

THE HIGH COURT OF TRIPURA AGARTALA

LA App. No. 06 of 2010

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

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

.....Appellants

Versus

Sri Khokan Chandra Das
S/O Late Muluk Chandra Das
of Uttar Charilam,
P.S. Bishalgarh, Tripura West.

.....Respondent

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

For the appellants	: Mr. Bidyut Datta, Advocate
For the respondents	: Mr. R Debnath, Advocate
Date of hearing and delivery of Judgement & Order	: 28.04.2015.
Whether fit for reporting	: NO

JUDGMENT & ORDER (ORAL)

Challenge in this appeal is the judgment dated 15.01.2010 passed by the learned LA Judge (court No. 4), West Tripura, Agartala in case No. Misc (LA) 14/2006 whereby and whereunder the learned LA Judge after hearing the parties and considering the exhibited documents enhanced the awarded amount from Rs. 30.000 to Rs. 90,000 per kani.

2. The land involved in the instant appeal is an area of 0.59 acres of Nal class of land situated at Mouja Uttar Charilam under Khatian No. 723 appertaining to CS Plot No. 860. The aforesaid land

was acquired under the 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 establishment of Sipahijala Wild Life Sanctuary under Bishalgarh Sub-Division, Tripura West (now Sipahijala District). The LA Collector passed an award of Rs. 30,000 per kani regarding the acquired land as well as other lands which were acquired for the same project. Being aggrieved by the award of the LA Collector, the respondent-claimants filed an application under Section 18 of the LA Act for reference which was ultimately referred.

3. The 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/- per kani for Nal class of land. Being aggrieved by the judgment and award of the learned LA Judge, as stated supra, the appellants preferred this appeal on the ground that the learned LA Judge committed error of both law and fact and more so, the award passed by the learned LA Judge is higher in side and is without any basis.

4. Mr. Dutta, learned counsel for the appellants while urging for setting aside the impugned judgment would contend that the learned LA Judge failed to consider the nature of the acquired land and also failed to determine the market value of the land as required under law.

5. Mr. Debnath, learned counsel for the respondent-claimant while supporting the impugned judgment would contend

that the learned LA Judge correctly enhanced the awarded amount from Rs. 30,000/- to Rs. 90,000/- per kani. He has also placed reference to the findings of the learned LA Judge in paragraph 17 of the impugned judgment which is as follows:-

“17. The purpose of acquisition of lands connected with Misc.(L.A.) Nos.92 of 2004 and the present acquired land is one and same. All these lands were acquired by a common Notification as already pointed out and the lands so acquired for the purpose of establishment of Shipahijala Wild Life Sanctuary during the period from 1989 to 2002 also fall within Uttar Charilam Mouja. The location and potential value of the present acquired land being apparently same to that of the acquired lands connected with Misc. (L.A.) Nos. 92 of 2004 and 94 of 2004, I am guided to adopt similar view as that of my Learned Predecessor in the matter of fixation of market price of the present acquired land. I believe it would be just and fare if the market price of the acquired land is fixed at Rs.90,000/- per kani at the time of issuance of Notification U/S.4 of the L.A. keeping in parity with the market value fixed in other similarly situated cases and accordingly, I do so.”

6. He further submits that the instant appeal is fully covered by the judgment of this Court dated 02.03.2015 in LA Appeal No. 37 of 2009 and others wherein this Court has upheld the similar judgment of the LA Judge considering the findings of the LA Judge in Misc. (LA) 47/2003, Misc. (LA) 48/2003 and Misc. (LA) 49/2003 wherein the learned LA Judge, 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 also affirmed by the Hon'ble Gauhati High Court, Agartala Bench, Agartala in LA Appeal No. 20/2007, 21/2007 and 22/2007. He has also submitted that the decision of the Gauhati High Court, Agartala Bench in the aforesaid appeals has not been challenged by the parties and thus has become final.

7. He further submits that the lands involved in LA Appeal No. 37/2009, LA Appeal No. 38/2009, LA Appeal No. 39/2009, LA

Appeal No. 40/2009, LA Appeal No. 41/2009, LA Appeal No. 42/2009, LA Appeal No. 01/2010, LA Appeal No. 02/2010, LA Appeal No. 03/2010 and LA Appeal No. 04/2010 are also Nal class of land and have been acquired for the same project under Section 4 of the LA Act and all those appeals were dismissed by this Court along with the cross-objections filed by the respondent-referring claimants and the judgment and award of the LA Judge was upheld wherein the learned LA Judge enhanced the award from Rs. 30,000/- to Rs. 90,000/- per kani in case of Nal class of land.

8. This Court has gone through the impugned judgment as well as the judgment of LA Appeal No. 37/2009 and others wherein the similar question arose for decision and almost the similar findings were given by the LA Judge. According to this Court, the instant appeal is fully covered by the judgment of this Court dated 02.03.2015 passed in the aforesaid appeals being LA Appeal No. 37 of 2009 and others. Thus it is not necessary for this Court to discuss in detail regarding the evidence on record, particularly, when the class of land involved in the instant appeal and the class of land in LA Appeal No. 37 of 2009 and others are similar in nature and acquired for the same project by the same notification.

9. In view of the above, the instant appeal is dismissed. No order as to costs.

Send down the LCRs forthwith.

JUDGE