

**HIGH COURT OF TRIPURA
AGARTALA**

L.A. APP.NO.75 OF 2008

1. The State of Tripura,
(Represented by the Secretary to the
Government of Tripura,
Public Works Department,
Agartala).

2. The Land Acquisition Collector,
Government of Tripura, West Tripura,
Agartala.

.. Appellants.

- Vrs -

Smti. Khukumani Das,
Wife of Late Jyotish Das,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District- West Tripura.

.. Respondent.

L.A. APP.NO.76 OF 2008

1. The State of Tripura,
(Represented by the Secretary to the
Government of Tripura,
Public Works Department,
Agartala).

2. The Land Acquisition Collector,
Government of Tripura, West Tripura,
Agartala.

.. Appellants

- Vrs -

Shri Sanjit Debnath,
Son of Late Umesh Chandra Debnath,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District-West Tripura.

.. Respondent.

L.A. APP.NO.77 OF 2008

1. The State of Tripura,
(Represented by the Secretary to the
Government of Tripura,
Public Works Department,
Agartala).

2. The Land Acquisition Collector,
Government of Tripura, West Tripura
Agartala.

.. Appellants.

- Vrs -

Shri Paresh Debnath,
Son of Shri Narayan Debnath,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District- West Tripura.

.. Respondent.

L.A. APP.NO.78 OF 2008

1. The State of Tripura,
(Represented by the Secretary to the
Government of Tripura,
Public Works Department,
Agartala).

2. The Land Acquisition Collector,
Government of Tripura, West Tripura,
Agartala.

.. Appellants.

- Vrs -

Shri Rakesh Chandra Debnath,
Son of Late Umesh Chandra Debnath,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District- West Tripura.

.. Respondent.

L.A. APP.NO.79 OF 2008

1. The State of Tripura,
(Represented by the Secretary to the
Government of Tripura,
Public Works Department,
Agartala).

2. The Land Acquisition Collector,
Government of Tripura, West Tripura,
Agartala.

.. Appellants.

- Vrs -

Shri Swapan Debnath,
Son of Late Jogendra Debnath,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District- West Tripura.

.. Respondent.

L.A. APP.NO.80 OF 2008

1. The State of Tripura,
(Represented by the Secretary to the
Government of Tripura,
Public Works Department,
Agartala).

2. The Land Acquisition Collector,
Government of Tripura, West Tripura,
Agartala.

.. Appellants.

- Vrs -

Shri Nripendra Debnath,
Son of Late Mahendra Debnath,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District- West Tripura.

.. Respondent.

L.A. APP.NO.81 OF 2008

1. The State of Tripura,

(Represented by the Secretary to the
Government of Tripura,
Public Works Department,
Agartala).

2. The Land Acquisition Collector,

Government of Tripura, West Tripura,
Agartala.

.. Appellants.

- Vrs -

Shri Rabindra Chandra Deb,

Son of Late Amar Chandra Deb,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District- West Tripura.

.. Respondent.

For the appellants : Mr. N. Majumder, Advocate.

For the respondent : None.

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

Date of hearing and : **04.06.2015**
delivery of Judgment &
Order.

Whether fit for reporting : **No**

JUDGMENT & ORDER (ORAL)

All the above 7(seven) nos. of L.A. appeals, filed under Section 54 of the Land Acquisition Act, 1894 (for short L.A. Act) are taken up together for hearing on the submission of learned counsel of the appellants since the appeals have been filed challenging a common judgment dated 12.07.2007,

passed by the learned L.A. Judge, West Tripura, Khowai, in Case Nos.(i) Misc. LA 07/2006; (ii) Misc. LA 15/2006; (iii) Misc. LA 27/2006; (iv) Misc. LA 36/2006; (v) Misc. LA 53/2006; (vi) Misc. LA 59/2006 & (vii) Misc. LA 60/2006.

2. Common questions of law and facts are involved in all the appeals and hence, those were heard analogously and this common judgment shall govern all the appeals.

3. Heard learned counsel Mr. N. Majumder for the appellants. No representation on behalf of the respondents.

4. By notification No.F.9(7)/REV/ACQ/VI/2002 dated 21.05.2002 issued under Section 4 of the L.A. Act, land measuring more or less 8.220 acres at Mouja Ganki, Sheet No.3, 6/P, under Sub Division Khowai was acquired for the purpose of construction of road from Khowai to Champahour via Jambura, portion from 0 to 2.5 Km. under Khowai Sub Division in the then West Tripura District. The acquired lands were of different classifications and belonged to different land owners stretching over an area of 2.5 Km. including that of the claimant-respondents herein under Mouja Ganki, Sheet No.3, 6/P. The L.A. Collector in due process determined compensation of different classes of land as follows:-

Nal class of land and Dokan	@ Rs.65,000/- per kani.
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Bastu, Layek patit, Bagan, Path, Chara, Karan	@ Rs.60,000/- per kani.
Pukur & Pukur Par	@ Rs.40,000/- per kani.

