

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.6 of 2015

The State Of Bihar through the Collector, Banka

... ..Opposite Party/Appellant

Versus

Md. Ahsanul Hoda @ Md Ashanul Hoda son of Late Shakoor resident of
Village - Kolgama, Police Station - Sultanganj, District - Bhagalpur.

... ..Petitioner/Respondent

Appearance :

For the Appellant/s : Mr.Kamlesh Kumar Sharma

For the Respondent/s : Mr.Farooque Ahmad Khan

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV JUDGMENT

Date : 10-04-2024

I have already heard the learned counsel for the parties.

2. The State of Bihar, through the Collector, Banka, has preferred this appeal, being aggrieved and dissatisfied with the judgment and award dated 23.07.2014 and 01.08.2014, passed by the learned Land Acquisition Judge, Banka in L.A.R.Case No. 04 of 1992, whereby the learned court below enhanced the awarded amount of compensation.

3. The respondent's land, along with the lands of other *raiyats* were acquired by the State Government for construction of a water reservoir. The details of the land of the respondent is khata no.111, plot no.2995, area 30.32 acres, situated in Mouza Mothabari, Thana Katoria, Thana No.96, Pargana Sarohi, District Bhagalpur (now Banka). The total area of the acquired land of the respondent is 30.32 acres, the compensation amount was paid to the respondent on two



occasions. On 29.06.1985, the Department paid him Rs. 55,788.80 and again on 08.01.1987, he was paid Rs.17,949.14, totaling Rs.73.737.94. The respondent made objection as the amount was too less in comparison to the property acquired by the State Government and the Land Acquisition Case No. 76 of 1981-1982 was referred to the court below under Section 18 of the Land Acquisition Act, 1894 for determination of adequate and fair compensation.

4. The case of the respondent was that it was agricultural land and he used to get income of Rs. 50,000/- per year from cultivation. The petitioner/respondent also claimed the market value of the acquired land at the rate of Rs.50,000/- per acre which comes to Rs. 500/- per decimal. The respondent examined four witnesses on his behalf and he also produced four exemplar sale deeds. These are Ext.1 to Ext.1/C. From the same notification, the lands of other landholders were also acquired. The certified copy and judgment L.A.Ref. Case No. 21 of 1988 is Ext.2 and the certified copy of its award is Ext.3. It is not out of place to mention here that L.A.Ref. Case No. 21 of 1988 arose out of the same L.A.Case No. 76 of 1981-1982. In that case also, the State Government challenged the order of the court below before this Court in F.A.No. 189 of 2005, which is



Ext.2/A. This Court decreased the amount of compensation granted by the court below from Rs. 250/- per decimal to Rs. 100/- per decimal. The landholder of that case approached the Hon'ble Supreme Court and challenged the order of this Court in Civil Appeal No. 5311/2012 in S.L.P. (C) No. 34284 of 2011. The certified copy of the order of the Apex Court is Ext. 2/B, which shows that the order of this Court passed in F.A.No. 189 of 2005 was set aside and the order of the learned court below was upheld.

5. After considering these evidences, the learned court below found that the nature of the land and its geographical situation is almost the same.

6. Four exemplar sale deeds Ext.1 to Ext.1/C, as discussed above, were also given in evidence by the petitioner/respondent to show the immediate market value of the land, prevalent at the time of acquisition of the land. Ext.1 is the sale deed relating to the same Mouza which was executed on 25.11.1980 by Md. Koushar Ali in favour of Bibi Koili. According to the sale deed, the land was sold at the rate of Rs. 240 per decimal. Ext.1/A is also a sale deed pertaining to same Mouza, executed on 16.10.1975. According to that sale deed, the price of the sold land was calculated at the rate of Rs. 230/-



per decimal. Ext.1/C is a sale deed dated 16.01.1975, according to which 34.30 decimal land was sold at the rate of R. 500 per decimal. The learned court below, after considering the exemplar sale deeds as well as the judgment of the Hon'ble Supreme Court in Civil Appeal No. 5311 of 2012-SLP (C) No. 34284 of 2011, granted compensation to the petitioner/respondent at the same rate i.e. Rs.250 per decimal, as was granted by the court below and confirmed by the Supreme Court in the above mentioned case. In addition to the compensation, as mentioned above, the learned court below also granted Rs. 30,000/- to the petitioner/respondent for the loss of crops ground on the said land. A solatium was also granted at the rate of 30% on the market value of the land. Besides that, 12% additional amount over the market value of the land and crops was also granted to the petitioner/respondent from the date of notification.

7. The learned counsel for the State of Bihar (appellant) submitted that the learned court below committed illegality in enhancing the amount since the vendees or vendors of the exemplar sale deeds were not examined. He also submitted that the High Court has decreased the amount in a case arising out of same notification.



8. On the other hand, the learned counsel for the respondent submitted that it is true that in another case arising out of the same notification, the High Court though had decreased the compensation amount, but the order of the High Court was set aside by Hon'ble the Supreme Court and the Hon'ble Supreme Court upheld the order of the Land Acquisition Court, whereby the compensation was granted at the rate of Rs. 250 per decimal. The nature and situation of the land of the present case is similar to that case and considering these facts, the learned court below granted compensation at the rate of Rs. 250 per decimal, also in the present case.

9. The evidences adduced by the parties were fully considered by the court below and the court below is right and justified in enhancing the amount of compensation and other benefits, such as solatium, interest etc.

10. I do not find merit in this appeal which is accordingly dismissed.

(Nawneet Kumar Pandey, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	26.02.2024
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