

THE HIGH COURT OF TRIPURA A G A R T A L A

LA App. No. 03 of 2009

Appellants:

1. **The State of Tripura,**
(Represented by the Secretary to the
Government of Tripura, Public Works
Department, Agartala).
2. **The Land Acquisition Collector,**
Government of Tripura, West Tripura,
Agartala.

By Advocate :

Mr. N. Majumder, Adv.

Respondent :

Shri Rakhai Chandra Debnath,
S/o Late Naresh Chandra Debnath
Village-Jambura, P.O. Khowai, Court,
P.S. Khowai, District-West Tripura.

By Advocate :

Mr. D. C. Roy, Adv.

LA App. No. 04 of 2009

Appellants:

1. **The State of Tripura,**
(Represented by the Secretary to the
Government of Tripura, Public Works
Department, Agartala).
2. **The Land Acquisition Collector,**
Government of Tripura, West Tripura,
Agartala.

By Advocate :

Mr. N. Majumdar, Adv.

Respondent :

Smt. Bakul Bhowmik (Debnath)
W/O Sri Premtosh Bhowmik
Village-jambura,
PO Khowai, PS Khowai,
District-West Tripura.

By Advocate :

Mr. D. C. Roy, Adv.

LA App. No. 05 of 2009

Appellants:

1. The State of Tripura,
(Represented by the Secretary to the
Government of Tripura, Public Works
Department, Agartala).

2. The Land Acquisition Collector,
Government of Tripura, West Tripura,
Agartala.

By Advocate :

Mr. N. Majumdar, Adv.

Respondent :

Sri Nirendra Kumar Singha
S/o Late Tanuja Singha
Village-jambura,
PO & PS Khowai,
District-West Tripura.

By Advocate :

Mr. D. C. Roy, Adv.

LA App. No. 06 of 2009

Appellants:

1. The State of Tripura,
(Represented by the Secretary to the
Government of Tripura, Public Works
Department, Agartala).

2. The Land Acquisition Collector,
Government of Tripura, West Tripura,
Agartala.

By Advocate :

Mr. N. Majumder, Adv.

Respondent :

Sri Swadesh Ranjan Deb
S/O Late Akshoy Kumar Deb
Village-Jambura, PO Khowai,
PS Khowai, District-West Tripura.

By Advocate :

Mr. D. C. Roy, Adv.

B E F O R E
THE HON'BLE MR. JUSTICE U.B. SAHA

Date of hearing and
delivery of Judgement
& Order : **13.02.2015.**

Whether fit for reporting : **YES/NO**

JUDGMENT & ORDER (ORAL)

All these appeals are being disposed of by a common judgment since they arise out of the same award passed by the learned Land Acquisition Judge, West Tripura, Khowai and identical questions of fact and law are involved.

[2] The facts of the case, in brief, are that a notification under Section 4 of the Land Acquisition Act, 1894 (hereinafter referred to as the Act) was issued by the Government of Tripura on 21.05.2002. By means of this notification, the Government sought to acquire the small portions of the land belonging to the respondent-claimant-owners for the purpose of construction of road from Khowai to Champahour via Jambura. Thereafter, declaration under Section 6 of the Act was issued. The Land Acquisition Collector issued notices under Section 9 of the Act and thereafter assessed the compensation at the rate of Rs.65,000/- per kani for Nal and Dokan class of land, Rs.60,000/- per kani for Bastu like Chara/Bagan-Karan/Path etc. class of land and Rs.40,000/- per kani for Pukur and Doba class of land.

[3] The respondent-claimant-land owners filed petition under Section 18 of the Act claiming higher compensation. According to them, their lands were situated within the developed area of Khowai

town Nagar Panchayat area. It was alleged that schools, banks, offices, Courts were close to the acquired lands. It was alleged that the market value of the land was rupees twenty to twenty five lacs per kani and hence they prayed that the compensation be granted at the aforesaid rate.

[4] The State opposed the petition and according to the State, the land was not within developed area of Khowai town. After trial, the learned Land Acquisition Judge has assessed the value of the land at Rs.4,00,000/- per kani for Bastu and Dukan class of land, Rs. 3,50,000/- per kani for Nal/Chara/Bagan-Karan/Path etc. type of land and Rs.3,00,000/- per kani for Pukur/Doba class of land. By means of these appeals, the State of Tripura has challenged the enhancement of the value of the lands.

