HIGH COURT OF TRIPURA
AGARTALA

L.A. Appl 19 of 2010

The Under Secretary
to the Govt. of Tripura.
Revenue Department, Agartala ……. Appellant.

-versus-

1. Shri Tapan Debnath,
S/O. Shri Ananta Debnath,
Santirbazar,
P.O & P.S – Santirbazar,
Dtst. South Tripura.

2. Shri Dulal Debnath,
S/O- Shri Ananta Debnath.
Santirbazar,
P.O. & P.S.- Santirbazar.
South Tripura District. …… Respondents

3. The Land Acquisition Collector,
Udaipur, South Tripura District. ……. Proforma-respondent

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

Advocate for the Appellant: Mrs. A.S. Lodh
Addl. Govt. Advocate

Advocate for the respondents: Mr. S.M. chakraborty
Sr. Advocate

Date of hearing : 2.7.2015
& delivery
of the judgment

Whether fit for reporting: No

JUDGEMENT AND ORDER(oral)

1. This appeal is directed against the judgment and award dated 21.12.2009 passed by the learned Land Acquisition

Judge, Belonia, South Tripura in Misc. (Ref) 22 of 2009 whereby and whereunder the learned L.A. Judge awarded compensation for the acquired land at the rate of Rs.80,000/- per kani for viti class of land and at the rate of Rs.1,00,000/- per kani for the entire tilla class of land.

2. Heard Ms AS Lodh, learned Addl. Govt. Advocate appearing for the appellant and Mr. SM Chakraborty, learned Sr. Counsel appearing for the respondents.

3. Brief facts of the case needed to be discussed are as follows:

The Govt. of Tripura vide Notification No. F.9(1)-Rev/ACQ/XVII/06 dated 14.08.2006 under section 4 of the LA Act, 1894 acquired 1.24 acres (tilla) of land belonged to the claimant-respondents under plot No. 1591 of khatian No.1267 of Mouja Radha Kishore Ganja for the purpose of establishment of Sub-Divisional Magistrate Office of Santirbazar. The LA Collector, South Tripura, while acquiring the land awarded compensation at the rate of Rs 50,000/- per kani for viti class of land, Rs. 1,00,000/-per kani for tilla class of land within 30 metres of N.H.-44 and Rs. 70,000/- per kani for tilla class of land beyond 30 metres of N.H.-44 road.

4. Being aggrieved by the award passed by the L.A. Collector, the claimant respondents prayed for reference under Section 18 of the L.A. Act, 1894 and the case was referred to the learned L.A. judge.

5. The case of the referring claimant- respondents was that the L.A. Collector did not consider the actual market rate prevailing at the time of acquisition of land. The compensation was given at a very low rate of Rs. 50,000/- to Rs.1,00,000/- per kani whereas the prevailing market value of the acquired land was Rs. 6 lakhs per kani. Therefore, the referring claimant respondents demanded compensation at the rate of Rs. 6 lakhs per kani by producing copy of the registered sale deed vide No. 1169 dated 24.05.2006 and a valuation certificate prepared by the approved valuer of State Bank of India. It is also stated that the L.A Collector assessed the value of the acquired land on the basis of the valuation chart of the land of Mouja Radha Kishore Ganja prepared by the S.D.M., Belonia in the year 2005 which was prepared for the purpose of collection of revenue, not for determining the market value of the land. Hence, the determination of the value of the acquired land on the basis of said valuation chart was illegal and arbitrary. It is also submitted that a land measuring four ganda at Radha Kishore Ganja Mouja was sold for Rs. 63,000/- which reflected the market value of the acquired land but the L.A. Collector did not consider the same.

