

(1984) 07 KAR CK 0009
In the Karnataka High Court
Case No : MFA No. 454 of 1983

Land Acquisition Officer

APPELLANT

Vs

Chandrasekaragowda

RESPONDENT

Date of Decision : 05-07-1984

Acts Referred:

Land Acquisition Act, 1894 — Section 20, 20 (c)

Citation : (1985) ILR (Kar) 3044

Hon'ble Judges : Sabhahit, J;Rajasekhara Murthy, J

Bench : Division Bench

Advocate : R.P. Hiremath, HCGA, for the Appellant; V.T. Rayaraddy, for R-1, S.G. Sundaraswamy, for R-2, for the Respondent

Final Decision : Allowed

Judgement

Sabhahit, J.

1.This Miscellaneous First Appeal by the Land Acquisition Officer, Gadag, is directed against the Judgment and award dated 29-11-1982 made by the Civil Judge, Gadag, in Land the Learned Civil Judge, is vitiated because notice was not issued to the Agricultural Produce Market Committee, Gadag.

7. Section 20(c) of the Karnataka Land Acquisition Act reads:

"Service of notice - The Court shall thereupon cause a notice, specifying the day on which the Court will proceed to determine the reference, and directing their appearance before the Court on that day, to be served on the following persons, namely.

XX XX XX XX (c) if the acquisition is not made for Government, the person or authority for whom it is made."

8. The Supreme Court of India, elucidating Clause (c) of Section 20 of the Karnataka Land Acquisition Act has observed in N.G.E.F. Ltd. -v.- State of Mysore and others in para-3 of the Judgment thus :

"It is obvious that Section 20 (c) makes it obligatory for the Court to issue notice "to the person or authority for whom the acquisition is made." in the present case the entire grievance of the appellant is that no such notice was issued at all with the result that the appellant had no opportunity to appear in Court, contest the claim of the fourth respondent regarding increased compensation, adduce evidence and otherwise prove that the amendment ordered by the Land Acquisition Officer was adequate. The absence of the appellant before the Civil Court had a disastrous impact on it because while Land Acquisition Officer had ordered a sum of Rs. 46,000/- by way of Compensation, the Civil Judge raised it to Rs. 2,39,000/-"

Further, the Supreme Court has observed in the same para thus :

"All that we need say is that an imperative obligation to give notice and hear the appellant Petitioner before the High Court, and on the strength of Section 20 referred to above, the High Court should have allowed this Writ Petition and set aside the decision of the Civil Judge...."

9. Similar arguments were addressed before us by the Learned Counsel appearing for the Agricultural Produce Market Committee, Gadag for whom the acquisition of land was made. No notice was sent to the Agricultural Produce Market Committee, Gadag, and the Learned Civil Judge in the absence of the concerned party and without notice to the concerned party has enhanced the compensation awarded by the Land Acquisition Officer at Rs. 89.467.88P., to Rs. 10,00,627.60P. In the circumstances, it is obvious that the Learned Civil Judge has failed to perform the imperative duty cast on him in issuing the notice to the person for whom the acquisition was made, on the facts of the present case, to the Agricultural Produce Market Committee, Gadag and hence, we are left with no alternative but to set aside the Judgment and award and remit the case back to the Learned Civil Judge for fresh hearing.

10. The Learned Counsel appearing for the claimant no doubt invited our attention to a Division Bench decision of this Court, as stated above, in Union of India -v.- Kashappa Madivalappa and another. Therein, His Lordship Malimath, J., as he then was, who delivered the Judgment for the Bench, has made it clear that the land was acquired for the Government and when it is so acquired for the Government Section 20(c) of the Karnataka Land Acquisition Act makes it clear that it is not necessary to issue separate notice to the Central Government for whose benefit the land is acquired.

11. Therefore, there is no conflict between the Division Bench decision of this Court and the decision of the Supreme Court of India rendered ex cathedra as quoted above. The other decision quoted by the Learned Counsel appearing for the claimant has no relevance.

12. In the result, the appeal is allowed. The impugned judgment and award are set aside and the matter is sent back to the Learned Civil Judge to decide the matter afresh after giving adequate opportunity to the Agricultural Produce

Market Committee, Gadag, represented by its Secretary, who is impleaded as a party to the proceeding, to put forth his contentions. Parties shall be allowed to adduce additional evidence if they so desire.