

Suresh Prasad Singh and ors. Vs. State of Bihar and anr.

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SooperKanoon Citation : sooperkanoon.com/523368

Court : Jharkhand

Decided On : Nov-12-2008

Reported in : [2009(1)JCR125(Jhr)]

Judge : M.Y. Eqbal, J.

Appellant : Suresh Prasad Singh and ors.

Respondent : State of Bihar and anr.

Disposition : Appeal allowed

Judgement :

M.Y. Eqbal, J.

1. This appeal is directed against the judgment and award dated 4.12.1993 passed by Land Acquisition Judge, Dhanbad in Land Acquisition Reference Case No. 109/87, whereby and whereunder the reference case was dismissed and the compensation awarded by the Land Acquisition Authority was confirmed.

2. The facts of the case lie in a narrow compass.

The State Government acquired the land and house comprised within the plot No. 862/4 under Khata No. 136 of Mauja Hirapur within Dhanbad police station for extension of Dhanbad Divisional Jail under declaration No. 1588 dated 11.9.1975. The Land Acquisition Officer determined the compensation of the land and house

standing thereon including statutory compensation at Rs. 1,53,506/-. The Land Acquisition Authority valued the land at Rs. 11,622.33 @ Rs. 63,684 per acre and Rs. 69,599/- and Rs. 5636/- for the house and well retrospectively. The appellants received the amount of compensation under protest and filed separate application under Section 18 of the Land Acquisition Act seeking reference of dispute and determination and valuation of the property. The appellants case was that the land should have been valued at Rs. 15000/- per decimal and the house at Rs. 8.00 lac and accordingly, the appellants claimed Rs. 2.00 lac each as compensation in respect of their share in the property acquired. The State justified the determination of compensation of the property on the ground that it was determined according to prevailing market rate. The Land Acquisition Judge heard the reference case and disposed of the same by the impugned judgment and award.

3. It appears that the Land Acquisition Judge held that the house in question was 20 years old and the land, on which the house is situated, was purchased by the appellants but the sale deeds were not produced. The Court below also held that the applicants have not brought on record any document either of the land or building in proximity of the acquired land to enable the Court to assess the compensation. The Court below did not put reliance on the report of a private valuer, Ext. 1 to show that the house and land are worth of Rs. 1,34,236/-. The appellants made out a case that the house was let out to different persons and they are getting rental income at Rs. 1400/- per month and in support of that they have filed rent receipts. On the basis of aforesaid findings, the Land Acquisition Judge affirmed the compensation determined by the Land Acquisition Officer.

4. Mr. S.N. Das, learned Counsel appearing for the appellants, assailed the impugned award as being illegal, contrary to facts and evidence available on record. Learned Counsel submitted that admittedly the appellants constructed the house over the land acquired and as such they are entitled for determination and valuation of the construction and damages proportionately.

5. Learned Counsel further submitted that the Court below has not considered the judgment passed in another case by the Land Acquisition Judge being Reference

Case No. 106/79 (Ext. 3), in which case compensation was paid @ Rs. 1,50,000/- per acre. The impugned judgment is, there--fore, perverse in law.

6. Admittedly, the land of the same Khata No. 136 of the Mauja Hirapur was acquired and in another Reference Case No. 106/79 (Ext. 3) the valuation of the land was assessed at Rs. 1,40,000/-. From perusal of the judgment, it appears that the Government Pleader appearing before the Court below did not dispute the fact that the land in question is of the same khata number and plot number.

7. In that view of the matter, merely because the hospital has - been constructed in the land acquired in L.A. Reference Case No. 106/79 and the land in question is behind the said land, the Court below ought not to have discarded the judgment passed in the aforementioned reference case. In my considered opinion, therefore, the appellants are also entitled to get compensation of the land @ Rs. 1,50,000/- per acre. Similarly the Court below ought not to have discarded the report of the valuer (Ext. 1) for the purpose of determining the compensation of the house in question. The matter, therefore, needs reconsideration by the Court below.

8. For the reasons aforesaid, this appeal is allowed and the impugned judgment and award is set aside. The matter is remanded back to the Court below for passing fresh award after considering all the materials available on record.