

**HIGH COURT OF TRIPURA
AGARTALA**

LA App. No.29 of 2024

1. The Union of India,

Represented by the 2nd-in-Command,
For Commandant H.Q., 6 Bn, BSF,
Fatikcherra, Mohanpur,
District-West Tripura.

.....Appellant(s)

- V e r s u s -

1. Sri Dipankar Das,

S/o Sudhir Chandra Das.

2. Sri Bhaskar Das,

S/o Sudhir Chandra Das,
Both are resident at Ramnagar, Agartala,
District-West Tripura.

3. L.A. Collector,

West Tripura, Agartala.

..... Respondent(s)

For the Appellant(s)	:	Mr. B. Majumder, Dy. S.G.I.
For the Respondent(s)	:	Mr. D.K. Biswas, Senior Advocate. Mr. P. Gautam, Advocate. Mr. S.S. Debnath, Advocate. Mr. D.S. Kunwar, Advocate.
Date of hearing	:	18th July, 2024.
Date of delivery of Judgment & order	:	29th November, 2024.
Whether fit for reporting	:	YES.

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA

JUDGMENT & ORDER

This appeal arises out of an award passed by learned L.A. Judge (Court No.1), West Tripura District, Agartala on 25.7.2023 in case No. Misc.(LA) 258 of 2016 whereby learned L.A. Judge awarded compensation to the present respondent Nos.1 and 2 (*hereinafter*

referred to as the 'claimants') @ Rs.25,00,000/- per kani for the acquired land with other statutory benefits.

[2] The land area of 0.18 acre of RS plot No.4387 of Khatian No.2084 of Mouja Ramnagar, Sheet No.2/P was acquired by the Government vide notification No.F.09(02)-REV/ACQ/VI/11 dated 21.2.2011 under Section 4 of Land Acquisition Act for the purpose of establishment of BOP ACP of 6th Battalion BSF under Sadar Sub-division.

[3] L.A. Collector awarded compensation @ Rs.15,00,000/- per kani for the acquired land, against which being aggrieved, the claimants prayed for reference under Section 18 of the Land Acquisition Act. In the Court of learned L.A. Judge, the aforesaid case bearing No. Misc.(LA) 258 of 2016 was, accordingly, cropped up. The claimants lodged their claim before learned L.A. Judge for compensation @ Rs.1,00,00,000/- per kani on the ground that the acquired land fell within Municipal area of Agartala adjacent to Kalikapur Market, Border Golchakkar Market and Ramnagar as well as Durga Chowmuhani Market. It was stated that the land was well connected by the main road and the by-lanes. According to them, several Government establishments, nationalized Banks, Post Office etc were within stone throw distance from the acquired land. Ramnagar Higher Secondary School, Bani Bidhya Pith Women Higher Secondary School and several other junior and senior basic schools were also situated encircling the acquired land within walking distance and even AGMC and GBP Hospital of Agartala was also situated within 2 kilometers from the acquired land.

[4] During trial before learned L.A. Judge, from the side of claimants, claimant Dipankar Das examined himself as a witness and he

placed two documents, i.e. two certified copies of sale deeds, into evidence. From the side of L.A. Collector, one Narendra Chandra Deb, was examined as OPW-1 and he also submitted certified copy of one sale exemplar in the evidence. Details of all the sale exemplars will be discussed in later part of the judgment. The appellant, requiring department though submitted their counter objection in the said proceedings but did not adduce any evidence to support the same.

[5] Learned L.A. Judge, thereafter, awarded compensation @ Rs.25,00,000/- per kani vide award dated 18.5.2022. Challenging said award, the requiring department preferred L.A. App. No.42 of 2022 which was disposed of by a coordinate bench of this Court along with other three appeals by remanding the matter to the learned L.A. Judge for a fresh consideration with a direction that learned L.A. Judge after hearing both the sides afresh, shall pass a reasoned order by appreciating the evidence and fixing the compensation in accordance with the law.

