
(2012) 05 PAT CK 0075
In the Patna High Court
Case No : First Appeal No. 350 of 1982

State of Bihar

APPELLANT

Vs

Badri Narain Pandey and Another

RESPONDENT

Date of Decision : 16-05-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2012) 05 PAT CK 0075

Hon'ble Judges : Mungeshwar Sahoo, J

Bench : Single Bench

Advocate : Pankaj Kumar, A.C. to G.A. 8 and Mr. Prabhu Nath Roy, for the Appellant;

Final Decision : Dismissed

Judgement

Honourable Mr. Justice Mungeshwar Sahoo

1. The State of Bihar has filed this First Appeal against the judgment and award dated 27.04.1982 passed by Sri B.N.Sinha, the learned Sub Judge-cum-Land Acquisition Judge, Katihar in Land Acquisition Case No.52 of 1977/141 of 1981. The applicants-respondent's lands in plot nos. 678 and 674 measuring 3.55 acres and 1.66 acres respectively was acquired by the State Government for construction of embankment of village Dagra Millik and Harprasad by notification dated 03.03.1975 published in Gazette on 01.04.1975. Plot no. 678 measuring 3.55 acres was Bhit II land and plot no. 674 measuring 1.66 acres was orchard land having various fruits bearing trees such as Mango, Jamun, Coconut, Guava, Seesam, Seemal etc. and also medicine plants. Land Acquisition Officer fixed the market value of the land of plot no. 678 measuring 3.55 acres at the rate of Rs.3,000 per acre and likewise, fixed the rate of land comprised within plot no. 674 measuring 1.66 acres i.e., orchard land at Rs.5,200 per acre.

2. The application filed by the claimants-respondents u/s 18 of the L.A. Act was referred to the Land Acquisition Judge. By the impugned judgment and award,

the Land Acquisition Judge fixed the market value of the land measuring 3.55 acres of plot no. 678 at the rate of Rs.5,500 per acre and Rs.65,000 per acre for the orchard land measuring 1.66 acres comprised within plot no. 674.

3. The learned counsel for the appellant mainly assailed that part of the judgment whereby the rate of orchard land has been fixed at the rate of Rs.65,000 per acre.

4. It may be mentioned here that 3 applicants-respondents namely, Kedar Nath Pandey, Badri Narain Pandey and Ramanuj Pandey filed application u/s 18 of the L.A. Act claiming enhancement of the compensation on the ground that very low compensation has been paid by the Land Acquisition Officer for the lands acquired. It may be mentioned here that during the pendency of this appeal, the respondent no. 1, Kedar Nath Pandey died and no substitution application was filed by the appellant for substitution of the legal representatives of deceased respondent no. 1. In such view of the matter, by terms of order no. 19 dated 24.04.1985, the First Appeal stood abated as against the heirs of deceased respondent no. 1, Kedar Nath Pandey.

5. In view of the above position, the judgment and award passed by the Land Acquisition Judge has become now final as against the heirs of the deceased respondent no. 1. The claim of the claimants is inseparable. All of them claimed to be the owner of the property. Now, when the impugned judgment and award became final against the heirs of deceased respondent no. 1 as the appeal has already abated, the same cannot be altered or varied partly as against the respondent nos. 2 and 3 only. In other words, there cannot be fixation of value of the orchard separately for respondent nos. 2 and 3. So far heirs of respondent no. 1 is concerned, the rate fixed by the Land Acquisition Judge cannot be altered without hearing the legal representatives of deceased respondent no. 1. In my opinion, therefore, in view of the above facts and circumstances of the case, the whole appeal has become now incompetent and no relief can be granted in favour of the appellant by setting aside the impugned judgment and award or by modifying or altering the impugned judgment and award. In the result, this appeal is dismissed as a whole as incompetent.