

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 2812 OF 2007

CHITTA RANJAN DEBBARMA & ORS.

APPELLANTS

VERSUS

O.N.G.C. LTD. & ANR.

RESPONDENTS

O R D E R

This appeal is directed against judgment and order dated 8.11.2005 passed by the Division Bench of Gauhati High Court, Agartala Bench, whereby the appeal preferred by the respondent No.1 against judgment dated 24.12.2004 of Land Acquisition Judge, West Tripura Agartala (hereinafter referred to as 'the L.A. Judge') was partly allowed and market value of the acquired land was reduced from Rs.85,000/- per kani to Rs.60,500/- per kani.

The land belonging to Bishwa Ranjan Debbarma (predecessor of the appellants) measuring 47.26 acres was acquired in 1985 for extension of the Oil and Natural Gas Commission Complex at Agartala.

By an award dated 24.2.1986, the Land Acquisition Collector

2

fixed market value of the acquired land by classifying the same in the following categories:

- | | | |
|-------------------------------------|-------------------|------|
| (i) For Tilla, Chara and Path | = Rs.50,000/- per | kani |
| (ii) For Nal and Lunga | = Rs.30,000/- per | kani |
| (iii) For Pukur par, Viti and Bastu | = Rs.60,000/- per | kani |

On an application made by the land owner, the Collector made reference under Section 18 of the Land Acquisition Act, 1894 (for short, 'the Act').

After

considering the evidence produced by the parties, the L.A. Judge enhanced the amount of compensation.

The parties challenged judgment of the L.A. Judge by filing appeals under Section 54 of the Act, which were disposed of by the High Court on 9.9.1994 and the matter was remitted to the L.A. Judge for fresh determination of market value of the acquired land.

After remand, the learned L.A. Judge re-evaluated the evidence produced by the parties and fixed market value of the acquired land at Rs.85,000/- per kani.

Respondent No.1 challenged the order of the L.A. Judge in L.A. Appeal No.3 of 2005, which was partly

3

allowed by the High Court and market value of the land was reduced from Rs.85,000/- per kani to Rs.60,500/- per kani by applying 30% cut.

We have heard learned counsel for the parties and scanned the record. The L.A. Judge and the High Court primarily relied upon sale transaction, Ex.8, dated 28.9.1983 by which 4 gandas land was sold at the rate of Rs.1,50,000/- per kani for the purpose of fixing market value of the acquired land and High Court reduced market value fixed by the L.A. Judge by applying 30% cut.

It is borne out from the record that the predecessor of the appellants had examined six witnesses and produced large number of documents including judgments Exts. 1 and 2 rendered in the context of acquisitions made in 1988 and 1979 respectively in support of his claim for fixing higher market value of the acquired land. A perusal

of Ex.2 shows that the land measuring 1.395 acres situated in Mouja Badharghat was acquired by the

Government vide notification dated 24.12.1979 for construction of Satellite Earth Station of the Post and Telegraph Department. The Land Acquisition

Collector had fixed market value of that land at the
4

rate of Rs.1,50,000/- per acre covering the frontage up to the depth of 50 feet from the main road, Rs.1,00,000/- per acre for the next back portion covering an area of 1.08 acres and Rs.92,500/- per acre for rest of the land. The reference made at the

instance of the land owners were registered as Civil Miscellaneous (L.A.) Nos. 5-8 of 1983. On a comprehensive evaluation of the factual matrix of the case and evidence of the parties, the learned L.A

Judge fixed market value of the acquired land at Rs.80,000/- per kani, which is equivalent to Rs.2,00,000/- per kani.

In his statement before the L.A. Judge, the predecessor of the appellants, who appeared as PW-1, made a specific reference to the existence of Satellite Earth Station and government quarters near the acquired land and stated that the same are situated on the Western side of Agartala-Bishalgarh main road and Western side of the acquired land. PW-

6, Shri Shambhunath Bhattacharjee, who had worked as Amin in the area and whose house was situated at a distance of 150/200 yards from the acquired land in the Southern side, stated as under:

5

"In the western side of the acquired land intervene by Agartala-Bishalgarh there are some Govt. quarters of Telecom Deptt. Nature of said land and acquired land is same. In the south westerns side of the acquired land at a distance of about 2 furlongs ONGC acquired some land. The said place is known as Panchamukhi, where ONGC constructed godown etc. acquired land is situated in a better than that of Panchamukhi. Nature of acquired land and said land of Panchamukhi are same."

