

IN THE HIGH COURT OF JUDICATURE AT PATNA

First Appeal No.376 of 1990

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Bijay Kumar Bhagat, son of Basudeo Bhagat, resident of village-Bari Nagar,
Police Station-Barari, District-Katihar.

.... Applicant-Appellant.

Versus

The State of Bihar

.... Opposite Party-Respondent.

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Appearance :

For the Appellant : M/s. Aditya Sharan, Prabhat Kumar Sharan and Hemant
Kumar Sharan, Advocates.

For the State : Mr. Neeraj Kumar, AC to SC-22.

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CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA
ORAL JUDGMENT

Date: 13-07-2015

Heard learned counsel for the appellant and learned AC to
SC-22 for the State.

2. This appeal on behalf of the applicant-appellant has been
filed under Section 54 of the Land Acquisition Act, 1894 (hereinafter
referred to as “the Act”) against the Judgment and Award dated
13.06.1990 passed in Land Acquisition Case No.5 of 1986 passed by
the court of Sub Judge-cum-L.A. Judge, Katihar, allowing the aforesaid
Land Acquisition Case in favour of the applicant-appellant partly.

3. The brief facts leading to this appeal is that Plot
Nos.4614, 4615, 4616, 4617, 4618 and 4619 of Khata No.1018 of
Mauza Barinagar, P.S. Barari, District-Katihar, measuring an area of
6.49 acres of original applicant-appellant, Basudeo Bhagat, was
acquired for rehabilitation of displaced persons and notice under Section



9 of the Act was issued on 20.01.1986. Thereafter, the original applicant-appellant, Basudeo Bhagat, filed an application raising objection to the acquisition of the land claiming the rate of compensation as Rs.1,50,000/- per acre. The original applicant-appellant, Basudeo Bhagat, received the compensation amount with protest. Accordingly, a Reference Petition under Section 18 of the Act was made for enhancement of compensation numbered as Land Acquisition Case No.5 of 1986.

4. The learned Sub Judge-cum-L.A. Judge, Katihar, after hearing the original applicant-appellant, Basudeo Bhagat, and the opposite party-Respondent, the State of Bihar, partly allowed the Land Acquisition Case No.5 of 1986 in favour of the original applicant-appellant, Basudeo Bhagat, on arriving at the finding that the applicant is entitled to get the compensation at the rate of Rs.12,000/- per acre for his acquired land. Besides this, the applicant is also entitled to get an amount calculated at the rate of 12% per annum on such market value for the period commencing on and from the date of publication of notification under Section 4(1) in respect of the land to the date of award of the Collector or the date of taking possession of the land whichever is earlier as provided in Section 23(1)(A) of the said Act. In addition to the market value of the land, the applicant is also entitled to get a sum 30% on such market value in consideration of the compulsory

nature of acquisition as provided in Section 23(2) of the said Act. Besides this, the applicant-appellant is also entitled to get interest on such excess amount at the rate of 9% per annum from the date of possession of the land to the date of payment of such excess amount.

5. Being aggrieved and dissatisfied with the aforesaid Judgment and Award, the original applicant-appellant had preferred this appeal.

6. Learned counsel for the appellant submits that the learned Sub Judge-cum-L.A. Judge, Katihar, has fixed the value of the land of the applicant-appellant as Rs.12000/- per acre without any basis disbelieving the oral and documentary evidence available on the record. It is also submitted that in course of examination suggestion was drawn to O.P.W.1, Kedar Nath Das, who was examined on behalf of the State, to the effect that the value of the land as acquired by the State at the time of acquisition was Rs.1000/- per katha but the learned Sub Judge-cum-L.A. Judge, Katihar, did not consider the same and passed the impugned Judgment and Award enhancing the rate of acquired land only Rs.12000/- per acre.

On the other hand, learned counsel for the State submits that initially, at the time of acquisition the rate of the Dhanhar land of the applicant-appellant was fixed as Rs.7800/- per acre whereas the rate of the Bhith land was fixed as Rs.7020/- per acre but the learned Sub

Judge-cum-L.A. Judge, Katihar, after considering the oral and documentary evidence has enhanced the same as Rs.12000/- per acre taking into consideration the materials available on the record. As far as the suggestion taken from the O.P.W.1 in course of examination in the trial court is concerned, while suggestion was drawn to O.P.W.1 that at the time of acquisition of the land, the rate of acquired land was Rs.1000/- per katha but the same was denied by the O.P.W.1 and there is no other material on the record to show that value of the acquired land at the time of acquisition was Rs.1000/- per Katha.

7. From perusal of the impugned Judgment and Award, it appears that the learned Sub Judge-cum-L.A. Judge, Katihar, has discussed the oral and documentary evidence adduced by the parties in paragraphs-5 to 9 thereof in detail and taking into consideration the nature of the land as Dhanhara and Bhith lands assessed the compensation amount as Rs.12000/- per acre.

8. I find no reason to interfere with the finding of the learned trial court in passing the impugned Judgment and Award. Accordingly, this appeal stands dismissed.

(Rajendra Kumar Mishra, J)

P.S./-N.A.F.R.

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