
(2017) 01 KAR CK 0101
In the Karnataka High Court
Case No : M.F.A. No. 100657 of 2015 (LAC)

Anand

APPELLANT

Vs

Special Land Acquisition Officer Bailhongal

RESPONDENT

Date of Decision : 17-01-2017

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2017) 1 AirKarR 785

Hon'ble Judges : Mrs. S. Sujatha, J.

Bench : Single Bench

Advocate : Smt. Sunanda P. Patil, Advocate, for the Appellants; Smt. Veena Hedge, HCGP, for the Respondent

Final Decision : Allowed

Judgement

Mrs. S. Sujatha, J.—This appeal is directed against the Judgment and Award dated 10.11.2014 passed by the I Addl. Senior Civil Judge, Gokak in LAC No. 41/2012.

2. Briefly stated the facts are that the agricultural land bearing R.S. No. 101/3 measuring 5 acres 33 guntas including pot kharab of 2 guntas situated at Kalliguddi village, Gokak taluka, Belgavi District, was owned and possessed by the appellants. The respondent had acquired 37 guntas out of the said land for the purpose of construction of tank within the limits of Kalliguddi village, Gokak taluk by passing an award bearing No. LAQ/JSR/202/2010-11 dated 9.2.2012 fixing its market value at the rate of Rs. 52,000/- per acre. The appellants 1 and 2 being dissatisfied with the compensation determined by the respondent, sought for reference to the competent civil court by filing reference application under Section 18 of the Land Acquisition Act, 1894, ("Act" for short) claiming compensation at the rate of Rs. 15,00,000/- per acre. The judgment and order was passed by the Reference Court on 10.11.2014. Being aggrieved by the said judgment and order, the claimants/appellants are in appeal.

3. Smt. Sunanda P. Patil, learned counsel appearing for the appellants would contend that the Reference court failed to appreciate the reasons assigned by the claimants for not leading the evidence on 20.6.2014 when the matter was listed for petitioners' evidence. The original claimant died during the reference proceedings on 18.9.2013, as such, the legal heirs of the original claimant were required to secure documents to lead evidence and accordingly, time was sought for leading evidence. The reference court failed to note that the evidence of petitioner was taken as nil on 20/06/ 2014 and award statements were marked as Ex. R1 & 2 on 24/07/2014 and arguments were taken as nil on 20/08/2014 and posted this case for judgement on 30/08/2014. Later on, the reference court on 24/08/2014 suo moto taken this case on board as it is noticed that IA No. 1 was pending for clubbing this case with other cases and posted this case for filing objections to IA No. 1 on 26/08/2014. On that day the appellants had filed an application at IA II for reopening this case for leading their oral evidence. So the said application was filed when the case was posted for objections to IA I. Therefore the reference court ought to have allowed application filed by the appellants at IA II and permitted them to lead oral evidence in support of their claim. The Reference court without properly considering the satisfactory reasons assigned by the claimants dismissed IA-II. Learned counsel would submit that the claimants got good case on merits. Not leading evidence on 20.6.2014 was only due to the bona fide reasons as narrated above. There was neither negligence nor want of bona fides on the part of the claimants. The claimants being the land losers, their rights are affected when denied opportunity to lead evidence seeking enhancement of compensation for the lands acquired by the respondents. The Reference Court without appreciating these vital aspects dismissed the reference application primarily for the reason that the claimants have not produced any evidence to substantiate their contention for enhancement of compensation. Thus, the learned counsel seeks for allowing the appeal setting aside the impugned judgment and order.

4. Per contra, Smt. Veena Hegde, learned HCGP appearing for the respondents justifying the impugned Judgment and order would contend that despite sufficient opportunity provided to the claimants, no evidence was led in support of their contention. In such circumstances, the Reference court proceeded to take evidence as "nil". It was only in the fag end of the proceedings, an application was filed by the claimants seeking an opportunity to lead evidence which was rightly rejected by the Reference court considering these material aspects. The order passed by the Reference court on application filed u/S. 18 of the Act do not call for any interference in this appeal.

5. Heard the learned counsel for the parties and perused the material on record. It is evident that claimants/appellants are land losers. On the request made by the land losers, the matter was referred to Reference Court under Section 18 of the Act. It is indisputable that claimant No. 1 died during the reference proceedings on 18.9.2013, due to which the claimants were not in a position to let in evidence on 20.6.2014 for want of certain documents as contended. The

reasons assigned by the claimants for not adducing evidence on the date fixed by the Reference Court are plausible reasons and appears to have some force to provide an opportunity of leading evidence in support of their claim for seeking enhancement of compensation. It is perused from the order sheet now made available before this Court that no evidence was led by the respondents also, only by consent Ex.R1 and R2 were marked. The sequence of events narrated above clearly establishes that no dilatory tactics was played by the claimants to avoid adducing evidence on the relevant date fixed by the Reference court. It was due to unavoidable circumstances, as explained by the claimants, no evidence was let in. The claimants being illiterate agriculturists, having lost their lands, when sought for enhancement of compensation, the action of the claimants in not leading evidence on the fixed date for evidence cannot be construed as negligence nor want of bona fides on their part. In such circumstances, this court is of considered opinion that the claimants deserve an opportunity to lead evidence in support of their claim for enhancement of compensation. The impugned judgment and award passed rejecting the reference application only on the ground that no supporting evidence was placed on record by adducing evidence by the claimants deserves to be set-aside and is, accordingly set-aside.

6. The matter is remanded to the Reference court to provide an opportunity to the claimants to lead evidence in support of their claim. The Reference Court shall provide an opportunity of adducing evidence to both the parties and shall pass appropriate orders in accordance with law after hearing both the parties.

7. Since the parties are represented through their learned counsel, are directed to appear before the Reference court on 13.2.2017 without any further notice and shall receive orders.

8. The appeal stands allowed in terms of the above with costs of Rs. 1000/-. It is also made clear that in the event the appellants succeed in the appeal, claimants shall not be entitled to any interest from 20.6.2014 till 13.2.2017.

Office shall refund the court fee paid by the appellants in terms of the provisions of the Karnataka Court Fees and Suits Valuation Act 1958.