

The Collector of Kamrup

Vs

Raj Chandra Sarma and Others

The Collector of Kamrup

Vs

Surendra Nath Sarma

Civil Appeals Nos. 178(N) and 179(N) of 1968

(A. C. Gupta, H. R. Khanna, M. H. Beg JJ)

13.08.1975

JUDGMENT

GUPTA, J. -

1. These two appeals on certificate of fitness granted by the High Court of Assam and Nagaland under Article 133(1)(c) of the Constitution arise out of land acquisition proceedings. A large area of land in village Cotenagar, Mouza Ramcharani was acquired for the railways in 1950. The extent of the land acquired in the case of the first respondent of Civil Appeal No. 178 of 1968, Raj Chandra Sharma, was 11 bighas, 4 kathas and 10 lachhas of 'rupit' (cultivable) land, and in the case of Surendra Nath Sharma, sole respondent in Civil Appeal No. 179 of 1968, 67 bighas, 1 katha and 10 lachhas of which 60 bighas were 'rupit' land, and 7 bighas, 1 katha and 16 lachhas were 'basti' land. The Collector awarded compensation at the rate of Rs. 350 per bigha for rupit land and Rs. 300 per bigha for basti land. Being dissatisfied the claimant applied for reference under Section 18 of the Land Acquisition Act. The Subordinate Judge who heard the reference felt that on the material before him the only possible way to assess the value of the land was by capitalizing the income from the land for 25 years. He referred to an application (Ext. A) made to the Collector by one of the claimants, Surendra Nath Sarma, which included a statement that the rupit land yielded 6 to 8 maunds of paddy per bigha per year. Proceeding on the basis that the average yield per bigha per year was 7 maunds of paddy, and deducting half of this amount on account of cost of cultivation and other incidental expenses, the net yield from one bigha of rupit land came to about 3 1/2 maunds per year. In view of the statement in the application Ext. A, the Subordinate Judge declined to accept the oral evidence adduced on behalf of the claimants to prove that the yield was 10 to 12 maunds per bigha. The Subordinate Judge also referred to the rent receipts (Ext. 1 series) which showed that claimant Surendra Nath Sarma used to get 2-2/3 maunds of paddy for one bigha of land. The rent receipts disclosed that Surendra Nath Sarma had let out some of these lands on chukani basis for 8 puras of paddy per bigha per year, 3 puras being equivalent to one maund. On the basis of the application Ext. A and the rent receipts Ext. 1 series the Subordinate Judge held that average net yield per year from 1 bigha of rupit land was 3 maunds, and on the basis of the government notification of the year in question fixed the price of paddy at Rs. 8 per maund; thus the net income from 1 bigha of rupit land was fixed at Rs. 24 per year. The capitalized value of the land on the basis of 25 years' income worked out at Rs. 600 and the Subordinate Judge allowed

compensation at the aforesaid rate for the rupit lands. In arriving at this figure he declined to place any reliance on Ext. H which is a report of the Statistical Department of the Government of Assam on outturn on winter rice in Assam for 1950-51. As this report was prepared on sample survey basis, the Subordinate Judge felt it was not a reliable guide for assessing the value of the acquired land.

2. As regards the basti lands the Subordinate Judge found no material to induce him to arrive at a figure different from that awarded by the Collector, namely Rs. 300 per bigha per year.

3. The High Court on appeal, preferred by the claimants, accepted the method of valuation adopted by the Subordinate Judge. The High Court however held that the yield for the rupit lands should be taken as 8 maunds of paddy per bigha per year, and deducting 3 maunds from this for the cost of production and incidental expenses, the net yield per bigha of rupit land was 5 maunds. As regards the price, the High Court accepted the rate adopted by the Subordinate Judge based on the government notification which was Rs. 8 per maund. Calculating on this basis the High Court fixed the amount of compensation for the rupit lands at Rs. 1,000 per bigha.

4. The finding of the High Court is based on the report, Ext. H, and the evidence of the claimants who said that the rupit lands yielded 10 to 12 maunds of paddy per bigha per year. It seems to us that the High Court was in error in relying on Ext. H and the oral evidence of the claimants both of which the Subordinate Judge had found unreliable and, in our opinion, rightly. Ext. H as stated already is a report of the Statistical Department of outturn of winter rice in Assam for the year 1950-51 based on sample survey method. According to the High Court this was a scientific method and likely to be more accurate; it was overlooked however that a method which is appropriate for one purpose may not be so for another. The report based on sample survey is not necessarily a safe guide for ascertaining the market value of any particular plot or plots of land acquired under the Land Acquisition Act. It also appears that the High Court read the report incorrectly when it said that the report showed the yield to be 8.17 maunds per bigha; as a matter of fact, the report discloses that the yield was 8.17 maunds of rice per acre, which is equivalent to 3.3 bighas. Counsel for the claimants pointed out that Ext. H was a report on the outturn of rice and not paddy and that it disclosed that yield of clean rice from paddy was based on the official conversion figure of 62.5 per cent. But even calculating on the basis of the official conversion rate, the yield of paddy per bigha would be nowhere near 8 maunds which was found by the High Court. As regards the rent receipts, the observation made by the High Court that the "receipts given to the adhiars are not certain proof of the amount of the yield" is difficult to follow. There is nothing on record to suggest that the amount of the yield appearing from the rent receipts was incorrect. Counsel for the claimants submitted before us that the rent receipts which related mostly to the years 1931-1932 should not be taken as indicative of the correct position in 1950 when the lands were acquired. But no documentary evidence was produced on behalf of the claimants to show that the position as regards the yield of paddy changed in 1950.

5. These rent receipts were the claimants' documents on which they apparently sought to rely. As regards the application made to the Collector by Surendra Nath Sarma (Ext. A) on which the Subordinate Judge relied, the High Court disregarded it by saying that there was "no reason to hold that this was an accurate statement". The question however is, was there any reason to hold that this was not an accurate statement. The claim in evidence that the yield from rupit lands was 10 to 12 maunds per bigha per year was considered by the Subordinate Judge as inflated having regard to the earlier statement in Ext. A. We find no valid reason why this finding should be disturbed. We therefore think that the Subordinate Judge was right in valuing the rupit lands at Rs. 600 per bigha.

6. We are concerned with basti lands only in Civil Appeal No. 179 of 1968. With regard to the basti lands, the High Court observed : "The price of basti land can never be lower than that of rupit land in the same locality." No evidence seems to have been given which could be said to be directed towards proving this somewhat sweeping statement. Surendra Nath Sarma had, however, claimed, in the course of the evidence, a higher price for basti lands than for rupit lands. Therefore the Subordinate Judge does not seem to be quite right in thinking that there was no evidence whatsoever questioning the Collector's valuation of the basti lands. We agree with the view taken by the High Court that the basti lands should be treated as equal in value with the rupit lands. We hold that both classes of lands, rupit and basti, should be valued at Rs. 600 per bigha.

7. In the result Civil Appeal No. 178 of 1968 is allowed and Civil Appeal No. 179 of 1968 is allowed to the extent indicated above. In the circumstances of the case there will be no order as to costs.

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