
(2018) 07 GAU CK 0094

Gauhati High Court

Case No: La.App. 2, 6, 63, 4, 5, 7, 66, 68, 65, 67 Of 2014

Putul Kachari And 2
Ors.

APPELLANT

Vs

State Of Assam And 2
Ors

RESPONDENT

Date of Decision: July 25, 2018

Acts Referred:

- Land Acquisition Act, 1894 - Section 4(1), 18, 25

Hon'ble Judges: PRASANTA KUMAR DEKA, J

Bench: Single Bench

Advocate: H Gogoi, M Chatterjee

Final Decision: Allowed

Judgement

Sl.

No.", "L.A. Appeal No. and Name

of the

Parties", "L.A. Case No., Total Land, "Rate per

Bigha

(in Rs.)", "Total amount

(in Rs.)", "Date", "At,

At, of

Judgment

1., "L.A. Appeal No.2/2014

Bimal Kumar Rabha

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -

Versus-

State of Assam and 2 Ors.", "L.A. Case

No.20/2010", "i) 1B 15L

ii) 1B 4K", "1,50,000/-

2,20,000/-", "8,07,270/-", 29.06.2013

2., "L.A. Appeal No.4/2014

Dharanidhar Basumatary

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -

Versus-

State of Assam and 2 Ors.", "L.A. Case

No.27/2010", 10B,--, "31,240/-", 29.06.2013

3., "L.A. Appeal No.5/2014

Ganak Chandra Rabha

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -

Versus-

State of Assam and 2 Ors.", "L.A. Case

No.3/2010", "i) 1B 5K

ii) 4K

15L","1,50,000/-

2,20,000/-","5,20,430/-",29.06.2013

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4.,"L.A. Appeal No.6/2014

Kamal Chandra Roy

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -

Versus-

State of Assam and 2 Ors.,"L.A. Case

No.15/2010","1B 1K 15L

Ã,","2,20,000/-","3,90,500/-",29.06.2013

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5.,"L.A. Appeal No.7/2014

Someswar Rabha

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -

Versus-

State of Assam and 2 Ors.,"L.A. Case

No.4/2010","2B 4K 15L

Ã,","2,20,000/-","9,21,580/-",29.06.2013

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6.,"L.A. Appeal No.63/2014

Putul Chandra Kachari

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -

Versus-

State of Assam and 2 Ors.", "L.A. Case

No.12/2010", "i) 1B 15L

ii) 4K

15L", "1,50,000/-

2,20,000/-", "8,98,150/-", 31.07.2013

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7., "L.A. Appeal No.65/2014

Kowshalya Rabha

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -

Versus-

State of Assam and 2 Ors.", "L.A. Case

No.36/2010", 1K,--, "1,66,001/-", 31.07.2013

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8., "L.A. Appeal No.66/2014

Sanjoy Kumar Kachari

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -

Versus-

State of Assam and 2 Ors.", "L.A. Case

No.8/2010", "1B 10L

Ã, ", "2,20,000/-", "1,15,300/-", 31.07.2013

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9., "L.A. Appeal No.67/2014

Dharanidhar Basumatary

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -

Versus-

State of Assam and 2 Ors.", "L.A. Case

No.44/2010", 3K, "2,20,000/-", "4,68,600/-", 31.07.2013

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10., "L.A. Appeal No.68/2014

Raja Basumatary

Ã, Ã, Ã, Ã, Ã, Ã, Ã, Ã, -", "L.A. Case

No.11/2010", "10L Bhiti

Land", "2,20,000/-", "78,100/-", 31.07.2013

, "Versus-

State of Assam and 2 Ors.", ,,,,,

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undemolished, the onus shifts to the respondents/defendants to prove the stand in their respective written statements. The respondents", ,,,,,

took the plea that the land is of agricultural class as per the records. Thus, once the onus has shifted to the said respondents, they are bound to", ,,,,,

discharge that onus by producing necessary documents which in the present case is totally missing. The respondents never even led evidence, ,,,,,

in the proceeding. No doubt the principal burden lies upon the appellants to show that the said land falls within the class of Bhiti land., ,,,,,

