

THE HIGH COURT OF TRIPURA
AGARTALA

LA APP 52 of 2009

1. **The State of Tripura,**
through the Secretary,
to the Government of Tripura,
Public Works Department, Agartala
West Tripura.
2. **The Executive Engineer (PWD),**
Khowai, West Tripura.

... Appellant-Petitioners

-- Versus --

1. **Sri Nirmalya Nandi,**
S/O Late Nirmal Kumar Nandi
Resident of Khowai Town, P.S. Khowai,
District-West Tripura

Respondent

2. **The Land Acquisition Collector,**
West Tripura, Agartala.

... Proforma Respondent

BEFORE
THE HON'BLE MR. JUSTICE U.B.SAHA

For the appellant-petitioners : Ms AS Lodh, Addl. GA.

For the respondents : None.

Date of hearing &
delivery of Judgment
and Order : **04.07.2015.**

Whether fit for reporting : **Yes/No.**

JUDGEMENT AND ORDER (ORAL)

The instant appeal is filed against the judgment and award dated 23.07.2008 passed by the learned LA judge, West Tripura, Khowai in Misc.(LA) 08 of 2008. The land involved in the instant appeal was acquired vide Notification No. F.9(8)-REV/ACQ/VII/2002

dated 18.05.2002 for the purpose of construction of RCC Bridge over river Lalcherra on Teliamura-Khowai road.

2. Heard Ms AS Lodh, learned Addl. GA for the appellants. None appears for the respondents.

3. The facts, in brief, is that by Notification No. F.9(8)-REV/ACQ/VII/2002 dated 18.05.2002 the Govt. of Tripura acquired land measuring 0.001 acres of bhiti (Nal) under plot No. 4501/P of Khatian No. 1142 of Khowai Town Mouza, sheet No. 6.7/P and land measuring 0.035 acres, Bastu (Nal) under Plot No. 4502/P under the same Khatian, same Mouza and same Sheet in total 0.036 acres from Sri Jitendra Mohan Nandi along with other lands.

4. The LA collector awarded compensation @ Rs. 8,00,000/- per kani. The land owner, being dissatisfied with the compensation awarded, filed a petition under Section 18 of the Land Acquisition Act, 1894 for reference claiming enhancement of the compensation. The Land Acquisition Judge assessed compensation @ Rs.12,00,000/- per kani. The learned LA Judge also provided 30% solatium and 12% additional compensation to the referring claimant-respondents on the enhanced rate. They have also been given 9% interest from the date of taking over the possession and also interest @15% after one year from taking over the possession till the date of payment.

5. Being aggrieved by the impugned judgment and award the state appellants preferred this appeal. Case of the appellants is that while the learned LA Collector determined the market value of the lands, the respondents did neither raise any objection nor

produced any document or any registered sale deed to support their claim but only after the compensation was awarded by the LA Collector, the respondents asked for reference under Section 18 of the LA Act.

6. Further case of the appellants is that the award of the LA Judge is grossly higher in side as the learned LA Judge without applying his judicial mind, only on assumption enhanced the rate of compensation @ Rs.12,00,000/- per kani.

7. The case of the land owners is that the acquired lands are situated in the heart of the town and is very close to the information centers, State Bank of India, Srinath Vidya Niketan School, etc. Accordingly, it was submitted that the lands of the referring claimants were of potential value for commercial purpose.

8. It is further stated that in a reference under Section 18 of LA Act vide Misc. (LA) 03 of 2006 wherein the land was acquired for the same purpose under the same notification, the market value of the acquired land was determined by the referral court @ Rs.15,00,000/- per kani. Thus, they are also entitled to the same amount.

9. Ms. Sarma Lodh, learned Addl. GA submits that the judgment and award passed by the learned LA Judge in Misc. (LA) 03 of 2006 was challenged by the State in LA appeal 05 of 2008 which was decided by this Court on 09.07.2014 wherein the said appeal was partly allowed and the claimant-respondents in that case were awarded Rs.9,20,000/- per kani instead of Rs. 15,00,000/-

per kani. Therefore, in any way the market price of the land in question in the instant appeals cannot be more than the said amount.

10. Ms Lodh fairly submits that the instant appeal is fully covered by the judgment of this Court in LA Appeal Nos. 28/2009, 29/2009, 30/2009, 31/2009, 32/2009 and 33/2009.

11. This court has gone through the impugned judgment and award as well as the judgment of this Court in LA Appeal 05 of 2008. Admittedly, the lands involved in both the cases are acquired by the same notification and for the same purpose.

12. This Court has also taken note of the judgment dated 15.06.2015, particularly paragraph 12 and 13 of the said judgment, which reads as follows:-

“12. In LA Appeal 05 of 2008, this Court noted that, ***“the law is well settled that normally the claimants must produce sale instances of transactions which have taken place immediately prior to the notification issued under Section 4. It is a notoriously well-known fact that after notification under Section 4 is issued sometimes unscrupulous litigants get sale deeds of very small areas of land registered at high prices. At the same time, in case there is no sale transaction prior to the occurrence then in exceptional circumstances a sale instance which is later than the notification under Section 4 may be looked into.”*** It is also noted that the Apex Court in ***Valliyammal and another V. Special Tahsildar (Land Acquisition) and another, [(2011) 8 SCC 91]*** has held that in urban areas the Court may add 10 to 15% on account of inflation.

13. Taking note of the aforesaid decision of the Apex Court this Court held that even if the higher percentage of 15% is taken for a period of about one year, the value of Rs.8,00,000/- would increase only to about 9,20,000/- per kani. Therefore, under no circumstance the value of land could have been assessed at Rs. 15,00,000/- and finally this Court assessed the market value of the acquired land @ Rs.9,20,000/- in LA Appeal 05 of 2008.”

14. When for land acquired under the same notification and for the same purpose, value of the land has been assessed @ Rs. 9,20,000/- per kani, according to this court, the award passed by the learned LA Judge is on the higher side and the claimant-respondents also cannot be denied the market rate of the land as determined by this Court in LA Appeal 05 of 2008, as this appeal is fully covered by the decision of this Court of the LA Appeal 05 of 2008.

15. Accordingly, it is ordered that the compensation for the lands shall be assessed taking the value of the land @ Rs. 9,20,000/- per kani along with other statutory benefits.

16. In view of the above, these appeals are partly allowed and disposed of. No order as to costs. Send down the LCR.

JUDGE

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