

(2015) 06 KAR CK 0116

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 6266 of 2013 (LAC)

Muddu Rangaiah

APPELLANT

Vs

The Special Land Acquisition Officer

RESPONDENT

Date of Decision : 23-06-2015

Acts Referred:

Constitution of India, 1950 — Article 300-A
Land Acquisition Act, 1894 — Section 10, 18(1), 4(1), 6(1), 9

Citation : (2015) 06 KAR CK 0116

Hon'ble Judges : N.K. Patil, J; Rathnakala, J

Bench : Division Bench

Advocate : Anup Seetharama Rao for B.C. Seetharama Rao, for the Appellant;
R. Omkumar, AGA, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

N.K. Patil, J.—This appeal is filed by the claimant being aggrieved by the impugned judgment and award dated 1st April 2013, passed in LAC No. 69/2008, by the Additional Senior Civil Judge, Ramanagara, ("Reference Court"), re-determining the market value of the land in question @ Rs. 8,00,000/- per acre, with all statutory benefits as envisaged under the relevant provisions of the Land Acquisition Act, only in so far as it relates to not awarding 10% towards appreciation value.

2. This appeal is filed by the claimant only in so far as it relates to not awarding 10% towards appreciation value on the ground that, there is a difference of one year five months in between the preliminary notification in the judgment relied upon by the Reference Court in LAC No. 11/2009 decided on 27/08/2012, and the notification issued in the impugned judgment and award passed by Reference Court. Therefore, another 10% per annum may be added towards appreciation value, in the light of the law laid down by the Hon"ble Apex Court and this Court, in hosts of judgments.

3. Facts in brief are, lands bearing Sy.No.108/4, measuring an extent of 01

gunta, Sy.No.107/3B, measuring an extent of 03 acres 03 guntas, Sy.No.118, measuring an extent of 01 acre 06 guntas, totally measuring an extent of 04 acres 17 guntas situate at Solur Village of Magadi Taluk were notified and acquired by the respondent for the purpose of Railway line by issuing a Preliminary Notification under Section 4(1) of the Land Acquisition Act, which was published in the Official Gazette on 4th August, 2004, followed by final declaration issued under Section 6(1) of the Act, which was published on 3rd August 2005. Thereafter, the Special Land Acquisition Officer, after issuing notices under Sections 9 and 10 of the Land Acquisition Act, calling for claim/objections from the notified Khatedars and other interested persons and after looking into various aspects and considering the nature of soil and potentiality of the lands acquired, passed the award on 18th January 2006, fixing the market value of the acquired lands at Rs. 3,86,580/- per acre. Not being satisfied with the said market value fixed by the Special Land Acquisition Officer, the claimant/appellant sought reference by filing claim petition under Section 18(1) of the Act and the same was numbered as L.A.C. No. 69/2008. The said matter came up before the Reference Court and the Reference Court, after hearing the parties and after taking into consideration the potentiality of the land and the development of the locality, the award passed by the Deputy Commissioner at Ex. P16 and House Valuation report at Ex. P6, has re-determined the market value of the acquired lands at Rs. 8,00,000/- per acre with all statutory benefits envisaged under the relevant provisions of the Land Acquisition Act, but, without adding 10% towards appreciation value in view of the difference between the issuance of two Notifications. Being aggrieved by the impugned judgment and award passed by Reference Court, in so far as it relates to not adding 10% towards appreciation value, the claimant/appellant has presented this appeal, seeking to modify the impugned judgment and award passed by Reference Court.

4. The submission of Shri. Anup Seetharama Rao, appearing for Shri. B.C. Seetharama Rao, learned counsel appearing for claimant/appellant, at the outset is that, the Reference Court has erred in not awarding additional 10% towards appreciation value in respect of the lands in question. To substantiate his submission, he is quick to point out and submit that, in the judgment and award passed by the Reference Court in L.AC.No.11/2009, decided on 27th August 2012 and also LAC No. 36/2008, it has awarded a sum of Rs. 8.00 lakhs per acre with all benefits as envisaged under the relevant provisions of the Act.