[6] In compliance with the said direction, learned L.A. Judge has again passed the impugned award on 25.7.2023 maintaining the same award as passed earlier i.e. compensation @ Rs.25,00,000/- per kani. Learned L.A. Judge in his reasoning observed that Exbt.1, the Sale Deed No.1-1597 dated 25.2.2015 as was proved from the side of claimants, was executed 4(four) years after the acquisition in question. Therefore, that was kept out of consideration. Regarding Exbt.2, another Sale Deed bearing No.1-9625 dated 12.11.2001 wherein land of 'Bastu' class measuring 2 karas 2 krantas 14.5 dhurs was sold at Rs.90,000/- i.e. @ Rs.24,71,000/- per kani, learned L.A. Judge observed that it was a transaction taken place about 9(nine) years prior to the date of

acquisition. Meanwhile, the land price in that area escalated. According to learned L.A. Judge, though the acquired land was comparatively of inferior quality than the land of Exbt.2 but after lapse of 9(nine) years, price of the said land also must have been increased, and therefore, the award given by L.A. Collector @ Rs.15,00,000/- per kani was inadequate. Learned L.A. Judge also took into consideration the evidence of the L.A. Collector's witness and observed that the acquired land was well connected with the valuable establishments situated within Agartala city area within a distance of 500 meters to 1 km.

[7] Mr. B. Majumder, learned Dy. S.G.I., for the appellant argues that Exbt.2 was a totally different class of land i.e. of 'Bastu' class, whereas, the witness of L.A. Collector proved a sale deed under Exbt.A which was sold at Rs.9,91,736/- per kani i.e. around Rs.10,00,000/- per kani, just few days prior to the date of notification at Chandinamura Mouja regarding 'Nal' class of land, similar to the class of acquired land, but learned L.A. Judge failed to appreciate the fact that even L.A. Collector awarded higher compensation than the rate of the transaction as taken place in Exbt.A. Mr. Majumder, learned Dy. S.G.I. also submits that the reasoning for determining the award as given by the L.A. Collector in the assessment note was very sound and acceptable.

[8] Mr. P. Gautam, learned counsel representing the L.A. Collector also supported the version of Mr. Majumder, learned Dy. S.G.I. also relies on a decision of the Apex Court in the case of **Shaji Kuriakose and Another vs. Indian Oil Corpn. Ltd. and Others, (2001) 7 SCC 650**. The relevant paragraph No.3 as relied upon by learned Dy. S.G.I. is excerpted hereinbelow :

"3. It is no doubt true that courts adopt comparable sales method of valuation of land while fixing the market value of the acquired land. While fixing the market value of the acquired land, comparable sales method of valuation is preferred than other methods of valuation of land such as capitalisation of net income method or expert opinion method. Comparable sales method of valuation is preferred because it furnishes the evidence for determination of the market value of the acquired land at which a willing purchaser would pay for the acquired land if it has been sold in the open market at the time of issue of notification under Section 4 of the Act. However, comparable sales method of valuation of land for fixing the market value of the acquired land is not always conclusive. There are certain factors which are required to be fulfilled and on fulfilment of those factors the compensation can be awarded, according to the value of the land reflected in the sales. The factors laid down inter alia are : (1) the sale must be a genuine transaction, (2) that the sale deed must have been executed at the time proximate to the date of issue of notification under Section 4 of the Act, (3) that the land covered by the sale must be in the vicinity of the acquired land, (4) that the land covered by the sales must be similar to the acquired land, and (5) that the size of plot of the land covered by the sales be comparable to the land acquired. If all these factors are satisfied, then there is no reason why the sale value of the land covered by the sales be not given for the acquired land. However, if there is a dissimilarity in regard to locality, shape, site or nature of land between land covered by sales and land acquired, it is open to the court to proportionately reduce the compensation for acquired land than what is reflected in the sales depending upon the disadvantages attached with the acquired land."

[9] Learned Dy. S.G.I. also relies on another decision of a co-equal Bench of this Court dated 9.7.2024 passed in **L.A. App. No.31 of 2024** between **The Union of India vs. Sri Pradip Das & Ors.** The said case also arose out of the same acquisition and by a common judgment dated 22.2.2023 in said L.A. App. No.42 of 2022 and other analogous matter, said case was earlier remanded to the learned L.A. Judge for the re-determination of compensation wherein similar rate of Rs.25,00,000/- per kani was again maintained by learned L.A. Judge. Thereafter, in the said appeal bearing L.A. App. No.31 of 2024, learned bench of this Court again remanded the matter with a direction either to take fresh evidence of both the parties or to re-appreciate the evidence already on record and to pass a fresh award after considering the

relevant factors. This Court in that case also relied on the decision of the Apex Court rendered in **Shaji Kuriakose (supra)** and observed thus :

