

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5891-5892 OF 2010

ANANDA CH. BEHERA (D) THR. LRS.

Appellant(s)

VERSUS

LAND ACQUISITION ZONE OFFICER

Respondent(s)

O R D E R

These appeals are filed by the respondent(s) in First Appeal No.150 of 2000, aggrieved by the judgment and decree dated 28.03.2007 passed by the High Court of Orissa at Cuttack.

An extent of land admeasuring 20 acres 23 decimals, belonging to the appellant/claimants was acquired by the State for construction of Rengali Dam Project along with the existing structures, houses, well and standing trees etc. After conducting necessary inquiry, Land Acquisition Officer has passed an award on 11.10.1979. Not satisfied with the fixation of market value by the Land Acquisition Officer in the Award dated 11.10.1979, reference application was filed under Section 18 of Land Acquisition Act, 1894. Pursuant to the same, Reference was made to the Civil Judge (Senior Division), Deogarh. The Reference Court by judgment and decree dated 03.02.2000 has awarded compensation at the rate of Rs.20,000/- per acre for land admeasuring 16 acre 44 decimals, by considering the same as an agricultural land. As there were structures viz. Houses, well and orchard etc., in the remaining

land i.e. 3 acre 79 decimals, the Reference Court has fixed compensation separately for the structures which were existing. Further land covered by orchard, where 77 Nos. of orange trees, 39 Nos. of mango trees, 5 Nos. of lemon trees, etc. were there, compensation was awarded on yield basis by applying 16 times of annual yield. Thus total compensation of Rs.6,47,680/- was awarded.

Aggrieved by the Award and order passed by the Reference Court, the Land Acquisition Zone Officer, Zone-II, Deogarh has filed appeal under Section 54 of Land Acquisition Act in First Appeal No.150 of 2000 before the High Court. The High Court by impugned judgment has allowed the appeal in part. The High Court has awarded compensation @ Rs.20,000/- per acre for the entire land and held that, the appellants/claimants are not entitled for any separate compensation for fruit bearing trees on yield basis. The High Court also further held that appellants are not entitled for benefit under Section 23(1)(A) of the Land Acquisition Act, 1894.

We have heard Mr. Tejaswi Kumar Pradhan, learned counsel for the appellants and Mr. Som Raj Choudhary, learned counsel for the respondent. Having heard learned counsel for the parties, we have perused the impugned judgment of the High Court and Award passed by the Reference Court and other materials placed on record.

From the material on record, what emerges is, that the Reference Court has awarded compensation, by treating the land as agricultural land only to an extent of 16 acre 44 decimals,

the rest of the land i.e. 3 acre 79 decimals, the compensation was awarded on yield basis having regard to the total number of fruit bearing trees of different categories in the land. The High Court has min-red the judgment of the Reference Court and passed the impugned judgment. The High Court on the premise that the Reference Court has awarded compensation for the entire land @ Rs.20,000/- per acre, has allowed the appeal partly. Infact, it is not so. The Reference Court has awarded the compensation @ Rs.20,000/- per acre only to an extent of 16 acre 44 decimals. As such the appellants/claimants are entitles for award of compensation on yield basis for the remaining land, where fruit bearing trees are existed on yield basis.

With regard to claim of appellants/claimants for benefit under Section 23(1)(A) of the Land Acquisition Act, the said provision is introduced by amending Act 68 of 1984. It is to be noted that the said provision is given retrospective effect from 30th April, 1982. As the Reference proceedings were pending before the Reference Court as on the said date, we are of the view that appellants/claimants are also entitled to the benefit conferred under Section 23(1)(A) of the Act. The Reference Court in this Case has passed an award only on 3rd February, 2000.

In view of the Larger Bench Judgment of this Court in the case of : *"K.S. Paripoornan vs. State of Kerala & Ors."* reported in 1994 (5) SCC 593, the appellants/claimants are entitled to the additional amount as contemplated under Section 23(1)(A) of the Act. In the aforesaid judgment, this Court has

clearly held that if the proceedings are pending before the Reference Court as on 24th September, 1984, the claimants are entitled for the benefits under Section 23(1) (A) of the Act.

For the abovesaid reasons, the Judgment of the High Court is set-aside and appellants/claimants are entitled for compensation as awarded by the Reference Court. Further, we also hold that appellants/claimants are entitled for additional compensation as contemplated under Section 23(1)(A) of the Act from the date of Notification till the date of passing of the award or date of taking possession, whichever is earlier.

The Civil Appeals are allowed to the extent indicated above. No order as to costs.

.....J.
(R. SUBHASH REDDY)

.....J.
(HRISHIKESH ROY)

New Delhi;
October 08, 2021.

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal Nos. 5891-5892/2010

ANANDA CH. BEHERA (D) THR. LRS.

Appellant(s)

VERSUS

LAND ACQUISITION ZONE OFFICER

Respondent(s)

Date : 08-10-2021 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R. SUBHASH REDDY
HON'BLE MR. JUSTICE HRISHIKESH ROY

For Appellant(s) Mr. Manoranjan Paikray, Adv.
Mr. Tejaswi Kumar Pradhan, AOR

For Respondent(s) Mr. Som Raj Choudhury, AOR

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

The appeals are allowed in terms of signed order.

(NEETA SAPRA)
COURT MASTER (SH)

(RAJ RANI NEGI)
DEPUTY REGISTRAR

(Signed order is placed on the file)