

RESERVED

THE HIGH COURT OF MEGHALAYA

MAF. No. 9 of 2008

The State of Meghalaya, Represented by the Secretary to the
Government of Meghalaya Home (Civil Defence) Department, Shillong.

:::Appellant.

Versus

Smti Saphadabiang Passah, D/o. (L) J. Shyrmang, R/o. longpiah, Jowai,
Jaintia Hills District.

::::Respondent.

Mr. S Sen Gupta, Advocate for the appellant.

Mr. K Sunar, Advocate for the respondent.

Date of hearing : 11.12.2013

Date of Judgment and Order : 13.12.2013

**HON'BLE THE CHIEF JUSTICE
and HON'BLE MR. JUSTICE S.R. SEN**

JUDGMENT AND ORDER

(ORAL : Hon'ble Prafulla C. Pant, Chief Justice)

1. This appeal preferred under Section 54 of Land Acquisition Act 1894 is directed against the Judgment and Order dated 28.07.2006 passed by Special Judicial Officer, Land Acquisition Cases, Shillong in reference Land Acquisition Case No. 1 (J) of 2004 whereby the land compensation has been enhanced by calculating increased market rate from Rs.122/- per sq mts to Rs.350/- per sq mts in respect of pinegrove and from Rs.280/- per sq mts in respect of barren Land.

2. Heard learned counsel for the parties and perused the record.

3. Brief facts of the case are that the State Government vide its Notification dated 8/5/2002 issued under Section 4 of Land Acquisition Act 1894 (for short "the Act of 1894") expressed an intention to acquire land measuring 29,220 sq mts of respondent Smti. Saphaidabiang Passah for public purpose (for construction of Home Guard Organization office). The 29,220 sq mts land was situated at Lad Nartiang, Jowai Elaka, Jaintia Hills District which was acquired by issuing Notification under Section 6 of the Act of 1894 issued in 2002. The Collector calculated the market value of the land and trees acquired and awarded compensation of Rs.44,68,876/- (Rupees forty four lakhs sixty eight thousand eight hundred seventy six). The respondent (owner of land) accepted the compensation under protest and moved an application under Section 18 of the Act of 1894 for referring the matter to a Civil Court. On refusal of the said application, the respondent filed a Writ Petition (C) No. 38 (SH) of 2004, whereupon this Court directed the Collector to make the reference under Section 18 of the Act of 1894. Consequently reference was made by the Collector, Jaintia Hills District to the Special Judicial Officer (L.A. Cases), Shillong. The present appellant filed its written statement before the said authority and as many as 6 issues were framed.

4. After recording evidence of the parties and after hearing them, the impugned order was passed by the reference Court enhancing the compensation from Rs.122/- per sq mts to Rs.350/- per sq mts in respect of acquired pinegrove land and from Rs.98/- per sq mts to Rs.280/- per sq mts in respect of barren land. Judicial Officer while deciding the reference awarded the solasuim @ 30% on the enhanced sum and also directed payment @ 12% interest on the enhanced sum.

5. Learned counsel for the appellant submitted that the reference Court has arbitrarily presumed increase by 50% every year in the market value, and assessed the value of the land at Rs.350/- per sq mts for pinegrove and Rs.280/- per sq mts for barren land.

6. It is admitted between the parties that land measuring 29,220 sq mts belonging to respondent (Smti Saphaidabiang Passah) was acquired in Lad Nartiang in Jaintia Hills District in 2002. It is not disputed that the Collector awarded a sum of Rs.44,68,876/- (Rupees forty four lakhs sixty eight thousand eight hundred seventy six) as compensation which was received by the respondent under protest. It is also not disputed that after this Court passed an order in Writ Petition (C) No. 38 (SH) of 2004, the reference was made by the Collector under Section 18 of the Act of 1894.

7. Perusal of the record shows that the land acquired consisted of two kinds of land. Out of 29,220 sq mts, area of 17,523 was pinegrove land, and 11,688 sq mts was barren land. It is settled principle of Law that in assessing market value of the land acquired, the Court has to see market value of the surrounding land, in the year, when the land in question was acquired.

8. Statement of O.P.W. 3 Mr. J Lyngdoh who was examined on behalf of present appellant (State of Meghalaya) told that in the year 1988, he inspected the land for the purposes of assessing market value and recommended Rs.52/- per sq mts for pinegrove land, and Rs.40/- per sq mts for the barren land this witness who is the Government Servant posted as EAC In-charge Revenue Branch of Jaintia Hills District assessed the market value at the above rate on the basis of the value of adjoining land in the year 1983. It is relevant to mention here that the land in question was actually acquired 19 years after 1983. Normally, rate of increase in the market value of the land of the kind, the present one which is in midst of Government Offices is 20% per year. That being so, the market value of the land acquired in 2002 should have been assessed at $\text{Rs.}52 \times 19/5 = 196.60$ per sq mts for pinegrove, and $\text{Rs.}40 \times 19/5 = 152/-$ per sq mts for barren land. As such, the market rate value assessed by reference Court i.e. Rs.350/- per sq mts for Pinegrove land and Rs.280/- per sq mts for barren land is excessive. The reference Court has arbitrarily increased by 50% per year on the

amount of Rs.50/- (for Pinegrove) and Rs.40/- (for barren land). There is nothing on record to assess 50% increase in the value of the land every year.

9. In the above circumstances, having considered the submissions of learned counsel for the parties and after going through the oral and documentary evidence on record, we are of the view that this appeal deserves to be allowed partly. Accordingly, this appeal is disposed of with the direction that impugned Judgment and Order dated 28/07/2006 passed in reference L.A. Case No. 1 (J) of 2004 by the Special Judicial, (Officer Land Acquisition Cases) Shillong awarding Rs.350/- per sq mts for acquired pinegrove, and Rs.280/- in respect of acquired barren land, is set aside, and it is directed that the appellant/Collector shall pay the compensation of the land acquired belonging to respondent by making payment of Rs.197.60/- per sq mts (instead of Rs.122/- per sq mts) for pinegrove land, and Rs.152/- per sq mts (instead of Rs.98/- per sq mts) for barren land to the respondent. The respondent shall be entitled also to 30% solasum on the enhanced amount as directed by this Court, and 12% interest on the enhanced amount from the date of publication of Notification under Section 4 (1) of the Act of 1894. The State Government shall further pay 9% interest per annum under Section 28 of the Act of 1894 on the enhanced amount of compensation if the amount is not deposited as required in said section. With the above modification in the award, the appeal stands disposed of.

(Hon'ble Mr. Justice S.R. Sen)
JUDGE
13th December, 2013

(Prafulla C. Pant)
CHIEF JUSTICE
13th December, 2013