

(2015) 11 KAR CK 0133
In the Karnataka High Court
Case No : M.F.A. No. 6036 of 2013 (LAC)

K. Dayananda

APPELLANT

Vs

The Land Acquisition Officer and Assistant Commissioner,
Mangalore Sub Division and Others

RESPONDENT

Date of Decision : 26-11-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 10, 18(1), 23, 4(1), 6(1)

Citation : (2015) 11 KAR CK 0133

Hon'ble Judges : N.K. Patil and P.D. Waingankar, JJ.

Bench : Division Bench

Advocate : Farah Fathima for K. Shashi Kiran Shetty, Senior Counsel, for the Appellant; Vasanth V. Fernandez, HCGP, for the Respondent

Final Decision : Allowed

Judgement

N.K. Patil, J.—This appeal by the claimant No. 1/appellant is directed against the judgment and decree dated 20/03/2013, passed in LAC No. 10/2011, by the Principal Senior Civil Judge and CJM, Mangalore, (hereinafter referred to as "Reference Court" for short).

2. The Reference Court, by its judgment and award, has awarded the compensation of Rs. 20/- lakhs per acre (Rs. 20,000/- per cent) with all statutory benefits as envisaged under Section 23 of L.A. Act. Being dissatisfied with the quantum of compensation awarded by the Reference Court, the appellant herein has presented this appeal, seeking enhancement.

3. Land bearing Sy. No. 204/1C2B of Surathkal village, measuring 1.05 acres, belonging to the claimant No. 1/appellant herein has been notified and acquired by the State through the Special Land Acquisition Officer for the purpose of construction of "residential quarters" for the Employees of the Mines and Geology Department, vide Preliminary Notification dated 25.6.2009 issued under Section 4(1) of L.A. Act, published in the News paper dated 26.6.2009, followed

by Final Notification dated 30.4.2010 issued under Section 6(1) of L.A. Act. Thereafter, notices under Sections 9 and 10 were issued inviting objections and claim from the notified kathedars and other interested persons and after considering the same and conducting spot inspection, the Special Land Acquisition Officer has passed the award on 20.9.2010 in proceeding No. LAQ. SR. No. 1/09-10, awarding the compensation of Rs. 10/- lakhs per acre. Being dis-satisfied with the compensation awarded by the Special Land Acquisition Officer, the claimant No. 1/appellant has filed an application under Section 18(1) of L.A. Act, for enhancement, with a request to refer the same to the jurisdictional Reference Court. Accordingly, it has been referred to Principal Senior Civil Judge & CJM, Mangalore and numbered as LAC No. 10/2011.

4. The said matter had come up for consideration before the Reference Court, which in turn, after appreciating the oral and documentary evidence and other material available on file, taking into consideration the purpose for which the land has been notified and acquired, has enhanced the compensation at Rs. 20/- lakhs per acre (Rs. 20,000/- per cent) with all statutory benefits as envisaged under Section 23 of L.A. Act and accordingly, allowed the said reference petition in part. Being dis-satisfied with the quantum of compensation awarded by the Reference Court, the appellant has presented this appeal, seeking further enhancement.

5. We have heard learned counsel appearing for appellant and learned Government Pleader appearing for respondent No. 1.

6. Learned Government Pleader appearing for respondent No. 1, at the outset submitted that, in view of allowing I.A. No. 1/2015 filed by the appellant for production of additional documents as document Nos. 1 to 10, the matter requires reconsideration afresh and therefore, impugned judgment and award may be set aside, matter be remitted back to the jurisdictional Reference Court for reconsideration afresh in accordance with law, after affording reasonable opportunity of hearing to both the parties and permitting the respondents to adduce additional oral and documentary evidence.

7. Per contra, learned counsel appearing for appellant, inter-alia, contended and fairly submitted that, in view of production of additional documents as per document Nos. 1 to 10 by way of I.A. No. 1/2015 which is allowed by separate order, the matter requires reconsideration afresh by the Reference Court. Therefore, she submitted that, the impugned judgment and award passed by the Reference Court may be set aside and the matter be remitted back to the Reference Court for reconsideration.

8. The submission made by learned counsel appearing for both the parties, as stated supra, is placed on record.

9. In the light of the submission made by learned counsel appearing for both the parties and having regard to the facts and circumstances of the case as stated above, without expressing any opinion on the merits and demerits of this case, it

would be appropriate to direct the Reference Court to reconsider the matter afresh and pass appropriate orders in accordance with law, to meet the ends of justice.

10. For the foregoing reasons, the appeal filed by the appellant is allowed.

The impugned judgment and award dated 20/03/2013, passed in LAC No. 10/2011, by the Principal Senior Civil Judge and CJM, Mangalore, is hereby set aside and the matter stands remitted back to the jurisdictional Reference Court for reconsideration afresh, with a direction to pass appropriate order, in accordance with law, after affording reasonable opportunity of hearing to the appellant and respondents personally or through their counsel and dispose of the same, as expeditiously as possible, at any rate, within a period of six months from the date of appearance of the parties before the Tribunal personally or through their counsel.

The appellant and respondents are directed to appear before the Reference Court either personally or through their counsel on 14th December 2015 at 11.00 a.m. to take further dates of hearing.

All the contentions urged in this appeal are left open.

In the event, if learned counsel appearing for appellant files a memo for return of document Nos. 1 to 10 produced along with I.A. No. 1/2015, office is directed to return the same, forthwith.

Registry is directed to refund the court fee paid on the memorandum of appeal to the appellant immediately.