

**HIGH COURT OF TRIPURA
AGARTALA
LA APP NO.63 OF 2021**

The Managing Director, TIDC

..... **Appellant(s)**

Vs.

Smt. Arati Choudhury and 2 ors.

..... **Respondent(s)**

For the Appellant(s) : Mr. B.N. Majumder, Sr. Advocate.
Mr. T. Chakraborty, Advocate.

For the Respondent(s) : Mr. D.C. Roy, Advocate.
Mr. M.K. Roy, Advocate.

Date of hearing and delivery of
Judgment & Order : 15.02.2023.

Whether fit for reporting : NO.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

The present appeal has been filed by the appellant under Section 54 of the Land Acquisition Act challenging the judgment dated 19.07.2019 passed by the learned Land Acquisition Judge, Court No.4, West Tripura, Agartala in Misc(L.A) 75 of 2017, wherein, the learned Judge awarded an amount of Rs.5,00,000/- per kani to the claimant.

2. Brief facts are as under:

The Government of Tripura had acquired certain lands belonging to the respondents. By a notification and declaration dated 29.01.2010 and 08.06.2010, the said land was acquired for the purpose of development of Industrial Growth Centre under Sadar Sub-Division, in West Tripura. The acquired land had fallen under Mouja-Radhakishore Nagar, sheet No.1/P Khatian No.3279, plot No.43 & 46, area-1.36 acres viti(tilla). The Land Acquisition Collector, West Tripura, Agartala assessed the value of the land @ Rs.1,50,000/- per acre for the acquired land and also additional compensation @ 30% solatium and interest @ 12% per annum. The respondents received the compensation under protest contending that the compensation awarded by L.A Collector was inadequate considering the market price of the land. Dissatisfied with the award passed by the learned L.A. Collector, the claimant filed an application before the L.A. Collector with a prayer to make reference on their case and prayed for referring the case to the learned L.A. Judge for proper determination of compensation. The claimant approached the learned L.A. Court for re-assessment of the market value @ Rs.10,00,000/- (Rupees ten lakhs) per kani.

3. The claimant appeared before the learned L.A. Judge and filed claim statement alleging that the aforesaid was rubber plantation and the claimant maintained family from the

income generated from the plantation of the said acquired land. The claimant further stated that at the time of acquisition, the market value of the land was around Rs.10,00,000/- per kani which was not considered by the L.A. Collector.

4. On the other hand the opposite party T.I.D.C. Agartala had contested the claim of the claimant *inter alia* alleging that the acquired land was "Tilla" class of land and was situated far away from the main road and at the time of acquisition, the acquired land had no potential value as claimed by the claimant. They claimed that the claim of the claimant was not maintainable and the learned L.A. Collector had correctly awarded the compensation in favour of the claimant based on the prevailing market price of the land. The opposite party No.2 (LA Collector) did not file any counter affidavit statement and the case proceeded ex-parte against the O.P. No. 2.

5. The learned L.A. Judge perused the claim statement as well as the counter statement submitted by the parties. Learned Court below also considered the oral and documentary evidence adduced by the claimant and the opposite parties. After Considering all these factors, the learned L.A. Judge enhanced the compensation for the acquired land from

Rs.60,000/- to Rs.5,00,000/- 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 claimants are awarded an enhanced compensation for the acquired land at the rate of Rs.5,00,000/-(Rupees five lakhs) per kani. He is also entitled to get 30% solatium and 1% additional compensation on the enhanced rate as per statute. The enhanced value of land, solatium and additional compensation @ 12% shall form the total award. The referring claimant is also entitled to get 9% interest on the total award from the date of taking over the possession for one year and thereafter @ 15% interest per annum till the date of payment of enhanced compensation. The amount so paid earlier, if any, as compensation under L.A. Act shall be adjusted with the amount awarded by way of enhancement."

6. Being aggrieved and dissatisfied with the award passed by the learned L.A Judge, the appellant has filed this instant appeal seeking the following reliefs:-

- " (a) Admit the appeal.*
- (b) Call for the records pertaining to case No.Misc.(L.A.) 75 of 2017, from the Ld. Court of land acquisition judge(Court No.4), West Tripura Judicial District, Agartala.*
- (c) In the interim be kind enough to stay the impugned Judgement and award dated 19.07.2019, Case No.Misc(L.A.) 75 of 2017, till disposal of the appeal.*
- (d) After hearing the parties, be kind enough to set aside the judgment dated 19.07.2019, Case No.Misc.(L.A.) No.75 of 2017, for the fair ends of justice."*

7. Mr. B.N. Majumder, learned senior counsel assisted by Mr. T. Chakraborty, learned counsel appearing for the appellant submits that the learned L.A Judge committed an error in enhancing the market value of the acquired land. He further submits that the learned L.A. Judge did not assign any

reason in enhancing the quantum of compensation for the acquired land and passed a whimsical judgment which calls for interference. He further contends that findings given by the learned L.A judge in enhancing the compensation at the rate of 5 lakhs per kani has no basis as the same having been not based on any reason cannot be the precedent of all future cases. He further contends that even the judgment passed earlier in this appeal factually is incorrect and uniformly in all cases cannot be applied barring in cases of the residential area or the commercial area which has high potential value. Consequently, he prays for setting aside the judgment dated 19.07.2019 passed by the learned Land Acquisition Judge, Court No.4, West Tripura, Agartala in Misc.(L.A.) No.75 of 2017. On the other hand, Mr. D.C. Roy, learned counsel and Mr. M.K. Roy, learned counsel appearing for the respondents fairly submit that the matter may be remanded back to the court below for consideration afresh.

8. After hearing the learned counsel for the respective parties, this Court feels that the judgment passed by the learned L.A. Judge is erroneous as the same has been passed without giving any proper reason as to how from Rs.60,000/- to Rs.5,00,000/- per kani has been evaluated. It is understood that while fixing compensation under the Land

Acquisition Act some guesswork needs to be made but it does not mean that the guesswork could shoot up from Rs.60,000/- to Rs.5,00,000/- per kani without any proper comparison or any supporting evidence. The guesswork made by the learned court below in deciding the compensation suffers from infirmities which cannot be appreciated.

9. Accordingly, the present appeal filed by the appellant is allowed and the judgment dated 19.07.2019 passed by the learned Land Acquisition Judge, Court No.4, West Tripura, Agartala in Misc.(L.A.) No.75 of 2017 is hereby set aside and the same is remanded back to the court below to pass a speaking order, in accordance with the law. The court below after hearing learned counsel for both sides once again shall pass a reasoned order at the earliest preferably within a period of 3(three) months from the date of receipt of the copy of this order

10. Stay order, if any, stands vacated. Pending application(s), if any, also stands disposed of. Return the LCRs forthwith.

JUDGE