

State of Orissa Vs. Dola Bihari Nanda

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Court : Orissa

Decided On : May-15-2008

Reported in : 2008(II)OLR620

Judge : A.K. Parichha, J.

Appellant : State of Orissa

Respondent : Dola Bihari Nanda

Judgement :

ORDER

A.K. Parichha, J.

1. This is an appeal filed by the State against the award passed by learned Civil Judge (Senior Division) Deogarh in L.A. Case No. 29 of 2000 answering a reference under Section 18 of the Land Acquisition Act (hereinafter referred to as 'the Act').

2. Ac. 15.51 decimals of land under Khata No. 11 of village-Rengta under Naikul P.S. belonging to the claimant-respondent was acquired for the purpose of Rengali Dam Project under Section 4(1) notification dated 6.1.1975. After enquiry under Section 11 of the Act, the Land Acquisition Collector awarded a compensation of Rs. 81,991/- for the acquired land, trees and house standing on those lands. The claimant-respondent received that amount under protest and prayed for reference of the matter to the Civil Court for adjudication of the proper market value of the lands. That is how, the matter came up before the learned Civil Judge.

3. To justify the claim of higher compensation, the claimant examined himself and another witness but did not produce any document. The Land Acquisition Collector did not produce any witness or document. Considering the evidence of the witnesses and the reference letter, tree statement etc. the referral Court came to the conclusion that the market value of the acquired land at the time of acquisition was Rs. 20,000/- per acre. He also found that the market value of house was Rs. 85,000/- and that of the standing trees was Rs. 1,02,000/-. He directed payment of compensation to the claimant accordingly along with the statutory benefits. The said award is under challenge by both the parties in this appeal.

4. Mr. Sangram Das, learned Counsel for the State submits that the referral Court did not appreciate the evidence regarding the value of the land, house and trees properly. He states that the award is very much on the higher side. Learned Counsel for the respondent-claimant, on the other hand presses the cross appeal of the claimant and demands higher compensation for the land, house and trees.

5. Both P.Ws. 1 and 2 said that Ac. 15.51 decimals of land of the claimant was acquired. They stated that these lands were situated close to the village and were giving high annual yield. They also indicated that for similar lands of Nishakar Pradhan compensation at the rate of Rs. 20,000/- per acre has been awarded in F.A. No. 55 of 1996. Taking note of this evidence, the referral Court assessed the market value at the rate of Rs. 20,000/-

per acre. In view of the evidence of P.Ws. 1 and 2, and the rate of compensation awarded by this Court in F.A. No. 55 of 1996 State v. Nishakar Pradhan, the market rate of the land as assessed by the referral Court seems reasonable and acceptable.

6. The evidence of the witnesses as well as the reference letter revealed that the claimant had a pucca house consisting of 12 rooms with verandah on all the sides and that house was acquired. The claimant stated that he had spent about Rs. 1,25,000/- for the construction of the said house in the year 1965. Learned referral Court, however, fixed the market price for the house at Rs. 85,000/- which appears to be on the lesser side. Considering the size and the type of house compensation of Rs. 1,25,000/- should have been just and proper.

7. P.Ws. 1 and 2 claimed that there were large number of trees on the acquired land and the claimant was earning huge amount from the fruits and other products of these trees. The existent of large number of trees on the acquired land is also evident from the tree statement prepared by the Re-Settlement and Rehabilitation Officer. According to the tree statement, large number of trees including many mango, orange, Mahua, Ashan, Bahada, Banana, Palm, Jam, Badhila, Sajana and Bela trees were there on the acquired land. Even if the fire wood values of all the trees are considered, the compensation of Rs. 1,02,000/- does not appear to be fair or reasonable. For all the trees the claimant was entitled to get a compensation of at least Rs. 1,50,000/-.

8. In the result, therefore, the Impugned award is modified. The claimant-respondent will get compensation for the lands at the rate of Rs. 20,000/- per acre, for the house a sum of Rs. 1,25,000/- for the trees a sum of Rs. 1,50,000/-. Besides these compensations, he also be entitled to get the statutory benefits provided under the amended L.A. Act except the benefits of Section 23(1)(a) of the Act as because the award by the Collector was passed before the cut off date i.e. 30.4.1982 and the award of Civil Judge was passed after that date. Needless to say, that the amount already paid to the claimant will be adjusted out of the compensation amount. Consequently, the appeal preferred by the State is partly allowed and the cross appeal are partly allowed on contest, but without any cost.

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