09.03.2026.
Item No. 7.
Court No. 13
ap

F.A.T. No. 442 of 2011
With
I.A. No. CAN 3 of 2012 (Old CAN 11151 of 2012)

Mineral Exploration Corporation Limited
Versus
Zenith Investment (P) Ltd. & Anr.

Mr. Debayan Bera,
Mr. Dinabandhu Chowdhury,
Mr. Amal Kumar Saha,
Ms. Iresh Paul.
...For the appellant.

Mr. Avinash Kankani,
Mr. Aurin Chakraborty,
Ms. Shree Chatterjee.
...For the respondent no.1.

1. The subject appeal challenges the judgment dated 20th April, 2011 passed by the learned 5th Special Land Acquisition Judge, South 24 Parganas at Alipore in L.A. Case No. 1 of 2003 (V) [Messrs. Zenith Investments Private Limited – Vs. – State of West Bengal] (State of West Bengal was the acquiring body and Messrs Mineral Exploration Corporation Limited was the requiring body).

2. At the instance of the appellant/requiring body, the State of West Bengal, acquired premises No. 8/5, Alipore Park Road, Kolkata – 700 027 comprising of 1 bigha 11 cottahs 2 chittacks and 30 sq. ft. with partly three storied structure and partly two storied building. The total constructed area was 8661.61 sq. ft. The acquisition was effected under Act I of 1894 vide Case No. 3 of 1997. The proceedings culminated in the year

1998. The L.A. Collector had valued the land at Rs.5,22,000/- per cottah and value of the structure at Rs.17,81,134/- and published Award on 2nd April, 2001.

3. Before the L.A. Collector, the acquiring body, the requiring body and the land looser led evidence. The common evidence between the three parties were Exhibit - 4, Exhibit – D and Exhibit – 3A respectively being a Sale Deed dated 18th September, 1996 in respect of an adjacent premises being No. 8/6B, Alipore Park Road, Kolkata – 700 027.

4. The Deed of the adjacent premises indicated that 1/20th share of 16 cottahs of land with structure was sold at a total consideration of Rs.8,00,000/- and structure was valued at Rs.2,26,363/-.

5. Notwithstanding the above, the L.A. Collector in his Award, while accepting the value of the entire land and building of the adjacent structure to be Rs.8,00,000/-, went on to value the structure at Rs.14,93,400/- and the appreciation of Rs.300/- per sq. ft. was taken into consideration by the L.A. Collector in the Award in respect of the structure of which it was valued at Rs.14,93,400/-.

6. Learned Counsel appearing on behalf of the appellant/requiring body submits that once there is a common document and evidence led by all the parties and reliance is uniformly placed thereon, the L.A. Collector committed error in deviating the valuation of

the land and structure as described in the Title Deed of the adjacent premises.

7. Despite the documents being available to the L.A. Collector, the valuation of the structure at Rs.14,93,400/- is ex facie illegal and de hors the evidence on record.

8. Learned Counsel for the land looser has sought to place reliance upon a valuation report exhibited by his clients before the Trial Court where the Award of the L.A. Collector came to be challenged.

9. The Valuer himself has admitted that the valuation in the Title Deed dated 18th September, 1996 in respect of the adjacent premises being premises No. 8/6B, Alipore Park Road, Kolkata – 700 027 may not be completely correct and has went on to find undervaluation in the Title Deed.

10. This indicates the approbation and reprobation on the part of the land looser. The Trial Judge, however, did not take the said Valuer's report into consideration. No credence is, therefore, given to such valuation report dated 5th March, 2003 by this Court.

11. This Court appreciates the fairness of the learned Counsel for the respondent no.1/land looser in placing paragraph 4 of the decision of the Hon'ble Supreme Court of India in the case of ***State of Punjab & Another – Vs. – Hans Raj (Dead) by LRs. Sohan Singh & Others*** reported in ***(1994) 5 Supreme Court Cases 734***. In the said paragraph the Hon'ble

Supreme Court deprecated the practice of comparing the Title Deed of adjacent premises and the valuation of such premises mentioned therein. It upheld the practice of bona fide and genuine transactions in respect of the properties in the proximity to the property and to the time of such acquisition to be the real basis for determining the market value thereof.

12. Mr. Debayan Bera, learned Counsel appearing on behalf of the requiring body proceeded on the basis of the valuation mentioned in the said Title Deed dated 18th September, 1996 which clarified that the value of 1/20th undivided shares of the adjacent property the subject matter of the Title Deed dated 18th September, 1996 (supra) being Rs.8,00,000/- and the value of 1/20th share of the RCC structure to be Rs.2,26,361/- as mentioned in the Deed and stated that the same should be taken as bench mark valuation of the land in question which comes to Rs.5,73,639/- of 1/20th share in the value of the land. The land being 16 cottahs, the value of 1/20th share of land would be at Rs.1,14,72,780/- divided by 16, comes to a sum of Rs.7,17,048/- per cottah. This according to Mr. Bera ought to be the correct value of the land.

13. Mr. Debayan Bera fairly concedes that 5% ought to be added to the same based on the report of the Surveyor appointed by the L.A. Collector.

14. In view of the above discussions, the impugned judgment dated 20th April, 2011 and the Award dated

20th August, 1998 shall stand modified accordingly. The valuation of the structure by the L.A. Collector shall stand affirmed. The compensation payable to the respondent no.1/land loser shall be recalculated accordingly.

15. It is expected that the compensation to the land looser is paid as expeditiously as possible minus any sums that he has already received, preferably within a month of receipt of a copy of this order.

16. Since the requiring body has deposited the sum assessed by the District Judge with this Court and 50% thereof has been withdrawn by the land looser, based on the calculation indicated by us hereinabove, the L.A. Collector concerned shall prepare the calculation of the sums of compensation payable to the land looser in terms of the aforesaid order. The balance sum whereof after deduction of the sum withdrawn by the land loser together with accrued interest shall be payable to him. If any sum would remain with the Registrar General of this Court after payment to the land looser/respondent no.1, the same shall be made over to the appellant/requiring body, namely, Mineral Exploration Corporation Limited together with accrued interest.

17. The L.A. Collector is requested to prepare the calculation as indicated hereinabove and communicate the same to the Registrar General of this Court within

a period of one month from the date of receipt of this order.

18. With the aforesaid directions, F.A.T. 442 of 2011 shall stand disposed of.

19. In view of disposal of the appeal itself, the connected application being CAN 3 of 2012 shall also stand disposed of.

20. There will be no order as to costs.

21. 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.*)

(Rai Chattopadhyay, J.)