

**HIGH COURT OF TRIPURA
AGARTALA**

LA App. 44 of 2022

**The Deputy Chief Engineer (Construction), N.F. Railway
..... Appellant(s)**

Versus

**Smt. Kaiki Roy & 10 others
..... Respondent(s)**

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

For Respondent(s) : Mr. P. Gautam, Advocate.

Date of hearing and
delivery of judgment
and order : 28.07.2023.

Whether fit for reporting : No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

This is an appeal filed under Section 54 of the Land Acquisition Act, 1894 against the judgment and award dated 09.6.2022 in connection with Misc. (L.A.) 189 of 2016 passed by the learned Land Acquisition Judge (Court No.1), West Tripura, Agartala wherein the learned Judge awarded an amount of Rs.10,00,000/- only per kani alongwith other statutory benefits.

[2] The brief facts of the case as submitted by the appellants in the instant appeal are as under:

The Government of Tripura in its Revenue Department has acquired the land in question belonging to the respondents by a notification dated 26.2.2009 vide no. F.9(9)-REV/ACQ/XIV/09 under the L.A. Act, 1894. The land was acquired for the purpose of construction for new rail-line from Agartala to Sabroom. The acquired land had fallen under Plot No.2288/0 of Khatian No.158/P, land measuring 0.4500 acres, classified as Tilla, of Mouja- Madhuban, Sheet No.2/p, Tahasil- Badharghat, Sub-Division- Bishalgarh, West Tripura, Agartala (at the time of acquisition). The learned L.A. Collector, West Tripura, Agartala awarded Rs.1,00,000/- per kani for the acquired land alongwith all statutory benefits.

Aggrieved by and dissatisfied with the award, the claimant filed an objection and prayed for referring the case to the learned L.A. Judge for proper determination of compensation. The learned L.A. Collector subsequently referred the case to the learned L.A. Judge accordingly. The learned L.A. Judge served a notice upon both the parties and respective parties appeared before the learned L.A. Judge by submitting the claim statement and counter claim statement. After hearing both the parties on the basis of documents and statement of facts, the learned L.A. Judge awarded an amount of Rs.10,00,000/- only per Kani alongwith other statutory benefits.

Being aggrieved and dissatisfied with the judgment and award passed by learned L.A. Judge, the appellant preferred this appeal before this Court.

[3] According to the appellant, learned L.A. Judge committed manifest error in law in determining the market value of the acquired land as the acquired land in question is situated far away from the road and abandoned class of land. As per their opinion (appellant side), learned L.A. Judge did not mention any reason in his judgment for which the award has been enhanced from Rs.1,00,000/- to Rs.10,00,000/- per kani. It has also been submitted in the appeal that after construction of the railway line, the area surrounding thereon became highly developed but, the learned L.A. Judge never deducted the development charge from the compensation amount passed and as such it is prayed by the appellant that the judgment passed by the learned L.A. Judge is liable to be set aside.

[4] Being aggrieved, the appellant has approached this Court for the following reliefs:

- (i) Admit this appeal;
- (ii) Call for the records.
- (iii) Issue notice upon the respondents.

[5] Heard learned counsel Mr. A. De appearing for the appellant. Also heard Mr. P. Gautam, learned counsel appearing for the official respondent- L.A. Collector. None is present on behalf of the private respondents.

[6] Having gone through the records as well as the observations made by the learned L.A. Judge, this Court is of the view that the mandatory deduction of development charges which vary from 25% to 75% depending on the nature of the land would be deducted from the award of compensation. In the present case, the L.A. Judge has not dealt with the said deduction. In view of the same,

this Court feels that on the minimum side of 25% would be deducted towards the development charges since, the said land is a tilla class of land and is yet to be developed. Thus, the remaining award continues to be unchanged.

With the above directions, the appeal is accordingly allowed in part to the extent as indicated above.

Pending application(s), if any, shall also stand vacated.

JUDGE

Sabyasachi G.

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HIGH COURT OF TRIPURA



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