01.08.2024
Court No.13
Item Nos.6 to 29
AP

FAT 3150 of 1997
With
IA NO: CAN 1 of 1998 (Old No: CAN 10118 of 1998)
With
CAN 2 of 1998 (Old No: CAN 4930 of 1998)
With
CAN 3 of 2017 (Old No: CAN 8981 of 2017)
State of West Bengal
Vs.
Rabin Kumar Dutta

With
COT 4086 of 1998
State of West Bengal
Vs.
Rabin Kumar Dutta

With
COT 4087 of 1998
State of West Bengal
Vs.
Rabin Kumar Dutta

With
COT 4088 of 1998
State of West Bengal
Vs.
Rabin Kumar Dutta

With
COT 4089 of 1998
State of West Bengal
Vs.
Rabin Kumar Dutta

With
COT 4090 of 1998
State of West Bengal
Vs.
Jiban Kumar Dutta

With
COT 4091 of 1998
State of West Bengal
Vs.
Jiban Kumar Dutta

With
COT 4092 of 1998
State of West Bengal
Vs.

Jiban Kumar Dutta

With
COT 4093 of 1998
State of West Bengal
Vs.
Jiban Kumar Dutta

With
COT 4094 of 1998
State of West Bengal
Vs.
Swapan Kumar Dutta

With
COT 4095 of 1998
State of West Bengal
Vs.
Swapan Kumar Dutta

With
COT 4096 of 1998
State of West Bengal
Vs.
Swapan Kumar Dutta

With
COT 4097 of 1998
State of West Bengal
Vs.
Swapan Kumar Dutta

With
FAT 3151 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/146/1998)
With
CAN/2/1998(Old No:CAN/4931/1998)
With
CAN/3/1999(Old No:CAN/1851/1999)
With
CAN/5/2004(Old No:CAN/278/2004)
With
CAN/6/2017(Old No:CAN/8984/2017)
State of West Bengal
Vs.
Rabin Kumar Dutta

With
FAT 3152 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/147/1998)
With
CAN/2/1998(Old No:CAN/4932/1998)

With
CAN/3/1999(Old No:CAN/1852/1999)
With
CAN/5/2017(Old No:CAN/2627/2017)
State of West Bengal
Vs.
Rabin Kumar Dutta

With
FAT 3153 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/148/1998)
With
CAN/2/1998(Old No:CAN/4933/1998)
With
CAN/3/1999(Old No:CAN/1884/1999)
With
CAN/4/2000(Old No:CAN/1509/2000)
With
CAN/5/2000(Old No:CAN/1552/2000)
With
CAN/7/2017(Old No:CAN/2626/2017)
State of West Bengal
Vs.
Rabin Kumar Dutta

With
FAT 3154 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/149/1998)
With
CAN/2/1998(Old No:CAN/4934/1998)
With
CAN/3/1999(Old No:CAN/1853/1999)
With
CAN/4/2000(Old No:CAN/1510/2000)
With
CAN/5/2000(Old No:CAN/1553/2000)
With
CAN/7/2018(Old No:CAN/6534/2018)
With
CAN/8/2018(Old No:CAN/6538/2018)
State of West Bengal
Vs.
Jiban Kumar Dutta

With
FAT 3155 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/150/1998)
With
CAN/2/1998(Old No:CAN/4935/1998)
With
CAN/3/1999(Old No:CAN/1885/1999)

With
CAN/4/2000(Old No:CAN/1511/2000)
With
CAN/5/2000(Old No:CAN/1554/2000)
With
CAN/7/2018(Old No:CAN/6535/2018)
With
CAN/8/2018(Old No:CAN/6539/2018)
State of West Bengal
Vs.
Jiban Kumar Dutta

With
FAT 3156 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/151/1998)
With
CAN/2/1998(Old No:CAN/4936/1998)
With
CAN/3/1999(Old No:CAN/1886/1999)
With
CAN/4/2000(Old No:CAN/1512/2000)
With
CAN/5/2000(Old No:CAN/1555/2000)
With
CAN/7/2018(Old No:CAN/6536/2018)
With
CAN/8/2018(Old No:CAN/6540/2018)
State of West Bengal
Vs.
Jiban Kumar Dutta

