

IN THE HIGH COURT OF JUDICATURE AT PATNA
FIRST APPEAL No.502 of 1989

Daya Shankar Prasad Thakur, Son of Late Kameshwar Marain Thakur,
Resident of Village Simra, Police Station Piar, District Muzaffarpur.

... .. Appellant/s

Versus

The State of Bihar, Bihar.

... .. Respondent/s

Appearance :

For the Appellant/s : Mrs. Sheela Sharma
For the Respondent/s : Mr.U.S.S. Singh (GP-19)
Mr.R.K.Chandran, AC to GP 19

**CORAM: HONOURABLE MR. JUSTICE NAWNEET KUMAR
PANDEY**

CAV JUDGMENT

Date : 08-10-2024

I have already heard the learned counsel for the appellant as well as the learned counsel for the State of Bihar.

2. This appeal has been preferred against the judgment and award dated 21.12.1988, passed by the Sub-ordinate Judge-II-cum-Land Acquisition Judge, Muzaffarpur in Land Acquisition Case No. 65 of 1975.

3. The brief facts of the case are that five acres of land of the appellant was acquired, vide notification dated 15.02.1966 under the provision of Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act'). The purpose for acquisition was for the construction of Erri Seeds Supply Station in village Mohammadpur Gokul, P.S.-Sakra, District-Muzaffarpur.



4. On behalf of the appellant, an objection under Section 5A of 'the Act' was filed which was rejected and thereafter the declaration under Section 6 of 'the Act' was issued on 11.11.1966 as it was for public purpose. Ext.-I is the notification under Section 4(1) of 'the Act' and Ext.-J is the notification under Section 6 of 'the Act'. The Additional Land Acquisition Officer, Muzaffarpur submitted his report to the Additional Collector and it was forwarded to the government for further action. In the said report, the claim made on behalf of the appellant was also recorded. As per the objection of the appellant, the property fell in the share of the appellant after partition. It was "the cream plot of land" and the appellant was in cultivatory possession of the land, where the agricultural works in mechanized way were performed. The alternative land was suggested by the appellant through the second objection petition dated 27.07.1966. Both the applications were rejected by the Additional Collector.

5. The main grievance of the appellant is inadequate compensation awarded to him by the State Government. He claimed the value of the land not less than Rs.22,250/- per acre, which is equivalent to Rs. 1000/- per katha. The objection petition dated 18.11.1969 is marked as



Ext.2

6. The grievance of the appellant is that there was no exemplar sale deed for four years prior to the notification and only one sale deed was available after the notification which is Ext.1 dated 27.01.1967, executed by Budhu Thakur in favour of Munshi Mian, Muhammad Hussain and Mohammad Suleman which relates to the same village Mohammadpur Gokul and the land was purchased for Rs. 1,000/- per katha (Rs.22,900/- per acre). The second exemplar sale deed is Ext.1/A, which is a certified copy of the sale deed dated 13.01.1966, executed by Raghuraj Singh in favour of Pahari Mahto. It has been submitted that as per the sale deed the consideration money was Rs.540.55/- per katha (Rs.12,378/- per acre). The learned court below ignoring these two exemplar sale deeds conceded with the award submitted by the Collector at the rate of Rs.231.50 per katha (Rs.4697/- per acre) which is a meagre amount, according to the appellant.

7. The learned counsel for the appellant has submitted that, while calculating the compensation, the learned authorities had taken into account the sale statement of another village Dharmangatpur (Ext.C) and only on the basis of sale statement of another village, even without examining the vendor



or vendee, the compensation on the basis of sale statement was ascertained and the learned court below has also committed illegality in relying upon the sale statement (Ext.C) for calculation of the land in question. It has been submitted further that as per the decision of the Hon'ble Supreme Court in the case of *Collector Raigarh Vs. Harisingh Thakur and others reported (MANU/SC/0331/197)*, the sale statement without examining the vendors or vendees cannot be taken into account for computation/calculation of the compensation. Para-6 of the said judgment is reproduced hereinbelow:-

“6. It is also not disputed that the Special Land Acquisition Officer did not lead any evidence worth the name to show the price of the comparable sites in question and remained content with the production only of the sale statement made by Jujhar Singh, N.A.W.I. Now the sale statement consisted mostly of sales relating to the year 1951 which is not relevant for the question in hand. Moreover, the sale statement by itself without examining either the vendors or the vendees or the persons attesting the sale deeds is not admissible in evidence and cannot be relied upon. The sale deed dated December 14, 1956 in favour of Dr. Das for 4,800 square feet of land out of contiguous Khasra No. 256 in lieu



of Rs. 2,000/- i.e., at approximately 6 1/2 annas per square foot (which has been relied upon by the Additional District Judge and the High Court) could be taken as a safe guide for determination of the compensation. From the material adduced in the case, it appears that Raigarh is a growing town, that instead of utilizing the land for doubling the railway track, the railway has built staff quarters thereon, that on three sides of the acquired land, there already existed pucca buildings and on the fourth side, there is a metalled road. It is also in evidence that some lawyers have put up some constructions near the sites in question. Taking all the facts into consideration, it cannot be said that the basis on which the Additional District Judge and the High Court proceeded is wrong or that the quantum of compensation awarded by the High Court is in any way excessive or exorbitant.”

