

**HIGH COURT OF TRIPURA
AGARTALA
L.A.APP.No.37 of 2022**

Agartala Municipal Corporation

.....Appellant(s)

Versus

Shri Rabindra Chandra Das and Other

.....Respondent(s)

For Appellant(s) : Mr. A. Bhowmik, Adv.

For Respondent(s) : None.

Date of hearing of Judgment

& Order : 09.01.2023

HON'BLE THE CHIEF JUSTICE (ACTING)

Judgment & Order

Heard Mr. A. Bhowmik, learned counsel appearing for the appellant-Agartala Municipal Corporation.

2. The appellant has filed this appeal under Section 54 of the Land Acquisition Act, 1894 read with Order XLI of the CPC, 1908 against the judgment and award dated 05.04.2022 passed by the L.A. Judge, Court No.1, West Tripura, Agartala in Misc.L.A.No.339 of 2016 whereby the L.A. Judge awarded an amount of Rs.20,00,000/- per kani for the acquired land to the respondent along with other statutory benefits. Vide notification bearing No.F.9(9)-REV/ACQ/VI/12 dated 05.06.2012 acquired a plot of land measuring 0.2200 acres classified as viti(tilla) class of land under plot No.9759/2110, under khatian No.15420, mouja-Jogendranagar Sheet no.2(4)/p, District-West Tripura, Sub-Division-Sadar. The said plot of land owned by the respondent

No.1 herein was acquired by the Government of Tripura under Section 4 of the L.A. Act, 1894 for the purpose of construction of Ground Water Treatment Plant and Overhead Tank at Jogendranagar, Sadhutilla under Sadar Sub-Division in West Tripura District. The L.A. Collector has been assessed the value of land @ Rs.18,00,000/- per acre i.e. Rs.7,20,000/- per kani & granted total compensation of Rs.5,38,885/- inclusive of all statutory benefits in favour of the referring claimants. The L.A. Judge after hearing the parties & scrutinizing the documents allowed the reference and directed that the claimant respondent is entitled to get compensation @ Rs.20,00,000/- per kani along with 30% solatium and 12% further enhanced amount of compensation. The claimant respondent No.1 is also entitled to get interest @ 9% per annum from the date of taking over possession for one year and thereafter, 15% per annum after expiry of the said one year till the date of payment upon the said enhanced amount of compensation. Hence, this appeal has been filed.

3. Mr. A. Bhowmik, learned counsel appearing for the appellant has submitted counter statement stating that Amin of the Office of the L.A. Collector had collected 5 nos. of Sale Deed, the particulars of which are as follows :

Sl No.	Mouja	Plot No.	Classification of land	Area in Acre	Deed No. & Date	Total value of Land	Value of land per kani	Distance from the land proposed to be acquired
1	2	3	4	5	6	7	8	9
1.	Jogendra Nagar Sheet No.2(4)/P	9552	Viti	0.10	1-3696 dt.25.05.2011	1,50,000/-	6,00,000/-	470 ft.
2.	-Do-	9635	Bastu	0.08	1-3164 dt. 11.03.11	1,20,000/-	6,00,000/-	685 ft.
3.	-Do-	9631/2 3554	Viti	0.01	1-4498 dt. 10.06.11	15,000/-	6,00,000/-	675 ft.
4.	-Do-	9836	Viti	0.066	1-4620	99,000/-	6,00,000/-	555 ft.

					dt.02.09.11			
5.	-Do-	10271 10482/22911	Bastu	0.040	1-5031 dt.11.07.11	60,000/-	6,00,000/-	800 ft.

