

(2002) 06 OHC CK 0042
In the Orissa High Court
Case No : First Appeal No. 39 of 1995

Special Land Acquisition Officer, Rengali Irrigation Project	APPELLANT
Vs	
Sauri Charan Sahu	RESPONDENT

Date of Decision : 18-06-2002

Acts Referred:

Land Acquisition Act, 1894 — Section 23, 24, 4

Citation : (2003) 96 CLT 96 : (2002) 2 OLR 226

Hon'ble Judges : Pradip Mohanty, J

Bench : Single Bench

Advocate : P. Rout, Addl. Standing, for the Appellant; None, for the Respondent

Final Decision : Dismissed

Judgement

Pradip Mohanty, J.—The first appeal arises out of the order dated 1.12.1994 passed by the Civil Judge (Sr. Divn.), Kamakhyanagar in Land Acquisition Misc. Case No. 56 of 1993.

Though notice has been made sufficient against the sole respondent- claimant, none appears when the appeal was heard on merit.

2. The case of the appellant, in brief, is that lands having an area of Ac. 0.88 decimals corresponding to plot Nos. 729, 743,778, 813 and 814 under Khata No. 215 of village Chandpur in the district of Dhenkanal were acquired in pursuance to notification dated 2.2.1989 u/s 4 of the Land Acquisition Act for the purpose of Rengali Irrigation Project. The lands are "Sarada-III" variety.

The appellant-Land Acquisition Officer determined market value of the said "Sarada- III" variety land at the rate of Rs. 14,000/-per acre. There were a palm-tree, a date-palm-tree and a banian tree on the acquired land at the time of acquisition. For the purpose of the above trees, the claimant was awarded Rs. 74/- towards compensation. The Land Acquisition Officer awarded a total sum of Rs. 20,560/ - including solatium and interest for the above acquisition of lands.

According to the respondent-claimant, the market value fixed by the Land Acquisition Officer is very low since the land value in his village is very high and the lands were assessed at the rate of Rs. 5000/- per Gunth. The respondent received the compensation with objection. Therefore the respondent-claimant prayed to refer the matter to the Court-Land Acquisition Tribunal for determination of higher compensation.

3. The learned Civil Judge (Sr. Divn.), Kamakhyanagar, after consideration of both oral and documentary evidence, by his award dated 1.12.1994 in L.A. Misc. Case No. 56 of 1993, held that the claimant-respondent is entitled for higher compensation at the rate of Rs. 20,000/- per acre for the said acquired "Sarada-III" lands. The learned trial Judge also awarded 30 per cent solatium at the proportionate rate as per the enhancement and interest at the rate of 9 per cent per annum on the excess amount of compensation from the date on which the lands were taken in possession till the date of such payment.

4. The issue involved in this appeal relates to higher compensation awarded by the learned Civil Judge (Sr. Divn.), Kamakhyanagar, in respect of the acquired lands for the Rengali Irrigation Project.

5. The contention of Mr. Routray is that the court below has failed to appreciate the scope and ambit of Sections 23 and 24 of the Land Acquisition Act for determination of value of the lands in question. His further contention is that the award of the learned trial Judge is exorbitant and illegal being not based on evidence on record.

6. I have perused the records and the documents exhibited before the learned trial Judge.

The claimant respondent in order to prove his case has examined as many as two witnesses and produced the certified copy of the document in L. A. Misc. Case No. 27 of 1993 which has been marked as Ext. 1. The appellant-Land Acquisition Officer has not adduced any evidence, either oral or documentary, in support of his case, so as to prove how the market value was assessed by him. However, Ext. 1 the certified copy of the order in L. A. Misc. Case No. 27 of 1993 shows that for the Sarada-III variety land in the area of the acquired land of the claimant-respondent the court has awarded higher compensation at the rate of Rs. 20,000/- per acre.

In Land Acquisition Zone Officer Vs. Damberudhar Pradhan and Others, , it has already been held that in respect of agricultural lands in Orissa, market value on capitalisation method would be sixteen times the net annual income of the yield. But in the instant case, it is not the case of the appellant that the compensation amount awarded by the court below is more than sixteen times of the yield. The appellant has also not adduced any evidence to discard the Ext. 1 produced by the respondent -- claimant.

7. For the reasons stated above, the impugned order of the learned Civil Judge

(Sr. Divn.), Kamakhyanagar is just and proper and the same is affirmed. The first appeal is accordingly dismissed. No cost.