
(1980) 07 KAR CK 0019
In the Karnataka High Court
Case No : MFA 930/76

C.I.T.B. Mysore

APPELLANT

Vs

P.R. Seetharam

RESPONDENT

Date of Decision : 16-07-1980

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 41 Rule 23
Constitution of India, 1950 — Article 141

Citation : (1980) 2 KarLJ 319

Hon'ble Judges : D. R. Vithal Rao, J;G. N. Sabhahit, J

Judgement

Sabhahit, J.-This appeal by the City Improvement Trust Board, Mysore, is directed against the judgment and award dated 28-7-1975 passed by the First Addl. Civil Judge. Mysore, in LAC No. 2 of 1970, on his file, awarding compensation of Rs. 12,000 per acre for the lands acquired under the Preliminary Notification dated 19-11-1964.

2. The learned Advocate appearing for the appellant invited our attention to a remand order of this Court dated 10-10-1973 in MFA No. 593 of 1971 remanding this very case to the learned Civil Judge for fresh hearing on the specific direction that the market value shall be fixed on the basis of the final notification. Accordingly, after remand the learned Civil Judge has fixed the market value at Rs. 12,000 per acre.

3. It is necessary to recall in this context that this Court by a Full Bench decision in the case of Venkatamma v. Special Land Acquisition officer, AIR 1972 Mys. 193, held that the market value should be fixed as on the date of final notification in the case of land acquired by the City Improvement Trust Board. This matter however, was taken up in appeal before the Supreme Court of India and the Supreme Court of India in the case of Special Land Acquisition Officer v. P. Govindan, (1976) 2 Kar.L.J. 274 SC, reversed the decision of this Court and held that the general provisions of the Land Acquisition Act as they exist on the date of a, particular acquisition, except to the extent to which a different

procedure is expressly laid down in the City of Mysore Improvement Act, 1903, should be followed and the market value of the property acquired shall be determined with reference to the date of notification under Section 16 of the City of Mysore Improvement Act, 1903, S. 4 of the Land Acquisition Act.

4. That being so it is obvious that the law laid down by this Court that the market value should be fixed as on the date of the final notification is no longer good law and the Courts have to follow the law as laid down by the Supreme Court of India. In that view of the matter, the appeal is entitled to succeed without more.

5. As against that, the learned Advocate appearing for the claimant respondent submitted that the parties are bound by the judgment of this Court and this Court is also bound by the earlier decision of this Court given in the remand order.

6. In support of his submission, he placed reliance on a decision of the Supreme Court of India in the case of *Jasraj Indersingh v. Hemraj Multanchand*, AIR 1977 SC 1011. In para-14 of the judgment, His Lordship has observed:

"Be that as it may, in an appeal against the High Court's finding, the Supreme, Court is not bound by what the High Court might have held in its remand order. It is true that a subordinate Court is bound by the direction of the High Court. It is equally true that the same High Court, hearing the matter on a 2nd occasion or any other Court of co-ordinate authority hearing the matter, cannot discard the earlier finding, but a finding in a remand order cannot bind a higher Court when it comes up in appeal before it..." The proposition of law as laid down by the Supreme Court of India, quoted above, is no doubt unexceptionable But, the point before as is not the same Here, the Supreme Court has set aside the view taken by this Court and the proceeding is pending.

7. The simple point, therefore, that arises for our consideration would be whether the Court should follow the ruling as given by the Supreme Court reversing the decision of this Court or it should still persist in following the decision of this Court which is over-ruled by the Supreme Court.

8. The matter admits of no doubt that the law laid down by the Supreme Court, which is law for the Nation has to be followed by this Court and all the subordinate Courts, even if it be contrary to what this Court has laid down in the order of remand. That being so, there is no substance in the contention of the learned Advocate appearing for the respondent, claimant that in spite of the ruling of the Supreme Court, the parties are bound by the law as laid down in the remand order of this Court and further that this Court also is bound by such overruled decision in the proceeding at a later stage. That being so, we have no hesitation to hold that what is applicable in this proceeding is the law laid down by the Supreme Court.

9. In that view, the learned Civil Judge ought to have fixed the market value as on the date of the preliminary notification. Hence, the market value fixed by him as on the date of the final notification cannot be sustained.

10. In the result, therefore, the appeal is allowed. The judgment and award of the learned Civil Judge are set aside. The case is remitted to the Civil Judge. He shall now proceed to fix the market value as on the date of the preliminary notification issued under Section 16 of the City of Mysore Improvement Act, 1903. He shall also afford opportunity to the parties to adduce additional evidence if they so desire and then, on hearing the arguments, proceed to dispose of the matter in accordance with law having due regard to the observations made above.

11. Send back the concerned records to the Civil Judge forthwith. The parties are directed to be present before the Civil Judge on 18-8-1980 to take further instructions.

12. In the view that we have taken, the cross objections would not survive for consideration and is disposed of accordingly.

13. Refund admissible Court-fees on appeal and cross-objections.

14. There shall be no order as to costs of this appeal.