

04.09.2024.
Court No.13
Item No. 38
pk

F.A.T. No. 72 of 2016
With
I.A. No. CAN 3 of 2024

State of West Bengal & Anr.
Versus
Binoy Krishna Acharjya & others

Mr. Jayanta Samanta,
Mrs. Paromita Malakar (Dutta)
... for the appellants.

Re : CAN 3 of 2024

1. Sufficient grounds are available to explain the absence of the appellants and/or their Counsel on 14.05.2024.
2. The said order is recalled and the appeal is restored to its original file and number.
3. Accordingly, CAN 3 of 2024 is disposed of.
4. There will be, however, no order as to costs.

Re: FAT 72 of 2016

1. The instant Appeal, filed by the State, is directed against the judgement and decree dated 03.04.2013 passed by the learned Additional District Judge, 11th Court, Alipore in L. R. A. No. 32 of 2009 (Sri Benoy Krishna Acharjya and another Vs. the L. A. Collector, South 24 Parganas).
2. The brief facts relevant to the case are that the L. A. Collector had referred the case under Section 18 of the Act of 1894 under Memo dated 15.09.2009 at

the instance of the claimants for modification of the award passed by the L. A. Collector in L. A. Case No.11/2/1 of 1977-78.

3. The land in question was requisitioned under Section 3 (1) of the West Bengal Land (Requisition and Acquisition) Act, 1948 for the purpose of “East Calcutta Area Development Project”.
4. The beneficiary for whom acquisition was made, was the Kolkata Metropolitan Development Authority. The land was acquired under Notification No. 8384-LA (PW) dated 01.12.1983 under Section 4 of the Act of 1948.
5. The L. A. Collector made an award on 10.08.1988 for acquiring 0.62 decimals of Danga land and 9.546 Acres of Shali land. The land of the petitioners was 0.033 Acres and 0.1225 Acres at the following rates:-
 Danga land- Rs. 1,25,300/- per acre (Rs. 2079 per cottah)
 Shali land- Rs. 83,540/- per acre (Rs. 1381 per cottah).
6. In addition thereto 30% SA and 6% interest for two years was also awarded.
7. Rental compensation solatium was also awarded for the period from 12.01.1979 till 07.12.1983.
8. For omission the LA Collector to make the reference under Section 18 of the Act of 1894, the claimants filed WP 12229 (W) of 2001. Pursuant to order of

this Court dated 17.08.2001, the reference was made and the amount of compensation was then deposited in the Court below. The reference was taken up and numbered as LRA Case No. 32 of 2009.

9. The State as well as the KMDA participated in the hearing. Neither the appellants nor the KMDA have filed any written objection or led oral evidence before the learned Additional District Judge.
10. The learned Court below accepted the argument of the claimants that in another LA Case No. 8282 (PW) dated 21.11.1983, less than a month before the subject acquisition, the compensation awarded in LRA case No. 29 of 1996 was at Rs. 25,000/- per cottah.
11. The Court below found that judgment of the LA Judge in LRA Case No. 29 of 1996 dated 12.12.2003 was itself based on a decision of this Court in the case of ***State of West Bengal & Ors. Vs. Anil Kumar Ghosh*** reported in ***2001 CWN 974***. The State had carried the said decision to the Supreme Court and the SLP was dismissed.
12. Based on the above, the Court below held that the market value of the Shali land ought to be Rs. 25,000/- per cottah, in terms of the decision dated 12.12.2003 in LRA Case No. 29 of 1996 (V).

13. The learned Additional District Judge also noted that no amount was paid to the claimants in terms of his own assessment by the L. A. Collector.
14. The reasoning advanced by the Court below is appropriate and sound. The appellants have not demonstrated in the Court below that the land acquired under the subject notice of acquisition was any different from the subject matter of land in LRA Case No. 29 of 1996 (V).
15. In fact, this Court is of the view that the claimants could have made a higher claim in respect of the Danga land than Rs. 25,000/- since the Shali land itself was valued at Rs. 25,000/-.
16. In the above circumstances, the decision of the Court below that
 - a. the market value of the acquired land ought to be Rs. 25,000/- per cottah,
 - b. solatium @30% of the market value of the acquired land under Section 23(2) of the Act of 1894 and,
 - c. the rental compensation @6% of the market value plus solatium from 12.01.1979 (date of taking possession till the date of award), i.e., 09.08.1988 and,
 - d. interest @9% till the expiry of one year and 15% after 09.08.1989 till the actual date of payment on the entire compensation, i.e., market value plus solatium,

cannot be faulted. The said decision is in terms of the law of the land as settled.

17. For the reasons stated hereinabove, FAT 72 of 2016 fails and is hereby dismissed.
18. In view of the above, all connected applications shall also stand dismissed.
19. The appellants shall pay compensation as directed by the Courts below mandatorily and positively within a period of 6 weeks from date.
20. The Registry of this Court shall communicate a copy of this order to the respondents.
21. There shall be no order as to costs.
22. Urgent photostat certified copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)