6. On the other hand, L.A. Collector, South Tripura, Udaipur contested the claim of the claimant respondents by submitting written statements contending, inter alia, that the compensation was awarded as per prevailing market rate of

the land. It is contended that the L.A collector relied on some sale deeds collected by the then Amin Dinesh Chandra Roy and considering the valuation chart of the land of that area prepared by S.D.M., Belonia in the year 2005 awarded compensation at the rate of Rs. 50,000/- per kani for viti class of land and Rs. 1,00,000/- per kani for tilla class of land within 30 metres from National Highway and at the rate of Rs. 70,000/- per kani for tilla class of land beyond 30 metre of National Highway. It is also asserted that due compensation was given to the referring claimants for standing trees found on the acquired land at the time of acquisition. It is further submitted that the land vide sale deed No. 1169 dated 24.05.2006 might have purchased by the purchaser at higher rate for his urgent necessity and that cannot be considered as prevailing market rate of the acquired land.

7. Learned L.A. Judge after considering the assessment note noted that

> "On perusal of the above referred sale-deed it is very difficult to ascertain the distance of the land from the National High Way. Moreover sale of single instance cannot be considered as comparable sale-deed/ basis to determine the prevailing market value of the other land. Over and above the acquired land is not adjacent to the land of sale-deed No. 1169 dated 24.05.2006. Value of the land as assessed by the Approved valuer of State Bank of India also cannot be basis to determine the prevailing market rate of the acquired land as because generally that assessment is made for the purpose of sanction of loan from the Bank. At the same time it is also incorrect on the part of the L.A. Collector to rely on the valuation chart of the Sub-Divisional Magistrate, Belonia in assessing the value of the acquired land as because the valuation

chart was prepared only for collection of Revenue and it cannot be basis to determine the actual market value of the land.

So, considering all the above aspects I am of the opinion that the referred sale-deed as well as the valuation chart of the Sub-Divisional Magistrate, Belonia cannot be considered as comparable sale-deed/ basis in determining the value of the acquired land. However, it gives some idea about the prevailing rate of the land during the period of acquisition. The value of the land in Tripura is increasing gradually day by day. The rate of acquired land of Rs.50,000/- to Rs.1,00,000/- per kani for various class of land determined by the L.A. Collector appears to be very low. In my considered opinion it would be justified, if the value of the land is determined at the rate of Rs.80,000/- per kani for Viti class of land and at the rate of Rs. 1,00,000/- per kani for entire tilla class of land of this case."

8. Ms. Lodh, Addl. G.A. appearing for the appellant submits that the finding of the learned L.A. Judge regarding determination of the market value of the acquired land is wholly perverse as the learned L.A Judge assessed the market value of the acquired land on average basis. She also submits that the acquired land is a vast tilla land with forest and is lying vacant. Therefore the L.A. collector has rightly assessed the market value of the acquired land and compensation awarded is just and proper.

9. On the other hand, Mr. Chakraborty, learned senior counsel appearing for the claimant respondents submits that the learned L.A Judge has rightly determined the value of the acquired land and it cannot be said that the rate which was determined by the L.A Judge is higher in side. He also submits that L.A. Collector while determining the rate of acquired land did not rely upon any sale instance. Not only that even in the

court also, the L.A. Collector did not rely upon any sale instance. Thus, in absence of sale instance of the relevant time, the learned L.A Judge had no other option but to go on some guess work to determine the just and proper compensation of the acquired land, what he did in the instant case. Hence no interference is called for by this court with the judgment impugned.

10. Normally, at the time of determining the market value relating to an acquired land, the proximity of time relating to sale deed produced by the parties and the proximity of land involved in the sale deed as well as the land acquired in the project are of material consideration for identifying the comparable sale instances out of genuine instances and a court is to give preference to the sale instances of adjacent land in comparison to sale instances of land situated far away from the acquired land. While computing the market value the mathematical precision relating to value of a land may not be possible in every case, but even in the same location or area, two different sites/plots might have different value and in that case some sort of guess work is inevitable and in the instant case also, the learned LA Judge determined the market value of the acquired land on some guess work taking note of sale instance produced by the respondents. This Court is of the considered opinion that the learned LA Judge did not commit any wrong fixing the market value of the acquired land at the

rate of Rs. 80,000/- per kani for the viti class of land and Rs.1,00,000/- per kani for the entire tilla class of land. Therefore, this court is of considered opinion that the instant appeal filed by the appellants is devoid of merit and accordingly, the same is dismissed. No order as to costs.

Send down the LCRs.

JUDGE

mdn