

HIGH COURT OF TRIPURA

A_G_A_R_T_A_L_A

L.A. App. No.12 of 2022

1. Sri Babul Debnath, son of late Aswini Kumar Debnath of East Champamura, presently Aralia, P.S. East Agartala, West Tripura, Agartala.

.....Appellant

-VERSUS-

1. The Managing Director, Tripura Industrial Development Corporation, Industry Building, 3rd Floor, Gurkhabasti, Agartala, West Tripura.
2. The Land Acquisition Collector, West Tripura, Agartala.

.....Respondents.

B_E_F_O_R_E

HON'BLE THE CHIEF JUSTICE [ACTING]

For Appellant(s)	:	Mr. S. M. Chakraborty, Sr. Advocate. Mr. U. K. Majumder, Advocate.
For Respondent(s)	:	Mr. B. N. Majumder, Sr. Advocate. Mr. T. Chakraborty, Advocate. Mr. P. Debbarman, Advocate.
Date of hearing and delivery of judgment and order	:	24.03.2023
Whether fit for reporting	:	YES/NO

JUDGMENT & ORDER [ORAL]

Heard Mr. S. M. Chakraborty, learned senior counsel assisted by Mr. U. K. Majumder, learned counsel appearing for the appellant. Also heard Mr. B. N. Majumder, learned senior counsel assisted by Mr. T. Chakraborty, learned counsel and Mr. P. Debbarma, learned counsel appearing for the respondents.

[2] This appeal has been filed under Section-54 of the L.A. Act, 1894 for enhancement of the amount of compensation against the judgment and award dated 08.02.2022 passed by the learned Land Acquisition Judge, Court No.4, West Tripura, Agartala in Misc. (LA) 32 of 2016.

[3] The brief facts leading to the case of the appellant are that the appellant was the owner of the acquired land and rubber plantation thereon and government acquired the same for development of Industrial Growth Centre at Bhanaspati Project and awarded the same and the appellant-petitioners accepted the said award with objection and the learned L.A. Collector refer the matter to the learned L.A. Judge for proper determination of the rate of acquired land as well as value of rubber trees and after hearing, the learned L.A. Judge passed the award and enhanced the rate of land value from Rs.2,00,000/- to Rs.5,00,000/- per kani but the learned L.A. Judge failed to assess the rate of per rubber trees for which the appellant filed this appeal before this Court for enhancement of value of the rubber trees from Rs.3,000/- to Rs.10,000/- per rubber tree.

[4] The learned Court below, after hearing the parties and gone through the material evidence on record has observed as under:

“14.In the result, the claim of referring claimant stands awarded in the following terms:

The referring claimant namely, Sri Babul Debnath is entitled to get Rs.5,00,000/- per kani only for the acquired land. In addition the referring claimant shall also get an amount of Rs.12,59,636/- for the standing rubber trees on the acquired land. He will also get 30% solatium and 12% interest on enhanced amount of compensation upon the said enhanced land value and damage cost of trees computing from the date of notification u/s 4 of the L.A. Act upto the date of award by L.A. Collector or the date of taking possession of acquired land whichever is earlier as per Section-23(2) and Section-23(1-A) of the said 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 payment upon the said excess amount of compensation as per Section-28 of L.A. Act. As per law laid down by Hon'ble Supreme Court in Meharwal Khewaji Trust vs. State of Pubjab reported in 2012 AIR SCW 2822, the interest will also be counted on additional amount as awarded u/s 23(1-A) above and upon the solatium awarded u/s 23(2) of the L.A. Act.”

[5] Mr. S. M. Chakraborty, learned senior counsel assisted by Mr. U. K. Majumder, learned counsel appearing for the appellant has submitted that the learned L.A. Judge has erred in law and facts in passing the impugned judgment and award. The value of per rubber tree standing in the acquired land

in question was not considered and the evidence led by the parties on record in passing the award.

[6] The learned L.A. Judge whimsically, arbitrarily and without considering the evidence on record and law enhanced the award with an amount of Rs.3,333/- per rubber tree instead of Rs.10,000/- per rubber trees or above rate by following exhibited documents and also failed to assess for earnings/annual income from per rubber tree plantation during tapping period. The appellant made claim at the rate of Rs.10,000/- for per rubber trees or above rate for per rubber tree standing in the acquired land by submitting judgment and other documents but without showing any cogent ground or recording any cogent reason, the learned L.A. Judge has fixed the amount of compensation by enhancing the amount from Rs.400/- to 3,333/- which is baseless and beyond evidence.

