

**HIGH COURT OF TRIPURA
AGARTALA**

LA App 09 of 2023

The Managing Director, TIDC,
Industry Building, 3rd Floor,
Gurkhabasti, Police Station, New Capital
Complex, West Tripura

---Appellant

Versus

1. Sri Uttam Paul,
2. Sri Goutam Paul,
3. Sri Soutam Paul,

All sons of Late Sunil Chandra Paul.

4. Smti Suruchi Majumder,
W/o Late Santi Majumder,

5. Sri Sanjoy Majumder,
S/o Late Santi Majumder,

All are residents of Khas Noagaon, Radhakishorenagar,
Banikya Chowmuhani, PS; Bodhjungnagar, District: West Tripura

6. Smti. Sikha Rani Paul,
W/o Sri Adhir Paul
Resident of Durganagar, PS Ranirbazar
District West Tripura

---Respondent

7. The LA Collector, West Tripura District, Agartala

---Pro-forma-Respondent

For Petitioner(s)	: Mr. B. N. Majumder, Sr. Adv. Mr. P. Debbarma, Adv.
For Respondent(s)	: Mr. S. Chakraborty, Sr. Adv. Mr. U. K. Majumder, Adv.
Date of hearing and date of judgment and order	: 03.05.2023.
Whether fit for reporting	: No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

This is an appeal under Section 54 of the Land Acquisition Act, 1894,
read with Order XLI of Civil Procedure Code, 1908 against the judgment and
award dated 05.08.2019, passed by Ld. LA Judge, West Tripura Judicial District,
Agartala in Case No. MISC (L.A) 50 of 2016.

[2] The appellant submitted that the Government acquired certain lands under Notification No.F.9(12)-REV/ACQ/VI/07 dated 12.10.2007 for the purpose of construction of road from Banikya Chowmuhanani to Industrial Growth Centre Gate.

[3] The compensation of the acquired land (0.03 acres) was assessed by the LA Collector @ Rs.5 lakhs per kani and total amount of Rs.58,280/- inclusive of other statutory benefits was awarded to the original claimants.

[4] Being aggrieved with the land valuation, the claimant approached the LA Court for re-assessment of the market value.

[5] As stated in the claim statement that original owner of the acquired land along with other land of total area 0.03 acre was one Sunil Chandra Paul who transferred the same in favour of Smti. Suruchi Majumder (claimant No.4) who constructed hut and shop therein out of which 0.03 acre was acquired. It is also stated that said Sunil Chandra Paul received the consideration price and sold out the same without obtaining permission of competent authority for which record of right was not changed rather it remained in the name of claimant no.1, 2, 3 and 6 showing claimant no.4 as possessor thereof. However, they had withdrawn the awarded compensation from the office of L.A. Collector jointly through attorney Dipak Debnath and the claimant Nos.1, 2, 3 and 6 had no claim over the acquired land or the purchased land of claimant no.4. The claimants claimed the valuation of the acquired land @ Rs.40,00,000/- per kani. According to them, the acquired plot was road side land as the project for which the land was acquired was for widening the existing road. Moreover, the acquired land was surrounded by the Cattle Firms, Growth Centre, NEPCO, TSR Head Quarters, Banikya Chowmuhanani Bazar, R.K. Nagar P.H.C., Durga Chowdhury Para School, Colleges, Bodhjunnagar Police Station, Post Office etc. It is further stated that the acquired land had high potential value having all urban facilities conjoined with that land. It is also mentioned that the acquired land is situated within 2nd schedule land i.e. tribal

land and thus, sufficient sale deeds are not available there, but according to the claimants, some lands of adjacent R K Nagar mouja was also acquired for the same purpose wherein sale transaction took place and said R.K. Nagar mouja is situated on one side of the road and Laxmipur mouja is situated on the other side of the road having similar potential value and similar land valuation. The initiation of common proceeding for Laxmipur mouja and RK Nagar mouja is also admitted by the L.A. Collector.

