

**THE HIGH COURT OF TRIPURA
AGARTALA**

(1) LA APP. NO.122 OF 2008

The Union of India,
Represented by the
Dy. Inspector General, BSF,
Panisagar(Tripura North).

..... *Appellant*

- *Vs* -

1. Mst. Sukurun Nessa,
Represented by her constituted Attorney,
Md. Hannan Miah,
S/O Late Gunu Miah,
Resident of Lathiapura,
P.S. Kailashahar, North Tripura.

..... *Claimant-respondent*

2. The Land Acquisition Collector,
North Tripura, Kailashahar.

..... *Respondent*

(2) LA APP. NO.125 OF 2008

The Union of India,
Represented by the
Dy. Inspector General, BSF,
Panisagar(Tripura North).

..... *Appellant*

- *Vs* -

1. Shri Hannan Miah,

2. Shri Tara Miah,

3. Shri Safat Miah,

4. Shri Sachcha Miah,

All are sons of Ganu Miah,

5. Smt. Churatu Nessa,

W/O Shri Amir Ali,

6. Smt. Hamjarun Nessa,

D/O Ganu Miah,

All of village-Latiapura,

P.S. Kailashahar,

North Tripura District.

..... *Claimant-respondents*

7. The Land Acquisition Collector,
North Tripura, Kailashahar.

..... *Proforma-respondent*

(3) CO(FA) NO.4 OF 2009 IN
LA APP. NO.125 OF 2008

- 1. Shri Tara Miah,**
- 2. Shri Safat Miah,**
- 3. Shri Sachcha Miah,**
- 4. Smti. Churatan Nessa,**
W/O Amir Ali,
- 5. Smt. Hamjarun Nessa,**
W/O Baharuddin,
- 6. Sri Hannan Miah.**

All are the sons and daughters of
Late Ganu Miah, residents of Village-Latiapur,
P.O. Latiapur, P.S. Kailashahar,
District-North Tripura.

Appellant Nos.1 to 5 will be represented through their
lawful attorney Sri Hannan Miah, the appellant no.6.

..... *Appellants*

- Vs -

1. The Land Acquisition Collector,
North Tripura, Kailashahar.

2. The Union of India,
Represented by the
Dy. Inspector General, BSF,
Panisagar(Tripura North).

..... *Respondents*

(4) LA APP. NO.126 OF 2008

The Union of India,
Represented by the
Dy. Inspector General, BSF,
Panisagar(Tripura North).

..... *Appellant*

- Vs -

1. Shri Hannan Miah,

- 2. Shri Tara Miah,
- 3. Shri Safat Miah,

All are sons of Ganu Miah,

- 4. Smt. Chalema Khatun,
- W/O Shri Sachcha Miah,
All of village-Latiapura,
P.S. Kailashahar,
North Tripura District.

..... Claimant-respondents

- 5. The Land Acquisition Collector,
- North Tripura, Kailashahar.

..... Proforma-respondent

BEFORE
HON’BLE MR. JUSTICE S.C. DAS

Advocate(s) in LA App. No.122 of 2008

For the appellant : Mr. A. Lodh, Advocate
For respondent No.1 : Mr. D.C. Roy, Advocate
For respondent No.2 : Ms. R. Majumder, Advocate

Advocate(s) in LA App. No.125 of 2008

For the appellant : Mr. B. Majumder, CGC
For respondent Nos.1 to 6 : Mr. D.C. Roy, Advocate
For respondent No.7 : Ms. R. Majumder, Advocate

Advocate(s) in CO(FA) No.4 of 2009

For the appellants : Mr. D.C. Roy, Advocate
For respondent No.1 : Ms. R. Majumder, Advocate
For respondent No.2 : Mr. B. Majumder, CGC

Advocate(s) in LA App. No.126 of 2008

For the appellant : Mr. B. Majumder, CGC
For respondent Nos.1 to 4 : Mr. D.C. Roy, Advocate
For respondent No.5 : Ms. R. Majumder, Advocate

Date of hearing and
delivery of Judgment & Order : **21.08.2015**

Whether Fit for Reporting :

Yes	No
	√

JUDGMENT & ORDER(ORAL)

All the three L.A. Appeals mentioned above and the Cross-Objection filed in connection with L.A. App. No.125 of 2008 are taken up together for hearing and disposal.

