

HEMENDRA PRASAD BARUAH

v.

THE COLLECTOR OF SIBSAGAR, ASSAM

July 22, 1975

[A. N. RAY, C.J., K. K. MATHEW, V. R. KRISHNA IYER AND
S. M. FAZAL ALI, JJ.]

Assam Land (Requisition and Acquisition) Act, 1948 (Assam Act XXV of 1948) Section 7(1A)—Acquisition of land lying unused—Appellant, if entitled to larger scale of compensation.

100 bighas of land lying unused were requisitioned by Government to settle landless people. The appellant, a tea planter, willingly surrendered the same. But, when the State proceeded to acquire the land under s. 7(1A) of the Assam Land (Requisition and Acquisition) Act, 1948 he disputed the payment of lesser scale of compensation prescribed under s. 7(1A) of the Act. The Courts below concurrently held against him.

Dismissing the appeal,

HELD : The simple statutory test that settles the issue is to find out whether the land acquired is lying fallow or uncultivated. If it is, a small compensation alone is awardable, as laid down in s. 7(1A) of the Act. On the other hand, if it is tea garden, the quantum is as under s. 23 of the Land Acquisition Act, 1894. Plethora of evidence adduced in this case clearly proceeds on the basis that the land in question is fallow. The High Court has, therefore, rightly held that s. 7(1A) appropriately applied to this case. [68H-69B]

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 1264 of 1969.

Appeal by certificate from the judgment and order dated the 12th Feb., 1968 of the High Court of Assam and Nagaland at Gauhati in First Appeal No. 21 of 1963.

D. Mookherjee and *S. K. Nandy*, for the appellant.

M. H. Chowdhury and *S. N. Chowdhury*, for the respondent.

The Judgment of the Court was delivered by

KRISHNA IYER, J.—The concurrent conclusions of fact reached by both the courts below regarding the quantum of compensation payable to the appellant on the acquisition of his land for a public purpose by the State are assailed by *Shri D. Mukherjee* before us on the ground that the amount is grossly inadequate. Having heard him in the light of the High Court's reasonings, we are persuaded to affirm the finding.

100 bighas of land belonging to the appellant (a Tea Planter) were first requisitioned by Government to settle landless people and the owner 'gladly' agreed to surrender the area which, on his own showing, was lying unused. Later, the State proceeded to acquire the land under s.7 (1A) of the Assam Land (Requisition and Acquisition) Act, 1948 (Assam Act XXV of 1948). The sole dispute turns on whether the lesser scale of compensation prescribed under s.7(1A) or the larger one stipulated under s.7(1) is attracted to the situation. The simple statutory test that settles the issue is to find out whether the land acquired is lying fallow or uncultivated. If it is, a small compensation alone is awardable, as laid down in s.7(1A) of the Act. On the other

A hand, if it is ten garden, the quantum is as under s. 23 of the Land Acquisition Act, 1894. This decisive factor lends itself to easy decision, because a plethora of evidence, to most of which the appellant is a party, proceeds on the basis that the land in question is fallow. The High Court has collected and considered the prior statements and other materials leading to the reasonable holding that s.7(1A) appropriately applied to this case. It follows that the appeal has no merit and deserves to be dismissed.

B

We order both parties to bear their respective costs. Subject to this direction, the appeal is dismissed.

V. M. K.

Appeal dismissed.