

IN THE HIGH COURT OF JUDICATURE AT PATNA

First Appeal No.803 of 1994

Against the judgment and award dated 19.07.1994 passed by 1st Additional District Judge, Nawada in Land Acquisition Case No.21 of 1994.

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The State of Bihar & Another

.... Opposite parties-Appellants

Versus

Nita Sinha & Others

.... Applicants-Respondents

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Appearance :

For the appellants

: Mr. Rajballav Prasad Yadav, Advocate.

Mr. Jitendra Kumar, Advocate

Mr. Sanjeet Kumar Singh, A.C. to A.A.G.6

For the respondents

: Mr. Jitendra Kishore Verma, Advocate.

Mr. Anjani Kumar, Advocate.

Mr. Ajnani Kumar Sinha, Advocate.

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CORAM: HONOURABLE MR. JUSTICE MUNGESHWAR SAHOO

ORAL JUDGMENT

Date: 11-05-2017

The State of Bihar and Union of India are the appellants in this first appeal which has been filed against the impugned judgment and award dated 19.07.1994 passed by learned 1st Additional District Judge, Nawada in Land Acquisition Case No.21 of 1994 whereby the Land Acquisition Judge enhanced the compensation of the lands acquired by fixing market value of the lands at the rate of Rs.3,947/- per decimal.

2. It appears that the lands of many landholders were acquired by the State of Bihar for construction of buildings and staff quarters for telephone exchange, microwave project, Nawada under



Land Acquisition Case No.02 of 1986-1987. The Collector did not fix the rate claimed by the landholders-applicants, therefore, the landholders filed application under Section 18 of the Land Acquisition Act for enhancement of the compensation for the lands acquired. The landholders-applicants claimed Rs.10,000/- per decimal. The landholders' applications were referred to the Land Acquisition Judge giving rise to Land Acquisition Case Nos.19 of 1994, 20 of 1994 and 21 of 1994. All these three land reference cases were heard together. One set of evidences were produced by the parties and after hearing the parties by the impugned judgment and award the Land Acquisition Judge fixed the market value of the lands acquired on the date of notification under Section 4 of the Land Acquisition Act, 1894 at Rs.3,947/- per decimal.

3. The State of Bihar filed First Appeal No.805 of 1994 against L.A. Case No.19 of 1994 and First Appeal No.804 of 1994 against L.A. Case No.20 of 1994 and this first appeal against L.A. Case No.21 of 1994.

4. In view of the above facts it is clear that against this common judgment and award three first appeals were filed by the appellant-State of Bihar. Out of the three first appeals, First Appeal No.805 of 1994 was referred to Lok-Adalat wherein the appellants compromised with the private respondent-landholders and withdrew



the first appeal. As such the said first appeal was disposed of by the Lok-Adalat.

5. The other first appeal being First Appeal No.804 of 1994 was heard and dismissed by the High Court on merit by judgment and order dated 14.05.2010. Against this judgment and order dated 14.05.2010 the appellants filed review application being Civil Review No.266 of 2010 which was again dismissed for default on 18.12.2014.

6. This first appeal arising out of Land Acquisition Case No.21 of 1994 remained and, therefore, it is heard.

7. The learned counsel Mr. Rajballav Prasad Yadav appearing on behalf of the appellant submitted that before the Lok-Adalat the valuation of the property acquired was less amount, therefore, it was compromised. So far the dismissal of the other first appeal being First Appeal No.804 of 1994 is concerned, the appellant no.2 was not heard. According to the learned counsel for the appellant-Union of India, all the amounts have already been paid to the landholders- respondents and, therefore, lenient view make be taken in granting rate of interest. The learned counsel further submitted that no judgment has been passed on merit either in First Appeal Nos.804 of 1994 or 805 of 1994 and the evidences on record were not considered in those first appeals, therefore, the judgment and award will not operate as res-judicata in the present case.



8. On the other hand, the learned counsel Mr. Jitendra Kishore Verma appearing on behalf of the landholders-respondents submitted that in First Appeal No.805 of 1994 the total land acquired was 2 acre 59 decimals whereas in this first appeal arising out of Land Acquisition Case No.19 of 1994 the total land acquired was 1 acre 94 decimal only. The Land Acquisition Judge fixed the market value of all the lands mentioned above at the rate of Rs. 3,947/- per decimal. There is no distinction regarding the market value of the land. The learned counsel further submitted that the First Appeal No.805 of 1994 was compromised and withdrawn by the appellants before the Lok-Adalat, therefore, the market rate of the lands measuring 2 acres 59 decimals was not challenged by the appellants and they compromised before the Lok-Adalat. Likewise so far First Appeal No.804 of 1994 is concerned, it was submitted before the High Court that the judgment under challenge is covered by the judgment passed in First Appeal No.65 of 1995 and other connected analogous first appeals decided on 30.04.2010. As such the said first appeal was also dismissed. Therefore, the appellants conceded to the market rate fixed at the rate of Rs.3,947/- per decimal with respect to the lands involved in First Appeal Nos.804 of 1994 and 805 of 1994. In view of this fact according to the learned counsel, now the appellants cannot challenge the market rate fixed by the Land Acquisition Judge with respect to



the lands of these respondents in this first appeal arising out of Land Acquisition Case No.19 of 1994. Therefore, the first appeal be dismissed.

