

CASE NO.:
Appeal (civil) 1322 of 1997

PETITIONER:
VIRENDER SINGH AND ORS.

RESPONDENT:
UNION OF INDIA

DATE OF JUDGMENT: 22/04/2003

BENCH:
K.G. BALAKRISHNAN & P. VENKATARAMA REDDI

JUDGMENT:
JUDGMENT

2003(3) SCR 864

The Judgment of the Court was delivered by

P. VENKATARAMA REDDI, J. In this appeal by special leave, the correctness of the market value assessed by the Reference Court and affirmed by the High Court of Delhi is in question. An extent of 16 Bighas and 10 Biswas of land in Khasra Nos. 478/14 etc., situated in Village Sadhora Khurd near Delhi belonging to the appellants was acquired together with other lands by means of a notification published on 13.11.1959 under Section 4(1) of the Land Acquisition Act. The acquisition was made for the purpose of planned development of Delhi. Declaration under Section 6 was made on 19.7.1965. An award was passed on 19.7.1967 by the Collector fixing the market value of the land in question at Rs. 6,000 per Bigha, classifying the same as 'B' Block. The Reference Court, namely, The Additional District Judge, Delhi enhanced the market value and fixed the same at Rs. 10,000 per Bigha for the land in 'B' Block. Appeals were filed by the Union of India and cross objections were filed by the claimants aggrieved by the determination made by the Reference Court. The High Court, by the impugned judgment dated 15.12.1995, dismissed the appeals and the cross objections thereby confirming the award of the Reference Court. Against this judgment the aggrieved landholders have preferred this appeal.

The Reference Court as well as the High Court rightly held that the decision of this Court in *Shri Prabhu Dayal v. Union of India*, [1995] Supp 4 SCC 221 in respect of acquisition made on 15.5.1945 fixing the market value at Rs. 5,700 per Bigha was of no assistance in fixing the market value of the land acquired fourteen years later, especially in the absence of evidence on record as to the extent of development that had taken place between 1945 and 1959. The High Court placed strong reliance on two sale deeds dated 15th March, 1967 and 8th April, 1967 whereby the claimants sold 7.5. and 8 Bighas respectively to the persons who figured as respondents before the Reference Court. The land sold is part of the land notified for acquisition and the sale transactions took place a few months before the award came to be passed by the Land Acquisition Collector. The sale price, as per sale deeds, works out to Rs. 7,500 per Bigha. The said land was purchased, according to the evidence tendered by the vendees, for the purpose of developing it as colony. In the face of these sale deeds executed by the claimants themselves, after a period of about seven years from the date of notification, the value of Rs. 10,000 per Bigha fixed by the Reference Court was held to be adequate compensation. Apart from these two sale deeds (Ex.A3 & A4), the High Court also relied upon the award of the Reference Court dated 26.5.1967 in Land Acquisition Case No. 242 of 1965 pertaining to the land acquired under a notification dated 19.10.1962 in the same village. In that award, the High Court fixed the market value as on 19.10.1962 at Rs. 10,000 per Bigha. The High Court observed:

"Even relying upon this piece of evidence, we are of the view that no

interference is called for with the impugned award in which claimants have been allowed compensation holding Rs. 10,000 per Bigha to be the fair market value of the acquired land of the claimants as on 13.11.1959, which was found to be located in Block 'B' much behind and towards back of the main road. Thus, we are of the considered view that claimants are not entitled to any further enhancement in the amount of compensation."

The learned counsel for the appellants has brought to our notice that the award of the Reference Court in which Rs. 12,000 per Bigha was fixed for the land acquired on 19.10.1962 has since been superseded by the judgment of the Delhi High Court which enhanced the market value from Rs. 12000 to Rs. 32,000 for the lands situated in 'B' Block. The learned counsel contends that even after giving the allowance for the appreciation of the value between 1959 and 1962, the compensation could be reasonably fixed at Rs 25,000 per Bigha. The learned counsel for the appellant further stated that against this judgment, no S.L.P. was preferred. To bring on record the said judgment of the Delhi High Court, an application has been filed for permission to file it as additional document and we have allowed the same. The learned counsel for the respondent-Union of India has contended that the said judgment has no more weight than the judgment under appeal, especially when there is no material on record to establish that the acquired land covered by the said judgment is comparable in all respects to the land in the instant case.