2. Heard learned counsel of both side.

3. In L.A. App. No.122 of 2008, judgment and award dated 08.07.2008 passed by learned L.A. Judge, North Tripura, Kailashahar in Civil Misc.(L.A.) 8 of 2007 has been challenged. In L.A. App. No.125 of 2008 and C.O.(F.A.) No.4 of 2009, the judgment and award dated 19.09.2008 passed by learned L.A. Judge, North Tripura, Kailashahar in Civil Misc.(L.A.) 6 of 2007 has been challenged and in L.A. App. No.126 of 2008, the judgment and award dated 15.09.2008 passed by learned L.A. Judge, North Tripura, Kailashahar in Civil Misc.(L.A.) 7 of 2007 has been challenged.

4. All the appeals and the cross-objection relate to acquisition of land under same Mouja and same Notification and hence on the prayer of learned counsel of both side all the appeals and cross-objection were heard together and this single judgment is passed which shall govern all the cases.

5. For the purpose of construction of B.S.F. B.O.P. at Latiapur under Mouja Latiapur, Tilagaon Tehshil Kachari,

Kailashahar, total land measuring 3.00 acres belonged to the different claimants were acquired by the L.A. Collector and in due course L.A. Collector fixed compensation for different class of land as follows:

Bastu	:	₹30,000/- per kani
Viti	:	₹30,000/- per kani
Nal	:	₹20,000/- per kani
Bagan	:	₹20,000/- per kani

6. The claimant-respondents received the compensation under protest with a request to refer the cases to the L.A. Judge for determination of actual market price at the date of acquisition. Accordingly, L.A. Collector referred the cases to the L.A. Judge, North Tripura, Kailashahar and pursuant to such reference the L.A. Judge registered the cases referred to above and in course of hearing on behalf of the referring claimants, one witness was examined and the claimants relied on two sale deeds, *i.e.* Sale Deed No.1-754 dated 26.04.2004 and Sale Deed No.1-204 dated 17.02.2004 and those sale deeds were marked as *Exbt.1* series.

On behalf of the L.A. Collector also one witness was examined and the L.A. Collector relied on two sale instances, *i.e.* Sale Deed No.1-77 dated 16.01.2006 and Sale Deed No.1-502 dated 30.03.2005 and a copy of the map of the relevant plots of the acquired land and those were marked as *Exbt.A* series.

7. Learned L.A. Judge taking into consideration those two sale instances placed on record by the referring claimants fixed the price of the land at the rate of ₹50,000/- per kani for all class of land and in L.A. Case No.6 of 2007 which refers to L.A. App. No.125 of 2008, towards compensation of the standing trees another additional compensation of ₹1,50,000/- was awarded.

8. The cross-objection, *i.e.* CO(FA) No.4 of 2009 in connection with L.A. App. No.125 of 2008 has been filed by the referring claimant, Tara Miah and others on the ground that the price of standing trees awarded by the L.A. Judge was not adequate.

9. It is argued by learned counsel, Mr. Lodh and learned CGC, Mr. Majumder for the appellants that the referring claimants produced two sale instances whereas did not produce any map of the locality to show that the land of those two sale instances were of comparable land. They have also submitted that the respondent, *i.e.* the L.A. Collector produced copy of the map which shows that the land of Sale Deed No.1-502 which involves transaction of plot No.527 is very adjacent to the acquired land by the side of the road and that is a sale deed of comparable land and therefore the price fixed by the L.A. Collector in respect of Nal class of land was justified and there was no reason for L.A. Judge to enhance the price. It is also submitted by learned counsel, Mr. Lodh and learned

CGC, Mr. Majumder that the sale instances and the map produced by the appellant, L.A. Collector before the learned L.A. Judge was not at all considered by the learned L.A. Judge while passing the judgment and simply taking into consideration the sale instances produced by the referring claimants decided the reference unilaterally fixing ₹50,000/- per kani of the acquired land.

