

**HIGH COURT OF TRIPURA
AGARTALA**

L.A. APP. No.07/2022

The Deputy Chief Engineer (Construction), N.F. Railway, Badarghat Railway Complex, P.O.-Siddhi Ashram, P.S.-Amtali, Agartala, Tripura West.

..... Appellant(s)

V E R S U S

1. Sri Debabrata Debnath, S/O. Late Bhajahari Debnath, resident of Vill-South Charilam, P.O.-Charilam, P.S.-Bishramganj, District-Sepahijala, Tripura.

2. The Land Acquisition Collector, District-West Tripura, Agartala.

.....Respondent(s)

For Appellant(s) : Mr. A. De, Advocate.

For Respondent(s) : Mr. Sankar Bhattacharjee, Advocate.

HON'BLE THE CHIEF JUSTICE (ACTING)

Date of hearing and judgment : **13th April, 2023.**

JUDGMENT & ORDER (ORAL)

Heard Mr. A. De, learned counsel appearing for the appellant-N.F. Railway. Also heard Mr. Sankar Bhattacharjee, learned counsel appearing for the respondent No.1-claimant.

2. This appeal under section 54 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) is directed against the award dated 22-01-2020 passed by the learned Land Acquisition Judge, Sepahijala District,

Bishalgarh in case No. Misc.(L.A.) 37 of 2014 whereby he assessed the value of the land of the claimant at Rs.12,02,688/- per kani with all other consequential benefits.

3. Appellant has prayed for the following reliefs:

- "(i) Admit this appeal;
- (ii) Call for records of Misc. (L.A) 37 of 2014 from the Court of Ld. Land Acquisition Judge, Sepahijala District, Bishalgarh (Sri A. Debbarma);
- (iii) Issue notice upon the respondents;
- (iv) After hearing the parties, be pleased to allow this appeal by setting aside the judgment and award dated 22.01.2020 passed by the Ld. Land Acquisition Judge, Sepahijala District, Bishalgarh (Sri A. Debbarma), in connection with Misc. (L.A.) 37 of 2014;
- (v) Any other relief and relives as your Lordship deem fit and proper having regards to the facts and circumstances of the case."

4. The undisputed facts are that land measuring 0.47 acres appertaining to plot Nos.3611 and 3612 of Khatian No.2024 under Mouja-South Charilam of Bishalgarh Sub-Division of the claimant was acquired by the L.A. Collector vide Notification dated 15.10.2009 for the purpose of construction of "New Rail line" from Agartala to Sabroom and compensation of Rs.1,04,561/- per kani was awarded for the acquired land.

Being dissatisfied, the claimant filed claim statement being Misc. (L.A.) 37 of 2014 before the learned Land Acquisition Judge, Sepahijala District, Bishalgarh claiming compensation of Rs.60,00,000/- per kani for the acquired land and the learned L.A. Judge after recording evidence and hearing arguments was pleased to enhance the compensation from Rs.1,04,561/- per kani to Rs.12,02,688/- per kani vide award dated 22.01.2020. Aggrieved thereby, the appellant-N.F. Railway has preferred this appeal for setting aside the impugned award passed by the learned L.A. Judge. Hence, this case.

5. Mr. A. De, learned counsel appearing for the appellant-N.F. Railway, submits before this Court that the notification was issued in the year 2009 and the Court below has relied upon the sale deed bearing No.1-143 dated 21.02.2014 (Exhibit-2). The subject property in the sale deed of 2014 is a developed property and the property which is notified for acquisition is an agricultural land and the price would be much less. In this scenario, the sale deed No.1-261 dated 06.02.2009 (Exhibit-3) ought to have been considered.

This Court finds force in the argument of Mr. A. De, learned counsel for the appellant.

6. On the other hand, Mr. Sankar Bhattacharjee, learned counsel appearing for the respondent No.1-claimant, in all fairness, agrees to the said argument and contends that the Court below ought to have considered the sale deed of 2009.

7. In view of the above, both the counsels together have given a calculation sheet which is agreed by both sides and the same is as under:

"CALCULATION SHEET"

As per judgment dated 22/01/2020 passed in Misc. (LA) 37/2014.

A) Date of notification -15/10/2009

As per Exhibit-2 deed no.1-143 of 2014 dated 21/02/2014 rate of the land @ Rate of Rs.60,13,440/- per kani-80%
=Rs.12,02,688/-

Quantum of land acquired is 0.47 acres

Compensation comes to Rs.14,13,158.4/-

(0.40 acres-Rs.12,02,688/-

+ 0.07 acres-Rs.2,10,470/-)

Total-Rs.14,13,158.4/-

B) As per Exhibit-3 deed no.1-261 of 2009 dated 06/02/2009 rate of the land is @ rate of Rs.11,66,667/- Per Kani

Quantum of land acquired is 0.47 acres

Compensation comes to Rs.13,70,832/-

(0.40 acres-Rs.11,66,667/-

+ 0.07 acres-Rs.2,04,166/-)

Total-Rs.13,70,832/-

(This amount is without deduction since after about 8 months notification was issued)

The difference between A & B comes to

$$\begin{array}{r} \text{Rs.14,13,158/-} \\ - \text{Rs.13,70,832/-} \\ \hline \text{Rs. 42,326/-"} \end{array}$$

8. Accordingly, the appeal is partly allowed. The award passed by the learned Court below is modified and amount of compensation of **Rs.11,66,667/-** per kani for the acquired land is awarded to the claimant. The respondent-claimant is at liberty to withdraw the amount deposited unconditionally and if there is any excess amount as per the calculation sheet, the appellant-N.F. Railway is at liberty to withdraw the remaining amount as per procedure.

9. The appeal is disposed of in view of above terms.

Stay order, if any, stands vacated.

Send down the lower court records forthwith.

Pending application(s), if any, also stands disposed of.

CHIEF JUSTICE (ACTING)