

NAWAL SINGH AND ORS. ETC. ETC.

v.

UNION OF INDIA ETC. ETC.

JULY 25, 1995

[K. RAMASWAMY AND K.S. PARIPOORNAN, JJ.]

*Land Acquisition Act, 1894 :*

*Compensation—Award of—Price of small extent of land—Not to form the sole basis for awarding higher compensation for large track of land—Awarding market value to mortgagee and 25% extra compensation to owner—Held, not justified as no discernible principle has been made out.*

Certain lands were acquired under the Land Acquisition Act and the Collector classified the lands as A.B.C. blocks and awarded Rs. 1600, Rs. 1400, and Rs. 1000 per bighas respectively. On reference, the Additional District Judge enhanced the compensation to Rs. 4250 Rs. 3200 and Rs. 2150 per bigha respectively. On appeal the High Court further enhanced the compensation to Rs. 5250, 4000 and Rs. 3000 respectively based on a single sale transaction in an adjacent village.

The claimants preferred the present appeals claiming enhanced compensation @ Rs. 9000 per bigha.

Dismissing the appeals, this Court

HELD : 1. It is now a settled principle that the price of a small extent of land cannot form the sole basis for fixation of higher compensation when a large track of land is acquired. Since the State did not file any appeal, there is need to go into the correctness of the finding recorded by the High Court. Suffice it to state that there is no other evidence on record to further enhance the compensation. [308-G]

2. There is no discernible principle made by the High Court to further enhance 25% more to the owner while awarding the market value to the mortgagee. Thus, there is no legal principle warranting further enhancement of 25% extra compensation as has been awarded by the High Court. [309-B]

A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2130 of 1980 Etc. Etc.

From the Judgment and Order dated 31.7.79 of the Delhi High Court in R.F.A .No. 115 of 1979.

B U.N. Bachawat, K. Madhava Reddy, Ranbir Yadav, P. Gaur, Rishi Kesh, Mrs. Hemantika Wahi, Manoj Prasad, H.M. Singh, Anis Ahmed Khan, and J.D. Jain, (Not Present) for the appearing parties.

The following Order of the Court was delivered :

C *C.A. No. 2130 OF 1980.*

D Notification under s.4(1) of the Land Acquisition Act was published on November 13, 1959 acquiring 1876 Bighas 19 Biswas land situated in Jwalahari for planned development of Delhi. The Land Acquisition Collector classified the lands as A, B, C Blocks and awarded @ Rs. 1600, Rs. 1400 and Rs. 1000 per bigha respectively. On reference under s.18 of the Act, the Additional District Judge by his Award and Decree dated September 8, 1979 further enhanced the compensation to Rs. 4250, 3200 and 2150 per bigha respectively. The High Court, on appeal, further enhanced the compensation to Rs. 5250, 4000 and 3000 respectively. Not being E satisfied with the enhanced compensation awarded by the High Court, the claimants have filed these appeals under s.54 of the Act claiming enhanced compensation @ Rs. 9,000 per bigha.

F The High Court found that there are no sale transactions in the village Jwalahari other than one sale transaction in village Madipur which is said to be adjacent to the village Jwalahari. That sale deed was dated April 20, 1959 just before the Notification. An extent of 1472.22 sq. yards was sold in Khasra No. 828 for a consideration of Rs. 7726 which worked out at Rs. 5250 per bigha. Based thereon, the High Court has enhanced the compensation. It is now a settled principle that the price of a small G extent of land cannot form the sole basis for fixation of higher compensation when a large track of land is acquired. Since the State did not file any appeal, we need not go into the correctness of the finding recorded by the High Court. Suffice it to state that there is no other evidence on record for us to further enhance the compensation.

H It is next contended that the High Court having made a distinction

between the owner and the mortgagee and enhanced 25% extra compensation to the owner, committed a grave error of law in not awarding the same to the appellants. We find no discernible principle made by the High Court to further enhance 25% more to the owner while awarding the market value to the mortgagee. Under these circumstances, we do not find any legal principle warranting further enhancement of 25% extra compensation. The appeals are accordingly dismissed but, in the circumstances, without costs. A B

All applications for substitutions & consolidation and reduction of security are allowed.

*C.A. Nos. 2525, 2524, 2970, 2823, 1895/80, 1577, 3112, 1376/81, 3151/80, 3758/82, 1784/81, 1375/81 and C.A. No. 7048 of 1995 (arising out of SLP (C) No. 2161/81).* C

Leave granted in S.L.P. No. 2161 of 1981.

Following the order made just now in C.A. 2130/80, these appeals shall stand dismissed. No costs. D

G.N.

Appeal dismissed.