

PETITIONER:
UNION OF INDIA & ORS. ETC.

Vs.

RESPONDENT:
MANGATU RAM ETC.

DATE OF JUDGMENT: 29/04/1997

BENCH:
K. RAMASWAMY, S. SAGHIR AHMAD, G. B. PATTANAİK

ACT:

HEADNOTE:

JUDGMENT:
Present:

Hon'ble Mr. Justice K. Ramaswamy
Hon'ble Mr. Justice S. Saghir Ahmad
Hon'ble Mr. Justice G.B. Pattanaik

N.N. Goswami, V.C. Mahajan, G.L. Sanghi, Sr. Advs.,
S. Wasim A. Qadri, Ms. Anil Katiyar, ms. Niranjana Singh,
Satpal Singh, K.P. Mittal, M.S. Dahiya and Prem Malhotra,
Advs. with them for the appearing parties.

O R D E R

Following order of the Court was delivered:

WITH

CIVIL APPEAL NOS. 3817-3947, 4195-4207, 3951/97 (Arising out of SLP (C) Nos. 14176/97, 1545-1662/95, 16892-902/96, 19017/95, 19100-112/94, 19153-162/95, 212771-819/97, 4535/97, 5222-31/95, 7285-90/97, 8255-56/95, 8823-48/96 and 9144-50/97)

O R D E R

In CA Nos. 3816, 3818-35, 4070-4139, 3947, 4157-58, 4036/69, 4033-35, 3936-46/97 @ SLP Nos. 1013, 1545-1662, 3004-73, 19017, 8255-56/95, 2947-80, 2920-22 and 16892-902/96)

Leave granted. Heard learned counsel for the parties.

Notification under section 4(1) of the Land Acquisition Act, 1894 (for short, the 'Act') was published on June 18, 1984. The Land Acquisition Collector classified the lands into blocks, viz., A, B, C and D and awarded compensation at the rate of Rs.60,000/-, Rs. 40,000/- Rs.25,000/- and Rs.15,000/- respectively. The total of 3781 kanals and 2 marlas and 1138 kanals and 11 marlas of land was acquired and compensation was accordingly granted. On reference under Section 18. The Additional District Judge classified the lands as Classes 'A' and 'B' awarded the compensation @ Rs.1,00,000/- for class 'A' and @ Rs. 50,000/- for Class 'B'. on appeal. the learned single Judge of the High Court granted uniform rate of compensation @ Rs.1,05,000/-. The Division Bench heard L.P.A No.664/91 and batch and dismissed the appeals on January 5, 1994. Thus, these appeals by special leave.

The question that arises for consideration is: whether the view of the High Court in not making any belting and granting uniform rates of compensation for all the lands is

correct principle of law? We find that the High Court has adopt absolutely incorrect principle of law. It is seen that several fake deeds have been filed, in particular as per Ex. BA spoken through PW-3, 16.7 kanals of land were sold for Rs.1,40,000/- It is settled legal position that it is the duty of the court to sit in the arm chair of a willing and prudent purchaser and seek answer to the question whether he would purchase the lands offered for sale with the existing features, at the same market value proposed by the Court. It is also settled law that though determination involves some guess work, it must have reasonable basis and feats of imagination should be eschewed. It is salutary duty of the court to award reasonable and adequate compensation. The plan has been placed before us. The Land Acquisition officer has marked the lands in red colour the lands classification as 'A' and 'B' class lands in green colour.

The question that arises for consideration is: whether the belting is necessary in the circumstances of these cases? when a large extent of land under acquisition comprises of lands of several persons and some lands are abutting the main road and some lands are in the interior, the same would nor have the uniforms rate of market value. Necessarily, reasonable demarcation/classification should be made before determination of the compensation. Accordingly, we justified the classification of the lands into category 'A' and 'B'. The Land Acquisition officer has mentioned the total extent of the land in his respective awards. Since the lands are admittedly abutting the Delhi-Hissar National Highway by-pass, the same would necessarily be granted a higher market value than the lands situated in the interior. Accordingly, we are of the view the lands situated around 500 yards from the main road should be classified as 'A' class land irrespective of the quality of the land, i.e., whether it is Nehari, Chahi, Banjar Quadum, Banjar Jadid or Gair Mumkin, the uniform rate of compensation at Rs.1,00,000/- per acre would be granted to such lands. For the rest of the 'A' Class lands, the compensation would be at Rs.60,000/- per acre. Banjar Quadim, Banjar Jadid and Gair Mumkin lands are classified as 'B' class lands and for that land, the compensation at the rate of Rs.30,000/- per acre would be reasonable, just and adequate compensation.

Shri G.L. Sanghi, learned senior counsel appearing for the claimants, contends that if a claimant does not seek a reference under Section 18 and if the award is made in respect of other persons covered under the same notification and they secured enhanced compensation, the respondents should not be put in a worse off position than such persons in that behalf. He seeks to place reliance on judgment of this Court as an instance of confirmation of the enhancement of compensation by way of dismissal of the special leave petition. and contends that demarcation of the land into class 'A' and Class 'B' and the awarding the compensation at different rates would be arbitrary violating Article 14 of the constitution. We find no force in the contention.

