

**(1989) 03 OHC CK 0019**  
**In the Orissa High Court**  
**Case No : First Appeal No. 113 of 1977**

Collector

APPELLANT

Vs

Padmalochan Chandan

RESPONDENT

**Date of Decision :** 30-03-1989

**Acts Referred:**

Land Acquisition Act, 1894 — Section 18, 23, 4(1), 54

**Citation :** (1989) 68 CLT 204

**Hon'ble Judges :** S.C. Mohapatra, J

**Bench :** Single Bench

**Advocate :** R.K. Patra, Addl. Government Advocate, for the Appellant; R.K. Rath, for the Respondent

**Final Decision :** Allowed

## Judgement

S.C. Mohapatra, J.—This is an appeal u/s 54 of the Land acquisition Act, 1894 (for short "the Act"), by the Collector against an award in a reference u/s 18 of the Act.

2. On 15-6-1973, Notification u/s 4(1) of the Act was published for acquisition of land for improvement of State Highway No. 1 (portion of Tumudibandh to Madan pur Rampur Road). On the basis of such notification Ac. 2.32 decimals of land of the claimant has been acquired. Claimant did not accept the low compensation awarded by the Collector and at his request the matter was referred to the Court u/s 18 of the Act.

3. Trial court has affirmed the valuation of the land as offered by the Collector and no cross-appeal having been filed the same has become final. Trial court, however, on materials of record found that Collector has not offered compensation in respect of 14 Mahula trees, 3 kendu trees and one Piasal trees, whose market value was determined assessed to be Rs. 7,220.09. Although Mr. R.K. Patra, learned Additional Government Advocate very strenuously urged that such valuation is not correct, I find no merit in the submission. The trial court

has found with forceful reasons that the trees were existing on the land and were lost to the claimants. Valuation determined is also reasonable and is affirmed.

4. Mr. Patra, however, is justified in his submission with regard to award of compensation for loss of crops for 11 years. In this case, possession had already been taken in 1962 prior to notification u/s 4(1) of the Act. That period is not covered u/s 23 of the Act. If at all, claimant could have claimed damages in a civil suit. For the period of illegal possession, prior to notification u/s 4(1) of the Act, no compensation could have been awarded under the Act. Mr. Patra relied upon a decision in *State of Orissa v. Nilambar Budhia* 1st Apl. No. 179/76. Mr. R.K. Rath, learned Counsel for the Respondent submitted that Courts while considering the question of compensation should take into consideration the harassment meted out to the claimants since this is a matter of compulsory acquisition and the value of the crop being too small, there should be no interference. After hearing both the parties, I am satisfied that the loss of crop would not come within the purview u/s 23 of the Act and accordingly, no market value could have been determined in such a case. The award to the extent of Rs. 3,620.63 paise on account of loss of crop is accordingly, vacated.

5. During pendency of the appeal, the Act has been amended by Act 68 of 1984 giving better statutory benefits to the claimants. Accordingly, claimant is entitled to the permissible statutory benefits under the Act as amended by Act 68 of 1984.

6. In the result, the appeal is allowed in part. There shall, however, be no order as to costs.

Appeal allowed in part.