

**HIGH COURT OF TRIPURA
AGARTALA**

L.A. APP.NO.112 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 Sushil Debnath,
Son of Late Mahendra Chandra Debnath,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District- West Tripura.

.. Respondent.

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

For the respondent : Mr. S. Lodh, Advocate.

L.A. APP.NO.114 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 Surendra Debnath,
 Son of Late Mahendra Debnath,
 Resident of Village-Jambura,
 P.O. and P.S. Khowai,
 District-West Tripura.

.. Respondent.

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

For the respondents : Mr. D.C.Roy, Advocate.

L.A. APP.NO.115 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 Manik Debnath,
 S/o Late Jatindra Debnath,
 Resident of Village-Jambura,
 P.O. and P.S. Khowai,
 District- West Tripura.

.. Respondent.

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

For the respondents : Mr. D.C.Roy, Advocate.

L.A. APP.NO.116 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 Banamali Debnath,
Son of Late Kunjamohan Debnath,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District- West Tripura.

.. Respondent.

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

For the respondents : Mr. D.C.Roy, Advocate.

L.A. APP.NO.117 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 Prabhat Chandra Deb,
Son of Late Mahesh Deb,
Resident of Village-Jambura,
P.O. and P.S. Khowai,
District- West Tripura.

.. Respondent.

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

For the respondents : Mr. D.C.Roy, Advocate.

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

Date of hearing and : **06.02.2015**
delivery of judgment &
Order.

Whether fit for reporting : **No**

JUDGMENT & ORDER (ORAL)

All the 5(five) L.A. appeals filed under Section 54 of the Land Acquisition Act, 1894 (for short L.A. Act) are hereby taken up on the submission of learned counsel of both side since a common question of law and fact involved in these appeals and hence those were heard analogously and this common judgment shall govern all the cases.

2. L.A. appeals No. 112/2008; 114/2008 and 117/2008 have been filed challenging a common judgment dated 07.08.2007 passed by learned L.A. Judge, Khowai, West Tripura in connection with Case No. Misc.(LA)29/06; 41/06 and 44/06 along with other L.A. cases. L.A. appeal Nos. 115/08 and 116/08 have been filed challenging a common judgment dated 09.08.2007, passed by learned L.A. Judge, Khowai, West Tripura in Case Nos. Misc.(LA) 42/06 and 43/06.

3. It is submitted by learned counsel of both side that arising out of acquisition of land under same notification and of same Mouja, all the L.A. Cases were registered on reference

being made by learned L.A. Collector and hence, the appeals are heard analogously and the common judgment is passed.

4. Heard learned counsel Mr. N. Majumder appearing for the appellants in all the appeals and learned counsel Mr. D.C. Roy appearing in L.A. Appeal Nos. 114/08;115/08;116/08 and 117/08 & Mr. S. Lodh appearing in L.A. appeal No. 112/08 for the respondents.

5. 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.
Bastu, Layek patit, Bagan, Path, Chara, Karan	@ Rs.60,000/- per kani.
Pukur & Pukur Par	@ Rs.40,000/- per kani.

6. 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 L.A. Judge for determination of actual market price at the date of acquisition.

7. 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.

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

9. It is submitted by learned counsel Mr. N. 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. So, the price of land irrespective of its class should be different at different places and fixing a flat rate for all the classes of lands were not proper for the L.A. Judge and hence, the judgment is bad both in law and fact. He has also submitted that the claimants relied on three sale deeds but no map produced to show that those

sale transactions were of comparable lands and hence, the judgment passed by the L.A. Judge is not tenable.

10. On the other hand, learned counsel Mr. D.C. Roy and learned counsel Mr. S. Lodh have submitted that to counter the documents filed by the claimants no documentary evidence adduced on behalf of the L.A. Collector i.e. the appellants and so the judgment passed by the L.A. Judge was justified. They have also submitted that arising out of acquisition of land under same notification some other LA cases were also decided by the L.A. Judge on reference being made under Section 18 of the L.A. Act and against those judgments also the appellants preferred L.A. appeal No. 25 of 2008 to L.A. Appeal No. 36 of 2008 and those L.A. appeals were disposed of by a common judgment dated 7th July, 2014 passed by the Hon'ble Chief Justice and the Hon'ble Chief Justice upheld the same rate of compensation awarded by the L.A. Judge.

