

(2012) 12 KAR CK 0097

In the Karnataka High Court

Case No : Misc. Second Appeal No. 529 of 2010 (LAC)

Mahadevi

APPELLANT

Vs

Special Land Acquisition Officer

RESPONDENT

Date of Decision : 05-12-2012

Acts Referred:

Citation : (2013) 1 AKR 465

Hon'ble Judges : Mohan Shantanagoudar, J

Bench : Single Bench

Advocate : B.K. Hiremath, for the Appellant; Mallikarjun Sahukar, HCGP, for the Respondent

Final Decision : Allowed

Judgement

Mohan Shantanagoudar, J.—Learned High Court Government Pleader takes notice for the respondent.

Heard.

There is a delay of 183 days in filing the appeal. Accepting the cause shown, delay of 183 days in filing the appeal stands condoned. Misc. Civil No. 153306/2010 is allowed accordingly.

This appeal is filed by the claimant praying for enhancement of compensation. The area of 2 acres 26 guntas in Sy. No. 110/1/2 is lost by the claimant in the acquisition dated 30.05.1991 situated at Yalmamadi village of Chincholi taluka. The acquisition was made for the purpose of Mulla Mari project. The Land Acquisition Officer passed the award fixing the compensation at Rs. 8,000/- per acre for dry land and Rs. 12,000/- per acre for wet lands. The Reference Court enhanced the compensation to Rs. 32,000/- per acre for dry lands and Rs. 48,000/- per acre for wet lands. Being dissatisfied with the compensation, the claimant filed LACA No. 36/2009. The First Appellate Court enhanced the compensation to Rs. 65,000/- in respect of dry land since the land in question is dry land. This appeal is filed praying for further enhancement of compensation.

2. The First Appellate Court relying upon the judgment of this Court in MFA No. 7498/2006 awarded compensation of Rs. 65,000/- per acre for the dry land.

Sri B.K. Hiremath, learned counsel for the appellant has produced the copy of the judgment of this Court in MFA No. 7498/2006 for perusal. On perusal of the said order it is clear that this Court has actually quantified the compensation to Rs. 1,15,086/- per acre in respect of dry land and Rs. 1,72,630/- per acre in respect of irrigated lands. However, since the claimant in the said matter has restricted his claim to Rs. 1,00,000/- per acre in respect of irrigated land and Rs. 65,000/- per acre in respect of dry land, this Court awarded the compensation of Rs. 1,00,000/- per acre for irrigated land and Rs. 65,000/- per acre for dry land. Merely because the appellant in MFA No. 7498/2006 had restricted the claim to Rs. 65,000/- per acre in respect of dry land and Rs. 1,00,000/- per acre for irrigated lands, the same cannot be a thumb rule, more particularly when this Court has quantified the compensation on the higher side in the said appeal. Thus, what was quantified by this Court in MFA No. 7498/2006 was Rs. 1,15,086/- in respect of dry land and Rs. 1,72,630/- per acre in respect of irrigated land.

In the matter on hand, the claimant has claimed compensation of Rs. 1,18,000/- per acre. What is quantified by this Court in MFA No. 7498/2006 is Rs. 1,15,086/- per acre for dry land. Thus, the claimant would be entitled to Rs. 1,15,086/- per acre as quantified by this Court in MFA No. 7498/2006. Accordingly, the following order is made:

ORDER

(i) The judgment and award of the First Appellate Court is modified. The compensation is enhanced to Rs. 1,15,086/- per acre (since the property is a dry land).

(ii) Claimant is entitled to all other statutory benefits as per law.

Appeal is allowed accordingly.