

PETITIONER:
JAI PRAKASH AND OTHERS

Vs.

RESPONDENT:
UNION OF INDIA

DATE OF JUDGMENT: 19/03/1997

BENCH:
CJI, SUHAS C. SEN

ACT:

HEADNOTE:

JUDGMENT:
WITH CIVIL APPEALS NOS. 2044 to 2052, 2056, 2058, 2091, 2055, 2057, 2059, 2060 to 2065, 2068 to 2079, 2080-84, 2085 to 2089, 2066, 2067 AND 2090 OF 1997.
(Arising out of Special Leave petitions (c) Nos.7902, 7919, 7920, 7921, 7922, 7923, 7984, 7985, 7979, 74, 7986 & 13192 of 1986, 808, 2421, 4489, 3748, 4247, 4241, 4216, 4234, 4270, 4337, 4325, 2821, 4825, 5440, 13086-92, 5536-5536D, 6762, 2644, 10238, 9659 & 13177 of 1988, 7419 of 1989 and 55 of 1990, & 13757/86)

J U D G M E N T

SEN, J.

Leave granted.

This group of appeals relates to assessment of compensation for 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').

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.300/- 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.

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 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.7000/- per bigha.

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.1000/-, 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.

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

"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.

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.

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 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 under s.28 of the Act and s.4(3) of the Amendment Act of 1967. 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."

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 lands 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.

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.9000/- per bigha which was raised by the High Court to Rs.15000/- per bigha (R.F.A. No. 159/1972 - Shri Attar Singh & Ors. v. Union of India). There is no justification for the High Court for valuing the appellants' land situated in the adjoining village of Keshopur at Rs.8000/- per bigha. The land at Keshopur has the same economic potentialities as the land situated in Chaukhandi.

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.15000/- 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 neighbouring villages, valuation has been made at a higher rate, it cannot be said that the appellants must also be given same rate of compensation.

On behalf of the respondents, our attention has been drawn to a case - 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.8000/- per bigha. This Court dismissed the special Leave petition against the enhancement of the compensation on the ground that similar enhancements fixing Rs.8000/- per bigha as compensation had already been approved by this Court in a number of other cases.

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 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.

CIVIL APPEALS NOS. 2044-2052, 2056, 2058, 2091, 2055, 2057, 2059, 2060-2065, 2068 - 2079, 2080-2084, 2085-2089, 2066, 2076 AND 2090 of 1997.

(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, 13086-92, 5536-5536D, 6762, 2644, 10238, 9656 & 13177 of 1988, 7419 of 1989 and 55 of 1990) & 13573/86).

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.

JUDIS