

(2016) 08 KAR CK 0045

In the Karnataka High Court

Case No : Writ Petition No. 15633 to 15637 of 2016.

**Ningaraju Alias C.K. Lingaraju and Others - Petitioners @HASH The
Special Land Acquisition Office, Karnataka Industrial area Development
Board, Bangalore**

Date of Decision : 10-08-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Industrial Areas Development Act, 1966 — Section 29(2)

Citation : (2016) 6 KantLJ 350

Hon'ble Judges : S. Abdul Nazeer, J.

Bench : Single Bench

Advocate : Sri Prakash M.H. Advocate, for the Petitioner; Sri P.V. Chandrashekar, Advocate, for the Respondent

Final Decision : Disposed Off

Judgement

S. Abdul Nazeer, J. - I have heard the learned Counsel for the parties.

2. A general award in respect of lands bearing Sy. Nos. 419/1 measuring 33 guntas and 419/2 measuring 22 guntas of Cheelur Village, Maralavadi Hobli, Kanakapura Taluk was made by the respondent as per Annexure-D, dated 30-12-2013. A title dispute in relation to the said properties between the parties was pending in O.S. No. 288 of 2013. The said suit has now been compromised between the parties before the Lok Adalath. The award of the Lok Adalath dated 8-1-2016 is at Annexure-F.

3. Learned Counsel for the parties submit that since the dispute between the parties has been settled, they are agreeable to receive the compensation in respect of the aforesaid lands from the respondent in terms of Section 29(2) of Karnataka Industrial Areas Development Act, 1966 ("KIAD Act" for short).

4. In an identical case in W.P. No. 6198 of 2015 (LA-KIADB), disposed of on 25-8-2015 (between Smt. Ningamma v. State of Karnataka and Others 2015(6) Kar. L.J. 328), this Court has set aside the general award and permitted the parties to receive the compensation under Section 29(2) of the KIAD Act. It has

been held as under:

"Petitioner is assailing the general award dated 30th December, 2013, Annexure-A, of the 3rd respondent-Karnataka Industrial Area Development Board (for short, "KIADB") insofar as it relates to 1 acre 39 guntas in Sy. No. 444 of Cheeluru Village, Maralavadi Hobli, Kanakapura Taluk, Ramanagara District, on the premise that her claim for determination of compensation ought to be by way of an agreement under sub-section (2) of Section 29 of the Karnataka Industrial Areas Development Act, 1966 (for short, "KIAD Act") since willing to the enter into an agreement after having obtained a compromise decree dated 6-12-2014 in O.S. No. 126 of 2013 where under the property in question is declared to be the absolute property of tire petitioner.

2. Sub-section (2) of Section 29 of the "KIAD Act" provides for determination of compensation by an agreement and in the light of the compromise decree where under, the property in question has fallen to the exclusive share of the petitioner, is entitled to such a consideration, since it is stated that by such an agreement, petitioner would be entitled to a better price as compensation instead of determination under a general award, while acquisition proceeding would attain a finality dis-entitling petitioner to challenge the same in this petition. In the circumstances, there is a need to interfere with general award Annexure-A insofar as it relates to petitioner's land.

3. In the result, this petition is allowed, general award Annexure-A insofar as it relates to petitioner is concerned is quashed. A direction shall ensue to respondent-KIADB to consider the case of the petitioner for determination of compensation by way of an agreement under Section 29(2) of the "KIAD Act" to be complied with as expeditiously as possible within an outer limit of 31st October, 2015. It is made clear that this order is applicable only if there is any dispute to title in the immovable property acquired and if there is one, the general award in respect of petitioner is concerned shall stand restored until the dispute is resolved."

5. For the reasons stated in the aforesaid order, the general award at Annexure-D, dated 30-12-2013 in respect of the aforesaid survey numbers is hereby quashed. The KIADB is directed to consider the case of the petitioners for determination of compensation in terms of Section 29(2) of KIAD Act. Compliance within eight weeks from the date of receipt of a copy of this order. The respondent is permitted to withdraw the amount in deposit in the Civil Court. Writ petitions are disposed of accordingly. No costs.