"12. I have perused the record of the Learned Tribunal below very carefully. It appears that at the time of determination of compensation in respect of the present case Learned Tribunal below relied upon Exbt.4 i.e. the sale deed of the year 2001 which was almost about nine years earlier prior to the date of notification in the year 2011. Furthermore, in the said deed the quantum of land has been shown as the 'vastu' viti class of land whereas in the present case, the acquired land of the referring-claimants was nal/paddy land which is apparent from the judgment of the Learned Tribunal below. So, in view of the principle of law laid down by the Hon'ble Apex Court in the aforementioned cases it appears that the Learned Tribunal below without application of proper mind and without considering all the above factors determined the amount of compensation in respect of the acquired land without assigning any justified grounds/reasons @ Rs.25,00,000/- per kani for which in my considered view the judgment/award of the Learned Tribunal below suffers from perversity. So, it appears that the matter again needs to be remanded back to the Learned Tribunal below again either to take fresh evidence of both the sides or to re-appreciate the evidence on record properly and to deliver the judgment afresh. At the time of determination of the judgment, Learned Court below should consider the following factors :

- (1) the sale must be a genuine transaction.**
- (2) the sale deed must have been executed at the time proximate to the date of issue of notification under Section 4 of the Act.**
- (3) the land covered by the sales must be in the vicinity of the acquired land.**
- (4) the land covered by the sale must be similar to the acquired land.**
- (5) the size of plot of the land covered by the sales be comparable to the land acquired.**

13. Here in the case at hand, it appears that the Learned L.A. Judge could not consider the above factors in determining the amount of compensation and furthermore, if it is found that the Learned L.A. Judge relied upon Exbt.4 which was in respect of 'vastu' 'viti' class of land but in the present case the acquired land was 'nal' class of land. So, there was no scope on the part of Learned L.A. Judge to rely upon said Exbt.4 at the time of determination of compensation. So, it appears that in absence of consideration of the above factors the judgment delivered by Learned L.A. Judge needs to be set aside."

[10] Mr. D.K. Biswas, learned senior counsel, on the other hand, representing the claimants, and referring to paragraph No.12 of the impugned award has submitted that earlier the matter was remanded by this Court to learned L.A. Judge just to pass a reasoned order and now, a complete reasoned order has been passed by learned L.A. Judge

requiring no further interference. Mr. Biswas, learned senior counsel also submits that in a city or town area, none cares for the class of land and due to scarcity of land, the intending purchaser without giving much importance to the classification of the land, purchases the land and converts it generally either for residential purpose or for commercial purpose and more so, the acquired land is situated within Ramnagar Mouja which itself is a very posh area of Agartala city used for both commercial as well as residential purposes. According to Mr. Biswas, the original acquisition was made for construction of BOP which required no further development of land against huge expenditure and the border road is situated within the city area itself.

[11] Finally, learned senior counsel relying on a decision of the Apex Court in the case of **H.P. Housing Board vs. Bharat S. Negi and Others, (2004) 2 SCC 184**, submits that in the said case award was passed by learned L.A. Judge taking into consideration five sale instances proved by the claimants-respondents and two sale instances proved by appellants, and the sale instances pertained to land which was a '*kiar awal*' (*irrigated land*) class of land but the acquired land was '*bakhal awal*' (*non-irrigated land*) class. The Reference Court in said case did not make any difference in classification of land as the land was acquired for housing purposes and they were all suitable for construction activity. The Reference Court also refused to give any deduction for the largeness of the land. In appeal, the High Court refused to take into consideration two sale instances cited by the appellants on the ground that the appellants have themselves offered a price of Rs.80,000/- per bigha and took into consideration only the five sale instances cited by the claimants and thereafter, making the average price of those five sale instances, which arrived at Rs.1,80,000/- per bigha, deducted 40% due

to the largeness of the land and fixed compensation @ Rs.1,08,000/- per bigha. In that backdrop, the Apex Court held as follows :

"5. We have heard the parties. In our view, the High Court was absolutely wrong in excluding the two sale instances cited by the appellants. The High Court omitted to notice that the offer of Rs. 80,000 per bigha had not been accepted by the claimants. In any event the offer was for Rs. 80,000 per bigha as a consolidated amount. The appellants would not then have to pay the solatium and interest amounts. We are told, and it is not disputed that the figure of Rs. 80,000 per bigha would, if solatium and interest is deducted, have gone down to less than Rs. 40,000 per bigha. In our view the approach of the Reference Court was correct. As all sale instances were proved, they were all to be taken into consideration. If all the sale instances are taken into consideration the average would work out to Rs. 1,11,660 per bigha. But as all the sale instances are of small pieces of lands and the acquisition is of the large piece of land, a deduction of 33 1/3% must be made towards development cost. Thus the compensation would work out to Rs. 74,444 per bigha."

