

HIGH COURT OF TRIPURA
A_G_A_R_T_A_L_A
L.A. App. No.36 of 2022

1. Smti. Shibani Majumder, wife of Sri Samir Majumder of Anandapara, Sabroom, P.O. Sabroom, P.S. Sabroom, District: South Tripura, Pin-799145.

.....Claimant-petitioner-appellant

-V E R S U S-

1. The Deputy Chief Engineer (Construction-2), N.F. Railway, Agartala, West Tripura, Badharghat Railway Station, P.O. Siddhi Ashram, P.S. Amtali, District: West Tripura.
2. The Land Acquisition Collector, South Tripura, Belonia, P.O. Belonia, P.S. Belonia, District: South Tripura, Pin-799155.

.....Respondents.

B_E_F_O_R_E
HON'BLE MR. JUSTICE T. AMARNATH GOUD

For Appellant(s)	:	Mr. N. Majumder,, Advocate.
For Respondent(s)	:	Mr. B. Majumder, Deputy SGI.
Date of hearing and delivery of judgment and order	:	20.07.2023
Whether fit for reporting	:	YES/NO

JUDGMENT & ORDER [ORAL]

Heard Mr. N. Majumder, learned counsel appearing for the appellant also heard Mr. B. Majumder, learned Deputy SGI appearing for the respondents.

[2] The present appeal has been filed under Section-54 of the Land Acquisition Act, 1894 for enhancement of the award passed by the learned Land Acquisition Judge, South Tripura, Belonia in reference with the case No. L.A. (Ref.) 176 of 2019 passed on 15.02.2022 whereby the learned L.A. Judge has awarded a paltry compensation ignoring the evidence on record.

[3] In accordance with provision of the L.A. Act, the respondent No.2 i.e. the L.A. Collector acquired some land for the requiring department, N.F. Railway, i.e. the appellant No.1 for the purpose of construction of new railway line from Agartala to Sabroom at mouja Sabroom under Sabroom Sub-Division

vide notification dated 17.06.2013. Total land measuring 0.80 acres of land of the claimant-petitioner acquired by the government for the requiring department of Hal Plot No.512 under Khatian No.1348 classified as tilla class of land along with the standing rubber trees and other valuable trees on the land of the owner claimant petitioner, appellant herein claimed at the rate of 40,00,000/- per kani for the acquired land and also claimed the compensation for the trees damaged by the respondents for construction of New Railway line from Agartala to Sabroom at Mouja Sabroom.

[4] The learned L.A. Collector allowed compensation Rs.2,00,000/- per kani for till class of land and awarded Rs.5,97,625/- for the acquired land measuring 0.80 acre along with solatium and statutory interest and Rs.53,625/- for destruction cost of rubber trees @ of Rs.325/-. The learned L.A. Collector did not ascertain the proper market value of the acquired land and also not made proper assessment and their claim for enhancement of compensation at the time of hearing before him totally ignored.

[5] It is has been submitted that the Rubber Board by reference communication dated 28.03.2012 made out the guideline for computing for rubber trees just tapped trees after 6 years completed and stepping to 7 years for yielding the latex @ Rs.10,000/- per rubber trees and also @ Rs.15,000/- per rubber tree to be added for the benefit of furniture wood, fire wood etc. of rubber trees. During hearing under Section-11 of the L.A. Act, on behalf of the claimant produced registered sale deed No.1-443 dated 05.12.2011 of till class of land @ Rs.8,00,000/- per kani and another sale deed No.1-183 dated 08.04.2011 of nal class of land @ Rs.8,00,000/- per kani those deeds executed under un-revised valuation chart of the SDM Sabroom only to get the valid registration.

[6] To establish the claim, the claimant filed her examination in chief on affidavit and proved the documents, though the documents filed after the date of notification was not considered by the learned L.A. Judge. From the side of the opposite party, the L.A. Collector one Sri Susanta Bhattacharjee, Revenue Inspector attached to the office of the DM & Collector, South Tripura filed his examination-in-chief on affidavit and also cross examined but no document is proved.

[7] After hearing the learned counsel appearing for the parties and having gone through the material evidence on record, the learned Land Acquisition, Judge has observed as under:

“12. The claimant shall get compensation for the acquired Tilla class of land at the enhanced rate @ Rs.6,40,000/- (Rupees six lakh forty thousand) per kani. The claimant shall get compensation @ Rs.5,000/- per Rubber tree for 165 Nos. of 6 years old Rubber tree. The claimant is also entitled to all other admissible statutory benefits. The claimant will also get Rs.1000/- as cost under section 27 of the Act. The Opposite Parties are liable to make the payment.”

[8] Mr. N. Majumder, learned counsel appearing for the appellant has submitted that the learned L.A. Judge, South Tripura has committed gross error in awarding the compensation as referred to above to the claimant-appellant. The learned L.A. Judge ought to have passed the award by perusing the relevant documents as produced by the claimant-appellant which was exhibited in the Court. The rate of the land ought to have considered @ Rs.40,00,000/- per kani for the acquire land and Rs.25,000/- for each rubber trees as destroyed. The learned L.A. Judge miserably failed to appreciate that the award passed by the L.A. Collector for the till class of land belonging to the appellant was too meager and low in comparison with the prevalent price of the said land.

[9] The learned L.A. Judge also committed serious error while calculating and determining the price of the rubber tree standing on the acquired land and thus fixed Rs.5,000/- per tree instead of Rs.25,000/- for each rubber tree for the life span of rubber trees considering all relevant factors associated with the rubber trees with the assessment of Rubber Board, the value of tree, the value of furniture wood and fire wood, timber etc. which are ignored by the learned L.A. Judge. It has been further submitted that the at the time of acquisition the adjacent land of the aforesaid mouja was at the rate of Rs.40,00,000/- per kani. Because of unrevised valuation chart the collected deeds of Doulbhari Mouja of Sabroom T.K. are not reflected the correct market value.

