

**HIGH COURT OF TRIPURA
AGARTALA
LA APP NO.65 OF 2021**

The Managing Director, TIDC

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

Vs.

Smt. Lipika Nandi(Pal) and anr.

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

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

For the Respondent(s) : Mr. R. Debnath, Advocate.
Mr. P.K. Ghosh, Advocate.

CO(FA) NO.5 OF 2022

Smt. Lipika Nandi(Pal) and anr.

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

Vs.

The Managing Director, TIDC ad anr.

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

For the Appellant(s) : Mr. R. Debnath, Advocate.
Mr. P.K. Ghosh, Advocate.

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

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

Whether fit for reporting : YES/NO.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

Both these appeal and cross objection are heard together since they arise from a common judgment and award dated 30.08.2019 passed by the Court of the learned L.A. Judge(Court No.4), West Tripura, Agartala in Case No.Misc.(L.A.)05 OF 2017 and similar questions facts and law are involved.

2. The fact of the case, in brief, is that the land of the claimant was acquired by the L. A. Collector, West Tripura vide declaration No. F.09(11)REV/ACQ/VI/09, dated 08.06.2010, for construction/development of Industrial Growth Centre at Mouja RadhaKishore Nagar, Sheet No1/p under Sadar Sub Division. L.A. Collector assessed the rate of compensation of the acquired Jungle (Tilla) Class of land @ Rs.1,25,000/- per acre i.e. Rs.50,000/per kani. Total Rs.7,92,906/- was awarded as compensation for the acquired land along with 30% solatium and additional 12% interest.

3. Being aggrieved with the land valuation, the claimant approached the learned L.A. Court for the reassessment of the market value of the land at the rate of Rs.10,00,000/-(Rupees ten lakhs) per Kani. According to her,

the acquired land has high potential value having many establishments in its vicinity.

4. The O.P. No.1 i.e. respondent-T.I.D.C Agartala herein, in his counter statement stated that the claim of the referring claimant for getting enhanced compensation is not at all tenable and maintainable in its present form. The acquired land is a Jungle (Tilla) class of land. The O.P. No.1 also stated in their counter statement that the L.A. Collector after considering the prevailing market rate of the other land adjacent to the acquired land and after observing the sale instances assessed the compensation. The said amount was reasonable, considering the market value at the relevant time. The O.P. No.2 also stated that the said land is far away from the main road and has no establishment in its vicinity as claimed by the appellant.

5. O.P. No.2 i.e. L.A. Collector by filing a counter-statement also challenged the maintainability of the present case. L.A. Collector stated that after considering the various sale instances and the potentiality of the acquired land, adequate compensation for the acquired land was determined. The O.P. No.2 further stated that the entire acquired land is comprised of Jungle(Tilla) class of land and no modern amenities are available over the acquired area.

6. After hearing both parties and perusing the evidence on record, the learned L.A Judge vide judgment and award dated 30.08.2019 enhanced the rate of compensation from Rs.50,000/- per kani to Rs.5,00,000/- per kani. The operative portion of the impugned judgment and awards is as follows:-

"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 is awarded an enhanced compensation for the acquired land at the rate of Rs.5,00,000/(Rupees five lakhs) per kani. She is also entitled to get 30% solatium and 12% 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.

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 reliefs:-

- "(a) Admit the appeal.
- (b) Call for the records pertaining to judgment and award dated 30.08.2019, passed in Case No.Misc.(L.A.)05 of 2017.
- (c) In the interim be kind enough to stay the impugned judgment and award dated 30.08.2019, till disposal of the appeal.
- (d) After hearing the parties, be kind enough to set aside the judgment and award dated 30.08.2019, passed in Case No.Misc.(LA) No.05 of 2017, for the fair ends of justice."

8. Mr. B.N. Majumder, learned Sr. counsel assisted by Mr. T. Chakraborty, learned counsel appearing for the TIDC submits that the learned Court below erred in both facts and law in passing the impugned judgment. The impugned judgment is based upon perverse findings. The learned Court below did not consider the fact that the land was a "*Jungle*" class of land and was situated far away from the main road as well as the market. On the other hand, Mr. P.K. Ghosh, learned counsel, and Mr. R. Debnath, learned counsel appearing for the claimant submits that the land is a high potential land and for the similarly situated land Rs.8,00,000/-(Rupees Eight Lakhs only) per kani was given as compensation by L.A. Judge vide judgment and award dated 30.07.2018 passed in Misc.(L.A.)178 of 2014.

9. Heard both sides and perused the evidence on record. The learned Court below has categorically given the finding in fixing Rs.5,00,000/-(Rs. five lakhs only) per kani for acquired land herein. Though the learned counsel appearing for the claimant relied upon another land appeal wherein Rs. 8,00,000/-(Rupees Eight Lakhs only) per kani was given as compensation, but in that said matter, the land is of lunga, tilla, vitti(tilla) class of land. The subject land of this appeal is a jungle class land. Accordingly, in view of the same, this Court

is convinced with the order dated 30.08.2019 passed by learned L.A. Judge in Misc.(L.A.) No.05 of 2017. Accordingly, both the appeal and cross objection is dismissed.

10. Learned counsel appearing for the claimant urged before this Court for a direction of withdrawal of the awarded amount which has been deposited before the Registry of this Court by the appellant-TIDC. Mr. B.N. Majumder, learned Sr. counsel appearing for the TIDC has no objection. Accordingly, there shall be direction upon the Registry of this Court to release the said amount in favour of the claimant as per the procedure.

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

JUDGE