[12] Before entering into the factual facet of the present case, the basic principles and parameters for deciding the compensation in land acquisition cases as enunciated by the Apex Court and also by this Court are required to be revisited. In the case of **Chimanlal Hargovinddas vs. Special Land Acquisition Officer, Poona and another, AIR 1988 SC 1652**, the following parameters were laid down by the Apex Court for determination of just and proper compensation :

"4.

(1).....

.....

(10) The most comparable instances out of the genuine instances have to be identified on the following considerations :

(i) proximity from time angle

(ii) proximity from situation angle.

(11) Having identified the instances which provide the index of market value the price reflected therein may be taken as the norm and the market value of the land under acquisition may be deduced by making suitable

adjustments for the plus and minus factors vis-à-vis land under acquisition by placing the two in juxtaposition.

(12) A balance-sheet of plus and minus factors may be drawn for this purpose and the relevant factors may be evaluated in terms of price variation as a prudent purchaser would do.

(13) The market value of the land under acquisition has thereafter to be deduced by loading the price reflected in the instance taken as norm for plus factors and unloading it for minus factors.

(14) The exercise indicated in clauses (11) to (13) has to be undertaken in a common sense manner as a prudent man of the world of business would do. We may illustrate some such illustrative (not exhaustive) factors : -

for table see below)

(15) The evaluation of these factors of course depends on the facts of each case. There cannot be any hard and fast or rigid rule. Common sense is the best and most reliable guide. For instance, take the factor regarding the size. A building plot of land say 500 to 1000 sq. yds cannot be compared with a large tract or block of land of say 10000 sq. yds. or more. Firstly while a smaller plot is within the reach of many, a large block of land will have to be developed by preparing a lay out, carving out roads, leaving open space, plotting out smaller plots, waiting for purchasers (meanwhile the invested money will be blocked up) and the hazards of an entrepreneur. The factor can be discounted by making a deduction by way of an allowance at an appropriate rate ranging approx. between 20% to 50% to account for land required to be set apart for carving out lands and plotting out small plots. The discounting will to some extent also depend on whether it is a rural area or urban area, whether building activity is picking up, and whether waiting period during which the capital of the entrepreneur would be locked up, will be longer or shorter and the attendant hazards.

(16) Every case must be dealt with on its own fact pattern bearing in mind all these factors as a prudent purchaser of land in which position the Judge must place himself.

(17) These are general guidelines to be applied with understanding informed with common sense.

Sl.No.	Plus factors	Minus factors
1.	Smallness of size.	largeness of area.
2.	Proximity to a road.	situation in the interior at a distance from the

		road.
3.	frontage on a road.	narrow strip of land with very small frontage compared to depth.
4.	nearness to developed area.	lower level requiring the depressed portion to be filled up.
5.	regular shape.	remoteness from developed locality.
6.	level vis-a-vis land under acquisition.	some special disadvantageous factor which would deter a purchaser.
7.	special value for an owner of an adjoining property to whom it may have some very special advantage.	

[13] In ***Land Acquisition Officer vs. B. Vijender Reddy and Others, (2001) 10 SCC 669***, the Apex Court held the followings :

"13. It is true, in the fixation of rate of compensation under the Land Acquisition Act, there is always some element of guesswork. But that has to be based on some foundation. It must spring from the totality of evidence, the pattern of rate, the pattern of escalation and escalation of price in the years preceding and succeeding Section 4 notification etc. In other words, the guesswork could reasonably be inferable from it. It is always possible to assess the rate within this realm....."

