

**ORISSA HIGH COURT  
CUTTACK**

**FIRST APPEAL NO. 39 of 1992**

From the judgment dated 18.12.1991 passed by Sri D.K. Pradhan,  
Subordinate Judge, Jeypore in M.J.C. No.220 of 1987.

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Smt. Urmila Raut

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Appellant

-Versus-

Zone Officer No.IX, Upper  
Kolab Hydro Electric  
Project, Koraput.

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Respondent

For the Appellant : M/s. P.K. Routray, P.K.  
Mohanty, P.K. Ray &  
P.K. Patra.

For the Respondent : Addl. Standing Counsel.

**PRESENT :**

**THE HONOURABLE MR. JUSTICE PRADIP MOHANTY**

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Date of hearing & judgment : 14.10.2009  
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***PRADIP MOHANTY, J.*** This First Appeal by the claimant is directed against the  
judgment dated 18.12.1991 passed in Misc. Judicial Case No.220 of 1987  
by the learned Subordinate Judge, Jeypore.

2. The facts of the case, as borne out from the records, are that the land measuring Acs.11.67 cents appertaining to Khata No.90/23 (Plot No.959 Acs.2.50 cents, Plot No.131/846 Acs.3.17 cents and Plot No.68/848 Ac.6.00 cents) of Mouza-Mahanpada belonging to the appellant was acquired for Upper Kolab Hydroelectric Project, Koraput vide Revenue Department Notifications No.61229 dated 13.09.1984 and No.61330 dated 12.09.1984 published under Sections 4(1) of the Land Acquisition Act (hereinafter referred to as “the Act”) in the Orissa Gazette on 24.11.1984 and declaration under Section 17(4) of the Act was made on 13.11.1985. The Land Acquisition Officer classified the acquired land as Dry-I and awarded Rs.60,009.95 as compensation including 14% market value and 30% solatium. The appellant received the compensation on protest and filed objection on the ground that the compensation determined by the Land Acquisition Officer is inadequate. The matter was referred to the Subordinate Judge, Jeypore under Section 18 of the Act and registered as M.J.C. No.220 of 1987. The Land Acquisition Officer filed his counter. The Subordinate Judge on analysis of the oral and documentary evidence adduced by the parties confirmed the award passed by the Land Acquisition Officer.

3. Mr. Routray, learned counsel for the claimant/appellant submits that the acquired land is situated half a K.M. away from the railway station and within Sunabeda N.A.C area. It is quite fit for house sites. The claimant/appellant had also grown 208 numbers of fruit

bearing lemon trees over Plot No.68/848 out of three acquired plots. The cost of each plant was more than Rs.500/-. The total cost of 208 lemon trees would be more than Rs.1,04,000/-. The prevailing market rate of the acquired land leaving aside the lemon orchard was more than Rs.25,000/- per acre. But the Land Acquisition Officer without taking into consideration the prevailing market rate estimated the value. Besides, in respect of similar kind of land acquired under the very same notification compensation has been awarded at the rate of Rs.8,000/- per acre towards valuation of the land and a consolidated amount of Rs.30,000/- for the lemon trees.

4. Learned Additional Standing Counsel, on the other hand, submits that the land in question is not homestead. The valuation of the acquired land, as assessed by the Land Acquisition Officer, is just and proper. There is no evidence on record that there was a lemon orchard over plot no.68/848. Therefore, there is no scope for this Court to interfere with the impugned order.

5. The claimant/appellant in support of her claim examined three witnesses and exhibited 8 documents. C.W.3 is her husband. C.Ws.1 and 2 are two independent witnesses belonging to the locality where the acquired land situates. The respondent examined himself as OPW 1.

6. On careful consideration of the evidence, both oral and documentary, the learned Subordinate Judge came to hold that the

valuation of the acquired land has been correctly assessed by the Land Acquisition Collector and the compensation of Rs.60,009.95 including additional market value at the rate of 14% and solatium at the rate of 30% has been rightly awarded and having held so answered the reference in negative.

7. Perused the records of this case as well as the records of F.A. Nos.96 and 97 of 1997. In the instant case, the Land Acquisition Tribunal simply confirmed the assessment made and quantum of compensation awarded by the Land Acquisition Officer without taking into consideration the potency of the acquired land after Sunabeda was declared as NAC and existence of National Highway. Since the acquired land is situated within the Sunabeda NAC and National Highway passes nearby the acquired land, the valuation of the land is increasing day by day. Therefore, this Court sets aside the award passed by the learned Subordinate Judge, Jeypore and determines the market value of the acquired land at Rs.8,000/- per acre. So far as lemon trees are concerned, this Court determines the valuation of the lemon trees at Rs.20,000/- consolidated amount. The claimant is also entitled to all statutory benefits.

The First Appeal is accordingly disposed of.

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**PRADIP MOHANTY, J.**

Orissa High Court, Cuttack  
 The 14th October, 2009/**Alok**.