

**HIGH COURT OF TRIPURA
AGARTALA
LA APP. NO.83 OF 2023**

The State of Tripura,

Represented by the Executive Engineer,
O/o the Executive Engineer, Drinking
Water, Sanitation Department,
Government of Tripura.

.....Appellant(s)

Versus

1. Smt. Milan Rani Saha,

W/o Lt. Kishan Lal Saha,
Resident of Nandannagar,
P.S.- NCC, District-West Tripura.

2. Smt. Laxmi Rani Datta(Saha)

W/o- Gupan Datta,
Resident of 79 Tilla, P.S: NCC,
District- West Tripura.

3. Sri Pradip Saha,

S/o. Lt. Kishan Lal Saha,
Resident of Nandanagar,
P.S.- NCC, District: West Tripura.

4. Smt. Sita Saha(Deb),

W/o-Sri Samir Deb,
Resident of G.B. Bazaar, P.S.- NCC,
District- West Tripura.

5. Smt. Sabitri Saha,

W/o- Sri Anup Kumar Saha,
Resident of Circuit House, Kunjaban Colony,
P.S.- NCC, District: West Tripura.

6. Sri Sujit Saha,

S/o. Lt. Kishan Lal Saha,
Resident of Nandannagar, P.S.-NCC,
District- West Tripura.

7. Sri Pranab Saha,

S/o- Lt. Kishan Lal Saha,
Resident of Nandannagar, P.S.- NCC,
District- West Tripura

8. The Land Acquisition Collector,
O/o District Magistrate and Collector,
West Tripura District, Government of Tripura,
Agartala, West Tripura.

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

For the Appellant(s) : Mr. K. De, Addl. G.A.

For the Respondent(s) : Mr. P. Saha, Advocate.
Mr. P.S. Roy, Advocate.

CO(FA) NO.06 OF 2024

1. **Smt. Milan Rani Saha,**
W/o Lt. Krishan Lal Saha,
Resident of Nandan Nagar,
P.S.- NCC, District-West Tripura.

2. **Smt. Laxmi Rani Datta(Saha)**
W/o- Gupan Datta,
Resident of 79 Tilla, P.S: NCC,
District- West Tripura.

3. **Sri Pradip Saha,**
S/o. Lt. Krishan Lal Saha,
Resident of Nandan Nagar,
P.S.- NCC, District: West Tripura.

4. **Smt. Sita Saha(Deb),**
W/o-Sri Samir Deb,
Resident of G.B. Bazaar, P.S.- NCC,
District- West Tripura.

5. **Smt. Sabitri Saha,**
W/o- Sri Anup Kumar Saha,
Resident of Circuit House, Kunjaban Colony,
P.S.- NCC, District: West Tripura.

6. **Sri Sujit Saha,**
S/o. Lt. Krishan Lal Saha,
Nandan Nagar, P.S.-NCC,
District- West Tripura.

7. Sri Pranab Saha,
S/o- Lt. Krishan Lal Saha,
Resident of Nandan Nagar, P.S.- NCC,
District- West Tripura

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

Versus

1. The Executive Engineer,
Office of the Executive Engineer,
Drinking Water Sanitation Division,
West Tripura Agartala.

2. The Land Acquisition Collector,
Office of the District Magistrate and Collector,
Govt. of Tripura, West Tripura, Agartala.

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

For the Cross Objector(s) : Mr. P. Saha, Advocate.
Mr. P.S. Roy, Advocate.

For the Respondent(s) : Mr. K. De, Addl. G.A.

Date of hearing and delivery of
Judgment & Order : 06.09.2024.

Whether fit for reporting : YES.

HON'BLE MR. JUSTICE T. AMARNATH GOUD
J U D G M E N T & O R D E R (O R A L)

The present L.A. appeal has been filed challenging the Award dated 09.06.2022 passed by the learned land Acquisition Judge, West Tripura, Agartala, Court No.1 in Misc.(L.A.) No.18 of 2017 and the Cross objection has been filed for the enhancement of the awarded amount.

