

## First Appeal No. 55 of 2008

[Arising out of Judgement dated 14.08.2007 (award signed on 30.08.2007) passed by learned Subordinate Judge II-cum-Special Judge, Land Acquisition, Hazaribag in Land Reference Case No. 412 of 1992 (L.A. Case No. 5/86-87)]

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C.M.D. Darbhanga House, C.C L, Ranchi through its General Manager (L & R) T.N.B. rao, S/o T Subbaiah, R/o Jawahar Nagar Colony, Kanke Road, P.O. Kanke, P.S. Gonda, District, Ranchi ..... Appellant

### Versus

1. (a) (a)Gangia Devi wife of Gandhori Singh Ghatwar
- 1(a) (b). Sunny Singh son of Gandhori Singh Ghatwar
- 1 (a) (c). Urmila Devi D/o Gandhori Singh Ghatwar
- 1.(a) (d). Anita Devi D/O Gandhori Singh Ghatwar
- 1(a) (e) Neelam Kumari, D/o Gandhori Singh Ghatwar
2. Bulan Ghatwar, son of Sukar Ghatwar
3. Phirangi Ghatwar son of Sukar Ghatwar

All residents of Village Murpa, P.O and P.S. Mandu, District-Hazaribagh

4. Deputy Commissioner, Hazaribag

..... Respondents

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**PRESENT: HON'BLE MR. JUSTICE SANJAY KUMAR DWIVEDI**

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For the Appellant : Mr. Amit Kumar Das, Advocate

For the Respondent-State: Mr. Nitish Krishna, A.C to S.C. (L&C)-II

For the Pvt Respondents:M/s. Ajit Kumar and Swami Dayanand, Advocates

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### JUDGMENT

This appeal is directed against the judgment and award passed in Land Reference Case No.412/1992, corresponding to Land Acquisition Case No. 5/86-87 passed by the Subordinate Judge II-cum-Special Judge, Land Acquisition, Hazaribagh, by which the reference was allowed holding that the rates of the land should be assessed and treated as Rs.2,800/- per decimal for giving compensation to the awardees. The aforesaid judgment is a common judgment in respect of Land Reference Case Nos. 411 of 1992 to

Land Reference Case No.461 of 1992.

2. Along with this appeal, the Central Coalfields Limited have also filed analogous first appeals which were decided by common judgement dated 12.06.2019 in First Appeal No. 10 of 2008.

### **FACTS IN BRIEF**

3. Lands in Village Murpa, P.S. Mandu, District Hazaribagh were acquired by the State authority for the benefit of Central Coalfields Limited (C.C.L.) under the Land Acquisition Act of 1894. The lands were acquired for the purposes of rehabilitation of the villagers, who have been dispossessed from their property in respect of other acquisitions. The total area of the lands acquired is 94.55 acres. Notification under Section 4 of the Land Acquisition Act, 1894 was made by Notification No.D.L.A. Haz-39/86-2170 dated 28.07.1987. The declaration vide declaration No.B.L.A. Haz-47/89-1973 dated 07.08.1989 was published in the District Gazette. After enquiry, the lands were classified in 8 (eight) categories, namely, Dhan-I, Dhan II, Dhan III, Tanr I, Tanr II, Tanr III, Parti and Gairmazurwa Aam lands. Eight types of rates were fixed in respect of said categories of lands. Thereafter the award was prepared by the Collector, as per the rate determined by them. The awardees objected to the award. Thus, the matter was referred under Section 18 of the Land Acquisition Act, 1894. It is made clear that the objection was with regard to only 76.75 acres of land out of total acquired land of 94.55 acres.

4. After the reference, before the Land Acquisition Judge, in support of their objection, 10 witnesses were examined by the claimants. Documentary evidence were also adduced. Exhibit 1 is the certified copy of the exhibit list and Exhibit 2 and 2A are registered deed of sale. The opposite parties have also adduced evidence. There are two witnesses who deposed on behalf of the opposite parties. The opposite parties also produced documents and exhibited them, which are as follows: -

<b>Ext. A</b>	Valuation Khatian prepared by the State Authority
<b>Ext. B</b>	Different list of awards with regard to an

	area of 76.75 acres
<b>Ext. C</b>	Sale Figure
<b>Ext. D</b>	Sale rate
<b>Exts. E to E/2</b>	Different Deeds of Sale
<b>Ext. F</b>	Judgment and award passed in L.R. Case No.26/87 by the Subordinate Judge-cum-Special Judge, Land Acquisition, Hazaribagh dated 02.02.1993.

