

Court No. - 6

Case :- FIRST APPEAL No. - 108 of 1994

Appellant :- L.D.A.

Respondent :- Ram Krishna

Counsel for Appellant :- J.B.Dubey,Ajaay Kumar Singh,Ajay Kumar Singh,K.Chandra,U.Chandra,Vishva Nath Singh

Counsel for Respondent :- B.K. Saxena,A.P.Singh

Gaur,K.K.Saxena,Kritika Thakur,Prashant Singh Gaur,Syed Anzar Husain,Vishva Nath Singh

And

Case :- CROSS OBJECTION No. - 16 of 2015

Objector :- Lucknow Development Authority Lucknow In Fapl No.108/1994

Respondent :- Ram Krishnan And Ors.

Counsel for Objector :- Jang Bahadur Dubey

And

Case :- CROSS OBJECTION No. - 3 of 2021

Objector :- Lucknow Development Authority In 107 Fapl 1994

Respondent :- Purushottam Das And Co. And Others

Counsel for Objector :- B.K. Saxena

Counsel for Respondent :- Syed Anzar Husain,Faisal Husain

Hon'ble Rajnish Kumar,J.

1. Heard Shri Ajay Kumar Singh, learned counsel for the appellant and Shri Syed Anzar Hussain, learned counsel for the respondent.

2. There is consensus among the learned counsel for the parties that the case in hand are covered by the judgment and order dated 10.10.2017 passed in bunch of first appeal and cross objection, the leading of which is First Appeal No.56 of 2006 and the order dated 12.02.2020 passed in Cross Objection No.03 of 2018 passed on the basis of aforesaid judgment and order dated 10.10.2017. The judgment and order dated 10.10.2017 is extracted here-in-below:-

"Since all the aforesaid first appeals and cross objections arise out of the same award and judgment of the reference court, therefore, all the appeals and cross objections are being decided together by a common judgment.

The land in question was acquired for Sitapur Road Scheme. The notification under Section 4 of the land acquisition was made on 12.11.1981 while the notification under Section 6 was made on 03.12.1981. The possession was taken on 15.03.1985 and the Special Land Acquisition Officer made the award on 23.09.1986 awarding compensation @ rupees 1.22 per square feet. It is not disputed that the entire land under all these appeals is situated in village Sikandarpur Pargana and Tahsil District Lucknow. The land holders whose land was acquired, feeling aggrieved by the award of the Special land Acquisition Officer preferred reference under Section 18 of the Land Acquisition Act which was decided on 03.12.2005. The learned reference court enhanced the compensation from rupees 1.22 per square feet to rupees 2.17 per square feet. The land holders were also awarded thirty per cent solatium alongwith interest @ nine per cent for a period of one year from the date of taking over possession and thereafter @ fifteen per

cent till the date of payment.

The Lucknow Development Authority has preferred the above noted appeals, feeling aggrieved by the judgment of the reference court while the land holders have preferred cross objection for further enhancement of the award, according to the market value of the acquired land alongwith other consequential benefits.

During the course of arguments, the learned counsel for the respondents/land holders has drawn attention of the Court towards a judgment of the reference court dated 24.10.2008 passed in Miscellaneous Case Nos.191 and 123 of 1990. The submission of the learned counsel is that the land in the aforesaid two miscellaneous cases was also of the same village and the learned reference court has enhanced the quantum of compensation from rupees 1.22 per square feet to rupees 3.25 per square feet. He has made a prayer that the appeals filed by the Lucknow Development Authority be dismissed and their cross objections be allowed to the extent that they may also be awarded compensation at the same rate. A copy of the judgment dated 24.10.2010 referred to above, has been placed on record alongwith cross objections.

Sri Ajai Kumar Singh, learned counsel for the Lucknow Development Authority has not disputed the fact that in respect of the same land, the reference court has determined the quantum of compensation @ rupees 3.25 per square feet and the same has not been challenged. In this view of the matter, I am of the view that the cross objectors and the respondents in all the aforesaid first appeals, are also entitled to get compensation at the same rate which the other land holders have been awarded.

In the result, the first appeals no.56, 55, 128, 124 and 126 of 2006 filed by the Lucknow Development Authority are dismissed and cross objections no.38 and 37 of 2006, 10 and 11 of 2007 and 7 of 2008 filed by the objectors are allowed and the market value of the land acquired is fixed at the rate of rupees 3.25 per square feet. The objectors shall be entitled to get compensation at the rate of rupees 3.25 per square feet instead of rupees 2.17 per square feet. They shall also be entitled to get twelve per cent interest with effect from the date of acquisition till the date of possession alongwith solatium at the rate of thirty per cent. They shall also be entitled to get interest at the rate of nine per cent per annum for a period of one year from the date of taking over possession of the land and thereafter interest at the rate of fifteen per cent per annum till the date of payment."

3. The order dated 12.02.2020 is extracted here-in-below:-

"The objections filed against the cross objection preferred under Order 41, Rule 22/23 of the Code of Civil Procedure, 1908 are taken on record.

Cross objection no.3 of 2018 has arisen out of the judgment/award dated 26.05.1994. It is pertinent to note that the LDA had also assailed the same very judgment/award in First Appeal No.109 of 1994 which has already been dismissed. The cross objection for enhancement of rate filed by the objector however continues to be pending. The L.D.A has filed objections against the cross objection aforesaid wherein it is fairly conceded that the cross objectors are equally entitled to the benefit of judgment dated 10.10.2017 rendered in a bunch of appeals as well as cross objections arising out of the same notification and scheme. The judgment dated 10.10.2017 concededly has attained finality and has been acted upon.

The operative portion of the judgment rendered in First Appeal No.56 of 2006 and connected cases reads as under:-

"In the result, the first appeals no.56, 55, 128, 124 and 126 of 2006 filed by the Lucknow Development Authority are dismissed and cross objections no.38 and 37 of 2006, 10 and 11 of 2007 and 7 of 2008 filed by the objectors are allowed and the market value of the land acquired is fixed at the rate of rupees 3.25 per square feet. The objectors shall be entitled to get compensation at the rate of rupees 3.25 per square feet instead of rupees 2.17 per square feet. They shall also be entitled to get twelve per cent interest with effect from the date of acquisition till the date of possession alongwith solatium at the rate of thirty per cent. They shall also be entitled to get interest at the rate of nine per cent per annum for a period of one year from the date of taking over possession of the land and thereafter interest at the rate of fifteen per cent per annum till the date of payment."

Once it is undisputed between the parties that the aforesaid judgement is squarely

applicable to the present cross objection as well, there is no reason as to why the benefit of the judgment aforesaid may not be extended to the cross objectors in the present case.

The cross objection is accordingly allowed in terms of the judgment dated 10.10.2017 and the benefit thereof may be extended to the cross objectors expeditiously and preferably within a period of two months from the date a certified copy of this order is filed before the authority concerned."

4. In view of above and the consensus among the learned counsel for the parties, the First Appeal No.108 of 1994 is **dismissed** and the Cross Objection No.16 of 2015 is **allowed** in terms of the judgment and order dated 10.10.2017 passed in First Appeal No.56 of 2006 accordingly. Since the First Appeal No.107 of 1994 has already been dismissed, the Cross Objection No.03 of 2021 is **allowed** in terms of the judgment and order dated 10.10.2017 passed in First Appeal No.56 of 2006.

(Rajnish Kumar, J.)

Order Date :- 30.7.2024

Haseen U.