The aforesaid registered sale deeds were in possession of the learned L.A. Collector and accordingly, the registered sale deeds were submitted by the OPW No.1 before the learned L.A. Judge. Even at the time of deposition of OPW No.1 on 19.03.2022, the OPW No.1, Sri Narendra Ch. Deb stated that, the OPW No.1 submitted the Examination-in-Chief by affidavit. The OPW No.1 also stated that the OPW No.1 submitted registered sale deed No.1-3696 dated 25.05.2011, 1-3164 dated 11.03.2011, 1-4498 dated 10.06.2011, 1-4620 dated 02.09.2011 and 1-5031 dated 11.07.2011. But the court below did not exhibit the sale deeds inspite of submission of the registered sale deeds before the court below as well as the statement of OPW No.1 at the time of deposition of the court below on 19.03.2022. According to Mr. Bhowmik, learned counsel the same is absolutely illegal and erroneous on the part of the court below and must be seen as an attempt to obscure the evidence.

4. Mr. Bhowmik, learned counsel appearing for the appellant has submitted that all the sale deeds were executed in the year 2011 i.e. immediately before the acquisition of the land in question. A perusal of the said sale deeds would show that the value of the land adjacent to the acquired land was Rs.6,00,000/- per kani. The plots of the aforesaid 5 registered sale deeds are located 470 ft., 685 ft., 675 ft., 555 ft. and 800 ft. from the acquired land. As per the said 5 registered sale deeds the market value of the acquired land ought to have been determined @ Rs.6,00,000/- per kani but considering urbanization and development of the area, the L.A. Collector increased the

value of the land by 20% on Rs.6,00,000/- per kani and awarded Rs.7,20,000/- per kani for the acquired land which is correct and justified assessment of the value of the acquired land.

5. According to Mr. Bhowmik, learned counsel, the court below did not exhibit the registered sale deeds which were vital piece of evidences regarding the determination of the market value of the acquired land. The same amounts to obscuring evidences which were otherwise available before the court below. The acquired land falls under khatian No.15420. The respondent No.1 in his evidence submitted the sale deed bearing No.1-5762 dated 29.08.2011. The said land also falls under Khatian No.15420. The owner of the land under khatian No.15420 is the respondent No.1. The sale also took place on 29.08.2011 i.e. immediately before the acquisition. It might happen that the respondent No.1 has purposefully shown higher value of the land in the sale deed No.1-5762 dated 29.08.2011. Only a small portion of land was sold. It is not out of place to mention here that generally people gather knowledge of future acquisition prior to issuance of notification under Section 4 of the L.A. Act, 1984. Issuance of notification under Section 4 of the L.A. Act of 1994 is preceded by physical inspection, measurement etc. Therefore, the Sale Deed bearing No.1-5762 dated 29.08.2011 cannot be considered to be a good piece of evidence.

6. The court below has committed manifest error in law in determining the market value of the acquired land as the court below has failed to apply the correct principle of law in the matter of determination of the

market value of the acquired land and as such, the judgment and award passed by the L.A. Judge is liable to be set aside.

7. According to Mr. Bhowmik, learned counsel, at the state of adducing evidence the claimant respondent No.1 submitted a sale deed bearing No.1-5762 dated 29.08.2011 for showing the present market value of the acquired land. But the court below has failed to appreciate that the deed submitted by the claimant respondent No.1 is situated far away from the acquired land. Moreover, the deed submitted by the claimant respondent No.1 is on the road side and no way connected with the acquired land. Therefore, consideration of the said sale deed of the land which is situated far away from the acquired land submitted by the claimant respondent No.1 cannot be treated as a relevant factor for determining the quantum of compensation. The deed submitted by the claimant respondent No.1 is a small quantity of land. Hence, the said land ought not be considered for determining the quantum of compensation. But the court below has whimsically considering the said deed which is against the spirit of law and is liable to be set aside.

8. Finally, Mr. Bhowmik, learned counsel has submitted that the court below did not mention any reason in his judgment for which the L.A. Judge enhanced the award from Rs.7,20,000/- per kani to Rs.20,00,000/- per kani.

9. After hearing the counsel and having gone through the judgment of the Land Acquisition Judge, Court No.1, West Tripura, Agartala being Case No.Misc.(LA)No.339 of 2016 dated 05.04.2022, this court thinks it appropriate

to affirm the judgment of the court below and accordingly, the present appeal stands dismissed.

Pending application/s, if any, also stands dismissed.

CHIEF JUSTICE (ACTING)

