

(2004) 09 JH CK 0020

In the Jharkhand High Court

Case No : A.F.O.D. No"s. 125 to 141 of 1995 (R)

State of Bihar

APPELLANT

Vs

Mostt. Yasoda Kuar and Others

RESPONDENT

Date of Decision : 30-09-2004

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2005) 1 BLJR 602 : (2005) 1 JCR 250

Hon'ble Judges : Hari Shankar Prasad, J

Bench : Single Bench

Advocate : JC to GA, for the Appellant;

Final Decision : Dismissed

Judgement

Hari Shankar Prasad, J.—All the seventeen appeals filed at the instance of defendants-appellant are directed against the judgment dated 31.3.1993 and award dated 21.4.1993 passed in reference case Nos. 151/1991, 152/1991, 153/1991, 154/1991, 155/1991, 156/1991, 157/1991, 158/1991, 159/1991, 160/1991, 161/1991, 162/1991, 163/1991, 164/1991, 165/ 1991, 166/1991 and 167/1991 whereby and where under the Special Judge-cum-Land Acquisition Judge, Giridih enhanced the amount of compensation.

2. Pursuant to the notification u/s 4 of the Land Acquisition Act, published in the District Gazette on 1.3.1989 the land measuring 98 decimals bearing plot No. 1129 under Khata No. 30 of village Daldal, PS Dhanwar, District Giridih was acquired for construction of Panchkhero Dam in the year 1988-89 and compensation was assessed u/s 11 of the Land Acquisition Act and amount of Rs. 16,905/- was paid to the applicants as compensation but they received the amount on protest. When Collector u/s 18 of the Land Acquisition Act made reference to the Land Acquisition Judge, the claimant said in protest petition that the amount which has been assessed by the Collector u/s 11 of the Land Acquisition Act is very low as the nearby land is being sold at much higher price than the amount assessed for the acquired land. It was also said that the land in

question are class-I land and there is every facility nearby that land as there is pucca road which leads to the village and also there is provision of hospital, school, etc and the area is well developed, therefore, the valuation which the Land Acquisition Officer has assessed of the acquired land is very low whereas the lands of the nearby area before acquisition were sold at much higher price. Sale deeds of nearby lands have been brought on record which-show that land of the nearby areas have been sold at much higher price and, therefore, their lands have been acquired at much lower rate than the price mentioned in the sale deeds.

3. On behalf of claimant, four witnesses have been examined. AW 1 is Lal Dhari Yadav. He is applicant of LA Case No. 164 of 1991. AW 2 is Vishun Mahto. He is also of applicant of LA Case No. 166 of 1991. AW 3 is Basudeo Yadav. He is an applicant of LA Case No. 153 of 1991. AW 4 is Laxman Yadav. He is also an applicant of LA Case No. 154 of 1991. All these four witnesses have deposed on the point of valuation as well as acquisition of land relating to all the 17 reference cases.

4. Lal Dhari Yadav (AW 1) has. stated that the land was acquired by the State of Bihar for construction of Panchkhero Dam in the year 1988-89. He further says that land of other villagers were also acquired, and they were adequately paid compensation. He further .says that the lands of all the 17 applicants which were acquired, are similar in nature as they all are growing dhan. Wheat, Paddy crops and vegetables on their respective lands.

5. AW 2 is Vishun Mahara. He has stated the same thing as stated by AW 1. Similar is the evidence of AW 3 and AW 4.

6. No sale deed of the area executed prior to the date of acquisition or prior to the date of notification u/s 4 of the Land Acquisition Act has been brought on record, but witnesses have stated that valuation of the land which has been assessed is much lower than the prevailing market rate and they have not been given amount of compensation as per the rate prevailing on the date on which the sale deed was executed.

7. On the other hand, not a single chit of paper nor any witness has been examined on behalf of the State to controvert the oral submissions regarding valuation made by the witnesses and there is nothing on the side of the respondents-appellant State of Bihar (now Jharkhand) to controvert the valuation assessed by the learned Court below.

8. On the other hand on a careful scrutiny of the evidence of witness. AW 1 to AW 4, the learned Court below has come to a finding and fixed the rate of Dhan-1 and Tand-1 land at the rate of Rs. 30,000/- per acre and of Dhan III land at Rs. 15,000/- per acre, whereas learned Court below has fixed the price of the Tand-II land at Rs. 8,000/- per acre and for their Tand-III parti and mahiar land at flat rate of Rs. 3,000/- per acre. Since there is no denial by witnesses and documentary evidence on record produced on behalf of the State of Jharkhand,

the rate fixed by the learned Court below appears to be justified as there is no material to controvert finding.

9. In that view of the matter, judgment of the learned Court below does not require any modification or interference. In the result, these appeals are dismissed, but in the circumstances without any orders as to costs.