

**THE HIGH COURT OF TRIPURA
AGARTALA**

L. A. App. No.01 of 2011

L. A. App. No.02 of 2011

L. A. App. No.03 of 2011

In L. A. App. No.01 of 2011

Sri Santosh Chandra Deb,
son of late Srish Chandra Deb,
(L. R. of late Premada Sundari Deb)
Subhas Park, P.O. Khowai, West Tripura

.....Appellant

- Vs -

1. Land Acquisition Collector,
West Tripura, Agartala
2. Executive Engineer, PWD,
Teliamura Division, P.O. Teliamura, West Tripura

.....Respondents

In L. A. App. No.02 of 2011

1. Nakul Chandra Das, being dead by his L.Rs.
 - 1(a) Sri Narayan Ch. Das (son),
 - 1(b) Smt. Sipra Rani Das (daughter),
 - 1(c) Smt. Bibha Rani Das (daughter)
2. Sri Sahadeb Das,
son of late Ramchandra Das
3. Basudeb Das being dead by his L.Rs.
 - 3(a) Smt. Minu Das (wife),
 - 3(b) Smt. Mithu Das (daughter),
 - 3(c) Smt. Mitasree Das (daughter)
4. Sri Joydeb Das, son of late Ramchandra Das
Khowai town, PO – Khowai, West Tripura

(All represented by their constituted Attorney, the appellant No.4)

.....Appellants

- Vs -

1. Land Acquisition Collector,
West Tripura, Agartala
2. Executive Engineer, PWD,
Teliamura Division, P.O. Teliamura, West Tripura

.....Respondents

In L. A. App. No.03 of 2011

1. Sri Debasish Das,
son of late Sailesh Chandra Das,
2. Smt. Sagarika Majumder,
3. Smt. Shibani Das,
daughters of late Sailesh Ch. Das,
4. Smt. Basanti Das being dead her testamentary successor:
Sri Debarshi Das (minor) represented by his father,
Sri Debasish Das (the appellant No.1),

all resident of Khowai town, PO – Khowai, West Tripura

.....Appellants

– Vs –

1. Land Acquisition Collector,
West Tripura, Agartala
2. Executive Engineer, PWD,
Teliamura Division, P.O. Teliamura, West Tripura

.....Respondents

**B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA**

For the appellants : Mr. D. K. Biswas, Advocate

For the respondents : Mr. T. D. Majumder, GA

Date of hearing and delivery : **05.06.2015**
of judgment and order

Whether fit for reporting : **NO**

Judgment and Order (Oral)

Heard Mr. D. K. Biswas, learned counsel appearing for the appellants as well as Mr. T. D. Majumder, learned Government Advocate appearing for the respondents.

02. All these appeals are clustered together for disposal by a common judgment inasmuch as the parcels of the land referred to the proceeding from which these appeals emerged were acquired for construction of permanent bridge over Khowai river at mouja-Khowai under Khowai Sub-Division in West Tripura District by the notification No.F.9(12)-Acq/Rev/V/87 dated 03.05.1989. In L.A. App. No.01 of

2011, the impugned judgment and order dated 30.09.2010 has been delivered in Misc. (LA) No.49 of 2002, in L.A. App. No.02 of 2011, the impugned judgment and order dated 30.09.2010 has been delivered in Misc. (LA) No.47 of 2002 and in L.A. App. No.03 of 2011, the impugned judgment and order dated 30.09.2010 has been delivered in Misc. (LA) No.48 of 2002 by the Land Acquisition Judge, West Tripura, Agartala (Court No.3).

03. By those judgments dated 30.09.2010, the L.A. reference under Section 18 of the Land Acquisition Act, 1894, L.A. Act in short, was disposed of without enhancing the market rate as awarded by the Land Acquisition Collector at the rate of Rs.2.50,000/- per kani. Being aggrieved thereof, these appeals have been filed by the land losers.

04. Mr. D. K. Biswas, learned counsel appearing for the appellants has laid certain unambiguous statements which are as under:

(1) All these L.A. references as noted were proceeded simultaneously on consideration that those emerged from the same notification of acquisition.

(2) In all these references, the judgment and order dated 03.12.2005 delivered in Misc. LA No.01 of 2003, Exbt.1 series, were referred for purpose of enhancing the market rate inasmuch as the land related to Misc.L.A. No.01 of 2003 is not only in the proximity of the land, related to these appeals or the references, in some cases are the part and parcel of the same plot. The said acquisition was made by the same notification dated 04.10.1989 under Section 4

of the L.A. Act and by the same declaration dated 17.10.1989 under Section 6 of the L.A. Act.