[7] He has further submitted that the learned L.A. Judge has failed to understand that Rs.3,333/- is annual income of per rubber trees as per government of Tripura Notification and Rs.7,143/- is annual income of per rubber trees as per Exhibit-6 Annexure-4(c) vide memorandum dated 05.10.2010 and every tree production period would be 24 years as per memorandum dated 05.10.2010. But, without showing any cogent ground or recording any cogent reason the learned L.A. Judge has fixed the amount of compensation by enhancing the amount from Rs.400/- to Rs.3,333/-.

[8] The appellant adduced documentary evidence and proved higher rate of value of rubber trees standing in the acquired land in question before the L.A. Judge but, in passing the impugned judgment and award, the contents and value of those documents have not been considered and therefore, the impugned judgment and award are required to be interfered with and enhanced the rate Rs.10,000/- per rubber trees or above rate as per memorandum of Exhibit-6 from Rs.3,333/-.

[9] In view of above discussions and observations made by the learned Court below, this Court is of the opinion that regarding enhancement of the amount of compensation for acquisition of land comprising with the plot

No.7810 under the same Mouja which is the subject matter of this case. As per sale instances an area of land measuring 0.04 acres comprising with plot No.7916 has been sold out with the consideration amount of Rs.50,000/- i.e. Rs.5,00,000/- per kani on execution of sale deed. Similarly, land measuring 0.06 acre under plot Nos.7925/8982 has been sold out for a consideration amount of Rs.75,000/- i.e. @ Rs.5,00,000/- per kani on execution of sale deed.

[10] Comparing the plots of sale instances as well as the plot number of the judgment referred above with the Ext.3 i.e. the trace map, it is found that the lands are nearer to each other. Similarly, those lands are also nearer to the plot numbers of this case. It reveals from the judgment and learned Court below that during cross of OPW-1 who deposed before the Court on behalf of the L.A. Collector, admitted that the L.A. Collector has awarded compensation for the acquired land @Rs.5,00,000/- per kani in respect to the plot numbers comprised in the deeds of sale instances.

[11] Thus, there is no doubt in holding that the referring claimant of this case is entitled to get compensation @ Rs.5,00,000/- only per kani for the acquired land along with other legally approved amounts. As per the claim statement the referring claimant prayed for enhanced compensation for the standing rubber trees available on the acquired land. In the claim statement the referring claimant claimed Rs.37,80,00,000/- for 450 numbers of standing rubber trees. From the claim statement it is also found that the L.A. Collector awarded Rs.1,60,000/- for damage of those rubber plants.

[12] From Exbt.8 i.e. the apportionment sheet of the amount of compensation issued by the L.A. Collector, it is found that Rs.1,60,000/- has been awarded for 400 numbers of rubber trees @Rs.400/- per tree. To prove the enhanced rate of compensation of the damaged rubber trees, the referring claimant exhibited a judgment (Ext.7) passed by the learned District Judge, West Tripura, Aagartala in Civil Misc.(PMP) 10 of 2014 in which compensation has been awarded to the claimant for damaged rubber trees @ Rs.10,000/- per tree.

[13] In *Raja Niranjana Singh v. State of U.P.*, reported in (1979) 3 SCC 758, the Hon'ble Apex Court held that when the value of the acquired land is to be determined, the standing trees therein cannot be considered and assessed as separate unit rather same is required to be taken into consideration as a single unit along with valuation of the land. Thus, to assess the compensation for the rubber plantation available on the acquired land it cannot be assessed on the basis of capitalization or yielding method. So, the notifications and documents as well as the judgment of the case decided by the learned District Judge, as referred above submitted to show the value of rubber trees could be taken into consideration if those were not assessed based on the capitalization or yielding method.

[14] After overall analysis and going through the evidence on record and hearing of the arguments put forwarded by the learned counsel appearing for the parties, this Court is of the considered opinion that the learned Court below has decided the matter and calculated the amount of compensation/award as per the principle laid down by the Apex Court as aforementioned and on the basis of the relevant documents. Since, it is already considered and the award has been passed, it is not a case for passing any further order. Accordingly, the findings as arrived at by the learned Court below are just and proper and do not require any interference and thus, affirmed. Consequently, the appeal preferred by the appellant stands dismissed.

[15] In view of above, the appeal stands dismissed. The judgment and award passed by the Court below stands affirmed. Draw the decree accordingly and thereafter, send down the LCRs forthwith. As a sequel, miscellaneous applications pending, if any, shall stand closed.

CHIEF JUSTICE [ACTING]