HIGH COURT OF TRIPURA
AGARTALA

LA APP 83 OF 2018

1. **Smt. Milan Biswas Nandi,**
   wife of Sri Arun Chandra Nandi, resident of South Bharat Chandra Nagar, P.O. S.B.C. Nagar, P.S. Belonia, District- South Tripura
2. **Smt. Mira Majumder Nandi,**
   wife of late Pulin Behari Nandi, resident of South Bharat Chandra Nagar, P.O. S.B.C. Nagar, P.S. Belonia, District- South Tripura

----**Appellant(s)**

Versus

1. **The Land Acquisition Collector,**
   South Tripura District, P.O. + P.S. Belonia, South Tripura District
2. **The District Education Officer,**
   Belonia, P.O. + P.S. Belonia, South Tripura District
3. **The Principal Secretary,**
   Revenue Department, Government of Tripura,
   New Capital Complex, Kunjaban, Agartala, West Tripura

----**Respondent(s)**

LA APP 85 OF 2018

1. **Sri Arun Chandra Nandi,**
   son of late Debendra Kumar Nandi, resident of South Bharat Chandra Nagar, P.O. S.B.C. Nagar, P.S. Belonia, District- South Tripura
2. On death of Pulin Behari Nandi, his legal heirs are being added as Party:
   a. **Smt. Mira Majumder Nandi,**
      wife of late Pulin Behari Nandi, resident of South Bharat Chandra Nagar, P.O. S.B.C. Nagar, P.S. Belonia, District- South Tripura
   b. **Smt. Susmita Nandi,**
      daughter of late Pulin Behari Nandi,
      wife of Sri Palas Paul, resident of Sundarlal Mehta, Shakti Colony, Paonta, Himachal Pradesh
   c. **Smt. Moumita Nandi Chowdhury,**
      daughter of late Pulin Behari Nandi, wife of Sri Victor Chowdhury, resident of S.D. Mission, Camper Bazaar, P.S. A.D. Nagar, District- West Tripura
   d. **Smt. Sunandita Nandi,**
      D/o late Pulin Behari Nandi, resident of South Bharat Chandra Nagar, P.O. S.B.C. Nagar, P.S. Belonia, District- South Tripura

----**Appellant(s)**

Versus

1. **The Land Acquisition Collector,**
   South Tripura District, P.O. + P.S. Belonia, South Tripura
2. **The District Education Officer,**
   Belonia, P.O. + P.S. Belonia, South Tripura District
3. **The Principal Secretary,**
   Revenue Department, Government of Tripura,
   New Capital Complex, Kunjaban, Agartala, West Tripura

----**Respondent(s)**

For Appellant(s)	:	Ms. R. Purkayastha, Advocate
For Respondent(s)	:	Mr. P.S. Roy, Advocate
Date of hearing & delivery of Judgment & Order	:	**01.12.2020**
Whether fit for reporting	:	No

HON'BLE MR. JUSTICE ARINDAM LODH
JUDGMENT(ORAL)

Heard Ms. R. Purkayastha, learned counsel appearing for the appellants as well as Mr. P.S. Roy, learned counsel appearing for the respondent- L.A. Collector.

2. Both the appeals being L.A. Appeal 83 of 2018 and L.A. Appeal 85 of 2018 are taken up for disposal by a common judgment since common questions of law and facts are involved in both the appeals.

3. The judgment and award dated 29.03.2018 passed by the learned L.A. Judge, South Tripura, Belonia in case No. L.A. (Ref.) 44 of 2016 and L.A.(Ref.) 36 of 2016 are under challenge before this Court.

4. It is a case for acquisition of land measuring 0.14 acres at Mouja- Dakshin Bharat Chandra Nagar under Belonia Sub-Division, South Tripura District. The purpose for acquisition of the said land is for extension of existing playground of North Belonia HS School. The notification under Section 17 of the L.A. Act was issued by the Revenue Department dated 16.04.2010 after observing all formalities. The declaration under Section 6 of the L.A. Act dated 18.05.2010 was also issued in accordance with law. The Land Acquisition Collector had heard the land loosers who were the owners of the acquired land.

The claimant appellants claimed that the acquired land was valued at Rs. 75 lakh to Rs. 1 crore. The claimant-appellants also had produced one sale Deed No. I-917 dated 07.05.2002 which was sold @Rs. 6 lakh per kani, which was kept in file and the land was measured to be determined to be situated at a distance of 200 mtr. to the present land in question.

