(2015) 01 KAR CK 0077

In the Karnataka High Court

Case No : M.F.A. Nos. 20253/2010 (LAC), 24329/2011 and 24330/2011 (LAC)

Hanamant and Others — APPELLANT

Vs

The Special Land Acquisition Officer, Upper Krishna Project, Bilagi — RESPONDENT

Date of Decision : 20-01-2015

Acts Referred:

Citation : (2015) 01 KAR CK 0077

Hon'ble Judges : A.S. Bopanna and P.D. Waingankar, JJ.

Bench : Division Bench

Advocate : Jagadish Patil, Advocate, for the Appellant; Veena Hegde, HCGP, for the Respondent

Final Decision : Disposed Off

Judgement

A.S. Bopanna, J.—The appellants herein are the landlosers in respect of the acquisition which was initiated by the notification dated 14.08.2000. Against the award drawn by the Land Acquisition Officer, the landlosers claiming to be aggrieved by the same had sought for reference.

2. The Reference Court passed a common judgment dated 23.10.2009. Among the references made therein, the consideration herein is in respect of LAC No. 233/2005, LAC No. 231/2005 and LAC No. 232/2005. The Reference Court after considering the rival contentions though had considered the lands in respect of each of the cases as grape grown area and Pomegranate grown area, the consideration thereof has been made on tree basis instead of acre basis. Further, in respect of one extent of the land measuring 1 acre 30 guntas in LAC No. 233/2005, it has been considered as double crop irrigated lands. The appellants claiming to be aggrieved by the manner in which the Reference Court had considered their case are before this Court in these appeals.

3. Since common judgment had been passed by the Reference Court and also considering that the lands were acquired under the same notification and the

pattern of crop grown is similar to one another, the appeals are taken up together and disposed of by this common judgment.

4. The appellant in MFA No. 20253/2010 (LAC No. 233/2005) is the owner of the property bearing R.S. No. 19/3 measuring 5 acres 4 guntas. The appellant in MFA No. 24329/2011 (LAC No. 231/2005) claims to be the owner of the property bearing R.S. No. 30/1C and 30/1D measuring in all 2 acres. The appellant in MFA No. 24330/2011 (LAC No. 232/2005) claims to be the owner of the property bearing R.S. No. 30/1B in all measuring 1 acre 17 guntas. The Reference Court while considering the rival contentions has taken note of the evidence available before it and in any event has accepted that the lands are grape grown and Pomegranate grown as also double crop irrigated lands to the extent as indicated therein. Hence, a detailed consideration is not necessary to determine the type of crop grown in the said area, but the manner of consideration of the said area for determining the market value will only need consideration herein. In that regard, each of the claims herein is considered in that regard.

5. In LAC No. 233/2005, out of the total extent of 5 acres 4 guntas, the accepted position is that 3 acres 6 guntas is the grape grown lands. However, Reference Court has taken into consideration 1019 seedless fruit bearing grape wine (referred as trees by the Reference Court) and has thereafter fixed the compensation on the tree basis. Such consideration made would not be appropriate. When the entire extent of 3 acres 6 guntas is taken into consideration as grape grown lands, the market value in respect of the said extent on the acre basis ought to be taken into consideration.

6. In that light, the determination of the market value on acre basis need not be separately calculated herein, inasmuch as this Court in earlier cases, more particularly in MFA No. 1750/2005 relied on in MFA No. 25491/2011 has determined the market value of grape grown area at Rs. 10,50,000/- per acre. Since in the instant case we have accepted the determination made by the Reference Court that the grape grown extent is 3 acres 6 guntas, the appellants herein would be entitled to the market value at Rs. 10,50,000/- per acre in respect of the said extent of 3 acres 6 guntas.

7. Insofar as the remaining extent of 1 acre 38 guntas belonging to the appellants in LAC No. 233/2005, the consideration as made by the Reference Court that it is double crop growing irrigated lands is also the accepted position. Even in that regard, this Court in earlier cases, more particularly in MFA No. 63626/2004 relied on in MFA No. 23423/2009 has held that the market value in respect of the said lands would be Rs. 1,35,000/- per acre. Hence, in the instant case also, the appellant in LAC No. 233/2005 would be entitled to the market value at Rs. 1,35,000/- per acre in respect of 1 acre 38 guntas therein.

8. With regard to the lands in LAC No. 231/2005, the total extent is 2 acres of which the admitted position as per the conclusion reached by the Reference Court is one acre of grape grown land while the other one acre is Pomegranate

grown land. The Reference Court thereafter has determined the market value based on tree basis which is not justified for the reasons indicated above. For the same reasons as noticed above and by placing reliance on the earlier judgments wherein the consideration relating to the Pomegranate trees was also made and the market value was fixed at Rs. 5,75,000/- per acre. Hence, in the instant case, the appellants would be entitled to the market value at Rs. 10,50,000/- per acre in respect of one acre of grape grown lands and at Rs. 5,75,000/- per acre in respect of one acre of Pomegranate grown lands.

9. With regard to the extent indicated in LAC No. 232/2005, the admitted position as emerging from the conclusion reached by the Reference Court is 1 acre of grape grown land. For the reasons indicated above, the appellants herein would be entitled to the market value at Rs. 10,50,000/- per acre in respect of one acre of grape grown lands. In respect of the remaining 17 guntas of land, in the instant case, the Reference Court has considered the Chikku and Almond trees which were grown in the said area and has determined the market value on per tree basis. Though the learned counsel for the appellants in the said case would contend that the market value as determined on acre basis for Chikku grown area is to be taken into consideration, we are of the opinion that since only 19 trees have been accounted for and such crop being sparse in the total extent of 17 guntas, we are of the opinion that the method adopted by the Reference Court for remaining 17 guntas is justified and no modification is required in that regard.

10. Hence, for the reasons stated above, the appellants are entitled to the enhanced market value as indicated above in respect of each of the cases along with the statutory benefits and the proportionate costs incurred in these appeals.

11. In respect of the compensation awarded in MFA Nos. 24329/2011 and 24330/2011, the respondents would be entitled to deduct interest for 596 days being the delay that was condoned subject to such condition.

The appeals stand disposed of accordingly. Registry shall draw up the award in terms of the above.