8. It has also been submitted by the learned counsel for the appellant that the learned court below in similar land acquisition case nos. 1, 2, 3, 4 of 1979 has fixed the compensation @ Rs. 1,000/- per katha, which comes to Rs. 22,250/- per acre. Ext.2 is the judgment of the learned court below in Land Acquisition Case Nos. 1,2,3,4 of 1979. In reply,



the learned counsel for the State has submitted that those case nos. 1, 2, 3, 4 of 1979 were 13 years subsequent to the present case, as such, the judgments of those cases cannot be taken into account in the present case, as due to lapse of 13 years, the immediate market value of the land might have increased at the considerable rate.

9. On the other hand, the learned counsel for the State has submitted that the learned court below did not commit illegality while calculating the compensation on the basis of the sale statement (Ext.C). He submitted further that the sale statement relates to village Dharmangtpur, which is adjacent to village Mohammadpur Gokul and the nature of the land of Mohammadpur Gokul and Dharmangtpur are exactly similar. As no sale deed was available in respect of the village Mohammadpur Gokul within four years prior to the acquisition, as such, the sale statement of the adjoining village was exhibited, on the basis whereof the fair compensation was calculated by the court below. The learned counsel for the State has also submitted that Ext.1 is subsequent to the notification under Section 4(1) of 'the Act', as such, the learned court below did not commit any illegality in refusing that sale deed for taking into account for computation of the compensation.



10. So far as Ext.A is concerned, the learned counsel for the State has submitted that this sale deed is in respect of a very little portion of the land i.e. 1 katha 17 dhur and it cannot be taken into account for computation/calculation of the compensation of the land, which is a large chunk of five acres.

11. A number of decisions have been cited by the learned counsel for the State in support of his submission, such as *AIR 1971 SC page 2051 (The Collector of Lakhimpur Vs. Bhuban Chandra Dutta), Smt. Padmaupat etc. Vs. The State of Punjab and others (AIR 1977 SC 580), and AIR 1984 Patna 40 (The State of Bihar Vs. Mosafir Thakur and another)*. In these decisions the Hon'ble Supreme Court has held that the value/valuation of the smaller plots of land cannot be applied to the lands covering a very large chunk of the land.

12. It is an admitted fact that the compensation of the acquired land was assessed on the basis of the sale statement (Ext.C) of another village Dharmangtpur. The Hon'ble Supreme Court in para-6 of **Collector, Raigarh** (supra) has been pleased to hold specifically that the sale statement, without examining the vendors or vendees, cannot be relied upon. Neither the vendor nor the vendee of the sale deed was examined by the



State. As such, the learned trial court had committed illegality in calculating the compensation on the basis of Ext.C, the sale statement.

13. Two exemplar sale deeds were given in evidence by the appellant for calculation of fair and adequate compensation. The learned court below rightly refused Ext.1, which is a sale deed dated 27.01.1967 as it was subsequent to the notification under Section 4(1) of 'the Act'. The notification was published on 15.02.1966, as such, there is nothing on records at all on the basis whereof the calculation of adequate compensation can be made, except Ext.1/A which is a certified copy of the sale deed dated 13.01.1966 of the same village executed by Raghuraj Singh in favour of Pahari Mahto. Mahendra Singh, the son of vendor Raghuraj Singh was examined as AW- 4, who supported the contents of the sale deed.

14. On the basis of above-noted observations I am of the considered view that the quantum of compensation should be calculated on the basis of Ext.1/A.

15. The appellant shall also be entitled for statutory additional compensation under Section 23(1-A) and the solatium as per Section 23 (2) of 'the Act'.



16. Accordingly, the judgment and award dated 21.12.1988, passed by Sub-ordinate Judge-II-cum-Land Acquisition Judge, Muzaffarpur in Land Acquisition Case No. 65 of 1975 is set aside and the appeal is allowed to the extent observed above.

(Nawneet Kumar Pandey, J)

HR/-

AFR/NAFR	NAFR
CAV DATE	04.03.2024
Uploading Date	08. 10.2024
Transmission Date	

