

IN THE HIGH COURT OF TRIPURA
AGARTALA

L.A. APP. NO. 01 OF 2009

Sri Prakash Das
son of Sachiram Das,
resident of Badarghat,
P.S. West Agartala, District : West Tripura

..... **Appellant**

– Vs –

- 1. The Land Acquisition Collector, West Tripura, Agartala.
- 2. The Deputy Chief Engineer (Cons), N.F. Railway, Agartala.

..... **Respondents**

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

For the appellant : Mr. K.N. Bhattacharjee,
Senior Advocate
Mr. R. Debnath, Advocate

For the respondents : Mr. A. Lodh, Advocate

Date of hearing & order : 24.04.2015

Whether fit for reporting :

Yes	No
	√

JUDGMENT & ORDER (ORAL)

Heard Mr. K.N. Bhattacharjee, learned senior counsel, assisted by Mr. R. Debnath, learned counsel appearing for the appellant as well as Mr. A. Lodh, learned counsel appearing for the respondent No.2, North Frontier Railways.

None appears for the respondent No.1, Land Acquisition Collector when the matter is taken up for hearing despite due notice from this court.

2. By this appeal filed under Section 54 of the Land Acquisition Act, 1894, the judgment and award dated 17.11.2008 delivered in Misc.(LA) No.57/1999 by the Land Acquisition Judge, West Tripura, Agartala, Court No.3 has been challenged.

3. The essential facts are not in dispute, but the method of calculating the market rate has been questioned by the land losers-appellant.

4. A piece of land measuring 0.05 acres of Bastu class appertaining to plot No.8510/22094 pertaining to khatian No.15204 under Mouja Badharghat, Sheet No.5 was acquired by the Land Acquisition Collector for purpose of construction of N.F. Railway. The notification for acquisition under Section 4 of the Land Acquisition Act, 1894 was issued on 19.11.1997 and after completion of the proceeding, observing all requirement of law, the Land Acquisition Collector awarded a sum of ₹1,06,000 per kani to the claimant. The claimant having received the amount under protect, asked for the reference under Section 18 of the Land Acquisition Act, for short 'the L.A. Act', for determination of the just market rate.

5. The respondents, by filing the separate written statement resisted the claim of the appellant for enhancement in the rate.

6. The appellant as the claimant, based his claim on Exbt.1 series, the Sale Deeds No.1-29 dated 01.01.1992.

7. To rebut the claim of the claimant, the respondent-L.A. Collector had submitted his assessment note dated 11.03.1998 (Exbt.-A series). The L.A. Collector considered number of sale deeds for arriving at the rate he determined. For the L.A. Collector, one senior surveyor has deposed in the proceeding. In the course of deposition, he has stated that the sale instances collected by the L.A. Collector were appreciated for arriving the rate at ₹1,06,000 per kani and thereafter the compensation has been grossed up in terms of Section 23 of the Land Acquisition Act, 1894.

8. One of the important aspects in this matter is that the plot of land which has been acquired for the said project was purchased by the claimant-appellant by the Sale Deeds No.1-29 dated 01.01.1992, on consideration of ₹25,000 for a piece of land measuring 2 gandas 2 karas, meaning thereby ₹2,00,000 per kani.

9. Mr. K.N. Bhattacharjee, learned senior counsel appearing for the appellant, has submitted that the rate given by the Land Acquisition Judge is much below the purchase rate and as such it is, on the face of the records, unreasonable and unjust.

10. From the other side, Mr. A. Lodh, learned counsel appearing for the respondent No.2, N.F. Railway, has strenuously argued that for purpose of assessing the compensation, the rate attached to such small piece of land cannot be made the basis. The location, nature and class of the land as well as the other amenities attached to the land and other relevant factors are required to be considered. He has stated that the rate as determined by the Land Acquisition Judge does not suffer from inadequacy.

11. In a recent decision in **Deputy Chief Engineer, N.F. Railway Vs. Ranjit Sutradhar etc.** [judgment dated 10.04.2014 in L.A. Appeal No.03/2006 etc.], this court has determined that 10% enhancement over the market rate annually be added to gross up the compensation. The said decision was also from acquisition of land under the same project.

12. This court finds that, if this method is applied from the day of purchase to the day of acquisition, the rate would come to ₹3,47,502, rounded at ₹3,50,000 per kani. From that amount, 20% has to be deducted as the development cost. Thus the appellant would be entitled to get ₹2,80,000 per kani. The compensation be calculated accordingly and the enhanced amount, in terms of the above rate, shall be paid to the petitioner within a period of 3(three) months from the day when the appellant shall submit the certified copy of this judgment and decree. The deposit shall be made in the court of the Land Acquisition Judge, Court No.3, West Tripura, Agartala.

It is made clear that, this rate will not be applicable to the other cases for the reason that the calculation has been made on the basis of the very sale deed by which the said land was purchased in the year 1992 and that rate cannot be applied without the relevant tests.

Send down the LCRs forthwith.

JUDGE

ROY