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PREMWATI

v.

UNION OF INDIA & ORS.

(Civil Appeal No. 949 of 2005 etc.)

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JULY 2, 2013

**[DR. B.S. CHAUHAN AND FAKKIR MOHAMED
IBRAHIM KALIFULLA, JJ.]**

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*Land Acquisition – Land acquired – Determination of the value of the land – Land holder claiming the compensation at Rs.1,25,000/- per bigha – High Court by impugned order relying on another case *(Balbir Singh's case) held that value of the land should be fixed at Rs.50,000/- – But in view of the fact that in *Balbir Singh's case, acquisition was one year prior to the acquisition in the instant case, the Court adopted depreciated value and fixed the value at Rs.42,000/- per bigha – Held: Reasoning of High Court in relying on *Balbir Singh's case for enhancing the value of the land is confirmed – But the rate fixed by High Court is modified to Rs.50,000/- from Rs.42,000/- per bigha in view of the fact that value in *Balbir Singh's case was fixed on the basis of cases which were acquired prior to the acquisition in the present case.*

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Land belonging to the appellants was acquired under Land Acquisition Act, 1894 by notification u/s. 4 dated 26.3.1983. The Land Acquisition Officer fixed the value of lands as Rs.13,000/- per bigha, and Rs.6000/- in respect of the lands falling under Block-A and Block-B respectively. The appellants approached the Reference Court seeking enhancement of the compensation amount to Rs.1,25,000/- per bigha. Reference Court enhanced the value of the land in Block A as well as Block B to Rs.17,500/- per bigha and Rs.18000/- per bigha for the lands abutting the road. The appellants approached High Court, for further enhancement of the value. The High

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Court relied on its earlier judgments in **Balbir Singh's* case and ***Bedi Ram's* case and agreed that the value of the land has to be fixed at Rs.50,000/- per bigha as done in those cases. But the Court applied rule of depreciation in the present case as acquisition in the present case was one year prior to the date of acquisition in **Balbir Singh's* case. The Court, therefore, deducted the value by 12% per annum on the sum of Rs.50,000/- and then enhanced the value of the land to Rs.42,000/- per bigha. Hence, the present appeals.

Partly allowing the appeals, the Court

HELD: 1. The reasoning of the Division Bench of the High Court in having relied upon **Balbir Singh's* case and ***Bedi Ram's* case fixing the value of the land was perfectly justified. When once the Division Bench rightly felt that whatever was decided in **Balbir Singh's* case, so far as it related to the value of the land fixed therein, can be applied even in respect of the land in the present case, which is situated in an adjacent village and the acquisition in respect of the lands in the said village was made simultaneously along with the lands which were subject matter in **Balbir Singh's* case and ***Bedi Ram's* case, therefore, the same value, which was applied in **Balbir Singh's* case should have been applied even in respect of the lands belonging to the appellants. [Para 12] [370-H; 371-A-C]

2. While every other reasoning of the Division Bench in adopting the value, which was fixed in **Balbir Singh's* case was justified, there is no need to deduct any amount from the said value, in as much as the exemplar relied upon by the Division Bench in **Balbir Singh's* case, were all sale deeds pertaining to the period 18.01.1982 to 22.07.1983 i.e., prior to the very first notification issued in respect of the present acquisition of all the four villages viz., 01.08.1983. Therefore, even while confirming the

A reasoning of the Division Bench in relying upon **Balbir Singh's* case for enhancing the value, the rate fixed by the Division Bench is modified to a sum of Rs.50,000/- per bigha. There is no merit in the claim of the appellants for claiming any further enhancement beyond the sum of
 B Rs.50,000/- per bigha, in as much as there was absolutely no legally acceptable material in support of any such claim. [Paras 14 and 15] [371-E-H; 372-A-C]

C **Balbir Singh vs. Union of India* 50 (1993) DLT 40;
***Bedi Ram vs. Union of India and Anr.* 93 (2001) DLT 150 – referred to.

Case Law Reference:

	50 (1993) DLT 40	referred to	Para 12
D	93 (2001) DLT 150	referred to	Para 12

CIVIL APPELLATE JURISDICTION: Civil Appeal No. 949 of 2005.

E From the Judgment and Order dated 07.02.2003 of the High Court of Delhi at New Delhi in RFA No. 132 of 1999.

WITH

C.A. No. 2443 of 2005.

F Sanjay Sharawat for the Appellant.

Rekha Pandey, Sadhana Sandhu, D.S. Mahra, Baldev Atrey, Anil Katiyar, for the Respondents.

The Judgment of the Court was delivered by

G **FAKKIR MOHAMED IBRAHIM KALIFULLA, J. 1:** These two appeals arise out of a common judgment of the Division Bench of Delhi High Court dated 07.02.2003, passed in batch of first appeals commencing from RFA No.167 of 1991 etc. We are concerned with the judgments passed in RFA No.132 of
 H 1999, wherein the appellant in C.A.No.949 of 2005, was the

appellant before the High Court and RFA No.129 of 1999, wherein the appellant in C.A.No.2443 of 2005 was the appellant before the High Court. The appellants were husband and wife. The appellant in C.A.No.2443 of 2005, died during the pendency of the appeal before the High Court and the appeal was pursued by his LRs.

