

Orissa High Court

Land Acquisition ... vs Baladev Chandrakar on 9 July, 2002

Equivalent citations: 2002 II OLR 228

Author: B Panigrahi

Bench: B Panigrahi

JUDGMENT B. Panigrahi, J.

1. This appeal is directed against an order passed by the learned Civil Judge, Senior Division, Nawapara in M.J.C. No. 67 of 1993 under Section 18 of the Land Acquisition Act.

2. The respondent owned "Ac. 0.18 cents of land in Mouza Khariar Road under Khata No. 182 and Plot No. 2571. The appellant acquired the said land and compensation was fixed at Rs. 700.00 for 18 cents. Therefore, the respondent being aggrieved by such arbitrary fixation of compensation filed an application under Section 18 of the Land Acquisition Act for reference to the Civil Court. Accordingly the matter appeared before the Civil Judge, Senior Division, Nawapara who has, of course, determined at the rate of Rs. 20/- per square feet over and above the other statutory entitlement such as solatium and interest. The sole point to be decided in this appeal is whether the compensation payable by the appellant was just and adequate. In determining such issue the price prevalent at the time of notification under Section 4(1) of the Land Acquisition Act is pertinent. In this regard P.W. 1, who was erstwhile owner of the land had deposed that Mahalaxmi Agro Industry, Veterinary Hospital, Indian Oil Petrol Pump, Electric Sub-Station, Gopabandhu M.E. School and High School were located within 200 meters from the acquired land. He further stated that he sustained a loss of Rs. 5,000/- for earth work and plinth work of the boundary, therefore, he had claimed Rs. 20/- per square feet. From his evidence it has further transpired that in case the appellant acquired only A 0.18 cents, the balance land situated in the same plot will be rendered useless. The statement of the erstwhile owner has been corroborated by the other witnesses, P.Ws. 2 and 3, examined on behalf of the petitioner-respondent. The appellant has examined one witness. From his statement it has transpired that Mahalaxmi Agro Industry, Veterinary Hospital, Indian Oil Petrol Pump were situated at a distance of 200 meters from the acquired land. While determining the value of the land the O.P.W. No. 1 had considered the price noted in the Sale deed No. 722/85. It has been further claimed that the land in question was an agricultural land and it would take years to develop it for the purpose of construction of house.

3. The learned referral Court only on the basis of oral testimony of the owner determined compensation at the rate of Rs. 20/- per square foot without referring to the plan filed by the appellant. In the plan, Ext. B, it is indicated that the plot in question did not adjoin either the road or the N.A.C. area. Therefore, the evidence of P.W. 1 to the effect that it is situated within the N.A.C. area is far from truth. Since it has been recorded as an agricultural land and in another case a Division Bench of this Court to which I was a party in First Appeal No. 123/92 the land acquired in that case was valued at Rs. 51,000/- per acre, therefore, the same principle shall be applicable to this case. also. The land covered in F.A. No. 123/92 was also acquired for the purpose of Upper Jonk Irrigation Project. In this case too the land was acquired for the same project which is an agricultural land. Accordingly the price of the land has been fixed at Rs. 51,000/- per acre. If such view is accepted, then the respondent would be entitled to get Rs. 9180/- for Ac. 0.18 cents of land

besides other statutory entitlement such as solatium @ 30% on the enhanced compensation and interest, if any, at the rate of 15% per annum on the enhanced compensation.

In the result, the appeal is allowed in part with the aforesaid modification of compensation to be payable to the respondent.