

(2012) 08 KAR CK 0017

In the Karnataka High Court

Case No : Writ Petition No. 26289 of 2012 (LA-RES)

Ayyanna

APPELLANT

Vs

The Deputy Commissioner, Bangalore

RESPONDENT

Date of Decision : 02-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0017

Hon'ble Judges : Ashok B. Hinchigeri, J

Bench : Single Bench

Advocate : P. Mahesha, for the Appellant; K. Krishna, AGA for R1 and R3 and Sri. Ramachandran, Advocate for M.R.C. Ravi, Advocate for R2, for the Respondent

Final Decision : Allowed

Judgement

Ashok B. Hinchigeri

1. The petitioner has raised the challenge to the first respondent Deputy Commissioner's circular, dated 7.5.2012 (Annexure-F) directing the second respondent to award the interest only from the date of the receipt of the application u/s 28-A of the Land Acquisition Act, 1894 (the said Act" for short). The said circular is issued as the awarding of additional interest is imposing a heavy burden on the Government. As this case involves no disputed questions of facts and as it involves the pure question of law, the advertance to the facts of the case may not be necessary. The question that falls for my consideration is "Whether the applicant for the redetermination of the amount of compensation u/ s 28-A of the said Act is entitled to interest from the date of making the application or from the date of taking the possession of his land?"

2. Heard Sri P. Mahesha, the learned counsel for the petitioner, Sri K. Krishna, the learned Additional Government Advocate appearing for the respondent Nos. 1 and 3 and Sri. Ramachandran, the learned counsel appearing for Sri. M.R.C. Ravi for the respondent No. 2.

3. It is necessary to refer to the relevant statutory provisions. Sections 28 and 34 of the said Act prescribe that the interest on the compensation be paid from the date on which the Collector (Deputy Commissioner) takes the possession of the land. In this regard, this Court in the case of Mehboob Sab and Others Vs. The Special Land Acquisition Officer, has taken the considered view that in all the cases where the application for the re-determination of the award is filed u/s 28-A of the said Act, the applicant is entitled to the interest as per Section 34 of the said Act on the re-determined award in excess of the sum which the Deputy Commissioner awarded as compensation, from the date of taking possession of the property.

4. The Apex Court in the case of UNION OF INDIA AND ANOTHER v. PRADEEP KUMARI AND OTHERS reported in CDJ 1995 SC 855 has also held that Section 34 of the said Act would be applicable to the award that is made by the Collector under sub-Section (2) of Section 28-A.

5. Section 28-A is intended and meant for the bus-missing parties, who on account of their poverty, ignorance, etc. have failed to take advantage of the right of reference granted u/s 18 of the said Act. The non-seeker of reference is put on par with the person who has sought the reference and who has got the amounts enhanced. Section 28-A applicant can claim parity not only in getting the compensation but also interest thereon, if a similarly situated land is covered by the Court award.

6. Section 28-A is to be interpreted liberally because it is the object of the legislation to give the benefit of the award passed by the Court to persons whose property is covered by the same preliminary notification, but who did not opt for filing the application for reference u/s 18. The persons covered by the same notification were carved out to be a class for extending the benefits.

7. The impugned circular runs contrary to the statutory provisions contained in Section 34 and to the interpretation that the said provisions have received at the hands of this Court and the Hon'ble Supreme Court in the above referred cases. It is therefore liable to be quashed and accordingly it is quashed. The respondent No. 2 is directed to award the interest from the day on which the petitioner was dispossessed from the property in question. This petition is accordingly allowed. No order as to costs.