

**The State of Bihar, and anr. Vs. Ram Pratap Singh, and ors.**

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**SooperKanoon Citation :** [sooperkanoon.com/916319](http://sooperkanoon.com/916319)

**Court :** Patna

**Decided On :** Nov-03-2010

**Judge :** Mungeshwar Sahoo, J.

**Acts :** Land Acquisition Act - Sections 4, 9, 18

**Appeal No. :** FIRST APPEAL No. 744 OF 1993

**Appellant :** The State of Bihar, and anr.

**Respondent :** Ram Pratap Singh, and ors.

**Advocate for Def. :** Mr. Anil Kumar, Adv.

**Advocate for Pet/Ap. :** Ms. G. Nisha, Adv.

**Judgement :**

(1) This First Appeal has been filed by the State of Bihar against the judgment and decree dated 9.9.1993 passed by Sri S.S.P. Verma, the learned Special Land Acquisition Judge, Bagaha, West Champaran in Land Acquisition Case No. 1 of 1992.

(2) It appears that for construction of power house in village Pipra, total 51.69 acre lands were acquired by the State of Bihar under the scheme as Hydel Electrical Eastern Canal Project, Valmikinagar. Out of that total land, 15 acre 44 decimal lands of the claimant-respondent was acquired. Notification under Section 4 of the L.A. Act was published on 22.08.1984. The claimants filed application under

Section 9. After hearing, the Land Acquisition Officer awarded compensation of Rs.10,189.08/- including the value of the land measuring 15 acre 44 decimals.

(3) The land holders-respondents filed application u/s 18 of the L.A. Act claiming compensation at the rate of Rs.25,000 per acre alleging that the lands acquired are irrigated land and three crops are cultivated. It is also alleged that the land holders earned Rs.9,000-10,000 per acre from the agricultural produce. The said application under Section 18 was referred to the Land Acquisition Judge.

(4) The parties adduced evidences before the Land Acquisition Judge and by the impugned judgment and decree, the Land Acquisition Judge fixed the market value of the acquired land at the rate of Rs.23,000 per acre and allowed the other statutory benefit on the said amount. (5) The learned AAG-7 appearing on behalf of the appellant submitted that the Land Acquisition Judge has arbitrarily fixed the market value of the lands acquired at Rs.23,000 per acre, although, the compensation awarded by the Land Acquisition Officer was proper and adequate and therefore, the impugned judgment and decree are liable to be set aside. On the other hand, the learned counsel appearing on behalf of the applicants-respondents submitted that there is no denial to the fact that the lands acquired were irrigated land and the power house has been established on the said land. The learned counsel further submitted that for 15 acre 44 decimal land only Rs.10,000 and odd has been awarded which means that about Rs.700 per acre has been fixed for the lands in the year 1984 which is a very meager amount. Considering all these aspects of the matter, the Land Acquisition Judge has rightly enhanced the compensation fixing Rs.23,000 per acre on the day of acquisition of the land i.e. in the year 1984. According to the learned counsel, there is no illegality in the impugned judgment and decree and therefore, it needs no interference.

(6) In view of the above contentions of the parties, the points arises for consideration in this appeal is as to "whether the compensation awarded by the Land Acquisition Officer i.e. Rs.10,000 and odd is proper and adequate for the lands measuring 15 acre 44 decimal" or "the compensation awarded by the Land Acquisition Judge is proper and adequate or it is exorbitant" and "whether the

impugned judgment and decree are sustainable in the eye of law?"

(7) It appears that the claimants have examined 4 witnesses. A.W. 4 is one of the claimants namely Ram Pratap Singh. A.W. 1, Shyam Sundar Shukla has stated that the acquired lands situate in both side of Bagaha-Valmikinagar main road and in the northern side of the main road, the power plant has been constructed. According to the evidence of this witness, the land was earlier irrigated by the Tirhut Canal and three crops were grown. At the time of acquisition of the land, the valuation was Rs.10,000-15,000 per katha.

(8) A.W. 4, the claimant has also stated the same thing that the land acquired was irrigated land and three crops were growing per year. He was getting income of Rs.9,000-10,000 per acre from the crops. The evidence of A.W. 2 and A.W. 3 are on the same line. From perusal of the cross-examinations of these witnesses, it appears that there is absolutely no denial to the fact that the land was not irrigated land. From perusal of the witnesses examined on behalf of the State of Bihar also, it appears that they have supported the claimant's case. O.W. 1 has stated in cross-examination that the lands of the applicant situate in both side of Bagaha-Valmikinagar main road and the land was agricultural land and also it was homestead land. In cross-examination, he has clarified that some lands in the southern side of the road were agricultural land and some land in the northern side of the main road was homestead land. O.W. 3 has stated that the compensation has been awarded at the rate of ceiling. O.W. 2 is a formal witness who has proved the sale chart.

(9) From the above evidences, it appears that the evidence of the applicants-respondents to the effect that some of the lands were agricultural land irrigated by Canal and three crops were grown in a year stands admitted because there is no denial by the witnesses examined on behalf of the State of Bihar. It is also admitted that the lands situate in both side of Bagaha-Valmikinagar main road and main power house has been constructed on it. The witnesses examined on behalf of the claimants have all stated that the value of the lands acquired on the date of acquisition is Rs.10,000-15,000 per katha. There is also evidence to the effect that Rs.9,000-10,000 per acre was the annual income from the crops. There is also no

contrary evidence. In such circumstances, there were two options for determination of market value on the date of acquisition. One was on the basis of the value of the land given by the applicants and the other was on the basis of annual income from the crops. So far both the options are concerned, there is no contrary evidence. However, from perusal of the impugned judgment, it appears that the learned Court below did not determine the market value of the land on the basis of earning through crops on the ground that it will be very high. It appears that the learned Court below has given sound reason for not applying that principle.

(10) As stated above, all the witnesses examined on behalf of the applicants-respondents have stated that the value of the land on the date of acquisition was Rs.10,000-15,000 per katha. However, considering the nature of the land, the purpose for which it was acquired, the learned Court below came to the conclusion that the market value on the date of the acquisition would be Rs.23,000 per acre.

(11) As stated above, since the fact that the lands were irrigated land and some part of the lands were homestead land and that three crops were grown in each year was not denied by the State of Bihar, it cannot be said that the compensation awarded by the Land Acquisition Officer i.e. Rs.10,000 and odd is adequate for 15 acre and 44 decimal land. Further, I do not find any material or evidence on record produced on behalf of the appellant to show that the valuation of the land should have been less than Rs.23,000 per acre as determined and fixed by the Land Acquisition Judge. I therefore, find that the appellant has failed to prove that the market value determined by the Land Acquisition Judge is exorbitant or very high. In my opinion, therefore, the market value determined by the Land Acquisition Judge is proper and legal and the applicants-respondents are entitled for the same. Accordingly, the finding of the Land Acquisition Judge is hereby confirmed.

(12) In the result, I find no merit in this appeal and accordingly, this First Appeal is dismissed.