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2. The question involved in these two appeals is about the value of the land to be determined under the provisions of the Land Acquisition Act, 1894 (hereinafter referred to as 'the Act'). There was a Notification under Section 4 of the Act, issued on 26.03.1983, followed by a Notification issued under Section 17(1) of the Act, in respect of the lands situated in Shahibabad Daulatpur, Khera Kalan, Siraspur and Samaipur villages. Under Section 6 of the Act a declaration was also made on the same date viz., 26.03.1983. The lands of the appellants before us were all situated in the village Shahibabad Daulatpur. The extent of land acquired from the appellants were 94 bighas and 2 biswas bearing different Khasra Nos. covered by LAC case Nos.27 of 93 and 23 of 1993. The other extent of land was 4 biswas in Khasra No.33/26, covered by LAC case Nos.28 of 1993 and 29 of 1993. The concerned Awards were Award Nos.26/83-84 and 57/83-84 respectively. The Awards were dated 01.08.1983 and 26.09.1983 respectively. As per the Award, the value of the lands were fixed by the Acquisition Officer in a sum of Rs.13,000/- per bigha, in respect of the lands falling under Block-A and Rs.6,000/- per bigha, in respect of the lands falling under Block-B. The same was the value fixed in Award No.57/83-84. Aggrieved by the compensation fixed under the Award, the appellants preferred LAC case Nos. 23, 27, 28 and 29 of 1993.

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3. The reference Court by its judgment dated 07.01.1998, determined the value in respect of both categories of land viz., A and B in a sum of Rs.17,500/- per bigha and in respect of the lands abutting the road in a sum of Rs.18,000/- per bigha. Before the reference Court, the appellants initially claimed

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A compensation at the rate of Rs.50,000/- per bigha, but later on they amended their petition and claimed the market value in a sum of Rs.1,25,000/- per bigha. Aggrieved by the value fixed by the reference Court, the appellants approached the High Court and the High Court by the impugned judgment enhanced the value to a sum of Rs.42,000/- per bigha. Aggrieved against the same, the appellants have come forward with these appeals.

C 4. We have heard Mr.Sanjay Snarawat, learned counsel appearing for the appellants and Ms.Rekha Pandey, learned counsel for the respondent (s). We have also perused the Award, the judgment of the Reference Court, as well as that of the Division Bench of the High Court and other material papers placed before us.

D 5. Having considered the respective submissions and the judgment impugned, along with the other material papers, we are of the considered opinion that further enhancement to a marginal extent can be justifiably granted in favour of the appellants.

E 6. When we perused the judgments of the Reference Court, we find that on behalf of the appellants, four witnesses were examined. P.W.1 Shri Jasbir Rana, is the son of the original appellant Rajinder Singh, P.W.2 Shri Rehmat Ilahi, who was a Reader in the Office of the Deputy Commissioner, Delhi at the relevant time, P.W.3 Halqa Patwari Rajinder Singh, was examined to show that Aks Sajra of village Shahibabad Daulatpur and P.W.4 Shri Jaswahaar, was a witness from the Ministry of Urban Development, Nirman Bhavan, New Delhi. On the side of the respondents, no evidence was let in, while two documents were tendered at the instance of the learned counsel for the respondents. One of the documents was the judgment of the Additional District Judge dated 30.03.1987, pertaining to the same village, as well as the same notification dated 26.03.1983 and the second document was a copy of the

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Award under Reference being Award No.26/83-84 which were marked as Exs. R1 and R2. A

7. On behalf of the appellants reliance was placed upon an earlier Division Bench decision of the Delhi High Court. While enhancing the compensation to a sum of Rs.42,000/- per bigha, the High Court relied upon its earlier judgment in *Balbir Singh Vs. Union of India* dated 30.10.1991, in RFA No.810 of 1988, which was reported in 50 (1993) DLT 40. In *Balbir Singh's case*, the question related to the value of the land in respect of the lands acquired in Siraspur village for planned development of Delhi, in particular for setting up an industrial estate. Notification under Section 4 of the Act in that case was dated 27.07.1984 and the total extent of land acquired was 2123 bighas and 5 biswas. The land value fixed by the Acquisition Officer was Rs.17,000/- per bigha for category A lands and Rs.13,000/- per bigha for category B lands. The reference Court enhanced it to Rs.25,000/- per bigha for A category and Rs.21,000/- per bigha for B category. In respect of some of the lands in B category, it was fixed at Rs.22,000/- per bigha. The High Court enhanced it to a sum of Rs.50,000/- per bigha for leveled land and Rs.45,000/- per bigha for the lands in depression. B C D E

