

IN THE HIGH COURT OF TRIPURA
AGARTALA

L.A.APP.38 of 2014

The Airport Authority of India,
Agartala Airport,
(to be represented by the Airport Director),
Singarbill, P.S:Airport, Agartala, West Tripura

..... Appellant

By Advocate :

Mr. P.K. Pal, Advocate
Mr. S. Bhattacharjee, Advocate

- V e r s u s -

1. Shri Subrata Datta,
son of Shri Anath Datta,
resident of Narayanpur, Bimangarh,
P.S:Airport, Agartala, West Tripura

..... Respondents

2. The Land Acquisition Collector,
Government of Tripura, West Tripura,
Agartala

.....Proforma-Respondents

By Advocate :

Mr. D.K. Biswas, Advocate

Connected with

CO(FA)12 of 2014

Shri Subrata Datta,
son of late Anath Datta
of Narayanpur, P.S:Airport,
P.O: Bimangarh, District : West Tripura
Agartala, PIN : 799009

..... Cross-Objector

By Advocate :

Mr. D.K. Biswas, Advocate

- V e r s u s -

1. The Airport Authority of India,

Agartala Airport, Singarbil, P.S. Airport,
West Tripura, Agartala, PIN : 799009

2. The Land Acquisition Collector,
Agartala, West Tripura, P.O. Agartala,
P.S. West Agartala, PIN :799001

..... Respondents

By Advocate :

Mr. P.K. Pal, Advocate
Mr. S. Bhattacharjee, Advocate

L.A.APP.17 of 2015

The Controller of Aerodrome,
Agartala Airport, Agartala
P.O. & P.S. Airport, District : West Tripura
Singarbill, P.S:Airport, Agartala, West Tripura

..... Appellant

By Advocate :

Mr. P.K. Pal, Advocate
Mr. S. Bhattacharjee, Advocate

- V e r s u s -

1. Sri Bhajan Rudra Paul,

2. Sri Sudhan Rudra Paul,

3. Sri Ratan Rudra Paul,

-all are sons of late Kalachand Rudra Paul,
Nandannagar, Palpara, P.O. Nandannagar,
P.S. New Capital Complex, Mouja- Indranagar,
Sub-division-Sadar, West Tripura, Agartala

..... Respondents

***As per the Hon'ble Court's
Order dated 04.01.2016 passed
in I.A.637 of 2015, the
amendment has been made.

2. The Land Acquisition Collector,
West Tripura, Agartala

.....Proforma-Respondents

By Advocate :

Mr. D.K. Biswas, Advocate

Connected with

CO(FA)02 of 2016

1. Sri Bhajan Rudra Paul,

2. Sri Sudhan Rudra Paul,

3. Sri Ratan Rudra Paul,

-all are sons of late Kalachand Rudra Paul,
presently residing at Nandannagar, Palpara,
P.S. New Capital Complex,
P.O. Nandannagar, District :West Tripura,
Agartala, PIN : 799009

..... Cross-Objector

By Advocate :

Mr. D.K. Biswas, Advocate

- V e r s u s -

1. The Controller of Aerodrome,
Agartala Airport, P.S: Airport,
West Tripura, Agartala,
PIN : 799009

2. The Land Acquisition Collector,
Agartala, West Tripura, P.O. Agartala,
P.S. West Agartala, PIN :799001

..... Respondents

By Advocate :

Mr. P.K. Pal, Advocate
Mr. S. Bhattacharjee, Advocate

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

Date of hearing : 18.06.2018

Date of delivery of Judgment and Order : 30.11.2018

Whether fit for reporting : No

JUDGMENT & ORDER

All these appeals and the cross objections being L.A.APP.No.38 of 2014 [Airport Authority of India and Others versus Sri Subrata Dutta] along with CO(FA)12 of 2014 [Sri Subrata Dutta versus Airports Authority of India and Others] and L.A.APP.No.17 of 2015 [The

Controller of Aerodrome versus Sri Bhajan Rudra Paul & Others] along with CO(FA)02 of 2016 [Sri Bhajan Rudra Paul & Others versus The Controller of Aerodrome & Others] are consolidated for disposal by a common judgment inasmuch as all these appeals and cross-objection emerge from the same notification under No.F.9(13)Rev/Acq/VI/98 dated 17.07.1998 issued under Section 4 read with section 17(1) of the Land Acquisition Act for extension of runway of Agartala Airport, Northern side by acquisition of a tract of land measuring 12.47 acre. To question the judgment and award as referred hereunder, the appeals have been filed by the requisitioning department (the Airport Authority) under Section 54 of the Land Acquisition Act and the cross objections thereto have been preferred from the judgment and award by the referring-claimants under Order 41, Rule 22 of the CPC seeking further enhancement in the award.

