
(2017) 06 GAU CK 0022
In the Gauhati High Court
Case No : 1 of 2016

OIL INDIA LIMITED

APPELLANT

Vs

RINMAWIA & ORS

RESPONDENT

Date of Decision : 16-06-2017

Acts Referred:

[Code of Civil Procedure, 1908](#), [Section 96](#), [Order 41 Rule 1](#) - Appeal from original decree
[Land Acquisition Act, 1894](#), [Section 6](#), [Section 5681](#)

Citation : (2017) 06 GAU CK 0022

Hon'ble Judges : M R Pathak

Bench : SINGLE BENCH

Advocate : Surendra Nath Sarma, Angshuman Sarma, Sorang Tashik, H Lalmalsawmi, Linda L Fambawl

Final Decision : Allowed

Judgement

1.] Heard Mr. Surendra Nath Sarma, learned senior counsel, assisted by Mr. Angshuman Sarma, learned counsel appearing for the appellant. Also heard Ms. H. Lalmalsawmi, learned counsel appearing for the respondent/claimant Nos. 1 to 4 and Ms. Linda L Fambawl, learned Government Advocate for the proforma respondent No. 5.

2.] Being aggrieved and dissatisfied with the Judgment and Order dated 14-03-2016, passed by the learned Additional District Judge, Aizawl Judicial District, Aizawl, Mizoram in LA Case No. 40(A) of 2013, the Oil India Limited, the beneficiary, for whom the land involved in the case was acquired, has preferred this appeal under Section 54 of the Land Acquisition Act, 1894 as amended (L.A. Act, in short) read with Section 96 and Order 41 Rule 1 of the Code of Civil Procedure.

3.] The appellant is aggrieved as in the LA Case No. 40(A) of 2013 the

Reference Court, i.e. the Court of learned Additional District Judge, Aizawl Judicial District, Aizawl, Mizoram, by the impugned Judgment and Order dated 14-03- 2016 not only accepted the Reference made by the respondent Nos. 1 to 4, but also allowed them the market value of land @ Rs. 12/- per square foot (sq.ft., in short), with interest @ 12% per annum under Section 23(1-A) of the L.A. Act 1894 as amended and also Solatium @ 30% under Section 23(2) of the said Act, both on the market value of their respective area of land, directing the District Collector-cum-Deputy Commissioner, Aizawl District, Aizawl, the respondent No. 5 to assess the same within a period of two months from the date of said judgment and order dated 14-03-2016 and further, directed the appellant to satisfy the said amount so calculated by the District Collector, Aizawl within a period two months, with the observation that the said amount shall be disbursed by the District Collector, Aizawl to the plaintiff (claimants)/ respondents No. 1 to 4 herein.

4.] The appellant contended that the Reference Petition of the respondent Nos. 1 to 4 is not maintainable as it was not filed as per the provisions of Section 18 of the L.A. Act 1894 as amended without containing any name(s) of its applicant(s) and in spite of that the Reference Court proceeded with the matter and decided the matter in favour of those applicants/claimants. Further contention of the appellant is that the respondent Nos. 1 to 4 being only the "Periodic Patta holders" under the provisions of "the Mizo District (Agricultural Land) Act 1963" and "the Mizo District (Agricultural Land) Rules, 1971" of the land involved in the case, without having any right over the land, except the agricultural produce over it, the District Collector, Aizawl rightly assessed the requisite compensation and paid to them, which they duly received without protest and without considering the said aspect, the Court concerned awarded the market value of the said land along with interest and solatium to the applicants/claimants. The Appellant also contended though the claimants/ respondent Nos. 1 to 4 did not even describe their land in their reference petition, neither made any specific claim for their land in it nor adduced any evidence regarding valuation of their land, but the Reference Court on its own, determined the market value of the land involved in the case @ Rs. 12/- per sq.ft., and passed the impugned Judgment and Order dated 14-03-2016.

