

(2017) 09 KAR CK 0050
In the Karnataka High Court
Case No : 100399 of 2014 [LAC]

BASAPPA YALLAPPA NAGANUR

APPELLANT

Vs

THE ASSISTANT COMMISSIONER AND LAND ACQUISITION
OFFICER, DHARWAD, & ANR.

RESPONDENT

Date of Decision : 20-09-2017

Acts Referred:

Citation : (2017) 09 KAR CK 0050

Hon'ble Judges : L.Narayana Swamy, H. B. Prabhakara Sastry

Bench : DIVISION BENCH

Advocate : ARCHANA A.MAGADUM, H.R.AMARAVATHY, MALLIKARJUN
S.HIREMATH

Final Decision : Allowed

Judgement

1. The learned High Court Government Pleader is directed to take notice for respondent No.1.
2. The lands of the present appellant are said to have been acquired for the construction of Hubballi-Londa line Railway track by the Land Acquisition Officer vide LAQSR:D/2/06-07. Though the possession of the said land was said to have been taken prior to the 4(1) Notification, but the date of 4(1) Notification in the instant case is 25.09.2007. The Special Land Acquisition Officer has awarded a compensation at the rate of Rs.777/- per gunta, which was enhanced by the reference Court at the instance of the appellant/land loser and was fixed at the rate of Rs.8,000/- per gunta and all other statutory benefits were also granted. It is against the said order of the reference Court, the land loser has preferred this appeal seeking enhancement and fixation of the market value at the rate of Rs.40,500/- per gunta.
3. A Co-ordinate Bench of this Court after referring to the orders passed in MFA No.100196/2015, which in turn had also made reference to an order passed in MFA No.102675/2014 dated 04.07.2017 had fixed the market value at

Rs.45,000/- per gunta with all statutory benefits. No doubt, the date of 4(1) Notification in those cases was 29.05.2008, however, in the instant case as already observed above, the date of 4(1) Notification is 25.09.2007, which is about 8 months earlier to the other one. The acquisition was for the same purpose. Considering all these reasons, we are of the view that after deducting depreciation for the said period of 8 months, the market value for the acquired land in the instant case be fixed at Rs.40,000/- per gunta.

4. Since, according to the appellant herein, his own part of the land in the same survey number had fetched a compensation of a sum of Rs.45,000/- per gunta under the notification dated 25.09.2008, we are of the view that nature of the land being the same, deserves same rate of compensation, however, with depreciated value for the difference of the period in the date of 4(1) Notification. Accordingly, the market value fixed at Rs.40,000/- per gunta. In this regard, the other aspects raised in the memorandum of appeal need not have to be considered elaborately. Accordingly, we pass the following:

ORDER

The appeal is allowed in part.

The judgment and award dated 11.11.2011 passed by the II Additional Senior Civil Judge, Dharwad in LAC No.171/2010 is modified to the extent that the market value fixed therein at Rs.8,000/- per gunta is now fixed at Rs.40,000/- per gunta.

The rest of the terms of the judgment and award remain unaltered.

However, as ordered in this matter on 23.02.2017, the appellant/claimant is not entitled for the interest for a period of 717 days, which was the delay in filing this appeal.