

THE HIGH COURT OF TRIPURA
AGARTALA

LA APP 20 of 2009

- 1. The State of Tripura,**
Represented by the Secretary,
to the Government of Tripura,
in the public works Department,
Having its office at Civil Secretariat,
Agartala, West Tripura.
- 2. The Executive Engineer,**
Water Resource, Division No. IV,
Belonia, South Tripura.

... Appellants

- Versus -

- 1. Sri Upendra Kumar Majumder,**
S/O Late Basanta Kumar Majumder,
of village- Kalinagar,
P.O & P.S. Belonia,
South Tripura

Respondents

- 2. Land Acquisition Collector,**
Having its office at the Office of
District Magistrate & Collector,
South Tripura District, Udaipur.

... Proforma Respondent

CO (FA) 09 of 2009

Sri Upendra Kumar Majumder,
S/O Late Basanta Kumar Majumder,
of village- Kalinagar,
P.O & P.S. Belonia,
South Tripura

.....Cross-objector

VERSUS

- 1. The State of Tripura,**
Represented by the Secretary,
to the Government of Tripura,
Public Works Department,
Having its office at Civil Secretariat,
Agartala, West Tripura.
- 2. The Executive Engineer,**
Water Resource, Division No. V,
Belonia, South Tripura.

3. Land Acquisition Collector,
O/o District Magistrate & Collector,
South Tripura District, Udaipur.

... **Respondents**

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

For the appellants : Mr. J. Majumder, Advocate.
For the respondents : Mr. B. N. Majumder, Advocate.
Date of hearing & delivery
of Judgment and Order : **19.06.2015**
Whether fit for reporting : No.

JUDGEMENT AND ORDER (ORAL)

This appeal and cross objection being CO (FA) 09/20009 are directed against the judgment and award dated 24.09.2008 passed by the learned LA Judge, Belonia in case No. LA(REF) No.4 of 2008.

2. Heard Mr. J. Majumdar, learned State counsel, appearing for the appellants as well as Mr. B. N. Majumdar, learned counsel for the claimant-respondent-cross objector.

3. The brief facts needed to be discussed are follows:

The Govt. of Tripura, vide Notification under Section 4 of the LA Act, 1894 acquired 0.062 acres and 0.022 acres of land, in total 0.084 acres of land vide Notification No.F.9 (42)- ACQ/REV/XII/05, dated 14.12.2005 for construction of linking drain for flood control purpose at Mouja Belonia under Belonia Sub division. The LA Collector while acquiring the land fixed the rate of acquired lands @ Rs. 15 lakhs and Rs.12 lakhs per kani for the respective plots of land and made payment amounting to Rs.4,27,040/-. Being aggrieved by the award

passed by the LA Collector the claimant-respondent-cross objector prayed for reference under Section 18 of the LA Act, 1894 and the case was referred to the LA Judge. The learned LA judge assessed the value of land for the plot No. 2236 @ Rs.25 lakhs per kani and for plot No. 2235 @ Rs. 15 lakhs per kani taking into consideration the valuation chart prepared by the Sub-Divisional Magistrate, Belonia, South Tripura. Being aggrieved and dissatisfied with the judgment and award passed by the learned LA judge, the State and the requiring department have preferred the instant appeal.

4. The claimant-respondent-cross objector also being not satisfied with the judgment and award as impugned in the appeal, filed the cross objection for enhancement of the rate.

5. Mr. Majumdar, learned state counsel submits that the land was acquired on 10.3.2006 whereas the learned LA judge while determining the market value considered the valuation chart prepared by the SDM, Belonia on 15.12.2006. He further submits that the judgment of the learned LA Judge is without any basis and determined the market value of the acquired land on the higher side.

6. On the other hand, Mr. B.N. Majumdar appearing for the claimant-respondent-cross objector submits that the claimant-respondent-cross objector, as PW1 specifically stated in his evidence that at the relevant time of acquisition, the market value of the acquired land was Rs. 40 lakhs per kani as the acquired land could be used not only for residential purpose but also for commercial purposes. He further submits that the claimant-respondent-cross objector has also submitted one sale deed relating to a plot of land nearby the

acquired land and in the said sale deed, the value of the land was shown @ Rs. 34,28,500/- per kani. He finally contended that the learned LA judge failed to consider the evidence of PW1 while determining the market value of the acquired land.

7. This court has gone through the impugned judgment from which it appears that the second party, LA Collector did not produce any deed of transaction whereas the respondent-claimant-cross objector as first party-petitioner in the LA proceeding produced one deed of transaction and in the said sale deed, one Rajib Saha was purchaser and the land was situated within the Nagar Panchayat area and the said land was sold @ Rs. 34 lakhs per kani.

8. As the distance between the acquired land and land relating to the sale instance produced by the respondent-claimant-cross objector was not nearer, the learned LA judge did not rely upon the said sale instance while determining the market value. It also appears from the record that the LA Collector followed the chart published and updated up to 09.03.2005, but the land was acquired in the month of March, 2006 i.e. after almost nine months. According to the learned LA judge, during these nine months, the market value of the land in Belonia Mouja increased as evident from the market value of the land at Belonia Mouja, determined by the SDJM Belonia within the jurisdiction of Belonia Nagar Panchayat @ Rs. 40 lakhs per kani for the land 0-30 metres from the main road and @ Rs. 30 lakhs per kani for the land beyond 0-30 meters of the main road.

9. Taking note of those valuation charts, the learned LA judge determined the value of land for plot No. 2236 @ Rs.25 lakhs per

kani and for the plot No.2235, which falls beyond 30 metres from the main road @ Rs.15 lakhs per kani. It further appears from the record that the LA Collector-proforma respondent No. 2, examined one Amin, namely Chitta Ranjan Mandal as PW 1. This court has also gone through the evidence of the said witness. The said witness in his cross examination specifically stated that they have consulted the valuation chart of the SDM, published on 09.02.2005 and not the valuation of 2006 whereas admittedly the SDM, Belonia determined the value of the Nal class of land @ Rs.40 lakhs per kani within the distance of 0-30 metres from the main road and @ Rs. 30 lakhs per kani for the land at the distance from 31 to 75 metres from the main road.

10. In the instant case also, taking note of the aforesaid facts and considering the evidence, the learned LA Judge determined the market value of the acquired land @ Rs. 25 lakhs per kani for the acquired land as the same falls within 30 metres of the main road and @ Rs.15 lakhs per kani for the land which is beyond 30 metres from the main road.

11. Therefore, according to this Court, the learned LA Judge has given some reason in favour of his award. He has also directed the Executive Engineer, PWD, the appellant No.2 herein, to pay the enhanced amount of compensation within a period of two months and in default, to pay interest @ 12% p.a. on the enhanced awarded amount. Therefore, it would not be necessary to interfere with the judgment impugned.

12. It is needless to say that the claimant-respondent-cross objector is also entitled 30% solatium and other statutory benefits on the awarded amount.

13. With the above, both the appeal and cross objection are dismissed. No order as to costs.

Send down the LCR.

JUDGE

lodh/moumita