

A

JAI PARKASH AND ORS. ETC. ETC.

v.

UNION OF INDIA

MARCH 19, 1997

B

[A.M. AHMADI, CJ. AND SUHAS C. SEN, J.]

Land Acquisition Act, 1894—Section 23—Market value—Determination of—Compensation in respect of lands situated in neighbouring village—Relevance of.

C

Constitution of India—Article 136—Interference under.

D

The lands of the Appellants located in village Keshopur were acquired under the provision of the Land Acquisition Act vide two notifications issued under Section 4 of the Land Acquisitions issued under Section 14 of the Land Acquisition Act. The Land Acquisition Collector divided the Acquired lands into various blocks and awarded different compensation for different blocks. On reference under Section 18 of the Land Acquisition Act, the compensations awarded by the Land Acquisition Collector were raised by the Additional District Judge.

E

Being aggrieved by the compensation awarded, the Appellants filed appeal before the High Court contending, *inter alia*, that for similarly placed lands located in another village named Chokhandi a higher compensation was allowed. The High Court, taking into account the price of the lands in neighbouring villages, the size of land, its potential value etc.,

F

held that distinction should not be made between various blocks of lands and fixed an enhanced uniform market value of the acquired land.

The present appeals were filed before this court for enhancement of compensation.

G

Dismissing the appeals, this Court

H

HELD : 1. The order under appeal passed by the High Court does not call for interference. Merely because higher compensation was given for lands situated in a neighbouring village does not entitled the appellants to get the same compensation. The High Court has taken into consideration all the relevant facts like the size of the plot, location, potential value

of the land and also a few relevant sale deeds. No error of law has been shown to have been committed by the High Court. [92-B-C] A

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2043 of 1997 Etc. Etc.

From the Judgment and Order dated 8.1.95 of the Delhi High Court in R.F.A. No. 369 of 1970. B

B.K. Mehta, N.S. Vasisht Pradeep Misra, D.K. Garg, Dr. Maya Rao, M.S. Mann, S.B. Upadhyay, Pankaj Kalra, Indeevar Goodwill and Ms. Indira Sawhney for the appearing parties. C

The Judgment of the Court was delivered by

SEN J. Leave granted.

This group of appeals relates to assessment of compensation of land acquired in the village Keshopur by the Union of India by two notifications dated 13.11.1959 and the other dated 24.10.1961 under Section 4 of the Land Acquisition Act (hereinafter referred to as 'the Act'). D

So far as the land acquired under notification dated 13.11.1959 was concerned, the Land Acquisition Collector divided the acquired land into two Blocks - A and B - and fixed compensation for Block A land at Rs. 600 per bigha and for Block B land at Rs. 100 per bigha. On reference under Section 18 of the Act, the Additional District Judge raised the amount of compensation to Rs. 3, 500 per bigha for Block A and Rs. 3,000 per bigha for Block B. E

The High Court took into consideration various factors including compensation for similar lands acquired by the Government where compensation was fixed at a much higher rate. The High Court noticed that the instances cited by the appellants were of the land situated in Chokhandi, whereas the dispute of the present case related to lands in a different village Keshopur. The High Court also took into notice from the facts produced before it that in the neighbourhood of this village prices of the lands were showing an upward trend. The lands were being bought and sold by people for purposes of building houses. Small plots were being sold. Sale of small plots indicated that the land in village Keshopur had potentiality as a building site. The High Court, therefore, was of the view that F G H

A no distinction should be drawn between the land falling under Block A and Block B. The High Court, therefore, fixed market value of the land acquired pursuant to the notification dated 13.11.1959 at Rs. 7,000 per bigha.

B For the land acquired pursuant to the notification dated 24.10.1961, the Land Acquisition Collector had divided the land into three Blocks - Block A, Block B and Block C - and fixed the compensation at the rate of Rs. 1,000, Rs. 600 and Rs. 400 per bigha respectively. On reference the Additional District Judge fixed the market value on the same basis as he had done for the land acquired under the previous notification dated 13.11.1959.

C The High Court, however, raised the compensation to Rs. 8,000 per bigha and gave the following directions :

D "In addition to the market value the appellants will be entitled to an additional amount at the rate of 15% per annum on the market value in terms of section 23(1-A) as amended by the Land Acquisition (Amendment) Act, 1984 from the date of notification under section 4 of the Land Acquisition Act (the Act) till the date of the making of the award or taking possession, whichever is earlier. The appellants will be further entitled to solatium at the rate of 30% on the market value under the amended law.