5.] It is stated that the plaintiffs/claimants/respondent Nos. 1 to 4 possessed the land involved in the case under the provisions of a special Act and Rules, namely, "the Mizo District (Agricultural Land) Act 1963" and "the Mizo District (Agricultural Land) Rules, 1971" and as such the appellant submitted that in the existence of such specific Act and Rules, the provisions of such Act & Rules have to be applied and in spite of these facts being brought to the notice, the Reference Court, without considering all these aspects, passed the impugned Judgment and Order dated 14-03-2016, which as per the appellant is bad in law and liable to be set aside and quashed. Mr. Sarma, learned senior counsel on behalf of the appellant placed reliance on the Judgment of the Hon"ble Supreme Court in the case of Suresh Nanda -Vs- C.B.I., 2008 3 SCC 674 and General

Manager, Telecom -Vs- M. Krishnan and Another, 2009 8 SCC 481.

6.] Ms. Lalmalsawmi, learned counsel appearing for the respondent Nos. 1 to 4, supporting the impugned Judgment and Order dated 14-03-2016 submitted that the Periodic Patta holders are "persons interested" as decided in the case of State of Mizoram and others -Vs- C. Lalbiakthanga, 2012 1 GauLR 83 and includes person claiming interest and compensation to be made on account of acquisition of land under the Land Acquisition Act and therefore, the Periodic Patta holders being "persons interested" they are entitled to the land value compensation. Therefore, Ms. Lalmalsawmi submitted that the Reference Court rightly passed the impugned Judgment and Order as the claimants/present respondent Nos. 1 to 4 are entitled to receive compensation for their land acquired, involved in this case, even though they occupied the said land on the basis of Periodic Pattas issued in their favour.

7.] Ms. Lalmalsawmi, also submitted that the Hon"ble Supreme Court in Civil Appeal Nos. 8972 of 2013 (Power Grid Corporation of India Limited -Vs- Kawlbuia (D) their Lrs and others) relied on the judgment of C. Lalbiakthanga and dismissed the said appeal. She further submitted that judgments of above noted cases are applicable in the present case since the Periodic Pattas mentioned in those judgments were issued for agricultural purpose and if the Periodic Patta holders who holds patta, issued under the Act is held to be entitled to claim compensation and the statutory benefits, then the respondents herein being holders of Periodic Patta issued under the Mizo District (Agricultural Land) Act, 1963 are also entitled to such compensation.

8.] Ms. Lalmalsawmi, further submitted that the District Collector, Aizawl has classified some properties, which falls within the definition of "land" as crops and she placed that as per the Land Acquisition Act, under Section 3(a) the expression "Land" includes benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth and therefore, stated that the respondents are entitled to receive Solatium and Interest, even if, they are classified as crops damage by the Collector, Aizawl in the present case. She also stated that the occupation of the respondents over the land involved in the case were on the basis of Periodic Pattas issued in their favour by the authority concerned and therefore, they were not un-authorized occupants over the land involved in the case. Ms. Lalmalsawmi in support her claim relied on the Judgments of the Hon"ble Supreme Court in the cases of The Special Land Acquisition and Rehabilitation Officer, Sagar -Vs- M. S. Seshagiri Rao and Another, 1968 AIR(SC) 1045 and Sunder -Vs- Union of India, 2001 7 SCC 211.

9.] Brief facts of the case is that land measuring 1103587.46 square feet, near Phulmawi village of Aizawl district was permanently acquired under the L.A. Act, 1894, as amended, for public purpose, viz., for construction of Drilling Well (LOC-2) by the appellant, Oil India Limited (OIL, for short), NEF, for exploration of Hydrocarbon. For the said purpose, Notification under Section 4(1) and