5. In the assessment note, it is noted by the Land Acquisition Collector that the acquired land is situated within 50 mtr. from the main road. To assess the valuation of the land, the Land Acquisition Collector had produced the following sale Deeds which have been mentioned in a tabular form alongwith its valuation:

Sl.No	Sale Deed No.	Date of Registration	Plot No.	Class	Area in Acres	Rate per kani
1.	**1-139**	**30.01.2009**	**1233**	**Nal**	**0.36**	**Rs. 44,444/-**
2.	**1-149**	**02.02.2009**	**321**	**Nal**	**0.20**	**Rs. 50,000/-**
3.	**1-34**	**09.01.2009**	**4499**	**Nal**	**0.40**	**Rs. 60,000/-**
4.	**1-238**	**13.02.2009**	**1983**	**Lunga**	**0.40**	**Rs. 80,000/-**
5.	**1-253**	**16.02.2009**	**5**	**Lunga**	**0.16**	**Rs. 1,00,000/-**
6.	**1-539**	**16.04.2009**	**2521**	**Lunga**	**0.03**	**Rs. 1,33,333/-**
7.	**1-309**	**25.02.2009**	**5211**	**Nal**	**0.06**	**Rs. 93,333/-**

6. On examination of the above sale Deeds, it is found that the land was transferred in the year 2009. Classification of the land as per Deeds is nal and lunga whereas proposed lands are classified as nal only. According to the Land Acquisition Collector, the sale Deeds executed, as above, are not exactly near to the site. While determining the market value of the land, the Land Acquisition Collector had observed the following parameters:

(i) *The plot wise value of land as fixed by SDM, Belonia and communicated to us vide no. letter No. F.6(54)-SDM/BLN/LA/ Sur/2010/688 dated 21.06.2010;*

(ii) *Variation of value of land near to the market, school and other Govt. establishment in comparison to sale deed and vice-versa;*

(iii) *Due to Revenue classification of land;*

(iv) *Local opinion of the people not affected by this acquisition;*

(v) *Rate as decided by SDM & available sale deed compared and found lot of difference, hence middle line adopted and proposed to fix the value of as follows:*

Plot No.	Class of land	Area	Rate proposed by SDM, BLN per kani	Rate per Kani
3893/P	Nal	0.08	Rs. 1,50,000/-	Rs. 1,10,000/-
3919/P	Nal	0.15	Rs. 1,50,000/	Rs. 1,10,000/
3920/P	Nal	0.02	Rs. 1,50,000/	Rs. 1,10,000/
3923	Nal	0.42	Rs. 1,50,000/	Rs. 1,10,000/
3924	Nal	0.14	Rs. 1,50,000/	Rs. 1,10,000/
3925	Nal	0.14	Rs. 1,50,000/	Rs. 1,10,000/

Ultimately, the LA Collector awarded compensation @Rs. 1,10,000/- per kani for the lands in question in the present appeal alongwith other statutory requirements.

7. Being aggrieved, the claimant-appellants had prayed for reference. Accordingly, the dispute was referred to the learned L.A. Judge, South Tripura, Belonia. Claim statements and counter claim statements were filed by both the claimant-appellants as well as by the L.A. Collector. Evidences were recorded, some sale Deeds were exhibited, as stated above. After completion of recording of evidence, the learned L.A. Judge, had determined the value of the acquired land. While determining the value of the market price of the lands, the learned L.A. Judge had taken up the following points for decision:

> ***"(i) Whether the L.A. Collector has paid adequate compensation for the acquired land?***
>
> ***(ii) Whether the claimant-petitioners have suffered any severance of land due to such acquisition?"***

8. One Smt. Mira Majumder (Nandi) and one Sri Hrishikesh Majumder examined themselves as PW-1 and PW-2 respectively in case No. L.A. (Ref.) 44 of 2016 i.e. L.A. Appeal 85 of 2018 and Sri Arun Chandra Nandi and Sri Hrishikesh Majumder examined themselves as PW-1 and PW-2 respectively in case No. L.A.(Ref.) 36 of 2016 i.e. L.A. Appeal 83 of 2018. For and on behalf of the L.A. Collector, Sri Sushanta Bhattacharjee, Revenue Inspector attached to the office of the District Magistrate, South Tripura, Belonia examined himself as OPW-1 in both the cases.