The objection of the learned counsel for the respondent for taking this judgment as basis for enhancement is, in our view, devoid of substance. By the said judgment dated 10.5.2002 in L.P.A No. 156 of 1980, the Delhi High Court partly allowed the appeal filed by the claimants by fixing the market value in respect of the land acquired under the Notification dated 19.10.1962 at Rs. 32,000 per Bigha. True, the High Court did not notice its earlier judgment which is now the subject-matter of this appeal by which the plea for enhancement of the market value over and above Rs. 10,000 was rejected. This brings about a strange situation of two conflicting judgments of the same High Court covering the field; but, in such an event, the Court has to closely scrutinize both the judgments and on a comparative assessment, prefer to follow the judgment/award which is most acceptable. Before coming to the conclusion as to which judgment is entitled to more weight, we have to necessarily look into the judgment rendered by the High Court in an appeal against the award of the Civil Court relied upon by the High Court in the instant case. When the award of the Civil Court was considered as a relevant piece of evidence, equally so, the appellate judgment which ultimately prevails, ought to be taken into account as relevant material while determining the compensation. We find from the judgment in L.P.A. No, 156 of 1980 that the High Court noticed the development activity in the vicinity of the acquired land during the crucial time and the potential for its growth as house sites. The High Court, therefore, took into account the prices of various smaller extents of land sold on square yard basis between 1958 and 1962, made a deduction of 50% for developing the large tract of land into small plots and arrived at the conclusion that Rs. 25,000 was the fair market value in January, 1959. Allowing the increase of 25% the High Court took the view that the fair market value of all categories of land as on 23.4.1962 in the revenue village of Sadhora Khurd could be assessed at Rs. 30,000 per Bigha and Rs. 32,000 per Bigha for the land acquired under Notification dated 19.10.1962. A further increase was allowed in regard to the lands acquired subsequently. Some other judgments of the High Court relating to the land in the same village were also considered.

When we come to the judgment under appeal, apart from the award of the Civil Court in relation to the land which was substantially varied by the judgment in L.P.A. No. 156 of 1980, the High Court placed strong reliance on Exhibits A3 and A4 which are the sale deeds executed by the claimants themselves to the persons who figured as respondents before the Court. These sale deeds were executed in the months of March and April, 1967 just before the award was passed. Parts of land were sold at the rate of Rs,

7,500 per Bigha. True as pointed out by the learned counsel for the respondent, the appellants did not tender any evidence to refute the sale value mentioned therein or to explain the circumstances in which such low price was charged. However, it must be noticed here that these sale deeds were neither relied upon by the claimants nor by the Government. They were evidently brought on record by the vendees who were respondents before the Civil Court. That is apparently the reason why the appellants did not consider it necessary to depose about those sale transactions. In our view, those sale transactions do not furnish real indicia of the market value of the land for the simple reason that the sales were affected at an advanced stage of land acquisition proceedings. Such sales rushed through, for whatever reason it be, just before the award came to be passed-cannot be taken to reflect the true value of the land. Even if they are genuine, the bargaining power of the vendors who are statutorily compelled to part with the ownership and possession within close proximity of time would be limited. No reasonable and prudent purchaser would buy the land with full market value at that juncture, knowing fully well that the land is under immediate peril of acquisition. Therefore, it is not safe to place reliance on the sale deeds-Exhibits A3 and A4 for arriving at the market value of the land in question. If these sale deeds are excluded from consideration, what is left is only the award of the Civil Court in a previous reference case adverted to above which has been substantially varied by the High Court under the judgment which is now brought on record.

Taking that judgment as the basis and giving due allowance to the rising prices between 1959 and 1962 and keeping in view the location of the land which according to the High Court, is quite far from the main road intervened by the lands of others, we are of the view that the market value of the land acquired could be reasonably fixed at Rs. 20,000 per Bigha.

In view of the Judgment of the Constitution Bench of this Court in *Sunder v. Union of India*, [2001] 7 SCC 211, the claimants are entitled to interest on solatium. It is further made clear that the interest under Section 4(3) of the Land Acquisition (Amendment & Validation) Act, 1967 which the Collector himself awarded at 6% has to be allowed on the market value of the land as now determined. Accordingly, the appeal is allowed to the extent indicated above without any order as to costs.