

**THE HIGH COURT OF TRIPURA
AGARTALA**

LA APP NO.124 OF 2008

1. The State of Tripura,

Represented by the
Secretary to the Government of Tripura,
Transport Department,
Agartala, West Tripura.

2. The Land Acquisition Collector,

Government of Tripura,
Dhalai Tripura, Ambassa,
District-Dhalai, Tripura.

..... *Appellants*

- *Vs* -

Shri Keshri Chand Bhura,
S/O Shri Dwip Chand Bhura,
P.O. & P.S. Karimganj,
District-Karimganj,
State, Assam.

..... *Respondent*

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

For the appellants : Mr. Nepal Majumder, Advocate

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

Date of hearing
& delivery of

Judgment & Order : **06.04.2015**

Whether Fit for Reporting :

Yes	No
	✓

JUDGMENT & ORDER(ORAL)

This appeal under Section 54 of Land Acquisition Act,
1894 is directed against judgment and award dated 30.06.2007

passed by learned L.A. Judge, Kailashahar, North Tripura, in case No. Civil Misc.(L.A.) 5 of 2006.

2. Heard learned counsel, Mr. Nepal Majumder for the appellants and learned counsel, Mr. D. C. Roy for the respondent.

3. By Notification No.F.9(2)/Rev/Acq/V/2005 dated 08.09.2005, issued under Section 4 of the Land Acquisition Act (for short L.A. Act), followed by declaration vide No.F.9(2)/Rev/Acq/V/2005 dated 29.10.2005 under Section 6 of the L.A. Act, land measuring 1.60 acres belonged to the claimant-respondent, recorded in Khatian No.52 of Mouja-Manu, Dhalai District, in C.S. Plot No.867(P) measuring 0.15 acres of *lunga* land, C.S. Plot No.868(P) measuring 0.20 acres of *nal* land, C.S. Plot No.873(P) measuring 1.25 acres of *godam(nal)* land, was acquired for the purpose of construction of Motor Stand at Manu under Manu Tehshil Kachari of Longtharai Valley Sub-Division, District-Dhalai.

3.1. The L.A. Collector in due course determined compensation for the acquired land at the rate of ₹1,80,000/- per kani, *i.e.* ₹4,50,000/- per acre for the *nal* class of land, ₹1,60,000/- per kani, *i.e.* ₹4,00,000/- per acre for *lunga* class of land and ₹1,80,000/- per kani, *i.e.* ₹4,50,000/- per acre for *godam(nal)* class of land.

3.2. The claimant-respondent received the compensation under protest and requested L.A. Collector to refer the case to the

Court of L.A. Judge for determination of the actual market price on the date of acquisition and accordingly a reference was made and the learned L.A. Judge in due course after recording evidence of both side awarded compensation at the rate of ₹12,00,000/- per kani for the acquired land of the claimant-respondent by impugned judgment dated 30.06.2007.

3.3. Aggrieved, the State of Tripura and the L.A. Collector filed the present appeal challenging the judgment and award passed by the learned L.A. Judge.

4. It is submitted by Mr. Majumder, learned counsel for the appellants that in the assessment order of L.A. Collector, several sale instances were noticed but those were not taken to consideration for determination of market price of the acquired land since those were in the market area whereas the acquired land is away from the market area and hence the L.A. Collector determined compensation taking into consideration the land valuation in the area as determined by the Sub-Divisional Officer of the said area.

In course of hearing before the L.A. Judge, 3(three) sale deeds were proved by the claimant-respondent and all those sale instances were of market area, *i.e.* in the tri-junction of Manu bazar and those sale instances cannot be said to be sale instance of comparable land and therefore determination of compensation by

the learned L.A. Judge at the rate of ₹12,00,000/- per kani was altogether unreasonable and cannot sustain in law.

5. Learned counsel, Mr. Roy appearing for the claimant-respondent has submitted that the sale deeds which were noticed by the L.A. Collector and the sale deeds proved by the claimant-respondent reflecting transaction at a much higher rate than that which has been awarded by the L.A. Judge. The L.A. Collector awarded inadequate compensation which was much below the prevailing market price and therefore the learned L.A. Judge rightly enhanced the rate at the rate of ₹12,00,000/- per kani which cannot be said to be at a higher side or exorbitant. The appeal has no merit and learned counsel prayed for dismissal of the appeal with cost.

6. On perusal of the claim statement I find that the claimant-respondent, *inter alia*, stated that the acquired land situated within Manu market area and the acquisition has been made for construction of Manu Motor Stand which itself shows that it was a potential land and therefore the claimant-respondent claimed compensation at the rate of ₹91,50,000/- per kani. The appellants in their counter statement contended that the acquired land was not within market area and so it does not fetch such higher price as claimed by the claimant.

