
(2015) 07 TP CK 0075
In the Tripura High Court
Case No : L.A. App. No. 46 of 2011

Ranjana Sarkar (Das)

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 06-07-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 34, 4, 54

Citation : (2015) 07 TP CK 0075

Hon'ble Judges : S. Talapatra, J

Bench : Single Bench

Advocate : R. Debnath, for the Appellant; A. Roy Barman, CGC, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

S. Talapatra, J—Heard Mr. R. Debnath, learned counsel appearing for the appellant as well as Mr. A. Roy Barman, learned Central Government Counsel (CGC) appearing for the respondents No. 1, 2 and 3 and Mr. D.C. Nath, learned counsel appearing for the respondent No. 5. Despite due notice, none appears for the respondent No. 4.

2. This is an appeal under Section 54 of the Land Acquisition Act, 1894 from the judgment and order dated 21.05.2011 delivered in case No. Misc. (LA) 32 of 2007 by the Land Acquisition Judge, West Tripura, Agartala, Court No. 3.

3. By the said judgment and order dated 21.05.2011, the reference under Section 18 of the L.A. Act has been determined by the Land Acquisition Judge without interference with the award made by the Land Acquisition Collector.

4. Mr. R. Debnath, learned counsel appearing for the appellant has submitted that the impugned judgment and order suffers from serious infirmity inasmuch as there has been no endeavour whatsoever to properly appreciate the sale exemplar being the sale deed No. 1-1219 dated 04.02.2004, Exbt. 1 where a proximate land measuring 1 ganda, 2 Karas was purchased on consideration of

Rs. 1,50,000/- . If it is converted to kani, the rate would come at Rs. 33 lakhs per kani. Mr. Debnath, learned counsel for the appellant has further submitted that the land is situated adjacent to Agartala-Bishalgarh Road and having various other civic amenities. The referring claimant has stated in his deposition that from the acquired land Agartala Railway Station, Dr. BRAM Medical College and Hospital, Women's Polytechnic College, ONGC, Tripura Jute Mill, Market, Ramkrishna Mission School etc., are not very far off. The acquired land has its commercial value for its location. He has further submitted that in that area price of land is mobile upward. This part of the statement was not even challenged by way of cross-examination, even though the referring claimant was cross-examined by the respondents. That apart, Mr. Debnath, learned counsel has drawn the notice of this court to the deposition of Sri Debabanda Debbarma, the Surveyor of the office of the District Magistrate and Collector, West Tripura, the respondent No. 4 who in his examination-in-chief has categorically stated that the acquired land is adjacent to Agartala-Udaipur Road.

5. From the other side, Mr. A. Roy Barman, learned CGC appearing for the respondents No. 1, 2 and 3 for whose purpose the land was acquired has stated referring to the statement of the said surveyor, the OPW-1 that the acquired land even though is viti/tilla class of land and situated under mouja Madhupur in the CS Plot No. 4517/P, comprised in khatian No. 3664 measuring 0.20 acres but the land of that part is never used for any commercial and business purposes. The acquired land is in village Surjyamaninagar which is a rural area having small huts and cultivable land. The acquired area is in mouja-Madhupur which is less developed area. The land having no potential value, there was no expectation of higher rate. He has also stated that there was no water and electricity facility available over that area. Mr. Roy Barman, learned CGC has further submitted that from the assessment sheet it would be apparent that the Land Acquisition Collector considered as many as five sale instances though those were not brought in the evidence but since the assessment sheet is the part of the reference those are rightly relied by the Land Acquisition Judge.

6. From the said assessment note, it appears that the Land Acquisition Collector has considered one deed being 1-1611 dated 12.02.2004 where rate was Rs. 1 lakh per kani. The other deeds being No. 1-393 dated 10.01.2003 rate being Rs. 80,000/- per kani, No. 1-2931 dated 19.04.2003 rate being Rs. 1,94,286/- per kani, No. 1-5535 dated 30.06.2003 rate being Rs. 19,870/- per kani and No. 1-1601 dated 12.02.2004 rate being Rs. 1,00,000/- per kani were also considered. According to the Land Acquisition Collector, those pieces of land are very near to the acquired land. It appears that the rate of Rs. 1,94,286/- is the highest amongst the deeds relied by the Land Acquisition Collector. Mr. Roy Barman, learned CGC in the last lap of his submission has submitted that the rate as recorded in the Exbt. 1 cannot be applied in the acquired plot for the reason that being adjacent to the road or having the boundary with the road makes a lot of difference while the rate is required to be assessed. An admitted position is that the acquired land may be adjacent to that land described in the

Exbt. 1 but it is not along the road whereas the land described in Exbt. 1 sale deed is having its boundary with the road and that land is only of 1 ganda and odd. Therefore, he had contended that no reliance can be placed on the rate of Exbt. 1.

7. Having regard to the rival contentions as advanced by the learned counsel for the parties, this Court has considered the primary factors and the objections for determining this appeal. There cannot be any amount of doubt that the land along the boundary of Tripura University has its own potential and it has been admitted by OPW 1 that piece of land is not far off but adjacent to the Agartala-Bishalgarh Road. For purpose of commercial use, being adjacent to the road is not enough, it must be attached with further amenities. However, the rate that has been awarded by the Land Acquisition Collector and affirmed by the Land Acquisition Judge is definitely lower from what would be the just and reasonable rate. Now the court would determine what the just and reasonable rate would be having regard to the five sale instances considered by the Land Acquisition Collector and the sale instances being brought in the evidence by the appellant.

8. To some extent, this court is persuaded by the submission of Mr. A. Roy Barman, learned CGC. The rate recorded in Exbt. 1 cannot be applied straightaway for purpose of determining the rate of the acquired land. Thus, this court has to analyse the primary factors for such determination. One ganda of viti class of land cannot be related and considered on the equal term with 10 ganda of tilla/viti class of land. For the scanty description of the land, this court has to embark on a certain amount of guess work. Having regard to the sale exemplar being 1-2931 dated 19.04.2003, the land therein is 2100 feet away from the acquired land which is definitely in the boundary of the Tripura University and adjacent to the Agartala-Bishalgarh Road. If these proximities are taken into consideration, the rate can definitely be around rupees 3 lakhs per kani but considering the potentiality and the propensity of the price escalation, this court is of the considered opinion that the rate per kani should be rupees 4 lakhs per kani. As stated, that a viti class of land along the main road does not fetch the similar amount for the land which may be adjacent but not along the road.

9. Accordingly, the appellant shall be entitled to the other benefits as the component of compensation based on the rate as assessed. In short, the market rate of the acquired land would be Rs. 4,00,000/- per kani. The appellant shall get solatium @ 30 per cent over that rate and interest over the land value and the solatium shall carry on from the day when the notification under Section 4 of the Land Acquisition Act, 1894 was issued, in terms of Section 34 of the Land Acquisition Act.

Accordingly, this appeal stands allowed to the extent as indicated above.

Draw the decree accordingly.

Send down the records thereafter.