

(1988) 03 KAR CK 0042
In the Karnataka High Court
Case No : W.P. No. 877/1988

Basavanna R.

APPELLANT

Vs

The Asst. Commr., Mysore Sub-division, Mysore

RESPONDENT

Date of Decision : 08-03-1988

Acts Referred:

Land Acquisition Act, 1894 — Section 5a

Citation : (1988) 1 KarLJ 306

Hon'ble Judges : M. P. Chandrakantharaj Urs, J

Judgement

1. This matter is disposed of by the following order at the stage of preliminary hearing after notice to respondents.

2. Petitioner is aggrieved by the declaration made under Section 6 of the Land Acquisition Act (in short the "Act") in respect of a portion of the land owned by him in Survey No. 265/B2 and 265/B3. The extent of land acquired is one acre. In proceedings under Section 5A of the Act petitioner land owner filed objection. A true copy of the objection filed by him is to be found at Annexure-B to the petition. What is apparent from the statement of objections is that the land proposed for acquisition is situate between Lakkarasanapalya and Kempanapalya very close to the residential areas of both the villages and therefore it is not suitable to be used as a burial ground so close to the residential areas of the villages and further that the owner has constructed a farm house and being joint family property, members of the family propose to construct a residential house as well and the land has come under the command area of Kabini project. It was also pointed out that the land is having a borewell and a pump-set and about 45 coconut trees of 21/2 years old are also standing on the land proposed for acquisition as well as mulberry plantation. It was also pointed out that other suitable land is available at Kempanapalya itself for burial ground and one Mahanthadevaru of Lakkarasanapalya has voluntarily offered his land at Lingapuram measuring 1 acre and 15 cents for burial ground, which would not come under the Achkat of Kabini project. Therefore, he wanted the acquisition proceedings dropped.

3. A careful analysis of the statement of objections indicates that no real objection as such was made out for the proposed acquisition by enumerating the existence of the farm house, the coconut trees, the standing mulberry plantation and the proposal to construct a residential house, which was no more than pointing out the value of the land and the use to which it has been put. Similarly, pointing out that other suitable land offered by one Mahanthadevaru is not an objection. In the real sense. The only objection was that the burial ground was too close to the two villages viz., Lakkarasanapalya and Kempanapalya and therefore a burial ground close to the residential areas of the villages was not conducive to good health. It was also pleaded that there was no proper access to the land proposed for burial ground.

4. In the respect required to be made under Rule 7 of the Karnataka Land Acquisition Rules, the Assistant Commissioner has pointed out that the Harijans of Kempanapalya had for several years a burial ground in Survey No. 261/B and 261/C and the petitioner had made use of that land for agricultural purposes and planted banana plantation as well as paddy by obtaining water from borewell, as a result of which the Harijans of the village were left without a burial ground. He has pointed out that the land in the possession of the petitioner, which was sought to be acquired, was situated at one extremity and there was convenient access to transport dead bodies through the Government karab lands and the place chosen was suitable for use as burial ground. Therefore, he rejected the objections.

5. Mr. Chandrashekaraiah, learned Counsel contends that the reason given does not conform to the requirement of Rule 7 of the Rules, which requires that on each and every objection raised there should be proper discussion by the Assistant Commissioner submitting the report.

6. As I have pointed out earlier, the objection was founded only in regard to non-suitability of the land on account of its sulfation between two villages and close to residential areas. Other statements made were more in the nature of describing the type of land which was being acquired and the use to which it was put or proposed to be put. In substance they were not really objections. The petitioner himself had gained by making use of the earlier burial ground, which he converted into agricultural land. Such person cannot be allowed to say that a part of the land now owned by him should not be acquired for purpose of providing a burial ground, which existed for the Harijans of the villages in question. The objection raised has been considered and over ruled by reasons given.

I do not see any merit in the argument. Therefore, the petition is rejected.