

08.12.2022
Court No.12
S/L. No. 50 to 79
Sourav/
Suvayan

FA 99 of 2004
With
IA No: CAN 1 of 2003 (Old No: CAN 3827 of 2003)
With
IA No: CAN 2 of 2008 (Old No: CAN 6824 of 2008)

Khagendra Nath Dam
Vs.
The Land Acquisition Collector Darjeling

With

FAT 2653 of 2002
With
IA No: CAN 1 of 2022
With
IA No: CAN 2 of 2022

Birendra Nath Dam
VS
The Land Acquisition Collector Darjeling

With

FA 304 of 2002
With
IA No: CAN 1 of 2002 (Old No: CAN 8667 of 2002)
With
IA No: CAN 2 of 2002 (Old No: CAN 10136 of 2002)
With
IA No: CAN 3 of 2003 (Old No: CAN 4485 of 2003)
With
IA No: CAN 5 of 2013 (Old No: CAN 11945 of 2013)

Land Acquisition Collector L.A Dept.
Vs
Krishna Kanta Paul

With

FA 305 of 2002
With
IA No: CAN 1 of 2002 (Old No: CAN 8668 of 2002)
with
IA No: CAN 2 of 2002 (Old No: CAN 10137 of 2002)
With
IA No: CAN 3 of 2003 (Old No: CAN 4486 of 2003)

Land Acquisition Collector Darjeeling

Vs

Badal Das

With

FA 306 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8669 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10138 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4487 of 2003)

Land Acquisition Collector Darjeeling

Vs

Sunil Bhowal

With

FA 307 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8670 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10139 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4488 of 2003)

Land Acquisition Collector Darjeeling

VS

Gita Rani Nandi

With

FA 308 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8671 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10140 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4489 of 2003)

Land Acquisition Collector Darjeeling

Vs

Khagendra Nath Dam

With

FA 309 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8672 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10141 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4490 of 2003)

Land Acquisition Collector Darjeeling

Vs

Thakur Prasad Das

With

FA 310 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8673 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10142 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4491 of 2003)

Land Acquisition Collector Darjeeling

Vs

Suranjan Paul

With

FA 311 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8674 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10143 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4492 of 2003)

Land Acquisition Collector Darjeeling

Vs

Binoy Chandra Das

With

FA 312 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8675 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10144 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4493 of 2003)

Land Acquisition Collector Darjeeling

Vs

Mahadev Kundu

With

FA 313 of 2002

with

IA No: CAN 1 of 2002 (Old No: CAN 8676 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10151 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4494 of 2003)

Land Acquisition Collector Darjeeling

Vs

Narayan Chandr Bhawal

With

FA 314 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8677 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10145 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4495 of 2003)

Land Acquisition Collector Darjeeling

Vs

Anjan Kumar Dam

With

FA 315 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8678 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10146 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN 4496 of 2003)

Land Acquisition Collector Darjeeling

Vs

Birendra Nath Dam

With

FA 316 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8679 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10147 of 2002)

With

IA No: CAN 3 of 2003 (Old No: CAN of 4497 of 2003)

Land Acquisition Collector Darjeeling

Vs

Sova Rani Das

With

FA 317 of 2002

With

IA No: CAN 1 of 2002 (Old No: CAN 8680 of 2002)

With

IA No: CAN 2 of 2002 (Old No: CAN 10148 of 2002)
With
IA No: CAN 3 of 2003 (Old No: CAN 4498 of 2003)

Land Acquisition Collector Darjeeling
Vs
Krishna Chandra Paul
With

FA 318 of 2002
With
IA No: CAN 1 of 2002 (Old No: CAN 8681 of 2002)
With
IA No: CAN 2 of 2002 (Old No: CAN 10149 of 2002)
With
IA No: CAN 3 of 2003 (Old No: CAN 4499 of 2003)

Land Acquisition Collector, Darjeeling
Vs
Dhiren Chandra Nandi

With

FA 319 of 2002
With
IA No: CAN 1 of 2002 (Old No: CAN 8682 of 2002)
With
IA No: CAN 2 of 2002 (Old No: CAN 10150 of 2002)
With
IA No: CAN 3 of 2003 (Old No: CAN 4500 of 2003)

