

**HIGH COURT OF TRIPURA
AGARTALA
L.A.APP.No.15 of 2022**

The Deputy Chief Engineer(Construction), N.F. Railway

.....Appellant(s)

Versus

Sri Sanjay Saha and 4 Others

.....Respondent(s)

For Appellant(s)	:	Mr. A. De, Adv.
For Respondent(s)	:	Mr. P.K. Biswas, Sr. Adv.
Date of hearing		
and Judgment & Order	:	18.01.2023

HON'BLE THE CHIEF JUSTICE (ACTING)

Judgment & Order(Oral)

Heard Mr. A. De, learned counsel appearing for the appellant as well as Mr. P.K. Biswas, learned senior counsel appearing for the respondents.

2. This is an appeal under Section 54 of the Land Acquisition Act, 1894 against the judgment and award dated 08.10.2021 in connection with Misc.(L.A.)No.236 of 2016 passed by the Land Acquisition Judge, Sepahijala District, Bishalgarh wherein the learned Judge awarded an amount of Rs.35,00,000/- only per kani along with other statutory benefits.

3. The brief fact of the case is that the Government of Tripura has acquired the land in question belonging to the respondents. By a notification dated 28.06.2011 under Section 4 of the L.A. Act, 1894 followed by a declaration under Section 6, the land was acquired for purpose of construction for New Railway line from Agartala Sabroom. The acquired land fallen under

plot No.5260, 5302, 5303, 5304 of Khatian No.1971, land measuring 0.46 acres, classified as Nal, Bastu, Doba of Mouja-Bishalgarh, Sheet No.5/P, under Tehashil-Bishalgarh, Sub-Division-Bishalgarh, Sepahijala, Tripura. The L.A. Collector, West Tripura, Agartala awarded a sum of Rs.14,00,000/- only per kani for the acquired land along with all statutory benefits.

4. Being aggrieved and dissatisfied with the award, the claimant filed an objection and prayed for referring the case to the L.A. Judge for proper determination of compensation. The L.A. Collector subsequently referred the case to the L.A. Judge accordingly. The L.A. Judge served a notice upon both the parties and the respective parties appeared by submitting their claim statement and counter claim statement. After hearing both the parties on the basis of documents and statement of facts, the L.A. Judge awarded a sum of Rs.35,00,000/- only per kani along with other statutory benefits.

5. The following issues were framed by the L.A. Judge :

- “(1) Whether the instant proceeding is maintainable from the eye of law ?**
- (2) Whether the award passed by the LA Collector is just, proper and reasonable ?**
- (3) Whether the referring claimant is entitled to get any enhanced amount of award and if so, up to what extent ?”**

6. The court below has arrived to a finding in Issue No. 1 that the L.A. Collector, West Tripura after acquisition of the land of the referring claimant as mentioned above awarded him an amount of Rs.19,25,403/- as apportioned compensation received by the referring claimant expressed his dissatisfaction and the L.A. Collector in terms of Section 18 of the L.A. Act referred the matter before the L.A. Judge for determination of proper compensation of the acquired land. The acquired land appertains to khatian

No.1971 comprising of plot No.5260, 5302, 5303, 5304 under Bishalgarh Sub-Division. So this court has local jurisdiction over the acquired land.

7. The court below has taken the two issues together as both are inter related for discussion. It is stated the land measuring 0.46 acres, nal class(0.08) bastu nal of 0.26 acres, 0.03 acres of Doba, 0.09 acres of nal class appertaining to khatian No.1971 in plot No. 5260, 5302, 5303, 5304 was acquired by the OP No.1 in the court below for construction of railway lines.

8. In the pleadings as well as in the evidence the referring claimant in the court below stated that the acquired land is situated within the Bishalgarh Municipal area abutting to Bishalgarh-Boxanagar road and falls completely within the commercial zone. The national high way Municipal Office, Sub-Divisional Hospital, Bishalgarh SB School, Bishalgarh PS everything falls within an ambit of ½ km from the acquired land and hence, the value of the land is much more than the awarded amount and it useful for commercial and residential purpose as it is situated just near the main government road. At the time of acquisition within 200/300 meters from the acquired land there were several shops, establishment, bike showroom, bike servicing center, other renowned schools, hotels, shops, motor stand etc. are situated. It has been further stated that the claimants in the court below have made a claim of compensation of Rs.60 lakhs per kani before the L.A. Collector, West Tripura but the L.A. Collector had failed to determine the just and proper market value of the acquired land and hence, the claimant petitioner in the court below prayed for proper determination of the market value of the acquired land with

other incidental income benefits which would required to be fixed at Rs.3,00,000/- along with other incidental benefits.

