

**HIGH COURT OF TRIPURA
AGARTALA**

L.A. APP. No.13/2021

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. Smt. Usha Rani Debnath, W/O Late Jatindra Debnath,
 2. Smt. Suma Rani Debnath, D/O Late Jatindara Debnath,
 3. Smt. Uma Rani Debnath, D/O Late Jatindra Debnath, W/O Sri Shibu Debnath,
 4. Sri Janardhan Debnath, S/o Late Jatindra Debnath,
- All are resident of Vill- Gautam Nagar, P.O. Bishargarh, P.S. Bishalgarh, District – Sepahijala, Tripura.
5. The Land Acquisition Collector, West Tripura, Agartala.

..... Respondent(s)

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

For Respondent(s) : Mr. Arijit Bhaumik, Advocate,
Mr. S. Dey, Advocate.

HON'BLE THE CHIEF JUSTICE (ACTING)

JUDGMENT & ORDER (ORAL)

Date of hearing and Judgment : 20.01.2023.

Heard Mr. Asutosh De, learned counsel appearing for the appellant and also heard Mr. A. Bhaumik, learned counsel appearing for the respondent Nos.1 to 4 as well as Mr. S. Dey, learned counsel appearing for the respondent No. 5.

[2] The present appeal has been filed by the appellant under Section 54 of the Land Acquisition Act, 1894 challenging the judgment dated 08.08.2019 passed by the learned Land Acquisition Judge, Court No.3, West Tripura, Agartala in Misc.(L.A) No.26 of 2014 wherein the learned Judge awarded an amount of Rs.35,00,000/- per kani to the claimants.

[3] Brief facts are as under :

The Government of Tripura has acquired the land in question belonging to the respondents. By a notification dated 23.06.2011 followed by a declaration, the said land was acquired for the purpose of construction of 'New Rail line' from Kumarghat to Agartala. The Land Acquisition Collector, West Tripura awarded an amount of Rs.10,00,000/- per kani for the acquired land including all statutory benefits. Dissatisfied with the award passed by the learned L.A. Collector, the claimants filed an objection and prayed for referring the case to the learned L.A. Judge for proper determination of compensation. The learned L.A. Judge after appreciating the documents on record, awarded an amount of Rs.35,00,000/- per kani along with other statutory benefits.

[4] The claimants appeared before the learned L.A. Judge and submitted their claim statement alleging that the area of acquisition had high potential value and there are several important establishments situated around the acquired land. The claimants contended that at the time of

acquisition, the market value of the land was Rs.50,00,00/- per kani which was not considered by the L.A. Collector. On the other hand, the opposite parties had contested the claim of the claimant and stated that the award made by the L.A. Collector was just, proper and adequate. The opposite parties had also stated that the acquired land of this notification is a Bastu (Tilla) class of land and no modern amenities are available over the acquired area.

[5] The learned L.A. Judge after appreciating the documents on record and after hearing the counsel for both sides, made a guesswork and enhanced the compensation from Rs.10,00,000/- per kani to Rs.35,00,000/- per kani to the claimants. The operative portion of the judgment is reproduced hereunder :

“In the result, the petition under Section 18 of the Land Acquisition Act, 1894 as referred by the L.A. Collector, West Tripura, Agartala is allowed on contest. The referring claimants namely, Smt. Usha Rani Debnath, Smt. Suma Rani Debnath, Smt. Uma Rani Debnath and Sri Janardhan Debnath are entitled to get compensation for the acquired land at the rate of Rs.35,00,000/- (Rupees thirty five lacs) per kani. The compensation shall be added with 30% solatium under Section 23(2) of the L.A. Act and 12% interest under Section 23(i)(A) of the L.A. Act from the date of notification under Section 4 of the said Act till the date of taking over the possession of the acquired land or the date of award whichever is earlier. The interest on the amount of compensation and solatium shall be at the rate of 9% per annum over the enhanced amount given for land from the date of taking over the possession, till one year and @ rate of 15% per annum from the date of expiry of 1(one) year till the date of payment of the enhanced amount of compensation. The amount so paid earlier as compensation under Section 11 of the L.A. Act shall be adjusted with the amount awarded by way of enhancement.”

