

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.3713 OF 2007

Kale (Dead) Rep. Thr. LRs.Appellant(s)

VERSUS

Union of India ...Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1) This appeal is filed against the final judgment and order dated 27.04.2004 passed by the High Court of Delhi at New Delhi in Civil Revision Petition No. 794 of 1990 whereby the High Court dismissed the revision petition filed by the appellant herein against the order dated 18.04.1990 of the Additional

District Judge in Reference proceedings under Section 18 of the Land Acquisition Act (in short, “the Act”).

2) Facts of the case lie in a narrow compass. They, however, need mention infra.

3) The short dispute, which is carried upto this Court by the landowners is how much of their land was acquired by the State in the land acquisition proceedings and how much compensation was paid to them.

4) According to the appellants (landowners), the State acquired total 45 Bigha 3 Biswas of appellants’ land situated in Gajipur (Delhi) pursuant to the Notification issued under Section 4 of the Act on 13.11.1958 followed by Notification under Section 6 on 20.06.1966 but the appellants were paid compensation only for land measuring 36 Bigha 12 Biswas.

5) Therefore, the grievance of the appellants in

these proceedings is that they are entitled to claim compensation for 45 Bigha and 3 Biswas of the land, which according to them, was acquired in the land acquisition proceedings. It is contended that since the appellants were paid compensation only for 36 Bigha 12 Biswas of land and hence direction be issued to the State to pay compensation to the appellants for the balanced land, i.e., 9 Bigha. This, in substance, is the grievance.

6) The Reference Court by order dated 18.04.1990 rejected the appellants' claim and the High Court upheld the order of the Reference Court by the impugned order and dismissed the appellants' revision which has given rise to filing of this appeal by way of special leave by the landowners.

7) Having heard learned counsel for the parties and on perusal of the record of the case, we find no merit in the appeal.

8) We have perused the record, the order of the Reference Court and the impugned order and find no

fault therein. The Reference Court so also the High Court after examining the entire record of the case recorded a categorical finding that the total land, which was acquired pursuant to the aforementioned Notification, was 36 Bigha 12 Biswas and not 45 Bigha 3 Biswas as contended by the appellants. It was held and rightly that the appellants were accordingly paid compensation for 36 Bigha 12 Biswas.

9) We agree with the view taken by the High Court because we also find that the appellants were not able to file any document to prove in support of their case that the State had acquired land measuring 45 Bigha 3 Biswas. On the other hand, we find that it was proved from the records that the land measuring 36 Bigha 12 Biswas was acquired and accordingly compensation was paid by the State for 36 Bigha 12 Biswas to the appellants.

10) Though learned counsel for the appellants (landowners) made attempt to contend by reiterating

the same submission which was unsuccessfully urged before the two Courts, namely, what was acquired by the State was the extent of land measuring 45 Bigha 12 Biswas, we are afraid we can accept this submission for want of any documentary evidence filed by the appellants.

11) As mentioned above, the Government records relating to the case at hand also mention at all places that the land measuring 36 Bigha 3 Biswas was acquired by the State. In reference proceedings, it was noticed that due to typographical mistake, in place of figure "36", "26" was typed in the order of reference. This was later corrected at the instance of the appellants and in place of figure "26", the figure "36" was typed. At that time also the question as to how much land was acquired was examined and it was found that only 36 Bigha 3 Biswas of land was acquired. It is not in dispute that the appellants have received the compensation for the land acquired, i.e., 36 Bigha 3 Biswas.

12) In the light of foregoing discussion, we find no merit in the appeal. It fails and is accordingly dismissed.

.....J.
[R.K. AGRAWAL]

.....J.
[ABHAY MANOHAR SAPRE]

New Delhi;
July 11, 2017

ITEM NO.108

COURT NO.9

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

Civil Appeal No.3713/2007

KALE (D) BY LRS.

Appellant(s)

VERSUS

UNION OF INDIA THROUGH LAND ACQUISITION COLLECTOR Respondent(s)
(With appln.(s) for substitution of deceased appellant and c/delay
in filing substitution appln. And setting aside abatement)

Date : 11-07-2017 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.K. AGRAWAL
HON'BLE MR. JUSTICE ABHAY MANOHAR SAPRE

For Appellant(s) Mr. Jayesh Gaurav, Adv.
Ms. Diksha Ojha, Adv.
Mr. Kuldeep Rai, Adv.
Mr. Farrukh Rasheed, AOR

For Respondent(s) Mr. A.K. Sinha, Sr. Adv.
Mr. P.K. Mullick, Adv.
Mr. P.K. Dey, Adv.
Ms. Aakanksha Kaul, Adv.
Mr. B.K. Prasad, Adv.
Mrs. Anil Katiyar, AOR

Mr. Vishnu B. Saharya, Adv.
Mr. Viresh B. Saharya, Adv.
M/s Saharya & Co.

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

Delay in filing application for substitution is condoned.

Abatement is set aside.

Application for substitution is allowed.

The Civil Appeal is dismissed in terms of the signed
non-reportable judgment.

(ASHA SUNDRIYAL)
COURT MASTER

(SNEH LATA SHARMA)
COURT MASTER

(Signed non-reportable judgment is placed on the file)