Declaration, under Section 6, both under the L. A. Act were issued on 09-02-2012 and 12-02-2013 respectively. After due verification and demarcation, the District Collector-cum-Deputy Commissioner, Aizawl District, Aizawl, on 04-03-2013, issued public notice under Section 9 of the said Act to the interested persons and thereafter, he assessed the acquisition compensation including the land value for different parcels of land acquired for the said purpose by the aforementioned Notification and Declaration assessing @ Rs. 14/-, Rs. 18/- and Rs. 22/- per sq. ft. depending on the advantage, location etc. of the land and the jirat value, i.e. compensation for the standing crops, trees etc. over the land, which together amounted to Rs. 85,05,332/- and on 05.06.2013 prepared a Draft Award No. 11 of 2012 send it to the Government for necessary approval. It is to be noted herein that in the said Award No. 11/2012, the District Collector, Aizawl, determined acquisition compensation for land of only those "interested persons" who possessed the land involved in the said Award as Land Settlement Certificates (LSCs) holders only, but did not determine land value compensation for those percales of land, which were possessed by persons on the strength of Village Council Passes (VC Pass) and Periodic Pattas (PP), issued by the concerned authority of the State and also did not acquire the said land as such, but only assessed damages/compensation for crops and trees etc. over such land of VC Pass holders or PP holders and only included the such damages in the said Award. The valuation assessment for acquisition of said land were made by the technical staff of the District Collector, Aizawl, in presence of the owners and possessors of said land and the representative of the acquiring department, i.e. the appellant OIL. On 18-06-2013 the State Government in the Revenue Department approved the said Draft Award No. 11/2012 of the District Collector, Aizawl and thereafter, on 24-07-2013, the Collector, Aizawl passed the Award No. 11 of 2012. The said amount acquisition compensation on being deposited by the acquiring depart/appellant, OIL; the same was disbursed by the District Collector, Aizawl, on 24-08-2013 to the interested persons of the said Award No. 11/2012 including the claimants/respondent Nos. 1 to 4, which they received without protest.

10.] It is to be noted herein that the said Award No. 11/2012 consisted of 30 awardees, out of which, 3 (three) were LSC holders, who received acquisition compensation for their land and crops & trees etc. (jirats, in short) and further 19 Village Council Pass Holders and 8 Periodic Patta Holders, who received compensation for jirats/damages towards crops & trees etc. only that were standing over their land acquired in the case. It is seen that out of said 30 awardees, names of one Village Council Pass Holder, Chheanvawra and one Periodic Patta Holder Zakunga were repeated twice,

11.] A written application under Section 18 of the L.A. Act, 1984 was submitted before the District Collector, Aizawl, on 27-08-2013, submitting objections against his said Award No. 11/2012 and claimed compensation in respect of their land involved in the said Award with the following prayers: (i) payment of Solatium @ 30% of the award,

(ii) payment of interest @ 12% p.a. of the award,

(iii) payment of land value for the Periodic Patta holders as per the valuation calculated for the LSC holder's land and

(iv) payment of interest on excess compensation as per the provision of Section 28 of the LA Act, and requested the District Collector, Aizawl to refer the matter to the Civil Court at Aizawl for adequate determination of acquisition compensation. On 09-09-2013 the said District Collector, Aizawl referred the said application to the Court of District Judge, Aizawl, which was registered as L.A. Case No. 40(A) of 2013 (Rinmawia and others -Vs- District Collector, Aizawl Judicial District, Aizawl and another). While referring the said application, under Section 18 of the L.A. Act, the District Collector submitted that Pu. Romawia and 25 others hold land near Phulmawi village covered by LSCs, VC Passes and Periodic Pattas that may be seen in the Award No. 11/2012, enclosed with the said reference application.

12.] On receipt of summons, in the said reference case, the District Collector, Aizawl and the appellant OIL, appeared in the matter as respondent Nos. 1 and 2 respectively and filed their written objections.

13.] Though the maintainability of the said reference application was raised by the respondents in L.A. Case No. 40(A) of 2013 as the application for reference made under Section 18 of the L.A. Act, was not as per the provisions of Section 18 as laid down in the L.A. Act. It is seen that on the basis of a letter of the Assistant Commissioner of Aizawl District dated 30-04-2014, the Court, by its order dated 01-05-2014, passed in said L.A. Case No. 40(A)/2013, for the LSC Holders only directed to make payment of 12% interest per annum under Sections 23(1A) and 30% solatium, under Sections 23(2) of the L.A. Act, on the respective market value of the land in the said Award No. 11/2012 and by the said order while the District Collector, Aizawl was directed to pay the aforesaid amount within two months from the date of the order, the Court observed that the other issues shall be re-considered on the next date, leaving the issue of maintainability of the said reference petition undecided.

14.] During pendency of said case, as it was submitted before the learned Additional District Judge-I, Aizawl that an analogous matter, arising out of the said Award No. 11/2012 is pending before the Additional District Judge, Aizawl, therefore, on the prayer of the parties, vide order dated 29-05-2014, the said L.A. Case No. 40(A) of 2013 was withdrawn from the said Court of the Additional District Judge-I, Aizawl and the learned District Judge, Aizawl by order dated 29-05-2014 itself placed the said matter before the learned Additional District Judge, Aizawl for disposal.

