

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos.18620-18623 OF 2017
(Arising out of S.L.P. (Civil) No.12779-12782/2016)

BIR SINGH & ORS. ETC. .. APPELLANT(S)

Versus

STATE OF U.P. & ANR. .. RESPONDENT(S)

WITH

CIVIL APPEAL Nos.18634-18635 OF 2017
Arising out of S.L.P. (Civil) No.28776-28777/2016)

CIVIL APPEAL Nos.18636-18714 OF 2017
Arising out of S.L.P. (Civil) No.28438-28516/2016)

CIVIL APPEAL No. 18715 OF 2017
Arising out of S.L.P. (Civil) No.36287/2016)

CIVIL APPEAL No. 18716 OF 2017
Arising out of S.L.P. (Civil) No.28518/2016)

CIVIL APPEAL No. 18717 OF 2017
Arising out of S.L.P. (Civil) No.28517/2016)

CIVIL APPEAL Nos. 18720-18723 OF 2017
Arising out of S.L.P. (Civil) Nos.37474-37477/2016)

CIVIL APPEAL No. 18724 OF 2017
Arising out of S.L.P. (Civil) No.15763/2017)

CIVIL APPEAL No. 18725 OF 2017
Arising out of S.L.P. (Civil) No.15762/2017)

CIVIL APPEAL No. 18726 OF 2017
Arising out of S.L.P. (Civil) No.23499/2017)

O R D E R

IN C.A.Nos.18620-18623 OF 2017
@ S.L.P. (C)No.12779-12782/2016)

Leave granted.

Being dissatisfied with the award of compensation, the land owners are before this Court in the present appeals.

These appeals have been preferred for enhancement of

compensation determined by the High Court vide impugned judgment Order dated 03.02.2015 and consequent upon which acquisition of appellants' land made vide Notification issued under Section 4(1) of the Land Acquisition Act on 05.01.1991. Total area of 790-16-9 bighas, corresponding to 492.26 acres, was proposed to be acquired. The land is situated in Village Chhalera Bangar, Pargana and Tehsil Dadri, District Ghaziabad. The said Notification was published in the Gazette on 02.02.1991. The last corrigendum was issued on 24.04.1991. The Reference Court enhanced the market value to Rs.297/- per square yard, awarding a compensation of Rs.222/- per square yard, after making deduction of 25% on account of largeness of area.

Being aggrieved by the award of Reference Court, the appellants approached the High Court. The High Court has placed reliance on the award passed in the case of *Jagdish Chandra and Ors. v. New Okhala Industrial Development Authority (NOIDA)*. In that case, land had been acquired vide Notification of the year 1989, and compensation was fixed by the Court at the Rate of Rs.297.50/- per sq.yard. In the present case, land was acquired by Notification of the year 1991. Vide order dated 09.05.2008, the Division Bench did not grant escalation between the years 1989 and 1991. Thereafter, a review application was filed in the High Court; the same was allowed holding, that the appellants would be entitled to increase of 10% per annum; compensation was enhanced, to Rs.340/- per square yard, along with other statutory benefits.

It was submitted by learned senior counsel appearing on behalf of the appellants that there was evidence on record indicating that

the lease deed had been executed in which the land has been leased out for the purpose of constructing a commercial building. The land was auctioned for the aforesaid purpose at the rate of Rs.4,500/- per square yard. The learned counsel also relied upon the circle rate at the rate of Rs.1600/- per square yard. He has also referred to the sale deed dated 16.12.1988 in which, the land was sold at the rate of Rs.400/- per square yard. It was urged that the compensation was sought at the rate of Rs.500/- per sq. yards particularly when the Government had declared circle rate at Rs.1600/- per sq. yards for the year 1990-1991. The compensation be suitably enhanced.

Shri Pramod Swarup, learned senior counsel appearing on behalf of the appellants, has supported the determination made by the High Court and stated that no case for further enhancement of compensation has been made out.

Though the High Court has relied upon the decision of *Jagdish Chandra* (supra) but, in the instant case, evidence was available which, indicated that the price of the land was somewhat more than what has been taken by the High Court for determination of the compensation. Though value fetched in auction of land for commercial building could not have formed the basis for determination of compensation in the instant case. Therefore, we are of the considered opinion, we have to consider the value of sale exemplar of 16.12.1988 at the rate of Rs.400/- per square yards after making deduction, we take it Rs.340/- with 15% enhancement for 2 years and 4 months and the value comes to

Rs.449/- per sq.yard. Thus, we award compensation at the rate of Rs.449/- per square yard with statutory benefits.

The appeals are allowed to the aforesaid extent.

Let the amount be paid as early as possible.

IN

CIVIL APPEAL Nos.18634-18635 OF 2017

Arising out of S.L.P. (Civil) No.28776-28777/2016)

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CIVIL APPEAL No. 18726 OF 2017

Arising out of S.L.P. (Civil) No.23499/2017)

Leave granted.

