

**THE HIGH COURT OF TRIPURA
AGARTALA
LA APP NO.1 OF 2012**

SMTI BASANTI BALA DAS,
Wife of Late Chandra Kishore Das,
resident of Village – Molohnagar,
P.O. Renters Colony, P.S. - Srinagar,
Agartala, District – West Tripura.

..... Appellant

- Vs -

1. THE LAND ACQUISITION COLLECTOR,
West Tripura, Agartala.

2. THE DEPUTY CHIEF ENGINEER (CON),
North Frontier Railway, P.N. Complex,
Agartala, West Tripura.

.....Respondents.

LA APP NO.16 OF 2012

SMTI BISWAJIT SAHA,
S/O- Late Makhan Chandra Saha,
Resident of – Malaynagar, PO – Renters Colony,
PS – Srinagar, District – West Tripura.

..... Appellant.

1. THE LAND ACQUISITION COLLECTOR,
West Tripura, Agartala.

2. THE DEPUTY CHIEF ENGINEER (CON),
North Frontier Railway,
Pandit Nehru Complex,
Agartala, West Tripura.

.....Respondents.

**BEFORE
THE HON'BLE MR. JUSTICE S.C. DAS**

For the petitioner
of both the appeals : Mr. P.K. Pal, Advocate.

For the respondents : None.

Date of hearing & delivery
of Judgment & order : 03.12.2015

Whether Fit for Reporting :

Yes	No

JUDGMENT & ORDER(ORAL)

Learned counsel, Mr. P.K. Pal, for the appellants in both the appeals mentioned above is present. No representation on behalf of the respondents though notices were properly served and the case is listed for hearing notified in the cause list. It is submitted by learned counsel, Mr. P.K. Pal that the appeals have been preferred against two separate judgments but arising out of accusation of land under same notification and same mouja and same class of land. So, on the prayer of the learned counsel, Mr. Pal both the appeals are taken up together since it is found that the accusation of land was under same notification and same mouja.

2. At the very outset Mr. Pal, learned counsel, submitted that LA App. No.17 of 2010 arising out of accusation of land under same mouja and same notification and for the same purpose was disposed of by a single bench of this Court by Judgment dated 17.07.2015 and he prayed for allowing the appellants the same rate of compensation as has been allowed in LA App. No.17 of 2010. A copy of the judgment passed in LA App. No.17 of 2010 has been submitted by learned counsel, Mr. Pal, which is placed in the record of LA App. No.1 of 2012.

3. LA App. No.1 of 2012 has been filed by the appellant challenging judgment and award dated 25.02.2010 passed by learned L.A. Judge, Court. No.4, West Tripura, Agartala in Case No. Misc.(L.A) 50 of 2004. L.A. App. No.16 of 2012 has been filed by the appellant challenging the judgment and award dated 25.02.2010 passed by learned L.A Judge, Court No.4, West Tripura, Agartala, in Case No. Misc. (L.A) 51 of 2004.

4. For the purpose of construction of new railway line between Agartala to Kumarghat of N.F. Railway, land measuring 0.59 acres classified as '*Bastu*' and '*Bhitti*' class belonging to the appellant of LA Appeal No.1 of 2012 was acquired by notification No.F. 9(4)Rev/ACQ/XIV/98 dated 27.02.1998 under Section 4 of L.A. Act followed by declaration under Section 6 of the L.A. Act issued vide No.F.9(4)Rev/ACQ/XIV/98 dated 27.04.1998 and in due process L.A. Collector determined compensation for the acquired land at the rate of Rs.45,000/-(Rupees forty five thousand) per kani for both '*Bastu*' and '*Bhitti*' class of land and the appellant-land owner received the compensation under protest with a request to refer the case to the L.A Judge for re-determination of compensation.

Similarly, in the case of LA App. No.16 of 2012, under same notification issued under Section 4 and under Section 6 of L.A. Act for the same purpose, land measuring 0.03 acres of '*Bastu*' class belonging to the appellant-claimant of LA App. No.16 of 2012 was acquired and under same assessment order L.A. Collector allowed compensation at the rate of Rs.45,000/-(Rupees forty five thousand) per kani.

5. On the prayer of the appellant-claimants the cases were referred to the L.A. Judge and learned L.A Judge after recording evidence in both the cases passed separate judgment and enhanced the compensation at the rate of Rs.67,497/-(Rupees sixty seven thousand four hundred ninety seven) per kani.

6. Aggrieved, the appellants i.e. the land owners preferred the present appeals challenging the judgment passed by the learned L.A. Judge.

7. Mr. Pal, learned counsel, for the appellants submitted that the appellants and respondents produced several sale instances for consideration of the L.A Judge and the learned L.A Judge did not consider the sale instances which were carrying the highest price of comparable land.

8. On perusal of judgment dated 17.07.2015, in LA App. No.17 of 2010 passed by the Singe Bench of this Court, I find that the learned Judge taken into consideration the price appeared in the sale deed No.1-7654 dated 21.09.1990. In the records of LA App. No.1 of 2012, I find that same sale deed, the appellants also relied, which has been marked as Exhibit-2. In L.A App. No.16 of 2012, I find that the appellant of L.A App. No.16 of 2012 also relied on the same sale deed which has been marked as Exhibit-3. The Single Bench of this Court taking into account the price of that sale instance enhanced the compensation at the rate of Rs.2,00,000/- (Rupees two lakhs) per kani.

9. It is a settled law that for determination of compensation the price in comparable sale instance is the best method to fix the compensation. It is also a settled law that highest price available of comparable sale instance should be given to the land owners if it is found to be suitable. The sale instance which has been relied upon by the learned Single Judge in L.A. App. No.17 of 2010 as stated herein before has been proved in both the appeals at hand which carries a market price of Rs.2,00,000/-(Rupees two lakhs) per kani and the sale deed is of 21.09.1990 i.e. before the date of notification made under Section 4 of the L.A. Act.

10. The sale instances submitted on behalf of the respondents were of much lesser price though those were also of land of same mouja. Learned L.A. Judge has failed to consider the price of that document which has been considered by this Court in an L.A. App. No.17 of 2010.

11. I am therefore, of considered opinion that the claimant-appellants are entitled to get compensation for the acquired land at the rate of Rs.2,00,000/-(Rupees two lakhs) per kani. Accordingly, it is hereby ordered that the claimant-appellants should be paid compensation at the rate of Rs.2,00,000/-(Rupees two lakhs) per kani with all other benefits as per law and interest on the enhanced amount of compensation as well as interest on solatium as per the provisions prescribed under LA Act. Both the appeals are accordingly allowed in terms as aforesaid.

Prepare award accordingly

12. Cost of the appeals is to be borne by respective parties. Send back the L.C. records along with a copy of this judgment.

JUDGE

Sohanjit