

IN THE HIGH COURT OF ORISSA, CUTTACK

LAA NO.89 OF 2018

In the matter of an appeal under section 54 of the Land Acquisition Act challenging the judgment dated 22.09.2017 passed by the learned Senior Civil Judge, Baleswar in L.A. No.402 of 2014.

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***Assistant Defence Estate Officer,
Bhubaneswar***

:::: Appellant

-:: VERSUS ::-

***Satrughna Mohanty (Since Dead)
By his LRs***

:::: Respondents

**Appeared in this case by Hybrid Arrangement
(virtual/physical mode)**

For Appellant **::::** Mr.A.K.Mohanty,
Central Government Counsel

For Respondents **::::** M/s.N.Panda, M.K. Panda and
G.Mohapatra
(Advocates)

**CORAM:
MR. JUSTICE D.DASH**

DATE OF HEARING::12.07.2022::DATE OF JUDGMENT::25.07.2022

D.Dash, J. The Appellant by filing this Appeal under Section-54 of the Land Acquisition Act, 1984 (for short called as ‘the LA Act’) has challenged the award dated 22.09.2017 passed by the learned Senior Civil Judge, Balasore (hereinafter referred to as ‘the Referral Court’) in Land Acquisition No.402 of 2014 in the matter of reference under section 18 of the Act.

2. Based upon a requisition made by the Appellant, the Government of Orissa published notification on 16.08.2007 under

section 4(1) of the LA Act for acquisition of Ac.8.567 decimals of land owned by several persons in the Revenue Village of Karanjia under Balasore Town Police Station. The purpose was for construction of bypass road from Kuruda to Patrapada. Subsequently, notification under section 6 of the LA Act was published on 28.08.2008.

The land belonging to the original Respondent No.1 (Since Dead and are represented by his legal representatives as Respondent Nos.1(ka) to 1(gha)) under Plot Nos.674, 675, 676, 678 and 812 under Khata No.172 and under Plot Nos.679 & 680 under Khata No.67 of Mouza-Karanjia, in total measuring Ac.0.977 decimals was acquired. The Land Acquisition Officer assessed the market value of the land at Rs.25,000/- per decimal. This assessment was made taking into account the bench mark valuation as maintained in the Base Value Register in the District Sub-Registrar Office as per the provisions of Registration Act and Rules for the purpose of registration of documents relating to the transactions of the land. It is stated by the Respondents 1(Ka) to 1(Gha) that the valuation was on a lower side and that is not the actual market price prevailing as on the date of notification. They further stated that while assessing the market value of the land, the Land Acquisition Officer has not taken into account the developments which have taken place in the vicinity and especially the potentiality as it stood then and the future potentiality. It is stated that their land is on the side of the road attached with other facilities. It is said that similar type of land in the locality are being sold for consideration of Rs.1,00,000/- per decimals. The objection being raised with regard to determination of the market value and assessment of compensation, as made by the Land Acquisition Officer, the matter had been referred to the Referral Court.

3. The Referral Court, based on the evidence let in by the parties and upon their examination and evaluation, has determined the market

value of the land, which has been acquired in the proceeding at Rs.50,266/-per decimal. Accordingly, it was directed that the compensation be determined and paid to the Respondent Nos.1(Ka) to 1 (Gha).

4. Mr.A.K.Mohanty, learned counsel for the Appellant submitted that when the Land Acquisition Officer had determined the market value of the land at Rs.25,000/- per decimal, the learned Referral Court has unreasonably enhanced the same by almost two. He submitted that in doing so, the learned Referral Court has not followed the proper process and its approach is not in the right direction in determining the market value of the land as on the date of notification.

5. Mr.N.Panda, learned counsel for the Respondents 1 (Ka) to 1(Gha) supported the determination of the market value of the land, as has been made by the learned Referral Court. According to him, banking upon the valuation of the nearby land, as had been determined in an earlier reference being carried up-to High Court in an Appeal and then having applied, 15% escalation per year over it just and proper market value of the land has been found out. He further submitted that by such determination of the market value of the land, as has been made by the learned Referral Court, has been taken care of all the relevant factors and potentiality of the land as it then stood as also the future potentiality.

6. Keeping in view the submissions made, I have carefully gone through the award passed by the learned Referral Court, which is under challenge in this Appeal.

7. The land measuring Ac.0.977 decimals having been acquired, we are concerned with determination of the market value of the same

as on the date of notification during the year 2007-2008. The total area is slightly less than an acre and its kism is Sarad-II.

The evidence has been let in to show that the land nearby have already been used and developed as homestead land long before the notification for acquisition. It is also there in the evidence that several Educational Institutions, Government institutions, Market Complex, Residential Buildings as also one Hospital have come up in the area. The area as it appears from the evidence which has remained unchallenged is in a developed locality. Earlier, there had been references to the Referral Court under section 18 of the L.A. Act for determination of the market value of nearby land which had been acquired. Those acquired land and those stood numbered as L.A. Misc. Case No.240 to 246, 249, 253, 254 and 261 of 2000 (common order passed therein on 06.02.2002 has been admitted in evidence and marked Ext.1). These lands were of the same classification. Finally, the matter having carried to this Court in LAA No.16 of 2002, the determination of the market value of the land at Rs.12,000/- per decimals has been accepted. In that view of the matter, the learned Referral Court, instead of relying on the evidence let in by the Respondents 1 (Ka) to 1(Gha), the consideration involved in the some transaction of the nearby land which are of other years is absolutely right in computing the market value of the acquired land taking the earlier determined market value of the land then acquired as the guide in adding 15% towards escalation per year. However, in doing so, when the Referral Court has found the market value of the land as on 20.05.2007 to be Rs.48,550/- per decimal, it should have given gone some reduction looking at some unforeseen factors and imponderables. Furthermore, it should not have added meticulously 15% escalation for the left over period of two months and 26 days by proportionately calculating in that way. So, here this Court is of the view that there has

to be some reduction on the market value of the acquired land as determined by the learned Referral Court. With the obtained evidence and further taking into account all other relevant factors; this Court is of the view that the market value of the land if determined at Rs.48,000/- (Rupees Forty-Eight Thousand) per decimal would be proper. The Appellant is, therefore, directed to pay the compensation for the acquired land to the Respondent Nos.1(Ka) to 1(Gha) by computing the same taking the market value of the land at Rs.48,000/- per decimal with all other statutory benefits as are allowable. The compensation, as aforesaid, be paid to the Respondent Nos.1(Ka) to 1(Gha) within four months hence.

8. The Appeal is allowed to the extent mentioned above. No order as to cost.

***D. Dash,
(Judge).***

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