

**IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION**

**CIVIL APPEAL NOS.1367-1368/2018**

**ALL INDIA TEA AND TRADING CO. LTD**

**APPELLANT**

**VERSUS**

**INDIAN OIL CORPORATION LTD. & ORS.**

**RESPONDENTS**

**O R D E R**

1. The present Appeals arise out of impugned order dated 22.02.2017 passed by the Gauhati High Court (Principal Bench at Guwahati) in L.A. 31/2002 & 32/2002 whereby the HC deducted 10% from the awarded compensation towards the development charges.

2. The land measuring 248 bighas 8 cottahs and 9 chittakhs situated at village Harinccherra Cha Bagicha, District Gachar and land measuring 1 bigha 7 cottahs and 13 chittakhs of village Bhitor, Gangapur was acquired for the public purpose of construction of LPG Bottling Plant by the respondent - Indian Oil Corporation Ltd. (in short, the "IOC"). The Notification under Section 4 of the Land Acquisition Act, 1894 (in short, the "Act") was issued on 01.06.1989 followed by declaration under

Section 6 of the Act on 06.06.1989 and 28.08.1989.

3. Thereafter, the Land Acquisition Collector passed an award in April 1990 determining the valuation of the land at Rs.5,000/- per bigha for garden land (also known as 'Charra class land') and Rs.3,000/- per bigha for the patit class of land. The dissatisfied land owner(s) filed reference under Section 18 of the Act and the Reference Court vide award dated 19.03.1999 enhanced the compensation to the extent of Rs.14,000/- per bigha for the charra class of land and Rs.5,000/- per bigha for patit class of land.

4. The aforesaid award was challenged by the IOC in a First Appeal before the High Court, which was allowed vide judgment dated 06.06.2000 to the extent that the matter was remanded back to the Reference Court for fresh adjudication.

5. Thereafter, the District Judge, Cachar, Silchar vide award dated 24.12.2001 determined the market value of the acquired land at Rs.14,000/- per bigha for charra class of land and Rs.5,000/- for the patit class of land.

6. IOC again preferred appeal before the High Court and vide impugned judgment dated 22.02.2017, the High Court after applying a cut of 10% towards development charges, has reduced the compensation to Rs.12,600/- per bigha for charra class of land and Rs.4,500/- per bigha for patit class of land.

7. The aggrieved land owners are before us.

8. We have heard learned senior counsel on behalf of the appellant-Company as well as learned Additional Solicitor General of India on behalf of the respondent - IOC. The record has been perused.

9. It may be mentioned, at the outset, that the appellant - land owner was satisfied with the compensation awarded by the Reference Court as no appeal was preferred against the same. Similarly, no cross-objections were filed in the First Appeal, preferred by IOC. It is only when the High Court reduced the compensation by imposing 10% development charges, that the appellant has come before this Court.

10. The short question, thus, that falls for consideration is whether the High Court was justified in imposing the 10% development charges?

11. The undisputed facts, as noticed by the High Court in paragraph 4 of the impugned judgment are that the acquired land is part of the Harinchherra Division of Ballacherra Tea Estate. The appellant produced some exemplars to substantiate its claim of Rs.25,000/- per bigha before the Reference Court. The High Court has observed and rightly so that out of the sale instances, relied upon by the appellant, Exts.P-5 to P-11 are agricultural lands, whereas the acquired land is a tea garden land having different potentialities. As no sale

instance of tea estate land was produced before the High Court, the sale deed (Ext.P-11 i.e., sale deed No.52/1989), which was for a small area measuring little more than 1 bigha, was found to be the best exemplar. Vide that sale deed, the plot of land was sold for a sum of Rs.15,500/-.

12. There can be no quarrel and it has not been disputed on behalf of respondent - IOC also that in light of a decision of this Court in Numaligarh Refinery Ltd. vs. Green View Tea & Industries and another, (2007) 9 SCC 242, the tea estate land shall have higher potentiality than the agricultural land and, thus, the market value of the tea garden land will also be more than that of the agricultural land.

13. Following the aforesaid principle, it can be safely inferred that the market value of the subject tea estate land in the year 1989 was undoubtedly more than Rs.15,500/- per bigha. The reason to arrive at such conclusion is that the sale instance (Ext.P-11) executed in the year 1989 itself, though pertains to a small size plot, fetched the price of Rs.15,500/- per bigha for agricultural land. Even applying the development charges on the analogy that the acquired land is a big chunk of land as compared to a small plot of land sold vide Ext.P-11, there can be no doubt that the market value of the tea estate land, even after deduction of 10% or more,

would not be less than Rs.14,000/-.

14. The Reference Court, in our considered view, was thus justified in awarding the market value of Rs.14,000/- per bigha for charra class of land and Rs.5,000/- per bigha for patit class of land along with the increased Zirat valuation.

15. For the reason aforestated, the appeals are allowed in part. The impugned judgment of the High Court to the extent of imposing a cut of 10% towards development charges is set aside and the compensation as awarded by the District Judge, Cachar, Silchar *vide* award dated 24.12.2001 is restored. The appellant shall be entitled to compensation along with other statutory benefits, including interest at the rate as determined by the Reference Court. The Reference Court-cum-District Judge, Cachar, Silchar is directed to calculate the compensation payable to the appellant in terms of the directions laid out hereinabove. On doing so, the IOC is directed to deposit the enhanced amount of compensation before the Reference Court within six weeks from the date of such a determination.

16. Before parting with this case, we would like to clarify that since the appellant did not question the judgment of the High Court in respect of land measuring 1 bigha 7 cottahs and 13 chittakhs of village Bhitor,

Gangapur, the impugned judgment *qua* that land shall remain unaffected. Ordered accordingly.

.....J.  
(SURYA KANT)

.....J.  
(NONGMEIKAPAM KOTISWAR SINGH)

New Delhi;  
February 18, 2025

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Civil Appeal No(s).1367-1368/2018

ALL INDIA TEA AND TRADING CO. LTD

Appellant(s)

VERSUS

INDIAN OIL CORPORATION LTD. & ORS.

Respondent(s)

(IA No.260082/2024 - EARLY HEARING APPLICATION, IA No.219023/2023 - EARLY HEARING APPLICATION)

Date : 18-02-2025 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Appellant(s) : Mr. P.S. Datta, Sr. Adv.  
Mr. Sanjay Kumar, Adv.  
Ms. Anwesa Saha, Adv.  
Mr. Fuzail Ahmad Ayyubi, AOR

For Respondent(s) : Mrs. Aishwarya Bhati, A.S.G.  
Mrs. Priya Puri, AOR  
Mr. Sachin Dubey, Adv.  
Mrs. Pinki Aggarwal, Adv.  
Mr. Sharad Kumar Puri, Adv.  
Mr. Vibhav Srivastava, Adv.

UPON hearing the counsel the Court made the following  
O R D E R

1. The appeals are allowed in part in terms of the signed order.
2. All pending applications, if any, also stand disposed of.

(ARJUN BISHT)  
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)  
ASSISTANT REGISTRAR

(signed order is placed on the file)