(2014) 09 TP CK 0019

In the Tripura High Court

Case No : L.A. APP. No. 54 of 2007

Sambhunath Bhowmik VsThe Land Acquisition Collector

Date of Decision : 19-09-2014

Acts Referred:
Land Acquisition Act, 1894 — Section 54, 6

Citation : (2014) 09 TP CK 0019

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

Advocate : P. Datta and A. Chakraborty, Advocate for the Appellant; D.C. Nath, P. Saha and S. Chakraborty, Advocate for the Respondent

Final Decision : Dismissed

Judgement

Deepak Gupta, C.J.—This appeal u/s 54 of the Land Acquisition Act (hereinafter referred to as the Act) is directed against the judgment dated 10-05-2007 passed by the learned Land Acquisition Judge, North Tripura, Kailashahar whereby he assessed the value of the land of the petitioners at Rs. 5,00,000/- per acre or Rs. 2,00,000/- per kani in respect of viti type of land; in respect of layakpatit type of land the assessment was made at Rs. 3,50,000/- per acre or Rs. 1,40,000/- per kani and in respect of the pond or pukur type of land the assessment was made at Rs. 2,50,000/- per acre or Rs. 1,00,000/- per kani.

2. The undisputed facts are that land measuring 0.443 acres belonging to the petitioners was acquired vide notification dated 27-05-2002. After declaration u/s 6 of the Act was issued, the Land Acquisition Collector passed an award on 04-09-2002 whereby he assessed the compensation of the various classification of land as follows:-

Aggrieved by the said award, the claimants filed a petition for enhancement before the Land Acquisition Collector.

They also claimed that there were trees and buildings on the said land and they should be awarded compensation for the same.

3. As far as the issue of trees and buildings is concerned, other than making an

oral statement that there was a pucca construction measuring 24'' x 16'' over the acquired land made of G.I. sheet, there is no proof that such building ever existed. Even with regard to trees, the evidence led by the claimants is totally inadequate. In case, there was any pucca construction on the acquired land, that would have been reflected either in the revenue record or in some other records. Furthermore, no such claim was ever made before the Land Acquisition Collector by the land owners and, therefore, I find no merit as far as this part of the claim is concerned.

4. As far as the acquired land is concerned, it has come in evidence that this land is low lying land and that the petitioner-land owners and their family were residing in their original house near the Old Motor Stand at Kailashahar. It has also come in evidence that since this land was an open piece of land, it was often used by the Bengal Tiger Club of Paitorbazar to celebrate Durga Puja for about 20 years before the acquisition. PW-2 has himself admitted in cross-examination that the claimants never resided in their house on the acquired land. This clearly shows that nobody was living on the acquired land. Therefore, it had no pucca construction and it was more in the nature of a land abandoned by the owners.

5. Next comes the question as to the value of the land. The claimants alleged that the value of the land was more than Rs. 33,50,000/- per kani and in this behalf, they relied upon a registered deed No. 23 of 2002 executed on 04-01-2002 whereby two persons Apurba Sen and Arjun Sen sold 0.012 acres of land to Biplab Sen for a sum of Rs. 1,00,000/- which works out to Rs. 33,33,333/- per kani.

6. PW-2, Anjan Kumar Sen, is the brother of the vendors Apurba Sen and Arjun Sen who sold the land in question. He has in his cross-examination clearly admitted that the consideration of Rs. 1,00,000/- not only included the cost of land but also included the cost of a standing two storey building. Thus, there was a pucca two storey building on the small piece of land. It is impossible to decide what was the value of the land and what was the value of the building. The sale deed is composite whereby both the building and the land have been sold and it cannot be said that the value of the land was more than Rs. 33,00,000/- per kani. No other evidence has been produced by the claimants.

7. On the other hand, the State has relied upon three sale deeds. One sale deed No. 1-1574 was executed on 07-11-1974 and, therefore, is not taken into consideration at all. The other two sale deeds being sale deed No. 1-175 and 1-632 were executed on 04-02-2002 and 10-04-2002 respectively. The lands of these sale deeds are at a distance of 500 metres and 800 metres from the acquired land. The value of the lands are Rs. 1,60,000/- per kani and Rs. 99,009/- per kani respectively.

8. The claimants stand in the shoes of a plaintiff. It was for the land owners to prove what was the value of the land. Other than relying upon sale deed No. 23 of 2002, they have not led any other evidence to prove their case. That sale deed

cannot be taken into consideration because in that deed, the area of land is very small and it appears that most of the consideration of Rs. 1,00,000/- was paid towards the cost of the two storey pucca construction.

9. In view of the above discussion, I find no merit in this appeal which is accordingly dismissed.

10. Send down the lower court records forthwith.