



Serial No.38
Regular List

HIGH COURT OF MEGHALAYA
AT SHILLONG

FA. No. 6 of 2023

Date of Decision: 22.10.2025

The Collector, East Khasi Hills District,
Shillong- 793001, Meghalaya.

...Appellant

-Versus-

1. Shri. Umesh Chandgothia,
R/o – DGC Cross Roads,
Police Bazar, Shillong – 793001,
East Khasi Hills District,
Meghalaya.

...Respondent

2. Director, Urban Affairs,
Government of Meghalaya,
Shillong – 793001.
3. The Secretary,
Meghalaya Urban Development Authority,
Shillong – 793001.
4. Rangbah Shnong,
Mawprem Dorbar Shnong,
Lower Mawprem, Shillong – 793001.

...Proforma Respondents



Coram:

Hon'ble Mr. Justice H.S.Thangkhiew, Judge

Appearance:

For the Petitioner/Applicant(s) : Mr. N.Syngkon, Adv.

For the Respondent(s) : Mr. K.Ch. Gautam, Adv. for R 1.

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| i) | Whether approved for reporting in
Law journals etc: | Yes/No |
| ii) | Whether approved for publication
in press: | Yes/No |
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JUDGMENT AND ORDER (ORAL)

1. This First Appeal under Section 54 of the Land Acquisition Act, 1894, has been preferred by the Collector, East Khasi Hills District as appellant, against the judgment and order dated 31-10-2022, passed by the Special Judicial Officer, East Khasi Hills District, Shillong, in L.A. Case No. 2 (K) 2017.

2. The brief facts are that the respondent No.1 as claimant, had filed a claim under Section 18 of the Land Acquisition Act, 1894, praying for setting aside the award of the Collector and for enhancement of the compensation/awarded amount on the basis of the prevailing market value, for a total area of 9900 Sq. ft. which had been acquired for public purposes,



through the appellant. The learned Reference Court, thereafter, disposed of the reference by coming to the finding that the claimant/respondent No.1, apart from the compensation award, was also entitled to the incidental charges of ₹7,03,365/- and directed the same to be paid to the claimant/respondent No.1 along with an interest @12%. The case of the appellant is that, as the Reference Court had held that the compensation for the land acquired was based on a tripartite agreement, there was no occasion for the Collector to carry out an enquiry to determine the compensation payable and therefore, there cannot be any incidental charges. As such, it has been contended that the computation of 10% incidental charges which was ordered to be paid to the claimant/respondent No.1, along with 12% interest is unwarranted. On this limited issue only, the appeal has been preferred.

3. Mr. N.Syngkon, learned GA appearing for the appellant has submitted that the Collector has awarded a total compensation of ₹67,38,032/- for the land and the said amount had been received by the claimant/respondent No. 1, and more so, the learned Special Judicial Officer had not interfered with the award, which he submits is based on fair compensation and therefore, the direction for incidental charges of 10% to the claimant/respondent No. 1 is not sustainable. He further submits that though a tripartite agreement dated 05-12-2008, had been produced before the learned Special Judicial Officer, the same was found to be not reliable. It is also contended that when



the Special Judicial Officer has not interfered with the award, which he submits, is based on fair market compensation, and the award reflecting a total amount of ₹67,38,032/- has been duly received by the claimant/respondent No.1, the learned Court below has erred in directing the Collector to pay the incidental charges of 10% to the claimant/respondent No.1, as no expenditure was incurred on the assessment of rate or for initiating the acquisition process. He therefore, submits that the reference having not being answered and the incidental charges being unjustified, the order is liable to be interfered with.

4. Mr. K.Ch.Gautam, learned counsel appearing for the claimant/respondent No. 1, has submitted that in fact, it should have been the claimant who should have preferred an appeal against the impugned judgment and order as the award does not reflect the true market value of the land as on the date of acquisition. He also submits that as the Reference Court has only endorsed the awarded amount, the reference as put before the Court has not been answered. It is further submitted by the learned counsel for the respondent No. 1, that the Reference Court had come to a finding that the amount was based on a tripartite agreement and as such, the deduction of incidental charges of 10% is not required. He therefore, submits that though the reference has not been answered by the Reference Court, the First Appeal itself, is incompetent and is liable to be dismissed.



5. Having heard the learned counsel for the parties, as submitted by the learned counsel for the appellant, the issue in question only concerns the incidental charges which is maintained, was not payable to the claimant/respondent No.1. An examination of the award statement dated 19-10-2012, shows that the District Collector had fixed an amount of total compensation award of ₹67,38,032/- which was paid to the claimant. At Sl. No. 17 of the award statement thereof, under the establishment and contingency charges @ 10% on the amount had been fixed at ₹6,73,802/-, and at Sl. No. 18, the total amount of the award including the establishment and contingency charges was fixed at ₹74,11,835/-. It is only the amount of ₹6,73,802/- which is in contention. However, on a thorough perusal of the impugned judgment and order, it is seen that the basis for the Reference Court not answering the reference, or going into the details to arrive at any other finding, is found at para 28 of the impugned judgment which reads as follows:

“28. The Court finds that, since the compensation for the land acquired was based on tripartite agreement, there was no occasion for the Collector to carry out enquiry to determine compensation, as such, deduction of incidental charges of 10% was not required. The incidental charges of 10% shall be paid to the Claimant, along with interest at the rate of 12%, from the date it was deposited before Collector till it is paid.”



6. It is seen that in the grant of the incidental charges also, no finding has been rendered as to why the same was incurred, but only that there was no occasion for the Collector to carry out the enquiry for the compensation. The tripartite agreement, it is noted has not been tested in evidence as to its veracity and authenticity with regard to the contents.

7. In this situation therefore, the glaring fact is that though a Section 18 application had been preferred by the claimant/respondent No. 1, the learned Reference Court did not engage in any exercise to answer the same, but has merely relied upon the tripartite agreement dated 05-12-2008, and on this short point disposed of the matter by allowing the incidental charges.

8. In this context, reference can be made to a judgment in the case of ***Khazan Singh (Dead) by LRS vs. Union of India (2002) 2 SCC 242***, wherein at para 6 thereof, it has been held as follows:

“6. Section 18 of the Act empowers a person interested in the land to move by a written application to the Collector requiring that the matter be referred for determination of the court, whether his objection be to the measurement of the land, the amount of compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested. If the application for reference is in order the Collector is bound to make a reference of it to the court. Section 20 of the Act enjoins on the court to “proceed to determine the objection”. The court shall after holding



such inquiry as may be necessary pass an award. Section 26 of the Act reads thus:

“26. Form of Awards – (1) Every award under this Part shall be in writing signed by the Judge, and shall specify the amount awarded under clause first of sub-section (1) of Section 23, and also the amounts (if any) respectively awarded under each of the other clauses of the same sub-section, together with the grounds of awarding each of the said amounts.

(2) Every such award shall be deemed to be a decree and the statement of the grounds of every such award a judgment within the meaning of Section 2 clause (2) and Section 2 clause (9), respectively, of the Code of Civil Procedure, 1908.”

9. A perusal of the above quoted judgement therefore, enjoins that the Reference Court shall determine the reference, which however, appears to not have been done in the instant case.

10. Accordingly, in these circumstances, the instant matter shall stand remanded back to the Court of the Special Judicial Officer, East Khasi Hills, Shillong for disposal in accordance with law. Consequently, the impugned judgment and order dated 31-10-2022, is also set aside.

11. Matter stands closed and disposed of.

12. Lower court records to be sent back.

Judge