With
FAT 3157 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/4937/1998)
With
CAN/2/1999(Old No:CAN/1854/1999)
With
CAN/4/2018(Old No:CAN/6537/2018)
With
CAN/5/2018(Old No:CAN/6541/2018)
State of West Bengal
Vs.
Jiban Kumar Dutta

With
FAT 3158 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/153/1998)
With
CAN/2/1998(Old No:CAN/4938/1998)
With
CAN/3/1999(Old No:CAN/1887/1999)

With
CAN/4/2000(Old No:CAN/1513/2000)
With
CAN/5/2000(Old No:CAN/1556/2000)
State of West Bengal
Vs.
Swapan Kumar Dutta

With

FAT 3159 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/154/1998)
With
CAN/2/1998(Old No:CAN/4939/1998)
With
CAN/3/1999(Old No:CAN/1888/1999)
With
CAN/4/2000(Old No:CAN/1514/2000)
With
CAN/5/2000(Old No:CAN/1557/2000)
State of West Bengal
Vs.
Swapan Kumar Dutta

With

FAT 3160 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/155/1998)
With
CAN/2/1998(Old No:CAN/4940/1998)
With
CAN/3/1999(Old No:CAN/1889/1999)
With
CAN/4/2000(Old No:CAN/1515/2000)
With
CAN/5/2000(Old No:CAN/1558/2000)
State of West Bengal
Vs.
Swapan Kumar Dutta

With

FAT 3161 of 1997
With
IA NO: CAN/1/1998(Old No:CAN/156/1998)
With
CAN/2/1998(Old No:CAN/4941/1998)
With
CAN/3/1999(Old No:CAN/1890/1999)
With
CAN/4/2000(Old No:CAN/1508/2000)
With

CAN/5/2000(Old No:CAN/1559/2000)
State of West Bengal
Vs.
Swapan Kumar Dutta

Mr. Md. T.M. Siddiqui
Mr. S. Dhar
Mr. S. Adak
... for the Appellant/State.

Ms. Nibedita Pal
... for the Respondent.

1. The present batch of appeals are directed against a judgment and order dated 20th December, 1996 rendered by the Additional District Judge sitting as Land Acquisition Judge in Reference Case Nos.104 of 1992 to 115 of 1992. The reference was under Section 18 of the Land Acquisition Act against the order of the L.A. Collector Purulia in respect of acquisition of R.S. Plot No.1953 appertaining to R.S. Khatian No.1271, J.L. No.2, Mouza Purulia, District Purulia. The said judgment was applied to several other LA Cases that are more fully described in the appeals taken out by the State referred to in the Cause Title to this common judgment. The L.A. Collector had assessed the land per decimal at Rs.2181/-.

2. Challenging the same, the land losers have filed L.A. Cases. The learned Additional District Judge (L.A. Judge) Purulia had enhanced the per decimal rate of the land from Rs.2,181/- to Rs.22,000/- per

decimal. The said judgment was applied to all the LA cases in the said process of acquisition under taken by the State. The State being aggrieved by the order dated 20th December, 1996 passed by the Additional District Judge (L.A. Judge) Purulia has preferred the aforesaid appeals that are being heard and disposed of by this common judgment.

3. The land in question was sought to be acquired by the State for the purpose of construction of flyover over the railway line of Purulia under notification No.2567/L.A. (P.W.) 2 R-2/90 dated 21st Ferbuary, 1990 and published on 20th March, 1990. The proceedings were taken out under the West Bengal Land Acquisition and Requisition Act, 1948, which has since expired. The acquisition and compensation, however, decided under the Land Acquisition Act, 1894.

4. The land losers accepted the compensation decided by the L.A. Collector without prejudice to their rights and contentions in proceedings under Section 18 that was decided by the Court below.

5. The land is admittedly a 'Danga' land.

6. In the Court below, the land losers produced two witnesses. PW 1, Jivan Kr. Dutta, one of the land losers. PW 2, Rajesh Kr. Kheria, an adjacent landowner.

7. On behalf of the State one Sunil Kr. Mukherjee deposed in evidence as O.P.W. He was a Kannonguha attached to the Land Acquisition Department of Purulia. The Court below received evidence of three title deeds in respect of the surrounding land that was marked as Exhibits 1, 2 and 3. The State relied upon Exhibit 4, a sale deed of land of the year 1992.

