

(2015) 09 KAR CK 0274
In the Karnataka High Court
Case No : Review Petition No. 100039/2014

Mahalingappa and Others

APPELLANT

Vs

The Special Land Acquisition Officer, UKP

RESPONDENT

Date of Decision : 07-09-2015

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 47 Rule 1, Order 47 Rule 47, 114
Land Acquisition Act, 1894 — Section 18(1)

Citation : (2015) 09 KAR CK 0274

Hon'ble Judges : Ashok B. Hinchigeri and B. Veerappa, JJ.

Bench : Division Bench

Advocate : B.M. Angadi and Ratnamala G.H., Advocate, for the Appellant

Final Decision : Dismissed

Judgement

B. Veerappa, J.—The review petitioners being dissatisfied with the compensation awarded by the respondent - Special Land Acquisition Officer had filed Reference Application under Section 18(1) of the Land Acquisition Act, 1894 to refer the matter to the Reference Court for the determination of just and fair compensation. The Reference Court after considering the entire material on record by its judgment and award, dated 28.03.2001 made in LAC No. 1804/2000 allowed the Reference Application in part and enhanced the market value to Rs. 3,00,000/- per acre.

2. Aggrieved by the said judgment and award, the review petitioners filed MFA No. 20938/2008 before this Court and this Court after considering the entire material on record has disposed of the above appeal raising the market value to Rs. 5,00,000/- per acre, in view of the submission made by the learned counsel for the appellant that for the lands covered by the very same preliminary notifications, dated 11.2.1999 and 30.06.1999 situated in the very same Town (Mudhol), the Division Bench of this Court by its judgment, dated 26.11.2008 made in MFA Cross Objection 271/2007 determined the market value at Rs. 5,00,000/- per acre.

3. The above petition is filed seeking review of the judgment, dated 23.06.2011. The learned counsel for the review petitioners has raised the solitary ground that subsequently the very respondent has enhanced the compensation to Rs. 6,50,000/- per acre. Therefore she sought the review of the impugned order.

4. The order passed by this Court on 23.06.2011 is virtually a consent order in view of the covered matter. Besides, the Explanation to Rule 1 Order 47 of the Code of Civil Procedure is of immense guidance for deciding this petition. It reads as under:--

"[Explanation - The fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment.]"

5. When the subsequent judgment of a superior court on a question of law itself cannot be a ground for seeking the review of the orders, the passing of the subsequent award by the respondent SLAO cannot be a ground for seeking the review of the judgment, dated 23.06.2011. It is profitable to refer to the Hon'ble Supreme Court's decision in the case of Haridas Das Vs. Smt. Usha Rani Banik and Others, , wherein it is held that it is well established that for reviewing the order in exercise of powers conferred by Section 114 r/w Order 47 Rule 1 of the Code of Civil Procedure is rather limited. Paragraph Nos. 13 and 18 of the said judgment reads as follows:--

"13. In order to appreciate the scope of a review, Section 114 of the CPC has to be read, but this section does not even adumbrate the ambit of interference expected of the Court since it merely states that it "may make such order thereon as it thinks fit." The parameters are prescribed in Order XLVII of the CPC and for the purposes of this lis, permit the defendant to press for a rehearing "on account of some mistake or error apparent on the face of the records or for any other sufficient reason". The former part of the rule deals with a situation attributable to the applicant, and the latter to a jural action which is manifestly incorrect or on which two conclusions are not possible. Neither of them postulate a rehearing of the dispute because a party had not highlighted all the aspects of the case or could perhaps have argued them more forcefully and/or cited binding precedents to the Court and thereby enjoyed a favourable verdict. This is amply evident from the explanation in Rule 1 of the Order XLVII which states that the fact that the decision on a question of law on which the judgment of the Court is based has been reversed or modified by the subsequent decision of a superior Court in any other case, shall not be a ground for the review of such judgment. Where the order in question is appealable the aggrieved party has adequate and efficacious remedy and the Court should exercise the power to review its order with the greatest circumspection. This Court in M/s. Thungabhadra Industries Ltd. (in all the Appeals) v. The Government of Andhra Pradesh represented by the Deputy Commissioner of Commercial Taxes, Anantapur, [AIR 1964 1372] held as follows:

"There is a distinction which is real, though it might not always be capable of exposition, between a mere erroneous decision and a decision which could be characterized as vitiated by "error apparent". A review is by no means an appeal in disguise whereby an erroneous decision is reheard and corrected, but lies only for patent error. Where without any elaborate argument one could point to the error and say here is a substantial point of law which states one in the face and there could reasonably be no two opinions entertained about it, a clear case of error apparent on the face of the record would be made out.

18. It is also pertinent to mention the observations of this Court in the case of Parsion Devi and Others Vs. Sumitri Devi and Others, . Relying upon the judgments in the cases of Aribam's (supra) and Smt. Meera Bhanja (supra) it was observed as under:

"Under Order XLVII, Rule 1 , CPC a judgment may be open to review inter alia, if there is a mistake or an error apparent on the face of the record. An error which is not self evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of the record justifying the Court to exercise its power of review under Order XLVII, Rule 1 , CPC. In exercise of the jurisdiction under Order XLVII, Rule 1 , CPC it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered has a limited purpose and cannot be allowed to be an appeal in disguise."

6. Not finding any error, much less an error apparent on the face of the records, we decline to review the judgment, dated 23.06.2011. As stated earlier, the passing of the subsequent award by the respondent SLAO is no ground for filing this review petition.

7. In the result, this review petition is dismissed. No order as to costs.

8. Since the main petition is disposed of the question of considering the office objections does not arise.