
(1983) 09 KAR CK 0023

In the Karnataka High Court

Case No : M.F.As. No's. 1381 to 1383, 1385 and 1386 of 1980

Assistant Commissioner and Land Acquisition Officer, Bagalkot APPELLANT
Vs
Basappa Ramappa Badardinni and others RESPONDENT

Date of Decision : 09-09-1983

Acts Referred:

Citation : AIR 1985 Kar 75

Hon'ble Judges : R.S. Mahendra, J;G.N. Sabhahit, J

Bench : Division Bench

Advocate : R.P. Hiremath, Govt, for the Appellant; V.S. Gunjal and I.G. Gachchinamath, for the Respondent

Final Decision : Allowed

Judgement

R.S. Mahendra, J.—These appeals by the Assistant Commissioner and Land Acquisition Officer, Bagalkot, are directed against the common judgment and awards made on 14-4-1980 by the Civil Judge, Bagalkot, in LA Nos. 4, 6, 8, 9 and 7 of 1979 fixing the market value of the lands acquired at Rs. 22,000/-per acre.

2. At the instance of the Agricultural Produce Market Committee Bagalkot. (hereinafter referred to as the Market Committee) the State initiated proceedings to acquire S. Nos. 30/2B, 30/3, 34/1, 34/2 and 34/3 by a notification dated 1-4-1975 under S. 4(1) of the Land Acquisition Act. After considering the objections received, a notification dated 17-9-1975 under Sec. 6 of the Land Acquisition Act was also published. The L.A.O. passed an award proposing compensation fixing the market value at Rs. 5,000/- per acre. At the request of the claimants the respondents in these appeals, he made a reference under S. 18 of the Land Acquisition Act to the Court of the Civil Judge at Bagalkot. The learned Civil Judge has enhanced the compensation fixing the market value at Rs. 22,000/- per acre. It is this enhancement that is challenged in these appeals.

3. The Market Committee has filed I.A. II under O. 1, R. 8A of the CPC for

impleading and LA. III under O. 41. R. 27 of the CPC for producing additional evidence. Both these applications are opposed on behalf of the claimants mainly on the ground that they are all highly belated.

4. It was argued on behalf of the Market Committee that Market Committee though "a person interested" was not served with any notice in the land acquisition cases before the Civil Judge and it was only after enquiry on receipt of information by the Government Advocate calling upon the Market Committee to deposit Rs. 795249-56 in these appeals, the Market Committee came to know that the compensation for the lands had been enhanced by the learned Civil Judge, the Market Committee is seriously prejudiced by the judgment and awards challenged in these appeals as they are made without notice and it is therefore necessary to implead the Market Committee as a party to these proceedings, set aside the impugned judgments and awards and afford an opportunity to produce evidence.

5. The Market Committee was not a party for the land acquisition cases and no notice was served on the Market Committee in these cases is not in dispute. The Secretary of the Market Committee has sworn that the Market Committee came to know about the Compensation being enhanced after enquiry on receipt of a letter calling upon the Market Committee to deposit certain amounts these appeals, and immediately thereafter he has filed these applications. The claimant has not filed any counter disputing the correctness of these averments. On the facts not in dispute there is no reason not to accept the averments made in the affidavit. We cannot therefore accept the submission made on behalf of the claimants that these applications are liable to be rejected on the ground of delay.

6. The next question for our consideration is whether the Market Committee is a person interested* and is therefore a necessary party to these proceedings. The Supreme Court considered "whether a Company for whose benefit lands were acquired is a person interested within the meaning of S. 18(1) of the Land Acquisition Act (1894)" in *Himalaya Tiles and Marble (P) Ltd. Vs. Francis Victor Coutinho (dead) by LR's.*, and laid down.

It seems to us that the definition of a "person interested" given in Sec. 18 is an inclusive definition and must be liberally construed so as to embrace all persons who may be directly or indirectly interested either in the title to the land or in the quantum of compensation. In the instant case, it is not disputed that the lands were actually acquired for the purpose of the company and once the land vested in the Government, after acquisition, it stood transferred to the company under the agreement entered into between the company and the Government. Thus, it cannot be said that the company had no claim or title to the land at all. Secondly, since under the agreement the company had to pay the compensation. It was most certainly interested in seeing that a proper quantum of compensation was fixed so that the company may not have to pay a very heavy amount of money. For this purpose, the company could undoubtedly appeal and adduce evidence on the question of the quantum of compensation.

7. In the case on hand the lands are acquired at the instance of and for the purpose of the Market Committee and it is the Market Committee that has to pay the compensation awarded for the lands acquired. The Land Acquisition Officer has suggested the Compensation fixing the market value of the lands acquired at Rs. 5000/- per acre. The learned Civil Judge on reference has enhanced the compensation fixing the market value at Rs. 22,000/- per acre and it is the Market Committee who will have to pay the compensation. The Market Committee has therefore a right to appear and produce evidence on the question of quantum of compensation to be paid by them for the lands acquired. It would therefore be, as laid down in Himalaya Tiles & Marble (P) Ltd, unjust to deny to the Market Committee an opportunity to appear in the proceedings to have its say that the compensation proposed by the L.A.O. is just and proper and need not be enhanced and to produce evidence having a bearing on the quantum of compensation. The Market Committee it cannot therefore be disputed is certainly interested in seeing that a just and proper compensation is fixed for the lands acquired.

8. We therefore hold that the Market Committee is "a person interested" and is therefore entitled to come on record as a party and permit the Market Committee to be impleaded as a respondent in each of these appeals.

9. The learned Civil Judge has enhanced the compensation fixing the market value of the lands at Rs. 22,000/- per acre. According to the Market Committee the compensation proposed by the L.A.O. fixing the market value of the lands at Rs. 5000/- per acre is just and reasonable. It is further contended on their behalf that the claimants had also agreed to sell these lands to the Market Committee at Rs. 5000/- per acre. The Market Committee was neither impleaded as a party to the proceedings nor was served with any notice and therefore had no opportunity to produce any evidence. The Judgment and awards challenged in these appeals are made without affording an opportunity to the Market Committee though vitally interested in the quantum of compensation. The Judgment and awards are therefore vitiated and cannot be sustained.

10. In the result and for the reasons stated above (i) I.A. II is allowed and the Market Committee is impleaded as a respondent in each of these appeals and the appeals are allowed and (ii) the judgment and awards of the Court below are set aside and the cases are remitted to the Civil Judge, Bagalkot. for disposal afresh in accordance with law after affording an opportunity to the parties if they so desire to produce evidence. I.A. III will be considered and disposed of by the Court below.

11. In the circumstances of the case we direct the parties to bear their own costs in these appeals.