
(2014) 03 JH CK 0062

In the Jharkhand High Court

Case No : Appeal From Original Order No. 51 of 2005

Gopal Lall Choudhary and Others

APPELLANT

Vs

The State of Jharkhand

RESPONDENT

Date of Decision : 27-03-2014

Acts Referred:

Citation : (2014) 3 JLJR 223

Hon'ble Judges : Dhruv Narayan Upadhyay, J

Bench : Single Bench

Advocate : Rajesh Kumar, Advocate, Mr. Amit Kumar, Advocate and Mr. Manindra Kumar Sinha, Advocate for the Appellant; Vineet Prakash, J.C. to S.C. (L and C), Advocate for the Respondent

Judgement

Dhruv Narayan Upadhyay, J.—This appeal has been preferred, against the Judgment dated 13.05.2005, passed by learned Additional District Judge-cum-Special Judge of L.R. Cases, Hazaribagh in connection with L.R. Case No. 20/1990 whereby the learned Special Judge has enhanced value of the land acquired and decided that the appellant is entitled to receive compensation @ Rs. 10,000/- per decimal besides interest of 12% from the date of Notification or Section 4(1) to the date of Award or taking possession whichever is earlier and solatium of 30% on market price of land besides other statutory benefits, as indicated in the impugned Judgment. It appears that 2.24 Acres of land for constructing a bridge at Ramgarh connecting Ranchi -Patna road was acquired for National Highway and for that Notification u/s 4 was issued and lastly published on 07.04.1988. In the acquisition process, area measuring 1.14 Acres of land belonging to Kalu Ram Chaudhary was acquired and accordingly compensation assessed to the extent of 1,56,180/- besides solatium, 12%, interest etc. The details of land of Kalu Ram Chaudhary is described in Form -18 and also in the reference petition which is as under:--

Thana No. 82, Khata No. 2, Plot No. 5/1, 0.60 Decimals; Khata No. 355, Plot No. 33, area 0.50 decimals and; Plot No. 35, area 0.04 decimals, total being 1.14

Acres.

Kalu Ram Chaudhary raised objection against assessment of valuation of land whereafter reference was made to the Court but during pendency of reference, Kalu Ram Choudhary died as a result his wife Mostt. Dhappa was substituted. She had examined witnesses and proved certain documents in support of her claim.

2. On the other hand, the Government pleader also appeared and adduced evidence. At the adjudication, the learned Special Judge has enhanced value of the land to the extent of Rs. 10,000/- per Decimal and also directed to give statutory benefits like solatium, interest etc. Mostt. Dhapa, being aggrieved and dissatisfied with the impugned Judgment, preferred this Appeal before this Hon"ble Court for further enhancement of compensation amount. However, during pendency of this appeal, Mostt. Dhapa also died and her legal heirs have been substituted.

3. It is submitted that the learned Special Judge has wrongly considered the documents and evidence on record. It is not disputed that the land belonging to the appellant was situated at the National Highway and for construction of Bridge over Damodar River, the land was acquired. The appellants have also adduced evidence and filed documents which were indicating value of the land prevailing in the adjacent area and it was about Rs. 20,000/- per decimal. The learned Special Judge has also not considered potentiality of the land which was situated just 500 yards from Subhash Chowk, which is busiest place of the town of Ramgarh. It is pointed out that Subhash Chowk is situated in the heart of the town. The learned Special Judge has further erred by reducing value of the land on the ground that it was a low land. Since evidence and documents available on the record were not properly considered, impugned Judgment is liable to be set aside and the amount of compensation may be enhanced.

4. On the other hand, learned counsel appearing for the respondent - State has opposed the arguments and submitted that the amount of compensation assessed by the Land Acquisition Officer was enhanced to the extent of ten times by the learned Special Judge. The appellant, instead of receiving the awarded amount, preferred this appeal for further enhancement which is not tenable. He has further pointed out that nature and quality of land and its potentiality was well appreciated and discussed in the impugned Judgment, which needs no interference.

5. I have gone through the impugned Judgment and the lower court records. It appears that the witnesses examined on behalf of the appellant were not consistent with regard to value of the land. Some of them have stated that rate prevailing in the area was Rs. 10,000/- per decimals and somebody has said Rs. 20,000/- per decimal. Besides the above, this fact is not disputed that the land belonging to the appellant was initially low land, a little bit high from the river bed. Since bridge was to be constructed at a considerable height, the land belonging to the appellant was acquired for the purpose of making approach road

to connect the bridge and for that it required soil filling up to 20-30 ft. height. That itself indicate that the land belonging to the appellant was a low land and at that point of time it was not of that potentiality and therefore, the court below has rightly assessed the compensation. Considering facts mentioned hereinabove, I do not feel inclined to enhance value of the land further and accordingly, the appeal stands dismissed. However, the State is directed to deposit total compensation amount if not deposited till date, within three months from today with up to date interest.