
(2015) 07 TP CK 0023
In the Tripura High Court
Case No : LA App. No. 82 of 2008

State of Tripura and Others	Vs	APPELLANT
Surjyamani Roy		RESPONDENT

Date of Decision : 13-07-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4, 54, 6

Citation : (2015) 07 TP CK 0023

Hon'ble Judges : S.C. Das, J

Bench : Single Bench

Advocate : N. Majumder, for the Appellant; S. Lodh, Advocates for the Respondent

Final Decision : Dismissed

Judgement

S.C. Das, J.

1. This appeal under Section 54 of the Land Acquisition Act, 1894 is directed against judgment and award dated 12.07.2007 passed by learned L.A. Judge, Khowai, West Tripura, in Case No. Misc.(L.A.) 61/2006.
2. Heard learned counsel, Mr. Nepal Majumder for the appellants and learned counsel, Mr. Sankar Lodh for the respondent.
3. By a notification dated 09.11.1995 issued under Section 4 of the L.A. Act, land measuring 1.449 acres at Mouja Khowai town was acquired for the purpose of construction of road from T.K. Road near Khowai Boys' School, to D.K. Road at Khowai town. The notification made under Section 4 was followed by a declaration under Section 6 of the L.A. Act. In the process, land measuring 0.060 acres belonged to the respondent, Surjyamani Roy recorded in Khatian No. 1363, Plot No. 4821/P classified as bastu was also acquired and L.A. Collector in due process determined compensation at the rate of Rs. 3,00,000/- (rupees three lakh) per kani.

4. Aggrieved, the respondent made representation seeking reference under Section 18 of the L.A. Act, consequent whereof the L.A. Collector referred the matter to the L.A. Judge for determining actual market price at the date of acquisition and accordingly case No. Misc.(L.A.) 61/2006 was registered in the Court of L.A. Judge, Khowai, West Tripura.

5. Both the referring claimant, i.e. the respondent herein and the L.A. Collector, i.e. the appellant herein submitted their claim statement and counter statement respectively and in due process the referring claimant, i.e. the respondent herein examined himself as PW1 and exhibited two documents, namely copy of a judgment dated 24.11.1999 passed in Misc.(L.A.) 46/1997 and a certified copy of a map of Mouja Khowai. On behalf of the respondents, i.e. the appellants herein one witness, namely Pradyut Sinha was examined.

Learned L.A. Judge based on the earlier judgment dated 24.11.1999 passed by learned L.A. Judge, Agartala (Court No. 3), West Tripura in Misc.(L.A.) 46/1997 awarded compensation at the rate of Rs. 14,00,000/- (rupees fourteen lakh) per kani for the acquired land and accordingly disposed Misc.(L.A.) 61/2006.

Aggrieved, the present appeal is filed.

6. It is submitted by learned counsel, Mr. Majumder for the appellants that the L.A. Collector determined compensation for the acquired land taking into consideration five sale instances of comparable lands and actual market price was awarded as compensation. The learned L.A. Judge enhanced the compensation based on a previous judgment passed by learned L.A. Judge, Agartala in respect of acquisition of land under same mouja but under a different notification. The learned L.A. Judge fixed abnormal amount of compensation on surmise and conjecture which is not supported by any sale instance and therefore the judgment passed by the learned L.A. Judge is liable to be interfered and set aside.

7. On the other hand, appearing for the respondent, learned counsel, Mr. Lodh submits that the respondent who was the referring claimant of the L.A. case submitted copy of judgment passed in Misc.(L.A.) 46/1997 along with a certified copy of the map of Mouja Khowai town which shows that the land involved in Misc.(L.A.) 46/1997 and the land involved in Misc.(L.A.) 61/2006 are land of adjacent plots intervened by the road and both the land acquired for the same purpose, i.e. for construction of road from T.K. Road to D.K. Road at Mouja Khowai town. So, the earlier judgment which holds good is a good instance for fixing market price in a later case. Learned counsel, Mr. Lodh therefore prays for dismissing the appeal.

8. Determination of compensation in respect of land acquired for public purpose is no doubt a difficult task. A sale instance of comparable land is a good evidence for determination of compensation. If there is a previous judgment in respect of acquisition of a comparable land, such a judgment is also a good instance for determining compensation in a land acquisition case.

9. In the present case, though L.A. Collector has taken into consideration five sale instances but none of those sale instances produced on record at the time of trial before learned L.A. Judge by the appellants. The respondent, i.e. the referring claimant placed on record a previous judgment, i.e. the judgment in Misc.(L.A.) 46/1997. Learned counsel, Mr. Lodh has submitted that the land involved in case No. Misc.(L.A.)46/1997 was acquired under notification dated 27.11.1995 and the land of the present case was acquired under notification dated 05.11.1995 but both the acquisition was for same purpose and at same mouja. The plots of land were adjacent to each other intervened by a road. On perusal of the survey map which is placed on record I find that case No. Misc.(L.A.) 46/1997 was involved in land of plot Nos. 5320, 6980 and 5229 and the land of the present case involving plot No. 4821 and those plots are intervened by a road in the middle. It is an admitted position that the acquisition in both the cases was for the same purpose and at same mouja. So, it cannot be said that the judgment of Misc.(L.A.) 46/1997 is foreign to the present Misc.(L.A.) 61/2006.

10. Learned counsel, Mr. Majumder has submitted that the learned L.A. Judge fixed the compensation on assumption and presumption without any basis. I cannot agree with the submission of learned counsel, Mr. Majumder that the learned L.A. Judge made his finding simply on assumption and presumption though some sort of assumption is always permissible in determining compensation. In this case, as I find, learned L.A. Judge made his finding based on the finding of the earlier L.A. Case No. Misc.(L.A.) 46/1997 and he has not just on his imagination or assumption and presumption only determined the compensation. To controvert the evidence adduced by the referring claimant, i.e. the respondent herein, the appellants who were the respondent in the L.A. case practically adduced no documentary evidence except oral evidence of a witness who was a staff of the L.A. Collector. The oral evidence has nothing to do with the documentary evidence placed on record and therefore it cannot be said that learned L.A. Judge on mere assumption and presumption passed the judgment in Misc.(L.A.) 61/2006. Since in the earlier judgment for the acquisition of land arising out of same mouja and for the same purpose compensation at the rate of Rs. 14,00,000/- (rupees fourteen lakh) was allowed, I think that was a just compensation allowed by the L.A. Judge and I find no reason to interfere in the judgment. Accordingly, the appeal stands dismissed.

11. Send back the LCRs along with a copy of this judgment.