

(2016) 12 KAR CK 0026
In the Karnataka High Court
Case No : M. F. A. No. 100467 of 2015

Kamalavva Dundappa Sangappanavar	APPELLANT
Vs	
Special Land Acquisition Officer Malaprabha Project	RESPONDENT

Date of Decision : 06-12-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2017) 1 AirKarR 499

Hon'ble Judges : Mrs. S. Sujatha, J.

Bench : Single Bench

Advocate : Sri. S.N. Hatti and Sri. K.H. Bagi, Advocates, for the Appellant; Smt. Veena Hegde, HCGP, for the Respondent No. 1; Sri. G.K. Hiregoudar, Advocate, for the Respondent No. 2

Final Decision : Allowed

Judgement

S. Sujatha, J.—This appeal is directed against the judgment and award passed by the Senior Civil Judge, Bailhongal (for short "the Reference Court") in LAC No.26/2013 dated 31.05.2013.

2. Briefly stated the facts are:

The appellant is the owner of the land bearing Sy. No. 49/3B measuring 33 guntas and Sy. No.51/2A measuring 2 acres 2 guntas situated at Bevinakoppa village, Taluka Bailhongal. The said lands were acquired by the Government of Karnataka for Malaprabha Project vide notification dated 16.09.2010 issued under Section 4(1) of the Land Acquisition Act, 1894 ("the Act" for short). The Special Land Acquisition Officer awarded the compensation of Rs.87,472/- per acre. Being dissatisfied, the appellant sought for reference under Section 18(1) of the Act. The reference Court awarded the compensation of Rs.4,20,000/- per acre. Being aggrieved, the appellants are before this Court, seeking enhancement of compensation.

3. Heard the learned counsel Sri. S.N. Hatti appearing for the appellant, learned

Government Pleader Smt. Veena Hegde appearing for respondent No.1, learned counsel Sri. G. K. Hiregoudar, appearing for respondent No.2 and perused the records.

4. The learned counsel for the appellant assailing the impugned judgment and award would contend that the issue relating to the determination of market value in respect of the similar lands acquired for the very same project has already been considered by this Court and appropriate market value payable in respect of such lands is fixed at Rs.5,08,000/- per acre with other statutory benefits and costs. In such circumstances, similar yardstick has to be applied in the instant case, as the lands being acquired for the very same purpose. In support of his contention, the learned counsel placed reliance on the following judgment.

(I) Ibrahim and Others v. The Special Land Acquisition Officer and another in MFA No. 102047/2014 Disposed of on 2.9.2016.

II) MFA No.21438/2014 and connected matters DD.13.11.2014.

5. The learned counsel appearing for the respondents would further contend that the lands of the appellants are identical to the case considered by this Court in MFA No.21438/2012 and connected matters decided on 13.11.2014. However, it is contended that SLP Nos.7106-7109/2015 are pending before the Hon"ble Apex Court against the judgment and award passed in MFA No.21438/2012 and connected appeals disposed of on 13.11.2014. Review Petition Nos. 100100-102/2014 are pending against the judgment and award passed in MFA No.21451/2012 disposed of on 24.03.2014. Thus, it is submitted that the consideration of these appeals depends upon the final outcome of these SLP's and R.P's. Nonetheless, it is admitted that the MFA No.102047/2014 is disposed of by this Court, subject to the final outcome of SLP.No.7106-7109/2015 pending before the Hon"ble Apex Court and R.P.Nos. 100100-100102/2014 pending before this Court.

6. Heard the rival submissions of the parties and perused the records. The only point that arises for consideration before this Court is, whether the appellants are entitled for payment of enhanced compensation?

7. Admittedly, in respect of similar lands acquired for the same project, this Court has determined the market value at the rate of Rs.5,08,000/- per acre along with statutory benefits and costs. Hence, the appellants being identically placed and the lands being of similar nature acquired for the same project, the appellants are entitled to the market value of Rs.5,08,000/- per acre along with statutory benefits and costs as was determined by the Division Bench of this Court in MFA No.21438/2012 and connected matters disposed of on 13.11.2014. Since SLP Nos.7106-7109/2015 are pending before the Hon"ble Apex Court and R.P.Nos. 100100-102/2014 are pending before this Court, the deposit of compensation by the respondents, i.e., over and above the compensation awarded by the reference Court shall be subject to the final outcome of the aforesaid SLPs and R.Ps.

8. In the result, the appeal is allowed with costs and the impugned judgment and award is set aside. The market value of the acquired property of the appellants is fixed at Rs.5,08,000/- per acre with all statutory benefits and costs. The enhanced award amount shall be deposited in the reference Court within a period of three months from today. On such deposit, the reference Court shall invest the compensation amount in an interest bearing fixed deposit in any Nationalised bank for a period of one year and await further orders. However, the amount of costs shall be released in favour of the appellant.

9. That, upon the disposal of the SLPs and RPs stated supra, the disbursal or refund of the amount with accrued interest shall be regulated. Liberty is reserved to the parties to move this Court for further orders after the disposal of the SLP's and RP's stated supra or with regard to renewal of the deposit or disbursal of the amount.

10. However, liberty is reserved to the appellant to file an application to seek damages, if any, for the period between the date of submergence of the land in question till the date of issuance of notification under Section 4(1) of the Act. If any such application is filed, the same shall be considered in accordance with law. The amount awarded by the Reference Court shall be released to the claimants.

11. Office is directed to draw award accordingly subject to the appellant paying the deficit court fee within a period of three weeks from the date of receipt of certified copy of the order.

12. The appeal is disposed of in terms of the above.