

(2014) 09 OHC CK 0037
In the Orissa High Court
Case No : First Appeal No. 170 of 1998

The Executive General Manager (P&A)	APPELLANT
Vs	
Rajendra Kumar Seth and Others	RESPONDENT

Date of Decision : 01-09-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4(1)

Citation : (2015) 119 CLT 278

Hon'ble Judges : D. Dash, J

Bench : Single Bench

Advocate : A.K. Nath, Advocates for the Appellant; K.K. Nayak, Addl. Standing Counsel, Advocates for the Respondent

Judgement

D. Dash, J.—This appeal has been filed challenging the award passed by Civil Judge, (Sr. Division), Angul in L.A. Misc. Case No. 164 of 1991 in the matter of a reference under Section 18 of the Land Acquisition Act, 1894. The reference is concerned with the acquisition of land under one mouza Jirang in the district of Angul as described hereunder:--

2. The Appellant here challenges the award passed by the referral Court to be on the higher side by erroneously coming to the conclusion that the Respondent was raising crops & on its potentiality. It is worthwhile to mention here that the lands were acquired vide notification under Section 4(1) of the Act dated 05.03.1984 published in the Official Gazette dated 27.03.1984..

3. Learned Counsel for the Appellant having placed reliance on the decision in case of the The Executive Director Vs. Sarat Chandra Bisoi and Another, ; the The Executive Director, NALCO Ltd. and Others Vs. Prasanna Behera and Others, which has been upheld in Civil Appeal No. 5333 of 2014 & batch by the Apex Court submits that the market price of the land determined by the referral Court needs appropriate eradication in consonance with what has been reduction in the aforesaid cases.

Learned Counsel for the Respondents counters the submission by contending that the referral Court having arrived at a right conclusion as regards the market price of the land on the basis of evidence available on record going unchallenged & without being countered by the evidence, the same is not liable to be interfered with.

4. Careful reading of the aforesaid decisions reveals that those concerned with the acquisition of land belonging to village Gotamara & in the case before the Apex Court, the market value of Sarada lands was determined at Rs. 40,000 per acre whereas the market price of Taila land has been determined @ Rs. 27,000 & Rs. 22,500 per acre looking at their nearness to National Highway State High Way Panchayat & other roads & at Rs. 18,000 per acre which were not road side lands. The lands in those cases which were in village Kulad which adjoins the village Jirang, the same market price of the land as has been determined by the Apex Court has been adhered to in the case reported in The Executive Director, NALCO Ltd. and Others Vs. Prasanna Behera and Others, which has been confirmed by the Apex Court on 30.04.2014.

5. The classification of land involved in the instant case is Patita. So, this classification differs with the classification of the land which was the subject matter of the cited cases before the Hon"ble Apex Court. Therefore, the market price of the land assessed in those cited cases cannot as it is be accepted for the purpose of determining the market price of the land in the present case. The land under classification patita does not refer to the land totally unfit for cultivation or waste lands. So, the submission of the Learned Counsel for the Appellant to accept the market price as has been determined in the aforesaid cases cannot be countenanced & hence this Court now has to take up the exercise of judging the correctness of the market price of the land as determined by the referral Court involved.

6. In this case Respondents have examined two witnesses including one of the Respondents besides proving water tax receipts, notices for release of the water tax as also the sale deed. The Respondents have stated their claim for assessment of compensation taking the market price of the acquired land on higher side then as assessed by L.A.O. The Appellant have adduced no evidence. It is there in the evidence of P.W. 1 that the land acquired is having irrigation facility with overhead electricity & telephone connection running nearby & also the situation of bank, canal & basti. It has also been deposed that both N.H. 42 & FCI road run near the acquired land besides existence of school, mines, mills & factories & other projects within a radius of 4 to 5 kms. It is also there in the evidence that they were raising both kharif & rabi crops. All these have remained unchallenged. The referral Court has determined the market price of the land @ Rs. 22,000/- per acre.

This Court on going through the evidence find no justification to differ with the same. Therefore, the award entitling the Respondents to a sum of Rs. 22,000/- towards the market price of the land measuring Ac.1.00 dec. along with statutory

benefits as indicated in the award does not call for interference.
Accordingly, the appeals stands dismissed with costs.