

HIGH COURT OF TRIPURA
AGARTALA

LA.App 67 of 2023

NBCC India Limited
formerly known as
National Building Construction Corporation Ltd

---Appellant(s)

Versus

The Land Acquisition Collector and Another

---Respondent(s)

LA.App 73 of 2023

NBCC India Limited
formerly known as
National Building Construction Corporation Ltd

--- Appellant (s)

Versus

The Land Acquisition Collector and Another

---Respondent(s)

LA.App 68 of 2023

NBCC India Limited
formerly known as
National Building Construction Corporation Ltd

--- Appellant (s)

Versus

The Land Acquisition Collector and Another

---Respondent(s)

LA.App 69 of 2023

NBCC India Limited
formerly known as
National Building Construction Corporation Ltd

--- Appellant (s)

Versus

The Land Acquisition Collector and Another

---Respondent(s)

LA.App 70 of 2023

NBCC India Limited
formerly known as
National Building Construction Corporation Ltd

--- Appellant (s)

Versus

The Land Acquisition Collector and Another

---Respondent(s)

LA.App 71 of 2023

NBCC India Limited
formerly known as
National Building Construction Corporation Ltd

--- Appellant (s)

Versus

The Land Acquisition Collector and Another

---Respondent(s)

LA.App 72 of 2023

NBCC India Limited
formerly known as
National Building Construction Corporation Ltd

--- Appellant (s)

Versus

The Land Acquisition Collector and Another

---Respondent(s)

LA.App 74 of 2023

NBCC India Limited
formerly known as
National Building Construction Corporation Ltd

--- Appellant (s)

Versus

The Land Acquisition Collector and Another

---Respondent(s)

LA.App 75 of 2023

National Building Construction Corporation Ltd,
Represented by its Chairman Cum Managing Director

--- Appellant (s)

Versus

The Land Acquisition Collector And Another.

---Respondent(s)

For Appellant (s)	:	Mr. K.K. Pal, Advocate.
For Respondent(s)	:	Mr. A. L. Saha, Advocate.
Date of hearing and date of judgment and order	:	05.09.2024.
Whether fit for reporting	:	Yes

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard Mr. K. K Pal, learned counsel for the appellant also heard Mr. A. L. Saha learned counsel for the claimants. Despite notice being served there is no representation from the end of LA Collector.

[2] It is represented by the counsel for the appellant that all these matters have arisen out of the same facts and circumstances and hence these matters be tagged and heard together. Therefore, for the sake of brevity, this court is discussing the record attached to the file of the instant cast being LA.App 67 of 2023.

[3] This is an appeal under Section 54 of the Land Acquisition Act, 1984 against the judgment and award dated 23.08.2021 in case No.LA(Ref) 129/2019 passed by the Ld. Land Acquisition Judge, South Tripura Judicial District, Belonia.

[4] It is the case of the appellant that vide notification dated 10.12.2012 the L.A. Collector acquired 0.043 acres of Nal class of land from Plot No.2334/9029/p comprised in Khatian No.3434 of Mouja and T.K. Belonia, Sub-Division-Belonia of Sri Madhusudhan Choudhury in Case No. L.A. (Ref.) 129 of 2019 and the L.A. Collector also acquired 0.062 acres of Nal class of land from Plot No.2345/5555/p comprised in Khatian No.2147 of Mouja and T.K. Belonia, Sub-Division-Belonia of Sri Sudhir Kr. Lodh in Case No. L.A. (Ref.) 107 of 2019. The L.A. Collector in both the cases awarded compensation @Rs.15,00,000/- per kani for the land along with statutory interests.

[5] The claimant in both the cases filed objection before the L.A. Collector for inadequate compensation of the acquired land. As such, the L.A. Collector referred the cases for determination of market value of the land.

To deal with the matter, the learned LA Judge has framed the following issues to determination.

- (i) *Whether the L.A. Collector has given proper market value and paid adequate compensation for the acquired land?*
- (ii) *Whether there has been any severance of land for which the claimant is entitled to compensation?*
- (iii) *Whether the claimant-petitioner is entitled to get enhance compensation and if so, what should be the quantum?*

[6] The relevant contents of the impugned judgment and order dated 23.08.2021 passed by the learned LA Judge is extracted as under:

Now, therefore, the references are allowed. The referring claimants of both the cases are entitled to enhance amount of compensation @ Rs.74,41,860/- (Rupees seventy four lakhs forty one thousand eight hundred sixty) only per kani for the acquired land along with all admissible statutory benefits. The claimants of both the cases will also get Rs.1000/- as cost under section 27 of the Act. The Opposite Party is liable to make the payment to the referring claimants.

