

**THE HIGH COURT OF TRIPURA
AGARTALA**

LA APP NO.85 OF 2008

The Deputy Chief Engineer,
N.F. Railway, Gorkha Basti,
Agartala, West Tripura.

..... *Appellant*

- *Vs* -

- 1. Shri Jiban Kumar Das,**
- 2. Shri Tapan Kumar Das,**
- 3. Shri Sukumar Das and**
- 4. Shri Swapan Kumar Das,**

All are sons of late Narendra Kumar Das.
And all the residents of Madhya Dukli,
P.S. Amtali, West Tripura District.

..... *Claimant-respondents*

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

For the appellant	:	Mr. A. Lodh, Advocate
For the respondents	:	Mr. D.R. Choudhury, Advocate
Date of hearing	:	25.03.2015
Date of delivery of Judgment & Order	:	31.03.2015

Whether Fit for Reporting	:	Yes	No
			✓

JUDGMENT & ORDER

This appeal under Section 54 of Land Acquisition Act is
directed against judgment and award dated 07.01.2008 passed by

learned L.A. Judge, Court No.2, Agartala, West Tripura in case No. Misc. L.A. 43 of 2002.

2. Heard learned counsel, Mr. A. Lodh for the appellant and learned counsel, Mr. D.R. Choudhury for the respondents.

3. The brief fact is that by notification dated 23.02.1998 issued under Section 4 of the L.A. Act followed by declaration made under Section 6 of the said Act, land measuring 0.67 acres, classified as '*tilla*', '*khelar math*' of Mouja-Badharghat, Sheet No.5, recorded in Khatian No.16794, Plot No.7311/P, belonged to the referring claimants, i.e. the respondents herein, along with other land of the same mouja, was acquired for construction of railway line from Kumarghat to Agartala at Mouja-Badharghat, Shri Palli and the L.A. Collector in due course determined compensation for the acquired land of the claimant-respondents at the rate of ₹1,40,000/- per kani. The claimants received the compensation under protest with a prayer for referring the case to the L.A. Judge for determination of the actual market price of the acquired land on the date of acquisition, alleging that the price of land determined by the L.A. Collector was inadequate and was grossly below the existing market price prevalent at the time of acquisition. Accordingly, the L.A. Collector referred the case to the L.A. Judge and the learned L.A. Judge in due course after taking evidence of both side determined compensation at the rate of ₹5,00,000/- per

kani of the acquired land of the claimant-respondents and accordingly made the award.

4. Felt aggrieved, the requiring Department, i.e. the Deputy Chief Engineer, N.F. Railway preferred the present appeal challenging the judgment and award passed by the learned L.A. Judge.

5. It is submitted by Mr. Lodh, learned counsel for the appellant that L.A. Collector determined compensation considering the price of comparable land in the vicinity, which was just and appropriate whereas the learned L.A. Judge only taking into account a sale instance submitted by the claimant-respondents enhanced compensation at the rate of ₹5,00,000/- per kani which was exorbitant and not tenable. He has also submitted that L.A. Collector wrongly fixed the interest on solatium ignoring the settled position of law.

6. Mr. Choudhury, learned counsel for the respondents, on the other hand, has submitted that learned L.A. Judge considered the evidence adduced by both side and taking into account, sale deed No.4748 dated 04.08.1997 has determined the compensation at the rate of ₹5,00,000/- per kani though the said sale instance was showing transaction at the rate of ₹6,00,000/- per kani of 'tilla' class of land. The judgment passed by the L.A. judge is based on sound reason and so no interference is called for.

7. Order dated 03.03.2015 passed by this Court shows that learned counsel of both side submitted that they shall search out whether any earlier L.A. appeal arising out of acquisition of land under same mouja has been decided or not and pursuant to that learned counsel placed before this Court a common judgment dated 26.06.2013 passed by Single Bench of this Court in L.A. App. No.10 of 2007 and other connected appeals wherein it is found that for acquisition of land under the same mouja, *i.e.* Mouja-Badharghat, Sheet No.5, compensation was awarded at the rate of ₹6,00,000/- per kani. Learned counsel of both side could not furnish any material to show that the land involved in the said L.A. App. No.10 of 2007 and other connected appeals of the same mouja and the land involved in the present appeal are of same nature and similarly situated and as such the ratio of that decision cannot be readily applied in this appeal.

8. On perusal of the records I find that the claimant-respondents as well as the appellant(requireing department) and the L.A. Collector, all submitted their respective claim statement and counter statements before the learned L.A. Judge and the claimants, *i.e.* the respondents herein claimed compensation at the rate of ₹25,00,000/- per kani for the acquired land on the ground that it was potential land, growing three crops a year and it was located at an advantageous position. On the other hand, the L.A. Collector as well as the requiring department submitted counter statement supporting the assessment made by the L.A. Collector.

In course of hearing, both side adduced oral and documentary evidence. On behalf of the claimant-respondents four sale deeds which were marked as *Exbt.1* series were proved whereas on behalf of the L.A. Collector and the requiring department, *i.e.* the appellant herein, nine sale instances were exhibited which were marked as *Exbt.A* series.

9. It is a settled law that the best way to determine compensation for the acquisition of land, is to consider the price obtained in contemporaneous sale deeds whether of the same land or of some other land in the vicinity. Some guess work and some hypothetical consideration is inevitable in determination of compensation in every case. Though the claimants and the respondents relied on several sale instances but there is no specific evidence to show that all those sale instances were of the comparable lands in the same vicinity but it is not disputed that all those sale instances were of same mouja. Learned L.A. Judge, as I find, has taken into consideration sale deed No.4748 dated 04.08.1997, out of *Exbt.1* series which shows the sale of '*tilla*' class of land at the rate of about ₹6,00,000/- per kani and relying on that sale instance he has fixed the price of the acquired land at the rate of ₹5,00,000/- per kani. The sale instances relied by the respondents, on the other hand, are showing a lesser price than that of the sale instance relied by learned L.A. Judge but no reliance has been placed by the learned L.A. Judge on those sale instances referred by the appellant and the L.A. Collector. It is a settled law

that the cogent sale instance which carries highest price may be taken as the sale instance for fixation of market price of the acquired land. In that sense the judgment passed by the L.A. Judge cannot be said to be irrational or wrong. Even in the judgment in L.A. App. No.10 of 2007 and other connected appeals, the single Bench of this Court for acquiring land under the same mouja has awarded compensation at the rate of ₹6,00,000/- per kani. The rate fixed by this Court in that case cannot be readily applied in this case in the absence of any cogent evidence regarding the position of the land but some idea may be taken about the price of the land in the locality on the date of acquisition.

10. I, therefore, find no gross illegality or impropriety in the judgment passed by the learned L.A. Judge and the appeal is found to be devoid of merit. Further as I find the learned L.A. Judge directed payment of interest on solatium and therefore I find no merit in the submission of learned counsel, Mr. Lodh regarding payment of interest on solatium. The appeal, therefore, stands dismissed.

11. Parties to bear their own costs.

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

JUDGE