

**HIGH COURT OF TRIPURA**

**A\_G\_A\_R\_T\_A\_L\_A\_**

**LA APP No.18 of 2021**

Smt. Alpana Dutta wife of Sri Chinmoy Dutta resident of Milanchakra,  
A.D. Nagar, P.S. West Agartala, District- West Tripura.

..... Claimant-Appellant(s)

**V E R S U S**

1. The Chief Engineer, Public Works Department (R&B), New Secretariat Complex, P.O. Kunjaban, P.S. New Capital Complex, District- West Tripura.

2. The Executive Engineer, PWD Division No. IV, PWD, Gokulnagar, Bishalgarh, Sepahijala, Tripura, Pin-799102.

3. The Land Acquisition Collector, office of the D M & Collector, West Tripura, Agartala, Tripura

.....Respondent(s)

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For Appellant(s) : Mr. K.K. Pal, Advocate.

For Respondent(s) : Mr. P. Gautam, Advocate.

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**HON'BLE THE CHIEF JUSTICE (ACTING)**

Date of hearing and Judgment : 11<sup>th</sup> January, 2023.

**JUDGMENT & ORDER(ORAL)**

Heard Mr. K.K. Pal, learned counsel appearing for the appellant and also heard Mr. P. Gautam, learned counsel appearing for the learned L.A. Collector.

[2] The present appeal has been filed by the appellant under Section 54 of the Land Acquisition Act, 1984 challenging the judgment dated 02.03.2020 passed by the learned Land Acquisition Judge, Court No.2, West Tripura, Agartala in Misc(L.A) 365 of 2016.

[3] Brief facts are as under :

For the purpose of construction and upgradation of link road from NH 44 (Amtali PS to Dr. BRAM hospital, Hapania acquisition notice was issued on 28.04.2007 & 25.06.2007. Land Acquisition Collector assessed the compensation of the acquired land @ Rs.5,30,000/- per kani. The claimant appellant raised objection against the inadequate compensation determined by the L.A. Collector and sought for reference under Section 18 of the Land Acquisition Act, 1894. Subsequently, the case was referred to the learned Land Acquisition Judge in Misc (LA) No.365 of 2016.

[4] The claimant appeared before the learned LA. Judge and submitted his claim statement inter alia alleging that the aforesaid land had high potentiality. The claimant further stated that the said land was acquired for upgradation of link road from NH-44. The acquired land had all the amenities like water supply, electricity, telephone facility etc. It was, however, alleged that the amount awarded by the learned L.A Collector is very less considering to the present market value of the land and further alleged that the present market value of the land was around 2.5 crore per kani which was not considered by the learned L.A. Collector.

[5] On the other hand the opposite party contested the claim of the claimant by filing counter statement contending that the acquired land is Tilla class of land and situated far from the main road and at the time of acquisition, the acquired land had no potential value as claimed by the referring claimant for enhancement of compensation. It was also added that there were no amenities of modern facilities like as electricity, water supply, telephone, hospital etc. and the learned L.A. Collector awarded the compensation based on the present market value of the land.

[6] The claimant relied on her oral evidence and proved one certified copy of registered sale deed No.1-3368 dated 04.07.2008. On the other hand, the respondents adduced oral evidence of one Debananda Debbarma proved the affidavit.

[7] The learned L.A. Judge after framing the issues observed that the awarded value of the acquired land and the reference shown by the claimant under [Exbt.2] to [Exbt.2(iv)] was not comparable with the acquired land due to non-production of any settlement map by the claimant and the exhibited sale deed was executed in 2008 after the notification of acquisition. After hearing learned counsel for the respective parties and after appreciating evidence on record, the learned L.A Judge enhanced the compensation @ Rs.21,00,000/- per kani. 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 claimant namely, Smt. Alpana Dutta is entitled to get compensation for the acquired land at the rate of Rs.21,00,000/- per kani. The compensation shall be added with 30% solatium under Section 23(2) of the LA 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 @ 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. Prepare the award accordingly. The case is disposed of on contest but without cost.”

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

- “(i) Admit the appeal;
- (ii) Call for the records;
- (iii) Issue notice upon the claimant-respondent;
- (iv) After hearing the parties, be pleased to allow this appeal enhancing the compensation for acquired land in terms of claims made under Section 18 of the Act of 1894;
- (v) Pass any other order/orders as your Lordship may deem fit and proper in the circumstances of the case.”

[9] Mr. K.K. Pal, learned counsel appearing for the claimant-appellant submits that the learned L.A Judge committed an error in determining the market value of the acquired land and misinterpreted the judgment of this Court passed in L.A. No.08 of 2019 and L.A No.09 of 2013. He further submits that findings given by the learned L.A Judge is

contradictory. Accordingly, he prays for enhancement of compensation by setting aside the judgment dated 02.03.2020 passed by the learned Land Acquisition Judge, Court No.2, West Tripura, Agartala in Misc(L.A) 365 of 2016.

[10] On the other hand, Mr. P. Gautam, learned counsel appearing for the learned L.A. Collector strongly opposed the appeal contending that the learned L.A. Collector relying on the present market value and the class of land determined the compensation. Subsequently, learned L.A Judge enhanced the compensation in favour of the claimant in appropriate manner based on the present market value of the land.

[11] After hearing the learned counsel for the respective parties, this Court is of the considered view that the learned L.A Judge, West Tripura has not appreciated the facts of the case and could have more vigilant while passing the award. Accordingly, the appeal is allowed and the judgment dated 02.03.2020 passed by the learned Land Acquisition Judge, Court No.2, West Tripura, Agartala in Misc(L.A) 365 of 2016 is set aside and the same is remanded back to the court below for deciding the matter afresh. The court below may decide the matter in its entirety.

[12] Accordingly, the present appeal is allowed and disposed of with the aforesaid terms. Send down the LCRs forthwith.

[13] Pending application(s), if any, also stands disposed of.

**CHIEF JUSTICE (ACTING)**

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HIGH COURT OF TRIPURA



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