) 1 PUN LR 656, 1999 UJ(SC) 1 13, 1999 (1) SRJ 447, 1999 (121) PUN LR 656, 1998 (8) ADSC 93, 1998 (6) SCALE 2, (1998) 7 JT 397 (SC), 1998 (7) JT 397, (1998) 8 SUPREME 253, (1998) 4 RECCIVR 701, (1999) 1 ICC 404, (1998) 6 SCALE 2, (1998) 6 ANDH LT 27, (1999) 1 ALL WC 784, (1998) 4 CURCC 74, (1998) 76 DLT 154, (1998) 2 LS 45, (1999) 2 LANDLR 168, (1999) 2 RAJ LW 241

Author: V.N. Khare

Bench: Chief Justice, V.N. Khare

CASE NO.:

Appeal (civil) 7690 of 1994

PETITIONER:

KANWAR SINGH AND ORS. ETC. ETC.

RESPONDENT:

UNION OF INDIA

DATE OF JUDGMENT: 30/10/1998

BENCH:

DR. A.S. ANAND, C.J. & V.N. KHARE

JUDGMENT:

JUDGMENT 1998 Supp (2) SCC 505 The Judgment of the Court was delivered by V.N. KHARE, J. Leave granted.

This group of Civil Appeals is directed against the judgment of a Division Bench of Delhi High Court and the questions involved therein relate to the quantum of compensation with regard to acquisition of appellants' land situated in village Rangpuri @ Malikpur Kohi, Delhi. Since common questions of fact and law are involved in this group of appeals, we propose to decide them by a common judgment noticing the fact of the case appearing on the record of Civil Appeal No. 7690 of 1994.

A large tract of land in village Rangpuri near Palam Airport was notified for acquisition vide notification dated 23.1.1965 issued under Section 4 of the Land Acquisition Act, 1984 (hereinafter referred to as the "Act") for planned development of Delhi. Simultaneously, notifications dated 23.1.1965 were also issued for acquisition of land in villages Masoodpur and Mahipalpur. Some plots

of land of village Rangpuri were acquired vide Award No. 1958/ 67 dated 16.3.1967. The Land Acquisition Collector while assessing the market value of the acquired land covered by the aforesaid Award, divided the said land into three blocks and fixed Rs. 800, Rs. 600 and Rs. 400 per bigha for Block-I, Block-II and Block-III respectively. The remaining land of village Rangpuri not covered by earlier award were acquired by Award No. 146/80-81 dated 30.3.1981. The Land Acquisition Collector while giving the said Award divided the land in to two blocks and fixed Rs. 1800 and Rs. 1500 per bigha for Block-A and Block-B, respectively as market value as on 23.1.1965. Since the claimants were not satisfied with the compensation offered by the Land Acquisition Collector, they preferred references to the District Judge, Delhi. Shri Jagdish Chandra, learned Additional District Judge, while dealing with one set of plots of land covered under Award No. 1958, vide judgment dated 23.3.1971 assessed the market value of the land at Rs. 7000 per bigha for Block-A and Rs. 5000 per bigha for Block-B. Another set of reference cases also pertaining to remaining land covered by Award 1958 were dealt with by Shri O.N. Vohra, learned Additional District Judge. After hearing the matter, the learned Additional District Judge vide judgment dated 5.11.1973 rejected the reference cases altogether and upheld the compensation offered by the Land Acquisition Collector. The third set of reference cases pertaining to land covered by Award No. 146 were decided by Shri T.S. Oberoi, learned Additional District Judge vide judgment dated 29.4.1986. The learned Additional District Judge, while deciding these cases relied upon the judgment of Shri Jagdish Chandra, Additional District Judge and fixed the market value of the land acquired at Rs. 7000 and 5000 per bigha, respectively.

