

RAJASTHAN HIGH COURT

सत्यमेव जयते

HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

S.B. Civil Misc. Appeal No. 1544/2024

Union of India, through Defence Estate Officer Jodhpur, (Raj.).

----Appellant

Versus

1.

Koja Ram S/o Gokal Ram, R/o Village Gram Banar, Tehsil and District Jodhpur.
2.

Mula Ram S/o Gokal Ram, R/o Village Gram Banar, Tehsil and District Jodhpur.
3.

Dhau W/o Gokal Ram, (Deceased) R/o Village Gram Banar, Tehsil and District Jodhpur.
4.

Anachi W/o Dungar Ram, (Deceased) R/o Village Gram Banar, Tehsil and District Jodhpur.
5.

Bhera Ram S/o Dungar Ram, R/o Village Gram Banar, Tehsil and District Jodhpur.
6.

Hema Ram S/o Dungar Ram, R/o Village Gram Banar, Tehsil and District Jodhpur.
7.

State of Rajasthan, through District Collector, Jodhpur.
8.

Land Acquisition Officer, Jodhpur.

----Respondents

For Appellant(s)

:

Mr. Mahesh Thanvi
Mr. Pradeep Dutt, SDO-I, Officer-in-charge, present in person

For Respondent(s)

:

Mr. Satya Prakash Sharma
Mr. Girdhari Lal Prajapat

HON'BLE MR. JUSTICE MADAN GOPAL VYAS

Order

21/11/2024

The present appeal is reported to be time barred by 298 days.

2. Heard on application under Section 5 of the Limitation Act.

3. The application under Section 5 of the Limitation Act is not being opposed on behalf of learned counsel for the respondent, therefore, the same is allowed.
4. The delay in filing the appeal is condoned.
5. Heard learned counsel for the parties.
6. Admit.
7. No need to issue notice to respondent Nos. 1, 2, 5 & 6 as learned counsel Mr. Satya Prakash Sharma is appearing on behalf of respondent Nos. 1, 2, 5 & 6.
8. Issue notice to respondent Nos. 3, 4, 7 & 8, returnable after six weeks.
9. Arguing on the stay application, the learned counsel appearing for the appellant-Union of India submits that the learned Reference Court has wrongly determined the price of the land acquired @ Rs. 3,00,000/- per bigha on the basis of the alleged sale deeds of the residential plots. It is submitted that at the relevant time, the prevailing rate was Rs. 1,75,000/- per bigha and therefore, the appellant-Union of India has rightly acquired the land in question @ Rs. 1,75,000/- per bigha. Further, it is submitted that the respondent whose land was acquired, has already been paid the required amount of the award.
10. Learned counsel appearing for the respondent No.1 opposed the prayer made by learned counsel for the appellant and submits that the learned Reference Court has rightly determined the cost of the land @ Rs. 3,00,000/- per bigha and the present appeal deserves to be rejected.
11. Heard learned counsel for the parties and perused the material available on record.

12. Having regard to the facts and circumstances of the case, this Court deems it appropriate that in case, the appellant-Union of India deposits 50% of the enhanced awarded amount **(Rs. 3,00,000 - Rs. 1,75,000 = Rs. 1,25,000/- per bigha)** along with interest as mentioned in the impugned judgment within a period of two months from today, the effect and operation of the impugned judgment/award dated 28.03.2023 passed by the learned Senior Civil Judge, Jodhpur Metropolitan in Reference Case No.18/2009 (Kojaram & Ors. versus State of Rajasthan & Ors.) shall remain stayed.

13. It is made clear that after deposit of 50% of the enhanced amount by the appellant-Union of India, the same may be disbursed to the respondent No.1 forthwith, with an undertaking that in case, the appellant succeeds in the present appeal, he/she/they shall repay the same to the appellant-Union of India alongwith interest.

14. Accordingly, the stay application is disposed of.

(MADAN GOPAL VYAS),J