[6] The L.A. Collector in his counter statement stated that the acquired land is 15 k.m. away from Khayerpur Bazar as well as National Highway and 6 k.m. away from G.B. Bazar, and the acquired land is situated within rural area where only one small market having some shops at Banikya Chowmuhani has developed. However, L.A.Collector admitted that there is a school namely, Rajib Gandhi H.S. School located in the south of the proposed road which is little bit away from Banikya Chowmuhani and that some homesteads, office of ARDD Department and some paddy field are also available on both sides of the proposed road. According to him, the acquired land had no potential value and modern facilities are also not available in that locality. L.A. Collector however admitted that sufficient sale deeds are not available in Laxmipur mouja as it falls within second schedule land, for which they also collected sale deeds from RK Nagar mouja to assess the compensation and also called for one enquiry report from SDM, Sadar regarding prevailing land valuation of that area. It is further stated that the L.A. Collector considered 7 nos. of sale deeds before determining the compensation and sufficient compensation was awarded. The Requiring Department also supported the version of L.A. Collector stating that just and proper compensation was awarded to the claimants by the L.A. Collector after considering seven nos. of sale transactions of that area and also considering report of SDM, Sadar. Apart therefrom, the L.A. Collector also collected further

sale instances to arrive at just decision. Thus, according to them, sufficient award was given.

[7] Basing on records and hearing the parties, the following issues were framed thereafter

- 1) Whether the assessment of the L.A. Collector is correct ?
- 2) Whether the claimant petitioners are entitled to enhanced compensation ? If so, to what extent ?
- (3) Any other relief/reliefs, the claimants are entitled to ?

[8] The LA Judge, had the occasion to observe that the claimants proved copy of Sale Deed No.1-447 dated 11.01.2005 under Exbt.1 by which a land area of 0.01 acre of viti class from R.S. Plot No.2181/8909 was sold out for Rs.75,000/- (Rs.30,00,000/- per kani). By Exbt.2 i.e. the Sale Deed No.1-117 dated 04.01.2002 a land area of 0.01 acre of viti class was sold out from R.S. plot No.2181/8909 for Rs.50,000/- i.e. Rs.20,00,000/- per kani. Similarly vide Exbt.3 i.e. the Sale Deed No.1-118 dated 04.01.2002 a land area of 0.01 acre of class viti was sold out from R.S. Plot No.2181/8909 for Rs.50,000/- per kani. The Opposite Party did not prove any Sale Deed in this case. All the sale transactions was relating to land under R.K. Nagar Mouja but our present acquired land is Laxmipur mouja. In the assessment note, L.A. Collector has mentioned the following:-

"This is a common proceeding for determination of the value of land measuring 0.632 acre in mouja Laxmipur sheet No.1/p & land measuring 0.785 acre in mouja R.K. Nagar sheet No.3/p respectively under Sadar Sub-Division in the method as indicated under section 23 of the L.A. Act for construction of road from Banikya Choumohani to Industrial Growth Centre Gate.

The common proceeding has been taken up for the reason that the land of both the projects of Laxmipur sheet No.1/p & in mouja R.K. Nagar sheet No.3/p possess similar advantages, character & potential possibilities.

Notifications u/s.4 of the L.A. Act in respect of the land under Laxmipur sheet No.1/p was issued by the Govt. in the Rev. Deptt. Vide No.F.9(12) REV/ACQ/VI/2007 dated 12.10.2007 and declaration u/s. 6 of the L.A. Act was also issued vide No.9(12)-REV/ACQ/VI/2007 dated 26.12.2007.

Similarly, Notifications u/s. 4 of the L.A. Act in respect of the land under mouja R.K. Nagar shret No.3/p was issued vide No.F.9(8) REV/ACQ/VI/2007 dated 04.10.2007 and the declaration U/S.6 of the L.A. Act issued by the Rev. Deptt. Vide No.F.9(8)REV/ACQ/VI/2007 dated 26.12.2007. Notifications & Declarations of both the proceedings as issued were duly published in the local dailies."

