

**HIGH COURT OF TRIPURA
AGARTALA**

LA.App 1 of 2023

The General Manager, Project

---Appellant(s)

Versus

Sunil Chandra Roy and 3 Ors

---Respondent(s)

For Appellant(s)	: Mr. N. Majumder, Advocate.
For Respondent(s)	: None.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

03.08.2023

Heard Mr. N. Majumder, learned counsel appearing for the appellant. None appears for the respondents when the matter is called out for consideration.

This is an appeal from the judgment and award dated 14.03.2022 passed by the Learned Court of Land Acquisition Judge, West Tripura at Agartala in Case No.Misc.(L.A) 350 of 2016 whereby the LA Judge has awarded compensation grossly in the higher side ignoring the evidence on record.

The brief facts of the appellant are that the following land of the referring claimants were acquired by the O.P. No.2, L.A. Collector, West Tripura, Agartala vide notification no. F.9(7)-REV/ACQ/XIV/2004 dated 12.02.2004 under Section 4 of the L.A. Act, 1894 for the purpose of construction of Bye Pass Road from Khayerpur to Amtali under Bishalgarh Sub-Division now Sadar Sub- Division in West Tripura District.

Description of acquired land

District - West Tripura, Sub-Division - Sadar, mouja- Dukli sheet no.2/p, Khatian no.2142/5 under plot no.5458/p, Class -naI, area-0.005 acre.

The compensation of the acquired land was assessed by the L.A. Collector @ Rs.5,00,000/- per acre i.e. @ Rs.2,00,000/- per kani and total amount of Rs.3,598/- was awarded to the referring claimants

including all other statutory reliefs. Being dissatisfied, the referring claimant no.1 prayed for reference and ultimately, the present proceeding has cropped up.

The referring claimant no.1 by filing claim statement sought for enhancement of the award given by the L.A. Collector on the ground that the acquired land is most valuable class of land and used for residential purpose. Moreover, most of the awardees have their homestead within the acquired land. Further, the acquired land having its highest potentialities both for commercial and industrial purposes. The acquired land is compact parcel of land surrounded by road and sub roads. There is a big market namely, Bankumari Market near to the acquired land. The acquired land has all types of modern amenities like Water connection, Electricity connection, Telephone facility, Bank, Hospital, Police Station, High Schools, Bus Stand, Auto Stand, Jeep Stand, Railway Station, University etc. Further, the acquired land is situated very near to the Agartala Town and the market value of the adjacent land has been increasing day by day. At present the market value of the acquired land is at the rate of Rs.20,00,000/- per kani. But the L.A. Collector ignoring all these aspects, determined the market value of the acquired land @ Rs.2,00,000/- per kani arbitrarily. Being aggrieved, the referring claimant No.1 approached this court for assessment of the market value of the acquired land at the rate of Rs.20,00,000/- per kani.

O.P. No.1, requiring department i.e. the General Manager, National Highways Infrastructure Development Corporation Ltd., Ministry of Road Transport & Highways, Govt. of India, filed their counter statement stating inter alia that the referring claimants were in possession of land measuring 0.005 acre of class of land at Mouja Dukli sheet No.2/p under Khatian No.2242/5 (may be 2142/5) of plot No.5458/p which was acquired by the L.A. Collector vide Notification

bearing No.F.9(7)-REV/ACQ/XVI/2004 (may be No.F.9(7)-REV/ACQ/XIV/2004) dated 12.02.2004 for construction of Bye Pass Road from Khayerpur to Amtali under Sadar Sub-Division and after careful consideration of all the relevant factors as well as documents, determined the market value of the acquired land and the assessment made by the L.A. Collector is just and proper which was made after comparison with Agartala various sale instances and prevailing market rate of the adjacent land. So, the claim of the referring claimants may be dismissed.

The O.P. No.2, L.A. Collector, West Tripura, Agartala, filed their counter statement stating inter-alia that the referring claimants were in possession of landed properties at Mouja Dukli Sheet No.2/p, Khatian No.2142/5 under Plot No.5458/p for land measuring 0.005 acre of nal class of land was acquired by virtue of Notification bearing No.F.9(7)- REV/ACQ/XIV/2004 dated 12.02.2004 for construction of By Pass Road from Khayerpur to Amtali under Sadar Sub-Division in West Tripura District. They also stated that after due consideration of the relevant documents as well as mandatory provision of the L.A. Act, determined the market value of the acquired land at the highest side.

The Tribunal thereafter framed the following issues :-

ISSUE

- (1) *Is the award given by the L.A. Collector, West Tripura inadequate? If so, what should be the just amount of compensation and who is/are to pay the same?*
- (2) *To what other reliefs the parties are entitled?*

After considering all the materials and having considered the submission made by the counsel for the parties, the Learned Tribunal has observed as follows:

"In the result, the application of the referring claimants for enhancement of award is allowed. It is hereby directed that the referring claimants are entitled to get compensation @ Rs.8,00,000/- (Rupees Eight Lakh) per kani for the acquired land. The referring 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 till the date of award by the 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 referring 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 the date of payment upon said enhanced amount of compensation as per Section 28 of the Act. As per law laid down by the 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(1-A) above and upon the solatium awarded under Section 23(2) of the Act.

The referring 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 of compensation along with Opp. Party no.2."

Aggrieved thereby the impugned order dated 14.03.2022, the appellant has approached this court for seeking relief.

Today, at the very outset, when the matter is called out for consideration, it is represented by Mr. N. Majumder, learned counsel appearing for the appellant that the instant appeal is covered by the order dated 10.05.2023 delivered in LA.App 30 of 2022 wherein the subject land was acquired by the same notification and belongs to the same mouja-Dukli. Considering the same notification, mouja, and same class of land in both cases, this court is of the opinion that fixing Rs.3,00,000/- per kani in this present case appears to be reasonable. Accordingly, the same is fixed in this present case also.

Registry is directed to enclose a copy of the order dated 10.05.2023 delivered in LA.App No.30 of 2022 along with the present appeal.

With the above observation and direction, the present appeal is accordingly allowed to the extent indicated above. As a sequel, stay if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

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