[10] The learned L.A. Judge ought to consider the aforesaid deeds considering the circumstances that the deed of 2012 just before the acquisition was according to unrevised valuation chart and in those deeds does not reflected the correct market value of the land. The learned Judge considering the difference of year for the reasons every year enhanced the value of the land, to that

calculation can deduct 10% per year from the aforesaid Rs.58,60,000/- per kani, thus, stands @ Rs.46,88,000/- per kani.

[11] In view of above discussion and observation, to come to a definite conclusion, let us discuss the issues once again. The appellant examined herself as PW-1 and for and on behalf of the L.A. Collector, Sri Susanta Bhattacharjee, Revenue Inspector, attached to the Office of the D.M. & Collector, South Tripura, Belonia examined himself as OPW-1. The appellant in this case relying on comparable sale method relied on sale deed vide No. I-357 of the year 2015, sale Deed No. I-310 of the year 2015, sale Deed No.I-66 of the year 2015 and sale Deed No. I-550 of the year 2014 registered with the Sub-Registrar, Sabroom.

[12] The Government of Tripura set up a land valuation assessment committee for the purpose of collecting revenue from the sale transaction which is in the lower side and cannot form the basis for determining the actual value of land. The L.A. Collector consulted 04 Nos. of sale instances. The land of Sl. No.1 was sold on 13.01.2012 @ Rs.2,26,000/- per kani and class of land is Tilla, the land of Sl. No.2 (Pukur, Pukurpar) was sold in the year 2012 @ Rs.6,00,000/- per kani, the land of Sl. No.3 was sold in the year 2012 @ Rs.1,00,000/- per kani and class of land is (Tilla, Bastu) and the land of Sl. No.4 was sold in the year 2011 @Rs.8,00,000/- per kani and class of land is Bastu (Tilla). But the sale deeds were not taken into consideration as according to the L.A. Collector no land of sale deed found to be considerable for fixing the actual land value. However, the L.A. Collector relied on the valuation chart regarding plot wise value of land as communicated by the SDM, Sabroom vide his No.4102, dated 30.10.2013 and awarded for the acquired land @ Rs.2,00,000/- per kani.

[13] The land of the claimant was acquired vide Notification dated 17.06.2013. The claimant-appellant has submitted sale Deed No. I-357 of the year 2015, sale Deed No. I-310 of the year 2015, sale Deed No.I-66 of the year 2015 and sale Deed No. I-550 of the year 2014, registered with the Sub-Registrar, Sabroom. So, these sale deeds submitted by the claimant cannot be taken into consideration as because the land of all the sale deeds was executed after acquisition of the land of the claimant. Thus, in absence of cogent evidence these sale deeds cannot be the basis for determination of market value.

[14] While determining the value of land, the L.A. Collector relied on the valuation chart regarding plot wise value of land as communicated by the SDM, Sabroom vide his No.4102, dated 30.10.2013 and awarded for the acquired land @ Rs.2,00,000/- per kani. Nothing was mentioned as to how they calculated the value of the acquired land. The petitioner in her examination-in-chief on affidavit has stated that the acquired land is situated adjacent to the NH-44 and Sabroom Nagar Panchayat and has got high commercial potentiality. The O.P. No.1 in his written objection has stated that the acquired land is situated approximately at Gram Panchayat /Nagar Panchayat area. However, the L.A. Collector awarded @Rs.2,00,000/- per kani for the acquired Tilla class of land and the award of the L.A. Collector is found to be based with no reasons.

[15] The Government of Tripura set up a land valuation assessment committee for the purpose of collecting revenue from the sale transaction which is in the lower side and cannot form the basis for determining the actual value of land. In case No. L.A. (Ref.) 151 of 2019 vide Declaration No. F.9(06)REV/ACQ/XIII/2012, dated 06.07.2013 under Mouja-Doulbari and T.K. Sabroom, Sabroom Sub-Division, the L.A. Collector awarded compensation for the acquired Tilla class of land @ Rs.2,00,000/- per kani and that land was also acquired for the same purpose and the award was given by this Court in that case at enhanced rate for the acquired Tilla class of land @ Rs.6,40,000/- per kani since the land of Deed No. I-443 submitted by the claimant in that case bears a value @ Rs.8,00,000/- per kani and it was the highest exemplar deed of that case in respect of Tilla land.

[16] According to this court, after deducting 20% thereof as deduction then rate was reduced to Rs. 6,40,000/- per kani which was thus taken to be the value of the acquired Tilla class of land at the time of acquisition (Relying the decision in Chandrashekar (D) by LR. and Ors. v. Land Acquisition Officer, Gulbarga & Anr., 2012 AIR SCW 73). As such, I find no reason why the same valuation should not be given to the claimant-petitioner in this case also. Accordingly, the value of the acquired land of this case for Plot No.512 is raised to Rs.6,40,000/- (Rupees six lakhs forty thousand) per kani.

[17] In view of overall reasons given by the learned L.A. Judge and having gone through the evidence on record and the arguments put forwarded by

the learned counsel appearing for the parties, this Court is of the considered opinion that the learned Judge has decided the matter and calculated the amount in a just and proper manner 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 L.A. Judge are just and proper and do not require any interference and thus, affirmed.

[18] Accordingly, the appeal preferred by the appellant, stands dismissed. Consequently, the judgment and award passed by the learned L.A. Judge stands affirmed. Draw the decree accordingly and thereafter, send down the LCRs forthwith. As a sequel, miscellaneous applications pending, if any, shall stand closed.

A.Ghash

ANJAN
GHOSH

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JUDGE