[14] In ***Kasturi and Others vs. State of Haryana, (2003) 1 SCC 354***, it was held by the Apex Court that in respect of agricultural land or undeveloped land which has potential value for housing or commercial purposes, normally 1/3rd amount of compensation has to be deducted out of the amount of compensation payable on the acquired land subject to certain variations depending on its nature, location, extent of expenditure involved for development and the area required for roads and other civic amenities to develop the land so as to make the plots for residential or commercial purposes. It was also observed by the Apex Court that a land may be plain or uneven, the soil of the land

may be soft or hard bearing on the foundation for the purpose of making construction; may be the land is situated in the midst of a developed area all around but that land may have a hillock or may be low-lying or may be having deep ditches. So the amount of expenses that may be incurred in developing the area also varies. There may be various factual factors which may have to be taken into consideration while applying the cut in payment of compensation towards developmental charges.

[15] In ***Viluben Jhalejar Contractor (D) by LRs., vs. State of Gujarat***, in ***AIR 2005 SC 2214***, the principle laid down in ***Chimanlal Hargovinddas (supra)*** was also reiterated. Further, at para No.25 of the judgment, the Apex Court observed thus :

"25. In Bhagwathula Samanna (supra), it has been held:

"11. The principle of deduction in the land value covered by the comparable sale is thus adopted in order to arrive at the market value of the acquired land. In applying the principle it is necessary to consider all relevant facts. It is not the extent of the area covered under the acquisition which is the only relevant factor. Even in the vast area there may be land which is fully developed having all amenities and situated in an advantageous position. If smaller area within the large tract is already developed and suitable for building purposes and have in its vicinity roads, drainage, electricity, communications etc. then the principle of deduction simply for the reason that it is part of the large tract acquired, may not be justified."

[16] In the case of ***Rishi Pal Singh and Others vs. Meerut Development Authority and Another, (2006) 3 SCC 205***, the Apex Court observed that there is no bar in law to consider the exemplars of small plots. In an appropriate case, specially when other relevant or

material evidence is not available, such exemplars can be considered after making adequate discount.

[17] In ***Subh Ram and Others vs. State of Haryana and Another, (2010) 1 SCC 444***, the Apex Court held that if the valuation of a large extent of agricultural or undeveloped land is to be based on the sale price of a small developed plot in a private layout, then the standard deductions should be one-third (for roads, etc.) plus one-third (for expenditure of development), in all two-thirds (or 67%), as “development cost” from the value of small plot and the percentage of such deduction may vary between 20% to 75% depending on several circumstances. It was also observed that the purpose of acquisition will not be relevant for taking into account the percentage of deduction.

[18] In ***Andhra Pradesh Housing Board vs. K. Manohar Reddy and Others, (2010) 12 SCC 707***, and ***Mehrawal Khewaji Trust (Regd.) Faridkot & Ors. vs. State of Punjab & Ors, 2012 AIR SCW 2822***, it was held that when large tract of land is acquired and sale instances produced for small plots as exemplar, the best course for the court to arrive at a reasonable and fair valuation is to deduct a reasonable percentage from the valuation shown in the exemplar land and on the basis thereof to arrive at a just and fair valuation. In ***Mehrawal Khewaji Trust (supra)***, it was further held that when there are several exemplars with reference to similar lands, it is the general rule that the highest of the exemplars, if it is satisfied, that it is a bona fide transaction has to be considered and accepted.

[19] Recently, in ***Horrmal (Deceased) through his Lrs and others vs. State of Haryana and Others, 2024 SCC Online SC***

2990, again said principle has been reiterated by the Apex Court that sale exemplars of smaller plots can be taken into consideration provided they are subject to adequate developmental charges. It has also been further observed that post-notification sales can only be considered when better evidence is not available on record and when the party relying on it can convincingly demonstrate that there has been no upward trend in market prices due to the acquisition.

[20] In the case of **Shaji Kuriakose (supra)**, as relied upon by learned Dy. S.G.I., the Apex Court while citing some factors for taking into consideration for determination of compensation noted, *inter alia*, that the land covered by the sales must be **similar** to the acquired land.

[21] The word '**similar land**' was interpreted by this Court in **Smti Nanda Rani Debnath & Ors. vs. In-charge, HR-ER, O.N.G.C. Limited & Anr.**, in **L.A. App. No.21 of 2016** decided on 23.8.2018 in the following terms :

"16. The phrase that has been used in Mehrawal Khewaji Trust (supra) "the similar lands", has to be critically dwelled upon for having an accurate insight to the legal proposition. What makes two pieces of land similar to each other? According to this Court, its location, the index of development, the class of the land and the other advantages attached to the land. These four parameters if considered cumulatively allows a prudent person to come to a conclusion that whether two pieces of land, though differently located is liable to be treated as similar."

