

State of West Bengal

Vs

Shyamapada and Others

Civil Appeals Nos. 57 to 59 of 1975

(A. Alagiriswami, P. N. Bhagwati, P. K. Goswami JJ)

15.07.1975

JUDGMENT

ALAGIRISWAMI, J. -

1. These three appeals by the State of West Bengal are against the judgment of the Calcutta High Court allowing in part appeals of the present respondents before the Calcutta High Court against the judgment of the District Judge of Midnapore in three references under Section 18 of the Land Acquisition Act. 858.59 acres of land belonging to the respondents were acquired by the State of West Bengal in pursuance of a notification dated January 17, 1953 under Section 4(1) of the Land Acquisition Act. The lands acquired consisted of different types but we are in these appeals concerned only with 607.84 acres of 'danga' land. In 150 acres out of the 607.84 acres sabai grass was grown.

2. The respondents had claimed compensation at the rate of Rs. 800 per acre for land on which sabai grass was grown and Rs. 200 per acre for the rest of the 'danga' land, The Land Acquisition Collector had awarded compensation at the rate of Rs. 80 per acre for all the 'danga' lands including the portion on which sabai grass was grown. He awarded compensation at the rate of Rs. 26/4/- per acre for the value of sabai grass grown on 100 acres of land. The learned District Judge upheld the order of the Land Acquisition Collector as regards the compensation awarded in respect of all the 'danga' lands but in respect of the standing crop of sabai grass he held that 150 acres had been grown with sabai grass, that 18 maunds of sabai grass could be grown in an acre, that the value of sabai grass was Rs. 3 per maund and taking one third for cultivating expenses raised the compensation for the standing crop to Rs. 5,400.

3. The learned Judges of the High Court fixed the compensation in respect of the 'danga' lands on which sabai grass was grown at Rs. 800 an acre, after holding, as did the District Judge, that 150 acres of land was cultivated with sabai grass. They held that the owners of the land were entitled to compensation in respect of these lands at a multiple of 20 times the annual income. For the rest of the 'danga' lands the compensation was raised to Rs. 100 an acre. The appeals are confined only to these two questions.

4. Mr. B. Sen appearing on behalf of the State of West Bengal contended that it looked rather absurd that while 'sali' land, which is considered to be the best quality of land on which paddy is grown, was awarded compensation at the rate of Rs. 425 per acre and the landowners had no objection to the compensation, they wanted Rs. 800 per acre for land growing sabai grass. It must be noted that even the landowners claimed only Rs. 800 per acre for 'sali' land, Rs. 800 per acre for 'danga' land on which sabai grass was grown and for the rest they claimed Rs. 200 per acre. While the land

classification for revenue purposes might have its own rationale, it is not uncommon to find that land which has a lower classification for revenue purposes fetches a higher price in the market. The question of the value of the land on which sabai grass is grown should therefore be decided on other considerations. In this connection we may refer to the book called "The Wealth of India" which is a dictionary of Indian raw materials and industrial products published by the Council of Scientific & Industrial Research, which has an article on sabai grass in Vol. III, pp. 219-221. It refers to sabai grass as a tufted perennial grass common, among other places, in Bengal and that it adapts itself readily to the barren 'danga' soils of West Bengal. According to this book in the danga soils of West Bengal the yield averages to 20-30 md. per acre per annum. The yield and quality of grass from continuously cropped areas suffer after 7-10 years. It is therefore necessary to withhold cropping for one or two years at fair intervals. It would thus be seen that the fact that the life of sabai grass is 7 to 10 years does not mean that the land on which it is grown is useless thereafter or that its value can be worked out on any other basis except that of a multiple of the annual income. After one crop is taken for 7 to 10 years another crop can be raised after an interval of one to two years. It was therefore wholly unjustifiable for the Land Acquisition Collector as well as the learned District Judge, Midnapore to grant compensation to the land owners only for the crop standing on the land. As sale deeds regarding sales of land on which sabai grass is grown are not available in this case the compensation to be awarded to the landowners would be at 20 times the annual income from the land.

5. Even according to Land Acquisition Collector the crop standing on the land was yielding Rs. 26/4/- per acre on an yield of 10 maunds an according to the learned District Judge Rs. 36 per acre on an yield of 18 maunds. On the basis of 20 years' income the compensation would have to be Rs. 525 per acre at the rate of income adopted by the Land Acquisition Collector and Rs. 720 per acre at the rate adopted by the learned District Judge. We may refer to the evidence of claimants' witness No. 3 who gives the value of sabai grass at Rs. 4/8/- to 5/8/- as also the evidence of one of the claimants that the price of sabai grass varied from Rs. 5/- to Rs. 5/8/- in 1951. The learned Judges of the High Court have accepted the price of one maund of sabai grass at Rs. 4 and considering the accounts produced by the landowners which showed that they had sold sabai grass at Rs. 4/8/- to Rs. 5/8/- per maund, Rs. 4 per maund taken by the learned Judges of the High Court as the basis for determining the compensation cannot be said to err on the liberal side. So also the yield of 20 maunds an acre in view of the evidence of PW 6 as well as the extracts from "The Wealth of India" already referred to. We see no reason for not accepting the learned District Judge's conclusion that 150 acres had been cultivated with sabai grass. We are therefore of opinion that there is no case for interference with the judgment of the learned Judges of the High Court as regards the value of the land cultivated with sabai grass.

6. As regards the rest of the 'danga' lands even the Kanoongo assessed the value of the 'danga' land in Ex. A at Rs. 75 per acre. The learned Judges have referred to certain other documents which showed the value of 'danga' lands at Rs. 200 per acre to Rs. 490 per acre and even Rs. 600 per acre. In the face of these findings we are of opinion that the learned Judges of the High Court were quite justified in awarding compensation for the 'danga' lands at the rate of Rs. 100 per acre. This conclusion is strengthened by a reference to Ex. A at page 60 of Part II of the High Court Paper Book. By deed No. 187 of 1951 'sali' and 'danga' land had been sold at Rs. 703/2/- per acre whereas by deed No. 405 of 1951 'sali' and 'danga' lands have been sold at Rs. 111/1/9. Though we do not know the relative proportion of 'danga' and 'sali' lands in these documents, they give a rough idea of the value of 'sali' lands. We refer to these documents only to lend assurance to our conclusion that the learned Judges of the High Court were right in regard to the value of the 'danga' land.

7. We uphold the decision of the High Court and dismiss the appeals with costs.

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