

(2016) 02 KAR CK 0296
In the Karnataka High Court
Case No : M.S.A. No. 609 of 2013 (LA).

Karnataka Neeravari Nigam Ltd. Represented by its Executive Engineer, MLBCC Div. No. 2, Naviluteerth Tal: Saudatti, Dist: Belgaum APPELLANT

Vs

Special Land Acquisition Officer, Malaprabha Project-II, Saudatti, Now at Opp. Hindi Prachar Sabha, U.B. Hil RESPONDENT

Date of Decision : 22-02-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 34, 4(1)

Citation : (2016) AIRCC 1946 : (2016) 2 AirKarR 631 : (2016) 4 KCCR 3440

Hon'ble Judges : B.V. Nagarathna, J.

Bench : Single Bench

Advocate : Ramesh N. Misale, Advocate, for the Appellant; Veena Hegde, Govt. Pleader and K.H. Bagi for S.N. Hutti, Advocates, for the Respondent

Final Decision : Partly Allowed

Judgement

B.V. Nagarathna, J. - Though the matter is listed for considering the application for condonation of delay, the same being condoned by a separate order, with the consent of learned counsel on both sides, it is heard finally.

2. Karnataka Neeravari Nigam Limited has prefired this second appeal, assailing judgment and award passed in L.A.C. Appeal No. 274/2011 dated 21.11.2012 by the Principal District Judge, Belgaum.

3, Briefly stated the facts are that, the land measuring six guntas in Sy. No. 88P of Mugabasav village in Bailhongal taluk, district Belgaum, was acquired on account of its submergence in the backwaters of Malaprabha Reservoir Project. As a result, Notification was issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'Act', for brevity) on 07.06.2007. Thereafter, a declaration was issued under Section 6(1) of the Act. The Special Land Acquisition Officer (S.L.A.O.) passed an award in respect of the land in question to an extent of Rs. 56,672/- per acre, on the premise that the land was

dry land. The award is dated 23.07.2009.

4. Not being satisfied with the said award, claimant sought reference under Section 18(1) of the Act (Karnataka Amendment). Reference Court enhanced the compensation to Rs. 2,70,000/- per acres along with all statutory benefits in L.A.C. No. 2 10/2010 by its judgment and award dated 26.03.2011. As against that judgment and award, appellant herein preferred an appeal before First Appellate Court. The First Appellate Court dismissed the appeal of appellant herein while partly allowing the cross-objections filed by respondent-claimant. It awarded Rs. 3,00,000/- as compensation along with all statutory benefits. It is against that award that this second appeal has been preferred.

5. I have heard learned counsel for appellant, learned Government Pleader for respondent No. 1 and learned counsel for respondent No. 2 and perused the material on record.

6. During the course of submission, learned counsel for respective parties on both sides have submitted that this appeal could be disposed of in terms of the judgment passed by this Court on 18.02.2016 in No. 587/2013. They contended that the only question which requires interference in this appeal is with regard to the date from which interest has to be awarded under Section 34 of the Act. They jointly submit that for the period prior to issuance of Notification under Section 4(1) of the Act, respondent No. 2 is not entitled to any interest and that the interest under Section 34 of the Act has to be paid from the date of passing of the award till realisation. This is having regard to the dicta of Hon'ble Supreme Court in the following judgments :

I. AIR 2004 Supreme Court 288 in the case of Smt. Lila Ghosh (dead) through LR. v. State of West Bengal.

II. (2004) 4 Supreme Court Cases 79 in the case of R.L. Jain (D) by L.Rs. v. DDA and Others;

III. (2010) 5 Supreme Court Cases 708 in the case of Special Land Acquisition Officer v. Karigowda and others; and

7. Submission of learned counsel is placed on record.

8. The appeal is allowed in part. It is held that the judgment and award of First Appellate Court is modified only to the extent of holding that respondent No. 2 claimant is entitled to interest under Section 34 of the Act from the date of award till realisation. In the event it is found that the submergence had occurred prior to the issuance of Notification under Section 4(1) of the Act, then liberty is reserved to respondent No. 2-claimant to seek damages from the date of submergence till the issuance of Notification under Section 4(1) of the Act.

9. The appeal is allowed in part in the aforesaid terms.

10. Parties to bear their respective costs.

11. In view of disposal of appeal, I.A. No. 4/2013 would not survive for consideration and the same also stands disposed.