9. The claimants in case No. L.A. (Ref.) 44 of 2016 relied on sale Deed vide No. I-1255 of the year 2009 and I-1965 of the year 2001 registered with Sub-Registrar, Belonia. The claimants in case No. L.A. (Ref.) 36 of 2016 relied on the sale Deed vide No. I-1254 of the year 2009 and I-917 of the year 2002 registered with the Sub-Registrar, Belonia.

10. Ms. Purkayastha, learned counsel appearing for the claimant-appellants submits that the acquired land had high potentiality at the time of acquisition. The market price of the land in question was valued at Rs. 1 crore. According to Ms. Purkayastha, learned counsel, the land is situated near to the school, BDO office and is adjacent to Belonia-Rajnagar pucca road. There are markets also near the Bankar bridge and the land is situated at a distance of 100 mtr. away from the said bridge. Having taken into account all these factors, according to Ms. Purkayastha, the acquired land must be valued @Rs. 1 crore per kani.

11. On the other hand, Mr. PS Roy, learned counsel appearing for the L.A. Collector submits that the land is a nal class of land having no potentiality. The claimant-appellants were growing crops over the said land. The claimant-appellants intentionally had suppressed the production of the map of Mouja-Bharat Chandra Nagar. Moreover, according to Mr. Roy, learned counsel the sale Deeds referred to as Exhibit-2 should not be taken into account for determination of the market price of the land for the reason that it was a very small piece of land consisting of 1 (one) kara only and was purchased for a shop. So, this land which is just adjacent to the road cannot be compared with the land which is situated at 30 mtr. from the main road. Mr. Roy, further submits that none of the areas can be termed as ‘commercial area’.

12. Having heard the learned counsel appearing for the parties, I have taken note of the order dated 02.07.2010 passed by the L.A. Collector wherein as many as 7 (seven) sale Deeds were considered by the L.A. Collector which were executed within the period starting from 30.01.2009 to 16.04.2009. The lands were acquired by notification dated 16.04.2010 and these are all nal and lunga class of lands. The 3 (three) sale Deeds bearing No. I-139 executed on

30.01.2009, I-149 executed on 02.02.2009 and I-34 executed on 09.01.2009 and sale Deed No. I-309 executed on 25.02.2009 are all nal class of lands and the valuation of these lands ranges from Rs. 44,444/- to Rs. 93,333. The learned L.A. Judge in his finding while discarding the claim of the claimant-appellants that the land was valued at Rs. 1 crore, had observed thus:

> **"8. The L.A. Collector consulted 07 Nos. of sale instances. The land of Sl. No.1 was sold on 30.01.2009 @ Rs. 44,444/- per kani and class of land is Nal, the land of Sl. No. 2 (Nal) was sold in the year 2009 @ Rs. 50,000/- per kani, the land of Sl. No. 3 was sold in the year 2009 @Rs. 60,000/- per kani and class of land is Nal. The land of Sl. No. 4 was sold in the year 2009 @ Rs. 80,000/- per kani and class of land is Lunga, the land of sl. No. 5 (lunga) was sold in the year 2009 @ Rs1,00,000/- per kani, the land of sl. No. 6 was sold in the year 2009 @ Rs. 1,33,333/- per kani and class of land is lunga and the land of Sl. No. 7 was also sold in the year 2009 @Rs. 93,333/- per kani and class of land is Nal. But those sale deeds were not taken into consideration as according to L.A. Collector those plots of land are not found adjacent to the acquired land. However, the L.A. ollector relied on the plot wise value of land as fixed by the SDM, Belonia and communicated to the office of the L.A. Collector vide No. F.6(54)-SDM/BLN/LA/ SUR/2010/688 dated 21.06.2010 wherein rate fixed by the SDM, Belonia for the acquired Nal class of land @ Rs. 1,50,000/- per kani whereas the L.A. Collector assessed the value of the acquired Nal class of land @ Rs. 1,10,000/- per kani in both the cases.**
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> **9. In Case No. L.A.(Ref.) 44 of 2016 the claimant petitioners submitted sale Deed No. I-1255 of the year 2009 under Mouja Dakshin Bharat Chandra Nagar wherein one Kara of Dokan class of land was sold on consideration of Rs. 1,00,000/- and sale Deed No. I-1965 of the year 2001 under Mouja Dakshin Bharat Chandra nagar wherein 0.011 acres of Nal class of land was sold on consideration of Rs. 30,000/-. The claimant-petitioners in Case No. L.A. (Ref.) 36 of 2016 have submitted sale Deed No. I-1254 of the year 2009 under Mouja Dakshin Bharat Chandra nagar wherein one kara of Dokan class of land was sold on consideration of Rs. 1,00,000/- and sale Deed No. I-917 of the year 2002 under Mouja Dakshin Bharat Chandra Nagar wherein 1/12 dhur i.e. 0.0½ acres of dokan class of land was sold on consideration of Rs. 70,000/-. Thus, these plot of land of the exhibited sale Deeds cannot be compared with the acquired land as because class of land of the sale deeds are not similar to the acquired land and the quantum of land of the sale deeds are not similar to the acquired land and the quantum of land in the sale instances are very small in comparison to the acquired lands. Besides, the claimants also did not submit any settlement map to show the distance between the acquired land and the land of sale deeds. Thus, in absence of cogent evidence these sale deeds cannot be the basis for determination of market value.**
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> **10. During cross-examination OPW-1, the Revenue Inspector, attached to the Office of the D.M. & Collector, South Tripura, Belonia stated that there is a high school approximately at a distance of 100 meters from Bankar bridge and the acquired land is situated near that school to the southern side of Belonia-Rajnagar pucca road, Belonia Rajnagar pucca road side is not a commercial area of Belonia town. Rather, it is a village area and that too not a market place. Hence, it is not a commercial land. OPW-1 in cross admitted that there are a few dokan shed near Bankar bridge. The acquired land is situated 100 meters (approx.) away from Bankar bridge. The plot wise value of land as fixed by the SDM, Belonia and communicated to the Office of the L.A. Collector vide No. F.6(54)-SDM/BLN/LA/SUR/2010/688 dated 21.06.2010 as I find from the overleaf of the assessment note is that price of Nal class of land was fixed @Rs. 1,50,000/- per kani. Therefore, there is no justification why this rate shall not be given to the claimant petitioners. As such, the L.A. Collector shall pay compensation for the acquired land @Rs. 1,50,000/- per kani. Accordingly, the value of the acquired land in both the cases is raised to Rs. 1,50,000/- (Rupees one lakh fifty thousand) per kani. This valuation chart was communicated on 21.06.2010 and notification of the revenue department was published on 16.04.2010. Hence, no escalation of price of land is hereby given.**
>
> **Both the issues are decided accordingly."**

13. I find no error in the finding of the learned L.A. Judge that valuation of a small piece of land like 1 (one) kara cannot be compared with a large junk of lands acquired by the government and, that one kara of land was also sold for purpose of constructing dokan (shop). Moreover, it is apparent that the

claimant-appellants did not produce any settlement map to show the distance between the acquired land and the lands of the sale Deeds. Thus, I concur the finding of the learned L.A. Judge that in absence of cogent evidence these sale Deeds cannot be the basis for determining the market value.

14. However, from the cross-examination of OPW-1, I find that there is a school near to the acquired land and though it is a nal class of land but, it is just 30 mtr. away from the main road and may have some potentiality in near future of which the claimant-appellants i.e. the land owners have been deprived of. Within a period of time the acquired lands might have fetched much higher value. The L.A. Act is a special statute which has been enacted to provide reasonable benefits to the land loosers. Though it is not a commercial area but, it can fetch some higher value than that of the market price which was determined by both the learned L.A. Judge and the L.A. Collector. As such, according to me, justice would render if the market price of the lands is to @ Rs. 5 lakh per kani from Rs. 1,50,000/- per kani, as was determined by the learned L.A. Judge. in his finding.

15. Accordingly, both the appeals are decided with enhancement of the award from that what had been determined by the learned L.A. Judge and the L.A. Collector. The valuation of the acquired land would be determined at that rate of Rs. 5 lakh per kani along with all other statutory benefits, as provided under the L.A. Act, 1894 instead of Rs. 1,50,000/- per kani as decided by the learned L.A. Judge.

16. With the above modification of the awards and directions, both the appeals are partly allowed.

Send down the LCRs.

JUDGE

Saikat