

**IN THE HIGH COURT OF JUDICATURE AT PATNA**

**First Appeal No.345 of 1988**

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**Against the order and decree dated 15.06.1988 passed by Sub-Judge-cum-Land Acquisition Judge, Katihar in Land Acquisition Case No.31 of 1982.**

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1. Baidya Nath Sah son of late Lalmohan Sah
  2. Jagarnath Sah, son of late Lal Mohan Sah
  3. Ram Lochan Sah, son of late Lal Mohan Sah
  4. Ramanand Sah, son of Baldeo Sah
  5. Bishwanath Sah, son of Baldeo Sah
- All residents of village Kanta Kosh, P.S. Manihari, District-Katihar.

.... Applicants-Appellant/s

Versus

1. The State of Bihar through Collector, Katihar.
2. Union of India through Secretary, Ministry of Power and Irrigation, New Delhi.

.... Defendants-Respondent/s

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**Appearance :**

For the Appellant/s : Mrs. Rekha Prasad, 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 order and decree dated 15.06.1988 passed by the Court of Subordinate Judge-cum-Land Acquisition Judge, Katihar in Land Acquisition Case No.31 of 1982.

The appellants are the claimants/owners of the land to an extent of 2 acres 39 decimals of land, situate in Kanta Kosh village of Katihar district. The said lands of the appellants were acquired by the Government for the purpose of construction of Farakka Barrage. The



declaration under Section 6 of the Act in respect of the said land was published on 05.11.1974. The Land Acquisition Officer passed award fixing the market value and granting other statutory benefits. Not satisfied with the same, the appellants sought reference under Section 18 of the Act. Accordingly, reference was made to the Civil Court and it was taken up as Land Acquisition Case No.31 of 1982. Through its order and decree dated 15.06.1988, the trial Court enhanced the compensation to Rs.4000/- per acre. Not satisfied with the market value fixed by the trial Court, the appellants filed this appeal.

Heard Smt. Rekha Prasad, learned counsel for the appellants. None appeared for the respondents.

Before the trial Court, five witnesses were examined and certain documents were filed. On behalf of the respondents, only one witness was examined and a document was filed. The sale deeds relied upon by the appellants were in respect of small extents, such as 1 katha, 15 dhurs for a consideration of Rs.500/-. The sale deed in relation to transaction was filed and the parties thereto were also examined. The other documents were also in respect of various bits of land. However, the evidence was not clear in this behalf.

One undisputed fact is that in respect of land within the vicinity, acquired in the year 1979, the compensation was awarded at Rs.9,000/- per acre. The land of the appellants was acquired in the

year 1974. The only difference is that while the former was acquired for the project of Mahananda embankment, the latter was acquired for the construction of Farakka Barrage. The time gap is five years. The trial Court was correct when it observed that the market value of the land in the year 1979 cannot be the same which was in the year 1974. The appreciation of value of the land in the urban locality is mostly taken at 10%. In the rural areas, it will be slightly less. For agricultural lands, the appreciation can be taken at 7%. On a deduction on that basis, the value of the land acquired in the year 1974 can be taken at Rs.5,500/-, per acre, taking the value of the land at Rs.9000/- per acre in 1979. Though this can not be treated as the safe method, it can be adopted when there is no better alternative.

Therefore, the appeal is partly allowed enhancing the market value to Rs.5500/- per acre. It is needless to mention that 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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