9. In view of the above contentions of the parties the only point arises for consideration is whether the impugned judgment and award passed by the court below is liable to be interfered with particularly when the two first appeals arising out of the two land acquisition cases being L.A. Case Nos.19 of 1994 and 20 of 1994 have already been disposed of and the market rate of the lands acquired have been confirmed in those first appeals.

10. Admittedly for the purpose of construction of building and staff quarters for telephone exchange, microwave project, Nawada the lands of the landholders were acquired by Land Acquisition Case No.02 of 1986-1987. The notification under Section 4 was published in the year 1986 i.e. on 14.04.1986. The landholders being dissatisfied with the award of the Collector filed applications under Section 18 of the Land Acquisition Act giving rise to L.A. Case Nos.19 of 1994, 20 of 1994 and 21 of 1994. The appellants acquired different areas of land of the landholders. However, all the three land acquisition cases were tried together analogously and one set of evidence regarding market value of the land acquired was adduced by both the parties. By the impugned judgment and award for all the lands the Land



Acquisition Judge fixed market value at Rs.3,947/- per decimal.

11. In other words, irrespective of the nature of the lands of different applicants the same rate was fixed. In these three land acquisition cases the total lands involved is 39 decimals plus 1.94 acre plus 2.59 acres i.e. 4.92 acres. The rate has been fixed at Rs.3,947/-. In two other first appeals i.e. First Appeal Nos.804 of 1994 and 805 of 1994 wherein the total land involved is 2.98 acres which have been disposed of wherein this rate of the land i.e. Rs.3,947/- per decimal has been confirmed either by the High Court on merit or by the Lok-Adalat. The challenge is only with respect to the lands measuring 1.94 acres arising out of Land Acquisition Case No. 21 of 1994 giving rise to this first appeal. When the rate of rent has been confirmed by the disposal of the two other first appeals, now if the market value is fixed at different rate then it will amount to passing a contrary order or it will amount to upsetting the judgment and award already confirmed by the High Court or by the Lok-Adalat. Because of disposal of the other two first appeals, the impugned judgment and award has become now final.

12. The Hon'ble Supreme Court in **A.I.R. 1966 Supreme Court 1332 (Sheodan Singh Vs. Daryao Kunwar)** has held that where the trial court has decided two suits having common issue on merit and there are two appeals therefrom and one of them is



dismissed on some preliminary ground, like limitation or default in printing, with the result that the trial court's decision stands confirmed, the decision of the appeal court will be res-judicata and the appeal court must be deemed to have heard and finally decided the matter.

13. In view of this settled proposition of law laid down by the Supreme Court, the judgment and order passed by this High Court in First Appeal No.804 of 1994 will operate as res-judicata because it will be deemed that the matter questioning the impugned judgment and award has already been heard by the High Court and finally decided. In such view of the matter the High Court again cannot reopen the matter and say that the market rate fixed by the Land Acquisition Judge is incorrect. As stated above, the judgment and order will operate as res-judicata and this first appeal also will be governed by the judgment and award passed by the High Court in First Appeal No.804 of 1994.

14. So far the submission of the learned counsel for the appellants that lenient view may be taken or that the principal amounts have already been paid, therefore, the rate of interest may be modified is concerned, in my opinion, it is done then also it will amount to modify the judgment and order passed by the High Court earlier in the appeals which have been disposed of. From perusal of



the impugned judgment, it appears that the court below has granted the interest as provided under the statute. Therefore, it cannot be said that the rate of rent awarded by the Land Acquisition Judge is arbitrary or excessive.

15. In view of the above facts and circumstances of the case I find that the appellants have got no ground to challenge the impugned judgment and award particularly when the same has already been confirmed earlier in First Appeal Nos.804 of 1994 and 805 of 1994. Thus, the point formulated is answered against the appellants and in favour of the landholders-respondents.

16. In the result, I find no merit in this first appeal and, accordingly, this first appeal is dismissed. No order as to cost.

(Mungeshwar Sahoo, J)

Harish/-

AFR/NAFR	NAFR
CAV DATE	
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