

**HIGH COURT OF TRIPURA
AGARTALA**

LA App. No.31 of 2023

**The Deputy Chief Engineer (Construction-1),
N.F. Railway, Badharghat, Agartala.**

..... Appellant(s)

- V e r s u s -

- 1. [Name of Chinu Rani Roy deleted** vide order dated 19.01.2024 in I.A. No.03 of 2023]
- 2. Smt. Mira Roy Sarkar,**
Wife of Ratan Sarkar, daughter of Lt Harimohan Roy, resident of Bhubanban, Lankamura, P.O.+P.S. Airport, District- West Tripura.
- 3. Smt. Lilu Roy Biswas,**
Wife of Phani Biswas, daughter of late Harimohan Roy, resident of Ghilatali, P.S. Kalyanpur, District- Khowai, Tripura.
- 4. Smt. Shipra Roy (Biswas),**
Wife of Prafulla Biswas, daughter of late Harimohan Roy, resident of South Ghilatali, P.S. Kalyanpur, District- Khowai, Tripura.
- 5. Smt. Sakuntala Roy,**
Wife of late Chitta Ranjan Roy, resident of Charipara, P.S. Amtali, District- West Tripura.
- 6. Smt. Debasree Roy (Sarkar),**
Wife of Nirmal Sarkar, D/o late Chitta Ranjan Roy, resident of Ishan Chandra Nagar, P.O. Mohanpur, P.S. Mohanpur, District- West Tripura.
- 7. Smt. Dipuka Roy,**
Daughter of late Chitta Ranjan Roy, resident of Charipara, P.S. Amtali, District- West Tripura.
- 8. Smt. Sadhana Roy Sarkar,**
Wife of Lt. Naresh Sarkar, D/o late Sagar Chandra Roy, resident of Charipara, P.S. Amtali, District- West Tripura.
- 9. Sri Amrit Roy,**
Son of late Sagar Chandra Roy, resident of Charipara, P.S. Amtali, District- West Tripura.
- 10. Deleted.**
- 10. a) Smt. Arunbala Roy,**
Wife of Lt. Abani Mohan Roy, resident of Belabar, Charipara, P.O. S.D. Mission, P.S. Amtali, District- West Tripura.
- 10. b) Sri Parimal Roy,**
Son of Lt. Abani Mohan Roy, resident of Charipara, P.O. S.D. Mission, P.S. Amtali, District- West Tripura.
- 10. c) Smt. Kabita Roy,**

Daughter of Late Abani Mohan Roy, wife of Sri Haradhan Sarkar, resident of North Madhabpur, Ishan Chandra Nagar, P.S. Amtali, District- West Tripura.

10. d) Smt. Sabita Roy,

Daughter of Late Abani Mohan Roy, wife of Haripada Das, resident of Nalchar, P.S. Melaghar, District- Sepahijala Tripura.

11. Sri Abhirañjan Roy,

Son of late Sagar Chandra Roy, resident of Charipara, P.S. Amtali, District- West Tripura.

12. Smt. Kanchan Chowdhury @ Kanchan Sarkar Chowdhury,

Daughter of late Manindra Chandra Sarkar, wife of late Paresh Chowdhury, resident of Narayanpur, P.S. Airport, District- West Tripura.

13. a) Smt. Sabita Mallik Sarkar,

Daughter of late Ranjit Mallik, wife of Rabindra Sarkar, resident of Belabar, Charipara, P.O. S.D. Mission, P.S. Amtali, District- West Tripura.

13. b) Smt. Soma Mallik,

Daughter of late Ranjit Mallik, wife of Ashim Majumder, resident of Charipara, P.O. Charipara, P.S. Amtali, District- West Tripura.

13. c) Smt. Rinku Mallik,

Daughter of late Ranjit Mallik, wife of Kamal Das, resident of East Badharghat, P.O. A.D. Nagar, P.S. Amtali, District- West Tripura.

13. d) Smt. Anita Mallik,

Daughter of late Ranjit Mallik, wife of Lokesh Mallik, resident of Charipara, P.O. Charipara, P.S. Amtali, District- West Tripura.

13. e) Smt. Ruma Mallik,

Daughter of late Ranjit Mallik, wife of Joy Bhowmik, resident of Charipara, P.O. Charipara, P.S. Amtali, District- West Tripura.

