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C.A.No. 9147 OF 1995
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ITEM No.102 Court No.8 SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CIVIL APPEAL NO.9147 OF 1995@@
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Gian Chand and Ors. Appellant (s)

VERSUS

Union of India Respondent (s)
(With office report)

WITH
C.A. No.3229/1996
(With office report)

S.L.P.(C) Nos.9514/1995 and 6997/2002

Date : 12-11-2002 This/These matter(s) was/were called
on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DORAISWAMY RAJU
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Appellant (s)/ Mr. Amit S. Chadha,Adv.
Petitioners Mr. Shiv P. Pandey,Adv.
In CAs.9147/95, Mrs. Rekha Pandey,Adv.
3229/96 & SLP 9514/95

For Petitioner (s) Mr. Dhruv Mehta,Adv.
In SLP 6997/02 Mr. Mohit Choudhary,Adv.
for M/s. K.L. Mehta & Co.

For Respondent (s)/ Mr. R.C. Verma,Adv.
Union of India Mr. R.K. Rathore,Adv.
In CAs.9147/95, Mr. D.S. Mahra,Adv.
3229/96 and Ms. Shashi Kiran,Adv.
SLP 9514/95 Ms. Kiran Kapoor,Adv.

Upon hearing counsel the Court made the following
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Mr. Amit S. Chadha, learned counsel started his arguments at 10.45 AM and concluded at 11.05 AM. Thereafter, Mr. Dhruv Mehta, leraned counsel addressed the Court upto 11.15 AM. Mr. R.C. Verma, learned counsel made ...2/-

his submission from 11.15 to 11.35 AM. After that, Mr. Amit S. Chadha, learned counsel argued in reply upto 11.150 AM.

Arguments concluded.

Leave granted in S.L.P.(C) Nos.9514 of 1995 and 6997 of 2002.

The appeals are partly allowed in terms of the signed order. The parties will bear the respective costs.

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(Neena Verma)
Court Master

(Kanwal Singh)
Court Master

Signed order is placed on the file.

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.UP 10 2; Draft, smtst; -n -PA4 -dFX-NORMAL -y -e; dumbp

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IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.9147 OF 1995@@
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Gian Chand & Ors.

.... Appellants

Versus

Union of India

.... Respondent

WITH@@
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CIVIL APPEAL NO.3229 OF 1996, Civil Appeal
No.7222 of 2002 arising out of S.L.P.(C)
No.9514/1995 and Civil Appeal No.7223 of
2002 arising out of S.L.P.(C) No.6997 of 2002@@
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Leave granted in S.L.P.(C) Nos.9514 of 1995 and 6997 of 2002.

In Civil Appeal No.9147 of 1995, the land owners have claimed for enhanced compensation, not satisfied with the sum of Rs.12,000/- per bigha granted by the High Court by a judgment and decree dated 01.08.1994. Their claim is in the sum of Rs.60,000/- per bigha. The notification under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') in the case was issued on 19.08.1976 in respect of lands situated in village Gharoli. The Land Acquisition Collector passed an award on 31.01.1979 and the Reference Court by different awards passed on more

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than one day during the period between 30.07.1982 and 30.10.1982, awarded a sum of Rs. 2160/- per bigha which, as noticed earlier, was further enhanced by the High Court to 12,000/- per bigha.

The other appeals also related to acquisition of lands under the same notification issued under Section 4(1) of the Act. In Civil Appeal No.3229 of 1996, and the appeal arising out of SLP(C) No.9514 of 1995, the judgment under challenge is the same as in Civil Appeal No.9147 of 1995, passed in common in a batch of appeals before the High Court. In the appeal arising out of S.L.P.(C) No.6997 of 2002, the reference court has chosen to award Rs.9400/- per bigha for chahi land in Block 'A' and Rs.6267/- per bigha for Khakhi land in block 'B', whereas the High Court has chosen to award, as in the other cases, and following the earlier decision challenged in the other appeals, a uniform rate of Rs.12,000/- in respect of all lands. The appellants, not satisfied has come before this Court claiming at the rate of Rs.60,000/- per bigha except in SLP(C) No.6997 of 2002, wherein the claim has been only for Rs.23400/- per bigha.

Heard the learned counsel on either side.

