

**IN THE HIGH COURT OF ORISSA, CUTTACK**  
**LAA NO.42 OF 2012**

In the matter of an appeal under section 54 of the Land Acquisition Act assailing the judgment dated 19.05.2012 passed by the learned Senior Civil Judge, Bhawanipatna in L.A.R. No.70 of 2009.

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Dukhi Shyam Rout (since dead) through  
his L.Rs.) :::: Appellants

-:: VERSUS ::-

Special Land Acquisition Officer,  
Lanjigarh Road, Junagarh  
Rail Link Project & Others :::: Respondents.

**Advocate(s) who appeared in this case by Hybrid  
Arrangement (Virtual/Physical) Mode:-**

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For Appellants :::: M/s.Sidhartha Das, P.R.  
Singh and S.K. Mishra,  
Advocates

For Respondent :::: M/s. Miss Kalpana Pattnaik &  
D. Rath, Advocates (for  
Respondent No.2)

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**PRESENT:**

**THE HON'BLE MR. JUSTICE D.DASH**

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**Date of Hearing ::18.11.2021 :: Date of Judgment.23.11.2021**  
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1. The Appellants by filing this Appeal under section 54 of the Land Acquisition Act (for short called as 'the L.A. Act') have assailed the judgment/award dated 19.05.2012 passed by the learned Civil Judge (Senior Division), Bhawanipatna in L.A.R.

No.70 of 2009 in the matter of A reference under section 18 of the L.A. Act (hereinafter referred to as the 'Referral Court').

It may be stated here that the original claimant having died during the proceeding before the Referral Court, his legal representatives being prosecuted the proceeding before the Referral Court and they have filed this Appeal and as such they hereinafter being referred to as the Appellants (Claimants).

The land ad measuring Ac.05.31 decimals of Mouza-Dunguriguda owned by the Appellants (Claimants) has been acquired by the Respondents for the purpose of Lanjigarh Road-Junagarh Rail Link project. The Land Acquisition Officer has awarded compensation of Rs.1,00,053/- for the acquired lands. The Appellants having received the said assessed compensation under protest filed a petition seeking enhancement of the compensation claiming therein that the market value of the land as taken by the Land Acquisition Officer for the purpose of assessment of the compensation is too low. They claimed that the market value of the land acquired would be about Rs.3 to 4 lakhs per acre. They further claimed that for the severance of the land owned by them in a patch in view of the acquisition, they are also entitled to sum of Rs. 2.00 lakhs which has not been taken into account. In view of the demand raised by the Appellants (Claimants) claiming higher compensation for their acquired land, the matter stood referred to the Referral Court under section 18 of the L.A Act for determination of just and proper consideration for

said acquired land. The above claim of the Appellants was resisted by the Respondents before the Referral Court.

The Appellants examined three witnesses. They have also proved certain documents of which important are the two orders passed by the same Referral Court on 11.12.1992 in MJC No. 31 of 1992 and the order passed by this Court in First Appeal No. 32 of 1992. The Respondents on the other hand have examined one witness while proving the document i.e. the work sheet of that village Dunguriguda.

2. The Referral Court going to determine the just and proper compensation for the acquired land on the date of publication under section 4(1) of the L.A. Act i.e. dated 17.8.1994 has finally determined the market value of the acquired land at the rate of Rs.50,000/- per acre. Accordingly, the Respondents have been directed to pay the compensation for the acquired land computing the same at the said rate for the total extent of land acquired with all other statutory benefits as available.

3. Learned counsel for the Appellants (Claimants) at the outset inviting the attention of the court to the certified of the judgment/award dated 31.7.2010 passed by the said Referral Court in MJC No. 197 of 1997 as also the letter dated 9.9.2014 with the enclosure issued by the Respondent No. 1 in response to the letter of the Appellants (Claimants) indicating therein that the compensation for the acquired land involved in MJC No. 197 of 1997 and as has been determined by the Referral Court has

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already been paid to those claimants therein pointed that the award as has been passed in the said case has been fully satisfied. It may be stated here that said documents being filed in Court have been taken on record.

Placing reliance of the above judgment/award passed by the Referral Court prior to the passing of the judgment/award which has been impugned in this Appeal and in view of the payment of the said compensation amount, he contended that when the land involved in the present proceeding had been acquired under the same notification dated 17.8.1994 and as also those are of same kissam and being similarly situated/located, the Appellants (Claimants) are entitled at the minimum to the compensation in consonance with the said determination of the compensation in MJC No. 197 of 1997.

Inviting the attention to the factual settings of the present case as well as the one involved in MJC No. 197 of 1997 as well as concerning the case, he submitted that when in that case those claimants have been paid with compensation being assessed, taking the market value of the land at Rs.2,02,400/- per acre for the Bahal kissam of land and Rs.96,000/- per acre for the other kisams of lands i.e. Berna, Mala, Atta and Kheta Adi; the same market value has to be taken as the guide for determination of the compensation of the lands for these Appellants (Claimants) involved in the present proceeding.