5. In the said relied upon LAC, the date of issuance of preliminary notification is 10th March 2003, whereas in the case on hand, the preliminary notification issued is on 4th August 2004. Thus there is difference of one year and five months in between the two Preliminary Notifications and there would certainly be rise in prices of the lands in question, during this period. To further substantiate their case, learned counsel relied upon the Division Bench decision of this Court in the case of H. Narayaniah and etc. Vs. The Land Acquisition Officer, Bangalore, AIR 1981 Kar 26 : (1980) 2 KarLJ 441 , wherein it is held that the appreciation of 10% per annum is quite modest and reasonable. He further submitted that, he

had relied upon a decision of this Court reported in 1980 (2) KLJ 441, wherein this Court has allowed 10% appreciation for market value. But, the same is rejected holding that the same is not applicable to the present set of facts as, the said property was situated in Bangalore and the present one is at Magadi Taluk. Therefore, he vehemently submitted that, the impugned judgment and award passed by Reference Court is liable to be modified, awarding additional 10% towards appreciation value from the date of issuance of Preliminary Notification under Section 4(1) of the Act and determine the compensation in respect of the lands in question.

6. Per contra, learned Additional Government Advocate appearing for respondent sought to justify the impugned judgment and award passed by Reference Court, stating that the same is passed after due consideration of the entire material available on file, by recording a specific finding of fact at paragraphs 8 and 9 of its judgment. Therefore, interference in the same is uncalled for.

7. We have heard learned counsel appearing for claimant/appellant and learned Additional Government Advocate appearing for respondent and perused the impugned judgment and award passed by the Reference Court. After perusal of the entire material available on record, it emerges that the lands in question have been notified and acquired for the purpose of railway line. Admittedly, in view of Article 300-A of the Constitution of India and well settled law laid down by the Hon'ble Apex Court and this Court in catena of decisions, the land-looser is entitled to just and reasonable compensation as per the market value that prevailed as on the date of issuance of preliminary Notification.

8. Further, as rightly pointed out by the learned counsel appearing for claimant/appellant and in the light of the judgments of the Apex Court and this Court in catena of decisions, and considering the nature of soil, potentiality of land, suitability of land, purpose for which it has been notified and acquired, development that has taken place in and around the locality, etc. the Reference Court has awarded compensation of a sum of Rs. 8.00 lakhs per acre in LAC No. 11/2009 decided on 27th August 2012. In the said LAC, as rightly pointed out by the learned counsel appearing for claimant, the date of issuance of Preliminary Notification is 10/03/2003 and in the instant case, the Preliminary Notification is issued on 4th August 2004 and there is a difference of one year five months in between the two Notifications. When such being the case, the claimant is definitely entitled to 10% towards escalation in cost of the lands. In spite of the judgments being placed before the Reference Court, the Reference Court has brushed aside holding that the said rulings are not applicable to the present set of facts as it is the property situated at Bangalore and the present one is situated at Magadi Taluk. But, it should not be forgotten that admittedly, there is a gap of one year five months in between the issuance of two Preliminary Notifications. There is bound to be rise in prices of lands/properties and some appreciation value is liable to be added to the market value determined by the Reference Court, in the light of the ratio of law laid down by the Hon'ble Apex Court and

this Court in catena of decisions.

9. After carefully going through all the relevant judgments, it is crystal clear that the land-loosers are entitled to get just and reasonable compensation in respect of their acquired lands. It is the statutory right of each and every owner of the land to get just and reasonable compensation as envisaged under Article 300-A of the Constitution of India.

10. Therefore, having regard to the facts and circumstances of the case, nature of soil, potentiality of land, purpose for which it is acquired, geographical location and also the sky-rocketing of the prices of lands around the area in question, and also applying the ratio of law laid down by the Hon''ble Supreme Court and this Court in hosts of decisions, we deem it fit and proper to add the appreciation value at the rate of 10% per annum, to meet the ends of justice and to safeguard the interest of both the parties.

11. In the light of the discussion made above, the appeal filed by claimant/appellant is allowed in part.

The impugned judgment and award dated 1st April 2013, passed in LAC No. 69/2008, by the Additional Senior Civil Judge, Ramanagara, is hereby modified, awarding additional 10% per annum towards appreciation value from the date of issuance of preliminary notification.

Rest of the order passed by the Reference Court remains undisturbed.