

12.05.2023
Court No.12
S/L. No. 2
Sourav/
Suvayan

FA 186 of 2004

Smt. Gita Rani Nandy

Vs.

The Land Acquisition Collector, Darjeling

Mr. Debashis Kundu, Sr. Adv.

Mr. R. N. Barik

...for the land loser/appellant.

Mr. Ram Chandra Guchhait

...for the State.

1. Heard Mr. Debasish Kundu, learned Senior Counsel appearing for the land loser/appellant and Mr. Ram Chandra Guchhait, learned Counsel appearing for the State.

2. It is contended by the learned Counsel for the appellant that the present appeal is squarely covered by the determination made by a co-ordinate Bench of this Court in FA 203 of 2013 and other appeals disposed of on 22.11.2017 [2017 SCC Online Cal. 18181: (2017) 5 CHN 507 (DB): (2018) 181 AIC 808: (2018) 1 Cal. L.J 559]. In all the present appeals some of which are appeals by the private individuals/land losers and some of which are cross appeals/appeals by the State of West Bengal, the date of possession of the land was 22.10.1984 and the date of publication of notice under Section 4(1A) of the West Bengal Act II of 1948 (the Act II of 1948, for short) is 02.06.1987.

Learned Counsel for the State also fairly contended that this appeal is covered by the decision

of aforesaid co-ordinate Bench. It is also submitted by learned Counsel for the State that the State has preferred no appeal against judgment passed by learned Additional District Judge, Darjeeling after remand.

3. It is strenuously submitted by the learned Counsel for the appellant that the area of the land looser covered in the present appeal is of the same locality with which the judgment passed in FA 203 of 2013 and other appeals disposed of on 22.11.2017 by the co-ordinate Bench (Supra) is concerned. On perusal of the aforesaid judgment and the appeal memos in the present case, we are satisfied that the judgment passed by the co-ordinate Bench in FA 203 of 2013 and other appeals on 22.11.2017 squarely covers the facts of the present appeal.

4. In the present appeal different points are raised, *inter alia*, the multiplier to be applied instead of 8 to 10; deduction towards cultivation cost be reduced from 50% to 20%; quantum of loss of earning and solatium are to be revisited in terms of the market value as decided in FA 203 of 2013 and other appeals.

5. Regard being had to such facts and submissions and our satisfaction to the effect that judgment passed in FA 203 of 2013 and other appeals squarely covers the field so far as the present appeal is concerned, we remand the matter to the learned Additional District Judge, 1st Court, Darjeeling to revisit the matter in the

appeal in the light of the judgment passed by the co-ordinate Bench of this Court in FA 203 of 2013 and other appeals on 22.11.2017 (Supra).

6. The entire exercise be completed within a period of six months from the date of receipt of records from this Court. The parties are directed not to indulge in any unnecessary adjournments in the matter. In revisiting the matter on remand, learned Additional District Judge, 1st Court, Darjeeling shall be guided by the exercise made by this Court in Land Acquisition Case No. 2 of 1997 after the remand by the co-ordinate Bench in FA 203 of 2013 and other appeals disposed of on 22.11.2017 (Supra).

7. Learned Additional District Judge, 1st Court, Darjeeling is directed to do the needful for directing the payment of at least 50% of the original awarded amount along with interest during the pendency of the matter on remand on filing of proper application to that effect.

8. Accordingly, the impugned order in the appeal is set aside and the matter is remanded.

9. The records be sent down immediately to the learned Trial Court through special messenger at the cost of the land loser.

10. Accordingly, the appeal stands disposed of.

(Chitta Ranjan Dash, J.)

(Partha Sarathi Sen, J.)