

State of Bihar. Vs. Birendra Prasad.

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Court : Patna

Decided On : Sep-13-2010

Judge : Mungeshwar Sahoo, J.

Acts : Land Acquisition Act - Sections 4(i), 18

Appeal No. : FIRST APPEAL No. 642 OF 1993

Appellant : State of Bihar.

Respondent : Birendra Prasad.

Advocate for Def. : Mr. Khatim Reza; Mr. Anil Kumar, Advs.

Advocate for Pet/Ap. : Mr. Narmadeshwar Jha; Ms. G. Nisha, Advs.

Judgement :

(1)The State of Bihar has filed these two First Appeals against the common judgment dated 07.06.1993 and the decree signed on 11.06.1993 by Sri Abhaya Nand Chaudhary, the learned Sub Judge I- cum-Land Acquisition Judge, Sitamarhi in L.A. Case No. 33 of 86 and 37 of 86. First Appeal No. 642 of 1993 arises out of L.A. Case No. 33 of 86 whereas First Appeal No. 646 of 1993 arises out of L.A. Case No. 37 of 86.

(2) The lands of the claimants-respondents of both the cases were acquired by the State of Bihar for the purpose of rehabilitation of people of Village-Adambandh under Bagmati Project Scheme. In L.A. Case No. 33 of 86, total 0.42 acres area of

Birendra Prasad was acquired. In L.A. Case No. 37 of 86, total area of 1.10 acres of Sadique Mian was acquired. It appears that the lands are small parts of various plots. The notification under Section 4(i) of the Land Acquisition Act was issued on 01.05.1982. Award No. 21 was prepared in the name of Sadique Mian whereas Award No. 25-K was prepared in the name of Birendra Prasad fixing the value of the land at the rate of Rs. 167.76 per decimal. Therefore, both the claimants filed applications for making reference of the case under Section 18 of L.A. Act claiming that on the date of notification under Section 4 of L.A. Act, the value of the lands acquired were about Rs.2,000 per decimal.

(3) The claimants adduced evidences oral as well as documentary in the Court below in support of their claim regarding market value of the land at Rs.2000 per decimal. The State of Bihar did not file any objection nor was any witness examined on behalf of the State of Bihar.

(4) After trial, the learned Court below relying upon the various sale deeds and the earlier judgments for the lands acquired by the same notification for the same purpose of the same village and determined the value of the land at Rs.1700 per decimal.

(5) Learned AAG-7 appearing on behalf of the State of Bihar- appellant submitted that the learned Court below has fixed the market value of the land at a very high rate. The learned Land Acquisition Judge should not have enhanced the rate from Rs.167.76 to Rs.1700 per decimal.

(6) The learned counsels appearing on behalf of the respondents-claimants in both the appeals submitted that the valuable lands of the claimants have been acquired by the State of Bihar. The claimants have produced sale deeds as well as earlier judgments of the Land Acquisition Judge and relying upon those evidences, the learned Court below has fixed the rate of the land. Therefore, there is no illegality in the impugned judgment and decree. On these grounds, the learned counsel for the respondents submitted that these appeals are liable to be dismissed.

(7) In view of the above contentions of the parties, the points arises for consideration in these appeals is that "whether the market value of the land fixed

by the Land Acquisition Judge is proper and just" and "whether the impugned judgment and decree are sustainable in the eye of law."

(8) In this case, by the same notification, the lands of both the respondents were acquired for the same purpose. In both the land acquisition cases, the claimants have adduced oral as well as documentary evidences. In L.A. Case No. 37 of 86, A.W. 1 has been examined on behalf of the claimant who is son of claimant. He has stated that 1.10 acres of land were acquired for rehabilitation of people. The lands situated just by the side of the road near Bairagania Railway Station, Bairagania Bajar and also near Gaur Bajar of Nepal and custom office of India and Nepal. He has also stated that on the date of notification under Section 4(i) of the L.A. Act, the market value of his land acquired was Rs.2000 per decimal. He has stated that by same notification, the land of Birendra Prasad who is claimant in the other land acquisition case was acquired. The nature of the land is same and the purpose for which it was acquired is also same and award was passed by the Land Acquisition Judge in L.A. Case No. 52 of 1986 fixing the market value of similar type of land at Rs.1700 per decimal. P.W. 2 has stated that after receiving the land from the State of Bihar, he has constructed the house on it. A.W. 3 has also stated that the value of the land acquired is about Rs.2200-2400/- per decimal. A.W. 1 in L.A. Case No. 33 of 86, Birendra Prasad himself has also stated that the lands are situated by the side of the road near Bairagania Market, Bairagania Railway Station, Gaur Bajar etc.

(9) The claimants have also filed Exhibit-4 series which are sale deeds which show that the lands were sold in the year 1982 at the rate of Rs.2500 per decimal. The judgment of the Land Acquisition Judge passed in L.A. Case No. 52 of 1986 has been marked as Exhibit-3. From perusal of the said judgment, Exhibit-3, it appears that the other lands of Birendra Prasad, respondent in First Appeal No. 642 of 1993 was acquired by the same notification for the same purpose and the lands were similar in nature. Birendra Prasad filed application under Section 18 which was referred to Land Acquisition Judge and after considering the evidences available in that case, the Land Acquisition Judge fixed the market value of the land at Rs.1700 per decimal. (10) In the present case, the claimants have adduced evidences that the lands involved in these reference cases also are similar in

nature and for the same purpose by the same notification, lands have been acquired. There is no contrary evidence available on record. Relying upon the said decision, Exhibit-3 learned Land Acquisition Judge has fixed the market value of the land at Rs.1700 per decimal.

(11) In a decision reported in (1996) 2 PLJR 151(The State of Bihar vs. Maheshwari Prasad), this Court held that the best evidence is the judgment and decree passed by the Special Judge in relation to the different reference case arising out of the same land acquired under the same notification for the same purpose. In the said decision, the decision of the Hon'ble Apex Court in the case of Special Land Acquisition Officer vrs. Sri Siddappa Omannu Tumari reported in AIR 1995, Supreme Court 840 and the case of Har Charan vs. State of Haryana reported in 1983 BBCJ (SC) page 11 were relied upon.

(12) As stated above, the lands acquired in the present case are similar in nature as that of the land involved in Exhibit-3. The lands were also acquired for the same purpose and by same notification. The learned Court below therefore, rightly relied upon the judgment, Exhibit- 3 and fixed the same rate in the present case also. I find no illegality in the judgment. Therefore, the market value fixed by the learned Land Acquisition Judge for both the cases is hereby confirmed.

(13) In the result, I find no merit in both the First Appeals and accordingly, both the First Appeals are dismissed.

(14) In the facts and circumstances, the parties shall bear their own costs.

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