
(2005) 02 JH CK 0037
In the Jharkhand High Court
Case No : A.F.O.D. No. 73 of 1984 (R)

State of Bihar

APPELLANT

Vs

Nirmal Kumar Agrawal and Others

RESPONDENT

Date of Decision : 11-02-2005

Acts Referred:

Land Acquisition (Amendment) Act, 1984 — Section 23(1), 23(2), 28, 34
Land Acquisition Act, 1894 — Section 18, 23(1), 24, 28

Citation : (2005) 2 BLJR 1087 : (2005) 2 JCR 579

Hon'ble Judges : Narendra Nath Tiwari, J

Bench : Single Bench

Advocate : Manjul Prasad, SC LC, for the Appellant; S.N. Rajgarhia, for the Respondent

Final Decision : Dismissed

Judgement

Narendra Nath Tiwari, J.—This appeal by the State-appellant is against the judgment and award passed by the Land Acquisition Judge, Dhanbad in LA Case No. 33 of 1972 whereby learned Court below has assessed the value of the acquired land of an area of 14.65 acres at the rate of Rs. 6,000/- per acre with the then statutory solatium and interest, modifying the award of the Collector accordingly.

2. The respondents lands of Village Harila, P.S. Chas, District Dhanbad were acquired by the Government for the purpose of Bokaro Steel City. After acquisition of the lands, the Collector assessed the value and made an award of Rs. 3,213.35 for the said 14.65 acres of land of the respondents. On objection against the said valuation, by the respondents the case was referred to the Land Acquisition Judge u/s 18 of the Land Acquisition Act (hereinafter to be referred as the LA Act). The respondent claimed the value of the lands at the rate of Rs. 6,000/- per acre. The parties, thereafter, adduced evidences. The original claimant-respondent produced oral as well as documentary evidence in support of his claim. He has produced several judgments of the Patna

High Court by which the market price was fixed after considering all the evidences for the same stretch of land and for simultaneous or earlier acquisitions. Exhibits 1, 1/a and 1/b are the copies of judgments by which price of such land was determined at the rate of Rs. 6,000/- per acre. Those cases were regarding the similar land of the same village and were of the period earlier to the acquisition of the respondents lands in this case. The said judgments were of the year 1979 in respect of the land which were also acquired for the purpose of Bokaro Steel Project. The claimant also examined himself as AW 1 and supported his claim and proved that the lands were suitable for constructing houses and the same were similar to other tanr lands which were acquired previously for the same project and the High Court determined the value at the rate of Rs. 6,000/- per acre after considering the other evidences on record. On behalf of the State-opposite party, a solitary witness was examined as OPW 1. The said witness has contradicted the claim made by the respondents. The learned Land Acquisition Judge, after considering the judgments on record, came to the findings that in earlier judgments of the High Court (Exhibit 1, 1/a and 1/b), the value of tanr lands similar to the land in question was assessed at the rate of Rs. 6,000/- per acre and therefore, no value less than that can be assessed for the tanr land of village Harila.

3. Mr. Manjul Prasad, learned SC (LC) appearing on behalf of the State-appellant submitted that the judgment and award of the learned Land Acquisition Judge is not supported by sufficient evidence on record and the same is perverse. Learned counsel submitted that the award of the Court below is mainly based on three earlier judgments of the High Court in similar cases in which the valuation of different classes of land of the same village has been determined. Learned counsel submitted that though the said judgments which relate to the same village and regarding the same project are of relevant consideration, yet the learned Court below

has failed to take into consideration that in two of the judgments, i.e., Exhibit 1 and 1/a the compensation for tanr land was awarded at the rate of Rs. 3,000/- per acre. The Court below should have relied on the said two judgments instead of another single judgments Ext. 1/b and should not have determined the value on the said basis at the maximum rate of Rs. 6,000/-per acre.

