
(2002) 12 OHC CK 0029
In the Orissa High Court
Case No : First Appeal No. 157 of 1995

Special Land Acquisition Officer Rengali Irrigation Project	APPELLANT
Vs	
Bhramarbar Sahu	RESPONDENT

Date of Decision : 04-12-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2003) 95 CLT 271

Hon'ble Judges : Pradip Mohanty, J

Bench : Single Bench

Advocate : C. Kasturi, Addl. Standing, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Pradip Mohanty, J.—This First Appeal arises out of the order dated 24.2.1995 in L.A. Misc. Case No. 54 of 1993 passed by Civil Judge (Senior Division), Kamakhyanagar.

2. The case of the appellant-Special Land Acquisition Officer runs as follows :

The claimant-respondent is the recorded tenant of the tank and its ridge measuring Ac. 0.50-7.1/2 decimals appertaining to Plot No. 842 (Ac. 0.08.7.1/2 decimals) and Plot No. 843 (Ac. 0.42 decimals) under Khata No. 165 of Mouza Chandpur in the district of erstwhile Dhenkanal. In pursuance to the notification dated 2.2.1989 the said land was acquired for the purpose of Rengali Irrigation Project and the claimant-respondent was offered a compensation of Rs. 21,695/-. For the purpose of assessing the compensation of the land, the Land Acquisition Officer splitted up the acquired property into two parts i.e. land as such and the tank. He valued the ridge of the tank at the rate of Rs. 5000/- per acre and the reserve portion at the rate of Rs. 7000/- per acre. Accordingly, the claimant-respondent received the compensation of Rs. 21,695/- with objection. In the said objection the claimant-respondent claimed that he was earning Rs.

18,000/- to Rs. 20,000/- annually from pisciculture in the tank. Hence, the matter was referred u/s 18 of the L.A. Act, 1894 to the Civil Judge (Senior Division)-cum-Land Acquisition Tribunal, Kamakhyanagar.

3. The only point for determination in this appeal is whether the claimant-respondent is entitled to higher compensation. In order to prove its case the claimant-respondent has examined himself as P.W. 1 and exhibited the certified copy of the order passed in L.A. Misc. Case No. 61 of 1993. No material has been produced by the Land Acquisition Officer.

4. In his oral evidence, the claimant-respondent has claimed that he was doing pisciculture in the acquired tank and from such pisciculture he was earning Rs. 18,000/- to Rs. 20,000/- per annum. According to P.W. 1, lands in his village were sold for more than the price fixed by the Land Acquisition Officer. Admittedly, no document has been filed by the claimant-respondent to show that he was benefited by doing pisciculture in the tank before acquisition and no sale deed was also produced by the claimant-respondent. But the learned Civil Judge (Senior Division), Kamakhyanagar vide order dated 24.2.1995 allowed the claim for higher compensation and determined the price of the acquired property at Rs. 35,000/- basing upon the evidence both oral and documentary adduced by the claimant-respondent.

5. It also appears from the materials on record that the claimant-respondent and Sauri Sahu are co-shares, each having 174th share in a big tank. The land in question and the land of Sauri Sahu are portions of the same tank and the entire land has been acquired by one notification. Further more, Ext. 1 reveals that Sauri Sahu has been awarded higher compensation of Rs. 35,000/- for his share in the tank. The Civil Judge (Senior Division) has adopted the method of the capitalisation and it has been found that the tank was being utilised for the purpose of pisciculture. This assessment is based on discussion of the evidence on record. In absence of any rebuttal evidence from the side of the appellant-Land Acquisition Officer, I do not consider that the award of the learned Civil Judge (Senior Division), Kamakhyanagar is unreasonable and there is no justification to interfere with the same.

The First Appeal is accordingly dismissed. No costs.