

(2008) 11 KAR CK 0058
In the Karnataka High Court
Case No : M.E.A. No. 4719 of 2007

Basappa Neelappa Sulikeri

APPELLANT

Vs

The Spl Land Acquisition Officer

RESPONDENT

Date of Decision : 24-11-2008

Acts Referred:

Citation : (2011) 4 KCCR 2975

Hon'ble Judges : K. Sreedhar Rao, J;B. Sreenivase Gowda, J

Bench : Division Bench

Advocate : Sangamesh G. Patil, for the Appellant; C.S. Patil, AGA, for the Respondent

Judgement

K. Sreedhar Rao, J.—The I.A. I and III are allowed, the delay of 143 is condoned subject to the condition that the claimant is not entitled for interest for the period of delay.

2. The land of the claimant bearing Sy. No. 87/1B/2 measuring 2 acres 19 guntas is acquired for the purpose of UKP in which in 1 acre 20 guntas pomegranate trees are grown and the remaining land measuring 39 guntas is a wet land The Trial Court has awarded the compensation of Rs. 2,25,000 per acre for pomegranate trees and granted Rs. 1,20,000 per acre for wet land. The claimant is in appeal seeking enhancement of compensation.

3. The pomegranate trees are fruit bearing trees, in respect of similarly placed lands, in the Lokadalath, the State has conceded and granted Rs. 5,25,000 per acre in respect of pomegranate trees. Therefore, the claimants are entitled to compensation at the rate of Rs. 5,25,000/- p.a. for pomegranate trees as against Rs. 2,25,000/-awarded by the trial Court

4. The land measuring 39 guntas is a wet land and has assured irrigation. The ROR extract shows that the claimants have grown cash crops like onion and maize etc., The land has potentiality of growing sugarcane which is a high income yielding crop.. It is not uncommon for the agriculturists to change crop

pattern frequently to preserve the soil fertility in order to get good yield. In the normal course in the capitalization method, the courts usually consider the nature of crops grown to assess the market value on the basis of the yield and income. The nature of crops grown is not always an infallible criteria to assess the potential of the land. It is open to the court to consider the actual potential of the lands and the nature of the crops that could be grown instead of what is actually grown in the past couple of years for assessing the compensation. It could be for some reason the land is kept fallow or for change of crop pattern light crash crops would have been grown instead of high income yielding crops.. In respect of agricultural lands, the Courts do consider the non-agricultural potentiality of the land for assessing the market value. Similarly, irrespective of the type of crops grown in the land a couple of years prior to acquisition the potential of the land to grow any other high income yielding crops should be considered as necessary criteria to assess the compensation.

5. In the instant case it is indisputable fact that the land is a wet land and has potential of growing sugarcane crop. This Court for similarly placed lands growing sugar cane crop has awarded compensation at the rate of Rs. 1,90,000/- per acre. Therefore, in this case also in respect of irrigated land the claimant is entitled to compensation at the rate of Rs. 1,90,000/- p.a. with statutory benefits and interest. The appeal is allowed in part with costs.