
(2019) 06 GAU CK 0009
In the Gauhati High Court
Case No : LA.App. 1, 4, 5, 6 Of 2016

Union Of India

APPELLANT

Vs

Collector And 5 Ors

RESPONDENT

Date of Decision : 04-06-2019

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 4(1), 18, 23, 54

Citation : (2019) 06 GAU CK 0009

Hon'ble Judges : Suman Shyam, J

Bench : Single Bench

Advocate : S C Keyal, N Alam, S U Ahmed

Final Decision : Dismissed

Judgement

1. Heard Ms. P. Baruah, learned counsel for the appellant. I have also heard Mr. G. Bordoloi, learned Govt. Advocate appearing for the Collector, Kamrup and Mr. N. Alam, learned counsel representing the private respondents in all these appeals.

2. These appeals have been preferred against the common judgment and order dated 09-07-2015 passed in connection with Misc. (Ref.) 162/2014 (new)/ Misc. (Ref.) Case No. 01/2010 (old); Misc. (Ref.) 163/2014 (new)/ Misc. (Ref.) Case No. 02/2010 (old); Misc. (Ref.) 164/2014 (new)/ Misc. (Ref.) Case No. 03/2010 (old) and Misc. (Ref.) 165/2014 (new)/ Misc. (Ref.) Case No. 04/2010 (old), whereby, the learned District Judge had enhanced the compensation fixed by the Collector @ Rs. 2,60,000/- per bigha to Rs. 8,00,000/- per bigha. Since common question of fact and law arises for decision in these cases, hence, I propose to dispose of these appeals by this common order.

3. It appears that the private respondents herein were the owners of various plots of patta lands situated in Village- Barsil, Mouza- Pub Borigog, falling under the revenue circle Rangia in the district of Kamrup. By issuing a notification dated 30-07-2008 under Section 4 of the Land Acquisition Act, 1894 (herein

after referred to as the Act of 1894), the Govt. of Assam had initiated a proceeding for acquisition of land measuring 24B-03K-16L (3.31 Hectors) situated at Village- Barsil under Pub Borigog Mouza which included the patta land of the private respondents herein. The land was required for the purpose of construction of 33 Bn., Sashastra Seema Bal (SSB) Head Quarter. Aggrieved by the amount of compensation fixed by the Collector, the respondents had made a request to refer the matter to the court of learned District Judge, Kamrup under Section 18 of the Act of 1894 and accordingly, the four reference cases, as noted above, came to be registered.

4. By the common judgment and order dated 09-07-2015, the learned District Judge, Kamrup had answered the references in favour of the land owners by permitting enhancement of the amount of compensation besides awarding additional compensation and interest on the enhanced amount. The operative part of the judgment and order dated 09-07-2015 is reproduced herein below for ready reference:

"In the result, the instant reference cases are decreed on contest. The petitioners/ claimants are entitled to compensation at the rate of Rs. 8,00,000/- (eight lakhs) per Bigha of the acquired lands, with additional compensation at the rate of 12% and 30% on the enhanced amount. They are also entitled to get 9% interest on the enhanced amount, from the date of taking over possession till the payment. The amount already paid to the claimants shall be deducted by the Collector."

5. Being aggrieved and dis-satisfied by the judgment and order dated 09-07-2015, the Union of India, represented by the Commandant, 33 Bn. Sashastra Seema Bal (SSB) has approached this Court by filing the present appeals under Section 54 of the Act of 1894.