5. After discussing the evidence and going through the records, the Land Acquisition Judge in its judgment dated 14.08.2008 in respect of L.R. Case No.412 of 1992 (L.A. Case No.5 of 1986-87) and all the other analogous cases, held and assessed that there should be a flat rate of value of the land acquired irrespective of the nature of the land, which should be Rs.2800/- per decimal for giving compensation to the awardees. It was held that the awardees will also be entitled to get solatium, interest and other statutory benefits.

6. Challenging the said judgment dated 14.08.2007, the appellant Central Coalfields Limited preferred the present batch of appeals in respect of each land reference case.

### **Submissions of the Appellant**

7. Mr. Amit Kumar Das, learned counsel for the appellant submits that the impugned judgment is bad and cannot be sustained as there are no reasoning as to why the learned Court assessed the amount of Rs.2800/- per decimal as the flat rate of compensation of the entire land in question. He submits that the learned Court below has ignored the rate chart produced and exhibited by the respondents, which clearly suggests that the valuation of the land is on much lower side. He submits that the total area of dispute is 76.75 acres and out of the said area, admittedly, only 26 acres of land were of high quality and the rest 50.75 acres of land are low grade land. He submits that while assessing the rate of compensation, the learned Court concerned has held that the rate of the fertile land is Rs.4,800/- per decimal, which is not according to the evidence on record. He submits that without there being any material on record, the Court below has assessed

Rs.2,800/- per decimal as the rate of compensation, which is beyond the record and without any basis. Mr. Amit Kumar Das also submits that the evidence of the claimants clearly suggests that the lands were not developed and even the market, the hospital and the railway halt are 1 – 2 kilometers away from the acquired lands. He submits that there is nothing on record to suggest that the lands were declared as urban lands.

### **Submissions of the Respondents**

8. Counsel for the objectors/respondents in this case also made his submission. As per him, the land, which was acquired, is situated near the highway and is declared as urban land and is of great importance. He submits that the importance of the land increased due to industrialization. He submits that from the oral evidence adduced, it would be quite clear that there are hospitals near to the land and some factories also. It is submitted that the witnesses have stated that there are schools and colleges within the vicinity, which increased the value of the lands. He submits that the sale deeds produced by the claimants, which are Exhibit 2 and 2A clearly suggests the current valuation of the lands and on that basis, the Court has assessed the value of the lands as Rs.2,800/- per decimal irrespective of the categorization. Lastly he submit that there is no illegality in the impugned judgment.

### **Findings**

9. I have heard the counsel for the appellant and the counsel for the respondents.

10. I find that the lands involved in this appeal was acquired for the purpose of Central Coalfields Limited. Notification was published on 28.07.1987 and the declaration is dated 07.08.1989. Total area acquired is 94.55 acres, out of which objection has been raised in respect of 76.75 acres of land. It is also admitted fact that the lands were classified into 8 categories, i.e., Dhan I, Dhan II, Dhan III, Tanr I, Tanr II, Tanr II, Parti and Gairmazuruwa Aam. There is no evidence that the nature of land has changed. The objectors, mainly challenge the rate, which was fixed by the authority in respect of each category of the land. Be it mentioned that the rates are as follows: -

<b>Dhan I</b>	Rs.1050/- per decimal
<b>Dhan II</b>	Rs.656.25 per decimal
<b>Dhan III</b>	Rs.525/- per decimal
<b>Tanr I</b>	Rs.1050/- per decimal
<b>Tanr II</b>	Rs.262.50 per decimal
<b>Tanr III</b>	Rs.65.63 per decimal
<b>Parti</b>	Rs.32.81 per decimal
<b>Gairmazurua</b>	Rs.32.81 per decimal

