
(2015) 09 TP CK 0034
In the Tripura High Court
Case No : LA App. 21 of 2010

State of Tripura and Others APPELLANT
Vs
Lipika Roy (Das) RESPONDENT

Date of Decision : 22-09-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4

Citation : (2015) 09 TP CK 0034

Hon'ble Judges : Utpalendu Bikas Saha, J

Bench : Single Bench

Advocate : N. Majumdar, for the Appellant; D.C. Roy, Advocates for the Respondent

Final Decision : Disposed off

Judgement

Utpalendu Bikas Saha, J—This appeal is directed against the judgment and award dated 30.08.2018 passed by the learned LA Judge, West Tripura, Khowai in Misc. (LA) 03/2008.

2. Briefly stated the facts of the case are that vide Notification dated 18.05.2002, the Govt. of Tripura acquired 0.020 acres of land belonging to the respondent Smt. Lipika Roy (das) for the purpose of construction of RCC bridge at Lalcherra on Teliamura-Khowai Road. After completing necessary formalities, the learned LA Collector awarded compensation @ Rs. 8,00,000/- per kani. The land owner-respondent being dis-satisfied with the compensation awarded filed a petition under Section 18 of the LA Act, 1894 claiming for enhancement of compensation. The learned LA Judge assessed compensation @ Rs. 12,00,000/- per kani and also awarded compensation of Rs. 2,72,253 towards the cost of building. This award is under challenge in this proceeding.

3. The case of the land owner is that the acquired land was in the heart of Khowai town. It was very close to the schools, college, post office, bank, court, market, hospital, etc. Besides that, the acquired land is also situated by the side

of the Teliamura-Khowai road and according to the land owner, at the time of acquisition the market price of the acquired land was Rs. 30,00,000/- to Rs. 40,00,000/- per kani. The referring claimant respondent thus prayed for compensation of her acquired land @ Rs. 30,00,000.00/Rs. 40,00,000.00 per kani. It is further contended that there was a building over the acquired land which was in possession of the ICAT Department, Govt. of Tripura on a monthly rent of Rs. 2,782/- and the cost of the said building was Rs. 4,35,607/- as assessed by the Executive Engineer, S.E.'s Office, 2nd Circle, PWD, Agartala, West Tripura whereas the LA Collector awarded only Rs. 16,975/- as compensation for the said building which was lesser than the market price. Therefore, the referring claimant-respondent prays for compensation of Rs. 4,35,607 as cost for the building on the acquired land.

4. On the other hand, the LA Collector contested the LA proceedings by submitting written statement denying the claim of the referring claimant. The LA Collector considered six Nos. of sale deed vide registered sale deed No. 1108 dated 03.07.1999, 1068 dated 27.08.2001, 925 dated 31.03.1990, 742 dated 24.05.1997, 1119 dated 23.07.1993 and 969 dated 16.07.2001. But in this case only two sale deeds vide No. 1068 dated 27.08.2001 wherein land was sold @ Rs. 8,00,000/- per kani and No. 969 dated 16.07.2001 wherein land was sold @ Rs. 8,07,692/- per kani were taken into consideration for assessing the market value on the ground that these two sale deeds had some proximity with the land in question on the date of notification under Section 4 of the LA Act. At the same time, the rest four sale deeds were not taken into consideration as those had no proximity to the date of notification. The cost of the building was given as per the approved rate of the government in the Revenue Department. It is also admitted that there were three huts existing on the acquired land and the structural position of the said three huts are also given specifically in the written statement. Since the cost of the huts are given as per the approved rate of the Government in the Revenue Department, the referring claimant is not entitled to get any other compensation towards the cost of huts.

5. The Executive Engineer, PWD, Khowai Division, Khowai also contested the claim of the referring -claimant and stepped into the shoes of the LA Collector. So far as cost of the building is concerned it is stated in the written statement at page 6 that PWD assessed the rate of building which was just and proper and the assessment was guided by the Rules which are applicable to all purposes and thus the petitioner is not entitled to get any further compensation towards the cost of the building on the acquired land.

6. 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.