13. f) Smt. Kabita Mallik Das,

Daughter of late Ranjit Mallik, wife of Dilip Kumar Das, resident of Bankumari, Madhuban, P.O. Bankumari, P.S. East Agartala, District- West Tripura.

14. Sri Sunil Sarkar,

Son of late Manindra Chandra Sarkar, resident of Charipara, P.S. Amtali, District- West Tripura.

15. Smt. Jharna Das @ Jharna Sarkar (Das),

Daughter of late Manindra Chandra Sarkar, wife of Ratan Das, resident of village- Amtali, P.S. Amtali, District- West Tripura.

16. Smt. Anima Sarkar,

Daughter of late Manindra Chandra Sarkar, wife of Nandalal Sarkar, resident of Lankamura, P.S. Airport, District- West Tripura.

..... Respondent(s)(Referring Claimants)

17. The Land Acquisition Collector,

West Tripura, Agartala.

..... Respondent(s)

CO(FA) No.11 of 2023
In LA App. No.31 of 2023

- 1. Smt. Mira Roy Sarkar (Age- 44 years),**
W/o Ratan Sarkar, D/o Lt. Harimohan Roy, Resident of Bhubanban, Lankamura, P.O.& P.S. Airport, District Tripura West.
- 2. Smt. Litu Roy Biswas (Age- 37 years),**
W/o Phani Biswas, D/o Lt. Harimohan Roy, Resident of Ghilatali, P.S. Kalyanpur, District Khowai Tripura.
- 3. Smt. Shipra Roy (Biswas) (Age- 53 years),**
W/o Prafulla Biswas, D/o Lt. Harimohan Roy, resident of South Ghilatali, P.S. Kalyanpur, District Khowai Tripura.
- 4. Smt. Sakuntala Roy (Age- 55 years),**
W/o Lt. Chittaranjan Roy, Resident of Charipara, P.S. Amtali, District Tripura West.
- 5. Smt. Debasree Roy (Sarkar) (Age- 30 years),**
W/o Nirmal Sarkar, D/o Lt. Chitta Ranjan Roy, Resident of village Ishan Chandra Nagar, P.O. Madhabpur, District Tripura West.
- 6. Smt. Dipika Roy (Age- 28 years),**
D/o Lt. Chitta Ranjan Roy, Resident of Charipara, P.S. Amtali, District Tripura West.
(Referring-Claimants-Respondent-Cross Objector Nos. 5 & 6 are being represented by Referring-Claimants-Respondent-Cross Objector No.4 being their constituted Attorney by dint of Registered General Power of Attorney vide No. IV-578, dated 28/12/2017).
- 7. Smt. Sadhana Roy Sarkar (Age- 67 years),**
W/o Lt. Naresh Sarkar, D/o Lt. Sagar Chandra Roy, Resident of Charipara, P.S. Amtali, District Tripura West.
- 8. Amrit Roy (Age- 54 years),**
S/o Lt. Sagar Chandra Roy, Resident of Charipara, P.S. Amtali, District Tripura West.
- 9. Abhiranjan Roy (Age 58 years),**
S/o Lt. Sagar Chandra Roy, Resident of Charipara, P.S. Amtali, District Tripura West.
- 10. Smt. Kanchan Chowdhury @ Kanchan Sarkar Chowdhury (Age- 65 years),**
D/o Lt. Manindra Chandra Sarka, W/o Lt. Paresh Chowdhury, resident of village Narayanpur, P.S- Airport, District Tripura West.
- 11. Sri Sunil Sarkar (Age 58 years),**
S/o Lt. Manindra Ch. Sarkar, Resident of:- Charipara, P.S. Amtali, District Tripura West.
- 12. Smt. Jharna Das @ Jharna Sarkar (Das) (Age- 54 years),**
D/o Lt. Manindra Ch. Sarkar, W/o Ratan Das, Resident of village Charipara, P.S- Amtali, District Tripura West.
- 13. Smt. Anima Sarkar (Age- 40 years),**
D/o Lt. Manindra Chandra Sarkar, W/o- Nandalal Sarkar, Resident of- Lankamura, P.S- West Agartala, District- West Tripura.

