

(2013) 02 KAR CK 0037

In the Karnataka High Court

Case No : Writ Petition No. 23367 of 2012 (LA-BDA)

N.R. Ravi

APPELLANT

Vs

The Commissioner, Bangalore Development Authority and
Another

RESPONDENT

Date of Decision : 26-02-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 18(3)(b), 28-A, 28-A(1)
Limitation Act, 1963 — Section 5

Citation : (2014) 1 AKR 137 : (2013) 4 KarLJ 404

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : R. Bhadrinath, for the Appellant; Vishnu D. Bhat, for the Respondent

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—In the admitted facts that petitioner's land when acquired by the respondent-Bangalore Development Authority for the formation of an outer ring-road, petitioner did not file an application for redetermination of compensation by way of enhancement, u/s 18, nevertheless made an application u/s 18(3)(b) of the Land Acquisition Act, 1894 (for short, "LA Act") which the Civil Court rejected by order dated 29-2-2012 in LAC No. 127 of 2008 - Annexure-B, and the rejection of the application dated 19-9-2008 u/s 28-A by order dated 9-2-2009 - Annexure-E of the Land Acquisition Officer, assailed in this petition, do not call for interference, regard being had to the fact that admittedly the applications were filed beyond the period prescribed under Sections 18 and 28-A of the LA Act. No exception can be taken to the reasons, findings and conclusions arrived at by the authorities. In State of Karnataka Vs. Laxuman, the larger Bench of the Supreme Court observed thus:

22. An application u/s 18(3)(b) of the Act is to compel a reference by the Deputy Commissioner. We have held that on the expiry of three years and 90 days from the date of the application for reference seeking enhancement the right of the

Deputy Commissioner to make the reference comes to an end. In that context, and in the context of the fact that the claimant himself loses his right to move the Court for compelling a reference, it is not possible to hold that by invoking Section 5 of the Limitation Act, 1963 before the Land Acquisition Court the claimant can get over the bar to the remedy created by Section 18 of the Act. We are, therefore, of the view that Section 5 of the Limitation Act would have no application while approaching the Court u/s 18(3)(b) of the Act and if the application is not within the time as indicated above, the same has only to be dismissed as was done in The Addl. Spl. Land Acquisition Officer, Bangalore Vs. Thakoredas, Major and others,

2. Sub-section (1) of Section 28-A required the petitioner to file the application within 3 months from the date of the award of the Court, which in the facts of the case, is the judgment dated 28-8-2007 in MFA No. 6781 of 2006 while the application u/s 28-A is filed on 19-9-2008.

Petitioner devoid of merit, is rejected.