

(2014) 07 PAT CK 0061

In the Patna High Court

Case No : First Appeal Nos. 468, 470 and 474 of 1989

The State of Bihar

APPELLANT

Vs

Sahodra Devi

RESPONDENT

Date of Decision : 23-07-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 25(2), 4, 9

Citation : (2014) 07 PAT CK 0061

Hon'ble Judges : Mungeshwar Sahoo, J

Bench : Single Bench

Advocate : Patanjali Rishi, Advocate for the Appellant; Ishwari Singh and Krishna Mohan Murari, Advocate for the Respondent

Judgement

Mungeshwar Sahoo, J.—The State of Bihar has filed these three first appeals against the common judgment and award passed by the court below in L.A. Case No. 14 of 1978, L.A. Case No. 04 of 1978 and L.A. Case No. 11 of 1978 passed by the learned Subordinate Judge-III-cum-Land Acquisition Judge, Rohtas at Sasaram dated 12.04.1989.

2. It appears that total 33.33 acres of land of different land holders were acquired by the State Government for construction of Sasaram Agricultural Marketing Yard and Building in village Takya, P.S. Sasaram in the year 1973 being DLA-SHP No. 129 of 1973. The Land Acquisition Officer awarded compensation to the extent of Rs. 8,372.97 in L.A. Case No. 04 of 1978 giving rise to F.A. No. 470 of 1989, Rs. 3,416.56 in L.A. Case No. 11 of 1978 giving rise to F.A. No. 474 of 1989 and Rs. 3,936.76 in L.A. Case No. 14 of 1978 giving rise to F.A. No. 468 of 1989. The land acquired in L.A. Case No. 04 of 1978 is 1 acre 34 decimals, in L.A. Case No. 11 of 1978 is 0.58 acre and in L.A. Case No. 14 of 1978 is 0.47 acre.

3. The land holders-owners being dissatisfied with the compensation granted by the Collector made application under Section 18 of the Land Acquisition Act for reference to the Land Acquisition Judge. Many references were made for lands

acquired. Some of the references were decided earlier. By the impugned judgment and award seven land acquisition cases were disposed of. Out of the above seven land acquisition reference cases giving rise to first appeals, two first appeals were withdrawn by the State of Bihar-appellant in view of the notification issued by the State of Bihar to the effect that the first appeals arising out of the land acquisition proceeding the value of which is less than rupees one lac are to be withdrawn. The remaining three first appeals are being heard together and are being disposed of by this common judgment.

4. The claimants claimed enhancement of compensation on the ground that the Collector has awarded much less compensation than the market value of the land. The Collector did not consider the quality of the land which are Dih land fit for residential purpose. The locations of the land acquired have not been considered which are very near to Sasaram-Chausa Road and are within Sasaram Municipality Area. The land is also connected with Grand Trunk Road and Sasaram Railway Station. Moreover, the lands are by the side of Bazar and the same is acquired for marketing yard and Bazar is famous for grain mundi. On these grounds the claimants claimed five thousand per katha.

5. The State of Bihar-appellant did not file any objection/written statement. However, from perusal of the judgment, it appears that during the course of hearing the State of Bihar produced documentary evidences in support of the case that after service of notice under Section 9 of the Land Acquisition Act no claim was made by the land holders, therefore, their claim for enhancement itself is not maintainable according to Section 25(2). However, the case of the State of Bihar is that whatever compensation has been given by the Collector is just and adequate amount for the lands acquired by the State of Bihar.

6. On the basis of the evidences and materials available on record the court below clearly recorded a finding that there was no personal notice on the person concerned and, therefore, rejected the objection about non-maintainability of reference case and then considering the various documentary evidences the court below came to the conclusion that the prevalent market value of the land is Rs. 5,000/- per katha on the date of notification issued under Section 4 of the Land Acquisition Act. Against this judgment and award the State of Bihar has filed these first appeals.

