

JHANDOO (DEAD) BY LRS. AND ORS.

v.

UNION OF INDIA

AUGUST 7, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Land Acquisition Act, 1894 :*

*Ss.4(1), 23(1)—Acquisition of large extent of land in 1957—Compensation awarded by reference court at the rate of Rs. 10 per sq. yd.—Appellant's claim for enhancement of compensation on the basis of a similar case in which market value was determined by High Court at Rs. 12 per sq. yd. based on a sale deed, rejected by High Court—Held, keeping in view the legal position regarding deduction of development charges, and the State having not filed any appeal, it is not a fit case for interference.*

*S.54—Appeal against the order of reference court in any proceedings under the Act shall lie to High Court and not to Supreme Court—Present appeal by special leave under Article 136 of the Constitution cannot be treated to be an appeal u/s. 54.*

CIVIL APPELLATE JURISDICTION : Civil appeal No. 281 of 1985.

From the Judgment and Order dated 23.7.84 of the Delhi High Court in R.F.A. No. 281 of 1979.

Prem Prasad Juneja for the Appellants.

V.C. Mahajan and C.V. Subba Rao for the respondents.

The following Order of the Court was delivered :

This Appeal arises from the judgment dated July 23, 1984 of the Division Bench of the Delhi High Court made in RFA No. 281 of 1979.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') acquiring a large extent of land was published on March 8, 1957. The land of the appellant admeasuring one bigha and 14 biswas formed part of that land. Reference Court relying upon judgment

- A of the High Court in *A.N. Bhandari v. Union of India*, LPA No. 81 of 1979 decided on May 1, 1990 awarded compensation @ Rs. 10 per square yard. On appeal, it was confirmed. The High Court relied upon a single sale deed in similar case in which market value had been fixed @ Rs. 12 per square yard. Therefore, the appellant also claimed that rate. Since he was not awarded the rate claimed by him, he has filed appeal in this Court challenging the impugned judgment of the High Court.
- B

- C Shri Juneja, learned counsel for the appellant contended that the High Court, having found that the market value of the land in question could fetch was Rs. 12 per square yard, would have granted compensation at that rate. Though *prima facie* we find the contention plausible and acceptable, in view of the legal position that at least 1/3rd of the market value has to be deduced towards development charges and that the said consideration was not adopted in the case on which reliance is placed, the fact boils down that if the award is to be interfered with, the appellant would get less than what has been granted to him by the High Court.
- D However, since the State has not filed any appeal and in the facts and circumstances of the case, we are of the view that it is not a case warranting interference.

- E The appeal under Section 54 of the Act would not lie to this Court. A reading of Section 54 would clearly indicate that the appeal shall lie in any proceedings under the act only to the High Court against the award and decree of the reference Court and further appeal to this Court would be under Article 136 of the Constitution read with Section 11, CPC. by way of special leave and not under Section 54 of the Act, except when the High Court has given certificate thereunder.

- F Accordingly, this appeal cannot be treated to be an appeal under Section 54 of the Act but one by special leave under Article 136. In either case, we do not find any ground warranting interference. Hence the appeal is dismissed. No costs.

G R.P.

Appeal dismissed.