

HIGH COURT OF TRIPURA AGARTALA

L.A. App No. 17 of 2009

1. The Union of India
Represented by the
Officer Commanding
(Executive Engineer (Civil),
120 RCC,(GREF)
C/o 99 APO, Bagafa
South Tripura

.... Appellant

-vs.-

1.Sri Madhu Sarkar
S/o late Makhan Sarkar

2. Sri Mantu Sarkar
S/o Lt Makhan Sarkar

3. Sri Jitu Sarkar
S/o Lt Makhan Sarkar

4. Sri Dilu Sarkar
S/o Lt Makhan Sarkar

.... Respondents

-all of Vill. Lankamura
P.O. Lankamura
P.S. West Agartala
Dist. West Tripura

5. The L. A Collector
West Tripura, Agartala

...Proforma-respondent

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

Advocate for the Appellant: Mr. P. Majumder
Advocate

Advocate for the respondents: None appeared

4. In the claim statement, the claimants stated, inter alia, that acquired land is very important for commercial and business purpose and various schools and college are situated very nearer to the acquired land and the land is useful for residential purposes.

5. The appellant-opposite parties before the learned L.A. Judge resisted the claim of the respondent-claimants by filing their respective written statement stating, inter alia, that the contention of the claimants as made in the claim petition is not correct and that the compensation awarded for the acquired land is just and proper. They further asserted that the L.A. Collector after considering all aspects awarded the reasonable compensation for the acquired land and prayed for dismissal of the claim petition with costs.

6. In order to prove their case, the claimant and opposite party No.1 examined one witness each by filing examination in chief and produced some documents which are marked as Ext. 1 series and Ext. A series to D series respectively.

7. The learned L.A Judge considering the evidence on record came to the conclusion that the L.A Collector awarded compensation wrongly and ultimately held that the most reliable way to determine the market value is to rely on the instances of sale of portion of the same land as has been acquired or adjacent land made shortly, before or after Section 4 Notification. The learned L.A. Judge also considered the evidence of the claimant-respondent Sri Madhu Sarkar who

was examined as PW 1 and he also submitted one copy of the judgment dated 3.1.2008 passed in Misc. (LA) 30 of 2006 (Ext. 1 series) in support of his case and it was found that the land under Ext. 1 series and in the instant case were acquired under the same Notification and for the very same purpose, i.e., for construction of border fencing and the validity of the said judgment has not been questioned in any forum by the opposite party, the appellant herein and the said judgment also awarded compensation @ Rs. 1 lakh per kani. Therefore, to maintain the uniformity, the learned L.A. Judge also awarded the same value for the acquired land in question.

8. Being aggrieved by the judgment of the learned L.A. Judge, the present appellant has preferred the instant appeal.

9. Mr. Majumder while urging for setting aside the judgment of the L.A. Judge has also admitted that the land involved in Misc. (LA) 30 of 2006 was admittedly acquired from the same notification and the learned L.A. Judge in the said judgment also awarded compensation @ Rs. 1 lakh per kani. Mr. Majumder also submits that the learned L.A. Judge failed to consider the evidence and the sale deeds produced by the L.A. Collector and ultimately arrived at a wrong conclusion which is liable to be set aside.

10. This Court has gone through the evidence on record as well as the judgment passed in Misc. (L.A) 30 of 2006 (Ext. 1 series) from which it appears that in that case land measuring 0.06 acre appertaining to plot No. 531/p under khatian No.

692 of Mouja Lankamura belonging to one Pradip Majumdar and five others was acquired by the L.A. Collector for public purpose, namely, for construction of Border fencing and in that case, the learned L.A Judge considering the records available before him awarded compensation @ Rs.1 lakh per kani as no evidence was adduced from the side of the opposite parties.

11. It also appears from the record that in misc. (L.A.) 30 of 2006, the learned L.A. Judge has also considered the judgment dated 2.5.2005 passed in Misc. L.A. 5 and 6 of 1999 wherein also the land under mouja Lankamura was acquired by the L.A. Collector for the purpose of construction of Indo-Bangladesh Border road and in that case also, the learned L.A. Judge awarded compensation @ Rs.1 lakh per kani and admittedly no appeal was preferred against those judgments and awards.

12. Considering the entire facts and circumstances, this court is of considered opinion that when for the same nature of land, the learned L.A. Judge awarded compensation @ Rs. 1 lakh per kani acquired for the same purpose in a different L.A. proceeding where the present appellant was a party and the said award has become final in absence of preferring of an appeal, it would not be proper for this court to award compensation to the respondent claimants at a below rate than the rate awarded by the learned L.A. Judge for similarly situated land which were acquired for the same purpose. Therefore, according to this Court, judgment and award passed by the learned L. A. Judge is not required to be

interfered with and accordingly, the same is not interfered with. In the result, the instant appeal is dismissed.

Send down the L.C. records.

JUDGE

mdn