15.] The learned Additional District Judge, Aizawl, after hearing the parties, on 24-06-2014, framed four issues for necessary consideration of the said LA case, which are as follows : "(i) Whether the reference application has been filed as required under Section 18(1) of the LA Act, 1894?

(ii) Whether the District Collector, Aizawl failed to comply with the provision of Section 19 of the LA Act while referring the matter to the Court?

(iii) Whether the petitioners who are owners of PPs and VC passes are entitled to receive market value/land value at the rate fixed for settlement holders along with solatium and interest under Sections 23(2)/23(1A) of the LA Act?

(iv) Whether the applicants are entitled to payment separately for land value and for crops?"

16.] Without deciding any issues, considering the said reference application maintainable at that stage, the learned Reference Court by order dated 14.07.2014, preceded with the matter, observing that the issues of the case shall be settled at the time of judgment and fixed the matter for plaintiffs" evidence. Thereafter, all the parties in the said LA Case o. 40(A) of 2013 filed their evidence-on-affidavits in it.

17.] On 26.11.2014, during pendency of the said LA Case No. 40(A)/2013 nineteen claimants of said Award No. 11/2012 and who were Village Council Pass Holders, submitted before the Court that between them and the Oil India Limited an outside Court settlement has been arrived at and therefore, prayed to delete their names from the said LA Case. Accordingly, by order dated 26.11.2014 itself, the learned Additional District Judge, Aizawl, deleted the names of those nineteen plaintiffs, awardees of said Award No. 11/2012, from said LA Case No. 40(A)/2013, leaving the present four respondents/claimants in the said case.

18.] One Sri Zohmangaiha was examined as witness on his behalf and on behalf of the claimants/respondent Nos. 1, 2 and 4. In his examination-in-chief, said Zohmangaiha submitted that he is one of the claimants/land owners in the said case and has landed property under Periodic Patta No. 12/2014, located near Phulmai village and that the owner of Periodic Patta No. 99/2011, Thengbuaia, (respondent No. 4), owner of Periodic Patta No. 17/81, Rinmawia, (respondent No. 1) and owner of Periodic Patta No. 248/86, Manthanga, (respondent No. 2) authorized him to sign and swear the affidavit on examination-in-chief on their behalf and that he is representing the said land owners. He deposed that their landed property are located near Phulmawi village and the same was acquired for the purpose of construction of Drilling Well (LOC-2) by the OIL and his landed property falls in the land value of Rs. 23/- per sq. ft. and that the assessment sheet of the award reflects that his land was valued as crops and the District Collector, Aizawl, mistakenly classified his land value as crops" damage and therefore, he is entitled to receive solatium and interest. He also deposed that they are claiming land value compensation @ 23/- per sq. ft. as per the calculation of land value of land under LSCs in the same award and also for payment of solatium and interest.

19.] During his cross-examination by the appellant/respondent No. 2, OIL, said plaintiffs" witness stated that though he can read the examination-in-chief, but does not understand its contents and he is deposing on his behalf and on behalf

of Thengbuaia (respondent No. 4), Rinmawia (respondent No. 1) and Manthanga (respondent No. 2), all of whom are Periodic Patta Holders and stated that he made a claim for Rs. 23 per sq. ft. for the land and admitted that in his examination-in-chief, he did not state any reason as to why he claimed Rs. 23/- per sq.ft. for his land. He also stated that out of seven Periodic Patta holders, he represents four of them and does not represent Chaldailova, Zakunga and Lalhmingliana, the other three Periodic Patta holders. He further admitted that his name does not figure in the abstract of the Award No. 11/2012 and denied the fact that Periodic Patta holders are not entitled to market value of their land, but at the same time said Plaintiff's witness admitted that LSCs and Periodic Pattas are different. In his cross-examination he also denied that Periodic Patta has lesser value than the LSC and denied that Periodic Patta does not give title unlike LSC. He also denied the fact that they did not sign the reference application at the time of submitting it before the District Collector, but admitted that in the said application, they did not state the amount of market value claimed by them and denied the suggestion that being Periodic Patta holders, they cannot claim the market value.

