

**HIGH COURT OF TRIPURA
AGARTALA**

LA App.46 of 2023

The General Manager Project

.....Appellant

versus

Shri Mihir Datta

.....Respondent

For Appellant(s) : Mr. N. Majumder, Advocate.

For Respondent(s) : Mr. UK Majumder, Advocate.
Mr. DC Saha, Advocate.

Date of hearing & delivery
of judgment and order : 14.08.2024.

Whether fit for reporting : Yes/No.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

JUDGMENT & ORDER(ORAL)

Heard Mr. N. Majumder, learned counsel appearing for the appellant. Also heard Mr. UK Majumder, learned counsel appearing for the claimant-respondents No.1 to 5. Mr. DC Saha, learned counsel is present on behalf of respondent- LA Collector.

[2] The present appeal is filed by the appellant under Section 54 of the Land Acquisition Act, 1894 for setting aside the judgment and award dated 16.06.2022 passed by the learned Land Acquisition Judge, West Tripura, Agartala in connection with Case No. Misc.(LA) 62 of 2017. According to the appellant, learned LA Judge has awarded compensation grossly in the higher side ignoring the evidence on record.

[3] Brief facts of the case are that a reference has been made by the L.A. Collector, West Tripura, Agartala u/s 18 of the Land Acquisition Act, 1894 (for short, LA Act) before the learned LA Judge for determination of the amount of compensation on account of acquisition of land measuring 0.32 acre of Bastu (Tilla), Viti (Tilla) and Chara (Tilla) classes comprised in Khatian No.1776 appertaining to plot Nos. 7506/p, 7507/p and 7510/p situated at Mouja Uttarchampamura, Sheet No. 3/P under West Tripura District, belonged to the referring claimants for the

purpose of construction of bye pass road from Khayerpur to Amtali vide Notification dated 22.03.2002, u/s 4 of the L.A. Act followed by declaration vide No. F.9(44)-REV/ACQ/VI/2000 dated 30.05.2002. According to the referring claimants total land measuring 0.32 acre classified as Bastu (Tilla), Viti (Tilla) and Chara (Tilla) of plot Nos. 7506/p. 7507/p and 7510/p under khatian No. 1776 was acquired by the L.A. Collector, West Tripura, Agartala and the value of the land was assessed @ Rs. 62,500/- per acre along with 30% solatium and interest @ 12% per annum w.e.f. 16.05.2002 to 15.11.2002 and thereby calculated the amount of compensation to the tune of Rs.27,200/- (Rupees twenty seven thousand two hundred) only. In their opinion, the acquired land has been developed and located very near to the God Chaturdas Debata Bari, Growth Centre, TSR Camp Road, Bodhjunnagar P.S., Cattle Farm, Khayerpur Bazar, Old Agartala H.S. School, Panchayet Office, Post Office, Fire Service Station, Aralia Bazar, Veterinary Hospital etc. It is surrounded by so many mills, industries, railway line, rail station and national highway which increased its potential value. Accordingly, the referring claimants claimed Rs.40,00,000/- per kani as compensation for such acquisition before the learned LA Judge.

[4] The case of the referring claimants was registered as case No. Misc.(L.A.) 62 of 2017. Thereafter, learned LA Judge after hearing the parties and observing all the facts and circumstances of the case, decided the matter on 16.06.2022 by his judgment. The relevant contents of the said impugned judgment and order dated 16.06.2022 passed by the learned LA Judge is extracted as under:

".....9. As per the claim petition the claimants claimed an amount of Rs.40,00,000/- per kani. But to substantiate such claim could not adduce any evidence. From Ext.1 i.e. judgment dated 10.12.2015 passed in Misc. L.A. 132 of 2014 it has been found that for similar acquisition for similar kind of land under same notification market value has been fixed @ Rs.8,00,000/- per kani by this Court. There is no evidence on record that any appeal has been preferred or pending against said judgment. While determining the market value in said land acquisition case this Court considered the sale instances which are exhibited in this case as Ext.2 and 3. Moreover, during cross examination of OPW1 i.e. Sri Narendra Ch. Deb who deposed before this Court on behalf of O.P. L.A. Collector, stated that on the same acquisition a judgment was passed by this Court in Misc. L.A. 40 of 2017 and Misc. L.A. 47 of 2017 in which also market value of the acquired land was fixed @ Rs.8,00,000/- per kani.

Thus, there is no doubt in holding that market value of the acquired land of this case can be assessed and fixed @ Rs.8,00,000/- per kani as fixed in the judgment passed by this Court in Misc. L.A. 132 of 2014 and in others mentioned above.

Hence, both the issues are decided in favour of the referring claimants.

ORDER

10. In the result, the claim of referring claimants stands awarded in the following terms :-

The referring claimants are entitled to get Rs. 8,00,000/- per kani only for the acquired land. They will also get 30% solatium and 12% interest on enhanced amount of compensation computing from the date of notification under Section 4 of the L.A. Act upto the date of award by the L.A. Collector or the date of taking possession of acquired land whichever is earlier as per Section 23(2) and Section 23(1-A) of the said Act respectively. The referring claimants will further get interest @ 9% per annum from the date of taking over possession for one year and thereafter @15% per annum after expiry of said one year till payment upon the said excess amount of compensation as per Section 28 of the L.A. Act. As per law laid down by Hon'ble Supreme Court in Mehrawal Khewaji Trust vs State of Punjab reported in 2012 AIR SCW 2822, the interest will also be counted on additional amount as awarded u/s 23(1-A) above and upon the solatium awarded u/s 23(2) of the L.A. Act.

Thus, the case is disposed of on contest.”

[5] Mr. N. Majumder, learned counsel appearing for the appellant submits that learned LA Judge, West Tripura, Agartala, without any basis enhanced the compensation much higher i.e. Rs.8,00,000/- per kani for the small quantum of land. According to him, it is erroneous in the eye of law. He, therefore, urges this Court to set aside the impugned judgment passed by the learned Tribunal.

[6] On the other hand, Mr. UK Majumder, learned counsel appearing for the claimant-respondents opposes the submission made by the learned counsel for the appellant and contends that the order passed by the learned Tribunal below should not be interfered with as the same has been passed in accordance with law.

[7] Heard learned counsel for the respective parties. Perused the record.

[8] It is seen from the paragraph 9 of the impugned judgment dated 16.06.2022 that in case No. Misc. L.A. 132 of 2014, learned Tribunal below by judgment dated 10.12.2015, fixed the market value @

Rs.8,00,000/- per kani for acquisition of similar kind of lands under the same notification. It has also been mentioned that there was no evidence on record that any appeal has been preferred or pending against the said judgment.

[9] Upon hearing the submissions made at the Bar, this Court finds that admittedly, no appeal has ever been preferred or pending against the said judgment dated 10.12.2015 of the learned Tribunal below.

In view of the above, since the value of the land of similar categories was fixed at Rs.8,00,000/- per kani by the Tribunal in the year, 2015 by a judgment and the same was never challenged by preferring any appeal and the learned Tribunal below by way of impugned judgment dated 16.06.2022, has followed the same observation, this Court is not inclined to interfere with the impugned judgment passed by the learned Tribunal and accordingly, the same is affirmed.

Thus, the present appeal filed by the appellant herein is dismissed. As a sequel, pending application(s) if any, shall also stand closed.

JUDGE

Sabyasachi. G.

RAJKUMAR SUHANJIT
SINGHA

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