
(2013) 10 KAR CK 0109

In the Karnataka High Court

Case No : Writ Petition No. 598 of 2013 (LA-RES)

Karnataka Road Development Corporation Limited

APPELLANT

Vs

Sri Rochan M.C. and The Special Land Acquisition Officer

RESPONDENT

Date of Decision : 22-10-2013

Acts Referred:

Citation : (2013) 10 KAR CK 0109

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : B.B. Bajentri, for the Appellant; R.B. Sathyanarayan Singh, HCGP for R2, for the Respondent

Final Decision : Disposed Off

Judgement

A.S. Bopanna, J.—The learned Government advocate to appear for respondent No. 2 and file memo of appearance in four weeks. The petitioner is before this Court assailing the order dated 31.3.2011 passed in L.A.C. No. 70/2007 which is impugned at Annexure-D to the petition. The petitioner is seeking for a direction to re-determine the compensation in L.A.C. No. 70/2007 after providing opportunity to the petitioner to participate in the proceedings.

2. The brief facts are that the petitioner herein was in need of certain lands for the purpose of formation of road. In that regard, though several extents had been acquired, in the instant petition, it relates to the land bearing Sy. No. 225/02 to the extent of 0.04 guntas and Sy. No. 225/5 to the extent of 4.08 guntas situated at Gejjalagere village, Maddur taluk, Kasba Hobli, Mandya. In respect of the compensation determined by the Land Acquisition Officer, the land owners being dissatisfied had sought for reference for the purpose of determination of just compensation. The same was registered in LAC No. 70/2007 The reference court after taking into consideration the claim made by the land owners, by its award dated 31.3.2011 has enhanced the compensation. The petitioner which is a Corporation required the acquisition inasmuch to form the road was also required to pay the compensation. They are therefore

aggrieved by the fact that the compensation has been enhanced without notice to them and that they have been denied opportunity in that regard. It is in that context the petitioner is before his court assailing the award at Annexure-D to the petition.

3. The respondent No. 1-landlord though notified has remained absent. At the outset, it is to be noticed that in the cause title to the case in LAC No. 70/2007 the name of the petitioner has been indicated. However, a perusal of the body of the judgment would indicate that there is no reference whatsoever to the opportunity granted to the petitioner herein. Further more, the learned counsel for the petitioner would point out that the reference notice at Annexure-"C" in fact does not indicate the name of petitioner-Corporation but the name of the official of the Public Works Department has been indicated which would disclose that without opportunity to the petitioner only name has been substituted subsequently. In any event, there is no material placed before the Court to indicate that the petitioner has been provided an opportunity. The learned counsel for the petitioner would also contend that in similar set of circumstances, this Court in W.P. No. 16967/13 has arrived at the conclusion that the determination of the enhanced compensation in the absence of the petitioner herein would not be justified. Even otherwise, the view; of the Hon"ble Supreme Court in the case of 2012(4) SCC 96 and M/s. Neyveli Lignite Corpn. Ltd. Vs. Special Tahsildar (Land Acquisition), Neyveli and others, would indicate that the person who is ultimately liable to pay compensation should be granted an opportunity before the enhanced compensation is to be determined.

4. In that view of the matter, I am of the opinion that the award dated 31.3.2011 passed in the absence of the petitioner would not be sustainable. The same is accordingly set aside and the matter is remanded to Civil Judge (Sr. Division), Maddur to restore L.A.C. No. 70/2007 on file and reconsider the same after providing an opportunity to the petitioner. In order to avoid further delay, there shall be no need for issuance of fresh notice to the petitioner. The petitioner shall voluntarily appear before the Court below on 18.11.2013 as the first date of appearance. The court below shall thereafter regulate the proceedings and dispose of the matter as expeditiously as possible, since the matter has been pending for quite some time. In terms of the above, the petition stands disposed of.