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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ LA.APP. 15/2007

KRISHAN DEWAN Appellant
Through: Nemo.

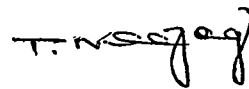
versus

UOI & ORS. Respondent
Through: Mr.Sanjay Poddar, Advocate.

CORAM:
HON'BLE MR.JUSTICE PRADEEP NANDRAJOG

% ORDER
15.07.2011

For orders see LA.APP.13/2007.



PRADEEP NANDRAJOG, J.

JULY 15, 2011
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* IN THE HIGH COURT OF DELHI AT NEW DELHI

% Date of Decision: 15th July, 2011

+ LA.APP. 13/2007

Roshan Lal ... Appellant

Through: Mr. S.K.Rout & Mr.N.S.Dalal,
Advocates

Versus

UOI & ORS ... Respondents

Through: Mr.Sanjay Poddar, Standing
Counsel: (LA), GNCT Delhi
with Mr.Sachin Nawani and
Mr Siddharth Panda Advocates for
R-1

AND

LA.APP. 14/2007, LA.APP. 15/2007, LA.APP. 16/2007, LA.APP.
567/2008 LA.APP.582/2008, LA.APP.583/2008,
LA.APP.584/2008, LA.APP.585/2008, LA.APP.589/2008,
LA.APP.590/2008, LA.APP.593/2008, LA.APP.597/2008,
LA.APP.598/2008, LA.APP.604/2008, LA.APP.606/2008.
(Relating to Notification u/s 4 dated 12.08.1997 & Award
No.5/DCW/2000-01, Village Baprola)

CORAM:
HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

1. Whether the Reporters of local papers may be allowed to see the judgment?
2. To be referred to Reporter or not?

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3. Whether the judgment should be reported in the Digest?

PRADEEP NANDRAJOG, J. (Oral)

1. Above captioned appeals pertain to acquisition of agricultural lands comprised in the revenue estate of village Baprola. Acquisition commenced pursuant to a notification dated 12.8.1997 issued under Section 4 of the Land Acquisition Act.

2. As per award No.5/DCW/2000-01, the Land Acquisition Collector categorized the acquired lands into Block A and Block B. He determined fair market value of Block A lands at ₹2,08,383/- per bigha and Block B lands at ₹1,77,083/- per bigha.

3. Land owners sought reference under Section 18 of the Land Acquisition Act and for reasons which are not very commendable, the learned Reference Court decided the references by passing orders on different dates.

4. The orders by which references have been decided are dated 25.8.2006, 28.8.2006, 29.8.2006, 30.8.2006, 31.8.2006, 19.9.2006, 22.9.2006, 29.9.2006 and 30.10.2006.

5. I would note that all orders have been passed by the same Judge. It is apparent that the learned Judge deciding the references was more concerned with the units which he would earn.

6. The problem which he has created for the Appellate Court is that evidence is scattered in various references and different pieces of evidence has been considered in different orders, and further with respect to the same evidence,

different reasoning are to be found in different orders. It has only made the journey of this Court a little longer.

7. The Reference Court has enhanced the compensation to ₹2,17,374/- per bigha for Block A land and ₹1,86,123.38 per bigha for Block B land. A perusal of the various decisions would show, and indeed learned counsel for the parties so concede, the learned Trial Judge was seized with 3 sale deeds dated 5.12.1996, 5.8.1996 and 19.5.1987, exhibited as Ex.PW-1/1, Ex.PW-1/2 and Ex.PW-1/3 in LAC No.178/2004. Exhibit marks in other references would be different. The learned Reference Court also discussed an agreement to sell dated 17.8.1996, Ex.PW-1/4 in LAC No.178/2004.

8. Thus, for purposes of the instant decision reference is being made to the evidence led in LAC No.178/2004. It may be highlighted that the land owners, in different references were relying upon either or all the above 4 exhibits.

9. Ex.PW-1/1 pertains to 1 bigha and 3 biswa of land sold in the revenue estate of village Nilothe. Ex.PW-1/2 pertains to 1 bigha land sold in village Mundka and Ex.PW-1/3 pertains to 1 bigha land sold in village Najafgarh.

10. The reasoning of the learned Reference Court in various orders, refusing to place reliance upon the said sale deeds, is that the contiguity of the 3 villages with village Baprola would be no ground to treat the price of the land in the said sale deeds as reflected of the market value of land in village Baprola for the reason if the principle of contiguity is to be applied, entire Delhi would become one unit.

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11. Different reasons have been given by the learned Reference Court not to rely upon the agreement to sell, Ex.PW-1/1 whereunder for the date 17.8.1996, 12 bigha and 10 biswa of land in village Baprola was agreed to be sold for ₹24 lacs per acre.

12. The reasoning of the learned Reference Court, cumulatively read; with reference to hues of the view in the various impugned orders is:-

(i) The stated part sale consideration in sum of ₹6 lacs was paid in cash.

(ii) The buyer did not enforce the agreement to sell and the parties settled for the amount to be refunded in sum of ₹8.5 lacs in cash.

(iii) The purchaser was a student at the time of the transaction and there was no evidence of his having any source of income.

(iv) No steps were taken to obtain no objection certificates from the income tax or the revenue authorities.

13. Cumulative effect aforesaid of the 4 circumstances would be, as per the different process of reasoning adopted, that the transaction is shrouded with suspicion and thus would not be a safe guiding index to determine the fair market value of land in village Baprola.

