

**THE HIGH COURT OF TRIPURA
AGARTALA**

L.A App 5 of 2010

1. Smti. Juthika Debbarma
Wife of late Birlal Debbarma

2. Sri James Debbarma
Son of late Birlal Debbarma

3. Sri Moses Debbarma
Son of late Birlal Debbarma

-all residents of Durga Choudhury Para,
Khayerpur, P.S. East Agartala
Dist. West Tripura .. Referring Claimant- appellants

-vs-

1. The Executive Engineer
Capital Complex Division
Public Works Department
Kunjaban Extension,
P.S. East Agartala,
Agartala, West Tripura

2. The L.A. Collector,
West Tripura
Agartala, P.S. West Agartala
West Tripura

.. Respondents

For the appellants : Mr. P.K. Pal, Advocate.
For the respondents : Mr. B. Datta, Advocate.

L.A App 4 of 2011

1. The State of Tripura
represented by the Secretary
Public Works Department
Government of Tripura
Agartala

2. The Chief Engineer
Public Works Department
Government of Tripura
Agartala

3. The Executive Engineer
Capital Complex Division
Public Works Department
Kunjaban Extension
P.S. East Agartala
Dist. West Tripura

... appellants

-vs.-

Smti. Juthika Debbarma
W/o Late Birlal Debbarma

2. Sri James Debbarma
S/o late Birlal Debbarma

3. Sri Moses Debbarma
S/o late Birlal Debbarma

- all are residents of
Durga Choudhury Para
Khayerpur, P.S. East Agartala
Dist. West Tripura ... respondents

For the appellants : Mr. B. Datta, Advocate.

For the respondents : Mr. P.K. Pal, Advocate.

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

Date of hearing & : 16.9.2015
delivery of the judgment :

Whether fit for reporting : No

JUDGEMENT AND ORDER(oral)

[1]. As both the appeals have arisen against the same judgment and award dated 23.2.2010 passed by the learned Land Acquisition Judge, West Tripura, Agartala, Court No.3 in Misc. (L.A) No. 41 of 2006, these two appeals are disposed of by this common judgment.

[2] Heard the learned counsel for the parties.

[3] The facts in both the appeals are:

A notification under Section 4 of the Land Acquisition Act, for short hereinafter referred to as 'the Act', was issued on 19.8.2002 to acquire lands belonging to the

claimant-appellants in L.A. Appeal No. 05 of 2010, respondents in L.A. appeal No. 4 of 2011, appertaining to Kunjaban Sheet No. 3/P, Khatian No. 301, Plot No. 3364 (part) measuring 0.025 acres under Kunjaban mouja for up-gradation of road from Governor House to Capital Complex and main gate of Governor house to back side of Governor House.

[4] At the time of acquisition, L.A. Collector classified the land as viti (tilla) class of land and assessed the market value of the acquired land @ Rs. 5,50,000/- per kani and additional compensation was made assessing the land @ Rs.5,00,000/- per kani. Thus compensation of Rs.47,347.00 was assessed and awarded.

[5] Dissatisfied with the award passed by the L.A Collector, a reference under Section 18 of the Act was sought for and the reference was made. However, the predecessor in interest of the present referring claimant appellants Birlal Debbarma died and his legal heirs were substituted as referring claimants.

[6] On receipt of the notice under Section 18 of the Act, both the parties submitted their statements of claims wherein they referred to the relevant documents in support of their claims and also the potential value of the lands. The referring claimants also referred to the topographical situation of the lands-the lands being situated just by the side of the Governor's house and on the cross road from the Main Gate of the Governor's house to the New Capital Complex. The

referring claimants also referred to the sale deeds of one Smti. Tanima Debbarma (Kar) who purchased the lands @ Rs.64,00,000/- per kani approx. and also neighbouring land belonging to Sri Power Dasgupta who purchased lands in 1991. Thus, the predecessor in interest of the present referring claimants Biralal Debbarma appeared and submitted his claim claiming compensation of the acquired land @ Rs.80,00,000/- per kani.

[7]. The requiring department despite notice did not enter into appearance. The L.A. Collector submitted the written statement supporting the assessment of the land @ Rs.5,50,000/-. In the counter-statement, it has been contended that the acquired land was never used for residential, business or commercial purposes. Rather, it was an undeveloped land which was a tilla class of land.

[8]. Before the L.A. Judge, four witnesses were examined on behalf of the referring claimant appellants who proved into evidence the documentary proofs including the sale deed of Smti Tanima Debbarma (Kar) and also that of Sri Power Dasgupta. The awardee also claimed compensation for construction cost of value of Rs.4,81,250 being the value of the grill, gate, boundary wall with RCC pillars which were entirely damaged.

[9]. The opposite party-L.A Collector also referred to certain documents, viz., sale deed No. 1-5252 dated 13.06.2001; 1-5237 dated 13.06.2001; 1-557 dated

18.02.2002; 1-768 dated 24.01.2001 and 1-1295 dated 03.12.2001 for determination of the market value of the acquired land.

[10]. The L.A. Judge after considering the rival submissions of the learned counsel for the parties while passing the impugned judgment and award did not take into consideration those sale deeds referred by the referring claimant appellants on the ground that the sale deeds referred by them were subsequent to the date of acquisition. The L. A. Judge also did not rely on the sale transactions relied upon by the L.A. Collector. Ultimately, he determined the value of the acquired land @ Rs.9,00,000/- per kani. The claimant-respondents are also allowed 30% solatium over the valuation of the said land as per provision of Section 23(2) of the L.A. Act and 12% as provided under Section 23(1-A) of the L.A. Act from the date of notification till the date of possession or award whichever is earlier. The interest on the amount of compensation and solatium is at the rate of 9% per annum from the date of taking over the possession for a period of 1 (one) year and 15% interest per annum from the date of expiry of one year till the date of payment of the enhanced amount of compensation. The amount already paid shall be adjusted against the compensation awarded.

[11] Being dis-satisfied with the said judgment and award, the appellants preferred these appeals.

[12] Mr. Pal, learned counsel appearing for the appellants in L.A. Appeal No. 5 of 2010 submits that the instant appeals are fully covered by the judgment dated 12.8.2015 passed in L.A. Appeal No. 4 of 2012 and others, wherein this Court in similar appeals had set aside the judgment of the L.A. Judge and those matters were remitted to the reference court. Therefore, it would be proper to set aside the judgment and award impugned in these appeals and remit the matter to the reference court, i.e. the L.A Judge, West Tripura, Agartala, Court No.3 for fresh decision in accordance with law.

[13] The learned counsel, Mr. Datta, appearing on behalf of the State appellants agreed to the submission of Mr. Pal

[14] Considering the submission of the learned counsel on both sides, this Court does not propose to express any opinion on merit, particularly regarding the determination of the market value of the acquired land. The appeals are allowed and disposed of accordingly. The award and decree of the reference Court is hereby set aside and the cases are remitted to the reference Court for disposal in accordance with law.

[15] The parties are directed to appear before the reference court on 15.10.2015.

[16] Parties are also at liberty to adduce evidence as is necessary to determine true and correct market value of the land prevailing as on the date of the notification. Reference court is directed to consider and dispose of these cases within

six months from 15.10.2015 after giving opportunity to all the parties.

[17] The money deposited by the state appellants, if lying with the Registry without disbursement, may be refunded to the state appellants on being submitted application for withdrawal of the same and if any amount of deposited money has been withdrawn by the claimant appellants in L.A Appl. 5 of 2010, that would be subject to the decision of the reference court.

JUDGE

Mdn/A