Learned counsel for the parties have filed certain documents along with the Special Leave Petitions. The said documents are taken on record, particularly the decision of this Court in SLP(C) Nos.1506-1517/2016, titled as *Pradeep Kapoor vs. State of U.P.* These documents were not on record before the High Court. They are taken on record. These appeals are remitted back to the High Court

for deciding afresh. A prayer is made for consideration of the aforesaid documents. It is open to the parties if they so desire to adduce additional evidence, in that event, the High Court may ask Reference Court to record additional evidence and to record finding and then High Court may decide the appeals afresh.

The judgment of the High Court is set aside and the appeals are remitted to the High Court for being decided afresh in accordance with law.

The appeals are disposed of accordingly.

.....J.
[ARUN MISHRA]

.....J.
[MOHAN M. SHANTANAGOUDAR]

NEW DELHI,
NOVEMBER 09, 2017

ITEM NO.9

COURT NO.10

SECTION XI

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 (C) No(s).
12779-12782/2016

(Arising out of impugned final judgment and order dated 03-02-2015 in FA No. 442/2006 03-02-2015 in FA No. 443/2006 03-02-2015 in FA No. 444/2006 03-02-2015 in FAD No. 435/2004 passed by the High Court Of Judicature At Allahabad)

BIR SINGH AND ORS. ETC. ETC

Petitioner(s)

VERSUS

STATE OF U.P. THROUGH DISTT. COLLECTOR

Respondent(s)

(IA No.106063/2017-CONDONATION OF DELAY IN FILING and IA No.106058/2017-CONDONATION OF DELAY IN FILING and only SC 12779-82/2016 to be listed before the Honorable Judge in Chambers for directions.)

WITH

SLP(C) No. 15763/2017 (XI)

SLP(C) No. 15762/2017 (XI)

SLP(C) No. 28776-28777/2016 (XI)

SLP(C) No. 28438-28516/2016 (XI)

SLP(C) No. 36287/2016 (XI)

SLP(C) No. 28518/2016 (XI)

SLP(C) No. 28517/2016 (XI)

SLP(C) No. 37474-37477/2016 (XI)

SLP(C) No. 23499/2017 (XI)

(IA No.39963/2017-CONDONATION OF DELAY IN FILING and IA No.39964/2017-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 09-11-2017 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ARUN MISHRA

HON'BLE MR. JUSTICE MOHAN M. SHANTANAGUDAR

For Petitioner(s) Mr. Uday Gupta, Adv.
Ms. Shivani Lal, Adv.
Mr. Hiren Dasan, Adv.
Mr. M.K. Tripathi, Adv.
Mr. Chand Qureshi, Adv.
Mrs. Sarla Chandra, AOR

Mr. Yatindra Singh, Sr.Adv.

Mr. D.V. Singh, Adv.
 Mr. Vandit Mishra, Adv.
 Ms. Anuradha D.Mishra, Adv.for
 M/S. Anuradha & Associates, AOR

Mr. Mohan Pandey, AOR

Mr. Dinesh Kumar Garg, AOR
 Mr. Abhishek Garg, Adv.
 Mr. Dhananjay Garg, Adv.
 Mr. Deepak Mishra, Adv.
 Mr. P.V. Yogeshwaran, Adv.

Mr. V.C. Shukla, Adv.
 Mr. Abhinav Gupta, Adv.
 Mr. Animesh Kumar, Adv.
 Mr. Sumit Kumar, Adv.
 Mr. Nitesh Ranjan, Adv.
 Mr. Neeraj Shekhar, AOR

For Respondent(s) Mr. Santosh Kumar, Adv.
 Mr. Deepak Anand, AOR

Mr. Pramod Swarup, Sr.Adv.
 Ms. Malvika Trivedi, Adv.
 Mr. Vinay Garg, AOR

Mr. Ravindra Kumar, Adv.

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

S.L.P. (Civil) No.12779-12782/2016)

Leave granted.
 The appeals are allowed.

SLP(C) No. 15763/2017 (XI)
 SLP(C) No. 15762/2017 (XI)
 SLP(C) No. 28776-28777/2016 (XI)
 SLP(C) No. 28438-28516/2016 (XI)
 SLP(C) No. 36287/2016 (XI)
 SLP(C) No. 28518/2016 (XI)
 SLP(C) No. 28517/2016 (XI)
 SLP(C) No. 37474-37477/2016 (XI)
 SLP(C) No. 23499/2017 (XI)

Leave granted.
 The appeals are disposed of in terms of the signed order.

(USHA RANI BHARDWAJ)
 AR CUM PS

(JAGDISH CHANDRA)
 BRANCH OFFICER

Signed order is placed on the file.