In the case of land falling in village Masoodpur, Shri S.R. Goel, learned Additional District Judge fixed the market value of the acquired land at Rs. 18,000 per bigha as on 23.1.1965. For the remaining land, falling in village Masoodpur, Shri Padam Singh, learned Additional District Judge fixed the market value of the land acquired at Rs. 14,340 per bigha with Rs. 10,000 as value of minerals and awarded Rs. 24,340 per bigha as compensation, vide judgment dated 12.4.1990. The Union of India filed an Appeal in the High Court against the judgment of Shri Padam Singh, Additional District Judge which was registered as Regular First Appeal (in short RFA) No. 567/90. The High Court summarily dismissed the said appeal without assigning any reason and the matter ended there, as Union of India did not prefer any appeal challenging the said judgment passed by a Division Bench of the High Court. So far as the compensation awarded to the claimants for acquisition of their lands in village Mahipalpur was concerned, the High Court relied upon a decision of the High Court rendered in R.F.A. No. 567/90, as there was no sale instance available for fixing the market value of land in village Mahipalpur. Consequently, the High Court by judgment and order dated July 17, 1991 allowed R.F.A. No. 122/78 and fixed the market value of the land in village Mahipalpur at Rs. 14,340 per bigha as on 23.1.1965.

To connect the chain of events, the claimants who are appellants before us, being not satisfied with the compensation awarded by three different Additional District Judges filed three sets of appeals before the High Court. Some of the appellants before us filed Regular First Appeals against the order of Shri Jagdish Chandra, Additional District Judge in Land Acquisition Case No. 415/67 decided on 29.3.71 relating to Award No. 1958 whereby the learned Additional District Judge fixed the market value at Rs. 7000 per bigha for block 1 land and Rs. 5000 per bigha for block 2 land. The appellants/claimants who were given compensation at the rate of Rs. 5000 per bigha in their appeals claimed

that they ought to have been given compensation @ Rs. 7000 per bigha. The Union of India also filed appeals against the aforesaid judgment of Shri Jagdish Chandra, Additional District Judge, In the said appeals the claimants filed cross objections. While these appeals were pending, the High Court decided Regular First Appeal No, 122/78 Hoshiar Singh etc. v. Union of India awarding compensation at the rate of Rs. 14340 per bigha in respect of land acquired in village Mahipalpur, In view of the said decision of the High Court, the claimants claimed compensation @ Rs. 14340 per bigha for all categories of lands instead of Rs, 7000 per bigha, as awarded by the Reference Court.

Regular First Appeals were also filed against the judgment of Shri O.N. Vohra. Additional District Judge in Land Acquisition Case No. 455/67 arising out of Award No. 1958 whereby Shri Vohra, learned Additional District Judge rejected the references holding that the claimants were not entitled to the enhancement of compensation. Shri Vohra, learned Additional District Judge was of the view that the sale deed in relation to Khasra No. 1587/1 was sham and bogus and, as such, the same was not worthy of reliance. Regular First Appeals Nos. 333/87 and 431/86 were also filed against the judgment of Shri T.S. Oberoi, Additional District Judge rendered in Land Acquisition Case No. 29/83 decided on 24.11.86. All these appeals and cross objections were consolidated and heard together by the High Court. The High Court by the impugned judgment partly allowed the appeals of Union of India and appellants holding that the claimants/appellants were entitled to compensation @ Rs, 3000 per bigha in respect of the entire lands as the High Court did not approve of the division of land in three blocks considering its potential value. The claimants were also given solatium in accordance with the law prevalent at the relevant time. Aggrieved, the appellants have come to this Court by filing Special Leave Petitions.

