

(2013) 06 KAR CK 0195
In the Karnataka High Court
Case No : Writ Appeal No. 2474 of 2013 (LA-BDA)

N.R. Ravi

APPELLANT

Vs

The Commissioner, Bangalore Development Authority and
Another

RESPONDENT

Date of Decision : 03-06-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 12(2), 18(3)(b), 28-A(1), 30, 31

Citation : (2013) 4 KarLJ 406

Hon'ble Judges : D.H. Waghela, C.J.;B.V. Nagarathna, J

Bench : Division Bench

Advocate : R. Bhadrinath for M/s. Southern Law Associates, for the Appellant;

Final Decision : Dismissed

Judgement

B.V. Nagarathna, J.—The order of the Special Land Acquisition Officer, Bangalore Development Authority, Bangalore, dated 19-9-2008 as well as the order of the City Civil Court at Bangalore (Reference Court), in LAC No. 127 of 2008 were assailed in N.R. Ravi Vs. The Commissioner, Bangalore Development Authority and Another, W.P. No. 23367 of 2012. The learned Single Judge by his order dated 26-2-2013 has rejected the writ petition on the premise that the applications made by the petitioner under Sections 28-A(1) and 18(3)(b) of the Land Acquisition Act, 1894 (hereinafter referred to as the "Act"), were belated. The said order is in challenge in this appeal. The relevant facts of the case are that by Notifications dated 17-6-1993 and 11-3-1994, petitioner's lands were sought to be acquired. An award was passed on 31-3-1997 and possession of the petitioner's lands were taken on 10-11-1997. The petitioner along with others sought reference under Sections 30 and 31 of the Act in LAC No. 125 of 1999. It is relevant to note that no application u/s 18(3)(b) of the Act was filed then seeking enhancement of compensation. LAC No. 125 of 1999 was disposed of on 2-7-2008. Thereafter, petitioner filed an application u/s 28-A of the Act on 19-9-2008, seeking enhancement of compensation based on the award passed in

LAC No. 220 of 2000, dated 31-1-2006. The said application was rejected by an order dated 9-2-2009 (Annexure-E). The petitioner also filed an application u/s 18(3)(b) of the Act, before the Reference Court, in LAC No. 127 of 2008 and the same was rejected on 29-2-2012 (Annexure-F1). The learned Single Judge while confirming the said orders has rejected the said writ petition, against which, this appeal has been filed.

2. Learned Counsel for the appellant has submitted that the application filed u/s 28-A of the Act, could not have been rejected by the Special Land Acquisition Officer of the Bangalore Development Authority on the ground that it was belated. He stated that after the award being passed on 31-3-1997, LAC No. 125 of 1999 was filed under Sections 30 and 31 of the Act, seeking apportionment of compensation and the same was disposed of on 2-7-2008 and within a period of three months from the said date, the application u/s 28-A has been filed on 19-9-2008. Therefore, the said application is in time.

3. We find that the said submission is wholly misconceived and is contrary to Section 28-A of the Act. Sub-section (1) of Section 28-A states that redetermination of compensation is sought in the absence of an application filed u/s 18 of the Act on the premise that under the same notification, there has been enhancement made by the Court. Then, in such a case, the application has to be filed within three months from the date of the award of the Court. While computing the period of three months within which an application has to be made for redetermination, the day on which the award was pronounced and the time requisite for obtaining a copy of the award has to be excluded. In the instant case, redetermination is sought on the basis of the award passed in LAC No. 220 of 2000, dated 31-1-2006. Therefore, the application filed u/s 28-A had to be filed within three months from the date of the said award of the Court after excluding the period of obtaining the certified copy thereof.

4. The expression "Court", has been defined in clause (d) of Section 3 of the Act (Karnataka Amendment), to mean the Principal Civil Court of original jurisdiction and includes any other Civil Court empowered by the State Government by a notification in the Official Gazette, to perform functions of the Court under the Act within any local limits of its jurisdiction. Therefore, the expression Court refers to the Reference Court and the Second Additional City Civil and Sessions Judge at Bangalore, is the designated Court which passed the award in LAC No. 220 of 2000 on 31-1-2006 enhancing the compensation. If the petitioner intended to seek redetermination of the compensation in respect of his lands then the application u/s 28-A had to be filed within three months from the date of the said award and not within three months from the date of the order passed in LAC No. 125 of 1999 filed under Sections 30 and 31 of the Act by the petitioner along with others before the Reference Court. Therefore, the Special Land Acquisition Officer was right in rejecting the application filed u/s 28-A of the Act, as being belated in time. Also, the Reference Court was right in rejecting the application filed u/s 18(3)(b) of the Act. In the first place, such an application

was not maintainable, having regard to the petitioner filing an application u/s 28-A of the Act. That apart, u/s 18(3)(b) of the Act (Karnataka Amendment), the application has to be made within 90 days from the date of service of notice from the Deputy Commissioner u/s 12(2) of the Act and the Deputy Commissioner has to consider the said application within 90 days from the date of receipt of the same. If the Deputy Commissioner/Special Land Acquisition Officer does not make a reference to the Court within a period of 90 days from the period of receipt of application, then the applicant can apply to the Court to direct the Deputy Commissioner to make the reference and the Court may direct the Deputy Commissioner to make the reference within such time, as the Court may fix. In the instant case, when possession itself is taken on 10-11-1997, it would have been preceded by a notice u/s 12(2) of the Act. Therefore, filing of the application u/s 18(3)(b) of the Act, was also highly belated and also not maintainable. Therefore, the order of the Reference Court dated 29-2-2012 also would not call for any interference. As there is no merit in this appeal, it is dismissed.