While deciding the reference made at the instance of the predecessor of the appellants, the L.A. Judge did refer to judgments Exts. 1 and 2 but discarded the same by recording the following observations:

"It is, thus, clear from the Exbt. 1 that the land was acquired after long three years of the acquisition of the present land in the year 1985. Exbt. 2 is a judgment of another L.A. case, the land of which was acquired as per Notification dated 24.12.1979 i.e. about six years back. The Hon'ble Supreme Court in various decisions has reiterated that copies of judgment of the land acquisition proceedings of the lands of some Notification although between inter-parties are very much relevant and admissible in evidence as well as the court can use the same in determining the market value but in the present case the Exbts. 1 and 2 are not of the same Notification and even not of the relevant period. However, from the award made by the learned L.A. Judge in those cases at least a picture of the price of the land comes to light. From Exbt. 1 it transpires that the learned L.A. Judge awarded compensation @ Rs.1,30,000/- per

6

kani and as per Exbt. 2 @ Rs.1,00,000/- per kani. Exbt. 1 is for the land of a place named Panchamukh at Badharghat and the class of land was tilla. The land of Exbt. 2 though indicates the area of Badharghat, but the location does not transpire from the said copy of judgment. It, however, appears from the said judgment that the lands involved under Exbt. 2 are viti class of land and thus cannot appropriately be compared with the acquired land. Further the distance of Panchamukh from the acquired land could not be satisfactorily established by the evidence of the referring-claimants. In that view of the evidence this court is of opinion that the Exbits. 1 & 2 do not also come to a good help to the referring-claimants."

The High Court did not even advert to Ex.2 and reduced the amount of compensation by applying 30% deduction.

In our view, if the L.A. Judge and the High Court had considered Ex.2 in the light of the statements of PW-1 and PW-6, then it could not have been possible for them to ignore the award made in

respect of the land acquired in 1979, which was near the land of the predecessor of the appellants.

From

the evidence of PWs. 1 and 6, it is clearly established that the land acquired for the Post and Telegraph Department was in the vicinity of the land belonging to the predecessor of the appellants.

If

the normal rule of 10% increase was applied with

7

reference to market value determined vide Ex.2, then market value of the land acquired in 1985 would have

been Rs.1,28,000/- per kani. Unfortunately, the learned L.A. Judge discarded Ex.2 by erroneously assuming that no evidence was produced by the claimants to prove its existence near the land acquired for respondent No.1. The High Court too

committed an error by not considering Ex.2, which had direct bearing on the issue of fixing market value of the land in question.

In the result, the appeal is allowed. The impugned judgment is set aside and the award passed by the L.A. Judge is restored. Respondent No.1 is

directed to pay the balance amount of compensation to the appellants along with all statutory benefits within a period of three months from today. The parties are left to bear their own costs.

.....J.
(G.S. SINGVHI)

.....J.
(ASOK KUMAR GANGULY)

NEW DELHI,
SEPTEMBER 28, 2010.

8

ITEM NO.106

COURT NO.11

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 2812 OF 2007

CHITTA RANJAN DEBBARMA & ORS.

Appellant (s)

VERSUS

O.N.G.C. LTD. & ANR.

Respondent(s)

Date: 28/09/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE ASOK KUMAR GANGULY

For Appellant(s) Mr. Sanjay Parikh, Adv.
Mr. Anish R. Shah, Ad.
Ms. Mamta Saxena, Adv.

For Respondent(s) Mr. Vivek Tankha, ASG
Mr. R. Chandrachud, Adv.
Mr. Vaibhav Srivastav, Adv.

UPON hearing counsel the Court made the following
O R D E R

The appeal is allowed. The impugned judgment is set aside and the award passed by the L.A. Judge is restored. Respondent No.1 is directed to pay the balance amount of compensation to the appellants along with all statutory benefits within a period of three months from today. The parties are left to bear their own costs.

(Neetu Khajuria)
Sr.P.A.

(Phoolan Wati Arora)
Court Master

(Signed order is placed on the file.)