5. The land owners i.e. the respondents herein received the compensation under protest and on their prayer, the L.A. Collector referred the cases under Section 18 of the L.A. Act to the learned L.A. Judge for determination of actual market price at the date of acquisition.

6. Learned L.A. Judge considering the materials and the evidence on record enhanced the compensation of Nal and Dokan class of land @ Rs.4,00,000/- per kani; Bastu, layek patit, Bagan, Path, Chara, Karan class of land @ Rs.3,50,000/- per kani and Pukur and Pukur par class of land @ Rs.3,00,000/- per kani.

7. Aggrieved, the appellants preferred the present appeals challenging the judgment and award of the learned L.A. Judge.

8. It is submitted by learned counsel Mr. Majumder for the appellants that the lands were acquired for construction of road from Khowai to Champahour covering a length of 2.5 Km. stretching from Khowai to Champahour via Jambura. So, the price of land at every point from Khowai to Champahour cannot be same. Learned L.A. Judge decided a flat price for all classes of land belonged to different claimants at different points of the

road and such determination of compensation cannot be said to be reasonable and justified and hence, the award cannot stand in law and fact. He has also submitted that the claimants relied on three sale-deeds but they produced no map to show that those sale transactions were of comparable lands and hence, the judgment passed by learned L.A. Judge is liable to be set aside.

It is fairly submitted by Mr. Majumder, learned counsel that arising out of acquisition of land under same Mouja and same notification this Court has earlier disposed of L.A. Appeal No. 25 of 2008 to L.A. Appeal No.36 of 2008 by judgment dated 07.07.2014. Subsequently by judgment dated 03.02.2015, this Court decided L.A. Appeal Nos.53 of 2008 to L.A. Appeal No.62 of 2008. By another judgment dated 06.02.2015 this Court decided L.A. Appeal Nos. 112 of 2008 & L.A. Appeal Nos.114 of 2008 to 117 of 2008.

He has fairly submitted that in all those L.A. appeals, the award made by the learned L.A. Judge has been upheld and the appeals have been dismissed.

9. It is a fact that an area of about 8.220 acres of land of different classes under Mouja Ganki, sheet No.3, 6/P was acquired for construction of road from Khowai to Champahour via Jambura portion from 0 to 2.5 Km and the land belonged to different land owners including claimant-respondents herein.

10. The L.A. Collector while determining the market price of the acquired land throughout the Mouja has fixed a flat rate of different classes of land stretching over 2.5 Km of the road. Learned L.A. Judge also fixed a flat rate of those different classes of land stretching over the entire 2.5 Km of the road. Since the L.A. Collector has fixed similar price for the entire acquired land of different classes under the notification, the determination of such flat rate by the learned L.A. Judge cannot be questioned by the appellants. No map of the Mouja has been produced at the time of hearing of the L.A. cases before the learned L.A. Judge. The respondent L.A. Collector even did not submit a counter statement to challenge the claim of the land owners i.e. the claimant-respondents herein. Learned L.A. Judge taken into consideration 3(three) sale instances proved by the claimant-respondents by adducing evidence and relying on those 3(three) sale instances, learned L.A. Judge determined the enhanced compensation and determined a different rate than that of the rate fixed by the L.A. Collector. To controvert the evidence adduced by the claimant-respondents, the appellants could not adduce any documentary evidence to controvert the prices determined by the learned L.A. Judge.

11. Law in respect of determination of market value of the land acquired under the provisions of the L.A. Act, is fairly well settled and the best method to determine the same is to

consider the prices obtained by contemporaneous sale deeds whether of the same land or of others lands in the vicinity. Various factors may be taken into consideration, namely the size and shape of the land, the locality and its situation, the tenure of the property, the user, the potential value and the rise or depreciation of valuation of the land in the locality. Where sale instances of comparable lands are available on record, the court can safely take into consideration such sale instances and make the award relying on such sale transactions. It is also a settled law that where there are several exemplars with reference to similar lands the highest exemplar should be taken into consideration for determination of compensation.

