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C.A.No. 2170 OF 2002

ITEM NO.101

COURT NO. 6

SECTION XIV

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Civil Appeal No.2170 of 2002

Krishna Rani Kapoor & Anr.Appellant (s)

Versus

Union of India & Ors.

Respondent (s)

(With Office Report)

Dated:12/02/2004: This appeal was called on for hearing today.

CORAM

HON'BLE MR. JUSTICE Y.K. SABHARWAL

HON'BLE MR. JUSTICE B.N. AGRAWAL

For Appellant (s)

Mr. Amarender Sharan, Sr. Adv.

M/s MK. Verma, BR. Kapur,

Sumit Kumar Khatri, Adv.

Mr. Anis Ahmed Khan, Adv.

For Respondent (s)

Mr. Sanjay Karol, Sr. Adv.

Mrs. Rekha Pandey, Adv.

Ms. Anil Katiyar, Adv.

UPON hearing counsel, the Court made the following

O R D E R

Mr. A. Sharan, learned senior counsel appearing for the appellants resumed arguments at 10-35 a.m. and concluded at 10-50 a.m. followed by Mr. Sanjay Karol, learned senior counsel appearing for the respondents, who argued for about 10 minutes. Hearing concluded. The appeal is partly allowed.

(S. Thapar)

PS to Registrar

(V.P. Tyagi)

Court Master

The signed order is placed on the file.

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.2170 OF 2002

Krishna Rani Kapoor & Anr.

Appellant (s)

Versus

Union of India & Ors.

Respondent (s)

O R D E R

The short question in this appeal is about the market value of the land of the appellants that was acquired under Notification dated 9th January, 1980, issued under Section 4 of the Land Acquisition Act, 1894.

The established facts on record are, that the land measuring 1900 sq. yards was purchased by the appellants under a sale deed dated 27th December, 1971, at the rate of Rs.8/- per sq. yard.

The land is situate in village Libaspur, Delhi. It does appear that there was in existence an unauthorised colony on or around the land which was later established by the name of Sarup Nagar Colony. At the time of acquisition, the colony was unauthorised. It seems to have been authorised later in the year 1984. The Land Acquisition Collector awarded compensation at the rate of Rs.3/- per sq. yard. It may, however, be noted that the Award of the Land Acquisition Collector notices that the land is situate on main G.T. Road and enjoys the benefit of better situation. Before the Reference Court the appellants claimed enhancement stating that the market value of the land was Rs.60/- per sq. yards. The Reference Court, however, fixed the market value of the land at Rs.20/- per sq. yard primarily on the ground that that was the rate on which the compensation was claimed by majority of the person before the Land Acquisition Collector.

The judgment of the Reference Court was challenged in appeal before the High court. The High Court, by the impugned judgment, fixed the market value of the land at Rs.42/- per sq. yard.

The claim of the appellant before the High Court was that the compensation deserves to be enhanced and awarded at the rate of Rs.400/- per sq. yard which was said to be the market value at the relevant time. Before the Reference Court, though in the claim petition, the compensation was claimed at the rate of Rs.60/- per sq. yard but at the time of arguments the compensation was claimed at the rate of Rs.2,400/- per sq. yard, on the basis of notified rates of land falling in Group 5 relying upon the commercial rate in Azadpur, as per notification of Union of India.

The acquisition in the present case is prior to the amendment of Land Acquisition Act which was effected in the year 1984. In view of Section 25 of the Act, as it stood before the amendment, the appellants are not entitled to be awarded compensation more than the amount claimed.

This aspect stands settled against the appellants in Land Acquisition Officer-cum-DSWO, A.P. Vs. B.V. Reddy & Sons [2002 (3) SCC 463]. Thus, the claim at the rate of Rs.400/- per sq. yard, that was made before the High Court, cannot be taken into consideration.

The only question is whether the appellants are entitled to compensation at the rate of Rs.60/- per sq. yard. The observations of the Land Acquisition Collector in regard to better situation of the land have been noticed hereinabove. The High Court has also noticed that the potentiality of the property for being utilised for commercial purpose is not in dispute. It is also established that the acquired land abuts on main G.T. Road and on the other side of the land in question the commercial activity is already going on. Having regard to the special location of the land in question and considering the material on record, we are of the view that the claim of Rs.60/- per sq. yard can, under no circumstances, be said to be unreasonable. In this view, we fix the market value of the land in question at Rs.60/- per sq. yard and to that extent modify the impugned judgment.

The appeal is, therefore, allowed partly and the compensation is fixed at the rate of Rs.60/- per sq. yard. In all other respect, the impugned judgment is maintained.

.....J
(Y.K. Sabharwal)

.....J
(B.N. Agrawal)

New Delhi,
February 12, 2004

