

P. C. Goswami

Vs

Collector of Darrang

Civil Appeals Nos. 81-83 of 1972

(CJI Y. V. Chandrachud, Syed M. Fazal Ali, A. D. Koshal JJ)

08.08.1980

JUDGMENT

CHANDRACHUD, C.J. –

1. An agricultural land measuring 3095 bighas approximately, was requisitioned by the sub-Divisional Officer, Mangaldai on various dates in April 1950. On February 21, 1958 the Collector gave back symbolic possession of an area admeasuring 2740 bighas approximately to the appellant after derequisitioning it.
2. The appellant thereafter filed a claim petition under Section 7 [3] [b] of the Assam Land [Requisition and Acquisition] Act, 1948, claiming compensation under various heads, out of which claim in respect of two items has been pressed on behalf of the appellant in these appeals. The first claim was in the sum of Rs. 1,80,000 for the damage caused to a portion admeasuring 90 bighas and the second claim was in respect of an area admeasuring 14 bighas, 3 canals and 14 lachas, which, according to the appellant was lost to him since that portion was covered by roads and cancels. The petitions were dismissed by the Collector, but the High court directed him to the matter to the District Court for its adjudication.
3. The learned District Judge awarded a sum of Rs. 7000 and odd as compensation for the land which was under roads and cancels. In an appeal filed by the appellant in the High Court two main contentions were raised. The first was that the appellant ought to have been awarded compensation for the erosion of a portion of the land and the second was that the lands which were covered by roads and canals were a total loss to the appellant since it was impossible to reconvert them to their original use. The High Court rejected the contention of the appellant in respect of the alleged erosion of the land but remanded the matter to the District Judge on the question of compensation in respect of the land covered by roads and canals. The High Court took the view that the appellant would be entitled to receive, by way of compensation, a sum which he would be required to expend for putting the land covered by roads and canals in the same condition in which it was at the time when it was questioned by the Collector. The High Court has granted to the appellant a certificate to appeal to this Court under article 133 [1] [a] of the Constitution.
4. Mr. Nandy who appears on behalf of the appellant argues in the first instance that the High Court was in error in coming to the conclusion that the erosion of a large portion of the land could be attributed to natural caused and was not due to any act or default on the part of the Government. The learned Advocate has taken us through the entire evidence on this question but we see no reason for taking a view contrary to the one taken by the High Court and the District Court. The evidence discloses that after the land was requisitioned, the P. W. D. had constructed a bridge over a portion

of the river near the land. There is no evidence to show that the erosion of the land was caused in any manner on account of the construction of that bridge as was alleged by the appellant. In view of the fact that the District Court and the High Court have recorded a concurrent finding of fact on this question we are unable to entertain Mr. Nandy's submission.

5. In regard to the contention that the land covered by roads and canals cannot possibly be put back to its original use, Mr. Nandy has to face a similar difficulty. The High Court has scrutinised the entire evidence on this question with care and has come to the conclusion, in our opinion rightly, that the claim made by the appellant must be restricted to the amount which it would be necessary for him to spend for the purpose of putting the land covered by roads and canals in the same condition in which it was at the time when the land was requisitioned. The learned District Judge was apparently in error in awarding compensation for the land covered by roads and canals as if that particular portion of the land was acquired by the Government. The appeals must therefore fail and are accordingly dismissed. There will be no order as to costs.

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6. Insofar as this appeal is concerned the question which arises for consideration is whether the appellant is entitled to compensation for the acquisition of his of land at the rate claimed by him. He has been awarded compensation at the rate of Rs. 300 per bigha for the entire area. Mr. Nandy has drawn our attention to a chart of comparable instance on the basis of which he contends that the properties in the vicinity were sold at a price as high as Rs. 2000 per bigha and, therefore, the High Court was in error in awarding to the appellant a paltry sum of Rs. 300 per bigha. Mr. Naunit Lal appearing for the respondent has drawn our attention to the peculiar circumstances attendant on the execution of the particular sale deed on which Mr. Nandy has relied. The first of these sales was effected at the rate of Rs. 2000 per bigha but the vendor of that particular property was no other than the appellant himself. The High Court, it seems to us, was right in concluding that the sale was of a fictitious nature. In regard to the other sales on which Mr. Nandy relies it seems to us quite clear, for the reasons mentioned by the High Court, that those sales did not really constitute comparable instances. Some of those sales relate to lands which are situated in an adjoining village which is far removed from the lands in question. In addition, it is clear that there has been a spurt in building activity round about the property which was sold at a higher price.

7. There is, however, one contention advanced by Mr. Nandy which, in our opinion, deserves to be accepted. He contends that in the matter of payment of solatium, no discrimination can be made between acquisitions under the Assam Act and those made under the Land Acquisition Act. Section 4 [3] of the Assam Act itself says that if a land is acquired under that Act, the State Government shall be empowered to apply to such land any of the provisions of the Land Acquisition Act, 1894. In a judgment given by this Court very recently, to which Mr. Nandy has drawn our attention, it was held that there is no justification for discriminating between an acquisition under one Act and an acquisition under another act insofar as payment of solatium is concerned. This should be more so in respect of an acquisition to which the State Government is empowered to extend the provisions of the Land Acquisition Act. Mr. Naunit Lal has not been able to controvert this position in view of the judgment to which we have referred above. We accordingly direct that the State Government shall pay to the appellant solatium at the rate of 15 per cent on the compensation awarded to him by the High Court. Except for this modification, the decree passed by the High Court is confirmed. The order of remand passed by the High Court will stand.

8. There will be no order as to costs in the appeal.

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