

(2005) 07 KAR CK 0060

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 702 of 2003

G.S. Narayana

APPELLANT

Vs

The Special Land Acquisition Officer, H.R.P.

RESPONDENT

Date of Decision : 20-07-2005

Acts Referred:

Land Acquisition Act, 1894 — Section 18 (1), 4 (1)

Citation : (2006) 5 KarLJ 506

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : G.K.V. Murthy and P.E. Umesh, for the Appellant; V. Bychappa, High Court Government Pleader, for the Respondent

Judgement

N.K. Patil, J.—This appeal by claimant-appellant is directed against the judgment and award dated 11th November, 2002 in L.A.C. No. 1 of 1999 on the file of the Civil Judge (Senior Division), Holenarasipura, on the ground that, the enhancement of market value made by Reference Court is inadequate.

2. The land bearing Sy. No. 1/82 measuring 2 acres 15 guntas situate at Gobbali Forest, Konanur Hobli, Arkalgud Taluk has been notified and acquired by Government vide its preliminary notification issued u/s 4(1) of the Land Acquisition Act, 1894, on 15th October, 1998 for the purpose of "formation of Harangi Channel". The Land Acquisition Officer, taking all relevant factors into consideration and relying upon sales statistics, has fixed the market value of the acquired land at the rate of Rs. 27,500/- per acre. Not being satisfied with the award passed by the Land Acquisition Officer, the appellant-claimant herein filed the application for reference u/s 18(1) of the Land Acquisition Act and requested the Land Acquisition Officer to refer the matter to the jurisdictional Civil Court for enhancement of compensation on the ground that, the amount awarded by Land Acquisition Officer is inadequate. The Reference Court, in turn, after thorough evaluation of the oral and documentary evidence, placing reliance on Ex. P. 3- Proceedings of Land Acquisition Officer, determining the compensation at the rate

of Rs. 27,500/- per acre, and without any basis and without any reference to any mode of fixing the market value such as sales statistics, capitalisation method, expert report, or placing reliance on the judgment and award passed by Reference Court upheld by either the High Court or the Apex Court, has arrived at the conclusion that, the claimant-appellant has placed enough materials to show that he is a good agriculturist and lost the land both ancestral properties as well as land granted by Government, and therefore, he needs to be granted higher compensation at the rate of Rs. 32,000/- per acre. The case of claimant-appellant is that, the impugned judgment and award passed by Reference Court, awarding a sum of Rs. 32,000/- per acre is meagre, inadequate and the same is contrary to the material made available by appellant under Ex. P. 12-sale deed and Ex. P. 2-RTC extract, the evidence given by P.Ws. 1 and 2 and also Ex. P. 13-price list of agricultural products inasmuch as the Reference Court has proceeded to pass the impugned award without critical evaluation of oral and documentary evidence on record which were very much available before it. The appellant's further case is that the Reference Court, has come to a misconceived conclusion in determining the compensation, without any basis and even flouting the well-settled law laid down by the Apex Court and this Court in series of matters. Having regard to this background, the claimant-appellant felt necessitated to present the instant appeal for enhancement of compensation in respect of the land in question.

3. I have heard learned Counsel appearing for claimant-appellant and learned Government Pleader appearing for respondent. After careful perusal of the original records available on file and the award passed by Reference Court, it is manifest on the face of the judgment and award passed by it that, the Reference Court has committed an error of law much less material irregularity. It is significant to note that, the Reference Court has proceeded on a misconception and proceeded to pass the impugned judgment and award, inasmuch as the Reference Court has referred to Ex. P. 12-sale deed, executed before the concerned Sub-Registrar dated 23rd March, 1998 in respect of the same village and even the said land is a dry land. But, advertently or inadvertently instead of mentioning the land situate at Gobballi Village, he has mentioned the land belonging to appellant as "Madapura Village". The Reference Court has disbelieved Ex. P. 12 stating that, the land acquired by Government belonging to claimant appellant is situate at Gobballi Forest, Konnanur Hobli, Arkalgud Taluk and the claimant has not produced any evidence to the effect that, "Madapura Village" and "Gobballi Kaval Forest" are situate in the same village and also failed to place evidence to show what exactly is the distance between the two places and came to the conclusion that, it cannot be said that, the property sold under Ex. P. 12 and property acquired by Government belonging to claimant appellant are of the same kind and nature and situated in the same place. However, the Reference Court has placed reliance on the Ex. P. 3-the proceedings of the Land Acquisition Officer, wherein, he has considered the surrounding lands of the land acquired belonging to appellant and came to the conclusion that,

claimant is entitled for a sum of Rs. 27,500/- per acre. Thereafter, without any basis, even though it is evident that, the claimant-appellant is a good agriculturist and has lost the ancestral property as well as property granted by Government and is therefore entitled for higher compensation, has fixed the market value at Rs. 32,000/- per acre. Nor has the Reference Court adopted any settled proposition of calculation with regard to determination of compensation. The said reasoning given by Reference Court in paragraph 14 of its judgment is one without any basis and contrary to the material on record. Therefore, the judgment and award passed by Reference Court is Liable to be modified.