8. From the evidence led by the parties, the following facts have emerged.

9. There is a cinema house, a biscuit factory, four oil mills, one pipe manufacturing unit, an aluminum factory, Office of the Central Exercise Department, a Kali Temple in the vicinity of one and half kilometers around the land. The land is situated within the municipality area of Purulia Municipality.

10. There are some houses within 50 cubits around the acquired land. The railway station, Government Circuit House and the main post office of Purulia are within a distance of one and half kilometers around the land.

11. The title deeds being Exhibit 1, 2 and 3 indicated that the value of the land sold therein was Rs.60,000/- per 1 cottah 6 chittaks (about 990 Sq. Ft.).

12. Based on the evidence as above, the Court below, found that the per decimal rate awarded by the L.A. Collector was far too low compared to the market rate. Aggrieved by the findings of the learned Additional District Judge, Mr. Siddiqui, learned counsel for the State would argue as follows:-

(a) The land acquired by the State was characterized as 'Danga', which is primarily for the agricultural purposes. The rates of land, brought in evidence by the land losers in the Court below pertained to Bastu/residential/industrial land. The learned Judge could not have given any credence to the evidence of the respondents.

(b) The Court below failed to mention that PW 1, Jiban Kr. Dutta, could not produce any evidence that the acquired land was within any proposed flourmill he was going to set up thereat. There was only an oral statement to this effect. The Court below failed to take into consideration that the value of the land with which the value of the acquired land was compared was about one and half kilometers away. The Court below, therefore, committed error in applying the valuation of the distant land to the land acquired.

(c) It is further submitted that the Court below committed error in ignoring the Exhibit 4 which is a deed of the year 1992 and the valuation contained therein.

(d) It is submitted by Mr. Siddiqui that with the passage of two years after the acquisition, prices of land normally increased. The Court below should have followed at least the valuation in the land in the title deed of the year 1992 produced on behalf of the State.

13. Mr. Siddiqui has placed Sections 23 and 24 of the Land Acquisition Act, 1894. It is argued that the first five factors required to be taken into consideration under Section 23 have not been so considered by the Court below and the factors required to be ignored under Section 24 of the Act particularly the sixth factor has been wrongly taken into consideration by the Court below.

14. Reliance is placed by Mr. Siddiqui firstly on the decision of the Supreme Court in the case of ***Land Acquisition Officer, Kammarapally Village, Nizamabad District, A.P. Vs. Nookala Rajamallu and Ors.*** reported in ***(2003) 12 SCC 334*** particularly Para 6 to 11 thereof and the case of ***Special Land Acquisition Officer Vs. Indian Standard Metal Co. Ltd.*** reported in ***(2005) 9 SCC 759*** particularly Para

9, 10, 11 and 15 thereof. These cases are referred to support the argument that distance of the property from the property produced to support the valuation of a land loser is vital factor to be considered.

15. Reliance is lastly placed on the decision of the Supreme Court in the case of ***Hookiyar Singh and Ors. Vs. Special Land Acquisition Officer, Moradabad and Anr.*** reported in (1996) 3 SCC 766 particularly Para 6 thereof on the question of market value.

16. Learned counsel for the respondents in support of the decision of the impugned judgment placed reliance upon a decision of the Division Bench of the Himachal Pradesh High Court in the case of ***Land Acquisition Collector Vs. Sukhdev Singh*** reported in ***AIR 1995 Himachal Pradesh 150*** particularly Para 11 thereof.

17. This Court has very carefully considered the entire evidence on record of the impugned judgment. Indeed it is true that the land acquired by the State is in the character as 'Danga'. 'Danga' is an expression in Bengali used to describe an elevated land primarily used for agriculture. For the purpose of usage of the land for non-agricultural purposes a formal order of conversion of the land is required to be issued by the Office of the District Magistrate.

