

IN THE HIGH COURT OF JUDICATURE AT PATNA

First Appeal No.108 of 1985

Against the judgment and Award dated 18.12.1984 passed by Subordinate Judge, Bhagalpur in Land Acquisition Case No.98 of 1983

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State of Bihar

.... Appellant-Respondent in cross objection
Versus

Dhurb Narain Yadav

.... Respondent-Cross Objector

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Appearance :

For the Respondent-Cross Objector : Mr. Indeshwari Prasad Mandal, Advocate

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: 15-02-2016

The State of Bihar had filed the aforesaid this First Appeal against and judgment and award dated 18.12.1984 passed in Land Acquisition Case No.98 of 1983 by the learned Subordinate Judge, Bhagalpur.

2. The respondent appeared and filed cross objection for enhancement of compensation awarded by the learned Subordinate Judge-cum-Land Acquisition Judge. The State of Bihar-cum-appellant withdrew the First Appeal before the Lok-Adalat on the ground that the valuation of appeal is less than Rs.3 lacs and according to the notification of the State of Bihar the appeal arising out of land acquisition matter the value of which is less than Rs.3 lacs is to be

automatically withdrawn by the State of Bihar. However, after withdrawal of the appeal the cross objection filed by the respondent remained undecided. Therefore, I heard the parties on this cross objection.

3. It appears that the cross-objector's land measuring 2 acre 69 ½ decimals land was acquired for the purpose of construction of electric station for the purpose of conduit pipe under Bateshwar Sthan Ganga Canal Scheme by notification under Section 4 of the Land Acquisition Act dated 16.08.1980. The Collector awarded compensation of Rs.2,22,393.41. Being aggrieved by the said award the cross objector filed application under Section 18 of the Land Acquisition Act and prayed for reference of the same to the Land Acquisition Judge and claimed Rs.11, 63, 350/- for the lands acquired by the State of Bihar. The said application was referred to Land Acquisition Judge and the Land Acquisition Judge after hearing the parties by the judgment and award impugned fixed the market value of the land at the rate of Rs.3,500/- per katha. The cross-objector has claimed Rs.8,000/- per katha.

4. The learned counsel for the cross-objector-respondent submitted that in fact for the same purpose the lands of other land holders were acquired by the State of Bihar and in those cases the notification under Section 4 were issued on 13.03.1981 and



16.03.1981. The land holders being aggrieved by the award of the Land Acquisition Judge preferred appeal before the High Court and the High Court by the judgment in the First Appeal No.484 of 1986 and First Appeal No.59 of 1985 allowed the appeal and fixed the market value of the land at Rs.8,000/- per katha. The learned counsel further submitted that in those first appeals the lands involved were near the municipal area of Kahalgaon whereas the land of this cross-objector is within the municipality of Kahalgaon, Ward No.1. Therefore, the land of the cross-objector is more valuable than the lands involved in First Appeal No.484 of 1986 and the land involved in First Appeal No.59 of 1985. However, the learned counsel submitted that he is claiming Rs.8,000/- per katha in this present appeal also.

5. The learned A.C. to S.C. 22 did not dispute this fact that the notification in both the above first appeals were issued in the year 1981. The learned A.C. to S.C. 22 also did not dispute the fact that notification in this present first appeal was issued in 1980 under Section 4 of the Land Acquisition Act. The learned A.C. to S.C. 22 also admitted the fact that from perusal of the record it is clear that the land of the cross-objector is within the municipal area and that the evidence produced for fixing market value of the land is same i.e. Ext.5 which is in the land acquisition case giving rise to First Appeal

No.484 of 1986 and that very document is Ext.2 in the present land acquisition case giving rise to this first appeal.

6. In view of the above position of the fact that the lands of the cross-objector were acquired in the year 1980 for the same purpose and the lands of other land holders were acquired in the year 1981 for the same purpose and same evidence was also considered earlier in earlier two first appeals and the market value of the land has been fixed at Rs.8,000/- per katha, it is not necessary to reiterate the same thing again in detail in the judgment as the present case is covered by the aforesaid judgment. Therefore, I hold that the cross-objector–respondent is entitled to compensation of his land acquired by the State of Bihar at the rate of Rs.8,000/- per katha and is also entitled to solatium interest and other statutory benefits under the Land Acquisition Act. The judgment and award passed by the court below is thus modified to the extent indicated above.

7. In the result, this cross-objection is allowed and it is held that the cross-objector is entitled to the compensation as indicated above.

(Mungeshwar Sahoo, J)

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