

THE STATE OF WEST BENGAL

v.

LOHIT KUMAR ROY

JULY 24, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

*Land Acquisition Act, 1894 : Sections 4(1) and 23.*

*Land acquisition—Determination of compensation—Notification under Section 4(1)—Lapse of—Issue of second notification—In the meantime parties claiming higher compensation executed a document with a view to inflating market value—No other evidence to ascertain enhancement of compensation—In such circumstances award of Collector not confirmed—Matter remitted to Reference Court to decide compensation afresh on the basis of evidence vis-a-vis any other reference having similar facts.*

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 2467 of 1980.

From the Judgment and Order dated 19.12.78 of the Calcutta High Court in Appeal from Original Decree No. 109 of 1977.

Tapas Ray, G.S. Chatterjee and Ms. Aruna Banerjee for the Appellant.

The following Order of the Court was delivered :

Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the "Act") initially was published on May 25, 1956 acquiring a huge extent of 985.95 acres of land for industrial purpose in Durgapur. It would appear that subsequently the notification got lapsed. Consequently, the second notification came to be published on August 10, 1964. The Land Acquisition Officer determined the compensation @ Rs. 2,310 per acre. In this case, we are concerned with the extent of the lands in 5 plots in Survey Nos. 710, 735, 762, 824 and 912 of an extent of 0.33, 0.11, 0.63, 0.13 and 0.49 acres respectively. The reference Court enhanced the compensation @ Rs. 1,45,000 per acre relying upon Ext. 1(d) dated April 24, 1964. It is settled law that the similar lands were of large extent involved for acquisition and on evidence relied upon, even the High Court has doubted the

- A genuineness of this document. It is stated by the learned counsel for the appellant that this document came to be executed between the parties who are claiming higher compensation. It would be obvious that after the first notification was issued and before the second notification came to be published this document was brought into existence to inflate the market value. Under these circumstances, the High Court in another case was well justified in doubting the correctness of it. Unfortunately, except that document, there is no other evidence for enhancement of the compensation. But in view of the fact that large extent of the lands are involved and we do not have the advantage of any other evidence or assistance from respondents, we are not inclined to confirm the award of the Collector.
- C Under these circumstances, we set aside the award of the court and the High Court and remit the matter to the reference court to decide the compensation afresh on the basis of the evidence vis-a-vis any other reference pending before it having similar facts and decide that matter according to law.
- D The appeal is accordingly allowed, but, in the circumstances, without costs.

T.N.A.

Appeal allowed.