7. Learned counsel Mr. Patanjali Rishi, A.C. to A.A.G. 10 assailed the judgment and award on two counts. Firstly that the learned court below has wrongly recorded the finding that notice has not been served on the person concerned when the State of Bihar produced various documents in support of the fact that notices were validly served. Secondly, the learned counsel submitted that the prevalent market value of the land fixed by the Land Acquisition Judge at Rs. 5,000/- per katha is highly exaggerated. The finding is based on the documents and the sale deeds which are not applicable in the present case. Therefore, this finding is liable to be set aside.

8. On the other hand, learned counsel appearing on behalf of the claimants-respondents submitted that various judgments and awards were produced before the Land Acquisition Judge wherein the market value of the land had been fixed at Rs. 5,000/- per katha. The sale deeds were also produced and after considering the same the court below has rightly fixed the valuation, as such there is no ground to interfere with the findings of the court below. So far the notice is concerned, the learned counsel submitted that the notice was not served on the person concerned, therefore, the court below has also rightly held that their claim is not hit under Section 25(2) of the Land Acquisition Act which was existing at the time of reference.

9. In view of the above submissions of learned counsel for the parties, the points arise for consideration in these first appeals are as to whether the notices had been validly served on the claimants and whether the market value of the land fixed by the Land Acquisition Judge is just, proper or the same is exaggerated.

10. It is admitted fact that the lands have been acquired for the purpose of construction of market yard. It is also admitted fact that the lands acquired are just by the side of Bazar which is famous Bazar as it is famous for grain mundi. It is also admitted fact that the lands acquired are connected with Grand Trunk Road as well as railway station and the lands are situated within the municipal area.

11. So far the notice is concerned, the State of Bihar has proved Ext. B series and Ext. C series in support of the case that notice under Section 9 of the Land Acquisition Act was served on the land holders. O.W.-2 is a process server examined by the State of Bihar, who has proved the signatures and his report (Ext. C series). From these exhibits it is clear that the notice was not served on the person concerned. The court below has, therefore, rightly held that notice under Section 9 was not served on the respondents. I also find that the notice under Section 9 was not served on the claimants-respondents. The finding of the court below on this question is, therefore, confirmed.

12. So far valuation is concerned, the claimants have examined 23 witnesses in support of their claims and claimants of different land acquisition cases have also been examined. It is not necessary to give the details about which witness is claimant in which land acquisition case as the witnesses examined on behalf of the claimants all have stated the same thing. They have stated that the market value of the land was Rs. 15,000/- per katha at the time of acquisition. Ext. 3 series are the certified copy of the sale deeds of the year 1970, 1974. Besides these registered sale deeds, the claimants have also produced Ext. 9, the judgment of L.A. Case Nos. 18, 20 and 5 of 1978. Ext. 10 is the decree in L.A. Case No. 22 of 1978. According to Ext. 3 (the registered sale deed) the market value of the land was Rs. 5,000/- per katha in the year 1974. According Ext. 3/A, the market value was Rs. 3,000/- per katha in the year 1973. The lands in the present case have been acquired in April, 1973.

13. From perusal of the judgments and award (Exts. 8, 9 and 10), it appears that the lands involved in those land acquisition cases are the same land acquired for the said purpose by the same notification, i.e. all the lands were acquired by the same notification for construction of Agricultural Marketing Yard and Building. In all those judgments and award the market value has been fixed at Rs. 5,000/- per katha. When by the said notification 33 acres of land have been acquired and the market value at Rs. 5,000/- per katha on the date of acquisition were awarded to some of the land holders, there is no reason as to why the same value be not awarded to the other land holders whose lands were also acquired by the same notification for the same purpose.

14. Therefore, in view of these overwhelming evidences, i.e. oral evidences supported by the documentary evidences, I find that the market value fixed by the Land Acquisition Judge is just and proper and, therefore, the finding of the Land Acquisition Judge is hereby confirmed. I find no reason to interfere with the same.

15. In the result, all these first appeals are hereby dismissed. No order as to costs.