

(2015) 02 KAR CK 0239

In the Karnataka High Court

Case No : MSA Nos. 1138, 1137, 1139, 1140, 1141 and 1142 of 2013

Naganna and Others

APPELLANT

Vs

The Spl. Land Acquisition Officer

RESPONDENT

Date of Decision : 18-02-2015

Acts Referred:

Citation : (2015) 02 KAR CK 0239

Hon'ble Judges : K.N. Phaneendra, J.

Bench : Single Bench

Advocate : S.S. Kumman, for the Appellant; Archana P. Tiwari, HCGP, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

K.N. Phaneendra, J.—The above said respective appellants preferred the appeals against the judgment and award passed in LACA Nos. 97/2006 to 102/2006, being not satisfied with the award passed by the Appellate Court.

2. There is no dispute whatsoever with regard to the lands of the appellants were being acquired which are situated at Gadilingadahalli village, Tq: Chincholi, Dist; Gulbarga, for the purpose of submergence in lower mullamari project through the land acquisition officer by issuing 4(1) notification dated 04.03.1993. The said land acquisition officer has awarded a meagre amount and inadequate compensation of Rs. 15,000/- per acre for irrigated land (wet land) and Rs. 10,000/- per acre for dry land and Rs. 800/- for port kharab etc. On reference the Reference Court enhanced Rs. 33,000/- per acre for dry land and Rs. 49,500/- per acre so far as wet lands are concerned. The lands of the appellants acquired are in Sy. Nos. 17/B, 17/A, 17/1, 18/1, 18/5 and 18/6 of Gadilingadalli village. In the LAC appeals noted above in Nos. 97/2006 to 102/2006, the judgment and award were modified and the amount was enhanced to Rs. 70,000/- per acre so far as wet lands are concerned, Rs. 45,000/- per acre so far as dry lands are concerned will all necessary statutory benefits. However, it is stated by the Appellate Court in LAC No. 101/2006 though it is an irrigated land

(MSA No. 1138/2013) it only awarded a sum of Rs. 45,000/- per acre though found the said land was wet land on the ground that the appellant has restricted his claim to only Rs. 45,000/-.

3. Sri S.S. Kumman, learned counsel for the appellants strenuously contends before the Court so far as the other appeals are concerned except MSA No. 1138/2013 the Trial Court has awarded the compensation but so far as MSA No. 1138/2013 is concerned it could not have been restricted the amount to Rs. 45,000/- because it is the just and reasonable compensation which requires to be awarded by the Courts. Even though the Court fee is not paid, the Court has to award just and reasonable compensation and call upon the party to pay deficit Court fee. In spite of that if the party does not pay Court fee then only he is entitled for the restricted amount of compensation.

4. Be that as it may, before this Court in MSA No. 1138/2013, the appellant has claimed compensation even submitting before this Court that the compensation awarded by the IV Addl. District Judge, Gulbarga, is also not just and reasonable. Therefore, the said question need not be considered in detail by this Court as this Court is considering on over all looking into the materials on record in all the above said cases what is just and reasonable compensation that requires to be awarded by the Court.

5. Learned counsel for the appellants in all the above said cases submits that this Court in MFA No. 30171/2010 between (Mahalingappa since dead by his LRs Mahadevi and others v. The Special Land Acquisition Officer, M and MIP Gulbarga) vide order dated 19.03.2010 has considered the similar cases wherein the lands of the same village were acquired for the same purpose in the year 1993 and awarded the compensation @ Rs. 78,000/- per acre in respect of dry land with all statutory benefits so far as wet lands are concerned the said decision does not say anything. Nevertheless it should be calculated as one and half times more proportionate to the award passed in respect of dry lands. Therefore, it would work out to 1,17,000/- per acre so far as wet lands are concerned.

6. I have carefully perused judgment and in all the above cases, it is seen that the lands in Sy.115 to the extent of 11 acres of 8 guntas situated at Gadilingadhalli village of Chincholi Taluk was acquired under the preliminary notification dated 18.03.1993 for the same purpose of construction of lower mullamari project for the purpose of submergence. Therefore, it goes without saying that the lands are the subject matter in those appeals are also acquired for the same purpose of the same village under the notification in the same year. Therefore, I do not find any strong reasons to differ from the award already passed by this Court in the above said case.

7. Further added to that the Smt. Archana P. Tiwari, learned High Court Government Pleader on query by the Court submitted that MFA No. 30171/2010 was not subjected to any appeal and in fact the award passed by this Court in

the said case has already been satisfied by the Government. She files a memo along with the information furnished by the Government in this regard.

8. In view of the above said facts and circumstances, the following order is passed.

ORDER

The award passed by the IV Addl. District Judge, Gulbarga are modified. Consequently, the market value of acquired land of the appellants, claimants in MSA Nos. 1137, 1139, 1140, 1141, 1142 of 2013 are enhanced to Rs. 78,000/- per acre and the market value of the acquired land of appellant in MSA No. 1138/2013 is enhanced to Rs. 1,17,000/- per acre.

It is observed that in MSA No. 1140/2013 only an amount of Rs. 65,000/- has been claimed as the compensation is enhanced to Rs. 78,000/- per acre. The appellant is liable to pay the deficit Court fee before this Court in order to have enhanced compensation.

The appellants are not entitled for interest for the delayed period in preferring the appeal as observed by this Court at the time of condoning the delay.

Accordingly, the appeals are partly allowed with costs.

Office is hereby directed to keep the original judgment in MSA No. 1137/2013 and keep the copies in other cases.