

**HIGH COURT OF TRIPURA  
AGARTALA**

**LA App No. 35 of 2015**

1. The Union of India,  
represented by the Officer  
Commanding,  
78 RCC (GREF), C/o 99 APO,  
Kunjaban, Agartala, West Tripura

**----- Appellant-Petitioner (s)  
Versus**

1. Sri Ratan Chakraborty,  
S/O Haripada Chakraborty,  
Malaynagar, P.O. Renters Colony,  
P.S. Sreenagar, Agartala,  
District- West Tripura
2. The Land Acquisition Collector,  
West Tripura, Agartala

**----- Respondent(s)**

For Appellant(s)	: Mr. Biswanath Majumder, CGC.
For Respondent(s)	: Mr. D. R. Chowdhury, Adv Mr. S. Sarkar, Adv.
Whether fit for reporting	: <b>NO</b>

**HON'BLE MR. JUSTICE S. TALAPATRA**

**Judgment & Order (Oral)**

**30/07/2018**

Heard Mr. B. Majumder, learned Central Government counsel appearing for the appellant as well as Mr. D. R. Chowdhury, learned counsel appearing for the referring claimant-respondent No.1. None appears for the respondent No.2, despite due notice from this court.

2. This is an appeal under Section 54 of the Land Acquisition Act, 1894 from the judgment and award dated 08.08.2013 delivered in Misc. (LA) No.48/2007. The solitary ground of objection as raised in this appeal is in respect of determination of the land value.

3. According to the appellant, the land value as determined by virtue of the sale deed No. 3603 dated 14.04.2000 suffers from serious infirmity inasmuch as, the comparable sale deed has recorded a transaction of more advantageous land in comparison to the land that has been acquired from the respondent No.1.

4. By the notification under No. F.9(13)-REV/ACQ/XIV/04 dated 26.04.2004, the land of the respondent No.1 was acquired along with the other land for construction of the bypass road from Khayerpur to Amtali under Bishalgarh Sub Division.

5. The entire tract of land under the said notification dated 26.04.2004 is under Anandanagar Mouja. In the said notification, at serial No.18, the land of the referral claimants situate pertaining to Khatian No.1899, Plot No. 6004/P. The acquired land consists of an area of 0.04 acre and it falls within the viti class of land. The Land Acquisition Collector prepared, assessed and awarded the rate for the viti class of land at Rs. 45,000/-.

6. Being aggrieved by the said determination the respondent No.1 prayed for reference under Section 18 of the Land Acquisition Act, which was later registered as Misc. (LA) No. 48/2007 in the court of the Land Acquisition Judge, West Tripura, Agartala.

7. In the course of time, the said reference was transferred to the Land Acquisition Judge, West Tripura, Agartala, Court No.2 for determination of the just and reasonable market rate for the acquired land. By the judgment and award dated

08.08.2013 the Land Acquisition Judge answered the reference and enhanced the rate of the acquired land to Rs.2,00,000/- per kani.

8. The Land Acquisition Judge has returned the following findings for in support of the said rate:

**"9. Basing on the analysis made above, 50% deduction appears to be just and proper for arriving at just decision in the instant case. 25% deduction is for the development of the acquired land and further 25% deduction is recommended considering the area of the acquired land and its nature quality and placement in comparison with the land under deed (Ext-1 series).**

**The land under Ext-1(series) is of the value of Rs. 4 lacs per kani. So, the rate is reduced to Rs.2,00,000/- per kani (after 50% deduction) which appears to be the just value of the acquired land at the time of acquisition.**

**So the claimant is also entitled to get compensation at the rate of Rs.2,00,000/- per kani along with other statutory benefits. Accordingly the points noted above are decided in favour of the claimant."**

9. Mr. Majumder, learned CGC appearing for the appellant has strenuously argued that the comparable sale instance as utilised for purpose of determining the rate is not at all comparable with the acquired land inasmuch as, the said land is situated in a more advantageous position and along the road side. In the usual course, the compared land was supposed to fetch more value.

10. Mr. Majumder, learned counsel has further submitted that a small plot of land has been compared with comparatively a large area of land.

11. Mr. D. R. Chowdhury, learned counsel appearing for the respondent No.1 has in reply submitted that the acquired land is situated in a highly potential area and there cannot be any

objection in respect of the area of land inasmuch as, the area of land in the comparable sale deed (Exbt 1) is .02 acre (1 Ganda) whereas the area of the acquired land is .04 acre (2 Gandas). Hardly there can be any difference of rate in terms of the area of land.

12. Mr. Chowdhury, learned counsel has further submitted that the positional disadvantage may require more development cost. On that account the Land Acquisition Judge has deducted 25% as the development cost and another 25% considering the area of the acquired land.

13. According to Mr. Chowdhury, learned counsel the area of acquired land can hardly be taken as a factor for deduction of the 25%. That deduction is not proper. Anyway, since the referring claimant has not filed any appeal, this aspect of the matter was not be pressed. However 50% as a whole be considered as the deduction for the development cost. That would clinch the controversy.

14. This court finds sufficient force in the submission of Mr. Chowdhury, learned counsel appearing for the respondent No.1 as there is no serious infirmity in the decision determining the rate of the acquired land at Rs. 2,00,000/- per kani.

15. Even if, this court is in total agreement with Mr. Chowdhury, learned counsel that 25% deduction ought not to have been made on the basis of the area. But for the positional disadvantage the deduction would be 50%. For that, there would be no change, the land value would remain the same.

16. As such this appeal is devoid of merit and accordingly the same is dismissed.

Draw the award (decree) accordingly and thereafter send down the records.

**JUDGE**



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