

HIGH COURT OF TRIPURA

_A_G_A_R_T_A_L_A_

LA APP No.54 of 2021

The Deputy Chief Engineer (Construction), N.F. Railway, Badharghat Railway Complex, P.O. Siddhi Ashram, P.S. Amtali, Agartala, Tripura, West.

.....Appellant(s)

V E R S U S

1. Sri Nepal Bhowmik, son of late Krishna Gobinda Bhowmik, resident of village- Madhya Brajapur. P.O. Brajapur, P.S. Bishalgarh, District- Sepahijala.

2. The Land Acquisition Collector, District- Sepahijala, Bishramganj Tripura.

.....Respondent(s)

For Appellant(s) : Mr. Ashutosh De, Advocate.

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

HON'BLE THE CHIEF JUSTICE (ACTING)

Date of hearing and Judgment : 9th January, 2023.

JUDGMENT & ORDER(ORAL)

Heard Mr. Ashutosh De, 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 challenging the award dated 16.01.2020 passed by the learned Land Acquisition Judge, Sepahijala District, Bishalgarh in Misc(L.A) 90 of 2014 wherein the learned Judge awarded an amount of Rs.14,03,568/- per kani to the claimant.

[3] Brief facts are as under :

The Government of Tripura had acquired the land belonging to the respondents. By a notification dated 23.06.2011 followed by a declaration the said land was acquired for the purpose of construction of 'New Rail Line' from Agartala to Sabroom. The acquired land had fallen under Plot No.438 of Khatian No.3126 of land measuring 0.13 acres. The Land Acquisition Collector, West Tripura awarded an amount of Rs.1,32,584/- for the acquired land including all statutory benefits. Dissatisfied with the award passed by the learned L.A. Judge, the claimant filed an objection and prayed for referring the case to the learned L.A. Judge for proper determination of compensation. The learned L.A. Judge after appreciating the documents on record, awarded an amount of Rs.14,03,568/- per kani to the claimant. Hence, this appeal.

[4] The claimant appeared before the learned LA. Judge and submitted his claim statement alleging that the aforesaid land was used for agricultural purpose and due to acquisition, she suffered huge loss and the State Government did not compensate her adequately. The claimant claimed compensation at the rate of Rs.40,00,000/- per kani for the aforesaid acquisition. In order to substantiate her claim, he adduced sale deeds bearing No.1-1645 dated 22.09.2010 and bearing No.1-389 dated

08.03.2010. He further stated that the area of acquisition had high potential value.

[5] On the other hand the opposite party contested the claim of the claimant and did not dispute the fact that the aforesaid land was acquired for the purpose of construction of railway line. However, they denied and disputed the fact that the compensation to the claimant was less. It was contended that the claimant was duly compensated as per the market value of land and was not entitled to get any further compensation for the acquisition.

[6] The learned L.A. Judge after considering the pleadings of the parties, framed the following issues :

- (i) Whether the instant proceeding is maintainable ?
- (ii) Whether the award passed by the LA Collector is just, proper and reasonable?
- (iii) Whether the referring claimant is entitled to get any enhanced amount of award and if so, up to what extent?

[7] The learned L.A. Judge after framing the issues observed that the land under [Exbt.1] and land acquired were not the same nature and their utility was also different. He further observed that the location of the acquired land and the land sold by [Exbt.1] were different and the land sold by [Exbt.1] had fallen under a more developed areas in comparison to the acquired land. Therefore, after appreciating the documents on record and

after hearing counsel for both sides the learned L.A. Judge awarded compensation to the claimant @ Rs.14,03,568/- per kani for the acquired land. The operative portion of the judgment is reproduced hereunder :

“In the result, the application of the referring claimant for enhancement of award is allowed. It is hereby directed that the referring claimant is entitled to get compensation @ Rs.14,03,568/- per kani for the acquired land. The referring claimant will also get 30% solatium and 12% further enhanced amount of compensation upon the said land value computing from the date of notification u/s 4 of the LA Act, 1894 till the date of award by the Collector or the date of taking possession of land whichever is earlier, as per Section 23(2) and 23(1)(A) of the Act respectively. The referring claimant will further get interest @ 9% per annum from the date of taking over possession from one year and thereafter @ 15% per annum after expiry of one year till the date of payment upon the enhanced amount. It is also directed that interest will also be counted on additional amount as awarded u/s 23(1A) of the Act and upon the solatium awarded u/s 23(2) of the Act. The amount already paid shall be adjusted against the compensation awarded. In the circumstances, there is no order as to cost of proceeding.”

[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 of Misc.(LA) 90 of 2014 from the Court of Ld. Land Acquisition Judge, Sepahijala District, Bishalgarh (Sri A. Debbarma);
- (iii) Issue notice upon the respondents;
- (iv) After hearing the parties, be pleased to allow this appeal by setting aside the judgment and award dated 16.01.2020 passed by the learned Land Acquisition Judge, Sepahijala District, Bishalgarh (Sri A. Debbarma) in connection with Misc. (L.A) 90 of 2014;
- (v) Any other relief and relives as your Lordship deem fit and proper having regards to the facts and circumstances of the case.”

[9] Mr. Ashutosh De, learned counsel appearing for the appellant submits that the learned L.A Judge committed an error in determining the market value of the acquired land. He further submits that the learned L.A. Judge did not assign any reason in deciding the quantum of compensation for the acquired land and passed a whimsical judgment which is against the spirit of law. He further contends that the claimant at the time of adducing evidence, some exemplar deeds has been submitted for showing the present market value of the land but the deeds submitted by the claimant is far away from the acquired land. Accordingly, he prays for setting aside of the award dated 16.01.2020 passed by the learned Land Acquisition Judge, Sepahijala District, Bishalgarh in Misc (L.A) 90 of 2014.

[10] On the other hand, Mr. P. Gautam, learned counsel appearing for the learned L.A. Collector supports the argument advanced by the learned counsel for the appellant.

[11] After hearing the learned counsel for the respective parties, this Court is of the considered view that before the learned L.A. Judge the Railway authorities have not made out any case with regard to the distance between the acquired land and the land under exemplar sale deeds produced by the claimant on record to say that the claimant is not entitled to the enhanced amount. Now in appeal for the first time, it is not open for

them to say that there is huge distance between the acquired land and the land under the exemplar sale deeds produced. In my opinion, the learned L.A. Judge did not commit any error in passing the award. The learned L.A. Judge has correctly come to the conclusion and awarded the compensation in favour of the claimant after appreciating evidence on record and no interference is required in the award passed by the learned L.A. Judge.

[12] Accordingly, the present appeal filed by the appellant is dismissed and the award dated 16.01.2020 passed by the learned Land Acquisition Judge, Sepahijala District, Bishalgarh in Misc (L.A) 90 of 2014 is affirmed. Send down the LCRs forthwith.

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

CHIEF JUSTICE (ACTING)