

(2001) 08 OHC CK 0039
In the Orissa High Court
Case No : First Appeal No. 270 of 1993

Collector-cum-L.A. Officer

APPELLANT

Vs

Santosh Kumar Sahu and Others

RESPONDENT

Date of Decision : 30-08-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 54

Citation : (2001) 2 OLR 414

Hon'ble Judges : L. Mohapatra, J;B. Panigrahi, J

Bench : Division Bench

Advocate : Advocate General and Addl. Government Advocate, for the Appellant; D.P. Sahoo, N.C. Pati, A.K. Mahapatra, S. Misra, P.K. Khuntia and P.K. Azad (R-1), B. Pr. Das, Bikram Pr. Das, D.N. Mohanty, D.K. Das, P.K. Padhy and R.R. Mohanty (Rs. 2-7), for the Respondent

Judgement

B. Panigrahi, J.—The appeal filed by the State u/s 54 of the Land Acquisition Act, 1894 (in short, the "Act") challenges the decision of the Subordinate Judge, Nawapara, in M.J.C. No. 55 of 1992, directing the appellant to pay higher compensation to the claimant-respondent No. 1 in respect of the acquired land.

2. Ac. 2.24 decimals of land appertaining to Plot No. 118, Khata No. 6 of Mouza Sirtol, P. S - Nawapara in the district of Kalahandi was acquired for the purpose of construction of Office building and Staff quarters for Kalahandi Irrigation Sub-Division, under Notification No. 16540 dated 24.3.1972 issued u/s 4(1) of the Land Acquisition Act and declaration was published on 28.12.1973. The Land Acquisition Officer fixed compensation of Rs. 4,336.24 paise which was received by the claimant-respondent No. 1 under protest. On objection being filed, the matter was referred to the Subordinate Judge u/s 18 of the Act for determination of just compensation in respect of the acquired land. Before the referral Court, the objector examined four witnesses including himself and relied on two documents, namely Ext. 2, an unregistered agreement and Ext. 1, the protest petition filed before the Land Acquisition Officer. On behalf of the State one

witness, namely the Revenue Inspector was examined. The referral Court after taking into consideration the oral and documentary evidence, fixed compensation at Rs. 2,80,000/- and further allowed Solatium and interest as provided by the statute. Being aggrieved by the said decision of the referral Court, the present First Appeal has been filed.

3. It appears from the records that originally the Land Acquisition Officer assessed compensation in favour of claimant- respondent No. 1 and another Hara Prasad Sahoo, who is the brother of claimant No.1. However, the reference has been made on the basis of objection filed by claimant No. 1, Santosh Kumar Sahoo. During the pendency of the present appeal, the legal heirs, namely widow and children of said Hara Prasad Sahoo, filed application to be added as parties and by order dated 13.2.1997, this Court allowed the application and accordingly claimant- respondents 2 to 7 are added as parties. Therefore, the benefit of the acquisition shall enure to these respondents.

4. Mr. Pradipta Kr. Mohanty, learned Addl. Government Advocate, appearing for the appellant, has contended that the valuation fixed by the Court below has no basis and the agreement purported to have been executed by the claimant and another person was only a self-serving document to claim inflated amount of compensation. He has further contended that the land in question was barren land and therefore, there was no sale statistics available in the locality.- Thus, in the above context, the compensation fixed by the Court below was not legitimate and it was arbitrarily high and unreasonably excessive.

5. While examining the records, we find that no document worthwhile was submitted by the State to support the assessment made by the Land Acquisition Officer, who assessed the compensation by taking the land value at Rs. 1,669,92, per acre. We also find that the agreement relied upon by the claimant as well as by the Court below is an unregistered document and hence cannot be taken to be the basis for assessing just compensation. Therefore, in the absence of any contemporaneous document showing the market value, it is necessary to ascertain the potential value of the land. In this particular case, potential value has been fixed by the Collector at Rs. 1, 669,92 per acre, which appears to be on the lower side. Keeping in view the location, situation, the extent of the land, we think it proper to fix the potential value of the land at Rs. 3,400/- per acre. If that value is taken into consideration as the potential value, then applying 15 multiplier, which is usually permissible in a case where no other positive evidence is available for determining market value, as held in various decisions of the Supreme Court, we hold that the valuation of the acquired land can be safely fixed at Rs. 51,000/- per acre. Thus for the acquired land of Ac. 0.2.24 decimals, the valuation comes to Rs. 1,14,240/- which is rounded upto Rs. 1,14,500/-. It appears from the record that claimant-respondent No. 1 has already received Rs. 4,336.24 paise from the Land Acquisition Officer. Therefore, we direct the appellant to pay the balance amount of Rs. 1,10,163.76 paise, in addition to other statutory benefits awarded by the Court below in the impugned judgment.

Since the acquisition had taken place in the year 1974, we hope and trust that the State Government shall make all endeavour to pay or deposit the balance amount within three months from this date.

The First Appeal is accordingly allowed in part subject to the modification of the award passed by the Court below. There will be no order as to costs.

L. Mohaparta, J.

6. I agree.