

**HIGH COURT OF TRIPURA
AGARTALA**

LA App. 23 of 2022

The Land Acquisition Collector and another

..... Appellant(s)

Versus

Sri Khitendra Debnath

..... Respondent(s)

For Appellant(s)	:	Mr. D. Bhattacharya, G.A. Mr. D. Sarkar, Advocate
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For Respondent(s)	:	Mr. Alik Das, Advocate.
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Date of hearing and delivery of judgment and order	:	01.08.2023.
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Whether fit for reporting	:	Yes/No
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HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

This is an appeal filed under Section 54 of the Land Acquisition Act, 1894 against the judgment and award dated 16.3.2019 in connection with case No. Civil Misc. (L.A.) 04 of 2014 passed by the learned Land Acquisition Judge, North Tripura, Dharmanagar wherein the learned Judge awarded an amount of Rs.32,00,000/- only per kani alongwith other statutory benefits.

[2] The brief facts of the case as submitted by the appellants in the instant appeal are as under:

The Land Acquisition Officer of the North Tripura District, Dharmanagar by issuing Notification No.F.9(1)-REV/ACQ/2011 dated 07.09.2011 and declaration No.F.9(1)-REV/ACQ/I/2011 dated 17.10.2011 under the Land Acquisition Act, 1894 acquired land measuring 0.41 acres pertaining to RS Plot No.2204p, 2205p, 2150p, 1739/6791, 1780p under Khatian No.1462 from the referring claimant for construction of approach to a proposed bridge over river Juri on Tilthai- Anandabazar road. Possession of the land was taken and award was passed @ Rs.10,50,000/- per kani for the Nal and Bastu class of the acquired land of the claimant. Thereafter, an amount of Rs.14,77,975/- in all has been paid to the referring claimant including the price of the land along with

additional amount @ 12% per annum on the market value assessed by the LA Collector for the period commencing on and from the date of notification under Section 4(1) of the Act to the date of taking over of possession of the land and solatium @ 30% on such market value in consideration of the compulsory nature of acquisition.

Against the aforesaid award, the referring-claimant filed an application to the L.A. Collector, North Tripura, Kailashahar for reference under Section 18 of the LA Act for enhancement of compensation and the same was transferred to the Court of the LA Judge.

Learned LA Judge, after observing the facts, has ordered as under:

ORDER

[15] Now, therefore, the reference is allowed. The referring claimant is entitled to get compensation @ **Rs.32,00,000/- (Rupees thirty two lakh) only per kani** for the acquired land. In addition, the referring claimant is also entitled to get 30% Solatium, and 12% further enhanced amount of compensation upon the said 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 which ever is earlier, upon the excess amount of land value as per section 23(2) and section 23(1-A) of the Act respectively. The claimant 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 General Manager, Oil and Natural Gas Corporation Ltd. v. Rameshbhai Jivanbhai Patel & Anr., 2008 AIR SCW 5947**, the interest will also be counted on additional amount as awarded under section 23(1A) above and upon the solatium awarded upon section 23(2) of the Act. The claimant will also get Rs.1000/- as cost under section 27 of the Act. The referring claimant is also entitled another Rs.3,00,000/- for loss of his removable of Mill, house and business establishment from the acquired land. The Opposite Party No.1 is liable to make the payment to the referring claimant.

Being aggrieved and dissatisfied with the judgment and award passed by the learned L.A. Judge, the appellant preferred this appeal before this Court.

[3] According to the appellant, learned L.A. Judge has failed to appreciate the evidences led by the present appellant and also failed to determine the

present market value of the acquired land. As a result, the claimant is awarded with highest compensation on the basis of sympathetic grounds.

[4] Being aggrieved, the appellant has approached this Court for the following reliefs:

- (i) Admit this appeal;
- (ii) Call for the relevant records;
- (iii) Issue notice upon the respondent;

[5] Heard Mr. D. Bhattacharya, learned G.A. representing the State as well as Mr. D. Sarkar, learned counsel appearing for the appellant- LA Collector. Also heard Mr. Alik Das, learned counsel representing the claimant-respondent.

[6] It is an admitted fact that an amount of Rs.41,06,486/- which is 50% of the awarded amount has already been withdrawn by the claimant-respondent in pursuance to the order dated 01.02.2023 passed in the interlocutory application being IA 02 of 2023 arising out of the instant appeal.

[7] Having heard the arguments raised by the parties and on perusal of record, this Court is of the view that the order passed by the LA Judge is unreasoned and hence the same may be remitted back with a direction to the Court below that the matter should be decided on the strength of evidence and the same needs to be appreciated with proper reasoning. This exercise shall be completed as expeditiously as possible preferably within a period of 3 (three) months. While deciding the matter, learned LA Judge would also keep in mind with regard to the amount which has already been received/withdrawn by the claimant-respondent.

With the above directions, the appeal is remitted back and accordingly disposed of.

As a sequel, stay, if any, stands vacated. Pending application(s), if any, shall also stand closed.

JUDGE

Sabyasachi G.

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