

IN THE HIGH COURT OF ORISSA AT CUTTACK

LAA No.28 of 2019

***Union of India, Represented by
Chief Engineer (Construction-II),
East Coast Railway, Bhubaneswar,
Chandrasekharpur***

Appellant
Mr.U.R. Jena,
CGC

-versus-

Jumpa Nayak & Another

Respondents
Mr.R.K. Nayak,
Advocate for R.1
Mr.G.N.Rout,
ASC for R.2

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

**ORDER
04.05.2022**

Order No.

05. 1. This matter is taken up through hybrid arrangement (virtual/physical) mode.
2. The Appellant here in this Appeal filed under section 54 of the Land Acquisition Act, 1954 (for short, 'the L.A. Act') have assailed the judgment/award dated 21.04.2018 passed by the learned Senior Civil Judge, Jajpur (hereinafter referred to as 'the Referral Court') in L.A. Case No.22 of 2013.

By the said judgment/award passed in a reference under Section 18 of the L.A. Act at the instance of the Respondent No.1 (Claimant), the Referral Court having determined the market value of the acquired homestead land at Rs.18,000/- (rupees eighteen thousand) per decimal and the cultivable at Rs.12,000/- (rupees twelve thousand) per decimal, has directed for computation of compensation accordingly for its onward payment to the Claimant with all such statutory benefits as available.

3. Mr.Jena, learned counsel for the Appellant, confining his submission to the determination of compensation in respect of the acquired land of both varieties, submits that the Referral court, having not appreciated the evidence on record in a just and proper manner, has committed the error in arriving at the conclusion that the market value of the acquired homestead land was Rs.18,000/- (rupees eighteen thousand) per decimal and cultivable land at Rs.12,000/- (rupees twelve thousand) per decimal as on the date of notification under section 4(1) of the L.A. Act. According to him, when the Land Acquisition Collector, having taken all required statistics of sales of the lands in the area into consideration and keeping in view the consideration involved therein as also all other relevant factors including the facilities available nearby as well as the advantages attached to the acquired land, further taking care of the future potentiality had rightly assessed the compensation payable to the Claimants towards the acquisition of their land, the Referral Court, without assigning any reason, has rejected the same.

Mr.R.K.Nayak, learned counsel for the Respondent No.1 (Claimant) submits all in favour of the judgment/award passed by the Referral Court. He further submits that in the present case, when the Claimant has examined herself and another witness and proved certain documents, no such evidence to counter the same has been let in by the Appellant. He further submits that since the Referral Court, on a detail examination of evidence on record, has arrived at the conclusion with regard to the market value of the acquired lands of both the varieties by taking all the facilities available nearby as well as the advantages to the attached land into consideration as also their future potentiality, in the absence of any

such infirmity in the said exercise of appreciation, there arises no scope of interference in this Appeal.

4. Keeping in view the submissions made, I have carefully gone through the impugned judgment/award.

Land measuring Ac.0.13 decimals of homestead land and Ac.0.24 decimals of cultivable land are the subject matter of the reference. The notification under section 4(1) of the L.A. Act for the purpose was published in the official Gazette on 11.03.2005. The land has been acquired for construction of Haridaspur-Paradeep BG Rail Link. Along with the land belonging to the Claimant other lands in the area have also been acquired for the said purpose. It is seen that one earlier reference, i.e, LAR No.11 of 2009 had been disposed of on 8.2.2017 determining the market value of the nearby acquired agricultural land covered under the same notification under section 4(1) of the L.A. Act at Rs.12,000/- per decimal and that of nearby acquired homestead land at Rs.18,000/- per decimal and accordingly, the claimants had been awarded with the compensation.

Learned counsel for the Appellant does not dispute this position and it is also not stated that the same has undergone reduction in the Appellate Forum.

On the above factual settings, regard being had to the legislative intent behind introduction of the provision of section 28(A) of the L.A. Act and its spirit, whereunder a land looser who has even not initiated the reference, is entitled to the benefit of enhancement of compensation, if any made, in a reference concerning similar other land covered under the same notification under section 4(1) of the L.A. Act on making an application within three months from the date of award of the Court, this Courts finds

no such reason or justification to interfere with the impugned judgment/award.

Moreover, when it appears that the Trial Court had made detail discussion of the evidence tendered by the Claimant, which have not been countered by the Appellant and then having taken into account all other relevant factors, has arrived at the conclusion as to the market value of the acquired land of both the varieties belonging to the Claimant as on the date of notification under Section 4(1) of the L.A. Act, this Court, on going through the same, being not in a position to find out any such infirmity therein, thus hereby refuses to interfere with the same.

5. In the result, the Appeal stands dismissed. No order as to cost.

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

Basu

