

(2014) 07 TP CK 0041

In the Tripura High Court

Case No : L.A. APP. 5 of 2008 and C.O. (FA) No. 07 of 2008

The State of Tripura Vs Subhrajit Das Choudury

Date of Decision : 09-07-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4

Citation : (2014) 07 TP CK 0041

Hon'ble Judges : Deepak Gupta, C.J

Bench : Single Bench

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

Final Decision : Disposed Off

Judgement

1. Both the appeal and the cross objection are being disposed of by one judgment since they arise out of the same award, dated 10.11.2006, passed by the learned Land Acquisition Judge, West Tripura, Agartala.

2. Briefly stated the facts of the case are that vide notification dated 18.06.2002 the Government of Tripura acquired 0.031 acres of land belonged to the respondent-cross objectors for the purpose of construction of a bridge at Lalcherra on Khowai-Teliamura road. After completing necessary formalities the Land Acquisition Collector assessed the compensation at Rs. 8,00,000/- per kani. The land owners being dissatisfied with the compensation awarded filed a petition u/s 18 of the Land Acquisition Act, 1894 claiming for enhancement of compensation. The Land Acquisition Judge has assessed the compensation at Rs. 15,00,000/- per kani and this award is under challenge in these proceedings.

3. The case of the land owners is that the acquired land was in the heart of Khowai town. It was very close to the information centre, State Bank of India, Srinath Vidya Niketan School etc. Accordingly, it was submitted that the land had potential value for commercial purposes. Reliance was placed upon one sale deed executed on 08.08.2002 whereby 0.004 acres of land was sold @ Rs. 80,00,000/- per kani. It is alleged that this land is close to the acquired land. The claimants claimed compensation @ Rs. 80,00,000/- per kani. The learned Land

Acquisition Judge held that the sale deed relied upon by the petitioners related to only 4 Dcm. of land along with one tin roof shop measuring 12 feet by 18 feet. The cost of the shop was not separately mentioned. He also did not rely upon the sale deed on the ground that the same was executed on 08.08.2002 whereas the land was acquired on 10.06.2002.

4. The law is well settled that normally the claimants must produce sale instances of transactions which have taken place immediately prior to the notification issued u/s 4. It is a notoriously well-known fact that after notification u/s 4 is issued sometimes unscrupulous litigants get sale deeds of very small areas of land registered at high prices. At the same time, in case there is no sale transaction prior to the occurrence then in exceptional circumstances a sale instance which is later than the notification u/s 4 may be looked into.

5. The petitioner u/s 18 of the Land Acquisition Act stands in the shoes of plaintiffs. It is for the petitioner to prove his case. The petitioner other than relying upon one sale deed did not lead any other cogent evidence. Even the vendor and vendee of this sale deed were not examined to prove the genuineness of the transaction. The sale deed may be admissible in evidence but its probative value will have to be decided on the basis of evidence led before the Court. When the transaction after Section 4 notification was done and of a very small area, the non-examination of the vendor and vendee is not at all justified.

6. In the present appeal it is the case of the claimants that the land is situated in the heart of town. There would be many instances of sale in the heart of town. The claimants have not produced any other sale deed immediately prior to the notification u/s 4. They have relied upon only one sale deed which was posterior to the Section 4 notification. In view of the fact that area of land of the second sale deed is very small, it also has one tin roof shop on it and it is later than the Section 4 notification, I am of the view that the learned trial Court was justified in not relying upon this.

7. The Trial Court has made reference to two sale deeds which were relied upon by the Land Acquisition Collector and as per these sale deeds, the value of the land as on 16.07.2001 and 27.08.2001 was Rs. 7,00,000/- per kani and Rs. 8,00,000/- per kani respectively. Both the sale deeds are of July and August, 2001 about 10 months prior to the notification u/s 4 issued on 18.06.2002. There are two sale deeds of July and August. Even if the higher sale deed of August, 2001 is taken into consideration the rate works out to Rs. 8,00,000/- per Kani. The learned trial Court held that the value of the land would have increased at a very high rate and he has assessed the increase in the value at Rs. 1,00,000/- per kani and accordingly, assessed the compensation at Rs. 15,00,000/-. I am not at all in agreement with this finding of the learned Land Acquisition Judge.

8. The Apex Court in Valliyammal and Another Vs. Special Tahsildar (Land Acquisition) and Another etc. etc., has held that in urban areas the Court may

add 10 to 15% on account of inflation. Even if a higher percentage of 15% is taken for a period of about 1(one) year the value of Rs. 8,00,000/- would increase only to about Rs. 9,20,000/- per kani. Under no circumstances could the value of the land have been assessed at Rs. 15,00,000/- per kani. In this view of the matter, the appeal filed by the State is allowed. The compensation for the land shall be assessed taking the value of land at Rs. 9,20,000/- per kani and not Rs. 15,00,000/- per kani. The cross objection is dismissed. On the aforesaid amount the cross-objectors in addition to the value of the land shall be entitled to other statutory benefits of solatium, additional compensation and interest as per the provisions of the Land Acquisition Act.

The appeal is disposed of in the aforesaid terms. No order as to costs.

Send down the LCRs, if any, forthwith.