E Further the appellants will be entitled to interest at the rate of 9% per annum for a period of one year from the date of taking possession and thereafter at the rate of 15% per annum till payment on the excess amount, that is, the amount which was increased by the Addl. District Judge and now by this court because that is the excess in terms of section 28 of the Act as amended. Whatever has already been paid either towards the market value or solatium or interest will be deducted.

F As there is a difference of more than three years between the notification under s.4 (13.11.1959) and the declaration under s.6 (17.8.64) of the Act in R.F.A. 369/70 (*Jai Prakash v. Union of India*) the appellants in R.F.A. 369/70 will also be entitled to interest at the rate of 6% per annum on the market value of the land under s. 4(3) of the Land Acquisition (Amendment and Validation) Act, 1967) provided there is no overlapping in the payment of interest

G

H

under s.28 of the Act and s.4(3) of the Amendment Act of 1967. A
They will also be entitled to proportionate costs.

In R.F.A. 527/70 the appellants will be entitled to costs. However they will not be entitled to the amount of court fee on Rs. 1,10,160 which they have paid on solatium." B

The Union of India has not preferred any appeal against the direction to pay interest and solatium under the amended provisions.

The contention of the appellants is that valuable land of the appellants have been taken away by the Government at a throwaway price fixed in an arbitrary manner. The appellants derive their livelihood from the land. The land having been taken away, they have been rendered jobless. The High Court failed to realise the loss caused by acquisition proceedings. C

It has been further argued on behalf of the appellants that lands situated in adjoining areas have also been acquired by the Union of India for which the Trial Court assessed the market value at the rate of Rs. 9,000 per bigha which was raised by the High Court to Rs. 15,000 per bigha (R.F.A. No. 159/1972 - *Shri Attar Singh & Ors. v. Union of India* and R.F.A. No. 103 of 1972; *Chet Ram v. Union of India*. There is no justification for the High Court for valuing the appellants' and situated in the adjoining village of Keshopur at Rs. 8,000 per bigha. The land at Keshopur has the same economic potentialities as the land situated in Chaukhandi. D E

The valuation of the land at Chaukhandi has been done on the basis of the area of the land in question and its potential value. It has been pointed out in the judgments that the land had two well developed colonies where buildings had come up. Therefore, having regard to the proximity of the surrounding colonies as well as the potential value of the land in question, the High Court valued the lands at Chaukhandi at Rs. 15,000 per bigha. There is nothing to indicate that land which has been acquired at Keshopur has the same market potential as the land at Chaukhandi. Several sale deeds were taken into consideration by the High Court. Merely because in some neighboring villages, valuation has been made at a higher rate, it cannot be said that the appellants must also be given same rate of compensation. F G

On behalf of the respondents, our attention has been drawn to a case H

- A - *Sukhlal (dead) through Lrs. v. Union of India & Ors.*, (S.L.P. No. 4149/1988 where in a similar case the High Court had enhanced the compensation to Rs. 8,000 per bigha. This Court dismissed the Special Leave Petition against the enhancement of the compensation on the ground that similar enhancements fixing Rs. 8,000 per bigha as compensation had already been approved by this Court in a number of other cases.

B
C We are of the view that the order under appeal passed by the High Court does not call for interference. Merely because higher compensation was given for lands situated in a neighbouring village does not entitle the appellants to get the same compensation. The High Court has taken into consideration all the relevant facts like the size of the plot, location, potential value of the land and also a few relevant sale deeds. No error of law has been shown to have been committed by the High Court.

We are, therefore, of the view that there is no merit in this appeal. The appeal is dismissed. There will be no order as to costs.

- D
CIVIL APPEALS NOS. 2044-2052, 2056, 2058, 2091, 2055, 2057, 2059, 2060-2065, 2068-2079, 2080-2084, 2085-2089, 2066, 2067 AND 2090 OF 1997.

- E (Arising out of Special Leave Petitions (C) Nos. 7902, 7919, 7920, 7921, 7922, 7922, 7923, 7984 7985, 7979, 74, 7986 & 13192 of 1986, 808, 2421, 4489, 3748, 4247, 4241, 4216, 4234, 4270, 4347, 4325, 2821, 4825, 5440, 13986-92, 5536-5536D, 6762, 2644, 10238, 9659 & 13177 of 1988, 7419 of 1989 and 55 of 1990 & 13573/86).

- F In view of our judgment in Civil Appeal No. 2043 of 1997 (Arising out of S.L.P. No. 81 of 1986), these appeals are also dismissed with no order as to costs.

B.K.M.

Appeals dismissed.