[a] The judgment and order dated 22.05.2014 as delivered in Misc.(LA)168 of 2009 by the Land Acquisition Judge, West Tripura, Agartala (Court No.4) has been challenged in L.A.APP No.38 of 2014 and CO(FA)12 of 2014.

[b] The judgment and award dated 24.03.2014 delivered in Misc.(LA)31 of 2010 by the Land Acquisition, West Tripura, Agartala (Court No.4) has been challenged in L.A.APP No.17 of 2015 and CO(FA)02 of 2016.

4. For the same project, from the cross objector of CO(FA)12 of 2014 an amount of land measuring 0.10 acre of bastu class pertaining to khatian No.3399, plot no.1532, under mouja Singarbil, has been acquired. The land acquisition Collector awarded the land value at Rs.40,700 per kani under Section 11 of the L.A. Act whereas the referring claimant, cross-objector expected a sum of Rs.10,0000/- considering the nature of the land and its location.

5. For the same project from the cross objector of CO(FA)02 of 2016 an amount of land measuring 0.15 acre of viti class under mouja pertaining to khatian No.3391, plots no.1673, 1674 and 1680 under

mouja Singarbil was acquired. The land acquisition Collector awarded the land value at Rs.40,700/- per kani under Section 11 of the L.A. Act whereas the referring claimant, cross-objector expected a sum of Rs.1,00,00,000/- considering the nature of the land and its location.

6. Being aggrieved by the said determination of the land value the cross objectors pressed for reference under Section 18 of the L.A. Act. Those references have been determined by the L.A. Judge by the impugned judgment and order. The referring claimant cross objectors in support of their claim have placed their reliance on the following comparable sale transactions :

Sl. No.	Description of the documents	Exhibit No.	Area of land	Value	Rate per Kani
1	Sale deed No.1-710 dated 22.01.1990	Exbt.1	3 Ganda, tilla class of land	Rs.25,000/-	Rs.1,66,666/- per kani
2	Sale deed No.1-6729 dated 21.11.1997	Exbt.2	3 Ganda, viti class of land	Rs.30,000/-	Rs.2,00,000/- per kani
3	Sale deed No.1-6730 dated 21.11.1997	Exbt.3	0.30 Acre(15 Gandas) of viti tilla class of land	Rs.1,50,000/-	Rs.2,00,000/- per kani
4	Sale deed No.1-557 dated 30.01.1995	Exbt.4	2 Gandas, of Bastu/Viti class of land	Rs.30,000/-	Rs.3,00,000/- per kani

7. No sale exemplar has been admitted in the reference being Misc.(LA)168 of 2009 (related to L.A. APP.No. 38 of 2014 and CO(FA)12 of 2014) by the L.A. Collector and the requiring department. In that reference, neither the L.A. Collector nor the requiring department has filed any counter statement denying the claim of the referring claimants. Hence the reference was determined ex parte.

8. Similarly, in Misc.(LA) 31 of 2010 (related to L.A. APP.No. 17 of 2015 and CO(FA)02 of 2016) no sale deed has been exhibited on

behalf of the L.A. Collector and the requiring department. On the contrary, it was asserted by the L.A. Collector that the said reference emerging for acquisition of viti/tilla class of land stood covered by the previous decision of the L.A. Judge where a sum of Rs.90,000/- was determined per kani under the same acquisition notification.

9. The L.A. Judge on appreciation of the evidence has observed that considering the nature of the land and the sale exemplars, the land value be enhanced to Rs.1,50,000/- per kani. Accordingly, the other components of the compensation under Section 23 of the L.A. Act have been directed to be determined. It has been also observed that the rate of interest will be determined under Section 34 of the L.A. Act.

