

(2008) 06 KAR CK 0081

In the Karnataka High Court

Case No : Writ Petition No. 18937 of 2007

A. Channabasappa and Another

APPELLANT

Vs

Karnataka Industrial Area Development Board and Others

RESPONDENT

Date of Decision : 09-06-2008

Acts Referred:

Land Acquisition Act, 1894 — Section 12 (2), 18, 18 (1)

Citation : (2008) ILR (Kar) 3524 : (2008) 5 KarLJ 499 : (2008) 3 KCCR 2058

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : R. Kothwal, for the Appellant; M. Keshava Reddy, GA. for R-3, for the Respondent

Final Decision : Dismissed

Judgement

B.S. Patil, J.—Petitioners have filed this writ petition seeking a writ of mandamus to direct the respondents to consider the representation given by them on 23.08.2006 vide Annexure-C1.

2. By Annexure-C1 representation, petitioners have requested the Deputy Commissioner, Davangere District to enhance the compensation for the land bearing Sy. No. 7/2B measuring 5 acres 21 guntas acquired for industrial purpose by the Karnataka Industrial Areas Development Board (for short "the KIADB"). The petition averments disclose that the land in question among several other lands was proposed to be acquired as per the Notification dated 05.03.2001 issued u/s 28(1) of the Karnataka Industrial Areas Development Act, 1966 (for short "the KIAD Act"). The petitioners have not furnished further particulars regarding the date when the final declaration came to be issued. The petition averments also disclose that an award has been passed as back as in the year 2004 determining the compensation payable to the petitioners. It is stated in paragraph-5 of the petition that they had objected for acquiring the land by giving only a sum of Rs. 4,00,000/- per acre. Therefore, it is obvious that the petitioners were aware of the determination of the compensation and must have

in all probability received the amount of compensation.

3. As per Section 30 of KIAD Act, the provisions of the Land Acquisition Act, 1894 (Central Act No. 1 of 1894) are made applicable mutatis mutandis in respect of the enquiry and award by the Deputy Commissioner, the reference of the matter to the Court for adjudication of the proper market value, the apportionment of compensation and the payment of compensation thereof in respect of the lands acquired under the provisions of the KIAD Act. u/s 18 of the Land Acquisition Act, 1894 (for short "the LA Act") any person who has not accepted the award may by written application to the Collector request him to refer the matter to the Civil Court for determination of the correct market value, whether his objection is with regard to the measurement of land or with regard to the amount of compensation payable or of its apportionment between the interested persons. Under the Karnataka amendment, a period of 90 days is prescribed as period of limitation from the date of service of notice of passing of the Award by the Deputy Commissioner under Sub-section (2) of Section 12 of the LA Act. The Deputy Commissioner is further enjoined with an obligation to refer the matter within 90 days from the date of receipt of the application filed u/s 18(1) of the LA Act to the Civil Court. If the Deputy Commissioner fails to make a reference to the Court within a period of 90 days from the date of receipt of the application, the applicant is clothed with a right to apply to the Court seeking a direction to the Deputy Commissioner to make the reference. Whereupon, the Court may direct the Deputy Commissioner to make the reference within such time as the Court may fix.

4. All these provisions including the period of limitation prescribed therein make it very clear that a person who is aggrieved by the quantum of compensation determined by the Land Acquisition Officer and who seeks enhancement of the same is required to file an application before the Deputy Commissioner or the concerned authority making a request to refer the matter for adjudication to the Civil Court. The law provides a remedy to the claimant to enforce his right to have the matter referred to the Court in case the authority concerned fails to comply with the request made.

5. In the instant case, petitioners have not disclosed anything regarding the remedies provided under the provisions of Section 18 of the Land Acquisition Act. Petitioners cannot approach this Court invoking the writ jurisdiction seeking a direction to the Deputy Commissioner to enhance the compensation payable for their lands. Such a direction cannot be issued bypassing the provisions contained u/s 18 of the Land Acquisition Act. The Writ Petition is therefore misconceived and the same deserves to be dismissed.

6. Accordingly, the Writ Petition is dismissed.