

ITEM NO.35

COURT NO.11

SECTION XIV

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil) No(s).7731/2007

(From the judgement and order dated 25/05/2006 in LAA No. 776/2005
of The HIGH COURT OF DELHI AT N. DELHI)

UNION OF INDIA

Petitioner(s)

VERSUS

RANDHIR SINGH & ANR.

Respondent(s)

(With prayer for interim relief and office report)

WITH

SLP(C) NO. 7732 of 2007

(With office report)

SLP(C) NO. 7734 of 2007

SLP(C) NO. 7735 of 2007

(With office report)

SLP(C) NO. 7736 of 2007

(With office report)

SLP(C) NO. 7737 of 2007

(With office report)

SLP(C) NO. 7742 of 2007

SLP(C) NO. 7743 of 2007

(With office report)

SLP(C) NO. 7744 of 2007

(With office report)

SLP(C) NO. 7745 of 2007

(With office report)

SLP(C) NO. 7749 of 2007

(With office report)

SLP(C) NO. 7750 of 2007

(With office report)

SLP(C) NO. 7751 of 2007

(With office report)

SLP(C) NO. 7752 of 2007

(With office report)

SLP(C) NO. 7754 of 2007

(With office report)

SLP(C) NO. 7756 of 2007

(With office report)

SLP(C) NO. 7757 of 2007

(With office report)

SLP(C) NO. 16631 of 2008

(With appln.(s) for c/delay in filing SLP and office report)

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SLP(C) NO. 16627 of

2008

(With appln.(s) for

c/delay in filing SLP and office report)

SLP(C) NO. 16628 of

2008

(With appln.(s) for

c/delay in filing SLP and office report)

Date: 14/05/2010

These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI

HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Petitioner(s)

Mr. B. Chahar, Sr. Adv.
Ms. Rekha Pandey, Adv.

Mr. M.P.S.Tomar, Adv.
Ms. Asha G.Nair, Adv.
Ms. Gargi Khanna, Adv.
Mr. R.S. Nagar, Adv.
Mr. D.L. Chidanand, Adv.
Mr. Anil Katiyar, Adv.
For Mr. D.S. Mahra, Adv.

For Respondent(s)

Mr. Vishnu B. Saharya, Adv.
For M/S Saharya & Co., Adv.

Mr. M.A.Chinnasamy, Adv.

UPON hearing counsel the Court made the following
O R D E R

These petitions are directed against the judgment of the Division Bench of Delhi High Court whereby the appeals preferred by the respondents under Section 54 of the Land Acquisition Act, 1894 (for short, "the Act") were partly allowed and market value of the acquired land was enhanced from Rs.1,08,000/- to Rs.1,32,000/- per bigha and the petitioner was directed to accordingly pay compensation to the respondents along with statutory benefits.

The land of the respondents situated in Village Bakarwala was acquired in 1993 for a public purpose i.e., construction of Water Treatment Plant for Dwarka Project. By an award dated 30.10.1995, the Land Acquisition Collector fixed the market value of the acquired land at Rs.96,875/- per bigha. On reference made by the Collector under Section 18 of the Act, Additional District Judge, Delhi re-fixed the market value of the acquired land at

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Rs.1,08,000/- per bigha.

Feeling aggrieved by the award of the Reference Court, both the parties filed separate appeals. The Division Bench of the High Court considered various sale transactions and fixed the market value of the acquired land at Rs.1,32,000/- per bigha. The relevant portion of the judgment of the Division Bench is extracted below:

"Statement of PW-6 read in conjunction with Exh.PW6/A shows that acquired land is surrounded by different villages particularly Villages Ranhola and Mundaka. In regard to these Villages, recent judgments of this Court is available and practically in all cases compensation awarded by the Reference Court was enhanced or where the Court had declined to increase any amount, the amount of compensation was reasonably enhanced.