20.] During his re-examination by the counsel for the plaintiffs/claimants, said plaintiff's witness admitted that his name did not appear in the list (abstract of Award No. 11/2012) since he purchased the land of the respondent/plaintiff No. 3, Vanlalthianga, whose name appeared in that list and they made a prayer for payment of land value at par with LSC holders, i.e. @ Rs. 22 per sq. ft.

21.] The respondent No.5 herein/Defendant No. 1, the District Collector, Aizawl adopted the cross-examination of the plaintiff's said witness made by OIL (appellant herein)/ Defendant No. 2.

22.] One Smt. Lalhlimpuii Ralte, the concerned SDC, was examined as DW-1 on behalf of the District Collector, Aizawl, respondent No.5 / Defendant No. 1 and in her examination-in-chief, she stated that by virtue of her post, she is well acquainted with the facts and circumstances of the case and that the application under Section 18 of the LA Act, made by the applicants is not maintainable in its present form and style. With regard to solatium and interest claimed by the plaintiffs/claimants, she state that there is no objection if the land acquired is covered by LSCs; however, no solatium and interest can be given in respect of land where no land value can be awarded. She further stated that the measurement of land acquired, assessment towards crop damage and building were determined by following all norms and procedure and as such question of fresh measurement and assessment does not arise. She further stated that as per the Notification dated 29-12-2009 of the Revenue Department of the State, land value is not awarded for those acquired land, which are not covered by LSCs.

23.] In her cross-examination, the said DW-1 stated that since January, 2014, she was posted in the office of the District Collector, Aizawl and at the time of when land involved in the case was acquired, she was not serving in that office and that she deposed before the Court as per the records maintained in the

office of the District Collector, Aizawl. She denied that the Periodic Patta holders are the land owners of the acquired land and but she admitted that she does not know the definition of "land" as prescribed in the L.A. Act. She also admitted that Collector's Assessment Sheet relating crops damage recorded at the time of acquisition of the land is not available in the case record prepared under Section 19 of the said Act. She denied that the Periodic Patta holders deserve the same rate as fixed for the LSC holders, if at all they are entitled to land valuation of the acquired land. On her further cross-examination on behalf of the plaintiffs/claimants, she stated that she is not aware as to whether the lists of the plaintiffs along with their signatures, available in the case record, were the signatures of the plaintiffs or not.

24.] In her cross-examination by the present appellant, Oil India Limited/Defendant No. 2, she admitted that both the pages of the reference petition received by the District Collector on 27-08-2013, do not contain any signatures of any of the plaintiffs and Exhibit-D1 is the said reference petition received by the District Collector, on 27-08-2013. Referring the said Ext. D1, the said witness of the District Collector stated that she did not find any claim made for compensation towards crop damage.

25.] One Shri Kaushik Rajkhowa, Senior Legal Officer of OIL was examined on behalf of the present appellant/the respondent No. 2, the acquiring authority. In his examination-in-chief said witness submitted that the reference petition is bad as it did not contain the signatures of the applicants nor their names and that there was no written application under Section 18 of the said Act, on behalf of the interested persons. He also submitted that though the forwarding letter of the Collector shows that there were 26 awardees, but who were those 26 persons cannot be identified and further, it could not be ascertained what were their individual claims and as such in the absence of such names of the interested persons and their claims, the application referred by the Collector has no legal validity and therefore reference proceeding is liable to be dismissed since the said application forwarded by the Collector is not in conformity with the provisions of Sections 18 and 19 of the LA Act, as amended.

26.] The said witness for the appellant also stated that the Collector concerned on 12-02-2013, issued notice under Section 9 of the LA Act with regard to the land involved in the case, but the claimants/plaintiffs failed to submit their statements with all details including the basis of their claim and compensation, as required by the said notification of the Collector, and, therefore, claiming higher compensation at later stage by them is purely an afterthought and has no valid ground. It is also stated by the said witness that interest at the rate of 12% and solatium at the rate of 30% were given on the basis of market value, which can be given only to the awardee, who received the market value of land being LSC holders and the present claimants/respondents not being LSC holders, are not entitled for such interest and solatium as held by this Hon'ble Court in L.A. Case No. 1/2012 Oil India Limited -Vs- Pi. Lalthlamuani and four others, with

regard to land acquired at Mizoram for similar purpose. The said witness also stated before the Court that though the plaintiffs/respondents are claiming market value of land involved in the case including solatium and interest on the basis of the decision of this Court in the case of State of Mizoram and others -Vs- C Lalbiakthanga (RFA 22/2010) to substantiate their claim, but the same relates to the provisions of Mizo District (Land and Revenue) Act, 1956 and therefore, cannot avail such benefits by them since they are Periodic Patta holders under a specific Act, namely, the Mizo District (Agricultural Land) Act, 1963.