[22] Further, this Court while determining compensation under the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in the case of **The Deputy Chief Engineer (Construction-1), N.F. Railway, Badharghat, Agartala vs. Smt. Sandhya Rani Deb & Ors.**, in **L.A.**

App. No.28 of 2023 decided along with **CO(FA) No.10 of 2023** on 25.1.2024 observed as follows :

"14. The provision of Section 26 further cast a duty on the Collector to consider the sale price of similar type of land. The words 'similar type' cannot be equated with the words 'same type'. As per Oxford Advanced Learner's Dictionary, 8th Edition, the word 'same' denotes 'exactly the one or ones referred to or mentioned' whereas, the word 'similar' means 'like but not exactly the same'.

[23] On careful consideration of aforementioned successive pronouncements of the Apex Court and above said two decisions of this Court, the law is no longer *res integra* that, to arrive at a just and proper decision, some groundwork is required to be done by the Court based on certain foundational facts. While determining the compensation, the factors which were required to be taken care of are that the sale of the exemplars must be genuine transaction and that the sale deed must have been executed at the time proximate to the date of issue of notification under Section 4 of the Act. The land covered by the sale should be in the vicinity of the acquired land and should be similar to the acquired land. Further, the size of plot of the land covered by the sales should be comparable to the land acquired. If these factors are satisfied, then the sale value of the land of such exemplars can safely be given to the land losers for the acquisition of their lands. But, where there are dissimilarities in regard to the locality, shape, site or nature of the land between the land involved in sale exemplars and the acquired land, it is always open to the Court to proportionately reduce the compensation for the acquired land than what is reflected in the sale exemplars. While making such reduction of the value, the permissible range is between 20% to 75% and even sale exemplars concerning

small tract of land can also form basis to determine large area of land acquired.

[24] There is no fixed principle that, to claim compensation for a particular class of land, the sale exemplars involving 'same class' of land shall have to be produced by the claimant and on failure to produce the same in the Court, his claim has to be negated by affirming the award of the L.A. Collector. It is the solemn duty of the Tribunal to arrive at just and proper compensation for the land losers. In a particular area if a 'Bastu' class of land is acquired, there may not be sale exemplars available in the vicinity showing transaction of 'Bastu' class of land and for that reason the land losers cannot be given a go-by. If the claimant is able to produce other satisfactory evidences to enable the Tribunal to determine fair compensation, it is always open to the learned L.A. Judge to determine the compensation basing on such exemplars subject to necessary cuts or increase of value whichever applicable, in the light of the parameters laid down by the Apex Court from time to time.

[25] It is also well settled that a reference under Section 18 of the Act is not an appeal against the award and the Court cannot take into account the material relied upon by the Land Acquisition Collector in his award, unless said materials are proved before the learned L.A. Judge. The Court is required to treat the reference as original proceeding and to determine the market value of the acquired land afresh basing on the materials placed before it [Ref.- **Chimanlal Hargovinddas (supra)**].

[26] The contention of the appellant that Exbt.2 pertains to a different class of land i.e. 'Bastu' class of land, and therefore, same is

unreliable and no compensation can be determined based on such exemplar, is not acceptable. So far the observations of this Court in ***The Union of India vs. Sri Pradip Das (supra)***, that in Exbt.4 of that case involved 'Bastu' (vitti) class of land whereas the acquired land was 'Nal/Paddy' class of land, and therefore, there was no scope on the part of learned L.A. Judge to rely on said Exbt.4, are concerned, same were completely some incidental observation of the Court on factual aspects of that case while appreciating the evidences and did not enunciate any law on the issue. Moreover, as it appears, decisions of this Court in above said ***Smti Nanda Rani Debnath (supra)*** and ***The Deputy Chief Engineer (Construction-1), N.F. Railway, Badharghat, Agartala vs. Smt. Sandhya Rani Deb (supra)*** were not placed before said Bench while deciding that case.

