

02.02.2023
SL No.5
Court No.8
(gc)

**FAT 84 of 2013
CAN 3 of 2022**

**Nripendra Nath Sarkar
Vs.
Land Acquisition Collector,
Dakshin Dinajpur**

Mr. Sourav Sen,
Ms. Sumitra Das,
...for the Appellant.
Mr. Aniruddha Mohanta,
...for the State Respondent.

By consent of the parties, the appeal and the application are taken up together and disposed of by this common order.

The appellant/petitioner has filed an application for enhancement of compensation. In the appeal, the appellant has filed an application for additional evidence at the appellate stage. In the said application, the appellant has disclosed the references made by the other heirs and representatives of the deceased, Kalipada Sarkar and it is submitted that the valuation made by the L.A. Collector, Dakshin Dinajpur in respect of those reference cases are required to be taken into consideration in deciding the appeal. It is stated that for same or similar plots of land, the valuations made are on the higher side and there is no reason for the L.A. Collector not to determine the valuation in respect of the land of the appellant acquired under the Land Acquisition Act on the said basis. The State has not preferred any

appeal against the judgment. The State has accepted the valuation determined by the L.A. Collector. The question is with regard to the enhancement. The appellant has relied upon the reference cases in respect of the other co-owners.

The learned Counsel for the State has raised objection with regard to the similar treatment being extended to the present appellant. It is submitted that the lands of the referring claimant are not similar or same to the lands that were acquired in respect of the reference cases to which the appellant is now intending to rely upon in the appellate stage. It appears that the reference cases on which the appellant is now seeking to rely upon are mostly decided under Section 18 of the West Bengal Land Acquisition Act, 1894 after 29th November, 2012.

We feel that a fresh evidence is required to be taken in respect of the reference cases that the appellant is now seeking to rely upon and, accordingly, we remand the matter to the Reference Court for adjudicating the dispute between the parties with regard to the enhancement of compensation only. The Reference Court is directed to frame an issue with regard to the enhancement of compensation over and above Rs.23 lakhs per acre on the basis of the reference cases that are now being relied upon by the appellant in this appeal.

We make it clear that we have not gone into the merits of the reference cases on which reliance are now being placed in the application for additional evidence.

Since no affidavit-in-opposition is filed, all allegations are deemed to have been denied.

We request the learned Reference Court to dispose of the reference case as expeditiously as possible and preferably within a period of 8 (eight) weeks from the date of communication of this order.

The appeal and the application, accordingly, disposed of.

However, there shall be no order as to costs.

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

(Uday Kumar, J.)

(Soumen Sen, J.)