10. Mr. P.K. Pal and Mr. S. Bhattacharjee, learned counsel appearing for the appellants have submitted that the L.A. Collector at the time of determination of the land value had considered several sale deeds, particulars of which are reproduced hereunder :

Sl. No.	Sale Deed	Plot No.	Class	Rate per kani	Distance
1	1-352 dt.17.01.96	1882	Bastu(tilla)	Rs.50,909/-	550 mtr.
2	1-337 dt.17.01.96	1732	bhiti	Rs.26,626/-	„
3	1-339 dt.17.01.96	1723	bhiti	Rs.21,622/-	„
4	1-216 dt.11.01.96	1757	bhiti	Rs.85,714/-	„
5	1-121 dt.16.01.97	1911	nal	Rs.20,690/-	„
6	1-618 dt.31.01.97	1920 1922	bhiti	Rs.24,000/-	„
7	1-6729 dt.22.01.97	1523 1524 1530	bhiti(tilla)	Rs.2,00,000/-	Within acquired land
8	1-6730 dt.21.11.97	1523 1524 1530	-do-	Rs.2,00,00/-	-do-

11. Learned counsel for the appellant has pointed out that the L.A. Collector has discarded the sale deeds (at Sl. No.8 and 9 above) by assigning the following reason :

"The state instances under sl. No. 8 and 9 collected by the Surveyor Shri B. Debnath are dated 21.11.1997 i.e. after the date of notification. The deeds were executed in high rate with an intention to get compensation at higher rate. Therefore the two deeds cannot be considered as best evidence for determination of compensation."

12. The learned counsel for the appellant has further asserted that the sale deed carrying highest price is the sale deed No.1-216 dated 11.01.1996 just preceding the acquisition notification. The price that is reflected in the said sale deed is Rs.85,714/-. That apart, both Mr. Pal, learned counsel and Mr. Bhattacharjee, learned counsel have submitted that these appeals and the cross objections are covered by two previous decisions of this court in **The Director of Airport Authority versus Mihir Bhowmik and Others** etc. (the common judgment dated 29.06.2015 delivered in L.A.APP No.31 of 2011 etc.) In those appeals this court awarded the land value at Rs.70,000/- per kani reducing the value from Rs.1,00,000/- as awarded by the L.A. Judge. However, those lands were acquired for construction of the run way in the Southern side of the Agartala Airport and the notification for this purpose was issued on 12.11.1996. The acquired land situates at different mouja at mouja Lankamura. In para-3 of the said judgment this court had occasion to show the location of the land. In para-5 of the said judgment is relevant for determination of the land value and hence that is extracted hereunder :

"5. By another judgment and order dated 04.08.2014 delivered in L.A. App. No.87 of 2012 and L.A. App. No.88 of 2012, this Court has followed the same principle and reduced the land value to Rs.70,000/- per kani from Rs.90,000/- per kani as awarded by the Land Acquisition Judge. However, the judgment and order dated 04.08.2014 in L.A. App. No.20 of 2010 covered by the same notification as related to the present appeals and the cross objections, the land value of the land has been determined at Rs.1,00,000/- per kani whereas the land value was assessed by the Land Acquisition Judge at Rs.72,889/- per kani. This Court has taken note of those judgments as placed by the appellants, the requiring department."

13. Appearing for the cross-objector and the respondents in the appeals Mr. D.K. Biswas, learned counsel has submitted that land value should at least be determined at Rs.2,00,000/- per kani. For this purpose he has submitted that the sale deed as relied by the referring claimant and the cross objectors (the respondents in the appeal) carries the rate much higher than Rs.2,00,000/-. That apart, having referred to sale deed No.1-6729 dated 22.01.1997 and 1-6730 dated 21.11.1997 as discarded by the L.A. Collector, Mr. Biswas, learned counsel has submitted that the reason for discarding those instances is highly unacceptable. There might have been some deduction from the value and the total rejection is absolutely high-handed. He has further submitted that those land are situated in close proximity of the urban hub called Usha Bazar where the schools, hospitals, urban habitat, good roads, business centres, central government offices are aplenty.

14. Having appreciated the submissions of the learned counsel appearing for the parties, this court finds that the acquired land in these appeals and cross-objections situated in the different belt. Those land cannot be considered with the land referred in **Mihir Bhowmik** (supra). Having regard to the location, the exemplars sale deeds as well as the sale deeds as considered by the L.A. Collector, this court is of the view that the appellants have failed to make out a case to interfere with the land value as has been determined the L.A. Judge. On the other hand, the cross-objectors could not place a strong logic for further enhancing the value as determined by the L.A. Judge.

15. Having observed thus, all the appeals and cross-objections are dismissed. The award as made by the L.A. Judge be satisfied within a period of three months from the date of the decree.

The Registry is directed to prepare the decree the award in terms of the above and the records be sent down immediately thereafter.

JUDGE

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