

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.524 of 1978

[Against Judgment dated 19.04.1978 and Decree dated 06.05.1978
passed by the Sub Judge, Jamui, in Land Acquisition Case No.29 of
1974 arising out of Land Acquisition Case No.04 of 1959-60]

Shivendra Sharan Singh @ Shivendra Kr. Singh, son of Gridhar Narain Singh,
resident of village- Pratappur, P.S.-Jamui, District- Munger
... .. Appellant/s

Versus

The State of Bihar.
... .. Respondent/s

with
FIRST APPEAL No. 525 of 1978

[Against Judgment dated 19.04.1978 and Decree dated 06.05.1978
passed by the Sub Judge, Jamui, in Land Acquisition Case No.28 of
1974 arising out of Land Acquisition Case No.04 of 1959-60]

Shivendra Sharan Singh @ Shivendra Kumar Singh, son of Gridhar Narain
Singh, resident of village- Pratappur, P.S.-Jamui, District- Munger
... .. Appellant/s

Versus

The State of Bihar.
... .. Respondent/s

with
FIRST APPEAL No. 526 of 1978

[Against Judgment dated 19.04.1978 and Decree dated 06.05.1978
passed by the Sub Judge, Jamui, in Land Acquisition Case No.26 of
1974 arising out of Land Acquisition Case No.04 of 1959-60]

Shivendra Sharan Singh, son of Gridhar Narain Singh, resident of village-
Pratappur, P.S.-Jamui, District- Munger
... .. Appellant/s

Versus

The State of Bihar through the District Magistrate, Munger.
... .. Respondent/s

Appearance :



(In all Appeals)

For the Appellant/s : Mr. Prabhat Ranjan Singh, Advocate

For the Respondent/s : None

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

CAV JUDGMENT

Date : 21-08-2019

All these three First Appeals have arisen out of the common judgment dated 19.04.1978 and Decree dated 06.05.1978 passed by the Sub Judge, Jamui, in Land Acquisition Case No.26 of 1974, 28 of 1974 and 29 of 1974 arising out of Land Acquisition Case No.04 of 1959-60.

2. The three Reference Cases i.e. L.A. Case Nos.26 of 1974, 28 of 1974 and 29 of 1974 arise out of land acquisition for construction of lower Kiul Valley Scheme were heard analogously by the Court below.

3. Misc. Case No.37 of 1962 and Misc. Case No.339 of 1963, which were numbered at Jamui as Misc. Case No.29 of 1974 and Misc. Case No.26 of 1974, respectively relates to acquisition of lands of Mauza Rajpura. Misc. Case No.340 of 1963, which was numbered at Jamui, as Misc. Case No.28 of 1974 relates to acquisition of lands of Mauza Partappur.

4. From the reference sheet of two out of three respective cases, it appears that 12.225 acres land of Mauza Rajpura and 0.915 acres lands of Mouza Partappur were acquired for construction of Lower Kiul Valley Scheme left Bank Canal



under Declaration No.2971 dated 9th March, 1959, published at page 942, 945 Part II of the Bihar Gazette of the 25th March, 1959, which was the subject matter of dispute in L.A. Case No.26 of 1974 and L.A. Case No.28 of 1974.

5. The appellant(s) received the amount of Rs.22,236.61 as compensation for 12.225 acres of land under protest in which land was valued at Rs.15468.98 i.e. at the rate in the near vicinity of about Rs.1266/- per acre, and 0.915 acres of land of Mauza Partappur, was valued at Rs.1262.70, in the award of Collector i.e. @ Rs.1380/- per acre, for which total compensation, received under protest by the appellant(s), was Rs.1849.62.

6. Third case, namely, Misc. Case No.29 of 1974 related to acquisition of 0.955 acres of land of Mouza Rajpura for construction of the embankment of Daultapur, Rajpura Partappur of lower Kiul Valley Scheme as Declaration No.4744 R dated 7th May, 1959, published at page 1902 Part II of the Bihar Gazette of 8th July, 1959, for which the compensation awarded by the Collector and received by the appellant(s) under protest was Rs.1745.35 i.e. almost at the rate of Rs.1360 per acre.

