
(2007) 08 OHC CK 0018
In the Orissa High Court

Land Acquisition Zone Officer, Talcher-Sambalpur Rail Link	APPELLANT
Vs	
Buta Behera	RESPONDENT

Date of Decision : 30-08-2007

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2007) CLT 231 Supp : (2007) 2 OLR 766 : (2007) OLR 231 Supp

Hon'ble Judges : Sanju Panda, J

Bench : Single Bench

Judgement

Sanju Panda, J.—This appeal is directed against the award dated 15th of March, 1997 passed by the learned Civil Judge (Sr. Divn.), Angul, in Land Acquisition Case No. 137 of 1993 on a reference made u/s 18 of the Land Acquisition Act (hereinafter referred to as "the Act").

2. The brief facts of the case are as follows:

The claimant-respondent's land comprising Gharabari and Baje fasal measuring an area of Ac. 137 decimals appertaining to Khata No. 130 of village Handapa along with some trees was acquired by virtue of the Government Declaration No. 75915 dated 17.12.1988 published in E.O.G. No. 30 dated 5.1.1989 for construction of Talcher-Sambalpur Rail Link. The Land Acquisition Officer, Dhenkanal determined compensation at Rs. 18,225/- for the land and Rs.70/- for the trees and awarded the compensation of Rs.25,726/- along with other statutory benefits. The claimant-respondent received the said compensation on protest.

3. Being aggrieved by the said determination, the claimant filed objection claiming higher compensation and the said objection was referred to the learned Civil Judge (Sr. Divn.), Angul u/s 18 of the Act. After considering the oral and documentary evidence on record and on reasonable and rational guess-work, the learned Civil Judge (Sr. Divn.) determined the value of the land at Rs. 36,000/- per acre and Rs.800/- for the trees.

4. In support of the claim for higher compensation, the respondent adduced oral as well as documentary evidence and the appellant did not examine any witness but adduced documentary evidence.

5. The learned Addl. Standing Counsel vehemently argued that the learned Civil Judge (Sr. Divn.) has determined the value of the land and trees at a very higher side which needs to be set aside.

6. Learned Counsel appearing for the claimant-respondent submitted that there was a Nala (canal) adjoining the well dug by the claimant adjoining his house and he was cultivating vegetables by utilizing the said well and he also produced a cash memo vide Ext. 2 showing that he had purchased a pump for growing vegetables. The evidence of P.W. 1 shows that the lands involved were agricultural lands and facilities were available for irrigation.

7. The opposite party-Land Acquisition Zone Officer has also exhibited two documents which were marked as Exts. A and B, i.e., the trees statement and assessment report. There is an element of guess-work inherent in most cases involving determination of the market value of the acquired land. The learned Civil Judge (Sr. Divn.) has properly discussed the evidence on records to justify his finding that the claimant had made out a case for enhancement of compensation due in respect of the acquired lands. On a scrutiny of the relevant materials available on records, it cannot be said that the learned Civil Judge (Sr. Divn.) has either made an erroneous approach to the claim for enhancement of compensation for the land or that it has so erred as to warrant interference. In my considered opinion, the learned Civil Judge (Sr. Divn.) taking into consideration Exts. 1 & 2 and the oral evidence has rightly determined the market value of the land at Rs.36,000/- per acre. Since there is no illegality or impropriety in the impugned award passed by the learned Civil Judge (Sr. Divn.) in determining the compensation due in respect of the land acquired, this Court does not want to interfere with the same.

8. So far as the determination of compensation due in respect of the trees is concerned, the material on record reveals that some trees have been incorrectly assessed as fruit bearing trees and some have been assessed as bamboo clumps instead of bamboo trees. Hence the learned Counsel appearing for the claimant-respondent submitted that the compensation due in respect of trees may be determined afresh after deducting some amount from the valuation fixed by the learned Civil Judge.

9. According to P.W. 1, the Land Acquisition Zone Officer listed the standing trees correctly. The basis of determining just and proper compensation due in respect of trees by the learned Civil Judge (Sr. Divn.) is erroneous and the same warrants interference. Considering the materials available on records and the submission made by the learned Counsel for the parties, this Court determines the value of trees at Rs. 400/- (rupees four hundred). Accordingly, the impugned award passed by learned Civil Judge (Sr. Divn.), Angul in respect of trees in L.A.

Misc. Case No. 137 of 1993 is modified.

The claimant-respondent is also entitled to all other statutory benefits made in the impugned award passed by the learned Civil Judge (Sr. Divn.).

10. The appeal is allowed in part to the extent indicated above.

11. There shall be no order as to costs.