

THE HIGH COURT OF TRIPURA

A G A R T A L A

LA App. No. 37 of 2009

Appellants:

1. **The Principal Chief Conservator of Forests,**
Chief Wild Life Warden,
Agartala, Tripura.
2. **The Land Acquisition Collector,**
West Tripura, Agartala

By Advocate :

Mr. GS Bhattacharji, Adv.

Respondents :

1. (a) **Smt. Afula Khatun**
W/O Lt. Kanchan Miah
- (b) **Md. Jahirul Islam,**
S/O Lt. Kanchan Miah
- (c) **Md. Tajul Islam,**
S/O Lt. Kanchan Miah
- (d) **Smt. Ruhena Begam,**
W/O Md. Lal Miah,
D/O Lt. Kanchan Miah
All are resident of Narura,
P.S. Bishalgarh, Tripura (W).
- (e) **Smt. Rumena Begam,**
W/O Md. Delour Hussain,
D/O Lt. Kanchan Miah, resident of
Durganagar, P.S. Bishalgarh, Tripura (W).
2. **Suraj Miah,**
S/O Lt. Nijamuddin
Resident of Uttar Charilam,
P.O. Charilam,
P.S. Bishalgarh, West Tripura.

By Advocate :

Mr. R Debnath, Adv.

CO (FA) 01 of 2010

Cross Objectors:

1. (a) **Smt. Afula Khatun**
W/O Lt. Kanchan Miah
- (b) **Md. Jahirul Islam,**
S/O Lt. Kanchan Miah
- (c) **Md. Tajul Islam,**
S/O Lt. Kanchan Miah
- (d) **Smt. Ruhena Begam,**

LA App. Nos. 37/38/39/40/41/42 of 2009
LA App. Nos. 01/02/03/04 of 2010
CO (FA) 01/02/03/04/06 of 2010

W/O Md. Lal Miah,
D/O Lt. Kanchan Miah
All are resident of Narura,
P.S. Bishalgarh, Tripura (W).

(e) **Smt. Rumena Begam,**
W/O Md. Delour Hussain,
D/O Lt. Kanchan Miah, resident of
Durganagar, P.S. Bishalgarh, Tripura (W)

2. **Suraj Miah,**
S/O Lt. Nijamuddin
Resident of Naraura,
P.S. Bishalgarh, West Tripura.

By Advocate :
Mr. R Debnath, Adv.

Respondents :

1. **The Principal Chief Conservator of Forests,**
Chief Wild Life Warden,
Agartala, Tripura.

2. **The Land Acquisition Collector,**
West Tripura, Agartala.

By Advocate :
Mr. GS Bhattacharji, Adv.

LA App. No. 38 of 2009

Appellants:

1. **The Principal Chief Conservator of Forests,**
Chief Wild Life Warden,
Agartala, Tripura.

2. **The Land Acquisition Collector,**
West Tripura, Agartala.

By Advocate :
Mr. GS Bhattacharji, Adv.

Respondent :

1. **Shri Khokan Chandra Das,**
S/O Late Malak Chandra Das
Resident of North Charilam,
P.S. Bishalgarh, Tripura West.

By Advocate :
Mr. R Debnath, Adv.

LA App. No. 39 of 2009

Appellants:

1. **The Principal Chief Conservator of Forests,**

Chief Wild Life Warden,
Agartala, Tripura.

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

By Advocate :

Mr. GS Bhattacharji, Adv.

Respondents :

1. **Sri Siddhique Ali**
2. **Idrish mia**
3. **Ismail Ali**
4. **Abdurnessa**
5. **Ajidar Nessa**
6. **Noorjahan Begam**
7. **Mamta Begam**

(respondent Nos. 1 to 3 are the sons and Sl. Nos. 4 to 7 are the wife and daughters of Late Idam Ali Khandakar, resident of Uttar Charilam, P.s. Bishalgarh, P.O. Charilam, Tripura (West)).

By Advocate :

Mr. R Debnath, Adv.

CO (FA) 02 of 2010

Cross Objectors:

1. **Idrich Mia**
2. **Sri Siddhique Ali**
3. **Ismail Ali**
All sons of late Idan Ali, resident of North Charilam, P.S. Bishalgarh, District-West Tripura.
4. **Ajidar Nessa**
W/O Late Sabdan Ali, D/O Late Idan Ali, resident of North Charilam, P.S. Bishalgarh, District-West Tripura.
5. **Noorjahan Begam**
W/O Md. Sahalam, D/O Late Idan Ali resident of Rajnagar, P.S. West Agartala, District-West Tripura.
6. **Mamta Begam**
W/O Nuru Miah, D/O Idan Ali, resident of Kanchan Palli, Badharghat, P.S.

Amtali, District-West
Tripura.

By Advocate :

Mr. R Debnath, Adv.