Legal heirs of Abani Mohan Roy

- 14. Smt. Arunbala Roy,**
W/o Lt. Abani Mohan Roy.
- 15. Sri Parimal Roy,**
S/o Lt. Abani Mohan Roy, Both Residents of Charipara, P.S- Amtali, P.O- S.D Mission, District- West Tripura.
- 16. Smt. Kabita Roy,**
D/o Lt. Abani Mohan Roy, W/o Sri Haradhan Sarkar, Resident of North Madhabpur, Ishan Chandra Nagar, P.S- Amtali, District- West Tripura.
- 17. Smt. Sabita Roy,**
D/o Lt. Abani Mohan Roy, W/o Haripada Das, Resident of Nalchar, P.S- Melaghar, District- Sepahijala Tripura.

Legal heirs of Kanan Mallik @ Kanan Sarkar Mallik

- 18. Smt. Sabita Mallik Sarkar,**
W/o Rabindra Sarkar, Resident of Belabar, Charipara, P.O- S.D. Mission, District- West Tripura.
- 19. Smt. Soma Mallik,**
W/o Ashim Majumder, Resident of- Charipara, P.O- Charipara, District- West Tripura.
- 20. Smt. Rinku Mallik,**
W/o Kamal Das, Resident of- East Badharghat, P.O- A.D. Nagar, District- West Tripura.
- 21. Smt. Anita Mallik,**
W/o Lokesh Mallik, Resident of Charipara, P.O- Charipara, District- West Tripura.
- 22. Smt. Ruma Mallik,**
W/o Joy Bhowmik, Resident of- Charipara, P.O- Charipara, District- West Tripura.
- 23. Smt. Kabita Mallik Das,**
W/o Dilip Kumar Das, Resident of- Bankimari, Madhuban, P.O- Bankumari, District- West Tripura.

.....Referring-Claimants-Respondent-Cross Objector(s)

- V e r s u s -

- 1. The Deputy Chief Engineer, Con-1,**
N.F. Railway, Badharghat, Agartala, P.S- Amtali, District- West Tripura.

.....O.P No.1-Appellant-Respondent(s)

- 2. The L.A Collector,**
West Tripura, Agartala, PIN- 799001.

..... O.P No.2-Respondent(s)

For the Appellant(s)	:	Mr. B. Majumder, Dy. S.G.I.
For the Respondent(s)	:	Mr. D. Deb, Advocate. Ms. P. Goswami, Advocate.
For the Cross Objector(s)	:	Mr. D. Deb, Advocate. Ms. P. Goswami, Advocate.

For the Respondent(s) : Mr. B. Majumder, Dy. SGI.
[In CO(FA) 11/2023]

Date of hearing : **17th May, 2024.**

Date of delivery of Judgment & order : **14th August, 2024.**

YES	NO
✓	

Whether fit for reporting :

HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA
JUDGMENT & ORDER

Both the appeal and the cross appeal arise out of the judgment passed in the form of award dated 30.09.2022 by the Land Acquisition, Rehabilitation and Resettlement Authority, Tripura (for short, "the authority") deciding the valuation of the acquired land @ Rs.9,90,000/- per kani.

[2] An area of 1.14 acre of 'Nal' and 'Chara' (Nal) classes of land of the cross appellants (hereinafter referred as *the claimants*) was acquired for construction under Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (for short- *the Act of 2013*) for the purpose of construction of Agartala-Akhaura New Rail Line vide notification No.F.9(05)-REV/ACQ/VI/2016 dated 28.01.2017. The acquired land falls within Mouja-Charipara under sheet No.1/P and 2/P under different plots of Khatian No.2076/1/4/5.

[3] The Land Acquisition Collector awarded compensation @ Rs.4,50,000/- per kani for all classes of land acquired under said project. Feeling aggrieved thereby, the claimants sought for reference and accordingly, it was referred. Before the Authority,

both the claimants and Land Acquisition Collector produced their respective evidences to support their respective pleadings and finally, the Tribunal awarded compensation @ Rs.9,90,000/- per kani as indicated earlier.

[4] Being aggrieved by said award, the Requiring Department, N.F. Railway preferred L.A. Appeal No.31 of 2023 whereas the claimants preferred CO(FA) No.11 of 2023 claiming enhanced compensation @ Rs.1,25,00,000/- per kani which was their actual claim before the Authority.

