Bharat Coking Coal Limited Vs Budhni Mahtain

Court: Jharkhand High Court

Date of Decision: May 1, 2014

Acts Referred: Land Acquisition Act, 1894 â€" Section 18, 23, 4(1)

Citation: (2014) 3 JLJR 432

Hon'ble Judges: Dhrub Narayan Upadhyay, J

Bench: Single Bench

Advocate: Anoop Kumar Mehta, Advocate for the Appellant; Tejo Mistry, R.C. Sahu and S.C, Advocate for the Respondent

Judgement

@JUDGMENTTAG-ORDER

Dhrub Narayan Upadhyay, J.
Heard the parties. This appeal has been preferred against the Judgment and Award dated 7th December,

2004 passed by Special Judge, Land Acquisition, Dhanbad in connection with LA. Reference Case No. 36/1991 whereby the appellant has been

directed to pay compensation with statutory benefits against acquisition of land as per the Award signed on 16th December, 2004.

2. The facts in brief is that land pertaining to Khata Nos. 18 and 19, area 3.415 Acres within Mauza-Bhagaband, P.S.-Putki, District-Dhanbad

belonging to the respondent No. 1 was acquired under L.A. Case No. 10/83-84 for the purpose of Bharat Coking Coal Limited and accordingly

Notification under Section 4(1) of the Land Acquisition Act was published on 16.1.1982. The valuation of the land was assessed at Rs. 19,012.37

Paise only by Land Acquisition Office as compensation to be paid to the land looser. Since the land looser were not satisfied with the amount of

compensation assessed, objection under Section 18 of the Land Acquisition Act was filed and it was referred to the Special Judge, Land

Acquisition and registered as L.A. Reference Case No. 36/1991.

3. The parties were given opportunity to produce documents and adduce evidence in support of their respective claims.

4. The appellant has assailed the impugned Judgment and Award on the ground that process adopted by the Special Judge, Land Acquisition to

assess the value of land to decide just compensation is unknown to Section 23 of the Land Acquisition Act. The learned Sessions Judge did not

follow requirements indicated in Section 23 of the Act to assess value of the land rather the Court has adopted a new method to judge market

value of the land. The learned Special. Judge has considered value of paddy which was likely to be produced from the land acquired. The learned

counsel has vehemently raised a point that the learned Special Judge has not deducted the development charges after assessing value of the land

and he has relied on the Judgment referred in the case of Shimla Development Authority and others Vs. Smt. Santosh Sharma and another, . The

learned counsel has further relied in the case of. Tejumal Bhojwani (Dead) through Lrs. and Others Vs. State of U.P., and in the case of State of

Bihar (Now Jharkhand) Vs. Bijoy Rajwar and Others, .

5. On the other hand learned counsel appearing for the respondents-landlord, who have been substituted after death of respondent No. 1,

submitted that the Special Judge, L.A. has not considered the Sale Deed (Ext.-1) and the Court has adopted capitalisation method to assess

market value of the land. It is not that the Court has considered entire land acquired to be that of Class-I rather he has classified the land to assess

the average produce of paddy per year and accordingly considered the market rate of paddy per mound and after deducting other expenses he

has calculated net income that the land looser were earning from the produce of the land. So far deduction towards development charges is

concerned, the appellant has failed to bring on record that the agriculture land acquired was likely to be converted one into homestead or it was

acquired for the purpose of creating a township. Since no such evidence is available in record, there was no need to consider development charges

and it was rightly not deducted.

6. I have gone through the impugned Judgment and Award as well as the lower court record. The land was acquired by the State Government and

value of the land was assessed by the Land Acquisition Officer. The Land Acquisition Officer has not been examined to support the assessment

made by him. Since the land was acquired for the purpose of mining for appellant, they have been directed to satisfy the awarded amount and they

appeared in the case.

7. It is apparent that the appellant has not adduced any evidence to the effect that the land was acquired for converting the agriculture land into

homestead or for the purpose of creating any township, office or for the residential quarter for the persons engaged in mining of coal. It is not

available on record as to what development on the land acquired was likely to be done. What is available on record is that the land was acquired

for the purpose of mining of coal.

8. I have further gone through the impugned Judgment in which learned Special Judge, instead of considering Sale Deeds indicating value of the

adjacent land, has considered the produce and the net income which the land losers were earning from cultivation and due to acquisition of land

expected loss which they sustained.

9. It is apparent from the discussions and calculation made by the learned Special Judge that he has done proper exercise to assess market value

of the land and I do not find any illegality on the same. It is already indicated that the appellant has failed to bring on record as to what sort of

development was likely to be done after acquisition of the land and therefore no occasion arose to deduct development charges. In the

circumstances, I do not feel that any deduction towards development charge is required to be done and the Award needs any modification. In the

result, I do not find any merit in this appeal and the same stands dismissed. The respondents-landlords shall be at liberty to withdraw the awarded

amount if it is lying with the Land Acquisition Officer or the Special Judge, Land Acquisition after proper verification, identification and receipt.