

(2013) 12 KAR CK 0400

In the Karnataka High Court

Case No : Writ Petition No"s. 86211 of 2012 and 103975-978 of 2013 (LA-RES)

Maniklal and Others

APPELLANT

Vs

The Special Land Acquisition Officer, Urban Development
Authority and The Commissioner, Gulbarga Development
Authority

RESPONDENT

Date of Decision : 16-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0400

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Sudarshan M, for the Appellant; Shivakumar R. Tengli, for R1 and R2, for the Respondent

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—Petitioners" application u/s 28-A of the Land Acquisition Act, 1894, [for short "the Act"], when allowed by order dated 7.4.2004, re-determining the compensation at the rate of Rs. 68,500/- on the basis of the Award passed in LAC No. 315/1993, as modified in MFA No. 2691/1997 along with cross appeal No. 6/1998 and as affirmed by the Apex Court by dismissing the SLP preferred by the land losers [cross appellants], have presented these petitions, calling in question, the order dated 9.3.2012 in Misc. No. 25/2007 of the Principal Civil Judge [Sr. Dn.], Gulbarga, rejecting the petition for re-determination of compensation u/s 28A of the Act, on the premise that the re-determination of compensation by order dated 7.4.2004 Annexure-R of the Deputy Commissioner, was inadequate since the petitioners claimed compensation of Rs. 2 lakhs per acre. There is no dispute that large tracts of land were acquired under the preliminary notification dated 22.12.1977 and the final notification u/s 6[1] of the Act. The land measuring 19 acres 10 guntas in Sy. No. 9/3 belonging to the petitioners was acquired along with several other lands, including the land bearing Sy. No. 5/1 under the very notification. The land

losers in Sy. No. 5/1 sought for enhancement of compensation and their claim was referred to the Civil Judge, [Sr. Dn.,], Gulbarga, in LAC No. 315/1993.

2. By Award dated 5.7.1997, the Civil Judge determined Rs. 78,000/- per acre as market value of the said lands. Immediately thereafter, on 19.7.1997, petitioners filed application u/s 28A of the Act, for re-determination of the compensation as awarded by the civil court in LAC No. 315/1993. The acquiring authority challenged the Award passed in LAC No. 315/199.3 before this court in MFA No. 2691/1997 while the land losers filed cross appeal No. 6/1998.

3. This court by order dated 9.6.2003, allowed the appeal in part, reduced the market value of the land from Rs. 78,000/- to Rs. 68,500/- per acre, and dismissed the cross appeal. That order, when called in question by the land losers in SLP before the Apex Court, was affirmed and the petition dismissed by order dated 23.1.2004. Thus, the market value of Rs. 68,500/- per acre in Sy. No. 5/1 subject matter of LAC No. 315/1993, became final and binding.

4. Petitioners' application u/s 28A of the Act was allowed by order dated 7.9.2004 re determining the market value of the land in Sy. No. 9/3 measuring 19 acres 10 guntas at Rs. 68,500/- per acre after deducting Rs. 4,000/- which was awarded by the Land Acquisition Officer, since the petitioners did not seek enhancement of compensation, by filing an application u/s 18[3] of the Act.

5. Petitioners not satisfied with the re-determination of the market value of the land acquired, filed Misc. No. 25/2007 invoking sections 28A[3] and 18[3] of the Act, for a fresh re-determination and enhancement of the compensation by fixing the market value of the land at Rs. 2 lakhs per acre. The civil court, having regard to the statutory provision u/s 28A of the Act, held that the Deputy Commissioner having already re-determined the compensation at the rate of Rs. 68,500/- per acre, as had been done in MFA No. 2691/1997, arising out of LAC No. 315/1993, held that there cannot be a fresh re-determination, so as to adjudicate petitioners' claim for enhancement of the compensation to Rs. 2 lakhs per acre. The civil court also noticed that section 18[3] of the Act cannot be brought into play by the petitioners after expiry of period of limitation for seeking enhancement of compensation u/s 18[3] of the Act. Accordingly, the Civil Judge declined to grant any relief to the petitioners by the order impugned. Heard learned counsel for the parties, perused the pleadings and examined the order of the Civil Court. In the facts and circumstances supra, it is needless to state that there cannot be a fresh re-determination of market value of acquired land in excess of what has been determined and awarded by the civil court. In the absence of a petition by the petitioners, within the time prescribed by law, for a reference over enhancement of market value of the property acquired u/s 18[3] of the Act and any other Award of the civil court or any other court, enhancing the market value of the land acquired under the preliminary notification dated 22.12.1977, it is not open for the petitioners to claim determination of the market value of the acquired land at Rs. 2 lakhs per acre. The reasons, findings and conclusions arrived at by the civil court, cannot be found to be either

perverse or illegal, calling for interference.

Petitions devoid of merit, are dismissed.