

**HIGH COURT OF TRIPURA
AGARTALA**

L.A. APP. No.56/2021

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

Smt. Bibha Rani Das and others.

.....Respondent(s)

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

For Respondent(s) : None.

HON'BLE THE CHIEF JUSTICE (ACTING)

Order

09/01/2023

Heard Mr. Asutosh De, learned counsel appearing for the
appellant-N.F. Railway.

2. This appeal under section 54 of the Land Acquisition Act, 1894
(hereinafter referred to as the Act) is directed against the award dated 06-02-
2020 passed by the learned Land Acquisition Judge, Sepahijala District,
Bishalgarh in case No. Misc. (L.A.) 96 of 2014 whereby the learned L.A.
Judge assessed the value of the acquired land of the claimants at
Rs.9,35,712/- per kani with all other statutory benefits.

3. Appellant has prayed for the following reliefs:

- "(i) Admit this appeal;
- (ii) Call for records of Misc. (L.A.) 96 of 2014 from the Court 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 06.02.2020 passed by the Ld. Land Acquisition Judge, Sepahijala District, Bishalgarh (Sri A. Debbarma), in connection with Misc. (L.A.) 96 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."

4. The undisputed facts are that 0.19 acres of Nal class of land under Mouja-Brajapur of Bishalgarh Sub-Division belonging to the claimants was acquired by the Government of Tripura (L.A. Collector) vide Notification No.F.09(07)-REV/ACQ/XIV/11 dated 05.08.2011 for the purpose of construction of "New Rail line" from Agartala to Sabroom and compensation of Rs.2,58,369/- per kani was awarded for the acquired land along with all statutory benefits. Being dissatisfied, the claimants filed claim statements being Misc. (L.A.) 96 of 2014 before the learned Land Acquisition Judge, Sepahijala District, Bishalgarh claiming compensation of

Rs.40,00,000/- for the acquired land and the learned L.A. Judge after recording evidence and hearing arguments was pleased to enhance the compensation by awarding Rs. 9,35,712/- per kani along with all consequential benefits vide award dated 06.02.2020. Aggrieved thereby, the appellant-N.F. Railway has preferred this appeal for setting aside the impugned award passed by the learned L.A. Judge. Hence, this case.

5. Mr. Asutosh De, learned counsel appearing for the appellant-N.F. Railway, contends that the learned L.A. Judge committed an error in determining the market value of the acquired land since the same is situated far away from the road which is an abandoned and not a cultivable land and as such, there is no potential value of the acquired land. He also contends that the claimants during adducing evidence presented some exemplar deeds which are far away from the acquired land and also of small quantity for which the same should not be taken into consideration for determining the quantum of compensation. He further contends that after construction of the railway line, the surrounding area of the acquired land became highly developed but learned L.A. Judge deducted only small amount as development charge from the compensation amount awarded and as such, he prays for setting aside the impugned award passed by the learned L.A. Judge.

6. Having heard the submission of the learned counsel appearing for the appellant-N.F. Railway, 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 claimants on record to say that the claimants are 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. It is also found that the plots under the exemplar sale deeds and the acquired land are also situated within the same mouja and the land was acquired for construction of Agartala to Sabroom railway line and as such, definitely the acquired land has got its high potentiality. Therefore, this Court is of the considered opinion that the learned L.A. Judge on proper appreciation of evidence on record has correctly come to the conclusion and awarded compensation for the acquired land in favour of the claimants and as such, no interference is called for in the impugned award passed by the learned L.A. Judge.

7. Accordingly, the appeal stands dismissed. Consequently, the impugned award dated 06-02-2020 passed by the learned Land Acquisition

Judge, Sepahijala District, Bishalgarh in case No. Misc. (L.A.) 96 of 2014 is hereby confirmed. The claimants are at liberty to withdraw the amounts deposited unconditionally.

8. Stay order, if any, stands vacated.

Send down the lower court records forthwith.

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

CHIEF JUSTICE (ACTING)

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