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

% Date of Decision: 22nd July, 2011

+ LA.APP. 848/2008

**MIR SINGH DECEASED THRU LRs
& ORS.**

... Appellants

Through: Mr. Deepak Khosla, Advocate

Versus

UOI THRU LAC

... Respondents

**Through: Mr. Sanjay Poddar, Standing
Counsel (LA), GNCTD**

AND

**LA.APP.849/2008, LA.APP.851/2008, LA.APP.852/2008,
LA.APP.854/2008, LA.APP.334/2009, LA.APP.335/2009,
LA.APP.337/2009, LA.APP.338/2009, LA.APP.343/2009 & CM
APPL.11494/2009 (Cross Objections), LA.APP.345/2009,
LA.APP.7/2010, LA.APP.475/2010 AND LA.APP.656/2010**

**Through: Mr. S.K. Rout, Mr. B.D. Sharma and
Mr. B.K. Routray, Advocates for appellants
in LA.App.No.656/2010**

**Mr. S.K. Rout, Mr. B.D. Sharma and
Mr. B.K. Routray, Advocates in
LA.App.No.475/2010**

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

Signature Not Verified

Digitally Signed By: **PRADEEP NANDRAJOG, J.** (Oral)
Certify that the digital file and
physical file have been compared and
the digital data is as per the physical
file and no page is missing.

1. Concerned with a notification dated 13.10.1980 issued under Section 4 of the Land Acquisition Act which resulted in an award No.12/82-83, learned Land Acquisition Collector determined market value of agricultural lands in village Neelwal @ ₹2,500/- per bigha.

2. A perusal of the award would reveal that the learned Land Acquisition Collector had no evidence of any sale transaction in the village as also the adjoining village Hiran Kudna. He had one sale deed pertaining to the next adjoining village i.e. Dichaun Kalan, and treating the same to be the evidence, the Land Acquisition Collector opined that value of agricultural land in village Dichaun Kalan would be ₹2,000/- per bigha, which was opined to be the fair market value of agricultural land in the adjoining village Hiran Kudna as well. But, keeping in view the situational and locational advantage of the revenue estate of village Neelwal, the learned Land Acquisition Collector determined ₹2,500/- per bigha as the fair market value of land in village Neelwal as of 13.10.1980.

3. It stands out that vis-a-vis village Hiran Kudna and village Neelwal the Land Acquisition Collector determined the market value in the ratio ₹2,000/- : ₹2,500/-, which converts itself into the ratio 4:5.

4. The land owners were not happy with the fair market value determined and sought reference under Section 18 of the Land Acquisition Act.

5. When the reference was pending, LAC No.14/1986 was decided by Sh.Padam Singh ADJ. Delhi on 31.5.1989 in which, with reference to the lands of village Mundka, which adjoins village Hiran Kudna, fair market value of land in village

Hiran Kudna as of 31.10.1980 was determined at ₹10,750/- per bigha.

6. Taking that to be the basis and observing that as per the award the lands in village Neelwal were situationally better located and this situational advantage gave the price advantage in the ratio 4:5, learned Reference Court held that in the same proportion the enhancement needs to be granted, but while so doing, for unexplainable reasons, reach the figure ₹12,990/- which has been awarded.

7. It may be highlighted that increased on the ratio 4:5, the sum of ₹10,750/- stands enhanced to ₹13,437.50 and not ₹12,900/- ($₹10,750/- \times 5 \div 4 = ₹13,437.50$).

8. The map of Delhi would reveal, as also the award in question confirms, the fact that agricultural lands of village Neelwal are abutting towards the North and the South of agricultural lands of village Tikri Kalan.

9. Pertaining to a notification dated 10.1.1980 issued under Section 4 of the Land Acquisition Act, vide judgment and order dated 16.4.1996, deciding RFA No.430/1987 Nafey Singh Vs. UOI a Division Bench of this Court has held that fair market value of agricultural lands in village Tikri Kalan as of 10.1.1980 would be ₹15,200/-. The said decision has attained finality.

10. Since it being settled law that while determining fair market value of land mathematical precision would be an impossibility and that on broad probable factors, with reference to empirical data, fair market value has to be determined, I hold that in view of the evidence discussed by the Land Acquisition Collector as also the learned Reference

Court, pertaining to agricultural lands in village Neelwal, we would have the position that on one side of the village is another village which is situationally disadvantaged and for which fair market value worked out as of 13.10.1980 is ₹10,750/- per bigha and on the other side we have a village i.e. Tikri Kalan which is situationally better advantaged, and for which, as of 10.1.1980 this Court has determined fair market value at ₹15,200/- per bigha, for the date 13.10.1980, increasing the price by 10% the fair market value qua said village would come to ₹16,300/-. The mean average of the two would be a just and a fair determination of the market value of lands in village Neelwal which would be $\text{₹}13,437 + \text{₹}16,300 \div 2 = \text{₹}14,868/-$ per bigha.

11. I highlight that the sum of ₹13,437/- is the figure which works out as per the reasoning of the learned Reference Court as explained in para 6 and 7 above and ₹16,300/- is the figure worked out with reference to the price of land in village Tikri Kalan. The village with the lesser price is situationally disadvantaged and the one with the better price is situationally advantaged and hence the mean average.

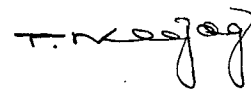
12. But I note the contention of Mr.Sanjay Poddar, learned counsel for the Union and reject the same. Learned counsel urged that pertaining to a notification dated 14.7.1982 deciding RFA No.777/1987 Rajpal Vs. UOI (decided on 13.2.2005), a Division Bench of this Court assessed fair market value of land in village Dichaun Kalan at ₹12,500/- per bigha. Counsel states that depressing said price by 10% till the date 13.10.1980 i.e. the date of the notification with which I am concerned, the price comes to ₹10,000/- per bigha and since

lands in village Dichaun Kalan are locationally disadvantaged vis-a-vis village Neelwal on the ratio 4:5 the value as per said decision could be enhanced to ₹12,500/- and with reference to the decision in Nafey Singh's case, the mean average would work out to ₹16,300/- + ₹12,500/- ÷ 2 = ₹14,400/- per bigha.

13. I have worked out the fair compensation to ₹14,868/- per bigha and since exactness can never be achieved with 100% precision, I adopt the figure worked out by me.

14. Appeal filed by the Union of India, being LA.App.Nos. 334/2009, 335/2009, 337/2009, 338/2009, 343/2009, 345/2009 and 475/2010 are dismissed.

15. LA App.Nos. 848/2008, 849/2008, 851/2008, 852/2008, 854/2008, 7/2010 and 655/2010 and CM No.11494/2009 (Cross Objections) in LA App.No.343/2009 are allowed directing that decree be drawn awarding compensation to the land owners @ ₹14,868/- per bigha. On the enhanced compensation the land owners would be entitled to statutory benefits under the Land Acquisition Act as explained in the decision of the Supreme Court reported as 93 (2001) DLT 569 Sunder Vs. UOI. Plus proportionate costs.



(PRADEEP NANDRAJOG)
JUDGE

JULY 22, 2011
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