Reliance was placed for the appellants in support of the claim for further enhancement on three other decisions ...3/-

of the Delhi High Court reported in 90 (2001) DLT 416 Mohar@
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Singh and Ors. Vs. Union of India relating to a@@
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notification under Section 4(1) issued on 13.11.1959 said to encompass lands in a cluster of adjacent villages, including the village now under consideration wherein a claim was countenanced for a sum of Rs.8064/- per bigha in respect of lands in village Kondli; 93 (2001) DLT 150 Bedi Ram Vs.@@
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Union of India & Anr. relating to two notifications under@@
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Section 4(1) issued on 08.02.1973 and 19.08.1976 in respect of lands situated at Kondli village, in which for the lands covered by the notification dated 08.02.1973, the market value was fixed at Rs.22850/- for the lands covered by notification dated 19.08.1976 it was fixed at Rs.34,150/- per bigha; and 94 (2001) DLT 487 Jagmal Sharma & Ors. Vs.@@
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Union of India in respect of a notification dated 08.02.1973@@
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relating to lands in Kondli village awarding a compensation of Rs.22850/- per bigha following the decision in Bedi Ram's case (supra). The decision reported in 1997 (8) SCC 186 Karan Singh & Anr. Vs. Union of India of this Court in@@
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respect of an acquisition of lands situated in the very village Gharoli by a notification under Section 4(1) issued on 17.11.1980 affirming the compensation awarded in that by the High Court at an uniform rate of Rs.76550/- per bigha, was also brought to our notice. In the said decision it was ...4/-

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also observed that judgment of courts in land acquisition cases or awards given by the Land Acquisition Officers can be relied upon as a good piece of evidence for determining the market value of the land acquired under certain circumstances. On the basis of the the above materials, the learned counsel for the appellants strenuously contended that there is every justification to allow the claim of the appellants for a sum of Rs.60,000/- per bigha, keeping in view also the escalation in prices of land in the locality.

Per contra, the learned counsel appearing for the respondent-Union of India invited our attention to the judgment of the High Court and while adopting the reasoning therein, contended with equal force that the decision to award 12,000/- per bigha in this case had been arrived at on a reference to and after objective consideration of the relevant comparative/Index sale deeds in respect of the lands in the locality and, therefore, there is no warrant for any further interference or enhancing the compensation any further relating upon the materials referred to by the learned counsel for the appellants.

On a careful consideration of the submissions of the learned counsel appearing on either side, we are of the view that the determination of compensation, in respect of lands covered by a notification dated 17.11.1980 in the decision
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in 1997 (8) SCC 186 or the one fixed at Rs.34150/- per bigha in respect of the lands of village Kondli as on 19.08.1976 (vide 93 (2001) DLT 150 (supra) cannot be straightaway taken as a reasonable yardstick for ready application. In respect of the lands acquired in village Kondli relating to a notification dated 08.02.1973, a sum of Rs.22850/- per bigha seems to have been awarded by the very High Court. Taking clue from certain observations contended in the decision of the High Court reported in 90 (2001) DLT 416(supra), it is sought to be urged for the appellants that the lands in the cluster villages forming a group of Kondli, Gharoli etc. are said to be similarly situated and that, therefore, the claim for enhancement could be considered with reference to the other decision of the High Court as well. We are of the view that the general observations about the cluster was villages being situated side by side cannot be sufficient enough to uniformly treat the lands situated in all these villages to be similarly located or of identical nature in the absence of any finding given in the cases before us as such by the reference court or the High Court. But at the same time taking into account the overall circumstances of the cases, and the different rates awarded in respect of different notifications relating to different period of time, giving sufficient indication as to the periodical
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increase also of the market value to some extent, and the acquisition is in and around these areas for similar

developmental purposes, we are of the view that the rates adopted by the Division Bench of the High Court for the acquisition of lands in the adjacent Kondli village can reasonably be taken up as the broad indication of the basis or minimum standard, as on 08.02.1973, to determine the value to be fixed in respect of the lands in question as on 19.08.1976. On that view, we also consider applying the formula adopted in some of the cases by this Court of adding to the bench mark valuation, a sum at 10% per year value adopted and thereby determine the actual market value or the compensation to be awarded. Consequently, we consider it reasonable keeping in view the nature of the land, location and the year of acquisition, determined the market value for the lands in question at Rs.30,000/- per bigha instead of Rs.12,000/- per bigha, as fixed by the High Court in these cases. Though the appellants in Civil Appeal arising out of S.L.P.(C) No.6997 of 2002 seem to have been modest in confining his claim before the authorities below to Rs.23400/- having regard to the fact that the persons similarly situated and whose lands are acquired under the same notification are awarded by this judgment Rs.30,000/- ...7/-

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per bigha, he would also be entitled to be paid e compensation @ Rs.30,000/- per bigha.

For all the reasons stated above, the appeals shall stand partly allowed. The appellants would in addition be entitled to the other statutory benefits on the enhanced compensation now awarded, including the award of interest on solatium as held by this Court in Sunder Vs. Union of India@@ CCCCC CCCCCCCCCCCCCC 2001 (7) SCC 211.

The appellants in Civil Appeal arising out of S.L.P.(C) No. 6997 of 2002 shall remit to the Registry the deficit court fee on the difference of the valuation made for purposes of claims and the sum now awarded in their favour within six weeks from today. The parties will bear the respective costs.

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.....J.
(DORAISWAMY RAJU)

.....J.
(SHIVARAJ V. PATIL)

New Delhi,
November 12, 2002.