

(2016) 07 KAR CK 0081

In the Karnataka High Court

Case No : Writ Petition Nos. 23524 to 23537 of 2014 (LA-RES) and Writ Petition Nos. 26802 to 26807 of 2014

H.S. Manjunatha

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 21-07-2016

Acts Referred:

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 — Section 24

Citation : (2017) 171 AIC 773 : (2016) 6 KantLJ 629

Hon'ble Judges : Ashok B. Himchigeri, J.

Bench : Single Bench

Advocate : Sri Abhinay Y.T for N.S. Sanjay Gowda, Advocate, for the Respondent No. 5; Sri T.S. Mahantesh, Additional Government Advocate, for the Respondent Nos. 1 to 4; Sri V.B. Siddaramaiah, Advocate, for the Petitioners

Final Decision : Dismissed

Judgement

Ashok B. Himchigeri, J. - The petitioners are challenging the award notices issued under the provisions of the repealed Land Acquisition Act, 1894. They are also agitating their entitlement to the compensation in accordance with the provisions of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("2013 Act" for short).

2. The facts of the case in brief are that the lands in question are acquired for Tumkur-Rayadurga Broad Gauge Railway Project. The petitioners indeed raised objections to the acquisition proceedings. However, they were persuaded not to challenge the acquisition proceedings, as the respondents had assured them that the petitioners would get the compensation of Rs. 1,20,00,000/- per acre for the land situated in Veerasagara, Dibbur and Honnenahalli and Rs. 1,40,00,000/- per acre for the land situated in Amanikere Village in addition to paying the value of malkis existing on the acquired lands. However, the respondents passed the award determining the compensation at the rate of Rs. 30,86,680/-, Rs.

7,76,760/-, Rs. 17,94,720/-, I 16,67,760/-, Rs. 6,28,520/-, Rs. 6,28,520/ and Rs. 6,17,080/- per acre for the lands situated in Veerasagara, Dibbur-II, Tumkur Amanikere-I, Tumkur Amanikere-II, Honnenahalli-II, Honnenahalli-III and Honnenahalli-I respectively.

3. Sri V.B. Siddaramaiah, the learned Counsel for the petitioners submits that the Deputy Commissioner has recommended the giving of compensation at the rate of Rs. 1,20,00,000/- as the lands fall within the Tumkur City limits and are abutting the National Highway Nos. 206 and 4. In that regard, he brings to my notice, the Deputy Commissioner's letter, dated 17-12-2012 (Annexure-A) addressed to the Regional Commissioner. The Regional Commissioner, vide his letter dated 21-2-2013 (Annexure-C) sought some clarifications on account of the non-participation of the representatives of the Railway Department in the conciliation meetings. With the issuance of the necessary clarifications by the Deputy Commissioner, the Regional Commissioner also agreed with the recommendations of the Deputy Commissioner. The Regional Commissioner's letter dated 8-7-2013 (Annexure-D) addressed to the Chief Secretary, Revenue Department states that the Deputy Chief Engineer of Construction S.W. Railway, vide his letter dated 2-7-2013 has informed that there is no need to consult the Railway Department in the matter of the fixation of compensation. When thus stood the state of affairs, the respondent 4 issued the impugned award notices at Annexures-E to R; some are dated 3-12-2013 and others are dated 30-12-2013.

4. Sri Siddaramaiah submits that the impugned award notices are issued hurriedly overlooking the settlement arrived at between the petitioners and the Deputy Commissioner. The same was on account of the commencement of the 2013 Act. As it came into force from 1-1-2014, the respondent 2 issued the back-dated notice. He submits that some of the petitioners have received them on 6-1-2014 and 8-1-2014 and some other petitioners have not received the impugned award notices at all.

5. On being asked as to what is the total extent of the land acquired under the notification and in respect of what extent of the land, the compensation-amount has been deposited, Sri T.S. Mahantesh, the learned Additional Government Advocate appearing for the respondents 1 to 4 submits that the acquired land measures about 47 acres 24? guntas and that the amounts are deposited in respect of the acquired land measuring about 9 acres and 34? guntas.

6. The submissions of the learned Counsel have received my thoughtful consideration. The correspondence to which Sri V.B. Siddaramaiah, the learned Counsel for the petitioners has drawn my attention to is clearly indicative of the parties agreeing on the compensation amount of Rs. 1,40,00,000/- per acre for the lands situated in Amanikere Village and Rs. 1,20,00,000/- per acre for the lands situated in Veerasagara, Dibbur and Honnenahalli Villages. This Court therefore passed an interim order five months ago (29-2-2016) to enable the Government to take a decision in the matter. But it seems no decision is taken.

7. Now the Court is required to examine whether the impugned award notices are sustainable and if they are not sustainable what relief is to be given to the petitioners. To answer this question, the advertence is required to be made to the provisions contained in Section 24 of the 2013 Act :

"24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.-(1).....

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894 (1 of 1894), where an award under the said Section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of the Act :

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under Section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act."

8. The perusal of the afore-extracted provisions reveals that if compensation amounts in respect of majority of land holdings are not deposited as on the date of the commencement of the said Act (1-1-2014) then the compensation is required to be determined as per the provisions of the said 2013 Act. In the instant case it is not in dispute that the compensation amount in respect of the majority of land holdings is not deposited. The compensation amounts are deposited only in respect of 9 acres 34? guntas out of the acquired extent measuring 47 acres 24? guntas. As the afore-extracted provisions are attracted to the facts of this case, I quash the impugned award notices and direct the respondent 4 or any other concerned functionary to redetermine the compensation in accordance with the provisions of the 2013 Act. This exercise shall be completed as expeditiously as possible and in any case within an outer limit of four months from the date of the issuance of the certified copy of today's order.

9. Needless to observe that if any of the petitioners has already received the compensation, that amount has to be deducted from the amounts to be redetermined under the provisions of the 2013 Act.

10. Sri Abhinay Y.T, the learned Counsel for the respondent 5 submits that the petitioners are to be restrained from obstructing the on-going railway project work. He submits that the project work is held up in the small patch where the lands in questions are situated.

11. Sri Siddaramaiah, the learned Counsel for the petitioners submits, on

instructions, that the petitioners would not disturb the on-going project work. His submission is placed on record.

12. These petitions are accordingly disposed of. No order as to costs.

13. Now that the main matter itself is disposed of, nothing survives for consideration of I.A. No. 2 of 2014. It is dismissed as having become unnecessary.