18. One cannot, however, ignore the fact that a 'Danga' land within a municipal area is no longer used for agriculture. While the conversion of this particular land may not have occurred, industrial activity in the surrounding areas within the radius of a kilometer namely four oil mills, biscuit factory, a pipe manufacturing factory and an aluminum factory, a cinema hall, Office of the Central Exercise Department, a Kali Temple and residential houses within 50 cubits would indicate that most of the land in surrounding areas have already been converted to 'Bastu' or residential land.

19. There is clear evidence on record that one of the claimants was intending to establish a flourmill on the land in question while it is true that he could not produce evidence that a portion of the acquired land fall within the land he was intended to use for setting up flourmill. The evidence of PW 1 in this regard cannot be discarded or disbelieved or thrown away. There is huge amount of industrial activity in the vicinity of the land in question. In the light of the above, the argument advanced by the State that the valuation of the land being 'Danga' in the nature cannot be compared to 'Bastu' land, cannot be accepted.

20. This Court further notices that the three title deeds produced by the respondents in the Court

below support the argument of the respondents and the findings of the Court below as regards the valuation of the land being far higher than Rs.2100/- and odd.

21. Admittedly, there is clear evidence that, within a distance of one and half kilometers of the land in question, there is a railway station, main post office of the town and government circuit house, Office of the Central Exercise Department and a Kali Temple.

22. The finding of the Court below that the land in question is fast developing mean not to be a factor for enhancing valuation as the same is a future consequence but lends credence to the abysmally low valuation of the Land Acquisition Collector.

23. The land was purchased by the land losers for industrial purposes. The evidence of PW 1, 2 and 3 could not be shaken by the State in any form.

24. The next argument of Mr. Siddiqui is that there is evidence on record to indicate that the valuation of the lands in title deeds produced by the claimants that it was artificially increased to prevent a neighbor from purchasing the property cannot be conclusive.

25. The Learned Judge in the Court below has himself recorded that the witness might have been

hard of hearing. Except to rely upon the documentary evidence, therefore, there is no oral evidence that would upset the contents of the documentary evidence.

26. This Court also notices that while the State has brought one witness from the office of the Land Acquisition Collector they have not been able to produce any evidence to counter the valuation of the surrounding lands for the purpose of the assessing the actual value of the acquired land.

27. This Court also finds that the Court below has borne in mind the factors mentioned in Section 23 of the Act of 1894 particularly the market value existing prior to the date of acquisition and the lose and damage likely to be caused to the land losers for not being able to use the land for their pre-determined purpose. The Court has not taken into consideration the matters required to be neglected under Section 24 of the Act of 1894.

28. Further the dicta in paragraphs 8 and 11 of ***Land Acquisition Officer, Kammarapally Village, Nizamabad District, A.P. Vs. Nookala Rajamallu and Ors.*** decision (supra) have been borne in mind and the distinction drawn between the agricultural and non-agricultural lands by the Court below has already been discussed hereinabove.

29. This Court also notes that the findings of valuation arrived at by the Court below was not based solely on the sale deeds but also several other factors as discussed and mentioned hereinabove.

30. None of the dicta in the three cases cited by the learned Counsel for the State appear to have been ignored or violated by the Court below.

31. This Court also notes that the principles to be borne in mind as laid down by the Hon'ble Supreme Court of India in the case of ***Chimanlal Hargovinddas – Vs. – Special Land Acquisition Officer, Poona*** reported in ***AIR 1988 Supreme Court 1652*** as set out in paragraph 11 of the decision in the case of ***Sukhdev Singh (supra)*** relied upon by the respondents have duly been borne in mind by the Court below for the purpose of convenience. The said dicta in paragraph 11 is set out hereinbelow:

> "11. While determining the market value of the acquired land on the basis of comparable sale transactions, the factors which are required to be kept in view have been laid down by Supreme Court in Chimanlal Hargovinddas v. Special Land Acquisition Officer, Poona, AIR 1988 SC 1652 :-
>
> (1) A reference under Section 18 of the Land Acquisition Act is not an appeal against the award and the Court cannot take into account the material relied upon by the Land Acquisition Officer in his Award unless the same material is produced and proved before the Court.
>
> (2) So also the Award of the Land Acquisition Officer is not to be treated as a judgment of the trial Court open or exposed to challenge before the court hearing the Reference. It is merely an offer made by the Land Acquisition Officer and the material utilised by him for making his valuation cannot he utilised by the Court unless produced and proved before it. It is not the

function of the court to sit in appeal against the Award, approve or disapprove its reasoning, or correct its error or affirm, modify or reserve the conclusion reached by the Land Acquisition Officer, as if it were an appellate Court.

