

IN THE HIGH COURT OF JUDICATURE AT PATNA

First Appeal No.806 of 1976

**Against the judgment and decree dated 08.07.1976 passed by 2nd
Additional Sub Judge, Aurangabad in Land Acquisition Case No.11 of 1975**

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1. Smt. Lakhsheshwari Devi, W/o Baijnath Biadya
 2. Lahespathi Devi, W/o Balkeshwar Mishra
 3. Phulpati Devi, W/o Kedar Mishra
- All residents of village Deoria, Police Station Pararawan, Pergana Siris, District Aurangabad.

.... Appellant/s

Versus

The State of Bihar through the Collector of Aurangabad, P.S. Aurangabad, District-Aurangabd.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Uma Shankar Singh, Advocate

For the Respondent/s : None

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CORAM: HONOURABLE THE CHIEF JUSTICE

ORAL JUDGMENT

Date: 11-02-2015

This appeal under Section 54 of the Land Acquisition Act (for short, 'the Act') is preferred against the judgment and award dated 08.07.1976 by the claimant in Land Acquisition Case No.11 of 1975, on the file of 2nd Additional Subordinate Judge, Aurangabad.

The Government issued a Notification dated 14.11.1973 under Section 4(1) of the Act to acquire an extent of 5.96 acres of land for construction of Obra Minor Canal, which passed through Deoria village of Aurangabad district. The land of the appellants, to the extent of 2.05



acres was also notified. The declaration under Section 6 of the Act was published on 27.12.1973. The Land Acquisition Officer passed award, fixing the compensation of the land of the appellants at Rs.5480.60 paise and granting additional compensation of Rs.882.09 paise. Not satisfied with that, the appellants filed an application under Section 18 of the Act with a prayer to refer the matter to the civil court. Accordingly, reference was made and it was taken up as Land Acquisition Case No.11 of 1975 by the trial Court. Through its judgment and award dated 08.07.1976, the trial Court dismissed the case, refusing to enhance the compensation. Hence, this appeal.

Heard learned counsel for the appellants. There is no representation for the respondent.

The land, to the extent of 2.05 acres owned by the appellants was acquired for the public purpose, namely the digging of a canal. The Land Acquisition Officer fixed the market value at the rate of Rs.2680/- per acre and passed the award. Before the trial Court, the appellants-Plaintiffs examined several witnesses and filed certain documents. The sale deed dated 18.07.1974 under which an extent of 7 ½ Katha of land was sold at Rs.1237/- was relied upon by the appellants. Since the sale deed was subsequent to the date

of notification, it was not taken into account by the trial court.

Two other sale deeds were relied upon by the appellants. One is dated 09.10.1972 under which 7 decimals of land was sold for a sum of Rs.300/-. A person connected therewith was examined. The trial Court did not take into account the same on the ground that the classification of the land was not mentioned therein.

Another sale deed is dated 12.07.1971, under which 49 ½ decimals of land was sold at Rs.2000/-. The rate per acre works out to Rs.4020/-. The trial Court took the view that since the land covered by the document dated 12.07.1971 was classified as paddy cultivation land, he reduced it by two thirds and fixed the compensation at market value for the acquired land at the rate of Rs.2680/- per acre.

This Court is of the view that the approach of the trial court is not at all correct. When the purpose of the acquisition is to dig a canal, it makes no difference whether the land was a paddy field or orchard or even a hollow land. At any rate, such a drastic reduction was totally unwarned. This Court is of the view that the market value for the acquired land can be fixed at Rs.3200/- per acre.

Therefore, the appeal is partly allowed enhancing the market value to Rs.3200/- per acre. The appellants shall be entitled to the other statutory benefits, such as *solatium*, additional compensation and interest on the enhanced amount in accordance with the relevant provisions of law.

(L. Narasimha Reddy, CJ)

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