

(2010) 04 KAR CK 0082
In the Karnataka High Court
Case No : Writ Petition No. 10205 of 2010

D.N. Nanjunda Reddy

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 23-04-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 11 A

Citation : (2010) 3 KCCR 1983

Hon'ble Judges : H.N. Nagamohan Das, J

Bench : Single Bench

Advocate : R.N. Narasimha Murthy and Mahusudan R. Naik, for K. Sachindra Karanth, for the Appellant; K.M. Nataraj, A.A.G. and M. Keshava Reddy, A.G.A. and G. Gangi Reddy, for the Respondent

Final Decision : Dismissed

Judgement

H.N. Nagamohan Das, J.—In these writ petitions, the petitioners have prayed for a writ in the nature of certiorari declaring the award dated 5-2-2010 at Annexure-C as illegal and consequently to quash the preliminary notification dated 16-10-2006 at Annexure-A and the final notification dated 1-3-2007 at Annexure-B. Petitioners have alternatively prayed for grant of equal area of land belonging to the State Government situated just behind the land now acquired by the respondents in lieu of compensation.

2. Petitioners are the owners of certain lands situated at Bagepalli Town, Chikkaballapura District. For the purpose of widening the road, the respondents notified to acquire these lands and other lands under a preliminary notification dated 16-10-2006 and the same ended in a final notification dated 22-2-2007. The petitioners being aggrieved by the preliminary notification and the final notification approached this Court in separate writ petitions in W.P. No. 4786 of 2007 and connected matters. This Court vide order dated 24-4-2009 and connected petitions in W.P. No 4786 of 2007 and connected petitions in W.P. No 4786 of 2007 and connected matters and upheld the acquisition proceedings.

Even writ appeals filed by the petitioner came to be dismissed. It is submitted that some of the petitioners had taken the matter to Supreme Court by filing SLP and the same came to be rejected confirming the acquisition proceedings. Now the respondents have passed the impugned award on 5-2-2010. The petitioners are before this Court questioning the impugned award at Annexure-C, dated 5-2-2010, on the ground that the same is passed beyond two years from the date of final notification on 22-2-2007 and therefore the acquisition proceedings are lapsed u/s 11-A of the Land Acquisition Act, 1894. Hence these writ petitions.

3. Heard arguments on both the side and perused the entire writ papers.

4. It is not in dispute that petitioners questioned the acquisition proceedings before this Court in W.P. No. 4786 of 2007 and connected matters. During the pendency of W.P. No 4786 of 2007, this Court passed an interim order on 29-3-2007 as under:

Objections to the application for impleading in one week. The respondents shall not precipitate the matter.

The above interim order was in operation till the disposal of the writ petition. Further vide order dated 4-4-2008, this Court granted interim order as under".

Stay of dispossession in all the connected writ petitions.

5. Learned Counsel for the petitioners contend that interim order granted by this Court in earlier writ proceedings do not prevent the respondents from passing an award. The respondents have failed to exercise their rights of passing an award within two years from the date of final notification. Therefore, it is contended that the impugned award passed by the respondents is contrary to the mandatory requirement u/s 11-A of the Land Acquisition Act (in short, "Act"). It is necessary to extract Section 11-A of the Act and the same reads as under:

11-A. Period within which an award shall be made.-

The collector shall make an award u/s 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:

Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement".

Explanation to Section 11-A of the Act specifies in computing the period of two years referred to in this section shall exclude the period of stay of any order by the Court.

6. The Hon'ble Supreme Court in the case of Lok Sewa Shikshan Mandal Vs. A.R. Mundhada Charitable Trust and Others, , held with the explanation to Section 11-A of the Act shall not be limited to the acquisition or proceedings and on the other hand the widest meaning is required to be given. In the instant case, it is

not in dispute that two interim orders referred to above are passed by this Court. The context and the circumstances, in which this Court passed above two interim orders manifestly makes it clear that the respondents are prevented from taking further steps in the matter. The two interim orders passed from taking further steps in the matter. The two interim orders passed by this Court referred to the above is to be excluded for the purpose of computing the period of two years as per the explanation to Section 11-A of the Act. If the period consumed by the two interim orders is excluded then the impugned award dated 5-2-2010 is within the time specified u/s 11-A of the Act. On this ground, and for the reasons stated above, the writ petitions is liable to be rejected.

7. The petitioners are the residents of Bagepalli Town. On the lands now acquired by the respondents, the petitioners have built commercial shops. It is not in dispute that there is Government Land behind certain shops acquired by the respondents. The request of the petitioners for allotment/grant of available Government land is fair and reasonable. When the petitioners have given their land for a public cause, then they are entitled for allotment of alternative Government Land when the same is available. Therefore, the respondents are to be directed to consider the alternative prayer of the petitioners for allotment of Government Land positively. For the reasons stated above the following:

ORDER

(i) The writ petitions are hereby dismissed.

(ii) Learned Counsel for some of the petitioners submit that they have already given representation for alternative prayer. Liberty is reserved to the petitioners who have not yet given alternative prayer of allotment/grant of Government land. The respondents are hereby directed positively to consider the alternative prayer of the petitioners for allotment of the Government land wherever it is available as expeditiously as possible.

(iii) Ordered accordingly.