

**HIGH COURT OF TRIPURA
AGARTALA**

L.A. APP. No.19 of 2021

Along With

L.A. APP. No.20 of 2021

L.A. APP. No.21 of 2021

L.A. APP. No.22 of 2021

L.A. APP. No.23 of 2021

L.A. APP. No.28 of 2021

L.A. APP. No.31 of 2021

L.A. APP. No.32 of 2021

L.A. APP. No.38 of 2021

L.A. APP. No.41 of 2021

L.A. APP. No.67 of 2021

With

CO(FA) No.04 of 2022

L.A. APP. No.70 of 2021

L.A. APP. No.71 of 2021

In L.A. APP. No.19 of 2021

The Managing Director, TIDC

----Appellant(s)

Versus

Sri Pradip Kumar Chakraborty and another

----Respondent(s)

In L.A. APP. No.20 of 2021

The Managing Director, TIDC

----Appellant(s)

Versus

Sri Sujit Dey and others

----Respondent(s)

In L.A. APP. No.21 of 2021

The Managing Director, TIDC

----Appellant(s)

Versus

Sri Nitai Deb and others

----Respondent(s)

In L.A. APP. No.22 of 2021

The Managing Director, TIDC

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Versus

Sri Nakul Chandra Saha and another

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Sri Dhananjoy Das and others

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----Appellant(s)

Versus

Sri Gautam Kumar Das and others

----Respondent(s)

In L.A. APP. No.38 of 2021

The Managing Director, TIDC

----Appellant(s)

Versus

Sri Papul Chakraborty and another

----Respondent(s)

In L.A. APP. No.41 of 2021

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In L.A. APP. No.70 of 2021

The Managing Director, TIDC

----Appellant(s)

Versus

Sri Dhiman Debnath and another

----Respondent(s)

In L.A. APP. No.71 of 2021

The Managing Director, TIDC

----Appellant(s)

Versus

Smt. Tapna Singha and another

----Respondent(s)

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

For Respondent(s) : Mr. D.K. Biswas, Sr. Advocate,
Mr. U.K. Majumder, Advocate,
Mr. P. Gautam, Advocate,
Mr. H. Sarkar, Advocate,
Mr. Samar Das, Advocate.

HON'BLE THE CHIEF JUSTICE(ACTING)

Date of hearing and judgment : 14th February, 2023.

JUDGMENT & ORDER(ORAL)

Heard learned counsel for the respective parties. These appeals arise in common background. Since facts are identical, they have been heard together and would be disposed of by this common judgment. For convenience, we may record facts from LA APP No.19 of 2021.

[2] The present appeal has been filed by the appellant under Section 54 of the Land Acquisition Act challenging the judgment dated 14.05.2019 passed by the learned Land Acquisition Judge, Court No.3,

West Tripura, Agartala in Misc(L.A) 22 of 2016 wherein the learned Judge awarded an amount of Rs.7,00,000/- per kani to the claimant.

[3] Brief facts are as under :

The Government of Tripura had acquired certain lands belonging to the respondents. By a notification dated 29.01.2010, the said land was acquired for the purpose of construction of Tripura Industrial Development Corporation Limited. The acquired land had fallen under Plot No.174/8655, Sheet No.1/P of Khatian No.1321 of land measuring 2.00 acres classified as Chankhola ('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 the L.A Collector was inadequate considering to the market price of the land. Dissatisfied with the award passed by the learned L.A. Judge, 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 learned L.A. Judge after appreciating the documents on record awarded an amount of Rs.7,00,000/- per kani to the claimant.

[4] The claimant appeared before the learned L.A. Judge and filed claim statement alleging that the aforesaid land had high potential value and further stated that at the time of acquisition, the market value of the land was around Rs.60,00,000/- per kani which was not considered by the L.A. Collector.

[5] On the other hand the opposite party (Managing Director, TIDC Limited) 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) also stated in the same tune with the opposite party No.1 (Managing Director, TIDC Limited) by filing counter statement alleging that the claimant was not entitled to get further compensation.

[6] The learned L.A. Judge after perusing the claim statement as well as the counter statement submitted by the parties and after considering the oral and documentary evidence adduced by the claimant and the opposite parties, observed that plots of land were 'dokan viti' for which the land under the exhibited sale deeds were not comparable with the acquired land

as no settlement map was proved to show the exact location of the plots of land under Exbt.[A] and Exbt.[B] from the acquired land. Considering all these factors, the learned L.A. Judge enhanced the compensation for the acquired from Rs.60,000/- to Rs.7,00,000/- 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 claimant namely, Sri Pradip Kumar Chakraborty is entitled to get compensation for the acquired land at the rate of Rs.7,00,000/- per kani. The compensation shall be added with 30% solatium under Section 23(2) of the L.A. Act and 12% interest under Section 23(i)(A) of the L.A. Act from the date of notification under Section 4 of the said Act till the date of taking over the possession of the acquired land or the date of award whichever is earlier. The interest on the amount of compensation and solatium shall be at the rate of 9% per annum over the enhanced amount given for land from the date of taking over the possession, till one year and @ rate of 15% per annum from the date of expiry of one year till the date of payment of the enhanced amount of compensation. The amount so paid earlier as compensation under Section 11 of the L.A. Act shall be adjusted with the amount awarded by way of enhancement.”

[7] 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 pertaining to Case No. Misc.(LA) 22 of 2016 from the Ld. Land Acquisition Judge, Court No.3, West Tripura, Agartala;
- (iii) Pass an order for preparation of paper book;
- (iv) In the interim be kind enough to stay the impugned judgment dated 14.05.2019, Case No. MISC (LA) 22 of 2016 till disposal of the appeal;

(v) After hearing the parties, be kind enough to set aside the judgment dated 14.05.2019 passed in Case No. MISC (LA) 22 of 2016 for the fair ends of justice.”

[8] Mr. B.N. Majumder, learned senior 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 7 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 14.05.2019 passed by the learned Land Acquisition Judge, Court No.3, West Tripura, Agartala in Misc(L.A) 22 of 2016. On the other hand, Mr. D. K. Biswas, learned senior counsel and Mr. P. Gautam, learned counsel appearing for the respondents fairly submit that the matter may be remanded back to the court below for consideration afresh.

[9] 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.7,00,000/- 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.7,00,000/- without any proper comparison or any supporting evidence. The guesswork made by the learned court below in deciding the compensation suffers from any valid reason which cannot be appreciated.

[10] Accordingly, the present appeal filed by the appellant is allowed and the judgment dated 14.05.2019 passed by the learned Land Acquisition Judge, Court No.3, West Tripura, Agartala in Misc(L.A) 22 of 2016 is hereby set aside and the same is remanded back to the court below to pass a speaking order, in accordance with 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. Needless to say, the aforesaid decision passed insofar as the L.A. APP. No.19 of 2021 is concerned shall also apply *mutatis mutandis* in respect of the other connected appeals also and in those appeals the judgments of the learned L.A. Judge are also set aside and the same be remanded back to the trial Court for consideration afresh.

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

CHIEF JUSTICE (ACTING)



Dipesh