

(2014) 11 KAR CK 0052

In the Karnataka High Court

Case No : Writ Appeal Nos. 100375-382/2014 (LA-KIADB)

Pushpavathi

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 12-11-2014

Acts Referred:

Karnataka Industrial Areas Development Act, 1966 — Section 28(1), 28(2), 28(3), 28(4), 3(1)

Citation : (2014) 11 KAR CK 0052

Hon'ble Judges : Mohan M. Shantana Goudar, J; Ashok B. Hinchigeri, J

Bench : Division Bench

Advocate : Hanumanthareddy Sahukar, Advocate for the Appellant; R.M. Kulkarni, P.N. Hatti, Advocates and C.S. Patil, Govt. Advocate, Advocate for the Respondent

Judgement

Mohan M. Shantana Goudar, J.—The order dated 29.11.2013 passed by the learned Single Judge in writ petition Nos. 82948-955/2013 (LA-KIADB) is called in question in these appeals by the land losers.

2. The records reveal that the writ petitioners/appellants herein are the owners of various agricultural lands; the Government of Karnataka issued a notification under Section 28(1) of the Karnataka Industrial Area Development Act, 1966 Thereinafter referred to as "the Act", for short) expressing its intention of acquiring the land to an extent an extent of 3490.22 acres. Prior to the issuing of said notification, a notification was issued under Section 3(1) of the Act, to which the petitioners had filed their statement of objections. The petitioners filed the statement of objections to the notification issued under Section 28(1) of the Act, also. According to the writ petitioners/appellants, though statement of objections are filed, they were not notified and consequently were not heard by the concerned authorities before issuing the final notification. The final acquisition notification issued under Section 28(1) of the Act is questioned by the petitioners in respect of their lands by filing writ petition Nos. 82948-955/2013. The learned Single Judge after hearing the parties on both sides, dismissed the writ petitions

by the impugned order dated 29.11.2013.

3. Heard Sri. Hanumanthareddy Sahukar, learned Counsel appearing for the appellants, Sri. P.N. Hatti, learned counsel appearing for the respondent No. 3 and the learned Government Advocate.

4. Sri Hanumanthareddy Sahukar, learned advocate for the appellants submits that the appellants/writ petitioners were not notified after filing the statement of objections and consequently they were not orally heard in the matter before issuing the final notification under Section 28(4) of the Act. The lands in question are fertile and are yielding two crops in a year and therefore, the same ought not have been acquired by the respondents contrary to the circular dated 03.03.2007 issued by the State Government.

5. The learned Single Judge has considered the first question raised by the appellants before this Court that they were not heard in the matter before issuing the final notification. In paragraph 10 of the impugned order, the learned Single Judge has observed that such objections of the appellant are liable to be rejected in as much as the records disclose that, the proceedings were taken in the presence of the land losers and their objections were heard and taken on record by the Special Land Acquisition Officer. On facts, the learned Single Judge has recorded the finding that the hearing has taken place as required under Section 28(3) of the Act and reasons have been assigned in the order sheet maintained by the Special Land Acquisition Officer for rejecting the statement of objections filed by the petitioners/appellants herein. In view of the finding of fact recorded by the learned Single Judge, which is based on records, the first argument of the appellants fails.

6. Insofar as the second argument relating to fertility of the land etc., though such a ground is taken by the writ petitioners in the writ petition, the said ground was not urged before learned Single Judge at the time of final arguments. Had the writ petitioner argued such point before the learned Single Judge, there would have been definitely consideration of the same. It is relevant to note that the arguments advanced on behalf of the appellants are recorded in the course of impugned order. But no such point seems to have been argued by the writ petitioners before the learned Single Judge.

7. Be that as it may, as could be seen from the order of the learned Single Judge, it is clear that the reasons are assigned by the Special Land Acquisition Officer for rejecting the statement of objections. The appellants rely upon the circular dated 03.03.2001. There is no mention of such circular in the statement of objections filed by the writ petitioners/appellants herein in their statement of objections. More importantly, the statement of objections are filed by the writ petitioners after about 5 months to Vh years. The single statement of objections were not filed by the writ petitioners within 30 days as contemplated under Section 28(2) of the Act. Therefore, the Land Acquisition Officer was not obliged to consider such belated statement of objections.

8. Be that as it may. Even if the statement of objections were filed belatedly, the Special Land Acquisition Officer has considered such statement of objections and thereafter has arrived at conclusion on merits. Along with the land of the writ petitioners/appellants, number of other properties to an extent of more than Rs. 3,000/- acres are acquired for formation of industrial layout. The learned Government Advocate brings to the notice of the Court that the already the layout is being formed after allotment of the industrial land in favour of the beneficiaries. The possession has already been taken and the same is handed over in favour of the beneficiaries. The beneficiaries are developing the lands in question.

9. In addition to the same, we note that the learned Single Judge is justified in dismissing the writ petition on the ground of delay and laches also. There is a delay of about two years and five months in approaching this Court by filing the writ petition questioning the acquisition notifications. The learned Single Judge has found that the writ petitioners have not explained the delay satisfactorily.

10. In view of the same, we do not find any ground to interfere in the impugned order dated 29.11.2013 passed in writ petitions No. 82948-955/2013 (LA-KIADB).

The appeals fail and the same are dismissed.

As the main appeals are disposed of, I.A. 2/2014, I.A. 3/2014, I.A. 4/2014 and I.A. 5/2014 do not survive for consideration and are accordingly dismissed.