

(1983) 10 KAR CK 0019

In the Karnataka High Court

Case No : M.F.A. Nos. 1245 to 1252/78 & M. F. A. 1246/78

Hanumakka and Another

APPELLANT

Vs

Land Acquisition Officer, Bangalore Sub-division and Others

RESPONDENT

Date of Decision : 24-10-1983

Acts Referred:

Citation : (1984) 1 KarLJ 479

Hon'ble Judges : R. S. Mahendra, J;G. N. Sabhahit, J

Judgement

Sabhahit, J.-These appeals are by the Landlords (claimants and are directed against the common judgment and awards made on 12/29-5-1978 by the Principal Civil Judge, Bangalore District Bangalore in Land Acquisition Miscellaneous Cases Nos. 307 of 1966 and other connected cases of 1967, apportioning the compensation earlier fixed in the ratio 25:75 between the landlords and tenants. The compensation was already awarded earlier at Rs. 11,300 per acre.

2. The learned Counsel appearing for the Landlords in all these cases strenuously urged before us that the learned Civil Judge was not justified in thinking that the landlords were entitled to merely 25 per cent of the total compensation awarded. He submitted that the learned Civil Judge ought to have taken into consideration not merely the rental to be recovered but also other rights vested in the landlords like the right to take possession, the right to increase the rent etc., He also relied on a judgment of this Court dt. 14-4-1972 passed in Miscellaneous First Appeal No. 52 of 1968 and other connected cases of 1967, wherein this Court apportioned the compensation at 50:50 between the landlords and the tenants. The said judgment has no application to the facts of the present cases as there was an agreement in those cases dividing the compensation. He submitted on these grounds that the compensation given to the landlords at 25 per cent should be enhanced to 50 per cent.

3. As against that, the learned Counsel appearing for the tenants argued contending that the proportion given at 25 per cent is on the higher side. They

submitted that the Mysore Tenancy Act was already in force and the Mysore Land Reforms Act was contemplated and if at all landlords could get a certain multiple of the assessment and, therefore, the compensation should have been in proportion with the provisions of the Mysore Land Reforms Act.

4. The sole point, therefore, that arises for our consideration in these appeals is. "Whether the learned Civil Judge was justified in apportioning the compensation between the landlords and tenants in the ratio of 25:75.

5. This Court has ruled in *Bhadriah Alias Bangarappa v. Channabasappa*, (ILR., 1973 Karnataka 587) that it is not correct to say that the interest of the landlord in, land which is acquired, is proportionate to the maximum rent that is statutorily fixed under S. 6(2) of the Mysore Tenancy Act and that the nature of the interest possessed by the parties has got to be determined having regard to the income of the land, the nature and the terms of the tenancy and several similar factors, (vide para-2).

6. The learned Civil Judge has no doubt taken into consideration the maximum rent to which the landlords are entitled to get under the Mysore Tenancy Act under S. 6(2) as also potential of the land, the other rights of the landlords, including the probability of their getting possession of the land, and their right to alienate the land and the like while fixing the total compensation at 25 per cent of the total compensation awarded for the lands.

7. It is no doubt true that the rentals paid by the tenants as on the date of acquisition were very meagre being three or four times the land assessment, which is very low.

8. It is further on record that these lands were enjoyed by the tenants from times immemorial. It is further in evidence that in one case the tenant has even sold the land to some other person and the landlords have not raised any objection in the matter. It is also on record that the tenants have put up structures in the lands and file learned Civil Judge has rightly come to the conclusion, relying on S. 79 of the then existing Land Revenue Code, that these tenants were permanent tenants and that the probability of the landlords taking possession of the lands was very remote.

9. He has further taken into consideration the maximum rent that the landlords could get as reasonable rent which could not exceed 1/4th of the total yield. That way, the learned Civil Judge has not merely capitalised the 1/4th yield that the landlords were to get as rent to fix the compensation but has taken the potential of the lands also into consideration.

10. It may be noted in this context that while awarding compensation, the potential also is taken into consideration and when the learned Civil Judge says that 1/4th of the total compensation should be awarded to the landlords, it is observed that the learned Civil Judge has taken into consideration the potential also and has awarded part of it, namely, 25 per cent in favour of the landlords in

addition to the maximum rental that the landlords could have got.

11. Having regard to all these factors, we feel satisfied that the method adopted by the learned Civil Judge and the proportion fixed by him are quite just and proper.

12. The learned Civil Judge has rightly taken into consideration the maximum rent that the landlords could derive as reasonable rent under the tenancy Act while fixing the proportion of the landlords, relying on the decision of this Court in the case, *The Special Land Acquisition Officer, S. V.H.E.P. Sagar v. B. Ghannaveerappa* 1967 (2) Mys. L.J. 296. Therein, His Lordship Justice Somnath Iyer, who delivered the judgment for the Bench, has ruled that if, under the Tenancy Law, the landlord could seek enhancement of the rent, the enhanced rent which the landlord could seek should form the basis.

13. Similarly, the learned Civil Judge has taken into consideration the observations made by a Full Bench of this Court in the case, *Ramacharya Narayanacharya Burli v. The State of Mysore*, (1964) 1 Mys. L.J. 261 wherein it is stated that no hard and fast rule can be laid down for settling a definite proportion in apportioning the compensation for compulsory acquisition of the land as between the landlord and tenant and that the proportion or the rule of distribution has to be formulated in each case deriving such guidance as may be available in other decided cases dealing with similar facts.

It is also laid down in that case that the nature and number of other rights which the landlord possesses should also be ascertained on the facts of each case and in the property, the apportionment should be made.

The learned Civil Judge, as shown above, has taken all these into consideration while fixing the landlords' share in the compensation.

14. That being so, we are satisfied that 25 per cent of the compensation that is awarded in favour of the landlords on the facts of the present cases is quite just and reasonable. We have no reason to enhance it or reduce it.

15. In the result, both the appeals and the cross objections fail and are dismissed.

No costs of appeals and the cross-objections.