
(1973) 08 KAR CK 0005
In the Karnataka High Court
Case No : M.F.A. No. 333 of 1970

Land Acquisition Officer

APPELLANT

Vs

T.S. Aswathanarayana Rao and Others

RESPONDENT

Date of Decision : 20-08-1973

Acts Referred:

Citation : AIR 1974 Kar 112

Hon'ble Judges : Govinda Bhat, C.J.;Srinivasa Iyengar, J

Bench : Division Bench

Advocate : N. Venkatachala, 2nd Addl. Govt, for the Appellant; P.R. Srinivasan, for the Respondent

Final Decision : Partly Allowed

Judgement

Govinda Bhat, C.J.—This is an appeal by the Land Acquisition Officer, Tumkur, u/s 54 of the Land Acquisition Act, against the award and decree made in L.A.C. 178/1968 on the file of the Court of the Civil Judge, Tumkur. Three acres and 5 guntas of dry land and 3 acres of garden land containing 86 cocoanut trees comprised in S. No. 30 of Madake Kannasandra village, Kunigal Taluk were acquired for a public purpose pursuant to the notification made u/s 4 of the Act and published in the Gazette on 5-3-1968. Before the Land Acquisition Officer, the claimants claimed compensation at the rate of Rs. 4,000/- an acre in respect of dry land; Rs. 6,000/- an acre in respect of garden land and in addition, Rs. 250/- per tree for cocoanut trees standing on the land. The land Acquisition Officer awarded Rs. 800/- an acre for the dry land; Rs. 1,500/- an acre for the garden land and at Rs. 130/- per cocoanut tree. On a reference made to the Civil Court u/s 18 of the Act, the learned Civil Judge fixed the market value of the dry land at Rs. 1,500/- per acre. That part of the award has not been challenged before us as the amount of compensation fixed is just and reasonable.

2. In regard to the garden land, the Court below awarded a sum of Rs. 2,500/- an acre besides awarding Rs. 250/- per cocoa-nut tree. That part of the award has been challenged in this appeal.

3. The Court below has relied on the report of the Mahajardars (Ext. R-1) for valuing the garden land at Rs. 2,500/- per acre. That there were 86 cocoanut trees at the time of acquisition is not in dispute. The complaint of the learned High Court Government Advocate Sri Venkatachala was that if the land is valued as garden land, then, a separate compensation cannot be awarded for the fruit growing trees standing on the said land for the reason that the land becomes a garden land on account of the existence of the fruit growing trees on it. If the cocoa-nut trees did not exist, the land would not be classed as garden land at all was the submission made. This argument of the learned Government Advocate, in our opinion, is well founded. When a cocoanut garden, areca garden or a mango garden is acquired, the proper method of valuation is not to value the land separately and trees separately, but to consider the market value of the cocoanut garden or the areca garden and the like. In that view, the award made by the Court be low in so far as the garden land with the cocoanut trees standing on it cannot be supported.

4. The Land Acquisition Officer himself has awarded compensation for the garden land at Rs. 1,500/- an acre besides Rupees 130 per cocoanut tree. Since the Land Acquisition Officer himself has committed the error of (sic) the land and the cocoanut trees standing on it separately, the proper course for us to adopt would be to affirm the award made by the Land Acquisition Officer.

5. Accordingly, we allow this appeal in part. The compensation awarded by the Court below in respect of dry land will stand undisturbed. But the award made by it in respect of the garden land and the coconut trees standing on it is modified and in respect of that the award given by the Land Acquisition Officer is affirmed. Parties will pay and receive costs in proportion to their success in this appeal.