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STATE OF BIHAR

v.

RATAN LAL SAHU AND ORS. ETC.

AUGUST 8, 1996

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

*Land Acquisition Act, 1894 :*

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Ss. 4(1), 18, 23(1), 23(1-A)—Acquisition of land with well and tank therein—Compensation—20.40 acres of land acquisition in 1972 for construction of Getalsud Dam in Bihar—Land Acquisition Officer by his award dated 16.11.1977 granted total compensation of Rs. 1,59,505.00 at the rate of Rs. 2,266 per acre for Class I lands and decreased the value as regards other lands—Reference Court awarded compensation at the rate of Rs. 10,000 per acre, for entire land and Rs. 1,69,890 for the tank and the well as also additional amount u/s. 23(1-A)—High Court confirming the award of reference Court—Held, reference court erred in determining compensation relying upon an award in respect of lands acquired in neighbouring village—Rs. 6,000 per acre, would be the appropriate value for the entire land—When water is being used from the tank and the well for cultivation of the land no separate value could be granted for the tank and the well—Reference court erred in allowing compensation on these items separately—It also erred in granting additional amount as the award of Collector is of 16.11.1977.

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*O. Janardhan Reddy & Ors. v. Spl. Dy. Collector, L.A. Unit-IV, LMD Karimnagar, A.P. & Ors., [1994] 6 SCC 456, relied on.*

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 10669-70 of 1996.

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From the Judgment and Order dated 10.1.94 of the Patna High Court in Appeal from the Original Decree No. 108 and 109 of 1987.

H.L. Agarwal, R.P. Singh and B.B. Singh for the Appellant.

D.P. Mukherjee and Sanjay Ghosh for the Respondents.

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The following Order of the Court was delivered :

Leave granted.

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We have heard learned counsel on both sides.

Notification under Section 4(1) of the Land Acquisition Act, 1894 (1 of 1894) (for short, the 'Act') was published on June 14, 1972 acquiring 20.40 acres of land for construction of Getalsud Dam in Ranchi District of Bihar State. The Land Acquisition Officer in his award under Section 11 dated November 16, 1977 granted total compensation of Rs. 1,59,505.33. On reference, the Subordinate Judge, Ranchi awarded compensation @ Rs. 10,000 per acre; for the tank and well, he granted a sum of Rs. 1,69,890. He also awarded additional amount under Section 23(1-A) of the Act. Dissatisfied therewith, the appellant carried the matter in appeals. The High Court in the impugned judgment and decree in Original Decree Nos. 108 and 109 of 1987 dated January 10, 1994 confirmed the award and decree of the reference Court. Thus, these appeals by special leave.

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We have gone through the judgment of the High Court and the reference Court. The learned Judge has not referred to the correct principles of law in determining the compensation. It is an admitted position that the reference Court has relied upon an earlier award in respect of a neighbouring village determining the compensation of land in Rs. 10,000 per acre. We do not have any material on record, nor has it discussed in either judgments the basis for reliance as regards the relevant value of the land etc. Under those circumstances, relying on that judgment *per se* may not be wholly correct. It is not in dispute that these are Class I wet crop lands. The Land Acquisition Officer awarded the compensation for Class I lands @ Rs. 2,266 and proportionately decreased the value as regards the quality of the other lands. We take all the 20 acres of land as Class I land since there is no acceptable material as regards the quality of the land.

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Under these circumstances, taking the totality of the facts and circumstances, we think that the appropriate market would be Rs. 6,000. per acre. It is now settled law that when the water is being used from the tank and the well for cultivation of the land, no separate value could be granted towards the tank and the well. This Court elaborately considered this aspect of the matter in the case of *O. Janardhan Reddy & Ors. v. Spl. Dy. Collector. L.A. Unit-IV, LMD. Karimnagar, A.P. & Ors.*, [1994] 6 SCC 456. Accordingly, we hold that the respondents are not entitled to the separate value of Rs. 1,69,890 towards the value of the tank and the well. Since the

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- A award of the Collector is of November 16, 1977, the grant of the additional amount under Section 23(1-A) is clearly illegal. Accordingly, the additional amount under Section 23(1-A) for a sum of Rs. 1,16,000 also stands set aside.
- B The claimants are entitled to the interest from 1.1.1966, the date on which the possession was taken for a period of one year @ 9% and thereafter @ 15% till date of deposit on the enhanced compensation. The claimants are also entitled to the solatium at 30% on the enhanced compensation. The claimants are also not entitled to the additional amount @ Rs. 12% on the market value from the date of publication notification
- C under Section 4(1) to the date of award of the Collector or from the date of taking possession of the land, whichever is earlier.

The appeals are accordingly allowed, but in the circumstances without costs.

R.P.

Appeals allowed.