

Manmohan Lall and anr. Vs. State of Orissa Represented Through the Collector

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Court : Orissa

Decided On : Jul-29-1985

Reported in : 1985(II)OLR229

Judge : B.K. Behera and ; P.C. Misra, JJ.

Acts : [Land Acquisition Act, 1894](#) - Sections 11, 18 and 23(2); Land Acquisition (Amendment) Act, 1984 - Sections 30(2)

Appeal No. : First Appeal No. 47 of 1984

Appellant : Manmohan Lall and anr.

Respondent : State of Orissa Represented Through the Collector

Advocate for Def. : Adv. General and Addl. Standing Counsel

Advocate for Pet/Ap. : R. Ch. Mohanty, R.K. Mohanty, B. Ch. Mohanty, P.K. Patnaik, B.P. Patnaik and J.P. Mishra

Disposition : Appeal allowed

Judgement :

P.C. Misra, J.

1. This appeal is directed against the decision of the Subordinate Judge, First Court:, Cuttack, in Land Acquisition Case No 328 of 1976 which arises out of a reference made under Section 18 of the Land Acquisition Act (Act 1 of 1834).

2. A vast stretch of land situated in Gandarpur was acquired for the project known as Housing Accommodation Scheme in Gandarpur. The appellants in this appeal are the owners of a piece of land measuring Ac. O. 930 decimals appertaining to plot No. 568 in Maura Gandarpur which was acquired under the aforesaid scheme. The Land Acquisition Collector awarded a compensation to the appellants at the rate of Rs. 25,000/-per acre. The appellants being dissatisfied with the award of the Collector, moved for a reference to be made to the Court for determination of proper compensation. The appellants claimed the compensation at the rate of Rs. 10,000/- per gunth of the acquired land. The learned Subordinate Judge by his judgment dated 22. 4. 1981 awarded a compensation at the rate of Rs. 4, 500/- per gunth on a consideration of the evidence adduced before him. The State of Orissa filed First Appeal No. 411 of 1981 against the aforesaid judgment of the Subordinate Judge in this Court. This Court allowed the appeal and remanded the matter to the Subordinate Judge directing to apply the principle of belting for the purpose of valuation of the land. The learned Subordinate Judge on remand decided the matter afresh by the impugned judgment under which he confirmed the valuation made by the Land Acquisition Collector.

3. The appellants have challenged the judgment of the Subordinate Judge mainly relying upon the judgment passed by this Court in a group of first appeals, namely, First Appeal Nos. 133, 222, 464, 465, 365, 430 and 413 of 1982 and No. 175 of 1983.

The judgment in the aforesaid first appeals delivered by this Court on 22. 1. 1935 dealt with lands which were acquired for the very same project, i. e., Housing Accommodation Scheme at Gandarpur. Reference was also made to some other first appeals which relate to the acquisition of lands of village Sikharpur for the very same project and which were decided alongwith the aforesaid batch, of appeals. The village Sikharpur is adjacent to village Gandarpur and as already stated, the lands of both the villages were acquired for the aforesaid project.

Consequently, the consideration for fixation of valuation for the lands situated at villages Sikharpur and Gandarpur in the appeals decided by this Court would be the basis of fixation of compensation for the lands in question in this appeal. This Court in the aforesaid appeals relied upon the decision of the Supreme Court in Civil Appeals Nos. 3454-2517-3451-53 of 1933 and held that the valuation of the land should be at the rate of Rs. 4,500/- per gunth, i. e., Rs. 1,12,500/- per acre and awarded compensation at that rate. In the present case following the same principles we would fix the valuation of the acquired land at Rs. 4,500/- per gunth, i. e., Rs. 1, 12,500/- per acre.

4. The appellants further claim that they are entitled to solatium and interest at the enhanced rate as per the provisions of the Land Acquisition (Amendment) Act of 1984. Their contention is that the provisions of the Land Acquisition (Amendment) Act, 1984 being retrospective and the award in question in this appeal having been passed after 30th of April, 1982, the appellants would be entitled to solatium and interest at the higher rate. In a decision in the case of K. Kamalajammanniavar (dead) by Lrs. v. The Spl. Land Acquisition Officer, etc., A. I. R. 1985 S. C. 576, Sec 30(2) has been interpreted to mean that the retrospectivity of Section 23(2) is limited and it would apply to awards made after 30th of April, 1982 and before 24th of September, 1984 and further to appeals to the High Court and Supreme Court arising from such awards. Their Lordships also held that the awards made by the Collector under Section 11 and by the Court in a reference under Section 18 only are described as awards in the Land Acquisition Act. Thus, the new Section 23(2) would have a limited application.

5. In this case the Land Acquisition Officer passed the award in the year 1976 and on an application under Section 18 of the Act, reference was made to the Court which was registered as Land Acquisition Case No. 328 of 1976. The reference was answered by the Court by the impugned judgment dated 13. 9. 1982. As has been held by the Supreme Court in the decision referred to above (A.I. R. 1985 S. C. 576), the provisions of the amended Section 23(2) would be applicable to awards made after April 30, 1982 and before September 24, 1984 and further to appeals to the High Court and Supreme Court arising from such awards. Thus, the appellants shall be entitled to higher solatium and enhanced interest as per

Section 30(2) of the Land Acquisition (Amendment) Act, 1984, the quantification of which shall be made by the trial Court.

6. In the result, the appeal is allowed and the award be modified as indicated above. In the facts and circumstances of the case, there will be no order as to costs.

B.K. Behera, J.

7. I agree.

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