Land Acquisition Collector Darjeeling
Vs
Badal Das

With

FAT 2643 of 2002

Sova Rani Das
Vs
The land Acquisition Collector Darjeeling

FAT 2644 of 2002
With
IA No: CAN 1 of 2022
With
IA No: CAN 2 of 2022

Thakur Prosad Das
Vs
The Land Acquisition Collector Darjeeling
With

FAT 2645 of 2002

Suranjan Paul

Vs

The Land Acquisition Collector Darjeling

With

FAT 2646 of 2002

With

IA No: CAN 1 of 2022

With

IA No: CAN 2 of 2022

Mahadeb Kundu

Vs

The Land Acquisition Collector Darjeling

With

FAT 2650 of 2002

With

IA No: CAN 1 of 2022

With

IA No: CAN 2 of 2022

Sunil Bhowal

Vs

The Land Acquisition Collector Darjeling

With

FA 100 of 2004

With

IA No: CAN 1 of 2003 (Old No: CAN 3825 of 2003)

Krishna Chandra Paul

Vs

The Land Acquisition Collector Darjeling

Mr. Debashis Kundu, Sr. Adv.

Mr. R. N. Barik

...for the land looser/appellant.

Mr. Partha Pratim Roy

Mr. Ram Chandra Guchhait

...for the State.

1. Heard Mr. Debasish Kundu, learned Senior Counsel appearing for the land looser/appellant and Mr. Partha Pratim Roy, learned Counsel appearing for the State.

2. It is contended by the learned Counsel for the appellant that the present appeals are squarely covered by the determination made by a co-ordinate Bench of this Court in FA 203 of 2013 and other appeals disposed of on 22.11.2017 [2017 SCC Online Cal. 18181: (2017) 5 CHN 507 (DB): (2018) 181 AIC 808: (2018) 1 Cal. L.J 559]. In all the present appeals some of which are appeals by the private individuals/land losers and some of which are cross appeals/appeals by the State of West Bengal, the date of possession of the land was 22.10.1984 and the date of publication of notice under Section 4(1A) of the West Bengal Act II of 1948 (the Act II of 1948, for short) is 02.06.1987.

Learned Counsel for the State also fairly contended that all these appeals are covered by the decision of aforesaid co-ordinate Bench. It is also submitted by learned Counsel for the State that the State has preferred no appeals against judgment passed by learned Additional District Judge, Darjeeling after remand.

3. It is strenuously submitted by the learned Counsel for the appellant that the area of the land losers covered in the present appeals are of the same locality with which the judgment passed in FA 203 of 2013 and other appeals disposed of on 22.11.2017 by the co-ordinate Bench (Supra) is concerned. On perusal of the aforesaid judgment and the appeal memos in the

present case, we are satisfied that the judgment passed by the co-ordinate Bench in FA 203 of 2013 and other appeals on 22.11.2017 squarely covers the facts of the present appeals.

4. In the present appeals different points are raised, *inter alia*, the multiplier to be applied instead of 8 to 10; deduction towards cultivation cost be reduced from 50% to 20%; quantum of loss of earning and solatium are to be revisited in terms of the market value as decided in FA 203 of 2013 and other appeals.

5. Regard being had to such facts and submissions and our satisfaction to the effect that judgment passed in FA 203 of 2013 and other appeals squarely covers the field so far as the present appeals are concerned, we remand the matters to the learned Additional District Judge, 1st Court, Darjeeling to revisit the matters in each of the appeal in the light of the judgment passed by the co-ordinate Bench of this Court in FA 203 of 2013 and other appeals on 22.11.2017 (Supra).

6. The entire exercise be completed within a period of six months from the date of receipt of records from this Court. The parties are directed not to indulge in any unnecessary adjournments in the matters. In revisiting the matters on remand, learned Additional District Judge, 1st Court, Darjeeling shall be guided by the exercise made by this Court in Land Acquisition Case No. 2 of 1997 after the remand by the co-ordinate

Bench in FA 203 of 2013 and other appeals disposed of on 22.11.2017 (Supra).

7. If any substitution is required because of long lapse of time in the interregnum, such substitution shall be allowed by the trial court taking a liberal view of the matter. We are constrained to authorize the learned Additional District Judge, 1st Court, Darjeeling to take up the issue of substitution as some substitution petitions have been filed today before us in different appeals for necessary orders and it is also submitted that many more substitutions may be required in view of long pendency of the appeals and death of the parties in the meantime. We think it just and proper to authorize the learned Additional District Judge, 1st Court, Darjeeling to take up the issue of substitution at his level without being influenced by the fact that some deaths have occurred during the pendency of the appeals.

8. Learned Additional District Judge, 1st Court, Darjeeling is directed to do the needful for directing the payment of at least 50% of the original awarded amount along with interest during the pendency of the matters on remand on filing of proper application to that effect.

9. Accordingly, the impugned orders in all appeals are set aside and the matters are remanded.

10. The records be sent down immediately to the learned Trial Court through special messenger at the cost of the land losers.

11. Accordingly, all the appeals along with the interim applications arising from each of those stand disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)