

**HIGH COURT OF TRIPURA
AGARTALA
LA APP NO.30 OF 2023**

The Deputy Chief Engineer(Con-2) No.1, N.F. Railway,
Badharghat, Agartala.

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

Vs.

Sri Samar Hrishidas and anr.

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

For the Appellant(s) : Mr. B. Majumder, Deputy SGI

For the Respondent(s) : None.

Date of hearing and delivery of
Judgment & Order : 21.09.2023

Whether fit for reporting : NO.

HON'BLE MR JUSTICE T. AMARNATH GOUD

JUDGMENT AND ORDER(ORAL)

This present appeal has been filed under Section 54 of the Land Acquisition Act, 1894, against the Judgment and order dated 30.06.2022 passed in L.A.(Ref)116 of 2018 by the learned L.A. Judge, South Tripura, Belonia.

2. The brief fact of this case is that as per the requisition of the appellant, the land of the respondent-claimants was acquired by the respondent No.2 vide notification dated 30.03.2013 for lying the Railway track from Agartala to Sabroom, the L.A. Collector, South Tripura, Belonia awarded compensation of

Rs.3,30,000/- per kani for the acquired land to the claimant-respondents herein.

3. Being aggrieved with the amount of compensation, the respondent-claimant filed an application under Section 18 of the L.A. Act, 1894 for referring the matter to the L.A. Judge, South Tripura for determination of proper compensation and accordingly, the same was referred. The learned L.A. Judge after following the due procedure and after hearing both the parties, vide Judgment dated 30.06.2022 enhanced the amount of award @ Rs.12,00,000/-(Rupees twelve lakhs) per kani for the acquired land.

4. Being aggrieved with the said Judgment and award dated 30.06.2022, passed the learned L.A. Judge, South Tripura, Belonia, the appellant herein has preferred this appeal for setting aside the impugned Judgment and Award dated 30.06.2022.

5. Heard Mr. B. Majumder, learned Deputy SGI appearing for the appellant. None appears for the respondents.

6. Mr. Majumder, learned Deputy SGI appearing for the appellant submits that sale deed No.1-465 of the year 2011 which the L.A. Judge relied upon in awarding the impugned compensation has not been marked as exhibit and in terms of the **para-3** of the Hon'ble Supreme Court Judgment, reported in **AIR 1988 SC 1652** titled as **Chimanlal Hargovinddas Vs. Special Land**

Acquisition Officer, Poona, and anr., and also **Vijay Singh Lidadhar Vs Special Land Acquisition Officer**, credence can not be given to the same. The said citation is reproduced here-in-under:-

"3..... (3) The Court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the materials produced before it....."

7. Heard and perused the evidence on record.
8. The only point that has been highlighted by the learned Deputy SGI and the same which falls for consideration before this Court is that the Court below has given importance to sale deed document No.1/465 of 2011 which has been examined by the L.A. Collector at serial No.1 showing that the class of land is 'vastu' 'tilla' and rate per kani is Rs.20,00,000/-(Rupees twenty lakhs). Accordingly, the compensation in the present matter has been fixed.
9. On verification of the impugned Judgment and also the exhibits marked as pointed out by learned Deputy SGI, it is noticed that the said sale deed has not been taken on record and the same is not marked as exhibit.
10. In view of the same, placing reliance upon the Judgment of **Chaimanlal Hargovinddas(supra)** wherein it is stated that where the exhibits are not marked, no credence can be given to the same, the present appeal is allowed and the matter is

required to be remanded back to the Court below by setting aside the impugned Judgment. The Court below is to pass a reasoned order on the same on the strength of the evidence which is already available on record and also on the strength of the argument which has been already advanced. However, if both parties wish to make any submission, they are at liberty to file their additional evidence and also advance argument on the same. The Court below shall decide the matter as expeditiously as possible.

11. With the above observation and direction, this present appeal stands allowed and remanded back by setting aside the impugned Judgment 30.06.2022. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE

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