

IN THE HIGH COURT OF JUDICATURE AT PATNA

First Appeal No.59 of 1985

Cross Objection in the aforesaid First Appeal filed by the respondent Bijay Kumar Khetan for enhancement of the compensation amount.

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State of Bihar

.... Appellant-Respondent in cross-objection
Versus

Bijay Kr. Khetan

.... Respondent-Appellant in cross-objection

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Appearance :

For the Respondent-cross objector : Mr. T.N.Maitin, Sr. Advocate

Mr. Indiswari Pd. Mandal, Advocate with him.

For the Appellant-Respondent
in cross-objection

:Mr. Neeraj Kumar, A.C. to S.C. 22.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL JUDGMENT

Date: 10-02-2016

1. Originally the first appeal was filed by the State of Bihar- appellant against the judgment and award dated 15.11.1984 passed by the learned Sub-Ordinate Judge-cum- Land Acquisition Judge in Land Acquisition case No. 92 of 1983. This first appeal was withdrawn in view of the notification of the State Government to the effect that the appeal, the value of which is less than rupees three lacks shall be withdrawn, if it arises out of land acquisition matter. However the cross objection filed by the respondent remained and on the prayer of the parties, this cross objection is heard and is being disposed of on merit.

2. It appears that the cross objector's land was acquired by the State of Bihar including the lands of other land holders for the purpose of construction of conduit pipe under Bateshwer Sthan



Ganga Canal scheme in village- Kahalgaon, District- Bhagalpur. Total acquired land was 19 acres and 26 decimals. The cross objector's land is 2.28 acres. The Collector awarded compensation for acquisition of the land to the land holders. The land holders being aggrieved by the said compensation awarded by the Collector filed application under Section 18 of the Land Acquisition Act and the matters were referred to the Land Acquisition Judge. The present cross objector's land acquisition case was also referred being Land Acquisition Case No. 92 of 1983. The Land Acquisition Judge by the impugned judgment modified the award passed by the Collector. Against the award by the Land Acquisition Judge, the land holders filed First Appeal No. 484 of 1986. The State of Bihar filed present First Appeal against the award passed by the Land Acquisition Judge wherein the respondent has filed cross objection.

3. According to the learned Senior Counsel, Mr. T.N. Maitin, appearing on behalf of the cross objector by notification dated 13.03.1981 and 16.03.1981 under Section 4 of the Land Acquisition Act, the land of this cross objector and the lands of the appellant of First Appeal No. 484 of 1986 were acquired for the same purpose. The land of this cross objector is just adjacent to the land of the appellant of First Appeal No. 484 of 1986. The High Court has disposed of the said First Appeal on merit after hearing the appellant as well as the learned counsel appearing on behalf of the State and by

terms of judgment dated 04.10.2012 and has enhanced the market value of the land on the date of notification under Section 4 of the Land Acquisition Act by fixing Rs. 8,000/- per katha.

4. The learned A.C. to S.C. 22 did not dispute this fact. The learned A.C. to S.C. 22 submitted that in fact, in this case because the valuation of the appeal was less than rupees three lacks, the state of Bihar has already withdrawn the appeal. So far the cross objection is concerned, according to the learned counsel, for the same purpose, the land of this cross objector was also acquired by the same notification.

5. In support of the contention, the learned senior counsel for the cross objector has filed a copy of the judgment of First Appeal No. 484 of 1986. Although prayer has been made for marking the said decision as exhibit by filing an application under Order 41 Rule 27. in my opinion, it is not necessary to mark the judgment as exhibit, because it is law laid down by the High Court and it can be shown at any stage before any court. As such, it is not necessary to mark the same as exhibit in the present cross objection.

6. From perusal of the said judgment, I find that after hearing the parties and on consideration of the evidences oral and documentary produced by both the parties, the High Court has fixed the market rate of the land acquired at Rs. 8000/- per katha. Since the judgment is on merit and the land covered in that first appeal and the

lands in this first appeal have been acquired by same notification for the same purpose, the judgment passed by this Court in First Appeal No. 484 of 1986 shall cover this cross objection also.

7. In view of the above facts, it is not necessary to reiterate the same facts herein as I have stated above the rate fixed by the High Court in the aforesaid judgment shall cover this cross objection. I hereby allow the cross objection filed by the cross objector and the judgment and award passed by the Land acquisition Judge is hereby modified and it is held that the cross objector is entitled to compensation of his acquired land at the rate of Rs. 8000/- per katha and is also entitled to solatium interest and other statutory benefits under the act on the enhanced compensation is given in the award by the Land Acquisition Judge. Thus, the cross objection stands allowed.

(Mungeshwar Sahoo, J)

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