

(2000) 03 GAU CK 0018

Gauhati High Court

Case No: F.A. No. 9 of 1993

Ataur Rahman Laskar

APPELLANT

Vs

Collector of Cachar

RESPONDENT

Date of Decision: March 23, 2000

Acts Referred:

- Land Acquisition Act, 1894 - Section 23(1), 23(2), 28, 34, 4(1)

Citation: (2002) 1 GLT 174

Hon'ble Judges: P.G. Agarwal, J; J.N. Sharma, J

Bench: Division Bench

Advocate: M.A. Laskar, N. Dhar, M.H. Rajborbhuiya, J. Khan, Sk. N. Mahammad and N.A. Laskar, for the Appellant; R. Goswami, for the Respondent

Judgement

J.N. Sarma, J.

This appeal has been filed against the judgment dated 8.9.92 passed by the learned District Judge, Cachar at Silchar in Misc. L. A. Case No. 345/89.

2. A plot of land was acquired by the State of Assam for the water supply scheme and the notification was finally published u/s 4(1) of the Land Acquisition Act, 1894 on 2.8.88. The declaration was also made on the same date. The area of land is 1 Bigha 0 Katha 14 Chataks. The Collector gave an award for Rs. 19,129.23 alongwith other benefits as available. The value of the land was fixed at Rs. 6,262.50. The possession of the land was taken in the year 1976 and 15% per annum interest from 17.12.76 to 23.8.88 was also given by the Collector. The learned Judge on consideration of the materials on record found that the Appellant herein failed to discharge his burden regarding his claim for enhancement of the value of the land and accordingly dismissed the claim. Hence this appeal.

3. We have heard Mr. N. Dhar and Mr. M.H. Rajbarbhuiya, learned advocates for the Appellant and Mr. R. Goswami, learned advocate for the Respondent.

4. On perusal of the materials available on record we fix that the Collector in determining the value of the land did not take into account the rise in the value of the land. It is the duty of the Collector in giving an award to find out the compensation which should be allowed for the land. In this particular case the Collector was absolutely mechanical in making the award and we find that just compensation was not given as required u/s 23(1) of the Land Acquisition Act. Section 23(1) mandates the Court to determine the compensation according to the market value of the land on the date of the publication of the notification u/s 4, Sub-section (1). This was not done in the instant case. Accordingly we fix the value of the land at Rs. 10,000 per Bigha and other benefits which are available to the Appellant u/s 23(2) and Section 28 and other statutory interest shall be payable as provided u/s 34 of the Land Acquisition Act.

5. With the above observations the appeal stands disposed of.