Respondents :

3. The Principal Chief Conservator of Forests,
Chief Wild Life Warden,
Agartala, Tripura.

4. The Land Acquisition Collector,
West Tripura, Agartala.

By Advocate :

Mr. GS Bhattacharji, Adv.

LA App. No. 40 of 2009

Appellants:

1. The Principal Chief Conservator of Forests,
Chief Wild Life Warden,
Agartala, Tripura.

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

By Advocate :

Mr. GS Bhattacharji, Adv.

Respondent :

Billal Miah,
S/O Md. Tajul Miah
Resident of North Charilam,
P.S. Bishalgarh, Tripura West.

By Advocate :

Mr. R Debnath, Adv.

LA App. No. 41 of 2009

Appellants:

1. The Principal Chief Conservator of Forests,
Chief Wild Life Warden,
Agartala, Tripura.

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

By Advocate :

Mr. GS Bhattacharji, Adv.

Respondent :

Sri Sambhu Das
S/O Khokan Das,

Resident of North Charilam,
P.S. Bishalgarh, Tripura West.

By Advocate :

Mr. R Debnath, Adv.

LA App. No. 42 of 2009

Appellants:

- 1. The Principal Chief Conservator of Forests,**
Chief Wild Life Warden,
Agartala, Tripura.
- 2. The Land Acquisition Collector,**
West Tripura, Agartala.

By Advocate :

Mr. GS Bhattacharji, Adv.

Respondent :

Sri Rabindra Datta
S/O Hemendra Datta
Resident of North Charilam,
P.S. Bishalgarh, Tripura West.

By Advocate :

Mr. R Debnath, Adv.

CO (FA) 03/2010

Cross Objector :

Sri Rabindra Datta
S/O Hemendra Datta
Resident of North Charilam,
P.S. Bishalgarh, Tripura West.

By Advocate :

Mr. R Debnath, Adv.

Respondents:

- 1. The Principal Chief Conservator of Forests,**
Chief Wild Life Warden,
Agartala, Tripura.
- 2. The Land Acquisition Collector,**
West Tripura, Agartala.

By Advocate :

Mr. GS Bhattacharji, Adv.

LA App. No. 01 of 2010

Appellants:

- 1. The State of Tripura**
(Principal Chief Conservator of Forests,
Chief Wild Life Warden,)
Govt. of Tripura,

Aranya Bhawan, Pandit Neheru Complex,
West Tripura, Agartala.

By Advocate :

Mr. PK Pal, Adv.

Respondents :

1. (a) **Smt. Afula Khatun**
W/O Lt. Kanchan Miah
 - (b) **Md. Jahirul Islam,**
S/O Lt. Kanchan Miah
 - (c) **Md. Tajul Islam,**
S/O Lt. Kanchan Miah
 - (d) **Smt. Ruhena Begam,**
W/O Md. Lal Miah,
D/O Lt. Kanchan Miah
All are resident of Narura,
P.S. Bishalgarh, Tripura (W).
 - (e) **Smt. Rumena Begam,**
W/O Md. Delour Hussain,
D/O Lt. Kanchan Miah, resident of
Durganagar, P.S. Bishalgarh, Tripura (W)
-
2. **Suraj Miah,**
S/O Lt. Nijamuddin
Resident of Naraura,
P.S. Bishalgarh, West Tripura.

By Advocate :

Mr. R Debnath, Adv.

Pro forma Respondent :

3. **The Land Acquisition Officer,**
Government of Tripura,
West Tripura, Agartala.

CO (FA) 04/2010

Cross Objectors :

1. (a) **Smt. Afula Khatun**
W/O Lt. Kanchan Miah
- (b) **Md. Jahirul Islam,**
S/O Lt. Kanchan Miah
- (c) **Md. Tajul Islam,**
S/O Lt. Kanchan Miah
- (d) **Smt. Ruhena Begam,**
W/O Md. Lal Miah,
D/O Lt. Kanchan Miah
All are resident of Narura,
P.S. Bishalgarh, Tripura (W).
- (e) **Smt. Rumena Begam,**
W/O Md. Delour Hussain,

D/O Lt. Kanchan Miah, resident of
Durganagar, P.S. Bishalgarh, Tripura (W)

2. **Suraj Miah,**
S/O Lt. Nijamuddin
Resident of Naraura,
P.S. Bishalgarh, West Tripura.

By Advocate :

Mr. R Debnath, Adv.

Respondents:

1. **The State of Tripura**
(Principal Chief Conservator of Forests,
Chief Wild Life Warden,)
Govt. of Tripura,
Aranya Bhawan, Pandit Neheru Complex,
West Tripura, Agartala.

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

By Advocate :

Mr. PK Pal, Adv.