[27] Now coming to the case in hand, the claimants have proved one Sale Deed No.1-1597, dated 25.2.2015, which was executed 4(four) years after the date of notification. Therefore, it would not be safer and prudent to rely on it. The claimants also proved another Sale Deed bearing No.1-9625, dated 12.11.2001, wherein a very small tract of land of 2 karas 2 krantas 14.5 dhurs (628 square feet) of 'Bastu' class of land of Mouja-Agartala Town, sheet No.3 was sold at Rs.90,000/-, i.e., @ Rs.24,76,440/- per kani. This deed was executed 9(nine) years prior to the date of the notification. Learned L.A. Judge relied on said deed.

[28] From the side of L.A. Collector, the witness, Sri Narendra Chandra Deb, proved one Sale Deed bearing No.1-1287, dated 4.2.2011, of Mouja-Chandinamura (erstwhile Ramnagar), wherein a 'Nal' class of land from RS plot Nos.3719, 3690 and 3322/9326 was sold @ Rs.10,00,000/- per kani. From the assessment note of the L.A.

Collector, it appears that the L.A. Collector did not rely on said sale deed reflecting that said land was situated at a distance of 3900 ft. away from the acquired land. When the L.A. Collector did not rely on said deed, it will not be much helpful for the appellant to gain support of the same. In the said assessment note, the L.A. Collector further observed that the area of acquisition was not very large, and the utilization of all the classes of lands were similar, and therefore, L.A. Collector decided not to apply belting method. The L.A. Collector actually relied on another sale deed (not proved into evidence), wherein 'Nal' class of land was sold @ Rs.13,33,333/- per kani about 5(five) months prior to the acquisition, but despite the same, he did not fix the rate of compensation at the said rate, as even, according to the L.A. Collector, there was trend of escalation of price of land everywhere. Finally, the rate of Rs.15,00,000/- per kani was fixed by him, taking note of valuation assessed by the SDM, Sadar. However, as the said deed bearing the rate of Rs.13,33,333/- was not proved in the evidence.

[29] In such a situation, there is no other alternative document except to rely on Exbt.2, as indicated above, subject to consideration of all the advantages and disadvantages attached therewith *vis-a-vis* the acquired land. The witness of the L.A. Collector has admitted in his evidence that the acquired land was situated within 500 meters from Durga Chowmuhani Market and Ramnagar Higher Secondary School and Bani Bidhya Pith H.S. School were also situated within 500 meters to 1 km from the acquired land. Thus, it appears that the acquired land, though adjacent to the Indo-Bangla border, was situated within Agartala Township and all urbanized facilities were available within that area.

[30] This Court is of the view that even though the acquired land is of 'Nal' class, it can be made usable as 'Bastu' class of land by certain earth-filling and thereby making it comparable to Exbt.2. Therefore, some amount is required to be deducted on the count of development cost from the consideration price of Exbt.2. No map has been submitted by the claimants to show the distance of acquired land from the land of Exbt.2, and therefore, normal inference will be that it is situated at a considerable distance from the acquired land. Moreover, the land of Exbt.2 is comparatively smaller than the acquired land. Therefore, some deductions are required to be made further on above said two counts to make the value of the acquired land comparable to the sale price of Exbt.2. According to this Court, it will be just and proper to deduct 45% (15% for development cost, 15% for distance and 15% for smaller plot size of Exbt.2) from the consideration price of Exbt.2. After such deduction, the same will fetch the approximate value of the acquired land as it was in the year 2001. Therefore, the value of acquired land in 2001 is assessed at Rs.24,76,000 – 45% = Rs.13,61,800/-. Due to the rapid escalation of prices in that locality, as indicated by the L.A. Collector, at least 10% may be increased for every two years from the above said value on account of such escalation. Therefore, further 45% is required to be added with the same for such escalation for next nine years, which comes to Rs.19,74,610/- rounded off to Rs.20,00,000/-. The value of the acquired land is accordingly determined at Rs.20,00,000/- per kani.

[31] In the result, the appeal is partly allowed. The claimants will get compensation @ Rs.20,00,000/- along with 30% solatium, 12%

additional compensation, and all statutory interests and costs as granted by learned L.A. Judge in the impugned award.

The appeal is accordingly disposed of.

Send down the LCRs along with a copy of the judgment immediately.

Pending application(s), if any, also stands disposed of.

JUDGE



**SUJAY
GHOSH**

Dinashree

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SUJAY GHOSH
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