[5] Mr. B Majumder, learned Dy. S.G.I. for the Requiring Department-appellant argued that the Tribunal itself had doubted the sale exemplar under Exbt.3 but ultimately said deed was taken into consideration by said Authority going beyond the settled principle of law. Learned Dy. S.G.I., also referred Para 27 of the impugned award and argued that in one place the Tribunal reduced 40% from the consideration price of said Exbt.3 on the ground of its high potential value and of being smaller in size, whereas, in another place it reduced 60% thereof which were self-contradictory and indicative of the fact that the Authority itself was in dilemma as to which sale exemplar should be taken into consideration. According to Mr. Majumder, learned Dy. S.G.I., Exbt.3 was not actually a reliable sale exemplar for determination of value of such acquired land and awarded amount is liable to be reduced.

[6] According to Mr. Majumder, learned Dy.S.G.I., from the revenue map it appeared that the lands under Exbt.B and Exbt.D as were proved from the side of Land Acquisition Collector were much closer to the acquired land and therefore, same ought to have been made basis for determination of compensation, whereas, the land under Exbt.C was not even traceable in the map and therefore, it could be safely presumed that said land was situated far away from the acquired land.

[7] Mr. D. Deb, learned counsel representing the claimants submitted that the land under Exbt.3 was also situated within Mouja-Charipara and therefore, even if it was not reflected in the map, same could be relied upon to determine the market value as per the provisions of the Act of 2013. However, he admitted that Exbt.3 was a roadside land unlike the lands under Exbt.B and Exbt.D. Learned counsel, also argued that Requiring Department despite having got the opportunity did not produce any evidence to support their counter statement and the sole witness of the Land Acquisition Collector also admitted in his cross-examination that he did not have any personal knowledge about the acquired land and therefore his evidence was not reliable. Further said witness admitted that the sale exemplars relied upon by him were not even reflected in the counter statement of Land Acquisition Collector and suddenly in surprise those were brought into evidence.

[8] From the impugned judgment, it appears that Ld. Authority gave description of 2(two) tabular charts therein demonstrating the details of the sale exemplars that were proved both from the sides and for purposeful reference both the charts are reflected below:

Table-1(Exhibited Sale deeds and map)

Sl. No.	Exhibit No.	Sale Deed/Map	Type/Class of Land	Quantum of Land	Value (Rs.)	Rate Per kani
1.	Ext. 1	Sale Deed No.1-1728,dated 22.03.2013	Bastu	0.030 acre	3,00,000/-	40,00,000/-
2.	Ext. 2	Sale Deed No.1-1729,dated 22.03.2013	Bastu	0.010 acre	5,00,000/-	2,00,00,000/-
3.	Ext.3	Sale Deed No.1-1609,dated 22.08.2014	Nal	0.060 acre	4,50,000/-	30,00,000/-
4.	Ext. 4	Sale Deed No.1- 57,dated 04.01.2017	Chara(Tilla)	0.050 acre	6,00,000/-	48,00,000/-

Table-2 (Exhibited Sale deeds of L.A.Collector)

Sl. No.	Exhibit Nos.	Sale Deed	Type/Class of Land	Quantum of Land	Rate Per Kani	Value (Rs.)
1.	Ext. A	Sale Deed No.1-3185, dated 08.04.2016	Bagan(Tilla), Chara(Tilla) & Bastu(Tilla)	0.140 acre	Rs. 1.5 Lakh [Acutally would be Rs.1,14,285/-]	Rs.40,000/-
2.	Ext.B	Sale Deed No.1-4537, dated 13.05.2016	Nal	0.200 acre	Rs. 1.60_Lakh	Rs.80,000/-
3.	Ext. C	Sale Deed No.1-7952, dated 10.09.2015	Tilla	0.040 acre	Rs.3 Lakh	Rs.30,000/-
4.	Ext. D	Sale Deed No.1-0405, dated 21.01.2014	Nal	0.310 acre	Rs.1.3 Lakhs	Rs.1,00,000/-
5.	Ext. E	Sale Deed No.1-647, dated 13.03.2014	Tilla/Chara (Nal)	0.030 acre	Rs.4 Lakh	Rs.30,000/-
6.	Ext.F	Sale Deed No.1-1756, dated 13.03.2014	Nal	0.630 acre	Rs.1.77 Lakh say Rs.1.8 Lakhs	Rs.2,80,000/-

[9] The legislature in its wisdom has prescribed a self contained procedure under the provision of Section 26 of the Act of 2013 for determination of compensation which is different from the provisions of Land Acquisition Act of 1894. The manner of assessment by the Collector or by the Authority under the Act of 2013 has been elaborated in another decision of this Court in the case of ***The Deputy Chief Engineer(Construction-1), N.F. Railway vs. Smt. Sandhya Rani Deb & Ors. (L.A. App. No.28 of 2023*** decided on 25.01.2024 with CO(FA) No.10 of 2023) and for useful reference relevant portion of the said judgment is quoted herein below:

"12. Before re-appreciating the evidence on record and the observations made by the authority, the basic principles underlying in the Act for determination of market value of land, are required to be referred to. Sub-Section (1) of Section 26 of the Act, therefore, is reproduced bellow:-

"26. Determination of market value of land by Collector:-

(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:-

(a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or

(b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or

(c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects,

whichever is higher :

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1- The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2- For determining the average sale price referred to in *Explanation 1*, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3- While determining the market value under this section and the average sale price referred to in *Explanation 1* or *Explanation 2*, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4- While determining the market value under this section and the average sale price referred to in *Explanation 1* or *Explanation 2*, any price paid which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value."

13. To determine the compensation basing on the sale exemplars, the provision, therefore enumerates that the average sale price for a similar type (*emphasis laid*) of land situated in the near village or near vicinity area should be taken into consideration. Therefore, the land under sale exemplar, even if not situated in the same village of the acquired land, is also permitted to be taken into consideration. Explanation 2 of Section 26 further stipulates that one-half of the total number of the sale deeds shall be taken into account in which the highest sale price (*emphasis laid*) has been demonstrated.

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*'.

15. Explanation No.1 provides that the sale transactions or agreement to sale of similar types of area of preceding three years should be taken into consideration, and the same may be made the basis for determining such compensation after taking average sale price of one-half of the total number of sale deeds or sale agreements which were on highest side. The words 'similar type of area' as mentioned in Explanation 1 do not confine only to take into consideration of the sale exemplars involving similar quantity of land, like the quantity of the acquired land. Otherwise, on many occasions, it may not be possible for the acquiring authority to collect such types of sale exemplars having similarity with both class and quantity of the acquired land.

[10] Now, from the chart as mentioned above in Paragraph 8 it appears that one sale exemplar (Exbt.3) from the side of claimants and three sale exemplars (Exbt.B, Exbt.D and Exbt.F) from the side of Land Acquisition Collector were proved regarding Nal class of land. All the said sale exemplars are of Mouja-Charipara and out of these four sale exemplars, all the sale exemplars except Exbt.D were executed within 3(three) years preceding the date of notification. Exbt.D being executed prior to 3(three) years, is therefore kept out of consideration. Now out of said three sale exemplars i.e. Exbt.3, Exbt.B and Exbt.F, the deeds under Exbt.3 and Exbt.F carry higher value than Exbt.B and therefore said Exbt.3 and Exbt.F are taken into consideration as 50% of the sale exemplars of higher value. Now, if average of consideration price of Exbt.3 and Exbt.F are taken into count, the value comes to be $(Rs.30,00,000/- + Rs.1,80,000/-) \div 2$

=Rs.15,90,000/- per kani rounded off to Rs. 16,00,000/- per kani whereas Ld. Authority has awarded compensation @ Rs.9,90,000/- per kani. In L.A. Appeal No.22 of 2022 in between **Majida Begam vs. The Deputy Chief Engineer,(Con), Agartala, N.F. Railway and Anr.** also, as relied upon by the claimants, this Court determined compensation at the similar rate of Rs.16,00,000/- per kani regarding Nal class of land acquired under the same project.

[11] From the impugned award as passed by the Ld. Authority, it appears that while appreciating the sale exemplars, Ld. Authority has been swayed away by the provisions of Act of 1894 and without coming to any specific finding that Exbt.3 was not demonstrating the actual market price, has arbitrarily deducted 40% of the sale price of Exbt.3 just on the ground that it was having higher potential value and was of small size. Ld. Authority has also relied on some decisions of the Hon'ble Supreme Court which were decided in the light of relevant provisions of the Act of 1894. Even the points as raised from the side of the Requiring Department during hearing were also in the line of principles as enunciated in Land Acquisition Act of 1894.

