

PETITIONER:
STATE OF BIHAR

Vs.

RESPONDENT:
RATAN LAL SABU & VS. ETC.

DATE OF JUDGMENT: 08/08/1996

BENCH:
RAMASWAMY, K.
BENCH:
RAMASWAMY, K.
G.B. PATTANAIAK (J)

CITATION:
1996 SCALE (6)83

ACT:

HEADNOTE:

JUDGMENT:
THE 8TH DAY OF AUGUST, 1996

Present:

Hon'ble Mr. Justice K.Ramaswamy
Hon'ble Mr. Justice G.B. Pattanaik

H.Agarwal, Sr. Adv. R.P.Singh and B.B.Singh, Advs. with him
for the appellant
D.Mukherjee and Sanjay Ghosh, Advs. for the Respondents

O R D E R

The following Order of the Court was delivered:
State of Bihar

V.
Ratan Lal Sabu Ors. etc.

O R D E R

Leave granted.

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. 13,000/- per acre; for the tank and well, he granted a sum of Rs.1,69,830/-. He also awarded additional amount under Section 23(1-A) of the Act. Dissatisfied therewith, the appeal and 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 appeal by special leave.

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 cannot leave any material on record, nor has it discussed in either judgments the basis or 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.2,226/- 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.

Under these circumstances, taking the totality of the facts and circumstances, we think that the appropriate market value 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. vs. 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 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.

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 till date of deposit. The claimants are also entitled to the additional amount @ Rs. 12% on the market value from the date of publication of notification 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.