10. Learned counsel, Mr. Roy and learned counsel, Ms. Majumder appearing for the respective respondents and cross-objector have submitted that the sale instances proved by the referring claimants which are marked as *Exbt.1* series were also of the land of the same Mouja and it is in the oral evidence of the claimants that it is not far away from the acquired land but it is fairly admitted by learned counsel, Mr. Roy and learned counsel, Ms. Majumder that the claimants did not produce any map of the Mouja to show the location of the land of those sale instances.

11. *Exbt.1* series are the two sale instances, *i.e.* Sale Deed No.1-754 dated 26.04.2001 relates to a transaction of Nal land of Dag No.774 of Mouja Tillagaon and Sale Deed No.1-204 dated 17.02.2004 involves transaction of land of Dag No.367 of Mouja Latiapur of Nal class of land and both those sale deeds show transaction at the rate of ₹50,000/- per kani, but the referring claimants since did not produce any map of the Mouja it could not be ascertained as to at what location the land of those sale

instances is situated to accept it as a comparable land of the acquired land. The witness examined on behalf of the referring claimants stated that the land is situated about 200 cubit away from the acquired land and in cross-examination it was suggested that the land is far away from the acquired land. No other item of documentary evidence to show that those lands of sale deeds of *Exbt.1* series are situated at a reasonable distance and those are of comparable lands.

12. On the other hand, on perusal of *Exbt.A* series I find that the L.A. Collector considered Sale Deed No.1-502 dated 30.03.2005 which relates to Bagan/Nal class of land at the rate of ₹20,000/- per kani and the map of the locality which has been proved as an item of *Exbt.A* series shows plot No.527 just adjacent to the acquired land intervened by the road. Therefore, the respondents fairly brought on record a sale instance which is of comparable land. Learned L.A. Judge without any discussion of the evidence adduced on behalf of the L.A. Collector fixed the compensation at the rate of ₹50,000/- per kani without taking into account the document produced and proved by the L.A. Collector. It is, therefore, evident that the Nal/Bagan class of land was at the rate of ₹20,000/- per kani. No sale instance produced by either side about Bastu class of land but the L.A. Collector fixed the price of Bastu class of land at the rate of ₹30,000/- per kani. I find no justification at all in the fixation of price at the rate of ₹50,000/- per

kani by the learned L.A. Judge. I am of considered opinion that the learned L.A. Judge without considering the location/situation of the land of *Exbt.1* series abruptly arrived at a conclusion that the acquired land should be valued at ₹50,000/- per kani. Therefore, the fixation of price by the learned L.A. Judge at the rate of ₹50,000/- per kani for all class of land is set aside and quashed. The price fixed by the L.A. Collector at the rate of ₹30,000/- for Bastu and Viti class of land and at the rate of ₹20,000/- per kani for Bagan and Nal class of land stands justified.

13. Regarding the cross-objection, it appears that there were standing trees on the acquired land of case No. Misc. L.A. 6 of 2007. L.A. Collector awarded compensation of ₹2,32,650/- of the trees standing on the land. Learned L.A. Judge enhanced a lump sum amount of ₹1,50,000/- for the trees. Cross-objection is filed contending that there was price fixed by the Forest Department in respect of the standing trees of the acquired land and the compensation has not been awarded according to that price. No such document was produced before the L.A. Judge at the time of hearing of L.A. Case No.6 of 2007. The particular measurement of the trees was also not put in evidence by the claimants to determine as to what was the timber portion of the trees at that relevant point, *i.e.* at the date of acquisition and what could have been the actual timber of those trees after it matures. In absence of any such particular evidence on record it is very difficult to

ascertain and enhance the compensation for the damage of trees on the acquired land. Therefore, the cross-objection is found to be devoid of merit and stands dismissed. Learned counsel, Mr. Roy also prayed for remanding the case. I find no justification in the submission of learned counsel, Mr. Roy.

14. All the L.A. Appeals are accordingly allowed and the compensation fixed by learned L.A. Judge at the rate of ₹50,000/- per kani for the acquired land is set aside. The price fixed by the learned L.A. Judge for the standing trees in L.A. Case No.6 of 2007 stands good. All the L.A. Appeals and cross-objection are accordingly stand disposed of.

15. Send back the LCRs along with a copy of this judgment.

JUDGE