LA App. No. 02 of 2010

Appellants:

1. **The State of Tripura**
(Principal Chief Conservator of Forests,
Chief Wild Life Warden,)
Govt. of Tripura,
Aranya Bhawan, Pandit Neheru Complex,
West Tripura, Agartala.

By Advocate :

Mr. PK Pal, Adv.

Respondents :

1. **Shri Suresh Chandra Saha**
Son of Late Rajani Kanta Saha
Vill-North Charilam,
P.O. Charilam, P.S. Bishalgarh,
District-West Tripura.

By Advocate :

Mr. R Debnath, Adv.

Pro forma Respondent :

2. **The Land Acquisition Officer,**
Government of Tripura,
West Tripura, Agartala.

CO (FA) 06/2010

Cross Objector :

Shri Suresh Chandra Saha
Son of Late Rajani Kanta Saha

Vill-North Charilam,
P.O. Charilam, P.S. Bishalgarh,
District-West Tripura.

By Advocate :

Mr. R Debnath, Adv.

Respondents:

1. The State of Tripura

(Principal Chief Conservator of Forests,
Chief Wild Life Warden,)

Govt. of Tripura,

Aranya Bhawan, Pandit Neheru Complex,
West Tripura, Agartala.

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

By Advocate :

Mr. PK Pal, Adv.

LA App. No. 03 of 2010

Appellants:

1. The State of Tripura

(Principal Chief Conservator of Forests,
Chief Wild Life Warden,)

Govt. of Tripura,

Aranya Bhawan, Pandit Neheru Complex,
West Tripura, Agartala.

2. The Land Acquisition Officer,

Government of Tripura,
West Tripura, Agartala.

By Advocate :

Mr. GS Bhattacharji, Adv.

Respondent :

Smt. Hazeera Khatun,

W/O Muksud Mia

Resident of North Charilam,

P.S. Bishalgarh, Tripura West.

By Advocate :

Mr. R Debnath, Adv.

LA App. No. 04 of 2010

Appellants:

1. The State of Tripura

(Principal Chief Conservator of Forests,
Chief Wild Life Warden,)

Govt. of Tripura,

Aranya Bhawan, Pandit Neheru Complex,
West Tripura, Agartala.

2. The Land Acquisition Officer,

Government of Tripura,

West Tripura, Agartala.

By Advocate :

Mr. GS Bhattacharji, Adv.

Respondent :

Sri Shyamal Roy

S/O Late Amar Ch. Roy

Resident of North Charilam,

P.S. Bishalgarh, Tripura West.

By Advocate :

Mr. R Debnath, Adv.

**B E F O R E
THE HON'BLE MR. JUSTICE U.B. SAHA**

Date of hearing and delivery
of Judgement & Order : **02.03.2015.**

Whether fit for reporting : **YES/NO**

JUDGMENT & ORDER (ORAL)

These appeals as well as the cross-objections are directed against the judgment and award dated 02.06.2009 in Misc. LA 02/2006, Misc. LA 03/2006, Misc. LA 04/2006, Misc. LA 10/2006, Misc. LA 11/2006, Misc. LA 13/2006, judgment and award dated 22.08.2009 in Misc (LA) 17 of 2006, Misc. (LA) 16/2006, judgment and award dated 04.11.2009 in Misc. (LA) 12 of 2006 and judgment and award dated 09.11.2009 in Misc. (LA) 04 of 2010.

2. As common question arises for decision and the lands involved in all these appeals were acquired by the same notification and fall under the same Mouja, all these appeals and cross-objections are taken up together for disposal by this common judgment.

3. Lands involved in the instant appeals as well as the cross-objections were acquired under the same Notification being No.

F.9(7)-Rev/ACQ/XIV/2002 dated 05.04.2002 under Section 4 of the Land Acquisition Act which was published in the local daily, namely, "Tripura Darpan" on 25.04.2002 and Declaration under Section 6 of the LA Act was issued vide Notification No. F.9(7)-Rev/ACQ/XIV/2002 dated 12.06.2002 for acquisition of the lands situated in Mouja Uttar Charilam under Different Khatians and different plots as mentioned in the respective judgments for establishment of Sipahijala Wild Life Sanctuary under Bishalgarh Sub-Division, Tripura West (now Sipahijala District). In all the cases, the LA Collector passed award of Rs. 30,000/- per kani. Being aggrieved by the award of the LA Collector, the respondent-claimants filed their respective application under Section 18 of the LA Act for reference which was ultimately referred.

4. The learned LA Judge after hearing the parties and considering the exhibited documents, namely, the sale deeds, enhanced the award from Rs. 30,000/- to Rs. 90,000/- for Nal Class of land. All the lands involved in these appeals are Nal Class of land. The learned LA Judge in his judgment also mentioned that Misc. (LA) 47/2003, Misc. (LA) 48/2003 and Misc. (LA) 49/2003 enhanced the compensation for acquisition of land during the year 1989 from Rs. 37,000/- to Rs. 62,000/- per kani and the said award was affirmed by the Hon'ble Gauhati High Court, Agartala Bench, Agartala in LA Appeal No. 20/2007, 21/2007 and 22/2007. It is also admitted fact that the decision of the Gauhati High Court, Agartala Bench in the aforesaid appeals was not challenged by the parties and thus became final.

