
(2014) 08 KAR CK 0152
In the Karnataka High Court
Case No : M.F.A. No. 15446/2007 (LAC)

Dyapanchar

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 20-08-2014

Acts Referred:

Land Acquisition Act, 1894 — Section 18(1)

Citation : (2014) 08 KAR CK 0152

Hon'ble Judges : Ravi V. Malimath, J

Bench : Single Bench

Advocate : Prakash Yeli, Advocate for the Appellant; Shivakumar Tengli, AGA, Advocate for the Respondent

Final Decision : Partly Allowed

Judgement

Ravi V. Malimath, J.—The 1st respondent acquired the lands belonging to the appellants-claimants for the benefit of the 2nd respondent NEKRTC to an extent of 2 acres 2 guntas in Sy. No. 160/A and 4 acres 14 guntas in Sy. No. 159/1 situated at Chincholi taluk. The Land Acquisition Officer adopted sales statistics and fixed the value of the land at Rs. 20,000/- per acre. Aggrieved by the said award the claimant filed a petition u/s 18(1) of the Land Acquisition Act seeking reference by the Civil Court for enhancement. The Civil Court by the impugned order enhanced the compensation to Rs. 1,20,000/- per acre along with enhancement on conventional and statutory heads. Seeking appropriate enhancement; of compensation this appeal is filed by the claimants. This appeal is directed against the compensation so far as Sy. No. 159/1 to an extent of 4 acres 14 guntas is concerned with reference to LAC No. 459/2002. So far as LAC No. 57/2004 is concerned it is submitted at the bar that at present the same is pending consideration before the concerned Civil Court.

2. Learned counsel for the appellants contends that the award of the Civil Court is unjust. That the claimants are entitled to more compensation than what has been awarded. In support of his case, he relies on Exs. P7 to P9 namely the

certified of the copy of sale deeds pertaining to nearby lands. He contends that the notification for the acquisition were issued in the year 1989. The sales statistics are with reference to the year 1986. Therefore, they should form the basis for appropriate calculation of compensation. Hence, he pleads that the appeal be allowed.

3. On the other hand, the learned Government Advocate defends impugned order. He contends that the Civil Court has not committed any error that calls for any interference.

4. Heard learned counsels and examined the records.

5. The lands in question were acquired in terms of a preliminary notification dated 05.01.1989. Ex. P7 is the sale deed of 11 guntas namely 11979 sq.ft., which was sold at Rs. 4.17/- per sq.ft. Ex. P8 is the sale deed for an extent of 1060 sq.ft. sold at the rate of Rs. 8/- per sq.ft. Both the sale deeds are of the year 1986. No sale deed more proximate to the date of a acquisition is available for consideration. Therefore, it is just and proper to take the average of both the sale deeds. Consequently taking into consideration, the rate of the land at Rs. 4.17/- in terms of Ex. P7 and at Rs. 8/- in terms of Ex. P8 the average of the amount would be Rs. 6.08/-

6. The sale deeds in terms of Exs. P7 and P8 are with reference to sites formed in non-agricultural land after development works have taken place. As held by various courts, it is just and appropriate to deduct 50% of the same towards development charges. Consequently on deducting 50% on 6.08 the appropriate amount would be at Rs. 3.04 paise.

7. Since sale deeds are of the year 1986 and the acquisition is of the year 1989, namely three years thereafter, the appropriate escalation would be taken at 10% p.a. Hence, the enhancement would be worked out at 30% of the amounts arrived at namely 30% of the Rs. 3.04 = 0.91/-. Hence, the value of the land including escalation would be Rs. 3.95/-, which is rounded off to Rs. 4/-. Therefore, the total entitlement per square feet would be a sum of Rs. 4.

8. One acre is 43,560 square feet. Hence, at Rs. 4/- per square feet the compensation would to Rs. $4 \times 43,560 = \text{Rs. } 1,74,240/-$. The reference Court awarded Rs. 1,20,000/- per acre. Consequently, the amount would stand enhanced by a sum of Rs. 54,240/-(Rs. 1,74,240/- less 1,20,000/-).

9. Hence, the appeal is partly allowed in the aforesaid terms. The compensation is enhanced by Rs. 54,240/- per acre namely a total sum of Rs. 1,74,240/- per acre along with enhancement on other statutory and conventional heads such as additional market value, solatium etc., which shall carry interest at the rate of 9% p.a. for the first year and 15% p.a. thereafter. The appeal is allowed with costs. Decree to be drawn accordingly.