

Court No. - 2

Case :- FIRST APPEAL DEFECTIVE No. - 374 of 2002

Appellant :- Gyan Chand

Respondent :- Noida & Another

Counsel for Appellant :- D.V. Singh, Madan Mohan

Counsel for Respondent :- Shivam Yadav

AND

Case :- FIRST APPEAL No. - 754 of 2013

Appellant :- Ho Ram

Respondent :- New Okhla Industrial Development Authority
(Noida) & Another

Counsel for Appellant :- D.V. Singh, Madan Mohan

AND

Case :- FIRST APPEAL No. - 795 of 2003

Appellant :- New Okhla Industrial Development Authority (Noida)

Respondent :- Hom Ram And Others

Counsel for Appellant :- Vinod Mishra, Arvind Srivastava

Counsel for Respondent :- D.V. Singh

AND

Case :- FIRST APPEAL No. - 1200 of 2003

Appellant :- New Okhla Industrial Development Authority

Respondent :- Gyan Chandra & Others

Counsel for Appellant :- Vinod Mishra, Arvind Srivastava, Rajendra
Kumar Mishra, Shivam Yadav

Counsel for Respondent :- D.V. Singh

Hon'ble Rajes Kumar, J.

Hon'ble Harsh Kumar, J.

These four appeals, two filed by NOIDA and two filed by claimants, are directed against the judgment and award dated 29.4.2002 passed by the 1st Additional District Judge, Ghaizabad. The appeals are based on the same set of facts and involved common question of law and hence have been taken up together and are being decided by this common judgment.

Facts are that land belonging to the claimants (appellants of First Appeal Defective no.374 of 2002 and First Appeal no.754 of 2013)

2

situate in village Chhalera Bangar, pargana and Tehsil Dadri, District Ghaziabad was acquired for NOIDA vide notification under Section 4 of the Land Acquisition Act (for short the 'Act') on 05.01.1991 and published in the official gazette on 02.02.1991. Notification under Section 6 of the Act was issued on 07.01.1992 which was published in the official gazette on 07.03.1992. Possession was taken on 30.03.1992, 07.08.1995 and 18.11.1995. Land Acquisition Officer made an award dated 17.08.1996 determining the rate of Rs.110/- per square yard as market value of the land acquired. The claimants being dissatisfied with the amount of compensation awarded made reference which were clubbed together and decided vide judgment and award impugned in these appeals whereby the Additional District Judge partly allowed the reference and the market value of the land acquired was enhanced to Rs.233-/ per square yard. The Additional District Judge also awarded solatium and interest etc. as provided by the Statute.

We have heard Sri D. V. Singh, learned counsel for the claimants and Sri Shivam Yadav for the NOIDA. It was pointed out by Sri D. V. Singh, learned counsel for the claimants that in respect of same notification under which the land in the present case has been acquired and in respect of the same village, namely, Chhalera Bangar, pargana and Tehsil Dadri, District Ghaziabad and the same award dated 15.01.2001 which has been challenged in these appeals has been subject matter of consideration by another Division Bench of this Court in First Appeal No. 34 of 2007, Ganesh Singh and others Vs. State of U. P. and others. Relying upon another earlier Division Bench judgment of this Court dated 14th December, 2007 in First Appeal No. 744 of 2001, Jagdish Chandra and others Vs. New Okhla Industrial Development Authority and others fixing the market value of the land Rs.297.50 per square yard which was subsequently on a clarification application vide order dated 19th May, 2010 modified and enhanced to Rs.340/- per

3

square yard. Relying upon the principles laid down by the Hon'ble Apex Court in the case of Om Prakash (D) by Lrs. & others Vs. Union of India and another, JT 2004 (6) SC 288 that in the appropriate cases 10% to 12% escalation per year is wholly justifiable in case determination of market value is based on rate determined in respect of the notification earlier in point of time, the Division Bench modified the judgment and order dated 9th May, 2008 by making the following observations :

"Therefore, we clarify the operative part of the judgment and order dated 09th May, 2008 by saying that the aforesaid sentence will be added with the following lines:

".....meaning thereby that the appellants will be entitled to increment of 10% per annum as per the ratio of the aforesaid judgment but will not exceed Rs.340/- per square yard since the court fees have been paid for such figure."

Accordingly, the clarification application is allowed, however, without imposing any cost. The original judgment will be read along with the clarification as above."

It is further submitted that dispute is squarely covered by the Division Bench judgment dated 9th May, 2008 as modified vide order dated 19th May, 2010 and the claimant-appellants are also entitled for payment of compensation at the rate of Rs.340/- per square yard along with other statutory benefits such as solatium interest etc. Learned counsel for the claimant-appellants further pointed out that the aforesaid judgment of the Division Bench in the case of Ganesh Singh and others (supra) has been affirmed in as much as Petition (s) for Special Leave to Appeal (Civil) No. 18331 of 2008 filed by NOIDA against the said judgment has been dismissed by the Hon'ble Apex Court vide judgment and order dated 05.02.2014. Certified copy of the order produced before us is

taken on record.

Sri Amit Manohar appearing for the NOIDA does not dispute the aforesaid facts and also the fact that the issue involved in these appeals are squarely covered by the Division Bench judgment of this Court in First Appeal No. 34 of 2007, Ganesh Singh and others Vs. State of U. P. and others which has been affirmed by the Hon'ble Apex Court.

Since the issues for determination involved in these appeals are squarely covered by the judgment of the Division Bench of this Court in First Appeal no. 34 of 2007 affirmed by the Hon'ble Apex Court, the present appeals are to be disposed of in the same terms.

The aforesaid judgement of the Division Bench has been subsequently followed by the Division Bench of this Court in First Appeal No.49 of 2005 and First Appeal No.266 of 2013.

Accordingly First Appeal Defective no.374 of 2002 and First Appeal no.754 of 2013 filed by the claimants stand allowed and they are entitled to compensation at the rate of Rs.340/- per square yard along with other statutory benefits and First Appeals no.795 of 2003 and First Appeal no.1200 of 2003 filed by NOIDA are liable to be dismissed and are hereby dismissed.

However, in the facts and circumstances of the case, there shall be no order as to costs.

Order Date :- 23.7.2014

vs