9. The counsel appearing for the referring claimants in the court below has submitted that the L.A. Collector had awarded far below the prevailing market value in 2011 which must have been more than the market value of land in Exhibited sale deed which was of the year 2009. So learned counsel has argued that since the sale instance have fetched value @ Rs.40,00,000/- per kani in 2009, the market value in 2011 at the time of acquisition must be far more than Rs.40,00,000/- per kani.

10. The L.A. Collector has made an average award amounting to Rs.62,50,000/- per acre for the whole land of plot No. 5260, 5302, 5303, 5304 different classes of land. But bastu, nal class of land cannot fetch equal value to that of pond class of land. The bastu class of land should have higher value. The court below has compared to the quantity of sale instance. The acquired land is more than 11 times than the sale instance. The land in sale instance was a doba class of land. According to the court below since the acquired land is vast in comparison to the sale instance, there should not be further addition of value, rather the fair market value for the acquired land should be a little less than the value of the sale instance.

11. The court below has justified with various references and scrutinized the copy of apportionment of award passed by the L.A. Collector and arrived to a finding that the referring claimant Sanjay Saha who was apportioned an amount of Rs.19,25,403/- for land measuring 0.2266 acres of land only and in respect of rest portions of land out of the total 0.46 acres of

acquired land there were two other appointed Attorneys namely Bapi Saha and Naresh Chandra Saha for whom there were separate apportionment of award amount but they have not joined in the instant reference for enhancement of the award of compensation made by the L.A. Collector. Therefore, according to the court below though the total land acquired might be 0.46 acres of land, but the instant reference covers only 0.2266 acres of land.

12. The referring claimants in the court below have not proved by any documentary evidence that any other kind of loss or damages sustained due to the acquisition of land. Therefore, the referring claimants are not entitled to get any other award except the enhancement in terms of the market value of the land for the acquisition of 0.2266 acres of land. The court below has allowed the reference of the referring claimants for enhancement of the award and declared that the referring claimants are entitled to get enhanced compensation @ Rs.35,00,000/- only per kani of Rs.87.5 lacs per acre for the acquired land. The referring claimants will also get 12% as additional amount of compensation upon the said market value of the land as enhanced computing from the date of notification under Section 4(1) of the L.A. Act, 1894 dated 28.06.2011 till the date of taking possession of land as per Section 23(1)(A) of the Act. In addition thereto, 30% solatium on such enhanced market value for the land is also awarded to the claimant in view of the compulsory nature of the acquisition under Section 23(2) of the said Act. the referring claimant will further get interest at 9% per annum from the date of taking over possession till one year and thereafter 15% per annum after expiry

of one year till the date of payment upon the enhanced amount as per Section 28 of the said Act.

13. Mr. A. De, learned counsel appearing for the appellant has submitted that the court below has committed an error in determining the market value of the acquired land. He has further submitted that the court below has not assigned any reasons for determining the quantum of compensation for the acquired land. He has submitted that the acquired land in question is situated far away from the road and abandoned class of land but the court below without considering anything passed a whimsical order.

14. Mr. De, learned counsel has further submitted that the claimant petitioners on the time of adducing evidence some exemplar deed has been submitted for showing the present market value of the land. But the deed submitted by the claimant petitioners is far away from the acquired land. Moreover, he has submitted that the deeds submitted by the claimant petitioners are on the road side and no way connected with the acquired land. So according to him, considering the said deed is of no basis and liable to be set aside.

15. Having heard both sides and on scrutinized the records this court is of the considered opinion that argument as advanced by the counsel for the appellant has no valid ground to consider his case and accordingly, the present appeal stands dismissed. The judgment and award passed by the court below dated 08.10.2021 stands affirmed.

CHIEF JUSTICE(ACTING)