05. In that case the Land Acquisition Judge has enhanced the rate from Rs.2.50,000/- per kani to Rs.10,00,000/- per kani. According to the appellant, the similar rate in view of the principles laid down in Section 28-A of the L. A. Act ought to have been provided to them. Apart that, Mr. Biswas, learned counsel for the appellants has referred to the map, Exbt.A series, as introduced by the Land Acquisition Collector for resisting the claim of the appellants before the said Land Acquisition Judge.

06. From the conjoint study of the said map, (Exbt.A series) and the judgment and award dated 03.12.2005 delivered in Misc. L. A. No.01 of 2003 (Exbt.1 series), it appears without any amount of doubt that the plots in the Exbt.1 series and the plots in all these appeals have been acquired for construction of permanent bridge over Khowai River at Mouja-Khowai comprised in the khatian No.1269, khatian No.1251 and khatian No.1249 of the same mouja. In Misc. L. A. No.01 of 2003 the plots those were acquired are 4320(P) and 4321(P) comprised in the khatian No.1269. From the said khatian and the same plots the lands have been acquired for the same project, market rate of which is under consideration in L. A. App. No.03 of 2011 (from Misc. L.A. No.43 of 2002). Thus, there cannot be any distinguishing factor so far the plots No.4320(P) and 4321(P) which plots are under consideration in the L. A. App. No.03 of 2011.

07. From the map, Exbt.A series, it further appears that plot No.4345(P) and plot No.4343 is the contiguous land of the plot Nos.4320(P) and 4321(P) as referred. Plot No.4343 comprised in

khatian No.1249 of mouja-Khowai has been acquired for the same project by the same notification and declaration, the market rate which is being considered in L. A. App. No.02 of 2011 from Misc. L.A. No.47 of 2002. Similarly, plot No.4345(P) comprised in khatian No.1225 being contiguous to plot No.4320(P) and 4321(P) has been acquired for the same project by the same notification and the declaration, the market rate of which is under consideration in L. A. App. No.01 of 2011 from Misc. L.A. No.49 of 2002.

08. Mr. Biswas, learned counsel for the appellants therefore has contended that the rate as awarded by the judgment and order dated 03.12.2005 in Misc. L.A. No.01 of 2003 be given to the appellants.

09. Mr. T. D. Majumder, learned Government Advocate appearing for the respondents has however submitted that there are various categories of lands and the same rate may not be equitable. He has further submitted that the appellants have failed to properly lead evidence to substantiate the position of the land vis-a-vis the land referred in the said judgment dated 03.12.2005 and as such their claim cannot be entertained.

10. Having regard to the rival contentions, this Court has appreciated the judgment and order dated 03.12.2005, where it has been categorically stated as under:

"Taking into consideration the judgment of the Ld. L. A. Judge passed in case No. Misc.(L.A) 97/1997 and also keeping all the surrounding factors in mind, I fix the average market value of the acquired land on the date of issuance of notification U/s. 4 of the L.A. Act at Rs.10 lacs per kani."

11. The rate at Rs.10,00,000/- per kani is the average rate not the rate according to the category of the land. The sum and substance that follows is that the rate against the various categories of the land has been aggregated and thereafter derived the average rate. As such, the objection as raised by Mr. Datta Majumder, learned GA, according to this court does not have any substance to be considered.

12. Having regard to all these aspects, this court is in agreement with the submission of Mr. Biswas, learned counsel for the appellants. As such, the appellants are also entitled to have the same rate as has been awarded by the judgment and order dated 03.12.2005 delivered in Misc. L.A. No.01 of 2003 inasmuch as the lands are under the same notification and according to the map, in Exbt.1 series, they are either in the same plot or in the plots in close vicinity and in proximity of the land as acquired under the land acquisition proceeding related to Misc. L. A. No.01 of 2003. Therefore, the appellants will be entitled to get the market rate at Rs.10,00,000/- per kani and the solatium from the date of notification under Section 4 of the L.A. Act, 1894 and interest in accordance with Section 34 of the L. A. Act.

Having held thus, these appeals are allowed.

Prepare the decree accordingly.

Send down the LCRs thereafter.

JUDGE