
(2015) 06 TP CK 0090

In the Tripura High Court

Case No : L.A. APP. 28, 29, 30, 31, 32 and 33 of 2009

State of Tripura and Others

APPELLANT

Vs

Gopesh Ch. Barman and Others

RESPONDENT

Date of Decision : 15-06-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4

Citation : (2015) 06 TP CK 0090

Hon'ble Judges : Utpalendu Bikas Saha, J

Bench : Single Bench

Advocate : A.S. Lodh, Addl. GA., for the Appellant; S. Lodh, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

Utpalendu Bikas Saha, J.—All these appeals are being disposed of by a common judgment since they arise out of the same award dated 30.06.2008 passed by the learned LA judge, West Tripura, Khowai in Misc. (LA) 05 of 2008, Misc. (LA) 09 of 2008, Misc (LA) 10 of 2008, Misc. (LA) 11 of 2008, Misc. LA of (12) of 2008 and Misc. LA (13) of 2008 and the lands involved in these appeals were acquired vide Notification No. F.9(8)-REV/ACQ/VII/2002 dated 18.05.2002 for the purpose of construction of RCC Bridge over river Lalcherra on Teliamura-Khowai road.

2. Heard Ms AS Lodh, learned Addl. GA for the appellants as well as Mr. S. Lodh, learned counsel for the respondents.

3. The brief description of the lands involved in the LA Appeals are given below:

3.1. In LA Appeal No. 28/2009, Bastu (NaL) class of land measuring.024 acre, under plot No. 4506/P of Khatian No. 1828 of Khowai Town Mouza, Sheet No. 6.7/ P was acquired from the referring claimant.

3.2. In LA Appeal No. 29/2009 Dokan (NaL) class of land measuring.012 acre, under plot No. 4314/P of Khatian No. 814 of Khowai Town Mouza, Sheet No. 6.7/

P was acquired from the referring claimant.

3.3. In LA Appeal No. 30/2009 Bastu (NaL) class of land measuring.022 acre, under plot No. 4519/P, 4520/P of Khatian No. 540 of Khowai Town Mouza, Sheet No. 6.7/P was acquired from the referring claimant.

3.4. In LA Appeal No. 31/2009 Bastu (NaL) class of land measuring.036 acre, under plot No. 4514/P of Khatian No. 1417 of Khowai Town Mouza, Sheet No. 6.7/P was acquired from the referring claimant.

3.5. In LA Appeal No. 32/2009 Bastu (NaL) class of land measuring.010 acre, under plot No. 4365/P of Khatian No. 141 of Khowai Town Mouza, Sheet No. 6.7/P was acquired from the referring claimant.

3.6. In LA Appeal No. 33/2009 Dokan (NaL) class of land measuring.017 acre, under plot No. 4313/P of Khatian No. 31 of Khowai Town Mouza, Sheet No. 6.7/P was acquired from the referring claimant.

4. The LA collector awarded compensation @ Rs. 8,00,000/- per kani. The land owners, being dissatisfied with the compensation awarded, filed a petition under Section 18 of the Land Acquisition Act, 1894 for reference claiming enhancement of the compensation. The Land Acquisition Judge assessed compensation @ Rs. 12,00,000/- per kani for Bastu/Dokan/NaL class of land. The learned LA Judge also provided 30% solatium and 12% additional compensation to the referring claimant-respondents on the enhanced rate. They have also been given 9% interest from the date of taking over the possession and also interest @15% after one year from taking over the possession till the date of payment.

5. Being aggrieved by the impugned judgment and award the state appellants preferred these appeals. Case of the appellants is that while the learned LA Collector determined the market value of the lands the respondents did neither raise any objection nor produce any document or any registered sale deed to support their claim but only after the compensation was awarded by the LA Collector, the respondents asked for reference under Section 18 of the L.A. Act.

