

(2017) 01 TP CK 0031
In the Tripura High Court
Case No : 86 of 2013

The Officer Commanding, 112 RCC, GREF	APPELLANT
Vs	
Sri Dharendra Debnath S/o Lt. Nakuleshwar Nath, & Anr.	RESPONDENT

Date of Decision : 11-01-2017

Acts Referred:

[Land Acquisition Act, 1894](#), [Section 18](#) -
Reference to Court

Citation : (2017) 01 TP CK 0031

Hon'ble Judges : S.C. Das

Bench : Single Bench

Advocate : B Majumdar

Final Decision : Dismissed

Judgement

1. Heard learned CGC, Mr. B Majumdar for the appellant. No representation on behalf of the respondents. Respondent No.1 did not turn up in spite of receipt of notice and respondent No.2 though appeared by engaging a lawyer but none is present when the case is taken up for hearing.

2. For construction of NH 44/A from Manu to Simlowng land of different Moujas running between Manu to Simlowng was acquired and in course thereof land measuring 0.14 acres of Nal class belonging to the respondent No.1 (hereinafter mentioned as "referring claimant") recorded in CS Plot No. 253/P of Khatian 125 of Mouja Chailengta was acquired and compensation was determined by the LA Collector @ Rs.1,50,000/- per kani.

3. On the prayer of the referring claimant, the LA Collector made reference under Section 18 of the LA Act before the learned LA Judge, North Tripura, Kailashahar and in course of hearing before the learned LA Judge, the referring claimant examined himself as PW1 and relied on a document, i.e. the judgment passed by learned LA Judge in case No. Misc.(LA) 60/2009 arising out of acquisition of land under the same Notification and of the same Mouja, which was marked as

exhibit-1. No evidence was adduced by the present appellant, who was respondent in the claim case.

4. The learned LA Judge taking into account the evidence of the referring claimant and his earlier judgment marked as exhibit-1, by the impugned judgment dated 11.07.2012 passed in Misc. LA 14 of 2011 awarded compensation @ Rs.2,50,000/- per kani.

5. It is submitted by the learned CGC, Mr. Majumdar that no sale instance was proved by the referring claimant and the enhancement of compensation has been made simply based on an earlier judgment passed by the learned LA Judge himself and there was no other evidence.

6. The referring claimant examined himself as PW1. In his deposition, he stated that the land in the locality was valued @ Rs.2,50,000/- per kani to Rs.3,00,000/- per kani and it was located near Chailengta Bus Syndicate. He has further stated that his acquired land and the land of Misc. (LA) 60 of 2009 are of the same Mouja and same nature. In cross-examination his statement was not discarded or shaken. There was only one line cross-examination that adequate compensation was paid by the LA Collector. So the oral evidence adduced by the referring claimant remained unrebutted. Further as I find, the judgment in Misc. (LA) 60/2009 passed by the learned LA Judge, North Tripura, Kailashahar dated 17.03.2012 relates to acquisition of land under the same Notification and Mouja wherein after considering the sale instances the learned LA Judge determined compensation @ Rs.2,50,000/- per kani for Nal class of land. There is nothing wrong for the LA Judge to refer to an earlier judgment.

7. The respondent did not adduce any evidence to show that the judgment passed in Misc. (LA) 60/2009 has been challenged before any superior forum. Under such circumstances of the case, while the present judgment by the LA Judge was passed relying on an earlier judgment passed by the same Court and there is nothing to show that the earlier judgment was challenged before a superior forum, there is nothing wrong in the impugned judgment passed by the learned LA Judge. The appeal, therefore, has no merit and stands dismissed.

8. Send back the LC records along with a copy of this judgment.