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**(2003) 01 OHC CK 0053**  
**In the Orissa High Court**  
**Case No : First Appeal No. 307 of 1981**

Land Acquisition Officer

APPELLANT

Vs

Gourahari Mishra and Another

RESPONDENT

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**Date of Decision :** 08-01-2003

**Acts Referred:**

Land Acquisition Act, 1894 — Section 23, 28, 54

**Citation :** (2003) 95 CLT 598

**Hon'ble Judges :** B. Panigrahi, J

**Bench :** Single Bench

**Advocate :** Sangram Das, Addl. Standing, for the Appellant; Himansu Sekhar Mishra, for the Respondent

**Final Decision :** Partly Allowed

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## Judgement

B. Panigrahi, J.—This is an appeal u/s 54 of the Land Acquisition Act (hereinafter referred to as the "Act") against the award passed by the Subordinate Judge, Baragarh in Land Acquisition Misc. Case No. 16 of 1979. The appellant acquired Ac. 15.44 decimals of Mahal, Berna and Bahal lands for the purpose of Minor Irrigation Project at Padmapur under land acquisition declaration No. 59852 dated 5.8.1975 which was published in Orissa Gazette No. 1379 dated 16.8.1975. The land measuring Ac. 0.91 decimals belonging to the respondents covered under Khata No. 68, Plot Nos. 700 and 701 was acquired for the aforesaid purpose and compensation was fixed at the rate of Rs. 2,561/- per acre. The respondents claimed higher compensation at the rate of Rs. 600/- per decimal alleging that the land which was acquired by the appellant was suitable for house site and not for agricultural purpose. The appellant filed their objection before the referral court inter alia stating that it was not fit for the house site, but only meant for agricultural purpose.

2. The learned Subordinate Judge on evaluation of the documentary and oral evidence fixed Rs. 500/- per decimal of land. The owner had examined P.W. 1 who was the purchaser of a land in the vicinity and he claimed to have purchased

Ac. 0.01 decimal of land at Rs. 775/-. The claimant further exhibited the order passed by the same court in L. A. Misc. Case No. 32 of 1979 wherein Rs. 600/- was fixed per decimal of land. Therefore, the learned Subordinate Judge on consideration of a contemporaneous document fixed the value of Ac. 0.01 decimal of land at Rs. 500/-. Accordingly he directed the appellant to pay Rs. 45,500/- as the valuation of the land together with 15% towards potential value i.e. Rs. 6,825/-. The learned Subordinate Judge has also awarded 6% interest per annum from the date of order till realisation.

3. The State Government had challenged the findings of the learned Subordinate Judge in L. A. Misc. Case No. 32 of 1979 wherein an amount of Rs. 600/- was fixed per decimal of land and this Court reduced the amount by fixing Rs. 450/- per decimal.

4. Mr. Sangram Das, learned Addl. Standing Counsel has submitted that the land covered in Land Acquisition Misc. Case No. 32 of 1979 was situated in an advantageous position and also the kisam of land recorded in the Record of Right was mahal, whereas the land acquired in the present case is recorded as berna and Mahal, which was only meant for agricultural purpose. It may be stated here that the appellant did not prefer to adduce any evidence before the learned Subordinate Judge. Therefore, on the basis of the evidence available before him it was fixed at Rs. 500/- per decimal. But taking the valuation fixed by this Court into consideration in a connected matter, it is found that Ac. 0.01 decimal of land was valued at Rs. 450/-. Since the land involved in this case is slightly different, therefore, the valuation can be fixed at Rs. 450/- per decimal.

5. Accordingly the appeal is allowed in part. Be it noted that during the pendency of the appeal the Amendment Act has come into force. Keeping in view the better statutory benefits as provided under Sections 23 & 28 of the Act, the claimants would be entitled to other statutory benefits covered under Act 68 of 1984.

6. In the light of the aforesaid finding the learned Subordinate Judge shall calculate the amount of compensation to be payable to the claimants along with other statutory benefits. In case it is found that the respondents shall be entitled to any more money other than, the compensation allowed, appropriate direction be issued against the appellant to deposit the same after deducting the money which has already been received by the claimants.

The appeal is accordingly disposed of.