4. Mr. Rajgarhia, learned counsel appearing on behalf of the respondents, on the other hand controverted the grounds taken by the appellant and submitted that in all the said judgments the rate of similar tanr land of the same village were fixed at the rate of Rs. 6,000/- per acre, but since in the said two cases, the claimants themselves had claimed compensation at the rate of Rs. 3,000/-, the High Court had allowed the enhancement in the compensation amount only to the extent claimed by the applicants/appellants in the said cases. Learned counsel submitted that the said rates at Rs. 6,000/- per acre was fixed by the High Court for the acquisition of the lands prior to the instant acquisition and as a matter of fact, the respondents were entitled to get more in view of the

enhancement in the value of the land in the subsequent years. However, in order to avoid further contest, the claimants-respondents claimed only the said rate of compensation. It has been, thus, submitted by the learned counsel that there is absolutely no infirmity and illegality in the said judgment and award and there is no merit in this appeal.

5. Mr. Rajgarhia, then, pressed his petition filed during the pendency of this Appeal and claimed that in view of coming into force of the amended provisions of Section 23(1) read with Sections 24 and 28 of the Act, during the pendency of this appeal by Land Acquisition Amendment Act, 1984, the respondents are entitled to the amended statutory benefits envisaged u/s 23(1-a), 23(2) read with Sections 28 and 34 of the said Act. Learned counsel, in support of his submissions also referred a decision of the Bombay High Court in Smt. Shakuntalabai Krishna Bhojar and Others Vs. State of Maharashtra, and submitted that the said statutory benefits are payable to the landowners if a proceeding or appeal is pending on the relevant date of the enforcement of the amended provisions and even no Cross Appeal or Cross Objection is required to be filed by the landowners for the said purpose. Learned counsel also referred to a decision of this Court in State of Bihar (now Jharkhand) Vs. Hari Prasad Sahu and Another and Moso Pahan, and submitted that the respondents are entitled to a solatium at the rate of 30% on the market value of the land along with interest at the rate of 15% per annum.

6. On perusal of the Exhibit 1 series, which are the judgments of the Patna High Court and other evidences on record, I find much substance in the submission of Mr. Rajgarhia, learned counsel appearing on behalf of the respondents. It is evident from the said judgments that the same were rendered in respect of the lands of the same village, which were acquired in connection with same Bokaro Steel Project and in the said judgments, the value of tanr lands was fixed at the rate of Rs. 6,000/- per acre. The Court, while passing the said judgments, had considered the evidences and the relevant judgments of the Apex Court and determined the said value for tanr lands of the village. It is further evident that since the objection was taken on behalf of the State against awarding compensation more than what the claimants had claimed in cases decided by Ext. 1 and 1/a the High Court had allowed the compensation at the rate of Rs. 3,000/- per acre for tanr lands in those cases which was claimed by the respective applicants, but the value of tanr land even in those cases were determined at the rate of Rs. 6,000/- per acre for the similar land. The claimant-respondents, thus, proved to the satisfaction of the learned Land Acquisition Judge that the land in question was similarly situated to those lands and the judgments were with respect to the lands acquired for the same project and of the same village. The Court

below relied upon the said judgments and other materials and assessed the said value at the rate of Rs. 6,000/- per acre for the claimant-respondent's lands. I find no illegality in the said findings of the Court below. No other error could be

pointed out in the impugned judgment and award by the learned counsel for the State-appellant. I, therefore, find no merit in this appeal and the appeal is, accordingly, dismissed.

So far the claim of the respondents for the statutory solatium and interest is concerned, the same must be allowed in view of the amended provision of law. It is, thus, held that the claimants are entitled to solatium at the rate of 30% and interest at the rate of 15% in view of the amended provisions of Section 23(1)(a) of the Land Acquisition Amendment Act, 1984 on the compensation amount awarded to the claimant-respondents. As by the impugned judgment and award, the Court below had also awarded solatium at the rate of 15% and interest at the rate of 6% on the compensation amount, the claimant shall be entitled to the balance amount calculating the said solatium at the rate of 30% and interest at the rate of 15% per annum deducting the amount of solatium and the amount of interest already assessed and allowed in the impugned judgment and award.

This appeal is dismissed with the aforesaid observations. However, there shall be no order as to costs.