[9] L.A. Collector awarded compensation for acquired lands under Laxmipur Mouja and R.K. Nagar Mouja @ Rs.5,00,000/- per kani for commercial class of land and @ Rs.4,00,000/- per kani for non commercial class of land. Thus, it is evident that whatever rate will be given in respect of acquired land under R.K. Nagar Mouja, similar rate should be given in respect of acquired land under Laxmipur Mouja. The lands under both the moujas, according to L.A. Collector, bears similar potential value.

[10] Earlier awards were passed in some cases by Ld. L.A. Judge West Tripura, Agartala which were ultimately challenged before the Hon'ble High Court in said L.A. APP No.35/2014, L.A. APP. 04 of 2014, C.O.(FA) No.06 of 2014, L.A. APP No.05 of 2014, L.A. APP No.11 of 2015 and L.A. APP No.13 of 2015 and the Hon'ble High Court by a common judgment dated 03.01.2018 as submitted by Mr. Majumder was pleased to observe as follows :-

"Having considered all aspect of the matter, this Court is of the view that the acquired land under the commercial category or referred as the commercial area shall bring the rate at Rs.30,00,000/ per kani whereas the acquired land land fallen in the non commercial category or as referred as the non commercial area shall bring the rate at Rs.20,00,000/ per kani. For purpose of enhancement the development index visavis the acceleration of rate has been considered having due regard to the sale deeds (Exbt.1 series). Hence, the appellant and the cross objector shall get the rate in terms of the above.

In view of this, L.A. App. No.04 of 2014 and L.A. App. No.05 of 2014 are dismissed. All the appeals and the cross objection filed by the referring claimant-appellants are allowed in terms of the above inference. It is made clear that the rate as declared above is applicable for the acquired land concerned with the appeals and the cross objection filed by the referring claimants."

[11] In the said judgment sale exemplars under present Exbt.1, Exbt.2 and Exbt.3 were also discussed and appreciated. In our present case the award given by the L.A. Collector was @ Rs.12,50,000/- per acre i.e. @ Rs.5,00,000/- per kani treating the same to be commercial class of land. Thus, in view of the judgment of Hon'ble High Court, the present claimants are also entitled to get compensation for the acquired land @ Rs.30,00,000/- per kani. Said decision or determination of compensation was made by a higher court which is not only binding upon the parties but it is also binding on this Court as a matter

of judicial discipline and as such the same is required to be maintained in the present case also.

[12] Finally, by the order dated 05.08.2019, the LA Judge West Tripura Judicial District, Agartala has passed the following order:

Now, therefore, the reference is allowed. The claimants are entitled to get compensation @ Rs.30,00,000/- (rupees thirty lakhs) per kani only for the acquired. The claimants will also get 30% Solatium, and 12% further enhanced amount of compensation upon the said enhanced land value computing from the date of notification under section 4 of L.A. Act, 1894 upto the date of award by Collector or the date of taking possession of land whichever is earlier, as per section 23(2) and section 23(1-A) of the Act respectively. The claimants will further get interest @ 9% per annum from the date of taking over possession for one year and thereafter @ 15% per annum after expiry of said one year till payment upon said excess amount of compensation as per section 28 of the Act. As per law laid down by Hon'ble Supreme Court in Mehrawal Khewaji Trust, Faridkot & ors. V. State of Punjab & ors., 2012 AIR SCW 2822, the interest will also be counted on additional amount as awarded under section 23(1A) above and upon the solatium awarded under section 23(2) of the Act.

The claimants will also get Rs.1000/- as cost under section 27 of the Act. The Opp. Party no.1 is also made jointly and severally liable to make the payment along with Opp. Party no.2.

