

## Oil India Limited Vs Uma Devi

**Court:** GAUHATI HIGH COURT

**Date of Decision:** Jan. 6, 2017

**Acts Referred:** Land Acquisition Act, 1894 - Section 18, Section 23(1), Section 4(1), Section 54

**Citation:** (2017) 172 AIC 612

**Hon'ble Judges:** Paran Kumar Phukan, J.

**Bench:** Single Bench

**Advocate:** Ms. M. Barman & Ms. D. Ghosh, Advocates, for the Appellants; Mr. G.C. Phukan, Mr. S.K. Singha & Mr. B. Das, Advocates, for the Respondent No. 1

**Final Decision:** Dismissed

### Judgement

Paran Kumar Phukan, J. (Oral)â€”These four appeals are directed against the judgment and order dated 19.02.2010 passed by the learned

Addl. District Judge, Kamrup, Guwahati arising out of Reference Applications filed by the claimants/respondents u/s 18 of the Land Acquisition

Act, 1984(hereinafter called ""the Act""). By the impugned judgment the Referral Judge enhanced the amount of compensation from Rs. 50,000/-

per katha to Rs. 1,20,000/- with all consequential benefits.

2. Being aggrieved by the judgment, M/S Oil India Limited, beneficiary of the acquired land has filed the Appeals u/s 54 of the Act and since

common questions of law and fact are involved, all the appeals are taken up together for analogous disposal.

3. Heard Ms. M. Barman and Mrs. D. Ghosh, learned counsels for the appellants and Mr. G.C. Phukan and Mr. S.K. Singha, learned counsels

for the respondent No. 1. I have perused the impugned judgment as well as the evidence on record both oral and documentary, led by the parties

in the Reference Court.

4. The respondents are the legal heirs of Late Kumar Jatindra Narayan Dev. Late Kumar Rajendra Narayan Dev and Kumar Dwijendra Narayan

Dev are joint pattadars of K.P. Patta No. 20 of village Birkuchi, Mouza Beltola. The total area of land acquired from this patta in LA Case No.

12/1992 is 19 Bigha 4 Katha 15 Lechas covered by Dag No. 192, 193, 196, 197 of K.P. Patta No. 20. Being legal heirs of Late Kumar Jatindra

Narayan Dev, the respondents have filed the claim petitions for ? share each out of 4 Bigha 4 Katha 17 1/2 Lechas for higher market value. While

the lands in question were under the occupation of the respondents, the Collector of Kamrup acquired their lands along with other lands for

expansion of pipeline headquarter and pumping station of Oil India Ltd. in LA Case No.12/1992 vide notification No. RLA-107/93/22 dated

10.03.1995 and declaration No. RLA 107/93/31 dated 12.02.1996 and possession was taken over on 23.12.1996. The Collector, Kamrup fixed

the value of the acquired land at Rs. 50,000/- per katha without affording any opportunity of hearing to the respondents. The

claimants/respondents accepted the awarded amount under protest and claimed Rs. 3,00,000/- per katha for their acquired lands and submitted

their Reference Applications before the Collector u/s 18 of the Act.

5. The Oil India Limited contested the Reference Cases and filed written statement contending therein that the notification u/s 4 (1) of the LA Act

for acquisition of the land was issued under No. PLA 107/93/22 dated 10.03.1995 which is the relevant date for determination of market value of

the land acquired and not the present market value of such land claimed as on 08.09.1999, the date on which the present petitions were filed and

that is the law as provided u/s 23(1) of the L.A. Act. These petitions u/s 18 of the Act filed on 08.09.1999 are barred by limitation and not

maintainable. The award given by the Collector is reasonable and adequate and is on the higher side and the claim of the petitioners is very

unreasonable. Further contention was that the acquired land is very low lying situated within a water logged vast field without any communication

and there is no development activities in an around the said land. The award passed by the Collector was sought to be justified and according to

the Oil India Ltd. no case for enhancement of compensation has been made out.

6. The claimants in order to establish their claim examined 4 (four) witnesses. On the other hand, the appellants also examined 2 (two) witnesses

and exhibited 9 (nine) documents.

7. As per the provisions of Section 23 (1) of the Act the Court has to determine the amount of compensation considering the market value of the

land on the date of publication of the notification u/s 4 (1) of the Act and also to determine the damage sustained by the person interested by

reason of the taking of any standing crops, trees or other property movable or immovable etc. In addition to market value of the lands the court

shall in every case award an amount calculated @ 12% per annum on such market value of the period commencing and from the date of

publication of the notification u/s 4 (1) of the Act in respect of such land to the date of award passed by the Collector or date of taking over

possession of the land whichever is earlier and as per provisions of Section 23 (2) of the Act the Court shall in every case award a sum of 30%

per annum in addition to the market value of the land.