[12] The Preamble of the Act of 2013 speaks of providing just and fair compensation to the affected families whose land have been acquired or proposed to be acquired or are affected by such acquisition and to make adequate provision for such affected persons for their Rehabilitation and Resettlement with accumulative outcome of such compulsory acquisition that the

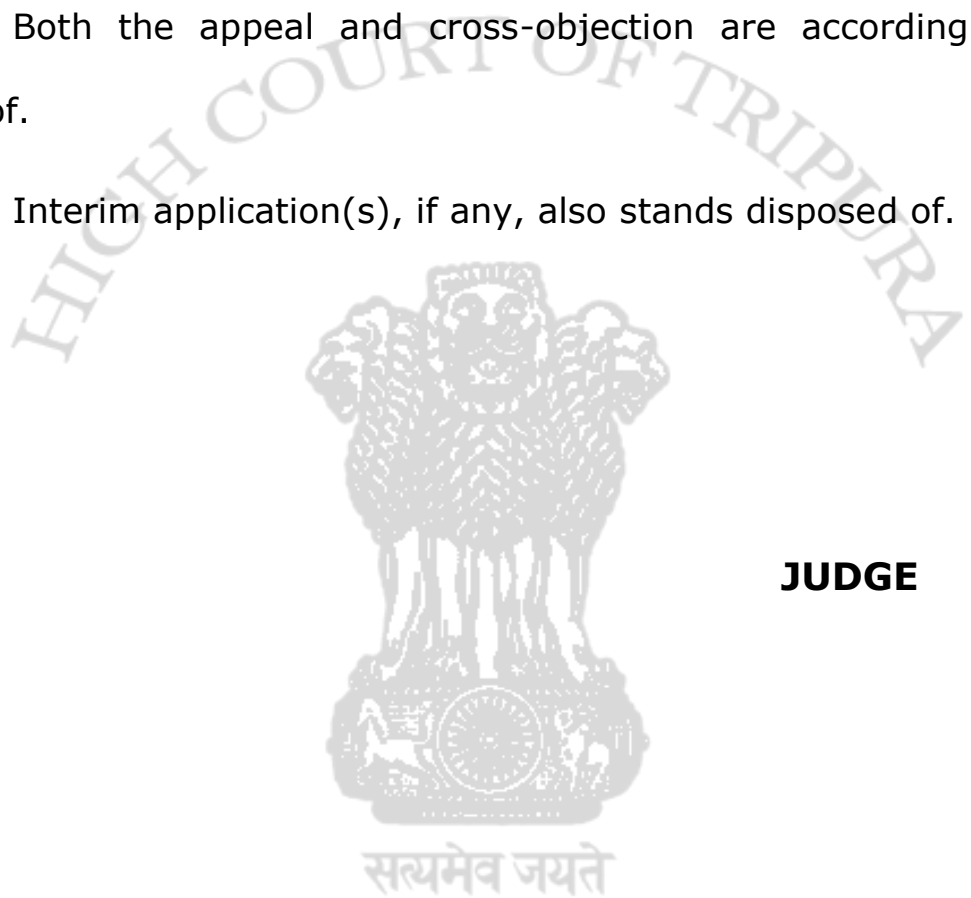
affected persons or the land losers also become partners in development leading to an improvement in their post acquisition social and economic status. In the statement of objects and reasons of the Act also, it is reflected that one of the core legislative intent behind legislation of such Act, is to ensure comprehensive compensation package for the land owners and a scientific method for calculation of market value of the land. The intention of the legislature for providing adequate compensation in a just and proper manner is also further evident in a different provisions of the Act by incorporating 100% solatium in place of 30% solatium, further multiplication of the compensation by multiplier within the range of 1 to 2, consideration of sale exemplars carrying highest sale price in the locality etc. and therefore, it is incumbent upon all the stake holders to ensure that such legislative intent is duly implemented through proper application of different provisions of the Act. Trend of looking for sale exemplar of comparatively lesser sale price or to reduce the value of consideration price of any sale exemplar on different grounds other than as provided in the Act are, therefore, not logical and rational.

[13] Considering the above, the L.A. Appeal No.31 of 2023 is dismissed and CO (FA) No.11 of 2023 is allowed. The value of the acquired land is determined @ Rs.16,00,000/-(Rupees Sixteen lakhs) per kani. The claimant-cross objectors are, therefore, entitled to get compensation for the land at the above said rate and along with the same, they will be entitled to get further

compensation by multiplying such land value with the factor 1.5, 100% solatium and additional compensation/interest under Sections 29, 69 and 72 of the Act as awarded by the Authority. In addition, a cost of Rs.1000/-, as awarded by the Authority, will also be paid by the Land Acquisition Collector to the claimants.

Both the appeal and cross-objection are accordingly disposed of.

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



JUDGE

**SATABDI
DUTTA**

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