

IN THE HIGH COURT OF ORISSA AT CUTTACK

LAA No.31 of 2019

<i>Haridaspur-Paradip Railway Company Limited, Represented by its Managing Director</i>		<i>Appellant</i> Mr.S.S. Mohanty, Advocate
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-versus-

<i>Sk. Kasimuddin & Others</i>		<i>Respondents</i> Mr.R.K. Nayak
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**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 12.10.2017 passed by the learned Senior Civil Judge, Jajpur (hereinafter referred to as 'the Referral Court') in L.A. Case No.07 of 2009.
- By the said judgment/award passed in a reference under Section 18 of the L.A. Act at the instance of the Respondents 1 to 8 (Claimants), the Referral Court having determined the market value of the acquired land at Rs.10,000/- (rupees ten thousand) per decimal, has directed for computation of compensation accordingly for its onward payment to the Claimants with all such statutory benefits as available.
3. Mr.Mohanty, learned counsel for the Appellant, confining his submission to the determination of compensation in respect of the acquired land, 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 land was Rs.10,000/- 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 Respondents 1 to 8 (Claimants) submits all in favour of the judgment/award passed by the Referral Court. He further submits that the compensation for the other lands acquired under the same notification, which are similarly situated with the acquired land involved in the present case having been so determined in earlier references and when those have been confirmed in Appeal, there stands no reason to interfere with the judgment/award impugned in the present Appeal and thereby deny the Claimants of said benefit of receiving the enhanced compensation. He further submits that the Referral Court having made an indepth study of the evidence and on their detail analysis, when has arrived at a conclusion and there surfaces no such infirmity therein; this Court in seisin of Appeal should not interfere with the same merely because a different view is possible to be taken.

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

Land measuring Ac.0.20 decimals of agricultural land is the subject matter of the reference. The notification under section 4(1)

of the L.A. for the purpose is dated 03.12.2004 which was published in the office Gazette on 23.12.2005. The land has been acquired for construction of Haridaspur-Paradeep New BG Rail Link, Jajpur, Nanpur. Along with the land belonging to the Claimants other lands in the area have also been acquired for the said purpose. It is seen that in the earlier reference, i.e, LAR No.11 of 2012 for similar variety of land, i.e., Sarada Jala Dofasali-II covered under the same notification, the claimants therein had been awarded with the compensation on determination of market value of the acquired land at the rate of Rs.10,000/- per decimal.

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(I) 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 Claimants, 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 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