The claimants have also claimed enhancement on the price indicated in the sale instances or even in the policy of the Government as they are quite prior to the issuance of the Notification under Section 4 of the Act. They claim 12% increase per annum on the consideration referred to in these documents for determining the fair market value of the acquired land.. To support their claim of 12% increase annually, they have relied upon a Division Bench judgment of this Court in the case of Rameshwar Solanki and Another Vs. Union of India and Another 57 (1995) DLT 410 (DB). Exh.R-2 is the policy declared by the Government on 30th April, 1990 fixing the minimum price for acquisition of agricultural land. This price is uniformly applicable to the entire Delhi without exception.

Needless to note that it is the minimum price and not the fair market value of the acquired land as contemplated under Section 23 of the Act. If claimants are to be given some increase may be 12% per annum then the claimants would be entitled to nearly Rs.1,59,284/- per bigha as the intervening period between the date of notification and the policy of the Government is more than 3 years. It has not been disputed that this policy was subsequently amended and the minimum price of agricultural land has been fixed at Rs.10 lakhs per acre with effect from 1st April, 1997, which has already been noticed in a recent judgment of this Court in the case of Sh. Mahender Singh Vs. Union

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of India and Others (L.A. Appl. No. 866/2005 decided on 11th May, 2006). The amount stated in this policy only indicates general prevalent price of agricultural land in the opinion of the Government but it necessarily need not be enforced against the Government because it is for the parties to lead evidence in support of their claims and when they led evidence, they have to abide by the result thereof.

Sale deeds relating to the acquired land or of the same Village is the best piece of evidence where a willing buyer and a willing seller enters into a sale transaction, which otherwise is genuine and is of a reasonable time prior to the acquisition can safely be lodestar for analyzation of the complex issue of determination of fair market value of the land. Besides the judgment referred above, even in the case of Special Tehsildar, Land Acquisition, Vishakapatnam Vs. Smt. A. Mangala Gowri AIR 1992 SC 666 the Supreme Court indicated that the sale transaction of acquired land within a reasonable time would be the best piece of evidence. It is also settled principle of law that reliance upon awards, judgments and even the policy of the Government would be made by the Court only in absence of such best evidence. The first and primary method for computation of fair market value of land is relatable to the sale instances of land in the same village. It is also the settled principle that 1/3 market value should be deducted for developments of the land. Even in the cases of A. Mangla Gauri and Rameshwar Solanki (supra) relied upon by the claimants, 1/3 deduction was held to be just and fair. Exh.P-3 in our opinion could not have been ignored by the learned Reference Court. Golden Rule of Averages could have been safely applied by the Reference Court for determining the fair market value of the land. Exh.R-4 indicates the value of the agricultural land in Village Mundaka @Rs.1 lakh per bigha. This sale deed was executed on 14th March, 1994 i.e. nearly 6 months subsequent to the date of notification dated 15th October, 1993 issued under Section 4 of the Act while Exh.P-3 was executed on 27th February, 1990 whereby the land in Village Mundaka was sold for Rs.1,25,000/- per bigha. Giving a reasonable increase on the value reflected in Exh.P-3 for the intervening period of 3 years, the amount would come to nearly Rs.1,70,000/- per bigha while reducing the amount of R-4 at the same rate for the intervening period of 6 months, the amount would come to Rs.94,000/- per bigha and

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average of both of them would give market value of Rs.1,32,000/- per bigha."

Learned counsel for the petitioner argued that the Division Bench of the High Court committed an error in fixing higher market value of the acquired land by relying upon the sale transactions relating to the land of Village Mundaka which is at a distance of one and half kilo meter from the acquired land.

We have considered the submissions of the learned counsel but have not felt convinced. In our view, the Division Bench of the High Court had rightly relied upon the sale transaction Ex.P-3 which was executed on 27.2.1990 in respect of the land in Village Mundaka because the said village is very near to Village Bakarwala. In any case, we are not inclined to interfere with the marginal increase in the market value of the acquired land.

The special leave petitions are accordingly dismissed.

(Satish K.Yadav)
Court Master

(Phoolan Wati Arora)
Court Master