It is equally settled law that Article 14 has no application vis-a-vis determination of the compensation for the obvious reason that it is hardly possible that all the lands are equal in all respects; Therefore, all the lands do not command the same market value when they are sold to a willing purchaser by a willing vendor in the open market.

Under these circumstances, the doctrine of equality in the matter of payment of compensation under Article 14 is

inapplicable. Accordingly, we hold that for 'B' Class lands, the compensation would be at the Rate of Rs.30,000/- per acre. The claimants are entitled to the solatium at the rate of 30% on the enhanced compensation. They are also entitled to interest @ 9% from for one year from the date of taking possession and thereafter at the date of taking possession and thereafter at the rate of 15% on the enhanced compensation. In addition, they are entitled to additional amount at 12% per annum under Section 23(1-A) of the Act. The High Court had not kept this perspective in view in determining the compensation and thereby it had committed manifest error of law warranting interference.

The appeals are accordingly allowed. The order of the reference Court is modified to the extent indicated above and the claimants shall be paid all the amount, if not already paid within a period of four months from the date of the judgment. No costs.

IN CA NO. 4153 OF 1997

(@ SLP (C) NO. 7287/97)

Leave granted.

Notification under section 4(1) of the Act was published on June 18, 1984. The collector made his award on 1.2.1986 under Section 11 of the Act. On reference, the Additional District Judge by his award and decree dated March 28, 1989. enhanced the compensation. A written application was filed by some other persons; their lands were also covered by the said notification, but they had not sought reference under section 18. The application came to be filed on June 24, 1989. Section 28-a postulates as under:

"Re-determination of the amount of compensation on the basis of the award of the Court- (1) where in an award under this Part, the Court allows to the applicant any amount awarded by the Collector under section 11, the persons interested in all the other land covered by the same notification under Section 4, sub-section (1) and who are also aggrieved by the award of the Collector made an application to the Collector under section 18, by written application to the collector within three months require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded."

A reading thereof would clearly indicate that the persons interested who had not sought reference under Section 18 but whose land is covered by the same notification published under section 4(1) and who are aggrieved by the acquisition, are entitled to make a written application to the Collector within three months from the date of the award of the reference Court for re-

determination of the compensation. Admittedly, since the application under section 28-A of the Act had been made on June 24, 1989 within three months, he is entitled to the same compensation awarded by the reference court in its award and decree dated April 3, 1989 as affirmed by the High Court on appeal.

The appeal is accordingly dismissed. No costs.

In CA NOS. 4151-52, 4154-56, 4140, 4185-91, 4010-32/97 (@ SLP (C) Nos. 7285-86, 7288-90, 4535, 9144-50/97 and 25319-41/96)

Leave granted.

Notification under Section 4(1) of the Act was published on June 18, 1984. The Collector made his award on January 21, 1986 under Section 11. On reference under section 18, at the instance of some of the claimants, the reference Court, by its award and decree dated April 3, 1989, enhanced the compensation. On appeal, it was confirmed. The application seeking re-determination of the compensation under section 28-A(1) came to be made on 24.4.1989. Thus, it is seen that by operation of the limitation prescribed under sub-section (1) of Section 28-A, since the written application was not filed within three months from the date of the award of the reference Court. The application is barred by limitation. The Compensation granted by the Collector on the basis of the said application is clearly illegal. Therefore, the view of the High Court also is incorrect.

The appeals are accordingly allowed. But, in the circumstances, without costs.

In CA No. 3817 of 1997 (@ SLP (C) No. 14176/97)

Leave granted.

In respect of the notification published on June 18, 1984, the Collector made his award on January 31, 1986 under Section 11. On reference under section 18 at the instance of some claimants, the reference Court, by its award and decree dated November 21, 1988, enhanced the compensation. The application under Section 28-A was filed on October 1, 1991. The written application can be filed by some who had not sought the reference under Section 18. Though they are entitled to make the application, the application should be filed within three months from the date of the award of the reference Court excluding the time taken for obtaining the certified copy of the award as provided under proviso to Section 28-A. Since the application under section 28-A was filed beyond three months, on the above facts, the same is barred by limitation. The award of the enhanced compensation to the respondents in this appeal is clearly illegal and without jurisdiction.

The appeal is accordingly allowed. The order of the reference Court as well as of the High court stand set aside. No costs.

In CA Nos. 4195-07, 3961-4009, 3951-60, 4141-50, 4159-84/97 (@ SLP (C) Nos. 19100-112, 21771-819/94, 19153-62, 5222-31/95 and 8823-48/96)

Leave granted.

These appeals are in the nature of cross appeal and relate to further enhancement of the compensation granted by the High court.

In view of the fact that the Union of India's appeals have been allowed, these appeals stand dismissed. No costs.