

The Collector Of Darrang vs The Assam Industries (P) Ltd. on 24 September, 1970

Equivalent citations: AIR1971SC1307, (1971)3SCC886, 1971(III)UJ1(SC), AIR 1971 SUPREME COURT 1307, 1971 U J (SC) 1

Author: A.N. Grover

Bench: A.N. Grover, J.C. Shah

JUDGMENT

A.N. Grover, J

1. These two cross appeals have been brought by certificate from a judgment of the High Court of Assam & Nagaland in the matter of compensation awarded for certain land which had been acquired under the Land. Acquisition Act 1894, hereinafter called the 'Act'.

2. On March 11, 1955 a notification was issued Under Section 4 of the Act by which an area of 19 Bighas 1 Katha and 4 Latchas of land belonging to the Assam Industries (P) Ltd, was sought to be acquired for a public purpose, namely, establishment of a Hat or a market. This area included 6 Bighas, 2 Kathas and 17 Latchas which was admittedly being used for purposes of a hat. The Collector gave an award at the rate of Rs. 300 per Bigha for the entire area of 19 Bighas 1 Katha and 4 Latchas. The District Judge on a reference maintained the award. The High Court, after taking into consideration the evidence, assessed the value of the area comprising 6 Bighas, 2 Kathas and 17 Latchas which was admittedly being used for purposes of a hat. The Collector gave an award at the rate of Rs. 300 per Bigha for the entire area of 19 Bighas 1 Katha and 4 Latchas. The District judge on a reference maintained the award. The High Court, after taking into consideration the evidence, assessed the value of the area comprising 6 Bighas, 2 Kathas and 17 Latchas at the rate of Rs. 15,000/- per Bigha. With regard to the remaining area it upheld the view of the District Judge that compensation should be awarded at the rate of Rs. 300/- per Bigha. The Collector of Darrang has appealed against that portion of the judgment by which the compensation for the hat land has been fixed at Rs. 15,000- per Bigha whereas the company has appealed against the compensation awarded for the entire area of 19 Bighas, 1 Katha and 4 Latchas.

3. As regards the hat area of 6 Bighas, 2 Kathas and 17 Latchas evidence of three sales was adduced. The first sale took place on February 14, 1955. An area of 6 Latchas of land was sold for Rs. 1500/-. It may be mentioned that 100 latches make] Bigha. In the sale deed certain houses were also shown to be standing on the land sold. The other two sales took place after the date of the notification Under Section 4 which is the relevant date for the purpose of assessing the compensation. On October 30, 1956, 3 Latchas were sold for Rs. 700/-. On September 27, 1955 12 Latchas were sold for Rs. 1,000/-. The ownership rights were not transferred by these sales but it were occupancy rights which were sold. The principal criticism on behalf of the Collector is that the sales subsequent to

March 11, 1955 which was the date of the notification Under Section 4 of the Act were irrelevant and should not have been taken into consideration and so far as the first sale is concerned it also included the transfer of some houses and no evidence had been led to show what the value of the house was. On the other hand it is maintained by the learned Counsel for the company that the Hat land of 6 Bighas odd has been very much undervalued as its user for a number of years as Hat or Bazar should have been taken into consideration and higher valuation should have been fixed even on the basis of the first sale because it related to occupancy rights only. It has been pointed out that the Hat land of 6 Bighas odd was being leased out from time to time for the purpose of holding a bazar and that in 1953-54 an area of about 5 Bighas fetched a rent of Rs. 6501. In the year 1954-55 it was rented for Rs. 8752/-. In subsequent years i. e. 1955-56 and 1956-57 the rent went up to Rs. 12,000/-and over. Even if the rent for the year 1954-55 alone is taken into consideration the capital value would work out at a much higher figure than what has been awarded. Moreover the potential value has been completely ignored by the High Court.

4. The High Court was of the view that the company was not entitled to get the capitalised value of the lease money which it was getting annually because the income was fluctuating and there was no material to show how much expense the company had incurred in order to maintain the staff for making the collection etc. In our opinion the decision of the High Court with regard to the compensation fixed in respect of the Hat Land at the rate of Rs. 1500/- per Bigha does not call for any interference. Even on the assumption that the sales subsequent to the date of the notification Under Section 4 should have been excluded from consideration the sale which took place prior to it was at the rate of Rs. 250/- per Lacha which would work out to Rs. 25,000/- per Bigha. Since the area sold was small it would be legitimate to take the figure of Rs. 15000/- per Bigha as the correct price for a larger area like the one in question. It can hardly be disputed that this sale was of considerable importance as the land covered by it was either adjacent to or in the immediate neighbourhood of the Hat land. Moreover the rent which the Hat land was fetching could not be completely ignored In view of the entire circumstances relating to the importance of the village or the town where the Hat land was situate the capitalised value at the rate of 12 years, rental would be a little more than the amount actually awarded. That would not, however, justify interference in proceedings relating to fixation of compensation which partakes more of character of arbitration of the value of land taken for public purpose.

5. As regards the remaining area of 12 Bighas, 3 kathas and 7 lachas for which compensation has been awarded at the rate of Rs. 300/- per Bigha that admittedly was not Hat land nor was it ever used for purposes of a Bazar. Reliance has been placed on behalf of the Company on the rent of certain portions of it which were leased out. The first lease was of the year 1952 by which 6 lachas were leased out at a monthly rental of Rs. 4-4As for a period of 20 years. It was stipulated in the lease that the tenant would not claim any compensation if the property was acquired by the Government. There are a number of subsequent leases which have been considered by the High Court. The District Judge had expressed the view that these lease were collusive transactions and the documents had been executed only for the purpose of creating evidence. The same suggestion has been pressed before us on behalf of the collector. It has been suggested that it must have been known in 1952 that land in question was likely to be acquired and therefore the first lease came into existence. Even though there may be some suspicious features about the lease of 1952 no question

was asked in cross-examination suggesting collusion or creation of evidence or the purpose of claiming compensation in acquisition proceedings. Keeping in view this evidence which relates only to a small portion of the land and the other evidence which has been read to us we are inclined to the view that the proper compensation which should have been awarded for the aforesaid area should have been at the rate of Rs. 1,000/- per Bigha.

6. In the result the appeal of the Collector is dismissed. The appeal of the company is allowed to the extent that the area excluding the Hat Land for which compensation at the rate of Rs. 300/- had been awarded, the company shall be entitled to compensation at the rate of Rs. 1,000/-per Bigha. It shall also get 15% of the enhanced amount as compensation for compulsory acquisition and will be entitled to interest at 6% per annum on the additional amount from the date of possession till the date of payment. The parties in both the appeals are left to bear their own costs in this Court.