4. As rightly, pointed out by learned Counsel for claimant-appellant, petitioner has produced Ex. P. 12, the registered sale deed dated 23rd March, 1998, wherein in Sy. No. 37/A measuring an extent of 1 acre land has been purchased for a sum of Rs. 60,000/- executed before the Sub-Registrar, Arkalgud. After careful perusal of the recitals of the said Ex. P. 12, it is a fact that, an extent of 1 acre of land situate in the same village as the instant land notified and acquired by the authority has been sold for a sum of Rs. 60,000/- When the said material was very much available before it, the Reference Court ought to have taken into consideration Ex. P. 12 and determined the market value by safely relying upon the said exhibit. Instead of that, without proper application of mind and contrary to the material on record, has proceeded and arrived at the market value of Rs. 32,000/- per acre, which is unjustifiable.

5. Further, the appellant has also produced Ex. P. 13-price list and Ex. P. 2-record of rights extract (RTC). After going through the said Ex. P. 2, it indicates that, the land in question is a fertile land and that, the appellant during the relevant period, was cultivating the land and was growing ragi, arali, paddy etc. The Reference Court at least, on the basis of Ex. P. 2-RTC extract and Ex. P. 13-price list of agricultural products and having regard to evidence of P.Ws. 1 and 2, might have determined higher compensation having regard to the nature of soil and nature of crop grown and also taking into consideration the potentiality of the land in question. In my view, this is rather one of the unfortunate cases that has come up before this Court wherein in lieu of an earlier acquisition, the claimant was granted 4 acres of land by Government and unfortunately, out of the said 4 acres of land, again 2 acres 15 guntas, situate at Gobballi Forest, Konanur Hobli, Arkalgud Taluk, has been notified and acquired for construction of "Right Bank Channel for Harangi" and even in pursuance of the undertaking given before this Court in a contempt proceedings in C.C.C. Nos. 823 to 830 of 1998, the compensation amount was not given to the claimant. Thereafter, the preliminary notification was issued u/s 4(1) of the Land Acquisition Act. If these aspects of the matter had been looked into by Reference Court in detail, it ought not to have committed such an error and proceeded to determine the market value contrary to the oral and documentary evidence that were very much available on record. It is clearly mentioned in Ex. P. 12-sale deed that, one acre of land situate in same village is sold at the rate of Rs. 60,000/- and Ex. P. 2-RTC extract shows the nature of crop grown by claimant-appellant and Ex. P. 13-the

price list issued by the Competent Authority. The Reference Court could have safely relied upon these exhibits, especially, Ex. P. 12-sale deed dated 23rd March, 1998, which is prior to the issuance of preliminary notification dated 15th October, 1998, in respect of one acre of land pertaining to same village at the rate of Rs. 60,000/-, which is a very good piece of evidence and determined higher compensation in respect of the land in question. Therefore, after going through Ex. P. 12-sale deed, Ex. P. 2-RTC extract and Ex. P. 13-price list issued by Competent Authority, in detail, in my considered view, the market value fixed by the Reference Court is liable to be enhanced to a sum of Rs. 60,000/- per acre, which would be just and reasonable.

6. After re-appreciation of the oral and documentary evidence, I am of the considered view, that, the impugned judgment and award passed by Reference Court is liable to be modified.

7. For the foregoing reasons, the appeal filed by appellant succeeds and stands disposed of with the following directions.-

(i) The appeal filed by appellant is allowed;

(ii) The market value determined by Reference Court is enhanced from Rs. 32,000/- per acre to a sum of Rs. 60,000/-per acre;

(iii) The appellant herein is entitled to all the statutory benefits as envisaged under the mandatory provisions of the Land Acquisition Act from the date of issuance of preliminary notification i.e., from 15th October, 1998.

8. With these observations, the appeal filed by appellant stands disposed of.