

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

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Date of Decision: 14.05.2013

+ RFA 454/2001

RAVINDER SINGH

..... Appellant

Through: Shri I.S. Dahiya, Advocate for the appellant.

versus

UOI & ANR.

..... Respondent

Through: Shri Sanjay Kumar Pathak, Advocate with
Ms. KK. Pathak, Advocate for the respondent.

**CORAM:
HON'BLE MR. JUSTICE V.K.JAIN**

JUDGMENT

V.K.JAIN, J. (ORAL)

The land of the appellant, measuring 195 square yards and bearing Municipal No. H-2/8, comprised in Khasra No. 520/487 of village Ghondli (Krishna Nagar), Delhi, was notified vide Notification No. F-17 (25/72) L&B dated 30.11.1981. The said notification was followed by declaration dated 02.04.1982 under Section 6 of the said Act and an award being Award No. 117/86-87 was passed on 19.09.1986. The Land Acquisition Collector in the said award, granted compensation to the appellant at the rate of 145 per square yards. Since the appellant was not satisfied with the compensation awarded to him by the Land

Acquisition Collector, he sought a reference under Section 18 of the said Act. On such a reference being made to the learned Additional District Judge, Delhi, the compensation was enhanced to Rs 290/- per square yards vide order dated 20.07.1998. The appellant filed a Review Petition which also came to be dismissed. Being dissatisfied with the compensation awarded to him by the Reference Court, the appellant is before this Court by way of this appeal.

2. A perusal of the Trial Court record would show that the appellant, in support of his claim for enhancement of compensation, relied upon the judgment dated 20.5.1997 passed by the Reference Court in LAC No. 12/1990, whereby compensation at the rate of 390 per square yards was awarded in respect of certain land in this very colony, i.e., village Ghondli (known as Krishna Nagar) which was acquired vide Award No. 3/83-84 after being notified under Section 4 of the Act vide notification dated 04.11.1976.

3. The learned counsel for the appellant has today placed on record a copy of the statement under Section 19 of Land Acquisition Act, which was sent to the Reference Court in LAC No. 12/1990 **Kaushalya Devi vs. Union of India**. A perusal of this document would show that the area of the land of Kaushalya Devi, W/o W.R. Khurana, resident of 56/16, Rajinder Nagar, New Delhi acquired vide Award No. 3/83-84 in village Ghondli was 237.3 square yards. The same are the

particulars given in the certified copy of the judgment available in the file of the learned Additional District Judge.

4. A perusal of the order dated 26.05.2001 passed by the learned Additional District Judge on the Review Petition which had been filed by the appellant would show that during the hearing of the said petition, the learned counsel for the respondent –Union of India informed the Court that the aforesaid order had been challenged by them before this Court. However, no particulars of the appeal alleged to have been filed by Union of India against the decision of the learned Additional District Judge in LAC No. 12/1990 **Kaushalya Devi vs. Union of India** are available on the file and the learned counsel for the respondent is not in a position to confirm whether any such appeal was actually filed and if so what has been the fate of the said appeal. The assumption, in these circumstances, would be either no such appeal was actually filed or the appeal by Union of India was dismissed by this Court.

4. Since I am proceeding on the assumption that the order of the learned Additional District Judge in the case of **Kaushalya Devi vs. Union of India** was not challenged or the challenge, if made, was not accepted by this Court, the compensation awarded to Smt. Kaushalya Devi in respect of land measuring 237.3 square yards in the same locality, became final and consequently, the appellant is entitled to the same compensation unless it can be shown that on account of

location, size, potential or for some other reason, the market value of the land of the appellant before this Court, at the time of issue of notification under Section 4 of the Land Acquisition was lower than the value of the land of Smt. Kaushalya Devi which was the subject matter of the decision of the learned Additional District Judge in LAC No. 12/1990.

5. Since the area of the land acquired from the appellant was not larger than the area of the land acquired from Smt. Kaushalya Devi and there is no material on record to show that the land of the appellant was in any manner inferior to the land of Smt. Kaushalya Devi or that the land of Smt. Kaushalya Devi was superior to the land of the appellant either on account of location of their respective lands or for some other reason, there is no scope either for increasing or decreasing the compensation which was awarded to Smt. Kaushalya Devi, except to the extent of increase in the value of the land with the passage of time.

6. The next question which comes up for consideration is as to how much should be the enhancement on account of appreciation of land value between the date of notification in the case of **Kaushalya Devi** (supra), i.e. 04.11.1976 and the date of notification in the case of the appellant, i.e., 30.11.1981. This issue has come up for consideration before Supreme Court from time to time. In **Ranjit Singh v. Union Territory of Chandigarh** (1992) 3 SCC 659, Supreme Court applied the rule of 10% yearly increase for award of higher compensation. In

ONGC Ltd. v. Rameshbhai Jivanbhai Patel (2008) 14 SCC 745, Supreme Court held that where the acquired land is in urban/semi-urban areas, increase can be to the tune of 10% to 15% per annum and if the acquired land is situated in rural areas, increase can be between 5% to 7.5% per annum. In **Union of India v. Harpat Singh** (2009) 14 SCC 375, Supreme Court applied the rule of 10% increase per annum. Taking the above-referred decisions into consideration, the Apex Court in **Mehrawal Khewaji Trust (Regd.), Faridkot and Ors. Vs. State of Punjab and Ors.** (2012) 5 SCC 432 fixed the annual increase at 12% per annum while assessing market value of the land of the appellant before the Apex Court as on the date of issue of notification. Following the said decision, I am of the considered view that since the land in question is situated in urban area and in fact is situated in the midst of a well-developed colony, i.e., Krishna Nagar, the appellant is entitled to increase at the rate of 12% per annum. The learned counsel for the appellant states that if the appreciation at the rate of 12% per annum on a compound basis is granted, the land value would have appreciated from Rs 390/- per square yards on 04.11.1996 to Rs 694.62 per square yards on 30.11.1991.

7. For the reasons stated hereinabove, the appeal is allowed to the extent that the rate of compensation is fixed at Rs 694.62 per square yards. Besides compensation, the appellant shall also be entitled to statutory increase, if applicable, under Section 23(1)(A) of Land Acquisition Act and the solatium at the

statutory rate. The appellant will also be entitled to interest at the rate of 09% per annum for the first year and thereafter at the rate of 15% per annum on the amount of enhanced compensation, statutory increase under Section 23(1)(A) and the amount of solatium.

8. Since this order has proceeded on the assumption that either no appeal was filed by Union of India against the LAC No. 12/1990 passed by the learned Additional District Judge in the case of **Kaushalya Devi** (supra) or the said appeal, if filed, was dismissed by this Court and also on the assumption that the calculation made by the learned counsel for the appellant is correct, I grant liberty to the respondent to seek review of this order within a period of 30 days from today if either of these two assumptions is found to be incorrect.

9. Decree sheet be drawn by the Registry only after expiry of 60 days from today and subject to the further order, if any, passed in the meanwhile.

V.K. JAIN, J

MAY 14, 2013

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