8. On the basis of the rival contentions the Reference Court has relied upon the sale transactions vide Exts. 1, 2, 3 and 4 which were brought on

record through the evidence of P.W. 1. Vide Ext. 1 sale deed No. 4151/1993 which was executed on 19.07.1993, 5 lechas of land was sold for

a consideration of Rs. 50,000/-, vide Ext. 2 Sale Deed 1 Katha of land was sold at a price of Rs. 95,000/-, vide Ext. 3 Sale Deed which was

executed on 21.06.1996 1 Katha 5 Lecha of land was sold at Rs. 1,43,750/- and vide Ext. 4 Sale Deed executed on 12.11.1997, 1 Katha 10

lechas of land was sold for a consideration of Rs. 1,42,500/-. Admittedly the lands sold through Exts. 1, 2, 3 and 4 are not of village Birkuchi, but

the evidence on record reveals that the village Birkuchi is situated adjacent to village Mathgharia and village Satgaon is situated at a distance of

1 $\frac{1}{2}$ -2 kms from Birkuchi.

9. The appellants have assailed the impugned judgment basically on the ground that the acquired lands are situated in village Birkuchi whereas the

sale deeds produced by the respondents Exts. 1 to 4 reveal that the sale transactions were made in respect of land of village Satgaon. However,

from the evidence on record it is found that village Birkuchi is situated adjacent to Mathgharia and the distance between Satgaon village and

Birkuchi is about 1 $\frac{1}{2}$  to 2 kms.

10. The learned counsel for the respondents relied on the decision of the Apex Court in the case of State of Madras v. A.M. Nanjan and

Another reported in AIR 1976 SC 651 to project that sale transaction of a piece of land situated about 4 miles away is admissible if the nature,

character and usage of the land is the same.

11. The learned counsel for the respondents also relied on the decision of this Court in LA Appeals No. 8/2007, 9/2007 and 10/2007 and also the

judgment of the Apex Court in Civil Appeal Nos. 8632-8634 of 2010 which was delivered on 14.01.2016 to project that the judgment of the

High Court was set aside by the Apex Court while maintaining the judgment passed by the Reference Court u/s 18 of the Land Acquisition Act. In

the above cases also lands of similar nature were acquired for the same purpose for expansion of industrial area and construction of office building

of Oil India Ltd. Although the Reference Court enhanced the quantum of compensation from Rs.50,000/- to 1,20,000/-, it was set aside by the

High Court in Appeal preferred by Oil India Ltd but the judgment of the High Court was reversed by the Apex Court and the judgment of the

Reference Court was maintained.

12. The learned counsel for the respondents strenuously contends that the lands involved in the present cases are also similar in nature to the lands

acquired in the above cases for the same purpose and as such the award passed by the Reference Court calls for no interference in view of the

order rendered by the Apex Court.

13. In controversion, learned counsel for the appellants contends that the lands involved in the present cases are low lying lands and there is no

public road but a small path and there is no important feature like industries, offices etc and the valuation of the lands would be much lower than

what has been awarded by the learned Reference Court. She relied on the decision of the Apex Court in Special Tehsildar Land Acquisition

Vishakapatnam v. A. Mangala Gowri (SMT) (1991) 4 SCC 218 and State of Madras v. A.M. Nanjan and Anr. reported in (1976) 1

SCC 973 to submit that the value assessed by the Collector in respect of the acquired land was the correct value of the land at the relevant time.

14. In the backdrop of the aforesaid contentions coming to the sale deeds produced and proved by the claimants I find that all these lands are

situated in Satgaon village but evidence reveals that villages Satgaon, Mathgharia and Birkuchi are adjacent villages. Evidence also shows that the

acquired lands falls under Gauhati Municipal Corporation under Ward No. 52 (New) 32 (Old) and there are important features like hospitals,

educational institutions, residential complexes within a very short distance of the acquired lands. One of the witnesses for the appellants (D.W. 2)

admitted that Assam Carbon Company is situated at Birkuchi village and all the villages are adjacent to each other and there are many institutions

in these villages and one portion of Birkuchi village falls under Gauhati Municipal Corporation. Likewise D.W. 1 also admitted in cross-

examination that there are institutions and establishments situated within the locality of Oil India Ltd and these institutions are within the radius of 5

kms. The learned Reference Court on consideration of the totality of the evidence on record, oral as well as documentary, came to the conclusion

that the value of the acquired land would be Rs. 1,20,000/- per katha. Although in respect of some other lands acquired for the same purpose in

the same village and in the same locality, the High Court maintained the amount of Rs. 50,000/- awarded by the Collector but the Supreme Court,

as discussed above, reversed the order of the High Court and maintained the award passed by the Reference Court. The lands of the instant

appeals are of the similar nature situated in the same village and acquired for the same purpose.

15. On an overall assessment of the entire evidence on record and more particularly the sale deeds produced by the respondents/claimants and

also considering the fact that the acquired lands are within Gauhati Municipal Corporation with important features like industries, offices and

potentialities, the learned Reference Court enhanced the award from Rs. 50,000/- to Rs. 1,20,000/- per katha, which in my considered view calls

for no interference in these appeals.

16. Consequently all the Lands Acquisition Appeals are dismissed.

17. Send down the LCR.