27.] In his cross-examination by the claimants/plaintiffs, the said witness of the present appellant submitted that he joined the appellants' organization on 09-04-2014 and he received the order dated 01-05-2014, wherein solatium and interest was allowed for LSC holders. He also stated that he received an order dated 26-11-2014, wherein the names of VC pass Holders were deleted from the case in hand and does not know the legal definition of "Land" and he did not accept that the District Collector, Aizawl, has classified "Land" as crops.

28.] Heard learned counsels for the parties and considered the Judgments cited by them.

29.] In the case of State of Mizoram and others -Vs- Mr. C Lalbiakthanga, 2012 1 GauLR 83, it is seen that in a proceeding for widening the road under the policy of the Government, though land was acquired under the provisions of Land Acquisition Act, but persons affected were provided with compensation under the resettlement and rehabilitation policy of the State, wherein the value of the acquired land was determined on a triangular method, that resulted in exclusion of the acquired land of the claimant/person interested and the Reference Court, while considering the claim of such claimant/ person interested, directed the concerned Special Land Acquisition Officer (Spl.LAO) to re-measure the acquired land of the said claimant without applying the triangular method, directing the said LAO to assess the market value of land @ Rs.40/- per sq. ft. with interest @ 12% p.a. for the first year from the date of possession of the land of the claimant and @ 15% for the remaining years till payment and solatium @ 30% and further directed the said LAO to pay the said compensation within 60 days. In the appeal preferred by the State, said decision of the LAO was under challenge.

30.] In the said case, the appellant State claimed that on the basis of an application of the claimant, the Special LAO referred the matter to the Court but not under the provisions of Section 18 of the LA Act. Rejecting the contention of the State appellant, this Court considered the provisions of Section 18 of the LA Act regarding reference to the Court by the District Collector on the basis of application of person interested including the Periodic Patta Holders, where the provisions of Mizo District (Land Revenue) Act, 1956 was involved. In the said case, this Court found that the triangular method of assessment of compensation was discriminatorily applied while determining compensation as the Special LAO in the said case has already paid market value of land @ Rs.40/- and Rs. 50/-

per sq. ft. along with interest @ 12% and Solatium @ 30% of market value of land to numbers of person interested affected by the said acquisition. In those circumstances, this Court found that in not paying any market value of land to the said claimant of the case is discriminatory and accordingly allowed for payment of Rs. 40/- per sq. ft. as market value of the land to the concerned claimant/respondent. But in the present case, the matter relates to Periodic Patta Holders under the provisions of the Mizo District (Agricultural Land) Act, 1963 and the Mizo District (Agricultural Land) Rules, 1971 and with regard to the case in hand the District Collector, Aizawl, neither assessed the market value of land that were occupied by Periodic Patta Holders nor assessed the interest @ 12% and Solatium @ 30% on the compensation towards jirats/crops damage. In such backdrop of the case, therefore, this Court is of the opinion that the decision rendered in the case of Mr. C Lalbiakthanga is not applicable to the present case. Therefore, the decision of the Hon"ble Supreme Court in Civil Appeal Nos. 8972 of 2013 (Power Grid Corporation of India Limited -Vs- Kawlbuiaia (D) their Lrs and others), being based on the judgment of C. Lalbiakthanga cited on behalf of the private respondents Nos. 1 to 4/ claimants is also not applicable in the present case.

31.] In an unreported Judgment of this Court in the case of Oil India Limited -Vs- Pi Lalthlamuani and 4 others (L. A. No. 1 of 2012) decided on 13.06.2013, in a proceeding under the Land Acquisition Act, 1894 as amended, it is held that compensation in respect of trees, crops, standing over the land acquired is maintainable but without any interest under Section 23(1A) and Solatium under Section 23(2) of the said Act as per the provisions of the LA Act, those are applicable to market value of land only.

