

THE HIGH COURT OF TRIPURA
AGARTALA

L. A. App. No.14 of 2013 & L. A. App. No.15 of 2013

In L. A. App. No.14 of 2013

Sri Radhamohan Sinha,
son of Jogeshwar Sinha,
resident of Village-Ichabpur, Kailashahar,
represented by the Attorney, Sri Nirmal Kanti Sinha,
son of Sri Radhamohan Sinha, Village-Boulapassa,
Kailashahar, District-Unakoti, Tripura
.....**Appellant**

- Vs -

- 1. Land Acquisition Collector,**
District-Unakoti, Kailashahar, Tripura
- 2. ** The Executive Engineer,**
Water Resource (WR), Division No.VI,
Kailashahar, Unakoti District

**** (As per Hon'ble Courts order dated 06.03.2013, passed in C. M. Appl. No.115 of 2013, the respondent No.2 has been added)**

.....**Respondents**

In L. A. App. No.15 of 2013

Sri Amal Kumar Sinha,
son of Sri Radhamohan Sinha,
resident of Village- Boulapassa, Kailashahar,
represented by the Attorney, Sri Nirmal Kanti Sinha,
son of Sri Radhamohan Sinha, Village-Boulapassa,
Kailashahar, District-Unakoti, Tripura
.....**Appellant**

- Vs -

- 1. Land Acquisition Collector,**
District-Unakoti, Kailashahar, Tripura
- 2. ** The Executive Engineer,**
Water Resource (WR), Division No.VI,
Kailashahar, Unakoti District

**** (As per Hon'ble Courts order dated 06.03.2013, passed in C. M. Appl. No.116 of 2013, the respondent No.2 has been added)**

.....**Respondents**

B E F O R E
THE HON'BLE MR. JUSTICE S. TALAPATRA

For the appellants : Mr. D. Deb, Advocate
 For the respondent No.1 : Mr. P. Gautam, Advocate
 For the respondent No.2 : Mr. T. D. Majumder, GA
 Date of hearing and delivery : **31.07.2017**
 of judgment and order
 Whether fit for reporting : **NO**

Judgment and Order (Oral)

Heard Mr. D. Deb, learned counsel appearing for the appellants as well as Mr. P. Gautam, learned counsel appearing for the respondent No.1 and Mr. T. D. Majumder, learned Government Advocate appearing for the respondent No.2.

02. Both these appeals being L. A. App. No.14 of 2013 [Sri Radhamohan Sinha vs. Land Acquisition Collector, District-Unakoti, Kailashahar, Tripura and another] and L. A. App. No.15 of 2013 [Sri Amal Kumar Sinha vs. Land Acquisition Collector, District-Unakoti, Kailashahar, Tripura and another] are consolidated for disposal by a common judgment inasmuch as these appeals emanate from the same acquisition notification for the project called "Construction of Right Bank Manu Canal" under Mouja-Goldarpur under Kailashahar Tehsil.

03. From the appellant in L. A. App. No.14 of 2013, a piece of land measuring 0.65 acre pertaining to plot Nos.323/P and 212/P of Khatian No.362 of Mouja-Goldarpur was acquired by dint of the Notification under No.F.9(10)/Rev/Acq/11/2009 dated 18.01.2010 and the consequential declaration dated 24.02.2010, whereas from

the appellant in L. A. App. No.15 of 2013, a land measuring 0.42 acres pertaining to the plots No.215/P and 216/P under Khatian No.21 of Mouja-Goldarpur under Kailashahar Tehsil was acquired and after hearing the land losers the Land Acquisition Collector passed his award. As the appellants' land belonged to Nal class of land, the Land Acquisition Collector determined the land value at Rs.1,00,000/- (Rupees one lakh) per kani, but the appellants were not satisfied and pressed for reference under Section 18(1) of the L. A. Act, 1894. The references being Misc. LA 01 of 2012 and Misc. LA 02 of 2012 were answered by the Land Acquisition Judge, North Tripura, Kailashahar, now the Land Acquisition Judge, Unakoti, Kailashahar by the impugned judgments, description of which are as under:

L. A. App. No.14 of 2013

Judgment and award dated 29.09.2012 in Civil Misc.(LA)
No.01 of 2012.

L. A. App. No.15 of 2013

Judgment and award dated 29.09.2012 in Civil Misc.(LA)
No.02 of 2012.

04. The Land Acquisition Judge, on taking into consideration the evidential materials as produced by the appellants, enhanced the rate from one lakh to one lakh fifty thousand for the class of land as acquired and directed to recalculate the compensation in terms thereof.

05. Mr. D. Deb, learned counsel for the appellants has submitted that the finding returned by the Land Acquisition Collector

is not on correct appreciation of law, inasmuch as the land as depicted in the sale-instance as relied by the Land Acquisition Collector cannot be compared with the acquired land as the land as referred in the sale-instance is far away from the acquired land. Even, no settlement map (Exbt.A) has been produced by the respondent No.1 in the proceeding before the Land Acquisition Judge.