8. While fixing the land value at Rs.50,000/- per bigha in *Balbir Singh's case*, the High Court took into consideration the sale deeds, which were executed between the periods 18.01.1982 to 22.07.1983, which was in the range of Rs.25,000/- to Rs.96,000/- per bigha. Certain other considerations also weighed with the High Court, while determining the land value in *Balbir Singh's case*, but we are not concerned with the same. F G

9. One other relevant factor which is required to be noted in the case on hand was that though in *Balbir Singh's case*, the lands were actually situated in the revenue estate of Siraspur, the High Court chose to rely on the same. In the case on hand, while enhancing the value to Rs.42,000/-, the High H

A Court applied the rule of depreciated value, in as much as the acquisition in respect of Siraspur village in *Balbir Singh's case* was pursuant to Section 4 Notification, dated 27.07.1984. It is relevant to note that the present acquisition was made pursuant to Section 4 Notifications of August 1983 and September 1983. The Division Bench therefore, deducted the value by 12% per annum on the sum of Rs.50,000/- and arrived at Rs.42,000/- per bigha.

10. For applying the said rate, the Division Bench relied upon another decision of the Delhi High Court in *Bedi Ram Vs. Union of India and another*, reported in 93 (2001) DLT 150, where the lands situated in the estate of Samaipur, which was also one of the villages governed by the present acquisition proceedings. One other relevant factor which is required to be noted is that P.W.3, who is Halqa Patwari, has deposed before the reference Court and confirmed that the site plan marked as 'E' is the correct consolidated site plan of village Samaipur and village Shahibabad Daulatpur. He also further confirmed that the boundaries of village Shahibabad Daulatpur and of village Samaipur are adjoining and continuous. By relying upon the testimony of P.W.1, the son of the appellant, as well as P.W.3 the Halqa Patwari, it was contended that the lands of the two villages viz., Shahibabad Daulatpur and village Samaipur are adjoining villages and, therefore, the market value of the lands of these two villages cannot be different.

11. The High Court has in fact accepted the submission by referring to village Siraspur with reference to the lands, pertaining to the said village in *Balbir Singh's case*, in which a year later, the value of the land was fixed to a sum of Rs.50,000/- per bigha.

12. Keeping the above factors in mind, when we consider the submissions of the learned counsel for the appellants, we find that the reasoning of the Division Bench of the High Court in having relied upon *Balbir Singh's case* and *Bedi Ram's case* was perfectly justified. We would, however, hasten to add that

when once the Division Bench rightly felt that whatever was decided in *Balbir Singh's case*, so far as it related to the value of the land fixed therein, can be applied even in respect of the land situated in Shahibabad Daulatpur, which is an adjacent village and the acquisition in respect of the lands in the said village was made simultaneously along with the lands situated in Samaipur and Sirasapur villages, are of the considered opinion that the same value, which was applied in *Balbir Singh's case* should have been applied even in respect of the lands belonging to the appellants. We say so because, we find in *Balbir Singh's case*, while fixing the land value in a sum of Rs.50,000/- per bigha, the High Court considered the various sale deeds of the period between 18.01.1982 and 22.07.1983.

13. In the case on hand, we are concerned with the land situated in Shahibabad Daulatpur village and the extent of land which were acquired from the appellants was 94 bighas 2 biswas of different Khasra Nos. covered by Award No.26/83-84 and 4 biswas in Khasra No.33/26, covered by Award No.57/83-84. Thus, the extent of land acquired from the appellants were also considerably large. The total extent of land thus, acquired in all the four villages were around 785 bighas of continuous lands and the acquisition was for the purpose of establishing the Delhi Technological University.

14. We are, therefore, of the view that while every other reasoning of the Division Bench in adopting the value, which was fixed in *Balbir Singh's case* was justified, there is no need to deduct any amount from the said value, in as much as the exemplar relied upon by the Division Bench in *Balbir Singh's case*, were all sale deeds pertaining to the period 18.01.1982 to 22.07.1983 i.e., prior to the very first notification issued in respect of the present acquisition of all the four villages viz., 01.08.1983, which notification pertains to the lands belonging to the appellants which were situated in Sahibabad Daulatpur village.

15. Therefore, even while confirming the reasoning of the

- A Division Bench in relying upon *Balbir Singh's* case for enhancing the value, we only modify the rate fixed by the Division Bench to a sum of Rs.50,000/- per bigha instead of Rs.42,000/- per bigha. With the modification only in respect to the rate per bigha, in all other respects the Division Bench decision deserves to be confirmed. We however, do not find any merit in the claim of the appellants for claiming any further enhancement beyond the sum of Rs.50,000/- per bigha, in as much as there was absolutely no legally acceptable material in support of any such claim.
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- C 16. The appeals stand partly allowed by enhancing the compensation from Rs.42,000/- per bigha as determined by the Division Bench of the High Court to a sum of Rs.50,000/- per bigha, in respect of both categories of land. With the above modification in the rate of land value, the appeals stand partly
- D allowed. Needless to add that appellants would be entitled for consequential benefits as per the law, if any.

K.K.T.

Appeal Partly allowed.