
(2006) 01 KAR CK 0007
In the Karnataka High Court
Case No : Writ Petition No. 31988 of 2001

Chenna Byrappa

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 18-01-2006

Acts Referred:

Karnataka Acquisition of Land for Grant of House Sites Act, 1972 — Section 3, 3 (1)
Land Acquisition Act, 1894 — Section 11 A

Citation : AIR 2006 Kar 226

Hon'ble Judges : Mohan Shantanagoudar, J

Bench : Single Bench

Advocate : M. Shivaprakash, for the Appellant; C. Venkatapathi, G.P., for the Respondent

Final Decision : Allowed

Judgement

Mohan Shantanagoudar, J.—Heard Sri M. Shivaprakash, learned Counsel appearing for the petitioner and Sri. C. Venkatapathi, learned Government Pleader appearing for the respondents and perused the material on record.

2. The petitioner has sought for quashing the acquisition Notification vide Annexure "A" to the petition, by which the petitioner's land bearing Survey No. 102/1, measuring 14 guntas, situated at Yentiganahalli village, Kasaba Hobli, Nelamanagala Taluk, which was acquired for the purpose of granting of house sites.

3. The records disclose that the preliminary Notification issued u/s 3(1) of the Karnataka Acquisition of lands for Grant of House Sites Act, 1972, was published on 26th September 1978. The name of the petitioner finds place at Sl. No. 6 in the said Notification. Subsequently, the final notification is issued on 15th December 1983. Though the final notification is issued as back as in the year 1983, till this day, no award is passed by the respondent. The same is clear from the endorsement issued by the Assistant Commissioner, Dod-daballapur Sub-Division, Bangalore, vide Annexure-"E" dated 24-7-2001. Thus, even on

24-7-2001, the award was not passed by the respondents. Even the statement of objection filed on behalf of the State on 4-10-2001 makes it clear that the award is not passed.

4. However, learned Government pleader points out from the records that final notification was challenged by another landlord namely, Rangaswamy, who is owner of land bearing Survey numbers 101 and 102/2 before this Court in W. P.No. 13665/1984. The said writ petition is disposed of on 26-10-1988 by directing the Assistant Commissioner to hold fresh enquiry by hearing said Rangaswamy. After remand and after holding fresh enquiry, again final notification was issued. Again the said notification is questioned by said Rangaswamy by filing writ petition No. 16571/1990 and the same was dismissed on 18-9-1996. Thereafter, one Sri. Rangadhamaiah filed W.P. No. 5313/2000 before this Court challenging the very same notification in respect of land bearing Sy. Nos. 101 & 102/2. The aforesaid facts go to show that the landowners of Sy. Nos. 101 & 102/2 namely, Rangaswamy and Rangadhamaiah have filed writ petitions and whereas the petitioner herein has not questioned the validity of final notification. In view of the dismissal of the writ petitions filed by the landowners of Sy. Nos. 101, 102/ 2, there was no hurdle for the authorities concerned to pass award in so far as the petitioners land is concerned i.e., Sy. No, 102/1 measuring 0-14 guntas. Moreover, there was no hurdle for the authorities concerned to pass award from 26-9-1978 (date of preliminary notification) till the year 1984 in which year first writ petition i.e., W. P. No. 13665/1984 was filed by Rangaswamy for the first time. Again there was no hurdle for the authorities to pass award after 18-9-1996 when the second writ petition i.e., W. P. No. 16571/1990 filed by said Rangaswamy was dismissed. The aforesaid facts clearly disclose total laxity on the part of the Land Acquisition Authority in not making the award within the prescribed period of two years as contemplated u/s 11-A of the Land Acquisition Act.

It is also brought to the notice of this Court by petitioner's advocate that possession of the land is not taken by the authorities till this day. The same is not controverted by Government Pleader.

5. Thus, there is clear violation of Section 11-A of the Land Acquisition Act. Though the acquisition in question is under the provisions of Section 3 of the Karnataka Acquisition of Lands for Grant of House Sites Act, 1972, the provisions of Section 11-A of the Land Acquisition Act are applicable to the facts of this case as laid down by the Apex Court in the case of Mariyappa and Others Vs. State of Karnataka and Others, . Section 11-A of the Land Acquisition Act makes it clear that if no award is made within a period of two years from the date of publication of final notification, the entire proceedings of the acquisition of land shall lapse. As aforesaid, in this case, the final notification dated 15th December 1983 is published in the official Gazette on 27th March 1984. As the award is not passed even after 20 years, the acquisition proceedings pertaining to the petition property will automatically lapse. Hence, the following order is made:

The Notification in question vide Annexure-"A" to the petition, pertaining to the petition property bearing Survey No. 102/1, situated at Yentiganahalli village, Kasaba Hobli, Nelamangala Taluk, stands quashed. It is open for the respondents to initiate fresh acquisition proceedings in accordance with law, if need be.

Writ Petition is allowed accordingly.