13. In the present case in hand, the learned court below came to the finding that in order to prove that the said land is a Bhiti land and have", ,,,,,

dwelling houses of the people upon the acquired land, neighbouring persons ought to have been examined by the appellant. In fact, the",,,,,,

appellants are from the said locality wherein the acquired land is situated. They form the "persons" from the said locality. Each and every",,,,,,

one of the appellants stood by their plea taken in the petition that the land is Bhiti land. Under such circumstances, in my opinion and on the",,,,,,

face of failure on the part of the respondents to discharge the onus as aforesaid, the evidence on record, more specifically the cross-",,,,,,

examination part of the appellants supporting the fact that the land is a Bhiti land ought to have been considered in its full face value.",,,,,,

14. In V. Subrahmanya Rao vs. Land Acquisition Zone Officer, reported in (2004) 10 SCC 640, the appellant adduced his evidence specifying the",,,,,,

value of acquired land to be Rs.80,000.00. The reference court fixed the value of land at Rs.1,50,000.00. Appeal was filed and the High Court",,,,,,

held that as the appellant asked for the value of Rs.80,000.00 as such the court below could not determine compensation at Rs.1.50 lakh per",,,,,,

acre. Holding that the claimant must confined to his claim as a wrong finding of the High Court in view of Section 25 of Land Acquisition Act," ,,,,,,

1894 after 1984 finally disallowed any enhancement beyond Rs.80,000.00 giving due weightage to the evidence of the appellant by holding as" ,,,,,,

follows:",,,,,,

"13. Even otherwise, in our view, market value has to be fixed on evidence led in each case. In this case the evidence is as extracted" ,,,,,,

above. In our view, the evidence of the appellant, as extracted above, clearly shows that according to the appellant the market value of the",,,,,,

land, at the appropriate time, was Rs.80,000/- per acre. We are unable to accept the submission that the appellant in his deposition is" ,,,,,,

claiming either Rs. 80,000/- or Rs. 1,60,000/- on the basis of 16 years yield. Evidence has to be read as a whole. If it is read as a whole it is" ,,,,,,

clear that according to the appellant the market value is, Rs. 80,000/- whether taken as market value or taken on the basis of 16 years yield",,,,,,

yield.Ã, Thus, the evidence in this case is that the market value at the appropriate time was Rs. 80,000/- per acre.Ã, This being the evidence of" ,,,,,,

the appellant himself, the market value would have to be fixed at Rs. 80,000/- per acre.Ã¢â,¬â€œ" ,,,,,,

15. It would not be out of place to mention here that admittedly there was Bhiti land which were acquired and for the said reason there were ,,,,,,

two classified award, one for Bhiti land which is Rs.2,20,000.00 per bigha and Rs.1,50,000.00 per bigha for agricultural land. The learned court" ,,,,,,

below held that the appellants failed to prove their respective cases on preponderance of probability. But the learned court below ought to ,,,,,,

have taken into consideration that Bhiti land was also acquired which can very well be prepondered from the rate of assessment of ,,,,,,

Rs.2,20,000.00 per bigha for Bhiti land. For the said reason I am unable to accept the findings of the learned reference court inasmuch as the" ,,,,,,

evidence of the appellants are to be read as whole and on such reading the appellants are able to show that the land fell within the Bhiti ,,,,,,

classification. Accordingly I am constrained to hold that the land acquired falls under the classification of Bhiti land thereby enhancing the ,,,,,,

value of the same to Rs.2,20,000.00 per bigha, the rate of assessment of Bhiti land by the competent authority." ,,,,,,

16. Accordingly, these appeals succeed." ,,,,,,

17. The appellants are entitled for enhancement of the value of land which were assessed at Rs.1,50,000.00 per bigha and to be assessed at" ,,,,,,

Rs.2,20,000.00 per bigha and on the basis of the said enhanced value the amount for compensation be calculated along with the interest which" ,,,,,,

had already been allowed which are statutory in nature. Considering the pendency of the appeals from the year 2014, the respondents are" ,,,,,,

directed to satisfy the enhanced value within a period of 3 (three) months from the receipt of the copy of the judgment. ,,,,,,

18. Send back the LCR at the earliest.Ã ,,,,,,