
(2011) 04 PAT CK 0102
In the Patna High Court
Case No : First Appeal No. 36 of 1995

The State of Bihar

APPELLANT

Vs

Sri Raghubir Prasad Gupta

RESPONDENT

Date of Decision : 26-04-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 23(1A), 23(2)

Citation : (2011) 04 PAT CK 0102

Hon'ble Judges : Prakash Chandra Verma, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Prakash Chandra Verma, J.—Both the appeals have been filed against the judgment and Award dated 23rd June, 1994 passed by Shri Braj Kishore Prasad Kashyap, Sub-Judge-I, Aurangabad in Land Acquisition Case Nos. 16 & 17 of 1989, whereby and where under the learned court-below had enhanced the compensation amount.

2. The facts of the case are that the lands of the applicants Lakshmi Devi, Raghubir Prasad and Ganesh Prasad as stated in the impugned judgment are situated in Mohalla Shahpur, on G.T. Road, Ward No. 6, Aurangabad Municipality, Aurangabad, Bihar. The lands as described in the impugned judgment were acquired for construction of the Central Jail in Land Acquisition No. 1 of 1986-87. The compensation awarded in favour of the applicants is very low, inadequate, arbitrary and against the prevailing market value at the time of acquisition. The lands acquired situate in one compact block and they stand just close north of the G.T. Road from one end to another. The lands are just 2 K.M. away from the heart of District Town of Aurangabad and they stand in ward No. 13 of the Municipality. There are 80 to 100 shops including Hotels just close to the lands. There is S.N. Sinha College and Town Inter School at some distance. The industrial estate is also very close to the lands and there are two petrol pumps at some distance. The lands are very potential growing wheat and paddy at high

rate.

3. The further case of the applicant is that the market value of the acquired land at the time of acquisition was Rs. 16,000/- per Katha. The land inferior to the land under acquisition has been sold in the Shahpur Ward No. 7 at the rate of Rs. 12,000/- per Katha vide several sale deeds prior to the notification. The prayer of the applicants is that they are entitled to get additional compensation and interest as prescribed under the Land Acquisition Act, 1894.

4. On hearing learned Counsels for the applicants and the O.P. and on consideration of the evidence and documents produced before the reference court, the reference Court had fixed the market value of the land under acquisition at the rate of Rs. 3,000/- per decimal. In addition to that learned reference court has further ordered that the applicants are further entitled to statutory amount at the rate of Rs. 12% on the market value from the date of notification to the date of collector's award u/s 23(1A) of the Land Acquisition Act and the same is allowed. The applicants are also entitled to statutory additional compensation at the rate of Rs. 30% on such market value in consideration of the compulsory acquisition of the land u/s 23(2) of the Land Acquisition Act and interest @ 9% per annum from the date of Collector's Award to the date of the final payment of the compensation money.

5. Learned Counsel for the State has assailed the judgment and award on the ground that learned court-below had arbitrarily fixed the rate of the land. He has also not appreciated the evidence and document produced before him. Learned Court-below has failed to appreciate Ext-I which was executed after notification. Learned court-below did not consider the documents filed by the Appellant.

6. Upon hearing learned Counsel for the State and on going through the record and the impugned judgment passed by Reference Court in the appeal, this Court finds that the Reference Court has rightly relied on the exemplar Ext-1, which is nearest sale-deed to the date of execution and has also taken into account the factor that the land is situated by the side of G.T. Road under the Aurangabad Municipality.

7. Thus, this Court does not find any infirmity or illegality in the award made by the Reference Court in this appeal. The impugned judgment and Award passed by the learned court-below is confirmed. The appeal is devoid of merit and hereby dismissed.