
(1973) 06 PAT CK 0003

In the Patna High Court

Case No : A.F.O.D. No's. 276 to 288 and 290 to 292 of 1963

State of Bihar

APPELLANT

Vs

Bindeshwar Singh and Others

RESPONDENT

Date of Decision : 25-06-1973

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 22 Rule 1
Court Fees Act, 1870 — Article 11

Citation : AIR 1974 Patna 71

Hon'ble Judges : S. Anwar Ahmad, J; B.D. Singh, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. These appeals arise out of a common reference u/s 18 of the Land Acquisition Act, 1894. 13-90 acres of land were acquired by the State Government at Bakhtiarpur for construction of N. E. S. Block cum Anchnl head quarters. A composite notification was made u/s 4 road with Section 17 of the Land Acquisition Act on the 18th September, 1957. after Possession had already been taken on the 13th June. 1957. Out of the acquired lands. 13.53 acres were classified as Bhith lands and 0.7 acre was classified as Banswari. The present appeals are confined to the amount of compensation awarded in respect of the Bhith lands only: there being no dispute as to the amount of compensation in respect of the Banswari, The Collector fixed the rate of compensation for the acquired lands at Rs. 5926/- per acre, modifying the rate of Rs 8240/- per acre suggested by the Land Acquisition Officer. To the above rate fixed by the Collector, statutory compensation at the rate of 15 per cent with Interest was also added.

2. On the application of the awardees reference was made u/s 18 of the Land Acquisition Act which was heard by the Special Land Acquisition Judge, Patna. the learned Special Judge by his Judgment under appeal fixed the rate of compensation for the acquired lands at Rs. 700/- per katha which works out at

Rs. 22,400/- per acre. This is in addition to the statutory compensation, interest and proportionate costs.

3. In the present appeals Council for the State of Bihar Challenged the finding of the Court below on the ground that one of the consideration which weighed with the learned Special Judge in enhancing the rate of compensation was the order of compensation passed in Land Acquisition Case No. 127 of 1957-58 (Exhibit 2) in which possession was taken one year later than the possession in the present case. On behalf of the respondents, our attention was drawn by Mr. Lakshman Saran Sinha to the order dated the 18th June, 1958, passed in Land Acquisition Case No. 127 of 1957-58, by which Rs. 1250/- per katha was fixed as compensation for the acquired lands dealt with in Exhibit 2, but, as rightly submitted by Mr. Sinha, possession over the acquired lands referred to in Exhibit 2 must have been taken sometime in 1957 as the Land Acquisition case related to that year. The lands acquired under Exhibit 2, according to the learned Special Judge were situated to the east of the lands now under acquisition and were not so advantageous as the present lands. It may be stated that the learned Special Judge inspected the lands under acquisition in the present case in presence of parties in order to understand the site, the situation and the quality of those lands vis-a-vis the lands covered by Exhibit 2 and the lands of the vicinity which had been sold under different sale deeds. He found that the rates of sale varied according to the necessity of the seller and the urgency of the purchaser. One of the latest sale deeds was Exhibit 1, dated the 13th July, 1957 by which an area of one Katha in plot No. 1121 was sold for Rs. 300/-. According to the learned Special Judge this plot was situated on the other side of the railway line and was much lower in level than the lands under the present acquisition. The land of the aforesaid plot No. 1121 was subject to yearly floods and could not thus be made the basis of compensation for the lands acquired in the present case which were on the tri-junction of the main road at Bakhtiarpur leading to Patna, Ranchi and Barauni. The learned Special Judge on consideration of all these facts fixed the rate of compensation for the present acquired lands at Rs. 700/- per katha. In this state of affairs, no exception can be taken to the rate of compensation allowed by the learned Special Judge.

4. Cross-objections have been filed in First Appeal Nos. 281, 284, 285 and 286, Mr. Modhusudan Singh appearing for the cross-objector in First Appeal No- 281 submitted that the Court below had unjustifiably reduced the compensation to Rs. 700/- per katha. As a matter of fact, on the submission of learned Counsel the compensation "could not be less than Rs. 1,000/- Per katha: but the awardee-respondent adduced no evidence to support her case. In the absence of any evidence we are not in a position to accept the contention of learned Counsel for the awardee. The cross-objection filed in First Appeal No. 281, therefore, has no merit. Similarly, no valid reason has been shown or evidence adduced against the rate of compensation fixed in First Appeals Nos 285 and 286. The cross-objection in these two appeals also are without any merit.

5. In First Appeal No. 284 no substitution was made in place of deceased respondent No. 1 (d) within the time allowed by the Court Later on, an application was filed for substitution after setting aside abatement. This application was dismissed. The appeal, therefore, stands abated and the cross-objection is accordingly dismissed.

6. The question of payment of court-fee on the 15 per cent, statutory compensation was left, open in First Appeal No. 285 On this point we are in agreement with the decision of the learned Single Judge of this court in Smt. Siawati Kuer Vs. The State of Bihar, . following the Full Bench decision in Kesireddy Appala Swamy and Others Vs. Special Tahsildar, Land Acquisition Officer, Central Railway, Vijayawada, . that no Court-fee is payable on the lamount of statutory compensation. The "court-fee paid, therefore, is sufficient.

7. In the result, the appeals and the cross-objections stand dismissed. There will be no order for costs of this Court.