

(2013) 09 KAR CK 0117
In the Karnataka High Court
Case No : M.S.A. No. 135 of 2012 (LA)

Mahadevappa

APPELLANT

Vs

The Special Land Acquisition Officer, The Executive Engineer,
Hemavathi Left Bank Canal, Division No. 6 and The Managing
Director

RESPONDENT

Date of Decision : 11-09-2013

Acts Referred:

Citation : (2013) 09 KAR CK 0117

Hon'ble Judges : Huvadi G. Ramesh, J

Bench : Single Bench

Advocate : Sriyuths Y.R. Sadasiva Reddy, P. Mahesha and Krishna B.J, for the Appellant; S.B. Shahapur, AGA for R1 Sri K.S. Bharath Kumar, for R3, for the Respondent

Final Decision : Allowed

Judgement

Huvadi G. Ramesh, J.—This appeal is arising out of the judgment and award passed by the Addl. District Judge, Mandya in M.A. (LAC) No. 77/2007 dated 20.4.2012. The case of the appellant is that he is the absolute owner in possession and enjoyment of the land bearing Survey No. 70/3 measuring 11 guntas, situated at Kamanayakanahalli Village, Chinakurali Hobli, Pandavapura Taluk, Mandya District. The said land was acquired for the purpose of Hemavathi Dam Project, Tonnur Tank by issuing preliminary notification dated 28.3.2002. Thereafter, final award was passed by the respondent on 11.4.2003, fixing the market value at Rs. 47,800/- per acre for dry lands. The appellant filed petition before the respondent seeking enhancement of compensation and the same was referred to Civil Court for determining the market value. The Reference Court, after enquiry, awarded an amount of Rs. 2,25,000/- per acre. Being not satisfied with the award passed by the Reference Court, the appellant filed an appeal before the District Judge. The learned District Judge has set aside the judgment and award passed by the Reference Court and reduced the amount to Rs. 1,53,400/- per acre in respect of dry lands and Rs. 2,30,000/- per acre in

respect of wet lands. Being aggrieved by the same, the appellant is before this Court.

2. According to the learned counsel for the appellant, the acquisition is of the year 2002 and the sales statistics and other documents produced by the appellant have not been considered either by the Reference Court or by the District Judge in appeal. Apart from the notification, even sales statistics for the year 1994 is also produced at Ex. P-2, as per which, the market value of the dry land per acre is Rs. 1,52,000/-. He relied upon the judgment of the Apex Court in the case of Special Land Acquisition Officer v/s Karigowda and others reported in 2010 AIR SCW 4163, wherein the Apex Court has awarded compensation of Rs. 1,53,400/- per acre in respect of dry lands and Rs. 2,30,000/- per acre in respect of wet lands. He further submits that as per Ex. P-2 sale deed dated 6.1.1994, 25 guntas of land had fetched Rs. 95,000/-, according to which, it would amount to Rs. 1,52,000/- per acre in respect of dry lands. Accordingly, he has sought for enhancement of compensation.

3. The 25 guntas of land referred to above is adjacent to the land in question and that should have been the basis for awarding just and reasonable compensation by the Appellate Court. But the same has not been taken into consideration. If Ex. P-2 is taken into consideration, the market value of dry lands per acre for the year 1994 is Rs. 1,52,000/-. But, out of the lands acquired, some are wet lands and some are dry lands. Taking into consideration the fertility of the lands and the market value of the dry land as on 6.1.1994 at Rs. 1,52,000/- per acre and after adding 10% escalation every year, the market value can be fixed at Rs. 2,73,600/- per acre in respect of dry lands. Though there is no sales statistics in respect of wet lands, but the fact remains that there will be difference in the market value of dry lands and wet lands. In case of wet lands, for the land acquired in the year 2002, the market value can be fixed at Rs. 2,00,000/- per acre and after adding 10% escalation every year, the market value of wet lands can be fixed at Rs. 3,60,000/- per acre. In that view of the matter, Appeal is allowed. The judgment and award passed by the Additional District Judge, Mandya in M.A. (LAC) No. 77/2007 dated 20.4.2012 is modified. The claimant-appellant is entitled for compensation of Rs. 2,73,600/- per acre in respect of dry lands and Rs. 3,60,000/- per acre in respect of wet lands, with all consequential benefits, interest and costs thereon, but excluding interest for the delay period, if any, while preferring the appeal. Further, the appellant is granted eight weeks time to pay deficit Court fee, if any, on the enhanced amount.

The learned Government Advocate is permitted to file memo of appearance within four weeks from today.