32.] In the case in hand it is seen that the learned reference Court while deciding the issues involved in the said LA Case No. 40(A)/2013 failed to take into consideration the relevant provision of Mizo District (Agricultural Land) Act, 1963 and the Rules framed there under namely the Mizo District (Agricultural Land) Rules, 1971. From the reading of the relevant provisions of the said 1963 Act and 1971 Rules it can be seen that a lessee under a periodic patta lease under the said 1963 Act and 1971 Rules, does not acquire the status of a settlement holder and for the same such lessee as periodic patta holder under the said Act and Rules is not entitled to value of the land acquired.

33.] As per Section 7 of the Mizo District (Agricultural Land) Act, 1963, it is only the Patta Holders under the said Act, have the heritable and transferable right of use on or of sub-letting in his land subject to payment of all revenues and taxes from time to time legally assessed or imposed in respect of the land.

34.] As per the provisions of Rule 2 of the Mizo District (Agricultural Land) Rules, 1971 framed under the said 1963 Act "Periodic Patta" means a prescribed land settlement document settling the Agricultural land periodically under the said Rules where-by an individual or society has entered into an agreement with the District Council to pay land revenue, taxes, cesses and rates legally assessed

or imposed in respect of the land so settled, whereas said Rule 2 of 1971 Rules describes that "Periodic Patta Holder" means holder of Periodic Patta, who has not acquired the Patta Holders" right under Section 7 of the said 1963 Act.

35.] As per said Rule 2 of the 1971 Rules "Patta" means a prescribed land settlement document settling the Agricultural land under the Act and under these Rules, whereby an individual or society has entered into an engagement with the District Council to pay land revenue, taxes, cesses and rates legally assessed or imposed in respect of the land from time to time. From the reading of Rule 6, that relates to "Allotment" it can be seen that Period Patta Holders are temporary allotment holder. of said

36.] From the Appendix-"B" of the said 1971 Rules, the Form of Periodic Patta under said 1963 Act it is provided therein including the terms and condition specifically provides that the holder of the said Periodic Patta has entered into an engagement with the Government of Mizoram to pay land- revenue and the other taxes, cesses and rates as shown in said Periodic Patta and thereby acquires the status of Periodic Patta Holders as defined under Rule 2(8) of the Mizo District (Agricultural Land) Rules, 1971 and such Periodic Patta Holders has the right to use the land for a period of allotment in accordance with the terms and conditions imposed in the said periodic patta and that said periodic patta is renewable on application at the expiry of the period of allotment. The terms and conditions prescribed under Section 4(3) of the Mizo District (Agricultural Land) Act, 1963 amongst others for such Periodic Patta Holders are : 1) "The Agriculture Land temporarily allotted to the holder of this Periodic Patta is mainly for _____ for a period of _____ Calendar years, beginning from _____ to _____ and without previous permission of the Administrator or Officer authorized by it in writing, the land shall not be utilized wholly for another purpose than specified herein.

2) *****

3) *****

4) *****

5) No transfer of the land whether in part or in whole, shall be made except in accordance with the provisions of the Mizo District (Transfer of Land) Act and Rules made thereunder.

6) *****

7) *****

8) *****

9) The Periodic Patta may be cancelled without compensation at any time even before the expiry of the period of allotment, if the same is required for the public purposes, but sufficient time shall be given to the holder for collection of the Agricultural products in it.

10) The Periodic Patta shall be treated as cancelled automatically, if it is not renewed on application within 6 (six) months from the date of its expiry.

11) If the holder of Periodic Patta, has no further use of the land at the expiry of the period of allotment, he shall surrender the Periodic Patta to the Government of Mizoram.

12) Violation of any of the above terms and conditions may entail cancellation of the Periodic Patta under Rule 42 of the Mizo District (Agricultural Land) Rules, 1971."

37.] Before the learned Reference Court, the respondent Nos. 1 to 4/ claimants did not exhibit their Periodic Pattas involved in the case, so as to ascertain that on the date acquisition of the land whether their Periodic Pattas were valid or not.