Learned counsel for the appellants argued that for the acquired land in the adjoining villages, viz., Masoodpur and Mahipalpur, the claimants were awarded compensation @ Rs, 14,340 per bigha and as such the appellants in the present cases were also entitled to the same amount of compensation In this connection learned counsel relied upon the judgment of Delhi High Court in RFA No. 122/78 Hoshiar Singh etc. v. Union of India decided on 17.7.91 and judgment in RFA No. 567/90 Union of India v. Inderpal Malhotra, decided on 25.10.90 awarding compensation at the rate of Rs. 14340 per bigha for acquisition of land in villages Mahipalpur and Masoodpur, respectively. On the strength of these judgments, learned counsel urged that there should be an uniformity in the matter of grant of compensation and the High Court committed a grave error in depriving the appellants of the compensation which they were entitled under the law. Learned counsel also argued that since no appeal or cross objection was filed by Union of India against the judgment in Land Acquisition Case No. 316/82 decided by Shri T.S. Oberoi, Additional District Judge, there exists two sets of rates of compensation, and under such circumstances in order to bring uniformity in the rate of compensation, the appellants may be awarded the same rate of compensation which the claimants in Land Acquisition Case No. 3116/82 have been awarded.

So far as the first argument that the appellants ought to have been given the same rate of compensation which was given to the claimants of the adjoining village is concerned, the amount of compensation for the land acquired depends on the market value of land on the date of immediately before the notification under Section 4 of the Act or when same land is acquired and offer of compensation is made through an Award, whether such an offer of compensation represent the

market value of the land on the date of notification under Section 4 of the Act, has to be determined on the basis of evidence produced before the Court. The claimants have to prove and demonstrate that the compensation offered by the Collector is not adequate and the same does not reflect the true market value of the land on the date of notification under Section 4 of the Act. This could only be done by the claimants by adducing evidence to the effect that on the relevant date, the market value of the land in question was such at which the vendor and the vendee (buyer and seller) were willing to sell or purchase the land. The consideration in terms of price received for land under bona fide transactions on the date or preceding the date of notification issued under Section 4 of the Act generally shows the market value of the acquired land and the market value of the acquired land to be assessed in terms of those transactions. Sale instances showing the price fetched for similar land with similar advantages under bona fide transaction of sale at or near about the issue of notification under Section 4 of the Act is well recognized to be the appropriate evidence for determining the market value of the acquired land.

The contention of appellants' counsel that appellants deserved to be awarded the same rate of compensation as it was awarded to the claimants of village Masoodpur and Mahipalpur, in the present facts and circumstances of the case, is not tenable. If we go by the compensation awarded to claimants of adjoining village it would not lead to the correct assessment of market value of the land acquired in the village Rangpuri. For example village 'A' adjoins village 'B', village B adjoins village 'C', village 'G' adjoins village 'D', so on and so forth and in that process the entire Delhi would be covered. Generally there would be different situation and potentiality of the land situated in two different villages unless it is proved that the situation and potentiality of the land in two different villages are the same. The High Court in the present case has found that the situation and potentiality of land in village Malikpur Khoi are different than that of village Masoodpur. This finding of the High Court is based on correct appreciation of evidence on record and does not call for interference. Another reason why the High Court declined to rely upon the judgments referred to above was that the sale instances relating to village Malikpur Khoi were available for determining the market value of the land acquired in village Malikpur Khoi and as such there was no need to rely upon the judgments which related to acquired land of different villages. Yet another reason why the two judgments referred to by learned counsel for appellant cannot be relied upon for assessing the market value of acquired land in village Malikpur Khoi was that RFA No. 567/90 filed by the Union of India relating to the grant of compensation in respect of land in village Masoodpur was dismissed summarily, as the only challenge in the appeal was in respect of grant of interest to the claimants which matter was already settled by the Supreme Court, in fact, the High Court had adversely commented upon the working of the Land Acquisition Department of Delhi Administration in not challenging the market value of the land acquired in village Masoodpur as assessed by the Additional District Judge, in Regular First Appeals although the court fee to that effect was paid. In this connection, it is relevant to reproduce the finding of the High Court, which runs as follows:-

"Before leaving the judgment, We are constrained to make a few Observations regarding the working of the land Acquisition Department in Delhi Administration and contest of these appeals by the counsel for Union of India. Although an appeal filed by the Union of India against the judgment of the ADJ in LAC 186/91 is pending in this court, this fact was not brought to our notice by the counsel for Union of India.