12. Learned L.A. Judge in Para 7 and 8 of the judgment assigned reasons while arriving at a conclusion of enhancing the compensation. Para 7 and 8 of the judgment reads as follows--

"7. It appears from the sale deed No.1305 dt.26.11.01 of Mouza Ganki that land measuring 5(five) gandas (Bastu) was sold at the cost of Rs.75,000/-. Thus, on calculation, it appears that the land was sold at the rate of Rs.3,00,000/- per kani. Sale deed No.1306 dt.26.11.2001 of Mouza Ganki shows that the land measuring 5(five) gandas (Bastu) was sold at the cost of Rs.75,000/-, on calculation it appears that the land was sold at the rate of Rs.3,00,000/- per kani. Sale deed No.796 dt.14.6.2000 shows that land measuring 2(two) gandas 3(three) Karas of Bastu class of land with hut was sold at the cost of Rs.60,000/-. Thus, on calculation, it appears that the land was sold at the rate of Rs.4,36,000/- per kani including the cost of hut. If the

cost of hut is excluded the said land was deemed to be sold at the rate of Rs.3,00,000/- per kani. All the above lands under reference fall under Mouza Ganki and was sold during the period from 2000 to 2001 and all those lands are Bastu class of land. On the other hand land measuring .055 acre of one Shibendra Bhattacharjee was acquired for the same purpose at the rate of more than Rs.6 lac per kani as it appears from the photo copy of form Nos. 8 and 15 issued to Shibendra Bhattacharjee by L.A. Collector. The photo copy of these two documents are also produced by all the referring-claimants.

It is argued by the Ld. Addl. G.P. that the land of Shibendra Bhattacharjee is very close to the Khowai town where the lands of the referring-claimants are not so close to the Khowai town for which the land of Shibendra Bhattacharjee was acquired at the higher rate and the rate of the land of Shibendra Bhattacharjee will not be applicable in case of referring-claimants of these cases.

The L.A. Collector in his assessment note opined that the sale deeds he considered was ranging from Rs.25,000/- to Rs.80,000/- per kani and the aggregate of the above three sale deeds is taken into consideration in determining the value of the acquired lands i.e. Rs.65,000/-(Rupees sixty five thousand) per kani for Nal class of land Rs.60,000/- (Rupees sixty thousand) per kani for Bastu. Layek Patit, Bagan, Chara etc. and Rs.40,000/- (Rupees forty thousand) per kani for Pukur and Pukur Par. It is also seen that the same rate was not applied while acquiring the land of Shibendra Bhattacharjee. On the other hand from the comparable 3 number of sale deeds referred by all the referring-claimants that during the period from 2000 to 2001 land of Ganki Mouza was sold at the rate of Rs.3,00,000/- (Rupees three lac) per kani and at the same time the land of Shibendra Bhattacharjee was acquired at the rate of more than Rs.6,00,000/- (Rupees six lac) per kani.

8. In view of the above factual position, the rate given by the L.A. Collector while acquiring the lands of the referring-claimants appears to be not proper. Since the land of Shibendra Bhattacharjee is very close to Khowai town and the lands of the referring-claimants are at a little distance and not so close to Khowai town and at the same time Bastu class of land was sold at the

rate of Rs.3,00,000/- (Rupees three lac) per kani during the period from 2000 to 2001, in my considered opinion, the Bastu class of lands of the referring-claimants would have been acquired at least at the rate of Rs.4,00,000/- (Rupees four lac) per kani in the year 2002. If the Bastu class of land was sold at the rate of Rs.3,00,000/- (Rupees three lac) per kani in the year 2000 to 2001, it would certainly be sold at the rate of Rs.4,00,000/- (Rupees four lac) per kani in the year 2002 as because the value of all classes of lands are gradually increasing in Tripura. As such, Rs.4,00,000/- (Rupees four lac) per kani should be given for Bastu/Dokan class of land to the referring-claimants for acquiring their lands. Nal/Chara/Bagan Karan/Path is little inferior than the Bastu class of land and hence in my considered opinion, Nal/chara/Bagan-Karan/Path class of land would have been acquired at least at the rate of Rs.3,50,000/- (Rupees three lac fifty thousand) per kani. Following the same principle, pukur/Pukur Par/Doba class of land would have been acquired at the rate of Rs.3,00,000/- (Rupees three lac) per kani."

13. Learned counsel Mr. Majumder has most fairly admitted that by judgments dated 07.07.2014, 03.02.2015 & 06.02.2015 in several other L.A. appeals arising out of the L.A. cases of the same Mouja and same notification has upheld the award made by the learned L.A. Judge and I find nothing to arrive at a contrary finding in respect of the award made by the learned L.A. Judge in the present set of appeals.

14. The three sale instances which have been provided by the claimant-respondents were sale transactions of the land under same Mouja immediately before the date of acquisition and the learned L.A. Judge assigning reasons and giving justification arrived at a finding of enhancing the price of

acquired land and I find nothing to interfere in the said judgment.

15. Accordingly, all the appeals stand dismissed.

16. Send down the L.C. records along with a copy of this judgment.

JUDGE