7. The amount of compensation was awarded on the basis of settlement records, local enquiry, the records of Registration Department, Munger, and the market value of the land



prevailing at the time of notification under Section 4(1) of the Land Acquisition Act.

8. The grounds taken by the appellant(s) in all the reference petitions was that valuation of the lands has not been properly and fairly fixed. The rate of land on proper valuation could not be fixed at any rate less than Rs.10,000/- per acre. The market value of such land acquired was very high. They had got irrigation facility being close to river Kiul, besides well could be dug for the purposes of irrigation. The level of the land was lower than the level of river Kiul, which shows that they were highly fertile lands. Crops like sugarcane etc. were grown on these lands. Some of the lands have been acquired in portions leaving behind some of the portion of un-acquired land on account of which left out portions have become valueless for which no compensation has been paid.

9. The grounds for reference in almost all the petitions are identical.

10. The Court below has considered the basis of determination of valuation of Rajpura lands and other lands in the impugned judgment.

11. The Court below has mentioned in the impugned judgment that for determination of valuation of Rajpura lands as



mentioned in Misc. Case No.26 of 1974, the market value of 12.225 acres of land has been assessed at Rs.15468.98 on 09.03.1955, which would come to be at the rate of Rs.1265.35 per acre i.e. almost about Rs.1266/- per acre. The Survey Map of Rajpura (Ext.3/A) produced in this case shows that the lands covered by plots, in question, were lying on the northern fringe of the village, east to west long on the west of river Kiul which was running south to north and it would further appear that the lands, in question, were neither *Dhanhar* nor *Bhit*, but orchard land. The Court below has mentioned in the impugned judgment that appellant(s) has not been able to produce any sale deed of Mouza Rajpura in support of the valuation alleged by them. The Court below has similarly held in the judgment that with respect to 0.955 acres of land of Mouza Rajpura, which is the subject of reference in Land Acquisition Case No.29 of 1974, which was acquired for the purposes of embankment was lying on the fringes of arable lands out of which plot No.433 and 117 were orchard and 432 was a strip of land while plot No.139 and 141 seemed to be arable lands which appeared to be waste land or a *parti* land. So, these plots were also neither *Dhanhar* nor *Bhit* land but the market value of these lands have also been awarded at the rate of Rs.1360/- per acre. No *Khatiyaan* of these lands had been produced in support of



the fact that they were arable lands growing paddy, wheat or sugarcane nor any sale deed of that village has been produced. The Court below has mentioned in the impugned judgment that Ext. A dated 02.02.1969 shows that there was no relevant sale in the village in question. This means that the lands of village Rajpura has no saleable value at all.

12. Counsel for the appellant(s) has submitted that admitted fact is that land, in question, is low land in which paddy and sugarcane are grown and the yields are much higher than yields by lands at higher strata. Counsel for the appellant(s) submits that in hilly area like the one under consideration low lands nearing or the proximity of river or other water reservoir has special value, and are extremely fertile and the pieces of lands on up land and the land of the appellant under acquisition are low lands and have got special value.

13. Counsel for the appellant(s) further submits that the Court below has shown complete ignorance of law of compensation when it held that no sale of land has taken place, therefore, lands of particular area are not saleable. The law of compensation does not depend only on actual market price of any particular piece of land but depends on financial loss to the person whose land has been acquired. It also depends for what would be



the amount of compensation to be paid to such person to make up the loss.

14. This Court finds from the impugned judgment and grounds taken in memo of appeal that no substantial material or evidence has been produced by the appellant(s) before the Court below to substantiate the value of the land or value of loss of crop.

15. The Court below has mentioned in the impugned judgment that there is no material before him to show that market value of the land assessed by the Collector is inadequate, unreasonable or inappropriate. Accordingly, the Court below did not find any merit in the reference-sheet of Misc. Case Nos.26 of 1974 and 29 of 1974 holding that compensation has been awarded reasonably and properly. The Court has held that market value of the land has been assessed reasonably and properly.