This decision of the ADJ in LAC 186/81 has been substantially relied upon by another ADJ in LAC 15/81. When the appeal against the said decision of the ADJ in LAC 15/81 came before us RFA 567/90 the only question pressed by the counsel for Union of India was in regard to the payment of interest after the amendment in the Land Acquisition Act in 1984, But when we found that the dismissal of the said appeal by the Division Bench was relied upon in RFA 122/78 Hoshiar Singh V. Union of India, we sent for the file. What is discovered on the file is shocking. The Union of India had purchased stamp worth Rs. 1,19,300, Obviously, the intention was to file an appeal against the quantum of compensation awarded by the ADJ. However, the grounds of appeal mostly relate to the payment of interest in terms of the Amending Act of 1984. The appeal memo was drafted by Mr. Gulab Chandra, Advocate, who also appeared before us in RFA 567/90. Since the questions regarding payment of interest after the Amending Act of 1984 are now fully settled by the decisions of me Supreme Court had since that was the only question argued before us by the counsel for the Union of India, the appeal was dismissed by us. We had not noticed at that stage that a stamp of Rs. 1,19,300 was affixed by the Union of India. This only discovered now. The purchase of stamp worth Rs. 1,19,300 would show that the claim would be over a crore of rupees. The claimants have been benefited because Union of India did not argue the matter on compensation. Apart from the lack of interest and inefficiency in the Land Acquisition matters on behalf of the Land Acquisition Department, these facts raise grave suspicion about the credibility of the working of the said Department, We, therefore, direct that a copy of this judgment be sent to the Lt. Governor for appropriate action."

The judgment of the High Court in RFA No, 567/90 was relied upon in RFA No. 122/78 Hoshiar Singh etc. v. Union of India as there was no sale instance in respect of the land in village Mahipalpur was available for assessing the market value of acquired land in the village Mahipalpur. It may be seen that in both the cases the High Court had no occasion to examine the market value of acquired land in village Masoodpur and Mahipalpur and under such circumstances it is not safe to rely upon two judgments of the High Court for arriving at the market value of the land in village Rangpuri.

The High Court has considered the following sale instances in detail which were from the same village viz,, Rangpuri A to A and came to the conclusion that sale transaction with regard to Khashra No. 1587/1 is not genuine sale transaction and as such it cannot be relied upon for assessing the market value of the land acquired. The High Court also found that the sale instances of the year 1964 at serial No. 4 and 6 which were nearer to the point of time of notification under Section 4 of the Act, are best pieces of evidence for assessing the market value of the land acquired.

S1 Ext. No. No.	Des- cription of document	Date of Not- fication	Field No. Area and situation	Rate per bigha	
	sale/regn.		Rs.		
1.	A-1 Deed of sale		14.03.61	14 (2 bighas)	25,000

Malikpur Khoi

2.	A-2	-do-	07.07.62	72 min (6bis)	4,000
		-do-			
3.	A-5	-do-	28.04.64	1587/1(1 bigha)	5000
		-do-			
4.	A-2	-do-	26.10.62	1677(4 bighas)	344
5.	R-1	Copy of	09.04.63	Mutation	
6.	R-2	Deed of sale	19.08.64		
					769,770 etc. (91 bighas & 1 bis.)
		-do-			
					1637, 1650,1651,1652,1653/1 & 1653/2(24 bighas)
		-do-			500

After having considered the sale instances the High Court assessed the market value of the land acquired @ Rs. 3000 per bigha. The judgment of the High Court is neither perverse nor illegal and does not call for any"

interference, since it is based on correct appreciation of evidence on record and proper application of law to the established facts. The appeals are, accordingly dismissed but in the circumstances of the case there shall be no order as to cost.