

**HIGH COURT OF TRIPURA
AGARTALA**

LA.App 76 of 2023

The Executive Engineer

---Appellant(s)

Versus

Sri Jagadish Chandra Majumder and Another

---Respondent(s)

For Appellant (s)	:	Mr. B. Majumder, Deputy SGI.
For Respondent(s)	:	Mr. D. Sarkar, Advocate.
Date of hearing and date of judgment and order	:	09.09.2024.
Whether fit for reporting	:	No.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard Mr. B. Majumder, learned Deputy SGI for the appellant also heard Mr. D. Sarkar learned counsel for the claimants.

[2] This is an appeal under Section 54 of the Land Acquisition Act, 1984 against the judgment and award dated 15.11.2022 in case No.LA(Ref) 21 of 2018 passed by the Ld. Land Acquisition Judge, South Tripura Judicial District, Belonia.

[3] The brief facts of the case as narrated in the first of the above appeal are that the LA Collector vide declaration No.F.9(12)-REV/ACQ/XII/2007 dated 08/05/2007 had acquired 0.86 acres of land classified as Tilla from Plot No.1411/5225/p comprised in Khatian No.1484 of Mouja-Baspada, T.k Sarashima under Belonia Sub-Division. Thereafter, the Ld. LA Collector, South Tripura awarded compensation @40000/- per kani and also awarded compensation for trees and crops along with statutory interests. But the respondents-claimants were aggrieved by the amount awarded to them by the Ld L.A Collector, Belonia, South Tripura and thus filed an application Under Section 18 of the L.A Act, 1894, before the L.A Judge, South Tripura, for determination of proper Compensation in favour of the respondents-claimants. After hearing both the parties, the Ld. L.A Judge, South Tripura, Belonia by the Judgment and Award dated 15/11/2022 enhanced the amount of award passed by

the Ld. L.A Collector, South Tripura and the value of the land has been assessed @Rs 80000/- per kani and enhanced the valuation of different types of trees. Being aggrieved and dissatisfied with the Judgment and Award dated 15.11.2022 passed by the Ld. Judge, South Tripura, Belonia. The appellant has filed the instant appeal before this Court seeking the following relief(s).

- (i) Admit the instant appeal;
- (ii) Issue notice upon the respondents to show cause as to why the impugned judgment/award dated 15.11.2022 passed by the learned L.A. Judge, South Tripura, Belonia shall not be set-aside;
- (iii) Call for the records of case No. L.A. (Ref.) 21 of 2018 from the court of the learned L.A. Judge, South Tripura, Belonia;
- (iv) After hearing both the sides, may kindly set aside the impugned judgment and award dated 15.11.2022 passed by the learned L.A. Judge, South Tripura, Belonia;AND
- (v) Pass any other order/orders and/or direction/ directions as may deem fit and proper having regard to the facts and circumstances of the case.

[4] The relevant contents of the impugned judgment and order dated 15.11.2022 passed by the learned LA Judge is extracted as under:

The claimants shall get compensation for the acquired land at the enhanced rate @ Rs.80,000/- (Rupees eighty thousand) per kani. The claimants shall get compensation @ Rs.150/- per sapling of Shall tree, @ Rs.800/- per Kanak tree which were at the girth of 3'-00" and @ Rs.1000/- per Chamal tree which were at the girth of 5'-00". The claimants are also entitled to all other admissible statutory benefits. The claimants will also get Rs.1000/- as cost under section 27 of the Act. The Opposite will also get Rs.1000/- as cost under Section 27 of the Act. The Opposite Parties are liable to make the payment.

[5] It is contended by the counsel for the appellant that a small quantity of land with a higher rate cannot be a ground of allowing higher rate of compensation for a large quantum of land with a lesser market rate. Moreover, the present acquired land having no resemblance and comparability with the sale deed No.I-542 of year 2002 related to Tilla (Bugan) relied by referring claimants-petitioners. According to the counsel for the appellant, the LA Collector had rightly determined the compensation of the subject land and the learned LA Judge has enhanced the compensation without any legal evidence. It is further contended by the counsel for the appellant that the

impugned judgment and award of the compensation passed by the LA Judge is bad in law and is liable to be set aside.

[6] On the other hand, Mr. D. Sarkar, leaned 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.

[7] Heard and perused the evidence on record.

[8] It is seen from the record that vide declaration No.F.9(12)-REV/ACQ/XII/2007 dated 08/05/2007 had acquired 0.86 acres of land classified as Tilla from Plot No.1411/5225/p comprised in Khatian No.1484 of Mouja-Baspada, T.k Sarashima under Belonia Sub-Division. Thereafter, the Ld. LA Collector, South Tripura awarded compensation @40000/- per kani and also awarded compensation for trees and crops along with statutory interests. But the respondents-claimants were aggrieved by the amount awarded to them by the Ld L.A Collector, Belonia, South Tripura and thus filed an application Under Section 18 of the L.A Act, 1894, before the L.A Judge, South Tripura, for determination of proper Compensation in favour of the respondents-claimants. After hearing both the parties, the Ld. L.A Judge, South Tripura, Belonia by the Judgment and Award dated 15/11/2022 enhanced the amount of award passed by the Ld. L.A Collector, South Tripura and the value of the land has been assessed @Rs 80000/- per kani and enhanced the valuation of different types of trees.

[9] It is seen from the record that 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.

[10] 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.

[11] In view of the above discussion, the impugned Award dated 15.11.2022 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.

[12] With the above observation and direction, the appeal is disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

Dipak