

**HIGH COURT OF TRIPURA
AGARTALA**

LA.App 33 of 2023

The Deputy Chief Engineer (Construction-1) N.F. Railway

---Appellant(s)

Versus

Smt. Pushpa Sarkar and 4 Ors.

---Respondent(s)

For Appellant(s)	: Mr. B. Majumder, Deputy SGI
For Respondent(s)	: Mr. D. Debnath, Advocate. Mr. Dipak Deb, Advocate.

CO(FA) 9 of 2023

Smt. Pushpa Sarkar and 2 Ors.

---Appellant(s)

Versus

The Deputy Chief Engineer Con-1 and 2 Ors.

---Respondent(s)

For Appellant(s)	: Mr. D. Debnath, Advocate. Mr. Dipak Deb, Advocate.
For Respondent(s)	: None.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

20.09.2023

Heard counsel for the parties.

[2] This is an appeal under Section 74 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 against the judgment and award dated 14.07.2022 passed in LA.Case No.33 of 2017 by the Land Acquisition, Rehabilitation and Resettlement Authority, Tripura. The relief sought by the appellant are as follows:

- (i) Admit the appeal filed by the appellant.
- (ii) Call for records of L.A. case no.33 of 2017 from the court of the Land Acquisition, Rehabilitation and Resettlement Authority, Tripura;

- (iii) *Issue note upon the respondents;*
- (iv) *After hearing both the parties kindly set aside the impugned judgment and award dated 14.07.2023 passed in L.A case No.33 of 2017 by the Land Acquisition, Rehabilitation and Resettlement Authority, Tripura;*
- (v) *Pass such other order/orders and/or direction/directions as deem fit and proper having regard to the facts and circumstances of the case*

[3] It is the case of the appellant that the Government acquired the land of the claimant measuring 0.020 acre Classified as "Bastu(Tilla) appertaining to plot No.5515/p, khatian No.4208 situated at Charipara Mauza, Sheet No.1 and 2/P along with some others land for the purpose of construction of Agartala -Akhowrah new Rail Line Project (Indian Project) under Sadar Sub-Division of West Tripura vide Notification no.9(5)/REV/ACQ/VI/16 dated 28.01.2017 published in Dainik Sambar on 07.02.2017 and in Daily Desher Katha on 08.02.2017 under Section 11 of the RFCTLARR Act, 2013. The Land Acquisition Collector, West Tripura after hearing the parties determined the value of the acquired land @ Rs.4,50,000/- per kani (0.04 acre) and applied the multiplying factor 1.5 to determine the value of the acquired land as provided in section 26 RFCTARR Act, 2013 and awarded total compensation to the claimant Rs.69,985/- including the benefits under the RFCTLARR Act, 2013.

[4] Being aggrieved by the amount of compensation awarded by the LA Collector, the claimants sought for reference. Accordingly, the matter was referred to the Land Acquisition, Rehabilitation and Resettlement Authority, Tripura for determination of the appropriate compensation. Accordingly, both the parties appeared before the Land Acquisitions, Rehabilitation and Resettlement Authority, Tripura and submitted their respective Claim and Counter statement and also examined their respective witnesses in respect of their cases.

[5] On the pleadings of the parties, the Land Acquisition, Rehabilitation and Resettlement Authority has framed the following issues:

- (i) *Whether the value and compensation assessed by the LA Collector for the acquired property is justified?*
- (ii) *Whether the claimant is entitled for the enhanced compensation, as prayed for?*

[6] The learned Land Acquisition, Rehabilitation and Resettlement Authority, Tripura by its judgment dated 14.07.2022 enhanced the award passed by the LA Collector, West Tripura and the value of the land has been assessed @ Rs.16,00,000/- and further held in the following manner:

34. (i) The market value of the acquired land is determined @ Rs. 16,00,000/- per Kani (0.40 acre) instead of Rs.4,50,000/- per kani (0.40 acre) determined by the LA Collector. (ii) The market value of the acquired land as determined above is to be multiplied with factor '1.5' as per section 26 (c) and as contemplated in First schedule appended to Act 2013 to get the value of the land (iii) The referring claimant in addition to value of land is entitled to get compensation u/s. 29 of Act 2013 as determined by the LA Collector for the things attached to the acquired property viz; crops. (iv) The referring claimant as per section 69(3) of the Act 2013, in addition to the market value of the land is entitled 100% solatium over the total (value of the land + cost for damage for the things attached to the acquired property viz; crops) compensation amount. (v) The referring claimants as per section 69(2) of Act 2013, is entitled 12% p.a. on the market value from the date of publication of notification under section 11 to the date of award of the LA Collector or taking of the possession of acquired property, which-ever is earlier. (vi) The referring claimants u/s. 72 of Act 2013 is entitled for interest at the rate of 9% p.a. from the date on which the L.A. Collector took possession of acquired property to the date of payment of the excess amount into the Authority from 21.08.2017, for the first year and interest at the rate of 15% p.a for subsequent years, till deposit of entire amount. (vii) the amount already paid by the LA Collector shall be deducted in the excess compensation now awarded to the acquired property.

[7] Being aggrieved and dissatisfied with the judgment dated 14.07.2022 passed in LA. Case No.33 of 2017, by the Land

Acquisition, Rehabilitation and Resettlement Authority, Tripura, the appellant has preferred this appeal.

[8] It is represented by Mr.B. Majumder, learned Deputy SGI for the appellant that the Ld. Land Acquisition, Rehabilitation and Resettlement Authority, Tripura has granted an excess amount to the claimants without applying its judicious mind in determining the market value of the acquired land and arrived at a wrong conclusion which is liable to be set-aside.

[9] It is further contended by the counsel for the appellant that the lands acquired by the appellant are not same class of land and they are different from one another but they fall under the same vicinity. Further, he prayed to reduce the amount and confirm the compensation as awarded by the LA Collector.

[10] On the other hand, the claimants respondents, by way of filing a cross-objection has contended before this court that value determined by the LA Collector was lesser. But the value determined by the Ld. Land Acquisition, Rehabilitation and Resettlement Authority, Tripura is just and proper. Considering the modern facilities and the market value, the award of compensation could have been increased than what has been actually awarded by the order dated 14.07.2022.

[11] Admittedly, the appellant in the present appeal is OP No.1 in the court below who has not made any specific pleading before the court below on the point which has been agitated before this Court. It is also evident from the record that no document has been placed to support the contention of the appellant before the court below as well as before this Court. The appellant also seems not to have made any

pleadings regarding his contention as made in this appeal before the court below.

[12] It is not open for the appellant to advance the argument indicating that the LA Judge has committed an error without placing any documentary or oral evidence, more importantly any inspection report, appreciating the facts. Accordingly, this court has no hesitation to decline the appeal made by the appellant.

[13] In so far as the cross objection is concerned, the claimants have not made any submission with regard to enhancing the compensation amount. The only submission made by the claimants is that the actual market rate of the acquired land at the time of acquisition was much more. Thus, they sought for an enhancement of the amount. Such general submission of the claimants by way of filing the cross-objection is also declined by this Court.

[14] For the reasons stated above, both the appeal and the cross objection stand dismissed. The judgment and award dated 14.07.2022 passed in LA.Case No.33 of 2017 by the Land Acquisition, Rehabilitation and Resettlement Authority, Tripura stands confirmed. As a sequel, stay, if any, stands vacated. Pending application(s), if any also stands closed.

JUDGE

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