

(2011) 03 KAR CK 0321
In the Karnataka High Court
Case No : Review Petition No. 2533 of 2010

Dattatraya and Basannappa, (Since dead by his L.Rs.
Gurushanthappa and Gurubasamma)

APPELLANT

Vs

Special L.A.O. M and MIP

RESPONDENT

Date of Decision : 11-03-2011

Acts Referred:

Citation : (2011) 03 KAR CK 0321

Hon'ble Judges : N.K. Patil, J;Ashok B. Hinchigeri, J

Bench : Division Bench

Advocate : Ameet Kumar Deshpande, for the Appellant;

Final Decision : Dismissed

Judgement

N.K. Patil, J.—At the request of the learned Counsel appearing for the Petitioners, a special bench has been constituted and the matter is posted for orders for removing the office objections. In spite of giving sufficient time, office objection's have not; been removed. It; shows that they are not diligent in prosecuting the case.

2. However, in the interest of justice, we thought it fit to look into the relevant material available on file including the memorandum of review petition filed by review Petitioners. After careful perusal of the impugned judgment and award passed by this Court dated 25th January 2007, in MFA 1318/2006 (LAC), it can be seen that, when the said matter had come up for consideration before the Court, on the said date, Smt. Mamatha Kulkarni, learned Counsel for Appellants - review Petitioners herein, submitted that the matter is no more res integra and that" it is covered by the judgment dated 21st October 2006 passed by this Court in MFA 1316/2006 and the said position was also not disputed by the learned Additional Government Advocate appearing for the Respondent. Therefore, following the said judgment and award and also on the basis of the submission of the learned Counsel appearing for both parties, this Court disposed of the appeal, enhancing the market value of the dry lands and the irrigated

lands to Rs. 42,000/- and Rs. 75,000/- per acre respectively.

3. Be that as it may, it appears, subsequently, in M.F.A. No. 8377/2005 and connected matters disposed of by the Division Bench of this Court at Gulbarga Circuit Bench on 21st August 2008 and in M.F.A. No. 3068/2006, disposed of by the learned Single Judge at the Gulbarga Circuit Bench on 24th March 2009, (which are produced along with the review petition), this Court has disposed of the Said matters, awarding higher compensation in respect of dry lands and wet lands.

4. Therefore, it is the specific case of the review Petitioners that their case may also be considered following the aforesaid judgments and higher compensation may be awarded by allowing this review petition. The said contention cannot be accepted for the reason that, the aforesaid judgments relied upon by the review Petitioners are passed subsequent to the passing of the judgment and award passed in the instant case and hence, they cannot be made applicable to the case on hand. In view of the well settled law laid down by the Apex Court and this Court in catena of judgments, it is not a ground for review as provided under the relevant provisions of the Code of Civil Procedure. Therefore, we are of the considered view that the compensation awarded in the impugned judgment and award passed by this Court is just and proper and does not call for interference, at this stage.

5. Further, it is pertinent to note that, it is only on the specific submission of the learned Counsel for Appellants/review Petitioners herein that this Court relying upon the judgment referred therein, has disposed of the appeal. Therefore, now, the learned Counsel cannot go back and state that following the judgments which are passed subsequent to the judgment: under challenge, higher compensation may be awarded. This is nothing but abuse of the process of Court.

6. Therefore, having regard to the facts and circumstances of the case as referred above, the review petition filed by the Petitioners is liable to be dismissed as devoid of merit. Accordingly, it is dismissed.