

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO(s). 6531 OF 2002

SANTOSH KUMAR SAHU .....Appellant (s)

VERSUS

COLLECTOR-CUM-L.A. OFFICER AND OTHERS ...Respondent(s)

O R D E R

None appears for the appellant even on second call.

According to the Office Report, respondent no.6 has been served through publication and service of notice is complete on respondent nos.1,2,4,5 & 7 at SLP stage. However, only respondent no.3 has entered appearance and Mr. P. Ramesh Kumar, learned counsel is present for him and supports the case of the appellant.

This appeal by way of special leave under Article 136 of the Constitution of India arises out of judgment dated 30.08.2001 passed by the Division Bench of the Orissa High Court in First Appeal No.270 of 1993, whereby on appeal by the Collector-cum-Land Acquisition Officer, it reduced the market value of the acquired land from Rs.2,80,000/- to Rs.1,14,500/-.

Short facts giving rise to the present appeal are that an area of 2.24 acres of land appertaining to Khata No.6,

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Plot No.118 in village Sirtol, P.S. Nawapara in the district of Kalahandi was recorded in the name of the appellant-Santosh Kumar Sahu. Said land was acquired by the Government of Orissa for construction of office building and staff quarters for Kalahandi Irrigation Sub-Division and Notification under Section 4(1) of the Land Acquisition Act (hereinafter referred

to as 'the Act') was published in the Gazette vide Notification dated 23.05.1973. The Land Acquisition Officer, Kalahandi awarded compensation of Rs.4336.24 paise and notice under Section 12(2) of the Act was served on 22.05.1974 on the locality of the appellant. The appellant received the compensation as determined by the Land Acquisition Officer under protest and made application for reference alleging that the amount awarded is inadequate and low and its actual market value be determined by court of law. On such an application, reference under Section 18 of the Land Acquisition Act was made and it was registered as MJC No.55 of 1992.

In support of the claim, in the reference, the appellant examined four witnesses including himself. The appellant was examined as P.W.1 whereas other three witnesses are P.W.2 (Ramesh Kumar Berma), P.W.3 (Nilakant Devangan) and P.W.4 (Anand Mohan Panda). On behalf of the Land Acquisition

Officer, one Revenue Inspector attached with the Land Acquisition Officer i.e. Biseswar Panigrahi was examined. Besides the oral evidence, the appellant relied on the

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unregistered deed of agreement of sale in respect of the property acquired entered into by him and Ramesh Kumar Berma (P.W.2) scribed by P.W.4. The attesting witness to the deed of agreement, namely, Nilakant Devangan was also examined as P.W.3. The reference court on the basis of the pleadings of

the parties framed issues including the issue of market value of the land acquired. The reference court, relied on the evidence of the witnesses examined on behalf of the appellant and further holding that the unregistered deed of agreement is genuine, came to the conclusion that the market value of the land as determined by the Land Acquisition Officer is inadequate and determined to valuation at Rs.2,80,000/-. After deducting a sum of Rs.4336.24 determined by the Land Acquisition Officer and paid to the appellant, it directed for

payment of enhanced compensation of Rs.2,75,663.76 towards the market value of the acquired land with solatium and additional compensation.

While determining the market value of the acquired land, the reference court also took into account the location of the acquired land and its potentiality. In this connection, it observed as under :-

"12. In the instant case, the location of the acquired land is of utmost importance. It is the admitted case that the acquired lands are situated by the side of N.H.Road leading from District Headquarters, Bhawanipatna to Raipur (a big city in M.P.), the Govt.High School, Veterinary hospital and its buildings and other Govt. buildings

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and residential buildings of so many people are situated close to the acquired land. Village Sirtol and Nawapara town are different Revenue villages, but both the villages situated in a close distance and joined due to construction of different official buildings and the same is within the Sub-Divisional Headquarters. In such a circumstances, while determining the market value it is not to be considered the existing were of acquired lands but its potentiality in its forceable future also taken into account."

Aggrieved by the same, the Collector-cum-Land Acquisition Officer preferred appeal and the Division Bench of the High Court on its finding that in the absence of any document in regard to the market value of the acquired land, the potential value of the land is to be ascertained and "keeping in view the location, situation, the extent of the land, fixed potential value of the land at the rate of Rs.3,400/- per acre and applying the multiplier to arrive at the market value, it fixed the valuation of the acquired land at the rate of Rs.51,000/- per acre and total valuation after being rounded of came to Rs.1,14,500/.

We have perused the impugned judgment and we find

that the reference court relied on the evidence of the witnesses examined by the appellant i.e. prospective purchaser, scribe of the documents as also the attesting witnesses as also the unregistered agreement to sale to determine the valuation of the acquired land. The High Court

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had not referred to any of these evidences and also noted the fact that no document was produced on behalf of the Land Acquisition Officer to support the assessment made by it. We are of the opinion that while upsetting the findings recorded by the reference court, it was obligatory on the part of the High Court to meet the reasoning given by the reference court determining the valuation of the acquired land. In the absence thereof, in our opinion, the High Court erred in setting aside the valuation of the acquired land as determined by the reference court.

In the result, the appeal is allowed, the impugned judgment of the High Court is set aside and that of the Reference Court is restored. As we have restored the judgment of the Reference Court, the benefits thereof be given to those land holders also, whose land was acquired and issue of compensation subject matter of the instance reference case. Compensation determined by the Reference Court be paid to the claimants within three months from the date of receipt of a copy of this order.

No costs.

.....J.  
(G.S. SINGHVI)

.....J.

NEW DELHI,  
February 17, 2010.

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ITEM NO.105

COURT NO.12

SECTION XIA

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). 6531 OF 2002

SANTOSH KUMAR SAHU

Appellant (s)

VERSUS

COLLECTOR-CUM-L.A. OFFICER & ORS.

Respondent(s)

(With office report )

Date: 17/02/2010 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI  
HON'BLE MR. JUSTICE C.K. PRASAD

For Appellant(s) Mr. Abhijit Sengupta, Adv.(N.P.)

For Respondent(s) Mr. P. Ramesh Kumar, Adv.  
For Ms. Aparna Bhat, A.O.R.

UPON hearing counsel the Court made the following

O R D E R

In terms of signed order, the appeal is allowed, the impugned judgment of the High Court is set aside and that of the Reference Court is restored. As we have restored the judgment of the Reference Court, the benefits thereof be given to those land holders also, whose land was acquired and issue of compensation subject matter of the instance reference case. Compensation determined by the Reference Court be paid to the claimants within three months from the date of receipt of a copy of this order.

No costs.

(A.D. Sharma)

Court Master

(Signed Order is placed on the file)

( Phoolan Wati Arora)

Court Master