

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **LA APP. NO. 357 OF 2007**

Date of Decision: 29th November, 2010

RAM KISHAN Appellant
Through: Ms. Priya Gullia, Advocate

Versus

\$ **UOI & ANR.** Respondents
^ Through: Mr. Ramesh Ray, Advocate for
UOI.

CORAM:
* **HON'BLE MR. JUSTICE P.K.BHASIN**

1. Whether Reporters of local papers may be allowed to see the Judgment?(No)
2. To be referred to the Reporter or not?(No)
3. Whether the judgment should be reported in the digest?(No)

JUDGMENT

P.K.BHASIN, J:(ORAL)

This appeal was filed against the judgment and decree dated 6th July, 2007 passed by the learned Additional District Judge whereby the appellant's claim for enhancement in compensation in respect of his land in village Bharthal acquired by the Government was rejected. The Land Acquisition Collector had fixed the market value in respect of land at ₹

6,000 per bigha in block 'A' and ₹ 4,000 per bigha in respect of block 'B'. The appellant had claimed before the Reference Court that he was entitled to compensation @ ₹ 25,000 per bigha. It appears that some matter relating to village Bharthal reached this Court and it is undisputed that this Court had fixed the market value of the land in village Bharthal at ₹ 21,000 per bigha. That decision was rendered in RFA No. 69/1989.

2. The appellant was denied the enhancement in compensation by the learned Reference Court on the ground that he had failed to adduce any evidence to substantiate his claim. However a perusal of the impugned judgment itself shows that it had been stated on behalf of the beneficiary of the acquisition of appellant's land namely Indian Oil Corporation that this Court had already determined the value of land in village Bharthal @ ₹ 21,000 per bigha. It was not even being disputed on behalf of the Union of India as well as Indian Oil Corporation that the appellant was not entitled to get compensation @ ₹21,000 per bigha as had been determined by this Court in respect of the other lands in village Bharthal which was also sought to be acquired vide same notification under Section 4 of the Land Acquisition Act under which the appellant's land was also sought to be acquired.

3. Counsel for Union of India very fairly submitted that there was no justification for the Trial Court to deny to the appellant compensation

fixed by this Court @ ₹ 21,000 per bigha particularly when this fact had been brought to its notice on behalf of the beneficiary of the acquisition itself. Counsel for the appellant has submitted that just because appellant had not adduced any formal evidence in support of his claim for enhancement he could not have been denied enhancement of compensation @ ₹ 21,000 which this Court had already fixed by the time the impugned judgment came to be passed by the Reference Court and therefore the appellant should not be discriminated against denying him the benefit of the judgment of this Court rendered in RFA No. 69/1989. Counsel for the appellant has also submitted that he was now not claiming compensation @ ₹ 25,000 per bigha as he was claiming initially and he is restricting his claim only to ₹ 21,000 per bigha.

4. There was no appearance on behalf of the Indian Oil Corporation in the present matter today to oppose the appeal.

5. Considering the aforesaid submissions made on behalf of the appellant and respondent no. 1 Union of India, I am of the view that this appeal deserves to be allowed and the impugned judgment of the Reference Court is liable to be set aside.

6. This appeal is accordingly allowed and Reference Court's judgment and decree dated 6th July, 2007 are set aside and the appellant is awarded compensation in respect of his land in village Bharthal @ ₹ 21,000 per

bigha. Additionally the appellant shall also be entitled to the other statutory benefits under the Land Acquisition Act.

November 29, 2010
nk

P.K. BHASIN,,J