[5] Heard Mr. N. Majumder, learned counsel for the appellants and Mr. D.C. Roy, learned counsel for the respondents.

[6] The referring claimants placed reliance on 3(three) sale deeds before the learned Land Acquisition Judge. The first Sale deed No. 796 is dated 14.06.2000 and as per this sale deed 2 gandas 3 kara 1 kranta and 10 dhurs of land was sold at Rs.60,000/-. There are 20 gandas in a kani, therefore, the rate works out to Rs.4,36,000/- per kani.

[7] Sale deed No. 1305 produced by the claimants was executed on 26th November, 2001. This sale deed relates to sale of land in Mouja-Ganki. By means of this sale deed, 5 gandas, 5 dhurs of Bastu land was sold at Rs.75,000/- and therefore, the rate per kani works out to Rs.3,00,000/-.

[8] Sale deed No. 1306 is dated 26.11.2001. This also relates to Mauza-Ganki. By this sale deed also 5(five) gandas, 5 dhures of Bastu class of land was sold at Rs.75,000/- i.e. Rs. 3,00,000/- per kani.

[9] However, by the aforesaid sale deeds not only land but also hut situated on the land was sold. The learned trial Court came to the conclusion that the cost of the hut must have been assessed at Rs.1,36,000/- and therefore, held that the value of land was Rs.3,00,000/- per kani.

[10] The State relied upon the note of the Land Acquisition Collector that the LA Collector had relied upon three sale deeds wherein the rate of land was much lower. Evidence has to be led by the parties before the Land Acquisition Judge and these sale deeds have not been produced or proved before the Land Acquisition Judge. Therefore, no reliance can be placed on the same.

[11] Mr. Majumdar, learned counsel for the appellants in his usual fairness submits that all these appeals are covered by the judgment of this Court dated 7th July, 2014 passed in LA Appeal No. 25/2008 to LA Appeal No. 36/2008 wherein this Court dismissed the aforesaid appeals.

[12] Mr. Roy, learned counsel for the respondents also submits that all these appeals are covered by the judgment of this Court in LA appeal No. 25/2008 to LA appeal No. 36/2008 wherein this Court upheld the judgment of the Land Acquisition Judge.

[13] It appears from the record that even in the year 2000, the cost of land was about Rs.3,00,000/- per kani and that by the notification in question, the areas and the land, of the petitioners which were acquired are very small area. In some cases, the area is .08 acres, in some .005 acres and the maximum area is .02 acres. These are very small portions of land and small portions of land will fetch higher value. The rate of land in the area even in the year 2000 was about Rs.3,00,000/- per kani. The two subsequent sale deeds of the year 2001 relate to comparatively larger portion of land. Each of the sale relates to 5 gandas land but on perusal of the sale deeds I find that both the sale deeds were executed by members of the same family in favour of one vendee. It is settled by this time that when larger pieces of land are sold, the price of land becomes less. Therefore, the sale deed of 2000 will reflect the real price of land. In that sale deed the value of the land is definitely more than Rs.3,00,000/-. It is proved that the lands in question are within Khowai town and the value of the land is increasing fast in Khowai town. Therefore, the learned Land Acquisition Judge was justified in holding the value of the land of highest class. The lands sold by the sale deeds were Bastu class of land which had been assessed by the Land Acquisition Collector at Rs.3,00,000/- per kani. Even if inflation is taken @ 10% per year, over two years the value of the land would have been increased by at least 20% and Bastu land would have been valued at least Rs.3,60,000/- per kani in the year 2002 when the notification was issued. In fast growing towns the value of the land may increase by 10% to 15% per year and, therefore, suitable

increment has been granted by the Land Acquisition Judge. His assessment of the land at Rs.4,00,000/- per kani in the year 2002 as against Rs.3,00,000 per kani in the year 2000 is fully justified in the facts and circumstances of the case.

[14] Therefore, the assessment of the learned Land Acquisition Judge on three different classes of land at Rs.4,00,000/- per kani, Rs.3,50,000/- per kani and Rs.3,00,000/- per kani, respectively calls for no interference in the appeal. The claimant-land owners shall also be entitled to solatium and interest etc. as per the provisions of the Act.

[15] The appeals are accordingly dismissed. No order as to costs.

Send down the LCRs forthwith.

JUDGE

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