
(2015) 07 KAR CK 0056

In the Karnataka High Court

Case No : Misc. First Appeal No. 31427 of 2010 (LAC)

Gururaj

APPELLANT

Vs

Spl. Land Acquisition Officer, UKP

RESPONDENT

Date of Decision : 15-07-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 18(2)

Citation : (2015) 4 AKR 260

Hon'ble Judges : P.D. Waingankar, J.

Bench : Single Bench

Advocate : Harshavardhan R. Malipatil, for the Appellant; Archana P. Tiwari, AGA, for the Respondent

Final Decision : Partly Allowed

Judgement

P.D. Waingankar, J.—This appeal is directed against the judgment and award dated 15.01.2010 passed in LAC No. 1314/1999 on the file of the II Addl. Civil Judge (Sr. Dn) Bijapur. In pursuance of 4(1) notification dated 28.01.1997 the land bearing Sy. No. 38/3A + 3B measuring 7 acres 13 guntas of Bellubbi Village in Bijapur District belonging to the appellant was acquired for Upper Krishna Project by the Land Acquisition Officer who determined the market value @ Rs. 1,30,338/- per acre. Dissatisfied with the market value of the land determined Land Acquisition Officer the appellant filed a petition under Section 18(2) of the Land Acquisition Act, to refer the matter to the civil Court for proper determination of the market value. Accordingly, the application was referred to the II Addl. Civil Judge (Sr. Dn) Bijapur, in LAC No. 1314/1999. The learned Civil Judge upon appreciation of the evidence placed on record held that the land acquired was an irrigated land wherein sugar cane crop was being grown. The learned Civil Court by taking the yield per acre as 40 ton the price per quintal as Rs. 810/- deducted 50% of the income towards cost or cultivation and by applying 10 multiplier determined the marked value at Rs. 1,42,500/- per acre. The appellant/claimant being aggrieved by the determination of the market value

by the II Addl. Civil Judge (Sr. Dn) Bijapur preferred this appeal.

2. I have heard the learned counsel for the appellant and learned Additional Government Advocate. Having heard the submissions made by both the learned counsel and upon perusal of the entire material on record the point that would arise for my determination is;

"Whether the market value determined by the Civil Judge is just and proper"?

3. It is not in dispute that the land was irrigated land through bore-well. This Court has consistently held the yield of sugarcane is 40 tons per acre. The only dispute between the parties is that the price of sugarcane per ton taken by the Civil Judge @ Rs. 810/- which is not correct, according to the appellant and is not based on any documentary evidence. On the other hand it is the case of the appellant that the civil Court ought to have relied upon the price shown in Ex. P. 13 issued by Cane Development Officer Nandi Sahakari Sakkare Karkhane Niyamit Krishnanagar, Chikkagalagali, Tq & Dist. Bijapur, wherein the appellant used to supply the sugarcane. Since the preliminary notification was issued in the year 1997, the price that ought to have been taken by the Civil Judge is at Rs. 910/- per quintal of sugar cane as shown in Ex. P. 13 for the year 1997-98. If the yield of sugar cane per acre is taken as 40 ton and the price per ton is taken as Rs. 910/-, the total income per year comes to Rs. 36,400/-. If 50% of the income is deducted towards the cost of cultivation, the net income per annum comes to Rs. 18,200/- per acre. If it is multiplied by 10, the total income per acre comes to Rs. 1,82,000/-. Since the claimant has restricted his claim to Rs. 1,80,000/- he is entitled for the market value @ Rs. 1,80,000/- per acre as against Rs. 1,42,500/- determined by the Civil Judge. Hence, I pass the following;

The appeal is allowed in part with cost. The appellant shall be entitled for the market value @ Rs. 1,80,000/- per acre with all statutory benefits. Accordingly, the judgment and award dated 15.01.2010 passed in LAC No. 1314/1999 on the file of the II Addl. Civil Judge (Sr. Dn) Bijapur, stands modified.