6. Further case of the appellants is that the award of the LA Judge is grossly higher in side as the learned LA Judge without applying his judicial mind, only on assumption enhanced the rate of compensation @ Rs. 12,00,000/- per kani.

7. The case of the land owners is that the acquired lands are situated in the heart of the town and is very close to the information centers, State Bank of India, Srinath Vidya Niketan School, etc. Accordingly, it was submitted that the lands of the referring claimants were of potential value for commercial purpose.

8. It is further stated that in a reference under Section 18 of L.A. Act vide Misc. (LA) 03 of 2006 wherein the land was acquired for the same purpose under the same notification, the market value of the acquired land was determined by the referral court @ Rs. 15,00,000/- per kani. Thus, they are also entitled to the same amount.

9. Ms. Sarma Lodh, learned Addl. GA submits that the judgment and award passed by the learned LA Judge in Misc. (LA) 03 of 2006 was challenged by the State in LA appeal 05 of 2008 which was decided by this Court on 09.07.2014 wherein the said appeal was partly allowed and the claimant-respondents in that case were awarded Rs. 9,20,000/- per kani instead of Rs. 15,00,000/- per kani. Therefore, in any way the market price of the land in question in the instant appeals cannot be more than the said amount.

10. Mr. Lodh, learned counsel appearing for the claimant-respondents fairly submits that the appellants herein did not say that the lands in question were distinguishable from the land involved in LA Appeal 05 of 2008. More so, it is also the admitted position that the lands acquired in these appeals and the land acquired in LA Appeal 05 of 2008 is covered by the same notification and also for the same purpose. According to him, these appeals are fully covered by the judgment of this court in LA Appeal 05 of 2008. Therefore, in no way the claimant-respondents can be denied the award passed in favour of the claimant-respondents in LA Appeal 05 of 2008.

11. This court has gone through the impugned judgment and award as well as the judgment of this Court in LA Appeal 05 of 2008. Admittedly, the lands involved in these cases are acquired by the same notification and for the same purpose.

12. In LA Appeal 05 of 2008, this Court noted that, "the law is well settled that normally the claimants must produce sale instances of transactions which have taken place immediately prior to the notification issued under Section 4. It is a notoriously well-known fact that after notification under Section 4 is issued sometimes unscrupulous litigants get sale deeds of very small areas of land registered at high prices. At the same time, in case there is no sale transaction prior to the occurrence then in exceptional circumstances a sale instance which is later than the notification under Section 4 may be looked into." It is also noted that the Apex Court in Valliyammal and Another Vs. Special Tahsildar (Land Acquisition) and Another etc. etc., AIR 2011 SC 2937 : (2011) 8 JT 442 : (2011) 3 RCR(Civil) 904 : (2011) 8 SCALE 139 : (2011) 8 SCC 91 : (2011) 10 SCR 293 : (2011) AIRSCW 4591 has held that in urban areas the Court may add 10 to 15% on account of inflation.

13. Taking note of the aforesaid decision of the Apex Court this Court held that even if the higher percentage of 15% is taken for a period of about one year, the value of Rs. 8,00,000/- would increase only to about 9,20,000/- per kani. Therefore, under no circumstance the value of land could have been assessed at Rs. 15,00,000/- and finally this Court assessed the market value of the acquired land @ Rs. 9,20,000/- in LA Appeal 05 of 2008.

14. When land acquired under the same notification for the same purpose and almost similar value of the land has been assessed @ Rs. 9,20,000/- per kani, according to this court, the award passed by the learned LA Judge is on the

higher side and the claimant-respondents also cannot be denied the market rate of the land as determined by this Court in LA Appeal 05 of 2008, as these appeals are fully covered by the decision of this Court of the LA Appeal 05 of 2008.

15. Accordingly, it is ordered that the compensation for the lands shall be assessed taking the value of the land @ Rs. 9,20,000/- per kani along with other statutory benefits.

16. In view of the above, these appeals are partly allowed and disposed of. No order as to costs. Send down the LCR.