

**HIGH COURT OF TRIPURA
AGARTALA**

L.A. App.47 of 2024

Shri Bisheshwar Chakraborty

.....Claimant- Appellant

Versus

The Dy. Chief Engineer (CON-2) N.F. Railway and another

..... Respondents

For Appellant(s) : Mr. PK Ghosh, Advocate

For Respondent(s) : Mr. Bidyut Majumder, Deputy SGI
Mr. K. De, Addl. G.A.

CO(FA) 09 of 2024

The Dy. Chief Engineer (CON-2) N.F. Railway

..... Cross -Objector

Versus

Shri Bisheshwar Chakraborty and another

.....Respondents

For Appellant(s) : Mr. Bidyut Majumder, Deputy SGI

For Respondent(s) : Mr. PK Ghosh, Advocate
Mr. K. De, Addl. G.A.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

ORDER

02.12.2024

Heard Mr. P.K. Ghosh, learned counsel appearing for the claimant-appellant. Also heard Mr. B. Majumder, learned Dy. SGI appearing for the respondent/cross-objector. Mr. K. De, learned Addl. G.A. is present on behalf of the respondent- LA Collector.

[2] The present LA appeal is filed under Section 54 of the LA Act, 1894 against the judgment and award dated 14.09.2023 passed in CM (L.A) 49 of 2022 by the Learned L.A. Judge, South Tripura, Sabroom. On the other hand the respondent/cross objector N.F. Railway has filed the present cross-objection under Order XLI Rule 22 of the Code of Civil Procedure, against the judgment and award dated 14.09.2023 passed in C.M. (L.A.) 49 of 2022 by the learned Land Acquisition Judge, South Tripura, Sabroom.

[3] It is the case of the claimant-appellant that the Respondent No. 2 i.e. the Land Acquisition Collector, South Tripura vide notification dated 21.06.2013 for construction of new railway line from Agartala to Sabroom acquired the land in question measuring 0.37 Acres classified as Viti (Tilla. The Respondent No.2 assessed the value of the acquired land @ Rs 2,76,000/-. According to the claimant, at that time, the market value of the land of same class as acquired was much higher than the assessed value. Being aggrieved by the amount of compensation, the claimant filed an application under Section 18 of the L.A. Act, 1894 for referring the matter to the L.A. Judge, South Tripura, Sabroom and accordingly, the same was referred to the Court of learned L.A. Judge, South Tripura, Sabroom. Thereafter, learned L.A. Judge determined the value of the land @ Rs 3,20,000/- after deducting @20%.

[4] Mr. PK Ghosh, learned counsel appearing for the appellant-claimant submits that the award of compensation as passed by the learned L.A. Judge is not enough for the claimant as the market value of the land is much higher. It is also contended on behalf of the claimant-appellant that the learned Court below did not allow the entitlement of the appellant under

Section 23(1A) and 23(2) of the L.A. Act, 1894 in respect of the value of standing trees over the acquired land. Aggrieved by the impugned order passed by the learned L.A. Judge dated 14.09.2023, the claimant-appellant has preferred the instant appeal.

[5] On the contrary, Mr. B. Majumder, learned Dy. SGI appearing for the respondent/cross-objector N.F. Railway contends that learned Court below without any evidence on record, enhanced the awarded amount to the claimants. He also contends that the learned Court below has failed to determine the market value of the acquired land. He, therefore, urges this Court to set aside the impugned order dated 14.09.2023 passed by the learned Court below.

[6] Upon submission made at the Bar and on perusal of record, it is observed that the Court below has enhanced the award of compensation for the acquired land in question from @ Rs 2,76,000/- to @ Rs 3,20,000/- but neither proper reasoning has been expressed for such enhancement nor any document has been exhibited for establishment of the ownership of the claimant on the land in question. The Court below could have examined whether the claimant is the original owner of the land and any title-deed in that regard, had been placed on record marked as exhibit. Learned Court below has not framed any such issue to that effect and on the point of ownership of the claimant, nothing has been dealt with. No material evidence has been placed before the learned L.A. Court to convince the Court on the point of title deeds to say that the claimant who is before this Court seeking enhancement of compensation is the owner of the land in question. In the absence of relevant documents, it cannot be construed that the claimant has

alienable rights and title of interest upon the property and to say that he is entitled for claiming any compensation.

[7] In view of the same, the impugned judgment dated 14.09.2023 passed by the learned Court below is set aside and the case of the appellant is remanded back for fresh adjudication as expeditiously as possible on the strength of the documents that would be submitted by the parties. Both the parties are at liberty to place sufficient evidence before the Court below and make their respective arguments.

It is needless to observe that in the event if the land is acquired pertaining to the landlord, he would be entitled for fair and even a generous compensation in a given circumstance, but unless it is decided that the recipient of the claim-amount is holding a valid alienable title, it cannot be said that he is entitled for claiming the compensation. An unauthorized person cannot be paid a single rupee from the public money.

With the above observation and direction, the appeal is remanded back and accordingly, the same is disposed of. Resultantly, the present CO(FA) filed by the cross-objector is also disposed of.

As a sequel, miscellaneous application(s) pending, if any, shall also stand closed.

JUDGE

Sabyasachi. G.

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