2. The brief fact of this case is that L.A. Collector, West Tripura Agartala acquired 0.20 acres of land classified as

Bastu(Tilla) under Plot No.78023 of khatian No.1568 under Sheet No.7/p of Debendra Chandra Nagar mouja under Sadar Sub-Division, District West Tripura. The L.A. Collector, West Tripura, Agartala assessed the compensation of Rs. 3,60,000/- per kani and awarded the claimant-respondents an amount of Rs.2,52,049/- as compensation.

3. Thereafter, the respondents filed an objection under Section 18 of the L.A. Act for enhancement of the amount of compensation awarded by the L.A. Collector, West Tripura Agartala claiming compensation@50,00,000/- per kani.

4. The appellant herein contested the proceeding. The learned Court below after considering all the evidences on record vide Award dated 09.06.2022 justified the claim of the respondents and enhanced the rate of compensation in the following terms:-

"In the result, the application of the referring claimant as well as other claimants for enhancement of award is allowed. It is hereby directed that the referring claimant as well as other claimants are entitled to get compensation @ Rs.32,00,000/- (Rupees Thirtytwo Lakh) per kani for the acquired land. The referring claimant as well as other claimants will also get 30% solatium and 12% further enhanced amount of compensation upon the said enhanced land value computing from the date of notification under Section 4 of L.A. Act, 1894 till the date of award by the Collector or the date of taking possession of land whichever is earlier, as per Section 23(2) and Section 23(1-A) of the Act respectively. The referring claimant as well as other 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 the date of payment upon said enhanced amount of compensation as per Section 28 of the Act. As per law laid down by Hon'ble Supreme Court in Mehrawal Khewaji Trust, Faridkot & ors. V. State of Punjab & ors., 2012 AIR SCW 2822, the interest will also be counted on additional amount as awarded under Section 23(1-A) above and upon the solatium awarded under Section 23(2) of the Act.

The referring claimant as well as other claimants will also get Rs. 1000/- as cost under Section 27 of the Act. The Opp.

Party no.1 is also made jointly and severally liable to make the payment of compensation along with Opp. Party no.2.

The amount already paid shall be adjusted against the compensation enhanced."

5. Being aggrieved and dissatisfied with the Judgment dated 09.06.2022, the appellant-State preferred the appeal, and the claimants- cross objector has filed the cross objection for enhancing the awarded amount to the tune of Rs.80,00,000/- per kani instead to Rs.32,00,000/- per kani along with other benefits, accordingly.

6. Heard Mr. K. De, learned Addl. G.A., appearing for the appellant-State as well as Mr. P. Saha, learned counsel and Mr. P.S. Roy, learned counsel appearing for the Claimants.

7. Mr. K. De, learned Addl. G.A., appearing for the appellant-State submits that claimants have not been able to substantiate the claim that they are the owner of the subject land and entitled to the compensation. The Court below has also not dealt with the said aspect of the matter.

8. On the other hand, Mr. P. 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 the Government issued acquisition proceeding No.F.9(4)-REV/ACQ/VI/10 dated 05.04.2010 and acquired the land to the extent of 0.20 acres classified as Bastu(Tilla) under Plot No.7803 of Khatian No.1568 under Sheet No.7/p of Debandra Chandra Nagar, Mouja under Sadar Sub-Division, District West Tripura showing the name of the predecessor of the claimants and the L.A. Collector has also fixed the amount of the Award considering the claimants as the owners. Not being satisfied, a reference under Section 18 of the L.A. Act has been made to Court of L.A. Judge (Court No.1), West Tripura Agartala for enhancement of the Award. The Court below has examined referring claimant No.7 i.e., the respondent No.7 herein as P.W. No.1 and one Shri Narendra Chandra Deb as OPW-1 and marked 2(two) exhibits i.e., Exbt-1: Sale Deed No.1-4553 and Exbt-2: Sale Deed no.1-2681. Considering the Exbt.1 and Exbt.2 i.e., the sale deeds of neighboring property, the Court below has enhanced the Award amount from Rs.3,60,000/- to Rs.32,00,000/- per kani along with statutory benefits. 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 proved 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 09.06.2022 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, both the appeal and the cross-objection are disposed of. As a sequel, stay if any stands vacated. Pending application(s), if any also stands closed.

JUDGE



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