5. It is also stated by the learned LA Judge that the market value of the land acquired in the year 2002 cannot be same with that of the land acquired in the year 1989. In the aforesaid LA Appeal No. 20/2007, the lands which were involved were acquired in the year 1989 whereas the lands in question were acquired in the year 2002 and obviously the rate of land has increased by this time. Ultimately, in all these cases the learned LA Judge enhanced the awarded compensation for the acquired land @ Rs. 90,000/- per kani and he has also added 30% Solatium under Section 23(2) of the LA Act and 12% under Section 23(i)(A) of the LA Act from the date of Notification under Section 4 of the LA Act till the date of possession or award whichever is earlier. It is also mentioned that the interest on the amount of solatium shall be @ 9% per annum from the date of possession till one year and @ 15% per annum from the date of expiry of one year till the date of payment of the enhanced amount of compensation.

6. Learned counsel appearing for the appellants submitted that the award passed by the learned LA Judge is higher in side and is without any basis. More so, the land in question is in and around the forest area, thus, increasement of the market value was less. It is also contended that the learned LA Judge enhanced the award from Rs.30,000/- to Rs.90,000/- per kani which is more than double. Thus, it would be proper to set aside the judgment and award passed by the learned LA Judge and affirm the award of the LA Collector.

7. Mr. Debnath, learned counsel for the respondent-cross-objectors while supporting the judgment of the learned LA Judge

would contend that the claimant-respondents are entitled to more compensation in view of the judgment in **Jasarvinder Singh & Ors. Vs. President, Land Acquisition Tribunal & Ors, 2012 (11) JT 179** wherein the Apex Court increased the awarded amount @ 12% per annum. Thus, it would be proper to enhance the awarded amount passed by the LA Judge.

8. In **Jasarvinder Singh & Ors.** (supra) the Apex Court considered almost a similar question wherein some land was acquired in the year 1970 and some land was acquired later on and the Apex Court noted that, the High Court keeping in view of the law laid down by the Apex court in **Ranjit Singh V. U.T. of Chandigarh, (1992) 4 SCC 659, Land Acquisition Officer V. Ramanjulu, (2005) 9 SCC 594 and Krishi Utpadan Mandi Samiti V. Bipin Kumar, (2004) 2 SCC 283** granted the benefit of notional increase in the market value of the acquired land. Similar view has been expressed by the Apex Court in **Sardar Jogendra Singh V. State of U.P. (2008) 17 SCC 133.**

9. By applying the ratio of the above referred judgment the Apex Court held that the appellants therein were entitled to the benefit of increasement @ 12% per annum. In the instant case also the lands which were acquired in the year 1989 was provided compensation @ Rs. 62,000/- per kani and the learned LA Judge has awarded an amount of Rs. 90,000/- per kani for the land acquired in the year 2002. Therefore, it cannot be said that the learned LA Judge has given a rate which is higher than the market value of the land in question.

10. This Court has also considered the fact that the lands acquired in the year 1989 and the acquisition of the lands during the year 2002 are for the same project and also from the same Mouja. This Court has the power to take judicial notice regarding day to day increase of the market value of the land. In the instant case, in fact the learned trial court awarded the amount of Rs. 90,000/- per kani taking note of the subsequent increasement of the market value and that is also from the sale instances, i.e. exhibit 1 series.

11. The land involved in **Jasarvinder Singh & Ors.** (supra) are totally different than the land in question. In that case, land was acquired for the purpose of improvement of town area and the notification was issued under Section 36 of the Punjab Town Improvement Act. In the instant case, the acquired land is admittedly situated within the forest area and the same was acquired for the purpose of establishment of Sipahijala Wild Life Sanctuary under Bishalgarh Sub-Division. In that view of the matter, the claim of the respondent-cross-objectors, for higher compensation than the compensation awarded by the learned LA Judge, is not reasonable.

12. Considering the entire facts and circumstances, this Court is of the considered opinion that the learned LA Judge did not commit any wrong in enhancing the awarded amount from Rs. 30,000/- to Rs. 90,000/-. In view of the above, all these appeals are dismissed.

13. This court has also considered the Cross-Objections filed by the cross-objector-claimants, who were the respondents in the appeals. According to this Court, there is nothing in the cross-objection for which the prayer of the cross-objectors is required to be

allowed and thus it is not necessary to interfere with the impugned judgment and award. Hence, the cross-objections are also dismissed.

Send down the LCRs forthwith.

JUDGE

lodh