**11.** These are the rates, which were prevalent for the purpose of registration. The objectors relied upon Exhibit 2 series. These exhibits are two sale deeds. In Sale Deed No.5326, 5 decimals of land was sold at Rs.20,000/-. Similarly Sale Deed No.3891 is also in respect of 5 decimals of land and the consideration amount is Rs.21,000/-. As per these two sale deeds, the rate per decimal comes to Rs.4,000/- to Rs.4200/- per decimal. When I carefully look at these two sale deeds, I find that these sale deeds are in respect of lands of Village Kuju and not of Village Murpa. From the oral evidence of the witnesses, especially, A.W.3 and A.W.1, I find that this particular land is situated 1 k.m. away from Kuju Market. A.W.1 has stated that the acquired lands are in between Kuju and Arra. This shows that the sale deeds are of different place and not of the place from where acquisition had taken place. The Court below, on the basis of these two sale deeds, had concluded that the value of good quality of land is Rs.4,000/- per decimal, which the learned Court below could not have.

**12.** So far as the oral evidence is concerned, I find that A.W.1 has stated that the lands were declared to be urban, but, no documents were produced in support of such statement. A.W.3 has stated that the land is 1 k.m. away from Kuju Market and the hospital is also 1 k.m. away from the acquired lands. A.W.4 has stated that the railway halt is 2 k.m. away from the acquired lands. The witnesses have also stated that the acquired land are 1 k.m. away from the highway. Evidence of these witnesses suggests that the land was not on the highway. Exhibit 'C' series are the sale figures of land of the same village, i.e., Murpa. From the said sale figures, I find that the

sale deed, which was executed on 25.09.1987 being sale deed No.11066 in respect of 7.36 acres of land fetched Rs.21,000/- only. Against the said sale value, the classification of land was shown as mixed. Similarly, the sale deed dated 20.06.1986 covering 20 decimals of land fetched Rs.21,000/-. Dhan II land of 4 decimals fetched Rs.10,000/-, which was sold vide deed dated 21.06.1986. The deed dated 19.03.1987 for 9 decimals of land fetched Rs.10,000/-. These figures, clearly suggest that there are different rates in respect of each category of land. The Court below also admitted that the rates are varying in respect of the land, but, concluded that the higher category of land is valued at Rs.4,000/- per decimal. This valuation of Rs.4,000/- is solely based on the two sale deeds produced by the objectors. As held earlier, these two sale deeds could not have been the basis for assessing the sale figure of the lands, which are fertile, because of the reason that these two deeds are not of the same village where the acquired lands situate. Further the area of land covered by the said sale deeds is only 5 decimals of land, which cannot be taken as basis where huge chunk of land is acquired. Further, I find that the Court below has not considered the rate chart in proper perspective. The Court below, in paragraph 15 of the judgment, while deciding the amount of compensation, has considered the market value of fertile lands to be Rs.4,000/- per decimal. The learned court also concluded that Dhan I, Dhan II, Dhan III and Tanr I lands are only 26 acres out of 76.75 acres. While doing so, has concluded that the correct market value of the entire land, i.e., 76.75 acres should be Rs.2,800/- per decimal. On what basis, this amount of Rs.2,800/- per decimal has been arrived at has not been mentioned. Thus, I feel that the conclusion arrived by the learned Court about the market value of the land is not supported by any reasons. Further, the same is not in consonance with the documentary evidence on record. Since there is no reason as to why the amount of Rs.2,800/- per decimal has been assessed as market value of the lands, I feel that the said assessment and valuation cannot be sustained.

**13.** In view of the aforesaid findings, this appeal needs to be allowed. The judgment and the award passed by the Court below, which is impugned in the Land Reference Case impugned in this First Appeal passed by the Court below is set aside. The matter of the Land Reference Case in this appeal is remitted back to the Court of Subordinate Judge II-cum-

Special Judge, Land Acquisition, Hazaribagh for deciding the case afresh taking into consideration all the documents, which are on record. It is made clear that the concerned Court will try to dispose of the Land Reference Case within three months from the date of receipt of a copy of this judgment along with the Lower Court Records from this Court after giving full opportunity of hearing to the parties.

**14.** Thus, this appeal i.e F.A. No. 55 of 2008 stands allowed.

**15.** Office is directed to remit the Lower Court Records along with copy of judgment of the this appeal to the Court below forthwith.

**(Sanjay Kumar Dwivedi, J)**

Dated, the 6<sup>th</sup> of February, 2020

High Court of Jharkhand, Ranchi

Satyarthi/N.A.F.R