14. While enhancing the compensation, the learned Reference Court has adopted the price noted by the Government, being the minimum price for agricultural land in Delhi and depressing the same for category B land and without depressing the same for Category A land, enhanced the

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compensation by giving price rise @ 12% p.a. on the minimum price as notified.

15. Learned counsel for the appellants would urge that a perusal of the map of the city of Delhi would reveal that as we proceed from the city of Delhi towards the township of Rohtak along NH-10, village Mundka is crossed; the lands of village Mundka abut NH-10. The map of Delhi would further show that Najafgarh road, leading to Delhi from Dhansa hits NH-10 near Daya Basti. To put it differently, as NH-10 crosses Daya Basti, Najafgarh road branches out; the point forming a 'V'.

16. In between Najafgarh road and NH-10, the space between the 'V' has various villages. The village of Nilothi, Baprola, Mundka and Bakarwala are located in the said space. Standing on Najafgarh road and looking straight towards the North, we find that first in the line is village Baprola followed by the lands of village Bakarwala and then the land of village Mundka. In other words; whereas lands of village Baprola would be near Najafgarh road, proceeding along a straight line in the Northern direction would be agricultural land of village Bakarwala and finally the land in village Mundka and these lands would abut NH-10.

17. In other words the locational advantage of lands in village Mundka would be that they abut NH-10. The locational advantage of the lands in village Baprola would be that though not exactly abutting Najafgarh road, they are extremely proximate to Najafgarh road. Being towards Najafgarh road, lands in village Baprola are near the urbanized part of Delhi,

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and I note that the residential colony of Vikas Puri abuts the agricultural lands of village Baprola.

18. Thus, the reasoning of the learned Reference Court pertaining to not relying upon the sale deeds of villages Nilothi, Mundka and Najafgarh does not appear to be sound for the reason the learned Reference Court has not considered the topology of the area in its totality and has failed to appreciate that villages Baprola, Nilothi, Mundka and Najafgarh are between the 'V' constituted by NH-10 and Najafgarh road.

19. However, it may be noted that small parcels ad-measuring 1 bigha and 3 biswa, 1 bigha and 1 biswa respectively, were sold under the sale deeds Ex.PW-1/1, Ex.PW-1/2 and Ex.PW-1/3. The principles of a sampling would guide the Court that to be a representative of the whole, a sample must bear a reasonable proximation to the whole and if the sample is too meager, it would be a sample improperly so called and not a sample properly so called.

20. Thus, not for the reasoning of the learned Reference Court, but for my reasoning hereinbefore noted, I hold that it would be unsafe to determine the market value of agricultural lands in village Baprola with reference to the said 3 sale deeds.

21. As regards the agreement to sell Ex.PW-1/4, I accord my concurrence with the reasoning of the learned Reference Court, it is sound and logical. For the 4 features pertaining to the said agreement to sell, as extracted hereinabove, I hold that it would be most unsafe to rely upon Ex.PW-1/4 to determine the fair market value of lands in village Baprola.

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22. In my decision dated 8.7.2011, deciding a batch of Land Acquisition Appeals, lead matter being LA.App.No.784/2005 Jamna Vs. UOI & Ors., pertaining to a notification dated 25.2.1997, fair market value of category A lands in village Mundka was determined at ₹11,97,162/0 per acre and for category B lands the same was determined at ₹9,65,361.60 per acre.

23. I have already held hereinabove that the topology of the area would entitle equivalence of agricultural lands in village Mundka with village Bakarwala as also the instant village, Baprola.

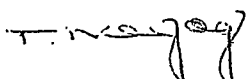
24. Since categorization of the lands has not been questioned, thus I hold that for the acquired lands in village Baprola, pertaining to the notification dated 12.8.1997, fair market value of land could safely be assessed with reference to the decision in Jamna's case (supra) and by granting 10% increase in the value of the land, commencing 25.2.1997, being the notification with which I was concerned in Jamna's case (supra), instant notification being 12.8.1997, the increased fair market value of land pertaining to category A lands is ₹12,52,264.30 per acre and for category B lands the same is ₹10,61,899.50 per acre.

25. The appeals stand disposed of decreeing that for such lands as have been put in category A (Block A) the compensation stands decreed in sum of ₹12,52,264.30 per acre and for such lands which are in category B (Block A), compensation decreed is ₹10,61,899.50 per acre.

26. It is further decreed that on the enhanced compensation the appellants would be entitled to all statutory

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benefits as per statute as clarified in the decision reported as 93 (2001) DLT 569 Sunder Vs. UOI except such appeals which were filed belatedly and delay was condoned; said appellants would not be entitled to interest for the period of delay. Proportionate cost is also decreed in favour of the appellants.


(PRADEEP NANDRAJOG)
JUDGE

JULY 15, 2011
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IN THE HIGH COURT OF DELHI AT NEW DELHI

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LA.APP. 13/2007

ROSHAN LAL

..... Appellant

Through: Nemo.

versus

UOI & ORS.

.... Respondents

Through: Nemo

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

ORDER

20.12.2011

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1. Perused the office note. It is correct that in para 25 of the judgment dated July 15, 2011 a typographical error has crept in. Reference to 'Block A' (after Category B) in the fourth line is incorrect.

2. It is clarified that para 25 of the judgment dated July 15, 2011 shall read as under:-

"25. The appeals stand disposed of decreeing that for such lands as have been put in category A (Block A) the compensation stands decreed in sum of ₹12,52,264.30 per acre and for such lands which are in category B (Block B), compensation decreed is ₹10,61,899.50 per acre."

PRADEEP NANDRAJOG, J.

DECEMBER 20, 2011

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