16. The Court below has held with regard to 0.915 acres of land of Mauza Partappur, just adjacent north of Mauza Rajpura, that Survey Map (Ext.3) would show that the acquired lands are on the southern fringe of the village, in question, adjacent west of the northern fringe of Mauza Rajpura. These lands have been valued at the rate of Rs.1380/ per acre. The appellant(s) has produced two sale deeds i.e. Ext.1 and Ext.1/A purported to have been executed in September, 1995; Ext.1 by Elahi Mian and Ext.1/A by Karu



Mian in favour of Puran Mahto, who has turned up as witness for the appellant(s) in the case.

17. The Court below has taken note in the judgment that first sale deed shows that 0.0475 acres of land had been purchased by Puran for Rs.100/- while Ext.1/A shows that 0.525 acres of land has been purchased by Puran for Rs.100/-. The Court below after drawing the mean between two sale deeds found that 0.05 acres of land had been purchased for a consideration of Rs.100/- in plot No.565 lying at a considerable distance towards north from the plots in question. The value of land on these sale deeds would come to Rs.2000/ per acre, but location of the land would show that it has got far more better location than lands in question as will appear from Map (Ext.3).

18. The Court below has also held that boundary of the conveyed land given in both sale deeds would show that purchaser had his own lands on the southern boundary of the vended land. So, he might have paid a fancy price for such small area of lands as purchased by him for beneficial enjoyment of his adjoining land. The Court below on this ground did not take into consideration those sale deeds for determination of valuation of land in question.



19. The Court has, however, fixed the appropriate value @ Rs.1500/- per acre on which value of acquired land would be Rs.1382.70 i.e. Rs.1383/- and after adding 15% of the valuation on account of compulsory nature of acquisition, value of land, would be Rs.207.40, and in all reasonableness, proper market value of the land of Mauza Partappur measuring 0.915 acres, should have been Rs.1590.10 including the amount of 15% payable for compulsory nature of acquisition. Rs.24/- has been paid for trees. Interest has been paid by the Collector at Rs.369.92.

20. The Court below has finally fixed Rs.1983.92 to be reasonable and proper award. Appellant has been paid Rs.1849.62, so, a balance of Rs.134.30 was still payable to him for which appellant is entitled to interest at the rate of 6% per annum from the date of Collector's possession till deposit of amount in Court.

21. The Sub Judge, Jamui, accordingly, dismissed Misc. Case Nos.26 of 1974 and 29 of 1974. However, Misc. Case No.28 of 1974 was allowed in part holding that appellant is entitled for compensation amount at Rs.1983.92, whereas, he has been paid Rs.1849.62. So, Rs.134.30 is payable to the appellant(s) on account of acquisition of Partappur land along with interest @ 6% per annum from the date of Collector's possession till deposit of amount in the Court.



22. This Court finds that oral evidence produced on behalf of the appellant(s) with regard to land of Partappur, namely, AW1 and AW2 were not of village Partappur. Hence, their evidence was not considered by the Court below. AW 3 is son of Puran Yadav. His sale deeds have not been taken into consideration by the learned Sub Judge for the reasons mentioned in the impugned judgment. The Court below has mentioned in the impugned judgment that oral evidence of the appellant (AW 5) has also not improved the case of the appellant(s).

23. In this manner, the Court below has passed judgment after considering all the oral and documentary evidence produced by the appellant(s).

24. Therefore, this Court does not find any illegality in the impugned judgment and decree passed by the Court below in L.A. Case No.26 of 1974, 28 of 1974 and 29 of 1974.

25. Accordingly, these appeals are dismissed having no merit.

(Sanjay Priya, J)

J. Alam/-

AFR/NAFR	AFR
CAV DATE	19-07-2019
Uploading Date	27-08-2019
Transmission Date	N/A

