

HIGH COURT OF CHHATTISGARH, BILASPUR**FA No. 104 of 2004****Reserved on : 31.01.2019****Delivered on : 20.02.2019**

Nand Kumar Tiwari, S/o Late Shri Jagannath Tiwari, R/o Adbhar, Tahsil-
Malkharoda, District- Janjgir-Champa (C.G.) **---- Appellant**

Versus

1. State of Chhattisgarh, Through Collector, Janjgir-Champa (C.G.)
2. Land Acquisition Officer, Hasdeo Bango Pariyojana, Sakti, Tahsil-
Sakti, District- Janjgir-Champa (C.G.) **---- Respondents**

For Appellant : Mr. H.S. Patel, Advocate.

For State : Mr. Ravish Verma, Govt. Advocate.

Hon'ble Shri Justice Ram Prasanna Sharma**CAV JUDGMENT**

1. This first appeal is preferred under Section 96 of the Code of Civil Procedure, 1908 against judgment/ decree dated 25.03.2004 passed by Additional District Judge, Sakti, District- Bilaspur (Now Janjgir-Champa) (C.G.) in Miscellaneous Civil Suit No. 17/2003, wherein the said court awarded a sum of Rs. 7,32,131/- for acquisition of land by the respondent No.2 for Survey No. 956 area admeasuring 1.219 Hectare situated at Village- Adbhar, Patwari Halka No. 8, Tahsil- Malkharoda, District- Janjgir-Champa (C.G.).
2. Admittedly, the land in question is owned by the appellant and is acquired by respondent No. 2 under the Land Acquisition Act, 1894 and the land acquisition officer awarded a sum of Rs. 4,62,000/- per hectare and a reference was made to the court of Additional District

Judge, Sakti which enhanced the award by 30%.

3. Learned counsel for the appellant submits that the award amount is on lower side and looking to the value of adjacent land, it ought to have been enhanced by 60% to the award of the land acquisition officer, therefore, the awarded amount by land acquisition officer be enhanced by 60%.
4. The point for determination of this Court is whether the value fixed by Additional District Judge, Sakti is fare market value. In the very nature of things, the prize/ value from land to land depends upon buyer to buyer, seller to seller and the reasons which led such sale. Everything should be in permissive parameter. The fare market value of the acquired land is required to be determined on the basis of market rate of adjacent land similarly situated to the acquired land prevailing on the date of acquisition and/ or prior to the acquisition but not subsequent to the date of acquisition.
5. In appropriate cases, some addition is allowed looking to the escalation in the prize specified in the sale deed in relation to adjacent similarly situated lands for fixing the market value of the acquired land.
6. In the present case, one sale deed was filed by the appellant as per (Ex.D/4) which is regarding sale of 0.09 dismil of land which is small piece of land, therefore, the same is not comparable for land admeasuring 1.219 Hectare acquired in the present case. No other sale deed of adjacent land was filed executed prior to January, 2003 which is relevant time of acquiring the land.

7. The land acquisition officer determined the value on the basis of sale deed related to February, 2002. Looking to the acquiring of land in the year 2003, the reference court opined that 30% should be increased looking to the escalation in prize of land every year. There is nothing on record to say that value of the land is increased by 60% as alleged in this appeal. This Court cannot arrive at conclusion that value of the land is increased by 60% from date of valuation of adjacent land by the acquisition officer. The reference court has already exercised the discretion in increasing the award amount.
8. After appreciating all the evidence, this Court has no reason to again increase the award as per this appeal. The appeal without substance is liable to be and is hereby dismissed.
9. Accordingly, the decree is passed against the appellant and in favour of the respondents on the following terms and conditions:-
 - (i) The appeal is dismissed with cost.
 - (ii) Parties to bear their own cost.
 - (iii) Pleaders' fee, if certified be calculated as per certificate or as per schedule whichever is less.
 - (iv) A decree be drawn accordingly.

Sd/-
(Ram Prasanna Sharma)
Judge