

(2011) 09 KAR CK 0001

In the Karnataka High Court

Case No : Misc. Cvl. No's. 152735 and 152736 of 2011 in Miscellaneous Second Appeal No. 510 of 2010 LAC

Girimallappa

APPELLANT

Vs

The Spl. Land Acquisition Officer and The Executive Engineer

RESPONDENT

Date of Decision : 12-09-2011

Acts Referred:

Citation : (2011) 09 KAR CK 0001

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : Ameet Kumar Deshpande, for the Appellant;

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—Misc. CAR 152735 of 2011 & Misc. Cvl. 152736 of 2011 axe formally ordered as after hearing Sri. Ameet Kumar Deshpande, learned counsel for the appellant, I do not find any good ground or worthwhile merit to admit this appeal to retain this appeal on board by issue of notice to the respondents. While the appellant is seeking for further enhancement of compensation that became due to the subject land of the appellant acquired for public purpose, namely, to form a tank known as Gobbur tank and a notification u/s 4 of the Land Acquisition Act, 1894 [for short "the Act"] had come to be issued by the State Government on 30.5.1984, the market value of the subject land had been initially fixed by the land acquisition officer at Rs. 3,800/- per acre by filing an application u/s 28-A of the Act.

2. Though this application u/s 28-A of the Act came to be allowed, owners sought for reference to the civil court under an application in terms of section 28-A, of the Act

3. The inference court, on an examination, further raised the rate of compensation and fixed at Rs. 15,000/- per acre in respect of dry lands.

4. The land owners were still not content and preferred an appeal to the civil

court u/s 54[1] of the Act. In this appeal, appellants placed reliance on the Judgment of this court in MFA No. 3869 of 2004 wherein it was contended that the land of similar nature located in the vicinity acquired by issue of a preliminary notification u/s 4[1] of the Act on 27.6.1991, had commanded a compensation at Rs. 37,000/- per acre and therefore there was justification for further enhancement of the value of the land acquired from the ownership of the appellant.

5. While the learned Judge of the lower appellate court found it, proper to apply the reverse reduction method as the date of issue of preliminary notification insofar as the appellant's land was concerned was of the year 1984 and the comparison was of the land acquired in the year 1991 and a reduction at 5% per annum was required to be applied, the court wanted to re-determine the value starting with the premise at Rs. 37,000/- per acre as on 27.6.1991 by working it backwards and was in the process, on behalf of the appellant. It was agreed to before the lower appellate court that the present appellant is content if value of the land is enhanced and fixed at Rs. 24,000/- per acre as perhaps it was found even otherwise it would not cross this amount by reverse reduction method.

6. Learned Judge of the lower appellate court passed the Judgment in terms of this claim and restricted the amount after condoning the inordinate phenomenal delay of 1717 days in preferring the first appeal, but declined interest for delayed period.

7. If it is against this Judgment and Award dated 27.10.2009, the present second appeal u/s 54[2] of the Act as amended by Karnataka Act which the statute book from the year 1961 onwards.

8. After hearing Sri, Ameet Kumar Deshpande, learned counsel for the appellant, who has urged that, the amount of Rs. 24,000/- per acre does not represent the true market value; that, there was considerable scope for enhancement etc., I find that there is absolutely no scope to entertain this appeal, particularly, as the appellant can never claim to have been aggrieved by the Judgment of the lower appellate court having himself restricted the claim towards enhanced compensation in respect of acquired land at Rs. 24,000/- per acre. The person who has restricted his claim to a particular amount cannot later on turn around and say that the court has committed an error or a mistake in law in awarding such compensation which in fact was the claim of the appellant himself who said he is content with this enhancement.

9. There is absolutely no scope to entertain this appeal as the appellant cannot even claim to be a person aggrieved by the Judgment and award passed by the lower appellate court. It is for this reason, the appeal is dismissed.