

(1917) 01 PAT CK 0003
In the Patna High Court

Raja Birabar Narayan Chandra Dhir Narendra

APPELLANT

Vs

The Collector of Cuttack

RESPONDENT

Date of Decision : 05-01-1917

Acts Referred:

Citation : AIR 1917 Patna 659(2) : 39 Ind. Cas. 14

Hon'ble Judges : Roe, J;Chapman, J

Bench : Division Bench

Judgement

Chapman, J.—This in an appeal against a decree passed by the learned District Judge of Cuttack in a reference from the Land Acquisition Deputy Collector in respect of 5-96 acres of land acquired by the Government.

2. The land is not of any use for agricultural or building purposes. The value of the land consists in the gravel arid laterite which it contains. It appears that for some time the Government had been taking gravel from this land paying the owner at the rate of six annas per hundred feet. Finding it inconvenient to arrange for the payment of royalty each time gravel was taken it was decided to acquire the land. The learned District Judge has assessed the compensation by enquiring as to the average income which had actually been obtained by the owner from lands of this description. He came to the conclusion that the annual return for this area of land would be about Rs. 40. He gave compensation for twenty years" purchase and granted an award, including compensation for trees and the statutory 15 per cent., of Rs. 932-10 6.

3. It is urged on behalf of the appellant that the method of assessing compensation was wrong. The argument is that the entire quantity of gravel and laterite in the land should have been ascertained and that the Government should have been made to pay at the rate of six annas per hundred cubic feet for the entire number of cubic feet of late-rite and gravel ascertained to be in the land That is to say we are asked to rule that the amount of compensation to be awarded in such cases is to be determined with reference to the relations existing at the time between the Government and the claimant. That is not the

principle laid down in the Land Acquisition Act. The principle laid down in that Act is that the Court has to ascertain what the market value is. That is to say what value would be paid in the market by a purchaser of good ability and well qualified to put the land to the best advantage. Obviously such a purchaser would enquire what the annual return reasonably expected from the land would be. In this particular case there is no suggestion that a purchaser would make any other enquiry than the enquiry what average return had actually been realised in recent years. That is the principle upon which the learned District Judge has proceeded. I may, however, remark that if the other principle had been applied to this case it would have been impossible to say that it would have been reasonable to require the Government to pay for the entire area of laterite and gravel at the rate at which they had agreed to pay for such amount of gravel as they may require from time to time. We are not disposed to interfere with the order of the learned District Judge. The appeal is dismissed with costs.

Roe, J.

4. I agree.