

State of Bihar. Vs. Rameshwar Prasad.

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SooperKanoon Citation : sooperkanoon.com/916395

Court : Patna

Decided On : Jan-13-2011

Judge : Mungeshwar Sahoo, J.

Acts : Land Acquisition Act - Sections 4, 18

Appeal No. : FIRST APPEAL No. 190 OF 2005

Appellant : State of Bihar.

Respondent : Rameshwar Prasad.

Advocate for Pet/Ap. : Mr. Ajay Kumar Sharma, Adv.

Judgement :

(1) The State of Bihar has filed First Appeal No.190 of 2005 against the judgment and award dated 17th February, 2005 in L.A. Case No.45 of 1985/22 of 1991, First Appeal No.193 of 2005 against the judgment and award dated 14.02.2005 passed in L.A. Case No.350 of 1984/50 of 1991, First Appeal No.194 of 2005 and First Appeal No.195 of 2005 against the judgment and award dated 21.03.2005 passed in L.A. Case No.24 of 1985/44 of 1991 and L.A. Case No.36 of 1985/14 of 1991 respectively, all passed by the learned 4th Additional District Judge, Nawada.

(2) Since in all the above four First Appeals, the lands have been acquired by the State of Bihar by same notification and for the same purpose and the points involved in all the First Appeals are same. It appears that judgments are also on the same line. The evidences adduced by the parties in all the four First Appeals

are also same. In all the four First Appeals, the houses of the respondents have been acquired. Considering the above facts that same question is involved in all the four First Appeals, they are heard together one after the other and are disposed of by this common judgment.

(3) In all the four First Appeals, the case of the claimants is that their houses have been acquired by the State of Bihar for construction of Phulwariya Jalashaya in Land Acquisition Case No.13 of 1982-83 of the Court of Land Acquisition Officer. Award No.132 was prepared by the Land Acquisition Officer on 07.01.1984 for Rs.13,589.23 paise in Land Acquisition Case No.45 of 1985/22 of 1991 of the 4th Additional District Judge, Nawada giving rise of First Appeal No.190 of 2005 and likewise, in First Appeal No.193 of 2005, Award No.75 was prepared for Rs.21,932.38 paise, in First Appeal No.194 of 2005, Award No.118 was prepared for Rs.9678.11 paise and in First Appeal No.195 of 2005, Award No.142 was prepared for Rs.1,25,964.18. All the claimants- land holders-respondents received the said awards prepared by the Land Acquisition Officer with objection and filed application under Section 18 of the Land Acquisition Act claiming that the compensation paid by the Land Acquisition Officer is inadequate and very low and therefore, the matter may be referred to the Land Acquisition Judge. Accordingly, their applications under Section 18 of the Land Acquisition Act were referred to the Land Acquisition Judge.

(4) According to all the respondents, their houses have been acquired by the State of Bihar but it was not properly valued according to the prevalent market rate and very low amount has been paid as compensation. In all the above referred cases, before Land Acquisition Judge, the claimants-respondents adduced two witnesses. Out of the two witnesses, one is claimant-respondent and the other is of the neighbouring village. In all the cases, the State of Bihar also adduced one witness as formal witness who proved the Khatian as Exhibit A and B. All the witnesses in all the cases have deposed giving specific description of their respective houses acquired by the State of Bihar. In First Appeal No.190 of 2005, the claimant-respondent was examined as A.W.1 who has specifically stated that his two houses have been acquired. In his evidence, he has described the rooms, kitchen and veranda of the house and has also stated valuation of both the houses

were Rs.25,000- 30,000. However, A.W.2 said that the valuation was about Rs.80,000- 90,000. The learned Court below found that there is no denial on the part of the State of Bihar to the effect that house was standing on this land which was acquired for the Phulwariya Jalashaya. Likewise, in First Appeal No.193 of 2005, the claimant-respondent has been examined as A.W.2. She in her evidence has clearly stated that her two houses have been acquired. She has also described the rooms, kitchen, veranda and roof etc. and specifically stated that the valuation of both the houses was about Rs.80,000-90,000. In First Appeal No.194 of 2005, the claimant- respondent was examined as A.W.2. He has also stated that his two houses have been acquired. He has also described the houses and the rooms comprised in both the houses and said that the valuation was about Rs.40,000 at the time of acquisition. In First Appeal No.195 of 2005, the claimant-respondent was examined as A.W.1. He has stated that his two houses have been acquired by the State of Bihar. One house was pucca brick built consisting of 10 rooms and the other house also consisting of 10 rooms having veranda, septic latrine as well as kitchen in both the houses. He has also specifically stated that the valuation of the houses was about 2 to 2.5 lacs. The other witnesses in all the cases have supported the valuation. On the contrary, there is no denial on the part of the State of Bihar about existence of house. Only Khatiyani has been proved and according to the O.P.W.1, the valuation has been fixed on the basis of Khatiyani. The learned Court below found that there is no description of house in the Khatiyani and the State of Bihar has not explained as to how the Land Acquisition Officer computed the valuation of the houses. The learned Court below also found that the witness examined on behalf of the State of Bihar admitted the fact that the award was prepared on the basis of Khatiyani only; therefore, there was no valuation of the house.

(5) Considering the above evidences, I find that there is no denial on the part of the appellant regarding the existence of the houses as stated by the claimants. There is no denial about the valuation also. There is no denial also that only on the basis of the Khatiyani, the compensation has been paid. There is no contrary evidence to the evidence adduced by the applicant. From the evidences, it appears that although, the evidences of the applicants are only oral evidences but then those evidences, in my opinion, are reliable evidences.

(6) The learned counsel for the appellant submitted that in First Appeal No.190 of 2005, the learned Court below also awarded compensation for Well which is not payable because it is only a facility attached to the land or the house. So far this submission is concerned, no doubt for Well, no compensation is payable but then from perusal of the impugned judgment, it appears that the claimant who was examined as A.W.1 has claimed the valuation of his house as Rs.25,000-30,000 and Rs.6,000 as cost of Well. However, the learned Court below has not granted compensation separately for Well and only Rs.25,000 has been awarded. I, therefore, find no force in this submission of the learned counsel for the appellant.

(7) The learned counsel next submitted that the learned Court below has relied upon only the oral evidences adduced by the appellant which cannot form the basis for computing the compensation. So far this submission is concerned, no doubt only oral evidences have been adduced but then there is no denial on the part of the appellant that no houses of the claimants have been acquired. The description given by the claimants in their evidences has also not been denied. Considering all these aspects of the matter, the learned Court below have awarded the minimum compensation, although, the claimants claimed more amount than the amount of compensation awarded by the Land Acquisition Judge. In all these cases, it appears that the State of Bihar did not produce any evidences showing the manner of computation of the award. After taking note of all these facts, the learned Court below has given the compensation to the claimants-respondents.

(8) Considering the above facts and circumstances of the case, I find no reason to interfere with the impugned judgment and award in all the four First Appeals. Accordingly, the findings of the learned Court below in all the four First Appeals are hereby confirmed.

(9) In the result, I find no merits in the above four first Appeals and therefore, all the four First Appeals are hereby dismissed. In the facts and circumstances of the case, the parties shall bear their own costs.