

**THE HIGH COURT OF TRIPURA
AGARTALA**

L. A. App. No.16 of 2011

The Deputy Chief Engineer (Construction),
N. F. Railway,
Gurkhabasti, Kunjaban,
Agartala, West Tripura

.....Appellant

- Vs -

- *1. Smti. Hemalata Nama,
wife of Sri Debendra Chandra Nama

***(Name of the respondent No.1 was deleted as per
Hon'ble Court's order dated 24.01.2012 passed in C. M.
Appl. No.46 of 2012)**

2. Sri Dharani Chandra Nama,
son of Sri Debendra Chandra Nama
3. Smti. Marani Bala Nama,
daughter of Sri Dharani Chandra Nama
4. Smti. Dukha Moyee Nama,
daughter of Sri Dharani Chandra Nama

All are residents of Village – Dukli, P.S. Amtali, P.O. Madhuban
Dukli, District-West Tripura

.....Respondents

**B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the appellant : Mr. A. Lodh, Advocate

For the respondent Nos.2, 3 & 4 : Ms. P. Deb (Pal), Advocate

Date of hearing and delivery : **14.07.2015**
of judgment and order

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

Judgment and Order (Oral)

Heard Mr. A. Lodh, learned standing counsel appearing for
the N. F. Railway as well as Ms. P. Deb (Pal), learned counsel
appearing for the respondents No.2, 3 and 4, the land losers.

02. This is an appeal under Section 54 of the Land Acquisition Act, 1894 (L. A. Act, in short) against the judgment and award dated 21.06.2010 delivered in Misc. (LA) 02 of 2003 by the Land Acquisition Judge, West Tripura, Agartala, Court No.4.

03. The undisputed facts are that by the notification No.F.9(1)-Rev/Acq/XIV/98 dated 27.02.1998 under Section 4 of the L.A. Act which was published in the Tripura Gazette dated 20.03.1998 the land measuring 0.09 acres of bastu class situated at mouja-Dukli under khatian No.2170 appertaining to CS Plot No.78/P and 79 for laying a railway track was acquired through the Land Acquisition Collector, West Tripura, Agartala. The Land Acquisition Collector passed the award after the purported inquiry on the land value determined at Rs.16,650/- @ 74,000/- per kani and as such the total compensation at Rs.35,909/- with admissible interest was assessed.

04. The land losers being aggrieved by that award pressed for a reference under Section 18 of the L. A. Act to the Land Acquisition Judge for just valuation of the acquired land. By the impugned judgment, the Land Acquisition Judge enhanced the rate from Rs.74,000/- to Rs.1,48,265/- per kani but he has deducted 20 per cent towards the development cost and thus the land losers would be entitled to get Rs.1,18,612/- per kani as compensation for the acquired land. The said judgment is under challenge in this appeal.

05. Mr. A. Lodh, learned counsel appearing for the appellant has strenuously submitted that the basis of enhancement as provided by the Land Acquisition Judge cannot be sustained inasmuch as the sale instances filed by the appellant would show that the maximum

rate was Rs.66,667/-. However, he has fairly admitted that the sale instances as considered by the Land Acquisition Collector carried maximum rate of Rs.73,684/-. The sale instances as introduced in the evidence by the land losers, hereinafter referred to as the referring claimant, carried the maximum land value to the extent of Rs.9,06,713/- per kani. But again Mr. Lodh, learned counsel has submitted that from the referring claimants there had been no endeavour to locate the acquired land vis-a-vis the sale instances they had introduced in the evidence. He has also not disputed the fact that the sale instances as introduced by the referring claimants preceded the acquisition of the land. Mr. Lodh, learned counsel has further pointed out that the sale instances as introduced by the referring claimants are relatable to the very small pieces of land and those cannot constitute the comparable sale instances vis-a-vis the large piece of land as has been acquired from the referring claimants.

06. The Land Acquisition Judge has also curved out the average market value for all the sale instances. This method has been deprecated by the apex court on several occasions by making a conscious departure from such method. In ***Mehrawal Khewaji Trust (Regd.), Faridkot and Ors. vs. State of Punjab and Ors.*** as reported in ***AIR 2012 SC 2721***, the apex court has distinctly laid down the law for not adopting this method of average value, but to rely the sale-instance which carries the highest rate.

07. From the other side, Ms. P. Deb (Pal), learned counsel appearing for the respondents No.2, 3, and 4 has submitted that had the proper method been followed by the Land Acquisition Judge, the land value would be much higher. Ms. Deb (Pal), learned counsel has

relied on a decision of this Court in respect of the same acquisition proceeding and in respect of the land from the same mouja where this court assessed the land value at Rs.1,52,075/-, rounded off at Rs.1,52,000/- per kani. Ms. Deb (Pal), learned counsel has submitted that having regard to the said judgment and order dated 10.04.2014 delivered in L. A. App. No.03 of 2006, this appeal does not merit any further consideration.

08. Having scrutinized the said judgment and order dated 10.04.2014, this court finds that the acquired land is in the close vicinity of the land which has been considered in the said judgment and order dated 10.04.2014.

Having situated thus, this court is of the opinion that this appeal is bereft of merit and accordingly the same is dismissed.

Draw the award accordingly.

Send down the LCRs thereafter.

JUDGE

MB