As per decision of Hon'ble High Court of Tripura in Amulya Sarkar (supra), the claimants namely, Sri Uttam Paul, Sri Goutam Paul, Sri Soutam Paul and Smti. Sikha Rani Paul will get jointly 25% of the total award including other reliefs and 75% will be paid to Smti. Suruchi Majumder.

[13] Being aggrieved by the judgment and award dated 05.08.2019 by LA Judge, West Tripura Judicial District, Agartala in Case No. Misc (LA) 50 of 2016, the appellant has approached this court for staying the impugned the judgment and award dated 05.08.2019 till disposal of the instant appeal and subsequently for setting aside the impugned judgment and order dated 05.08.2019 by the LA Judge, West Tripura Judicial District, Agartala in Case No. Misc (LA) 50 of 2016.

[14] Mr. B. N. Majumder, learned senior counsel appearing for the appellant has submitted through his plaint that after the trial the Ld. Reference Judge passed the judgment and award dated 05.08.02019, whereby the compensation was enhanced to the rate of Rs.30,00,000/- (rupees thirty lakhs) per kani only for the acquired. The claimants will also get 30% solatium, and 12%

further enhanced amount of compensation upon the said enhanced land value computing from the date of notification under section 4 of LA Act, 1894 upto the date of award by Collector or the date of taking possession of land whichever is earlier, as per section 23(2) and section 23(1-A) of the Act respectively. The claimants will further get interest @ 9% per annum from the date of taking over possession for one year and thereafter @ 15% per annum after expiry of said one year till payment upon said excess amount of compensation as per section 28 of the Act. As per law laid down by Hon'ble Supreme Court in **Mehrawal Khewaji Trust, Faridkot & Ors. vs. State of Punjab & Ors. 2012 AIR SCW 2822**, the interest will also be counted on additional amount as awarded under section 23(1A) above the upon the solatium awarded under section 23(2) of the Act. The claimants will also get Rs.1000/- as cost under section 27 of the Act. The Opp. Party No.1 is also made jointly and severally liable to make the payment along with Opp. Party No.2.

[15] It is also contended by Mr. B.N. Majumder, learned senior counsel that the impugned judgment and award suffers from illegality. According to him, the learned court below has erred in both facts and law and passed the impugned judgment and award most illegality. He further contended that the learned court below did not consider that the land acquired did not have amenities of modern facilities like electricity, water supply, telephone, post office, market, school, hospital, govt. office etc.

[16] On the contrary, Mr. U.K. Majumder, learned counsel appearing for the respondents while objecting to the averment as advanced by the counsel for the appellant has stated that the judgment and award dated 05.08.2019 is just and proper and needs no interference by this court.

[17] Heard both sides and perused the evidence on record. It is evident from the record that the lower court was of the view that the claimants are entitled to get compensation @ Rs.30,00,000/- (rupees thirty lakhs) per kani only for the acquired. The claimants will also get 30% Solatium, and 12% further

enhanced amount of compensation upon the said enhanced land value computing from the date of notification under section 4 of L.A. Act, 1894 upto the date of award by Collector or the date of taking possession of land whichever is earlier, as per section 23(2) and section 23(1-A) of the Act respectively. The claimants will further get interest @ 9% per annum from the date of taking over possession for one year and thereafter @ 15% per annum after expiry of said one year till payment upon said excess amount of compensation as per section 28 of the Act.

[18] In view of the above observation and finding of the Court below, this Court is of the opinion that the award as reached by the Court below vide judgment and award dated 05.08.2019 is based on valid reasons and findings and the same needs no interference.

[19] In view of the above, this instant appeal is dismissed. The judgment and award dated 05.08.2019 passed in Misc(L.A.)50 of 2016 is upheld as the same is just and proper.

[20] Stay order, if any, stands vacated. Pending application(s), if any, also stands disposed of. Return the LCRs forthwith.

JUDGE