
(2015) 02 TP CK 0029
In the Tripura High Court
Case No : LA App. No. 27 of 2010

Union of India

APPELLANT

Vs

Nepal Ch. Roy and Others

RESPONDENT

Date of Decision : 27-02-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 17, 18

Citation : (2015) 02 TP CK 0029

Hon'ble Judges : Utpalendu Bikas Saha, J.

Bench : Single Bench

Advocate : P. Majumder, for the Appellant; S. Bhattacharji, Advocates for the Respondent

Judgement

Utpalendu Bikas Saha, J.—The land involved in this appeal was acquired by the respondent-LA Collector, South Tripura, Udaipur for construction of BSF BOP at Battali under 87 Bn. BSF by the notification dated 05.10.2007 pursuant to Section 17 of the LA Act. The value of the Nal land was assessed @ Rs. 35,000/- per kani by the LA Collector. Being dis-satisfied with the awarded amount the claimants sought reference under Section 18 of the LA Act claiming compensation to the tune of Rs. 2 lakhs per kani.

2. In the plaint statement, the claimant-respondent stated inter alia, that the acquired land is a developing area and the Health Centre, Higher Secondary School, panchayat Office, etc. are very near to the acquired land and Sabroom - Amtali main road is about 30 meters from the acquired land.

3. The appellant herein and the LA Collector, South Tripura, Udaipur resisted the claim petition filed by the respondent-claimant by way of filing their respective counter statements denying all the claims as claimed by the claimant-respondent. It is further asserted that after considering all aspects including the approved rate of the government, the learned LA Collector prayed for dismissal of the claim petition with costs. They also denied the fact that the government offices and market etc. are near to the acquired land.

4. The claimant respondent also relied upon some documentary evidence such as copies of sale deeds dated 06.03.1992, 30.07.1984, 01.02.1984, 12.08.1992, 12.08.1992 and 27.04.1995 and copy of map (the certified copies of these documents were exhibited in Misc. (LA) 10 of 2009 and the land under Misc. (LA) 10 of 2009 and the land in the instant case was acquired under the very same notification and for the same purpose. The respondent LA Collector being Opposite Party, on the other hand, exhibited assessment report and marked as Exbt. A Series.

5. The learned LA Judge, to decide the cases, Misc. (LA) 06/2009, Misc. (LA) 08/2009, Misc. (LA) 10/2009, Misc. (LA) 11/2009, Misc. (LA) 12/2009, from which the aforesaid appeal have arisen, framed the following two issues:

"(i) Is the present petition maintainable?

(ii) Is the compensation awarded by the LA Collector for the acquired land adequate and if not what would be the quantum of compensation?"

6. Issue No. (i) was decided holding that the claim petition filed by the claimant is in form and there is no defect and answered this issue accordingly. While deciding issue No. (ii) the learned LA Judge examined the evidence of PW 1, who has claimed compensation @ Rs. 2 lakhs per kani, and in his examination in chief stated that the Government Offices, Primary Health Centre and panchayat Office are very near to the main road. In support of the contention, PW 1 also submitted some copy of sale deeds which are near to the acquired land.

7. The learned LA Judge in his findings stated that deeds of sale instances, as produced by the claimant, and the acquired land are not similar as some of the sale instances are relating to the Dokan Viti, Pukur Par and fetched higher market price than the Nal and other varieties of land. According to the learned LA Judge, market value as determined by the LA Collector is incorrect as it overlooks the comparable method and ultimately the learned LA Judge, exercising inherent power and taking judicial notice that the price of the landed property is increasing all over Tripura, came to the conclusion that it would be proper to enhance the awarded amount to Rs. 1 lakh per kani from Rs. 35,000/- per kani as awarded by the LA Collector and accordingly answered the issue No. (ii).

8. This Court has gone through the evidence on record as well as the impugned judgment in these appeals. According to this Court, learned LA Judge while determining the market value of the acquired land did go for some guess work. There is no doubt that always it is not possible to determine the market value in absence of sale instances relating to the same nature of land but in the instant case, the claimant-awardee has produced some sale instances from which the court could gather an idea and according to this Court, the learned LA Judge did not commit any wrong enhancing the amount of compensation @ Rs. 1 lakh per kani from Rs. 35,000/- with usual solatium and interest as per the LA Act. The appellant-Union of India also preferred appeals being LA Appeal No. 22/2010, LA

Appeal No. 23/2010, LA Appeal No. 24/2010, LA Appeal No. 25/2010 and LA Appeal No. 26/2010 wherein the learned LA Judge enhanced amount of compensation @ Rs. 1 lakh per kani from Rs. 35,000/-and after hearing, those appeals were also dismissed by this Court affirming the judgment and award passed by the learned LA Judge. Therefore, this appeal is also dismissed as the learned LA Judge did not commit any wrong. No costs.

9. Registry is directed to release the amount as deposited by the appellant with the Registry of this Court to the respective claimant-respondent on application and for the remaining amount the claimant-respondent may take appropriate steps.

Send down the LCRs forthwith.