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4. Learned counsel for the Respondent No.2 without disputing the determination of the compensation for the land involved in MJC No. 197 of 1997 and the factum of payment of the said compensation to the Appellants-claimants therein as it reveals from the certified copy of judgment/award contended that the said market value as has been determined by the Referral Court in that case has been on the basis of the evidence available on record therein and that it is not permissible to determine the market value of the acquired lands of the present Appellants (Claimants) taking that as the basis.

5. Keeping in view the submission made, I have carefully gone through the judgment/award dated 19.5.2012 which has been impugned in the present Appeal as well as the judgment/award passed in MJC No. 197 of 1997 disposed of on 31.7.2010. It reveals that the land ad measuring Ac.5.31 decimals of Bahal, Berena, Mala, Atta and Kheta Adi kissam under eight plots in one khata of Mouza Duguriguda owned by the Appellants have been acquired by notification No. 36617/R dated 17.8.1994.

6. The reference under section 18 of the L.A. Act numbered as MJC No. 197 of 1997 was concerning the land measuring Ac.05.75 decimals under nine plots in one khata of that very Mouza Duguriguda. These lands had also been acquired pursuant to the notification No. 36617/R dated 17.8.1994 and for the same purpose of construction of Lanjigarh road-Junagarh Rail Link project. In that case, the Referral Court has determined the market

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value of Ac.3.20 decimals of Bahal kisam of land at Rs.2,02,400/- per acre and other kisams i.e. Berna, Mala, Atta, Kheta Adi at Rs.96,000/- per acre. The undisputed position thus emerges that almost same extent of lands of same kisams as involved in the present reference were also the subject matter in the reference answered on 31.7.2001 in MJC No. 197 of 1997. The documents reveal that the judgment/award passed in MJC No. 197 of 1997 has been further challenged by this Respondent No. 2 and the same has been fully satisfied by way of payment of the compensation in terms of the determination made in the said reference to the claimants therein.

Here is a case where the large chunk of land of different kisams owned by the Appellants (Claimants) have been acquired and thereby, it is well inferable that the Appellants (Claimants) by such acquisition has not only lost their lands but also have been deprived of that source of income for all times to come in future. When other land owners of the village whose lands have been acquired for the same purpose under the same notification have been paid with the compensation at the enhanced rate as aforesaid, it does not stand to reason as to why the same standard would not be applied for determining the compensation towards the lands of the Appellants (Claimants) which have been acquired and they be not paid accordingly.

In fact the statement governing the field in order to remove the discriminatory treatment to the land losers for the acquisition

of the land under one notification is contained in the provision of section 27(A) of the LA Act that even a land loser who has not sought for the reference for enhancement of compensation would be entitled to get similar treatment in the assessment of the compensation for the acquisition of his land and payment thereof if the compensation is determined at a higher rate in a reference made at the instance of another land loser whose lands have been acquired under the same notification in case, he moves the Competent Authority within thirty days of passing of the award in the reference provided of course, the land are of same quality and attached with same benefits etc. The Appellants (Claimants) since are pursuing the matter of enhancement of compensation by carrying Appeal challenging the judgment/award stating that the determination of market value has been made on a lower side and compensation awarded is thus liable to be enhanced; this Court finds all the reasons to extent the same benefit to the present Appellants (Claimants) in the matter of determination of compensation for their acquired land and payment thereof in consonance with the determination of the compensation as has been made in MJC No. 197 of 1997 and paid to the claimants therein.

7. In that view of the matter, this Court holds that the Appellants (Claimants) are entitled to get the compensation for Bahal kism of land at Rs. 2,02,400/- per acre and rest kism of lands at the rate of Rs. 96,000/- per acre. The Compensation for

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the extent of acquired land being computed in the aforesaid rate be paid to the Appellants (Claimants) with all other statutory benefits as available within four months hence failing which the same would carry further interest @ 9% per annum till payment.

8. Accordingly, the Appeal stands disposed of.

9. Keeping in view the facts and circumstances, it is felt necessary in the interest of justice to direct the Referral Court that upon deposit of the amount as aforesaid by the Respondents; 80% of the same would be kept in unencumberable and non-pledgeable long term Fixed Deposit of ten years at the minimum in the name of the Appellants (Claimants) upon due apportionment amongst them in accordance with their shares in any Nationalized Bank with monthly interest payable to them through their Savings Bank Accounts and the rest 20% shall be paid to the Respondents (claimants) by keeping the same in deposit in their Savings Bank Accounts in the said Bank where the Fixed deposit would be kept.

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***D. Dash, J.***