

(2014) 08 JH CK 0094
In the Jharkhand High Court
Case No : F.A. No. 55 of 2001

Nand Lal Prasad Gupta and Others

APPELLANT

Vs

The State of Bihar and Others

RESPONDENT

Date of Decision : 04-08-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 23

Citation : (2015) 1 JLJR 344

Hon'ble Judges : Dhruv Narayan Upadhyay, J

Bench : Single Bench

Advocate : A. Banerjee, Advocates for the Appellant; Anoop Kumar Mehta, Advocates for the Respondent

Judgement

Dhruv Narayan Upadhyay, J.—This appeal has been preferred against the judgment dated 30th May, 1998 and award prepared and signed on 26th June, 1998 by learned Special Judge, Land Acquisition, Dhanbad in connection with L.A. Reference Case No. 7 of 1990. Being aggrieved by and dissatisfied with the amount of compensation awarded against acquisition of land, the appellants have preferred this appeal on the ground that the principle laid down under Section 23 of Land Acquisition Act to assess market value of the land has not been followed. The appellants had adduced evidence and produced documents to show that value of land in the vicinity, at the relevant point of time, was more than Rs. 500/- per decimal. It was also pleaded that nature of land was changed by the appellant. A big pond was dug and it was used for fisheries. The appellants were earning Rs. 40,000/- per annum by selling fish. Due to acquisition of the land, they sustained loss which was not assessed at the time of deciding value of land.

2. Learned counsels appearing for the respondents have opposed the arguments and submitted that learned Sub-Judge has already enhanced the valuation of land from the value assessed by Land Acquisition Officer. The documents and evidence produced and adduced by the appellants have well been considered. The appellants have failed to bring on record valid permission against digging of

pond. They have not produced cogent document to prove that they had been doing fisheries in the pond dug by them.

3. I have gone through the impugned judgment from which it appears that an area of about 74.57 acres of land at Village-Jharna, P.S.-Jharia, District-Dhanbad was acquired by the then State of Bihar for construction of magazine house of BCCL vide notification No. 35/83(R) dated 16.8.1983. Out of said acquired land, the appellants were in possession of 1.22 acres of land. According to appellant they dug a pond in the aforesaid land and doing fisheries in the pond. The compensation of acquired land vide Award No. 49/85 was determined by the District Land Acquisition Officer, Dhanbad and an amount of compensation to the extent of Rs. 22,304.06 was paid to the appellants which they had received under protest. Thereafter reference under Section 18 of the Land Acquisition Act was made and the learned Sub-Judge, after adjudication, has enhanced the value of land and directed the Government to pay compensation at the rate of Rs. 400/- per decimal with other statutory benefits such as interest and solatium. Learned Special Judge has discussed the evidence adduced by the parties in internal page Nos. 3 and 4 of the impugned judgment. It has been discussed that the District Land Acquisition Officer was not examined and the documents, on the basis of which value of land was assessed, have not been proved. On the other hand, the appellants have produced certain sale deeds and according to his own admission, land in the vicinity were sold at the rate of Rs. 500/- per decimal. Since the appellants himself have adduced evidence to show that value of land which was prevailing at the relevant point of time was Rs. 500/- per decimal, I do feel inclined to allow this appeal to that extent because learned Sub-Judge has not assigned valid reason for reducing the value of land from Rs. 500/- per decimal to Rs. 400/- per decimal.

4. In the result, the respondents are directed to pay compensation at the rate of Rs. 500/per decimal i.e. Rs. 100/- per decimal more than the award passed by learned Special Judge with other statutory benefits such as interest and solatium as awarded by the learned Special Judge, Land Acquisition. It is further made clear that enhanced sum of Rs. 100/- per decimal shall also carry interest and other statutory benefits, as directed by the Special Judge. The respondents shall deposit the amount of compensation to be paid to the appellants within 90 days from the date of this order. Accordingly, this appeal stands allowed.