

**HIGH COURT OF TRIPURA
AGARTALA**

LA. App 26 of 2024

The Executive Engineer

---Appellant(s)

Versus

Sri Jagadish Chandra Majumder and Another

---Respondent(s)

For Appellant(s)	:	Mr. P Gautam, Advocate.
For Respondent(s)	:	Mr. S. Bhattacharjee, Advocate. Mr. P. S. Roy, Advocate. Mr. S. Noatia, Advocate.
Date of hearing and date of judgment and order	:	11.09.2024
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Judgment & Order (Oral)

Heard learned counsel for the parties.

[2] This is an appeal under Section 54 of the Land Acquisition Act, 1984 against the judgment and award dated 15.07.2022 in case No.Misc.(L.A) 24 of 2019 passed by the Ld. Land Acquisition Judge, West Tripura, Agartala.

[3] The brief facts of the case as narrated is that for the public purpose namely for "Construction of approach road leading to Agartala Railway Station from NH-44 (Siddhi Ashram) to Agartala By-Pass Road", under Bishalgarh Sub-Division, District- Sepahijala, certain land is required. Accordingly, under due process, land acquisition was initiated. While ascertaining compensation to the land owner in this case, by way of 'Reference' under Section 18 of the Land Acquisition Act, 1894, (for short, hereinafter referred as the 'L.A. Act') made by the L.A. Collector, West Tripura District, Agartala, for determination of valuation of the acquired land measuring 0.0250 Acre was assessed @ Rs.8,00,000/- per Acre i.e., Rs.3,20,000/- (Rupees Three lacs twenty thousand) only per Kani along with solatium and interest and thereby calculated the amount of compensation to the tune of 3,02,345/- (Rupees Three lacs

two thousand three hundred forty five) only. By impugned judgment dated 15-07-2022 the Ld. L.A. Judge, West Tripura District, Court No.1, Agartala, passed his Award enhancing the market price of the acquired land from Rs.3,20,000/- (Rupees Three lacs twenty thousand) only per Kani to Rs.1,00,00,000/- (Rupees One Crore) only per Kani. Being aggrieved, the instant Appellant (original Opposite Party no. 1) preferred this appeal. The appellant has filed the instant appeal before this Court seeking the following relief(s).

- (i) Admit this appeal;
- (ii) Call for the records of this case and after hearing the parties would very kindly set aside and quash the Impugned Judgment and Award dated 15.07.2022 passe by the Ld. Land Acquisition Judge, West Tripura, at Agartala in case No.Misc. (LA) 24 of 2019;
- (iii) Pass any other order/orders as this Hon'ble High Court may consider fit and proper..

[4] The relevant contents of the impugned judgment and order dated 15.07.2022 passed by the learned LA Judge is extracted as under:

“In the result, the application of the referring claimants for enhancement of award is allowed. It is hereby directed that the referring claimants are entitled to get compensation @ Rs.1,00,00,000/- (Rupees One Crore) only per kani for the acquired land. The referring 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 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 the said enhanced amount of compensation as per Section 28 of the Act. As per law laid down by the 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 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 payment of compensation along with Opposite Party no.2.

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

The case is thus disposed of on contest. ”

[5] It is contended by the counsel for the appellant that Ld. Land Acquisition Judge failed to consider the land in issue did not have any basic amenities within it as Electric Connection, Water connection; before enhancing the compensation amount

from Rs.3.20,000/- (Rupees Three lacs twenty thousand) only per Kani to Rs.1,00,00,000/- (Rupees One Crore) only per Kani and as such the impugned judgment is required to be set aside /quashed. It is further contended by the counsel for the appellant that by the impugned order dated 12.07.2022 in the instant case enhancing the compensation @Rs.1(one) Crore only per kani from Rs.3,20,000/- only per kani is excessive and totally unreasonable. The comparable sale deed produced by the respondent/claimants was in respect of a very small quantum of land measuring 105 Square Feet only. The acquired land is multiple times bigger than the sale instance. Having contended thus he further prayed to dismiss the appeal.

[6] On the other hand, Mr. S. Bhattacharjee, 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.

[7] Heard and perused the evidence on record.

[8] 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.

[9] 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.

[10] In view of the above discussion, the impugned Award dated 15.07.2022 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.

[11] 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.

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JUDGE