
(2013) 09 KAR CK 0352
In the Karnataka High Court
Case No : M.S.A. No. 83 of 2008

M. Halappa Since Dead By Lrs.

APPELLANT

Vs

The Special Land Acquisition Officer

RESPONDENT

Date of Decision : 16-09-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 18

Citation : (2013) 09 KAR CK 0352

Hon'ble Judges : G. Ramesh, J

Bench : Single Bench

Advocate : Lokesh Malavalli, for the Appellant; S.B. Shahapur, AGA, for the Respondent

Final Decision : Partly Allowed

Judgement

G. Ramesh, J.—Appellants/claimants have sought for modifying the judgment and award passed by the District Judge, Davanagere, in M.A. NO. 19/2000 dated 20.3.2006 and the judgment and award passed by the Additional Civil Judge (Sr. Dn.) Davanagere in LAC. No. 157/1986 dated 2.11.1999 and enhance the compensation. Heard the learned counsel for the appellants and the learned Additional Government Advocate for respondent.

2. The land in question i.e., Sy. No. 227/2 of Bhanuvalli Village, Harihar Taluk, to an extent of 32 guntas, was acquired for the purpose of formation of bank channel of D.B. Kere during the year January, 1983 under a preliminary notification. The Land Acquisition Officer determined the market value of the land at the rate of Rs. 6,000/- per acre by award dated 11.10.1984. On reference, the claimants filed the application u/s 18 of the Land Acquisition Act. The Reference Court, by order dated 2.11.1999, enhanced the compensation to Rs. 7,000/- per acre. Being not satisfied by the said award, the claimants filed this appeal contending that they are growing crops in the land in question which is yielding 30 quintals of hybrid jowar, 35 quintals of maize and 15 quintals of cotton. Such being the case, the Appellate Court dismissed the appeal fixing the market value

of the land at the rate of Rs. 7,000/- per acre.

3. Learned counsel for the appellants by referring to the RTC for the year 1981-82 and taking into consideration the source of irrigation, contended that the land in question is a wet land and the Appellate Court without taking into consideration the nature of land and the crops grown, dismissed the appeal and accordingly, submitted that the value of Rs. 7,000/- per acre fixed for the dry land is not in respect of wet land. Hence, appellants have sought for enhancement of compensation from Rs. 7,000/- to Rs. 21,700/- with all additional benefits. The entries in the RTC depicts that crops grown are cotton, hybrid jowar and maize. The Reference Court and the Appellate Court have not considered the fertility of the land and the source of irrigation. Hence, there is non-application of mind by both the courts. Having regard to the nature of fertility of the land and the source of irrigation, the market value is fixed at Rs. 21,000/- per acre taking into consideration the crops grown i.e., cotton, hybrid jowar and maize. By setting aside the award passed by the Reference Court as well as the Appellate Court, the amount is enhanced from Rs. 7,000/- to Rs. 20,000/- per acre with all consequential benefits and statutory benefits excluding interest for the delay period.

Accordingly, appeal is allowed in part.

Delay of 865 days in filing the appeal is condoned subject to the condition that the claimants are not entitled for the interest for the delay period. Misc. Cvl. No. 6829/2009 filed for condonation of delay is allowed accordingly.

Learned Additional Government Advocate is directed to file vakalath within four weeks.