[6] Being aggrieved and dissatisfied with the award passed by the learned L.A Judge, the appellant has filed this instant appeal seeking the following reliefs :

- “(i) Admit the appeal;
- (ii) Call for the records of Misc.(LA) 26 of 2014 from the Court of Ld. Land Acquisition Judge, Court No.3, West Tripura, Agartala (Sri A. Pandey);
- (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 08/08/2019 passed by the learned Land Acquisition Judge, Court No.3, West Tripura, Agartala (Sri A. Pandey) in connection with Misc. (L.A) 26 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.”

[7] Mr. Ashutosh De, learned counsel appearing for the appellant submits that the learned L.A Judge committed an error in determining the market value of the acquired land. He further submits that the learned L.A. Judge did not assign any reason in deciding the quantum of compensation for the acquired land and passed a whimsical judgment which is liable to be set aside. He further contends that the claimant at the time of adducing evidence, submitted some exemplar deeds for showing the present market value of the land but the deeds submitted by the claimants are far away from the acquired land. Accordingly, he prays for setting aside of the award dated 08/08/2019 passed by the Ld. Land Acquisition Judge, Court No.3, West Tripura, Agartala in Misc. (L.A) 26 of 2014.

[8] Mr. Arijit Bhaumik, learned counsel appearing for the respondent in rebuttal of the submission made by the learned counsel for the appellant contends that the award passed by the Ld. L.A. Judge is justified and further submits that on behalf of the claimants, two sale deeds 1-30 dated 05.1.2011 and 1-1239 dated 27.07.2011 were submitted which show that in the selfsame mouja & tehashil the value of land was Rs.32,00,000/- and Rs.24,60,000/- per kani respectively and further contends that for Tilla class of land it was awarded @ Rs.32,00,000/- per kani but the acquired land is viti and the same should be higher value. He further contends that the learned Judge in determining the compensation made some guesswork because sometime in the sale deed the value is shown less and the learned L.A. Judge after applying the guesswork has correctly come to the conclusion and awarded compensation in favour of the claimants which calls for no interference. Subsequently, he prays for dismissal of the appeal filed by the appellant.

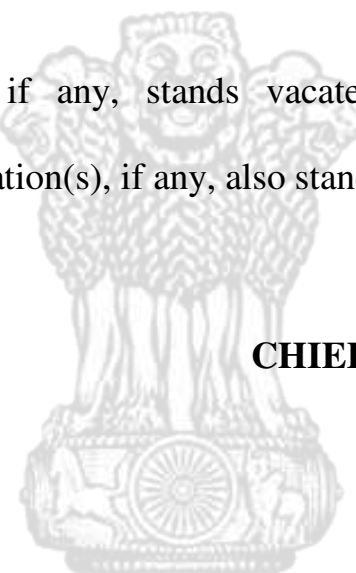
[9] After hearing the learned counsel for the appellant, this Court is of the considered view that the learned L.A Judge has not assigned any reason in determining the compensation. This Court also finds as to how the learned L.A. Judge on the basis of mere presumption and guesswork determined of compensation from Rs.10,00,000/- to Rs.35,00,000/- is not properly explained which cannot be appreciated. The compensation awarded by the L.A Judge is not reasonable as the learned L.A. Judge ought to have more vigilant in

applying the guesswork and ought to have given some reason in awarding compensation in favour of the claimants.

[10] In view of the same, a reasoned order needs to be passed by the trial Court. Accordingly, the Judgment and award dated 08.08.2019 passed by the learned Land Acquisition Judge, Court No.3, West Tripura, Agartala in Misc.(L.A) No.26 of 2014 is set aside and the matter is remanded back to the learned Land Acquisition Judge, Court No.3, West Tripura, Agartala to decide the matter afresh as expeditiously as possible.

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

CHIEF JUSTICE (ACTING)



सत्यमेव जयते

Dipesh