

(2013) 06 KAR CK 0214

In the Karnataka High Court

Case No : Civil Revision Petition No. 128 of 2011

Krishna Reddy since deceased by his LRS. K Munni Reddy
and Others

APPELLANT

Vs

The Special Additional Lao Bangalore Development Authority
Bangalore and The Commissioner Bangalore Development
Authority

RESPONDENT

Date of Decision : 19-06-2013

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Section 2(2)
Land Acquisition Act, 1894 — Section 18, 26(2), 28A
Limitation Act, 1963 — Article 136

Citation : (2013) ILR (Kar) 5352

Hon'ble Judges : H.G. Ramesh, J

Bench : Single Bench

Advocate : P. Krishnappa, for the Appellant; K.M. Prakash, Advocate for R1 and R2, for the Respondent

Final Decision : Dismissed

Judgement

H.G. Ramesh, J.—The question that requires to be determined in this Revision Petition is as to whether the Execution petition filed on 29th July 2005 to execute the award dtd. 31.07.1985 passed by the Reference Court in L.A.C. No. 648 of 1983 was filed within the period of limitation?. This Revision Petition by the decree holders is directed against the order dated 18th March 2011 passed by the Court of the II Addl. City Civil Judge, Bangalore dismissing the Execution Petition in Execution No. 1797/2005 on the ground that it was barred by limitation.

2. I have heard the learned Counsel for the parties and perused the impugned order and the judgments referred to by the learned Counsel for the petitioners.

3. The aforesaid execution petition was filed on 29th July 2005 to recover the alleged balance amount of Rs. 1,05,782/- payable under the award dated

31.7.1985 passed in L.A.C. No. 648/1983. It is stated that the appeal in M.F.A. No. 377 of 1986 filed by the respondents against the aforesaid award was dismissed by this Court on 21.6.1991. The execution petition, which was filed in the year 2005, was dismissed by the Executing Court on the ground it was filed after 12 years from the date of the award and hence was beyond the period of limitation (12 years) provided under Article 136 of the Limitation Act, 1963.

4. However, learned Counsel appearing for the petitioners submitted that, there were three previous execution petitions and the last of the execution petition namely Ex. No. 1502/1993 was disposed of on 24.5.2000. The present execution petition in Ex. No. 1797/2005 was filed only as a continuation of the previous Execution Petition and hence it was not barred by limitation. In support of the Revision petition, petitioners' Counsel referred to the judgments reported in Kevaldas Kalabhai Vs. Champaklal Chimanlal Sodagar and Others, . It needs to be noticed that in view of Section 26(2) of the Land Acquisition Act, 1894, every award passed under part III (Sections 18 to 28A) of the Land Acquisition Act, 1894 is deemed to be a decree within the meaning of Section 2(2) of the CPC. The legal effect is that such an award can be executed as if it were a decree of a civil Court. Article 136 of the Limitation Act, 1963 lays down the period of limitation to execute any decree or order of a Civil Court other than a decree granting a mandatory Injunction. Hence, the period of limitation stated in Article 136 applies to execution of Awards passed under part III of the Land Acquisition Act, 1894. It is relevant to refer to Article 136 which reads as follows:

(emphasis supplied)

It is quite clear from the above article that an application for execution of a decree (other than a decree granting a mandatory injunction) or order of any Civil Court is to be filed within a period of twelve years from the date it becomes enforceable. Accordingly, the period of limitation for execution of every award made under part III of the Land Acquisition Act, 1894 is 12 years as prescribed under Article 136 of the Limitation Act 1963 and it shall be computed from the date the award becomes enforceable in law. As the award in the present case became enforceable on the very date of the award i.e. on 31.7.1985, time began to run from that date. As running of the time from that date was not arrested by any order staying execution of the said award, the execution petition filed in the year 2005, without any doubt, was barred by limitation. Even assuming that there was stay of the Award till the dismissal of the appeal in MFA No. 377 of 1986 on 21.6.1991, then also the present execution petition filed in the year 2005 was barred by limitation as it was beyond 12 years from the date of dismissal of the appeal. It is relevant to state that filing of successive execution petitions will not extend the period of limitation prescribed under Article 136 of the Limitation Act, 1963 to apply for execution of a decree. The contention of the petitioners' Counsel to the contrary is erroneous in law and hence is rejected. None of the judgments relied on by the petitioners' counsel are in support of the contention urged by him. On the facts of the case, the executing court was right

in dismissing the execution petition as barred by limitation. The revision petition is devoid of merit and is accordingly dismissed.