Daud Minj and anr. Vs. State of Bihar and anr.

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SooperKanoon Citation : sooperkanoon.com/517178

Court : Jharkhand

Decided On : Mar-31-2003

Reported in : [2003(2)JCR657(Jhr)]

Judge : M.Y. Eqbal, J.

Acts : Land Acquisition Act, 1894 - Sections 18

Appeal No. : AFAD Nos. 45, 46, 47 to 63 and 95 of 1984

Appellant : Daud Minj and anr.

Respondent : State of Bihar and anr.

Advocate for Def. : Shamim Akhta, SCII

Advocate for Pet/Ap. : M. Sohail Anwar, Sr. Adv.

Disposition : Appeal allowed

Judgement :
ORDER

M.Y. Eqbal, J.

1. These appeals arose out of a common judgment passed by Special Subordinate Judge-cum-Land Acquisition Judge Ranchi, They have been heard together and are disposed of by this common judgment.

2. The impugned judgment and award has been passed by the special Subordinate Judge Ranchi on the reference under Section 18 of the Land Acquisition Act. It appears that in the year 1962 by notification issued under Section 4 of the said Act, about 17.49 acres of land at Hinoo and Argora for construction of quarters of HSL company was acquired. The Collector published the award on 5.5.1973 and assessed the compensation at the rate of Rs. 45,375 per acres for the Chhaparbandi land. The claimant- appellants sought reference under Section 18 of the said Act and consequently series of land reference cases were registered in the Court of Land Acquisition Judge, Ranchi. The claimants seriously objected the valuation of the land assessed by the Land Acquisition Judge and claimed that the market value of the land cannot and shall not be less than 2,500 per katha. Before the Land Acquisition Judge the claimants examined themselves as witnesses and also proved various sales deeds.

3. On the other hand the respondents-State also proved the rate report and other documents. The Land Acquisition Judge after considering the evidence came to the conclusion that the rate assessed by the Land Acquisition Officer was fair and reasonable and therefore all the reference cases were dismissed.

4. From perusal of the record it appears that the claimants proved different sales deeds which have been marked Exhibit 3 series. Exhibit 3 is a sale deed dated 15.6.1960 executed by Satish Chandra Paul and late Tara Lata Mishra whereby 9 katha 10 chatak of land of the same locality was sold for Rs. 6,256/-. Exhibit 3/A is the certified copy of another sale deed dated 12.12.1962 executed by Laxmi Narayan Bhandari and Shivnath Bhandari whereby 0.58 acres of land was sold to St. 'Xaviers registered society on a consideration of Rs. 35,000/-. By Exhibit 3/B which is another certified copy of sale deed dated 16.12.1959, 4 katha land of the same area was sold at a consideration of Rs. 1,981/-. On the other hand from perusal of exhibit A which is the market value report it appears that when the land was acquired the market value of Rs. 45,375/- per acre so far Chhaprabandi land is concerned. The rate of tanr II and III and waste land was Rs. 36,300/- per acre. Exhibit D is another document which is the rate schedule of houses. The claimants have claimed that the market value of land should not be as minimum as Rs. 2,500/- per katha.

5. Taking into consideration Exhibit 3 series the Land Acquisition Judge appears to have ignored the sale deed (Ext. 3/A) by which land of the same locality was sold in the year 1962 to St. Xavier's registered society at the rate of Rs. 603.50/- per decimal. The reason assigned by him is that 2 years earlier the market value of the land of the same locality was very low and therefore because of fluctuation in the rate Exhibit 3/A cannot be taken as the real state of affairs. In my opinion the Land Acquisition Judge has committed serious error of law in ignoring the sale deed by which the land of the same locality was sold to a registered society namely St' Xavier's registered society. In my opinion the rate of the land assessed by the Law Acquisition Officer is not in accordance with law.

6. Taking into consideration the evidence brought on record by the claimants particularly Ext. 3/A, the claimants should have been awarded compensation of the land at the rate of Rs. 90,000/- per decimal (Rs. 1350/- per katha approximately) as against their claim of Rs. 2.500/- per katha.

7. All these appeals are allowed andthe compensation is increased to Rs.90,000/- per acre.