

29.03.2023
SL No.13
Court No.8
(gc)

FAT 143 of 2015
CAN 2 of 2015 (Old No: CAN 7155 of 2015)

The State of West Bengal
Represented by the Collector
Vs.
Santosh Kumar Das, since deceased,
Represented by Smt. Annapurna Das & Anr.

Mr. Lalit Mohan Mahata,
Mr. Prasanta Behari Mahata,
...for the Appellant.
Mr. Debayan Bera,
Mr. Sakti Prasad Chakrabarti,
...for the Respondents.

By consent of the parties, the appeal and the application are treated as on the day's list and disposed of by this common order.

The learned Counsel for the appellant submits that without oral evidence and establishing that the comparable units belonged to contiguous mouza, the learned L.A. Judge, 3rd Court, Barasat could not have enhanced the compensation.

We find from the impugned order that the deeds were marked as exhibits although no oral evidence was adduced. Moreover, before awarding enhanced compensation, it was necessary for the learned Trial Judge to arrive at a finding that the comparable units belonged to contiguous mouza and in absence of any oral evidence to that effect, it may not have been possible for the learned Trial Judge to accept the

evidence merely based on documents without any oral evidence.

Mr. Debayan Bera, learned Counsel representing the respondents has also fairly submitted that a fresh evidence may be required to prove that the comparable units are adjacent and/or contiguous to the land acquired and the matter may be heard afresh by permitting the parties to adduce fresh evidence.

Under such circumstances, the impugned order is set aside.

We request the learned L.A. Judge, 3rd Court, Barasat, North 24-Parganas to hear the reference case afresh and rewrite the judgment on the basis of the oral and documentary evidence.

The parties shall be at liberty to bring fresh and/or additional evidence, if so desire, by filing their affidavit-in-chief within six weeks from date. The said direction is peremptory.

We also request the learned L.A. Judge to dispose of that reference case preferably within eight months from the date of filing of the evidence.

The calculation sheet submitted by the State is kept with the record.

Accordingly, the appeal and the connected application stand disposed of.

Urgent Photostat certified copy of this order, if applied for, be given to the parties on usual undertaking.

(Uday Kumar, J.)

(Soumen Sen, J.)