38.] The claimants/respondents No. 1 to 4 are Periodic Patta Holders under the said 1963 Act and the 1971 Rules, who are not Patta Holders and they are only allotment holder of the land for agricultural purpose for very limited period specified in their Periodic Patta, who have entered into an engagement to pay land revenue, taxes, cesses, and rates legally assessed and imposed upon the land, so settled under the terms and conditions noted above. The respondents are not the owners of the land involved in the case and they being only the allotment holders over the land in question for a limited period to use the same for agricultural purpose, without having any heritable/transferable/salable right, they are required to file application for renewal after the expiry of the period of such allotment and it is the Government, who is the owner of the land in question. This can also be seen that for the said Government land occupied by the respondents/claimants 1 to 4, in the said Award No. 11/2012 no land value was determined and/or assessed or the said land except the damages only towards crops payable to said respondents.

39.] The respondents/claimants No. 1 to 4 did not adduce any evidence before the learned Reference Court rebutting the award made by the concerned collector. It is settled that in a reference proceeding the claimant or interested person should be treated as a plaintiff and burden lies on him to prove that the compensation awarded by the Collector was inadequate. On reference under section 18 of the Land Acquisition Act for determination of compensation, burden lies on the claimant-plaintiff to prove proper, just and adequate compensation to the acquired land. In the case of Chimanlal Hargovinddas -Vs- Special Land Acquisition Officer, 1988 3 SCC 751, the Hon'ble Apex Court have held that "the Court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it. The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the Court."

40.] The Hon'ble Supreme Court in the case State of Punjab -Vs- Amarjit Singh, 2011 4 SCC 734 have settled the law that "Solatium and Additional Amount are

not payable on the damages/expenses that may be awarded under the second to sixth factors under Section 23(1) of the Land Acquisition Act".

41.] In the case *L. Srinivasa Reddy -vs- Mandal Revenue Officer-cum- Land Actuations Officer*, 2001 AIR(SCW) 2507, the Hon"ble Supreme Court have held that "in the absence of any evidence to determine the compensation (land acquisition), the proper course of the High court to remit the matter to the concerned authority to adduce evidence in that regard and then to determine the appropriate compensation."

42.] In the present case it is seen that without any evidence being adduced by the claimants/respondents No. 1 to 4 with regard to their land involved in the case, learned Additional District Judge, Aizawl, Mizoram, by the impugned Judgment and Order dated 14-03-2016 passed in L.A. Case No. 40(A)/2013 determined the market value of land @ Rs. 12/- per sq.ft. with additional interest @ 12% per annum under Section 23(1-A) of the L.A. Act 1894 as amended and also Solatium @ 30% under Section 23(2) of the said Act.

43.] For the reasons above, the finding of the learned Additional District Judge, Aizawl, in the impugned Judgment and Order dated 14-03-2016 passed in L.A. Case No. 40(A)/2013 in the absence of any evidence, is found to be bad in law.

44.] For the aforesaid reasons, the impugned Judgment and Order dated 14.03.2016 passed by learned Additional District Judge in L.A Case No. 40(A)/2013 determining the market value of the land of the claimants/respondent Nos. 1 to 4 the market value of land @ Rs. 12/- per sq.ft. with additional interest @ 12% per annum under Section 23(1-A) of the L.A. Act 1894 and also Solatium @ 30% under Section 23(2) of the said Act as well as the direction given in it, not being based on any evidence, is hereby set aside and quashed.

45.] The concerned Reference Court shall now consider the entire matter pertaining to L.A Case No. 40(A)/2013 arising out of the Award No. 11/2012 of the Collector Aizawl, afresh, enabling the parties to the said proceeding to lead fresh evidence, if so desires. The Reference Court shall issue fresh notice to the parties for their appearance in the matter. It is expected that the learned Reference Court shall complete the entire exercise within a period of 4 (four) months from today not later than 31.10.2017. The stay order dated 31.05.2016 passed earlier in this proceeding shall now merge with this order.

46.] Registry shall return the amount of Rs. 5,00,000/- to the appellant Oil India Limited, so deposited by it, pursuant to the order dated 31.05.2016 by account payee cheque, on its application before the Registry of the Court.

47.] Registry shall return the LCR to the Court of District Judge, Aizawl Judicial District, Aizawl forthwith alongwith a copy of this order.

48.] With the aforesaid observation and direction, this appeal stands allowed.

49.] No order as to costs.