7. The learned LA Judge in his award stated that the referring claimant though stated that the market value of the acquired land at the time of acquisition was Rs. 30,00,000.00/Rs. 40,00,000.00 per kani but no document is submitted in support thereof. It appears from the assessment note in serial No. 4 that land measuring .0121 acres vide registered sale deed No. 742 was sold at the rate of Rs. 6,61,157.00 per kani in the year 1997 and the said land is situated in the proposed land of acquisition. The rate of the land of this sale deed was taken into consideration by the LA Collector in determining the market value of the acquired land in this case as because that land is situated in the proposed land of acquisition. On the other hand, rate of the land of two sale deeds considerate by the LA Collector appears to be not so relevant as because the land of one sale deed is situated at a distance of 603 feet and another one is situated at a distance of 230 feet from the acquired land. For that reason, the sale deed of the land in the proposed land for acquisition vide sale deed No. 742 dated 24.05.1997 is more appropriate to determine the value of the acquired land and accordingly the LA Judge considered the said sale deed. It is also stated that the rate of land in the State of Tripura is increasing gradually. Since some land in the proposed land of acquisition was sold @ Rs. 6,61,000/- per kani in the year 1997, it may be assessed that in the year 2002, i.e. after five years, the acquired land would be sold @ Rs. 12,00,000/- per kani at the time of acquisition and finally the LA Judge awarded an amount of compensation @ Rs. 12,00,000/- per kani and for the structured building the LA Judge awarded Rs. 2,72,253/- instead of Rs. 16,975/-.

8. The learned LA Judge also stated in his award that the referring claimant is entitled to get 30% solatium and 12% additional compensation on the enhanced rate of acquired land and she is further entitled to get 9% interest from the date of taking over possession and also interest @ 15% after one year from the date of taking over possession till the date of payment over the total enhanced amount of compensation including the cost of the building.

9. Mr. Majumdar while urging for setting aside the judgment and award as impugned would contend that this case is fully covered by the judgment of this Court in LA Appeal No. 5 of 2008 wherein a coordinate Bench of this Court awarded Rs. 9,20,000/- per kani instead of Rs. 15,00,000/- per kani. Mr. Majumdar also submits that the claimant-respondent is not entitled to any amount for structured building except the amount awarded by the LA Collector.

10. On the other hand, Mr. Roy, learned counsel appearing for the respondent-claimant submits that even if it is considered that the present case is fully covered by the judgment of this Court in LA Appeal No. 5 of 2008, then also the referring claimant is entitled to get minimum Rs. 9,20,000/- per kani as well as the value awarded by the LA Judge for the structured building.

11. I have gone through the judgment passed by this court in LA Appeal No. 5 of 2008 from which it appears that the land acquired in that case and the land acquired in the case in hand are for the same purpose and under the same notification. It also appears that in that case some sale deeds of 2001, were considered by the LA Collector and the value of land was shown @ Rs. 7,00,000/- and Rs. 8,00,000/- per kani. If in the year 2001 the value of the land in that area was Rs. 8,00,000/- per kani then in the year 2002 the market value of the land would not be less than Rs. 9,20,000/- per kani.

12. Regarding the structural value of the land, the learned LA Judge took note of the assessment by the Executive Engineer, SEs Office, PWD, Circle II wherein it is mentioned that the cost of the structures would be Rs. 4,35,607. Thus, it cannot be said that the compensation awarded for the structural building i.e. Rs. 2,72,253/- is higher. Thus the same is maintained.

13. The award passed by the learned LA Judge is modified to the extent that the referring claimant would be entitled @ Rs. 9,20,000/- per kani instead of Rs. 12,00,000/- per kani and shall also get Rs. 2,72,253/- for the structured building as awarded by the LA Judge instead of Rs. 16,975/-. The referring claimant is also entitled to get 30% solatium and 20% additional compensation on the enhanced rate of the acquired land. She is further entitled to get 9% interest from the date of taking over the possession and also interest @ 15% after one year from the date of taking over possession till the date of payment over the total amount of compensation including the cost of building (three structures).

14. The appeal is accordingly disposed of in the aforesaid terms. No order as costs.