6. Ms. Baruah, learned counsel appearing for the appellant submits that the enhancement awarded by the learned District Judge, besides being exorbitant, is also contrary to the materials available on record. According to the learned counsel, the evidence available on record goes to show that on the date of the notification, the value of the land in the adjoining areas was in the vicinity of Rs. 5,00,000/- per bigha and therefore, enhancing the amount of compensation to Rs. 8,00,000/- per bigha was wholly unjustified. Ms. Baruah has also submitted that by similar orders passed in reference cases arising out of L.A. Case No. 04/2007, whereby another plot of land was acquired by the appellant, the amount of compensation, although originally fixed by the learned District Judge @ Rs. 7,00,000/- per bigha, was brought down by this Court to Rs. 5,25,000/- per bigha. That apart, there was a deduction of 25% permitted by this Court in all those cases. Therefore, submits Ms. Baruah a similar approach is called for in the present case as well considering the fact that the land involved in the present proceeding is also situated in the same locality and adjacent to the land acquired under L.A. Case No. 04/2007.

7. Mr. Alam, learned counsel for the private respondents, on the other hand, contends that the land involved in the present proceeding is situated by the side of NH-31 and therefore, was more valuable than the larger plot of land acquired in connection with L.A. Case No. 04/2007. The learned counsel further submits that this being a smaller plot of land and being roadside land, the value of the land of the respondents would obviously be higher than the land falling in the adjacent dags involved in the L.A. Case No. 04/2007. Contending that no parallel can be drawn in the matter of fixing of price of two differently situated land, Mr. Alam submits that cogent materials, including sale deeds of adjacent land brought on record was considered by the learned District Judge before enhancing the amount of compensation.

8. The learned Govt. Advocate, Assam has supported the order dated 09-07-2015.

9. I have considered the submission made by the learned counsel for the parties and have also gone through the materials available on record. It appears that the land belonging to the private respondents had been acquired in connection with L.A. Case No. 03/2007. It further appears from the record that the total area of land involved in L.A. Case No. 03/2007 was only 24B-03K-16L and the said plot of land is situated on the eastern side of the NH-31. A perusal of the notification issued under Section 4 of the Act of 1894 on 08-08-2008 in connection with L.A. Case No. 04/2007 goes to show that the same relates to a larger plot of land measuring 248B-0K-3L which is situated in the adjacent village. Moreover, the said plot of land is not a roadside land and is situated behind the land of the present respondents. Therefore, it is evident that the land involved in the L.A. Case No. 04/2007 being a much larger plot of land, a deduction of 25% of the amount of compensation may be justified in the facts of that case. But in the present case, the area of land involved is much smaller, i.e. 24B-03K-16L and it is also a roadside land. Therefore, I find force in the submission of Mr. Alam that the same parameters would not be applicable for fixing the value of two differently situated plots of land.

10. A perusal of the impugned judgment and order dated 09-07-2015 further goes to show that the learned District Judge had examined relevant materials including registered deeds of purchase of nearby land produced by the private respondents for the purpose of making an assessment of market value of the land. The learned District Judge had also taken note of the fact that the sale deed executed in the year 2008 in respect of the land situated in the Barsil village was @ Rs. 10,00,000/- per bigha. The said piece of evidence has not been disputed by the appellant during trial of the reference cases.

11. As per Section 23 of the Act of 1894, the market value of the land on the date of publication of the notification under Section 4(1) of the Act of 1894 is one of the matters to be considered by the court. The notification under Section 4 of the Act of 1894 was issued in the month of July, 2008. Since the sale deed executed in the year 2008 pertaining to the land falling in the Barsil village

shows that the value of the land in that village was Rs. 10,00,000/- per bigha, hence, it cannot be said that the enhancement of the value of compensation to be paid to the land owners to Rs. 8,00,000/- per bigha was unjustified in the facts and circumstances of the case. Having regard to the materials available on record, I am of the view that the learned District Judge has correctly appreciated the evidence on record and thereafter, passed a reasoned order enhancing the amount of compensation to Rs. 8,00,000/- per bigha.

The learned counsel for the appellant has not urged any other ground so as to assail the judgment and order dated 09-07-2015.

For the reasons stated above, these appeals are held to be devoid of any merit and the same are accordingly dismissed.

Parties to bear their own cost.

Registry to send back the LCR.