11. Learned counsel Mr. Majumder appearing for the appellants admitted the fact that arising out of acquisition of land under same notification and of same Mouja those L.A. appeals have been disposed of in the bench of the Chief Justice by judgment dated 07.07.2014. A copy of that judgment is placed at the time of hearing and it is tagged in the records of L.A. Appeal No.112 of 2008.

12. Learned counsel Mr. D.C. Roy and Mr. S. Lodh for the respondents, therefore, prayed for dismissal of the appeals.

13. 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 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 exemplars should be taken into consideration for determination of compensation.

14. On perusal of the impugned judgment passed by the learned L.A. Judge, I find that the claimant-respondents put in evidence three sale instances of comparable land and to counter those sale instances no sale instance were adduced on behalf of the L.A. Collector. Learned L.A. Judge as I find considering the price of the land in those sale instances enhanced the price of the acquired land and has given total

justification in his judgment. In para 7 and 8 of the judgment, the learned L.A. Judge held thus—

"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 Khiowai 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."

15. The submission of learned counsel Mr. Majumder that fixing up of flat rate was not justified cannot stand in view of the fact that LA Collector also while determining the market price of the acquired land fixed a flat rate of all classes of land

stretching over the 2.5 km. of the road. Since L.A. Collector has fixed similar price for the entire acquired lands under the notification, the determination of such flat rate by the LA Judge cannot be challenged by the appellants. No map of the Mouja produced at the time of hearing of the L.A. cases before the L.A. Judge. The respondent, L.A. Collector did not even prefer a counter statement to challenge the claim of the land owners i.e. the respondents herein and so such a stand taken in the appeal is found to be devoid of any merit.

16. On perusal of judgment dated 07.07.2014, passed by this Court in L.A. Appeal 25 of 2008 to L.A. Appeal 38 of 2008, I find that this Court also found justification in the price fixed by the learned L.A. Judge and the observation of this Court in para 10 of said judgment may be quoted herein for reference which reads as follows:-

"[10] I, therefore, rely upon these three sale deeds which have been placed on record by the claimants. As per the calculation, even in the year 2000, the cost of land was about Rs.3,00,000/- per kani. I may point out that by the notification in question the areas and the land of the petitioners which was acquired is very small area. In some cases the area is .08 acres, in some .005 acres and the maximum area is .02 acres. These are very small portions of land and small portions of land will fetch higher value. The rate of land in the area even in the year 2000 was about Rs.3,00,000/- per kani. The two subsequent sale deeds of the year 2001 relate to comparatively larger portion of land. Each of the sale relates to 5 gandas land but on perusal of the sale deeds I find that both the sale deeds were executed by members of the same family in

favour of one vendee. It is well known that when larger pieces of land are sold the price of land becomes less. Therefore, the sale deed of 2000 will reflect the real price of land. In that sale deed the value of the land is definitely more than Rs.3,00,000/-. It is proved that the lands in question are within Khowai town and the value of the land was increasing fast in Khowai town. Therefore, the learned Land Acquisition Judge was justified in holding that the value of land of the highest class. The land sold by the sale deeds was Bastu class of land which had been assessed by the Land Acquisition Collector at Rs.3,00,000/- per kani. Even if inflation is taken @ 10% per year, over two years the value of the land would have been increased by at least 20% and Bastu land would have been valued at least Rs.3,60,000/- per kani in the year 2002 when the notification was issued. In first growing towns the value of the land may increase by 10% to 15% per year and, therefore, suitable increment has been granted by the Land Acquisition Judge. His assessment of the land at Rs.4,00,000/- per kani in the year 2002 as against Rs.3,00,000 per kani in the year 2000 is fully justified in the facts and circumstances of the case."

17. In view of the discussions made above, I find no merit in the appeals and hence, the appeals stand dismissed. The awards made by the learned L.A. Judge are upheld.

18. Parties to bear their own costs.

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

JUDGE