(3) The Court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it.

(4) The claimant is in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the Court. Of course, the materials placed and proved by the other side can also be taken into account for this purpose.

(5) The market value of land under acquisition has to be determined as on the crucial date of publication or the notification under S.4 of the Land Acquisition Act (dates of Notifications under Ss. 6 and 9 are irrelevant).

(6) The determination has to be made standing on the date line of valuation (date of publication of notification under S.4) as if the valuer is hypothetical purchaser willing to purchase land from the open market land is prepared to pay a reasonable price as on that day. It has also to be assumed that the vendor is willing to sell the land at a reasonable price.

(7) In doing so by the instances method, the Court has to correlate the market value reflected in the most comparable instance which provides the index of market value.

(8) Only genuine instances have to be taken into account. (Sometimes instances are rigged up in anticipation of Acquisition of land.)

(9) Even post-notification instances can be taken into account (1) if they are very proximate, (2) genuine and (3) the acquisition itself has not motivated the purchaser to pay a higher price on account of the resultant improvement in development prospects.

(10) The most comparable instances out of the genuine instances have to be identified on the following considerations:-

(i) proximity from time angle.

(ii) proximity from situation angle.

(11) Having identified the instances which provide the index of market value the price reflected therein may be taken as the norm and the market value of the land under acquisition may be deduced by making suitable adjustments for the plus and minus factors vis-a-vis land under acquisition by placing the two in juxtaposition.

(12) A balance-sheet of plus and minus factors may be drawn for this purpose and the relevant factors may be evaluated in the terms of price variation as a prudent purchaser would do.

(13) The market value of the land under acquisition has thereafter to be deduced by loading the price reflected in the instance taken as norm for plus factors and unloading it for minus factors.

Plus factors

1. Smallness of size.

2. Proximity to a road.

3. Frontage on a road.

4. Nearness to developed area.

5. Regular shape.

6. Level vis-a-vis land under acquisition.

7. Special value for an owner on an adjoining property to, whom it may have some very special advantage.

(14) The exercise indicated in clauses (11) to (13) has to be undertaken in a common sense manner as a prudent man of the world of business would do......"

The learned Judges of Supreme Court have further pointed out that evaluation of these factors depends upon the facts of each case and there cannot be any hard and fast or rigid rule. Common sense is the best and most reliable guide."

32. In view of the above, this Court finds that the valuation of the land fixed at Rs.22,000/- per decimal has been done after considering the fact that the neighbouring lands have been assessed at Rs.26,400/- per decimal and deduction of 15% was effected therefrom. This Court is, therefore, in complete agreement with the findings of the Court below that the value of the land in question per decimal has been fairly assessed at Rs.22,000/-.

33. There is no infirmity found in the impugned judgment.

34. In view of the above, the impugned judgment and order dated 20th December, 1996 is upheld.

35. All appeals are failed and hereby dismissed.

36. All cross-appeals filed by the claimants are dismissed as not pressed as submitted by the learned Counsel Ms. Nibedita Pal on instructions of the land losers.

37. It is ordered that the compensation as decided by the Court below be released to each of the land losers within a period of two months from the date of receipt of a copy of this judgment after deducting any sums already received by them.

38. All the connected pending applications for substitution of the legal heirs of the deceased land losers on record are hereby allowed.

39. The Registry of this Court shall amend the cause title of the appeal as expeditiously as possible.

40. The respondents shall co-operate with the Registry in complying with any requisites in this regard.

41. The sureties, given to the Registrar General of this Court by the respondents shall hereby stand discharged. Any document towards such surety or title deed deposited by the respondents with the

Registry of this Court shall be returned to them forthwith.

42. Accordingly, all connected pending CAN applications are disposed of.

43. There shall be no order as to costs.

44. All parties are directed to act on a server copy of this order duly downloaded from the official website of this Court.

(Rajasekhar Mantha, J.)

(Ajay Kumar Gupta, J.)