06. Mr. Deb, learned counsel for the appellants has further submitted that the Land Acquisition Collector did not consider the land valuation chart prepared in 2010. On the contrary, he had relied on a land valuation chart which was adopted in the year 2006. The Land Acquisition Collector was under obligation to consider the rates referred in the land valuation chart which is closer to the date of acquisition not that one which is distanced by a long time. He has contended that from the land valuation chart 2010, it would be apparent that the plots which had been acquired by the respondent No.1 would fetch a sum of Rs.10,00,000/- per kani. Finally, Mr. Deb, learned counsel has submitted that for acquisition of the land the remaining part of the land has become segmented in such a way that the value has been substantially reduced but for that no compensation has either been paid by the Land Acquisition Collector nor by the Land Acquisition Judge and hence, the appellant is entitled to get the compensation for loss on account of segregation.

07. From the other side, both Mr. T. D. Majumder, learned GA appearing for the respondent No.2 and Mr. P. Gautam, learned counsel appearing for the respondent No.1 have in unison submitted that the grounds of objection are not tenable inasmuch as the land valuation charts cannot be made the basis of the compensation. Even

though the Land Acquisition Collector has used them for a guidance to have the value of the acquired land. In this regard, learned counsel Mr. D. R. Choudhury while assisting the court has relied on a decision of the apex court in ***Lal Chand vs. Union of India & Anr.*** reported in ***AIR 2010 SC 170***. In ***Lal Chand (supra)*** the apex court has clearly held that one of the recognised methods for determination of market value is with reference to opinion of experts. The estimation of market value by such statutorily constituted expert committees, as expert evidence, can therefore form the basis for determining the market value in land acquisition cases emerging as a relevant piece of evidence. It will be however open to either party to place evidence to dislodge the very basis of presumption that may flow from such guideline-market value. The apex court has observed thus:

"16. We however hasten to add that the guideline market value can be a relevant piece of evidence only if they are assessed by statutorily appointed Expert Committees, in accordance with the prescribed assessment procedure (either street-wise, or road-wise, or area-wise, or village-wise) and finalised after inviting objections and published in the Gazette. Be that as it may, we have referred to this aspect only to show that there are different categories of Basic Valuation Registers in different States and what is stated with reference to the stamp law in Andhra Pradesh or Uttar Pradesh, may not apply with reference to other states where State Stamp laws have prescribed the procedure for determination of market value, referred to above.

17. In this case, there is nothing to show the circle rates have been determined by any statutorily appointed committee by adopting scientific basis. Hence, the principle in Jawajee Naganatham, (1994 AIR SCW 2852) will apply and they will not be of any assistance for determining the market value. Further, they do not purport to be the market value for lands in rural areas on the outskirts of Delhi, nor the market values relating to Rithala village. The circle rates relate to urban/city areas in Delhi and are wholly irrelevant."

[Emphasis added]

08. From *Lal Chand (supra)* what transpires is that there must be scientific investigation for determining the circle rates. Unless such method is observed, the rate usually should not be made the basis for determining the land value. Learned counsel appearing for the respondents have further submitted that the appellants have failed to submit any settlement map in the evidence to show that the land depicted in the sale instances as utilised by the Land Acquisition Collector is far away land but from the plot numbers it would be appearing that these are in the same mouja and those plots number cannot be of a much longer distance. As such, they defended the judgment and award stating that these appeals do not have any substance and that should be dismissed.

09. Having regard to the materials produced in the record particularly the land valuation chart of 2006 vis-a-vis the land valuation chart of 2012, this court finds that in the land valuation chart of 2006 the rate for the nal class of land as recorded by the Land Acquisition Collector in his assessment sheet ranges from 1.50 lakh to 0.80 lakhs whereas this has been revised to rupees seven lakhs to ten lakhs. So, the difference according to the estimate provided by the Sub-Divisional Magistrate during these four years is on average is about rupees six lakh to seven lakh. So, the yearly increase in the rate would be at least Rs.1,00,000/- per kani. Hence, the base rate was considered Rs.1,00,000/- as given by the Land Acquisition Collector over it, the appellants will be entitled to get another three lakhs for the said land. This court is therefore persuaded to interfere with the rate as given by the Land Acquisition Judge at Rs.1.5 lakhs. The rate is enhanced to Rs.3,00,000/- per

kani. As the development project is a canal, no deduction this court would permit because it would be only excavation. But the appellants have failed to substantiate their claim that they have suffered any loss for segmentation due to acquisition.

10. In view of this, the compensation has to be computed based on the land rate at Rs.3,00,000/- per kani for Nal class of land. The appellants will be entitled to additional compensation @ 12% per kani from the date of acquisition. Interest on the compensation, the additional compensation and the solatium shall be paid from the date of possession in terms of Section 34 of the L. A. Act. Since there is no other claim, the amount shall be grossed up and be paid to the claimant-appellants within a period of three months from the day when a copy of this order shall be submitted by the appellants.

Having held thus, these appeals are allowed.

Prepare the decree accordingly.

Send down the LCRs thereafter.

A copy of this order be furnished to the learned counsel for the parties.

JUDGE

MB