

**HIGH COURT OF TRIPURA
AGARTALA
LA APP NO.88 OF 2024**

The Executive Engineer
Vs.
Smt. Anita(Nath) Sarkar and anr.

HON'BLE MR. JUSTICE T. AMARNATH GOUD

Present:

For the Appellant(s) : Mr. D. Sharma, Addl. G.A.
For the Respondent(s) : None.

09.12.2024

Order

This present appeal has been filed, aggrieved by the Judgment and Award dated 04.06.2024 passed in Civil Misc. (L.A.) 06 of 2012 by the learned Land Acquisition Judge, North Tripura, Dharmanagar.

2. The brief fact of the case is that the Land Acquisition Officer of the North Tripura District, by issuing Notification No. F.9(15)-REV/ACQ/1/2008 dated 15-01-2009 under Section 4 of the Land Acquisition Act, 1894 (*hereinafter referred to as "the Act"*), acquired land measuring 0.22 acres in RS Plot No. 5610, 9156/P of Churaibari mouja under Khatian No. 3258 and 2396 from the referring claimant for construction of an alternative road from NH 44 Churaibari to Dharmanagar via Kadamtala near the Sales Tax Office.

Possession of the land was taken, and an award was passed at Rs.60,000/- per kani for the 'tilla' class measuring 0.13 acres and Rs.7,00,000/- per kani for the 'bastu' class measuring 0.09 acres of the acquired land of the claimant. An amount of Rs.2,39,505/- in total was paid to the referring claimant, including the price of the land, trees, and crops, along with an additional amount at 12% per annum on the market value assessed by the LA Collector for the period commencing from the date of notification under Section 4(1) of the Act to the date of taking possession of the land and solatium at 30% on such market value in consideration of the compulsory nature of acquisition.

3. Being dissatisfied with the Award of the Collector, the referring claimant filed an application to the L.A. Collector for enhancement of the compensation. Thereafter, notices were issued, and the referring claimant appeared and filed a claim statement. In the said case, Judgment was passed on 24.03.2017, and it was ordered that the referring claimant is entitled to get compensation at Rs.28,00,000/- per kani for the acquired land with other consequential reliefs.

4. Thereafter, an appeal was filed before this Hon'ble Court, registered as L.A. App. No. 46 of 2018. This Court, vide

order dated 18.02.2021, remitted the matter back to the court below for a fresh hearing of the case, impleading the Executive Engineer, PWD (R&B), Dharmanagar. Thereafter, the Executive Engineer, PWD (R&B), Dharmanagar was impleaded as a party, and the judgment was announced on 14.07.2023, wherein, it was ordered that the referring claimant is entitled to get compensation at Rs.50,00,000/- per kani for the acquired land.

5. Thereafter, again, an appeal was preferred before this Court, and this Court, vide order dated 05.04.2024, remitted the matter back to the Court below to pass a speaking/reasoned order in respect of the documents filed by the acquiring department. The learned L.A. Judge, North Tripura, Dharmanagar, after appreciation of the evidence, observed that the rate of the acquired land should be Rs.50,00,000/- per kani at the time of acquisition. Hence, aggrieved thereby, the appellant has filed this appeal challenging the said award.

6. Heard Mr. D. Sharma, learned Addl. G.A. appearing for the appellant.

7. Mr. Sharma, learned Addl. G.A. appearing for the appellant, submits that the learned Court below wrongly

awarded the compensation at the higher side. The learned L.A. Judge wrongly came to the conclusion that the referring claimant is entitled to get compensation at Rs.50,00,000/- per kani for the acquired land without considering the relevant deeds and the government value of the land at the relevant point of time.

8. Heard and perused the record.

9. This Court has come across recently in many instances of Land Acquisition matters in the state of Tripura where even without examining the title deeds and also on the strength of the LA Collector's report, compensation has been awarded. It is strange to learn that there is no finding, any report or any document to place before this Court or before the LA Collector to show that the LA Collector has examined the title deeds with regard to the ownership and also the possession of the claimants. On the strength of the revenue record (*i.e. khatian*), it cannot be said that the persons in possession and claiming the compensation are the real owners having alienable right. Unless there is a specific document to prove the alienable right, title and interest upon the said land, it cannot be construed that the claimants are the lawful owners of the property and are entitled for compensation.

10. In view of the above observation, this Court is of the opinion that the present matter be remanded back by setting aside the impugned order dated 04.06.2024 passed by the learned Court below. The Court below shall re-examine the matter by giving opportunity to both sides for filing relevant documents and also frame additional issues on alienable right, title and interest. The claimant shall also produce any such document claiming him/her to be the lawful owner of the land in question by placing the title deed, if any. The claimant is also at liberty to adduce any other relevant documents supporting her claim.

11. With the above observation and direction, this present appeal is remanded back and accordingly, the same is disposed of. As a sequel, stay, if any, stands vacated. Pending application(s), if any, also stands closed.

JUDGE

Suhanjit

RAJKUMAR
SUHANJIT SINGHA

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