
(2000) 02 OHC CK 0047
In the Orissa High Court
Case No : First Appeal No. 70 of 1998

Special Land Acquisition Officer, Upper Indravati Project	APPELLANT
Vs	
Sahadev Bisi	RESPONDENT

Date of Decision : 02-02-2000

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4(1), 54

Citation : (2000) 89 CLT 709

Hon'ble Judges : P.K. Misra, J

Bench : Single Bench

Advocate : P.K. Nayak and D.K. Mohanty, for the Respondent

Final Decision : Dismissed

Judgement

P.K. Misra, J.—This appeal has been filed u/s 54 of the Land Acquisition Act, 1894 (in short, the "Act") challenging the a ward passed by the Civil Judge (Senior Division), Bhawanipatna, in a reference u/s 18 of the Act.

2. Ac.8.38 decimals of Land belonging to the present Respondent was acquired pursuant to the Notification u/s 4(1) of the Act, dated 18-3-1992 for the purpose of construction the reservoir of Upper Indravati Project. The Land Acquisition Officer had fixed compensation at, Rs. 4,000/- per acre for Atamamuli land and Rs. 13,158/- per acre for Bahalmamuli land, the Civil Judge (Senior Division) has fixed compensation at Rs. 24,000/- per acre for all types of land by applying the capitilisation method.

3. The learned Counsel appearing for the State has submitted that the Civil Judge should not have fixed compensation at the same rate for both types of land. It is further submitted that in the application for making reference the claimant bad claimed that Rs. 20,000/- was the valuation for Atamamuli land and Rs. 20,000/- was the valuation for Bahalmamuli land and as such, the compensation at the rate of Rs. 24,000/- for Atamamuli Land cannot be sustained.

4. On perusal of the reference it appears that, the claimant had taken a ground to the following effect:

1. That the market value of the land is not properly assessed taking into consideration the yield of the land and Atamamuli and Babalmamuli land of the adjoining village paikpadar are more than Rs. 20,000/- and Rs, 25,000/- per respectively.

(Emphasis added)

From the aforesaid assertion, it cannot be said that the claimant had stated that the valuation of Atamamuli land was Rs. 20.000/-. It can only be concluded that the claimant has stated that the valuation of Atamamuli and Bahalmamuli land of the adjoining village is more than Rs. 20,000/- and Rs. 25,000/- per acre respectively.

5. The Civil Judge has fixed the compensation by applying the capitalisation method. From the evidence of the claimant himself it appears that the income from one acre of, land was more than Rs. 300/-. of course, the evidence of p. w. 2 is slightly different. However, the assessment of the Civil Judge that the annual income was about Rs. 2,400/- and the valuation calculated Rs. 24.000/- per acre cannot be characterised as grossly excessive. The Civil Judge has applied the multiplier of 10 which also appears to be on the conservative side as in many SCC earlier the multiplier of 15 to 16 had been applied. Be that as it may, since compensation at the rate of Rs. 24.000/- per acre of agricultural land does not appear to be grossly excessive, no interference is called for in this appeal.

6. Learned Counsel for the Appellant submitted that it had not been specifically stated in the application for making reference that Biri was also being raised in the disputed land. However, a perusal of the evidence of the witnesses indicates that such evidence has not been challenged in cross-examination.

7. For the aforesaid reasons, I do not find any merit in this appeal, which is accordingly dismissed. Needless to point out that the claimant shall be entitled to all the statutory benefits in accordance with the provisions of the amended Act. There will be no order as to costs.

Appeal dismissed.