[7] It is contended by the counsel for the appellant that Ld. L.A. Judge failed to appreciate that the sale deed in question has no relevance with the acquired land and those deeds are not taken the land of the acquired land. It is further contended by the counsel for the appellant that the finding of the Ld. LA Judge for holding Rs.74,41,860/- per kani as sole basis is uncalled for in view of the fact that only 0.043 acres of Nal class land was transacted by the aforesaid documents relied upon by the claimant. Therefore, the Ld. LA Judge has failed to appreciate the small piece of land cannot be taken basis for determining the large area of land. Moreover, the aforesaid land is not adjacent to the acquired land. Counsel for the appellant has also contended that Ld. LA Judge has failed to give reasons as to why the deed considered by the LA Collector at the time of assessment has not been taken into account for determining the market rate of the land under acquisition.

[8] It was further added by the counsel for the appellant that Ld. LA Judge failed to appreciate that the awardee has failed to establish that the award given by the LA Collector was inadequate by producing any material on records which is sine qua non for the Ld. LA Judge to precede further redetermination of compensation. Hence, the award passed by the LA Judge is perverse and wrong.

[8] On the other hand, Mr. A. L. Saha, learned counsel appearing for the claimants submits that the compensation given by the Court below is liable to be enhanced as the same is on the lower side and not based on the existing market rate.

[9] Heard and perused the evidence on record.

[10] It is seen from the record that vide notification dated 10.12.2012 the L.A. Collector acquired 0.043 acres of Nal class of land from Plot No.2334/9029/p comprised in Khatian No.3434 of Mouja and T.K. Belonia, Sub-Division-Belonia of Sri Madhusudhan Choudhury in Case No. L.A. (Ref.) 129 of 2019 and the L.A. Collector also acquired 0.062 acres of Nal class of land from Plot No.2345/5555/p

comprised in Khatian No.2147 of Mouja and T.K. Belonia, Sub-Division-Belonia of Sri Sudhir Kr. Lodh in Case No. L.A. (Ref.) 107 of 2019. The L.A. Collector in both the cases awarded compensation @Rs.15,00,000/- per kani for the land along with statutory interests. Now at the threshold, the point which falls for consideration before this Court is owner of the acquired land is certainly entitled for a fair compensation. But, in the case in hand are the claimants owners and did they prove ownership in that issue.

[11] The claimants herein have not exhibited any document or title deed proving their ownership of the acquired land nor made a specific pleading as to how they became owner of the subject land and no particulars of the ownership documents are mentioned. It is reasonably construed that all land in a State is the property of the State unless it is claimed by a citizen under lawful alienable title. In the series of proceedings that relate to granting of compensation under Land Acquisition Proceedings, this Court noticed that concerned Courts have not dealt with the issue of ownership and there is no reference as to how the petitioner(s) claimed ownership on the said properties and whether the claimants are entitled for compensation from State or Requisite Department. Unless the petitioner(s) establishes that he/they is/are the owner of the said land, it is not open for him/them to claim equities. In the present case, the claimants relied only on the entries in Khatian as their names are reflected in the ownership column.

[12] That entries in khatian are only a revenue record which can always be changed for the reasons indicated before the concerned officers, but, the title deed is not of that nature and the claimants if not supported by any such title cannot claim as a matter of right the compensation toward the land acquired. On the strength of Khatian, claimants cannot be declared as owners. They cannot claim compensation as self styled owners. There should be lawful order of legally enforceable ownership document in

favour of the claimants. Mere entries of their names in revenue record do not confer title.

[13] In view of the above discussion, the impugned Award dated 23.08.2021 is set aside and this Court remands back the matter to the Court below for deciding the same after examining the title and documents of the claimants and also to fix a fair compensation if the claimants are found eligible. While deciding the matter, the learned Court below is to give reasonable opportunity to both the parties for adducing any additional evidence.

[14] With the above observation and direction, these appeals are disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.



JUDGE

Dipak