7. In the course of hearing before the learned L.A. Judge, on behalf of the claimant-respondent one witness, namely Bidhu Bhushan Sharma, an attorney of the claimant-respondent, Keshri Chand Bhura was examined and the following documents were proved on behalf of the claimant-respondent which were marked as Exbt.1 to Exbt.4 by order dated 02.06.2007 passed by learned L.A. Judge:

- "1. Certified copy of sale Deed No.1-250 dated 26.08.2005 marked as Exhibit.1;*
- 2. Certified copy of sale deed No.1-332 dated 20.08.98 marked as Exhibit.2;*
- 3. Certified copy of the sale deed No.1-333 dated 20.08.98 marked as Exhibit3;*
- 4. General Power of Attorney marked as Exhibit.4."*

On behalf of the appellants, one witness, namely Sri Arabinda Deb was examined as OPW1 and following documents were exhibited:

- "1. Land Acquisition Special form No.11, 27 and 18 marked as Exhibit.A;*
- 2. Special form No.10 marked as Exhibit.B;*
- 3. Assessment of the value of the land done by the L.A. Collector marked as Exhibit.C;*
- 4. Certified copy of the valuation chart of the land under Manu Tehashil marked as Exhibit.D;*

5. Certified copy of the sale deed statement furnished by Sub-Registrar, Ambassa, marked as Exhibit.E;

6. Certified copy of the chart of the various plants, marked as Exhibit.F;

7. Assessment of the building done by the Executive Engineer, Kumarghat Division, marked as Exhibit.G.;

8. Certified copy of trace map, marked as Exhibit.H.”

8. It is quite a settled law that the best method to determine the market value of the land acquired under the provisions of the L.A. Act, 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, 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.

9. On perusal of the assessment order of the L.A. Collector I find that 5(five) sale deeds were noticed, one of which was showing market price of *bastu/dokan* class of land at the rate of

₹73,20,000/- per kani, another sale deed of *nal/bastu* class of land at the rate of ₹7,75,000/- per kani. 3(three) other sale deeds were showing *nal* class of land at the rate of ₹16,00,000/- per kani. The L.A. Collector though mentioned 5(five) sale instances in the assessment order but did not rely on those sale instances on the ground that those sale instances were in the heart of Manu bazar in the tri-junction point and the acquired land is also in Manu bazar but a little bit away from the tri-junction and therefore the L.A. Collector fixed compensation at the rate of ₹1,80,000/- per kani of *nal/godam* class of land ₹1,60,000/- per kani of *lunga* class of land. Exbts.1, 2 and 3 are three sale instances proved by the claimant. Out of it, Exbt.1 was also considered by the L.A. Collector in his assessment order which was a transaction of *bastu/dukan* class of land at the rate of ₹73,20,000/- per kani. Exbt.2 was a transaction of 1 kara, 1 kranta, 2 dhurs of land for a consideration of ₹1,00,000/- per kani and Exbt.3 was a sale instance of 1 kara, 1 kranta, 3 dhurs of land for a consideration of ₹1,00,000/- per kani. It shows that there were transactions at a much higher rate than that of the compensation awarded by the learned L.A. Collector.

10. OPW1, i.e. the witness of the appellants in his cross-examination stated that the National Highway No-44/A runs through the side of the acquired land. Acquired land situated at the ending portion of the market. Manu Police Station is also situated very near to the market upon a tilla. The distance between the BDO's office, Manu and the acquired land would be more than 200

meters. This statement of OPW1 clearly shows that the acquired land is situated within the vicinity of the Manu market and it is not far away from the market. It was within the area of the market and therefore the land has been acquired for construction of Motor Stand. The appellants proved a trace map which has been marked as *Exbt.H* and it shows that the acquired land is adjacent to the highway and it is just at the end of the market and therefore it has been acquired for the purpose of construction of the Motor Stand. It is, therefore evident that the acquired land is a potential land and though it cannot fetch the same rate as that of *Exbt.1*, i.e. at the rate of ₹73,20,000/- per kani but it must fetch a higher rate than that what is awarded by the L.A. Collector. The learned L.A. Judge has observed that there was transaction at the rate of ₹16,00,000/- per kani at a distance of about 240 meters from the acquired land and therefore he fixed the price of compensation at the rate of ₹12,00,000/- per kani.

11. Some guess work, some hypothetical consideration is inevitable in determining compensation of the acquired land in each and every case. The learned L.A. Judge taking into account the sale instances and taking into account the location of the land and purpose of acquisition, etc. has fixed the compensation at the rate of ₹12,00,000/- per kani which is also in my considered opinion is at a lower side but since there is no appeal filed by the respondent-claimant, this Court has nothing to do in respect of price already determined by the learned L.A. Judge. In my considered opinion,

there is no merit in the appeal and the compensation fixed by the L.A. Judge is based on evidence on record and I find nothing to interfere in the judgment.

12. The appeal therefore stands dismissed.

13. Parties to bear their own costs.

14. Send back the L.C. records along with a copy of this judgment.

JUDGE