

A PAINDER SINGH AND ORS. ETC. ETC.

v.

UNION OF INDIA ETC. ETC.

AUGUST 8, 1995

B [K. RAMASWAMY AND B.L. HANSARIA, JJ.]

*Land Acquisition Act, 1894 :*

C *S. 23(1)—Compensation—Award of—Circular fixing value of land under S.48 of Stamp Act—Relevance of in the context of award of compensation under Land Acquisition Act.*

D A notification under Section 4(1) of the Land Acquisition Act, 1894 acquiring a large extent of land for development of Delhi city was published on 6th April, 1964. The Land Acquisition Officer awarded compensation @Rs. 5,000 and Rs 4,500 per bigha. On reference, the Civil Court, enhanced it to Rs. 7,260 and Rs. 7,000 per bigha respectively. On appeal, the High Court uniformly enhanced the market value to Rs. 12,000 per bigha. Hence these Special Leave petitions.

E The petitioners contended that for the adjacent lands in village Badarpur and Molarband, the Reference Court and the High Court enhanced the compensation to Rs. 43,000 per bigha etc. and so High Court was not justified in confining the market value to Rs. 12,000 per bigha.

Dismissing the Special Leave Petitions, this Court

F HELD : 1. Reliance was placed on the circular issued obviously under Section 48 of the Stamp Act, by the Central Government fixing the market value for the purpose of registration at Rs. 60 per sq. yard. This Court has considered the entire gamut of the operation of the relevant provisions of Stamp Act and S.23(1) of the Land Acquisition Act and held that the fixation by the Government of the amount under Stamp Act for fiscal purpose bears no relevance to determine the market value under Section 23(1) of the Act. The claimant aliunde needs to establish the prevailing market value as on the date of the notification under Section 4(1) by adduction of evidence to prove that the acquired land and the land covered by sale transactions bear similar or same potentialities or ad-

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vantageous features. The courts below have relied only on the circular issued by the Government for fiscal purpose, viz., for stamp duty. The contra view taken by the High Court in that behalf is clearly illegal and the same cannot form basis for further enhancement. [574-A-D]

2. The judgment of the High Court in relation to the notification dated 5th July, 1973 in which the compensation was awarded @Rs. 68,000 per bigha for village Tughlakabad, is of little assistance as it is also founded upon the circular issued by the Government on 26th March, 1966 and relates to a notification issued after about 10 years of the notification at hand. [574-E]

CIVIL APPELLATE JURISDICTION : Special Leave Petition (C) No. 32 of 1990.

From the Judgment and Order dated 22.8.89 of the Delhi High Court in R.F.A. No. 52 of 1989.

L.C. Chechi and Serva Mitter for the Petitioners.

Ms. Indra Sawhney for S.A. Matto for the Respondents.

The following Order of the Court was delivered :

The notification under Section 4 (1) of the Land Acquisition Act, 1894 (for short, 'the Act') acquiring a large extent of land for development of Delhi city was published on 6th April, 1964. The Land Acquisition Officer awarded compensation @Rs. 5,000 and Rs. 4,500 per bigha by his award No. 87 of 1980-81. On reference, the Civil Court, viz., the Additional District Judge, enhanced it by his award and decree dated 30th August, 1983 to Rs. 7,260 and Rs. 7,000 per bigha respectively. On appeal, the High Court by the impugned judgment dated 22nd August, 1989 made in R.F.A. No. 52/89 and batch uniformly enhanced the market value to Rs. 12,000 per bigha. Feeling aggrieved, this petition has been filed for further enhancement to Rs. 25,000 per bigha.

The learned counsel for the petitioners states that these lands relate to village Madanpur Khadar. He contends that for the adjacent lands in village Badarpur and Molarband, the Reference Court and the High Court enhanced the compensation to Rs. 43,000 per bigha etc. Therefore, the High Court was not justified in confining the market value to Rs. 12,000

A per bigha.

We have gone through the judgments in those cases. Reliance was placed on the circular, issued obviously under Section 48 of the Stamp Act, by the Central Government fixing the market value for the purpose of registration at Rs. 60 per sq. yard. This Court has considered the entire gamut of the operation of the relevant provisions of Stamp Act and S.23 (1) of the Act and held that the fixation by the Government of the amount under Stamp Act for fiscal purpose bears no relevance to determine the market value under Section 23(1) of the Act. The claimant *aliunde* need to establish the prevailing market value as on the date of the notification under Section 4(1) by adduction of evidence to prove the acquired land and the land covered by sale transactions bear similar or same potentialities or advantageous features. The courts below have relied only on the circular issued by the Government for fiscal purpose, viz., for stamp duty. The contra view taken by the High Court in that behalf is clearly illegal and the same cannot form basis for further enhancement. *De hors* the above judgment, there is no other evidence to enhance further compensation.

Learned counsel for the petitioners also relied on the judgment of the High Court in relation to the notification dated 5th July, 1973 in which the compensation was awarded Rs. 68,000 per bigha for village Tughlakabad. That is also founded upon the circular issued by the Government on 26th March, 1966 referred to earlier and relates to a notification issued after about 10 years of the notification at hand. So this judgment also renders little assistance.

Accordingly, the special leave petitions are dismissed.

G.N.

Petition dismissed.