

(2015) 08 KAR CK 0012

In the Karnataka High Court

Case No : Writ Petition No. 3960 of 2015 (LA-KIADB)

Puttarasamma

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 24-08-2015

Acts Referred:

Karnataka Industrial Areas Development Act, 1966 — Section 18, 29

Citation : (2015) 6 KarLJ 417 : (2016) 1 KCCR 249

Hon'ble Judges : Ram Mohan Reddy, J.

Bench : Single Bench

Advocate : V.R. Balaraj, Advocate, for the Appellant; Y.D. Harsha, Additional Government Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—1 acre 1 gunta of land in Sy. No. 166/4 of Cheeluru Village, Maralavadi Hobli, Kanakapura Taluk, Ramanagara District said to be owned by Y.D. Singrigowda when proposed for acquisition, amongst large tracts of land, for forming an industrial area by the respondent-Karnataka Industrial Areas Development Board (KIADB) led to a general award dated 30-12-2013 under the Karnataka Industrial Areas Development Act, 1966 (for short, "KIAD Act"). It is said that in the meanwhile Singrigowda reportedly died on 28-4-2011 represented by his widow-petitioner. It is further stated by learned Counsel, that certain civil disputes arose over petitioner's right, title and interest through Singrigowda, in respect of 1 acre 1 gunta of land in Sy. No. 166/4 in O.S. No. 398 of 2014 which was resolved by a compromise petition leading to a judgment and decree dated 3-12-2014 in terms of the compromise. Petitioner's grievance is that the determination of compensation for the acquired land, in terms of the general award is far less than that available if consent is extended for determination of compensation by agreement under sub-section (2) of Section 29 of the KIAD Act and therefore, has presented this petition on 30-1-2015 to quash the general award, Annexure-G insofar as it relates to the petitioner's

property and for a mandamus to consider the claim of the petitioner for determination of compensation by way of an agreement under sub-section (2) of Section 29 of the KIAD Act. Despite the fact that the suit instituted by third parties challenging the title of the petitioner to the immovable property in question resulted in a judgment and decree by way of compromise during December 2014, nevertheless this petition is filed on 30-1-2015 without disclosing the said fact. Moreover there is nothing on record to establish a compromise and that the suit ended in terms of the compromise by judgment and decree dated 3-12-2014.

2. Petitioner did not question the general award nor make an application before the Special Land Acquisition Officer for reference under Section 18 of the Land Acquisition Act, 1894 for enhancement of compensation. It is open for the petitioner to seek enhancement of compensation and not for this Court to entertain a writ to quash the general award and permit petitioner to seek determination of compensation by way of agreement. Petitioner has two courses open, one to approach the Civil Court for enhancement of compensation by filing a petition directing the Deputy Commissioner to refer the matter for such adjudication or to make a request to the Land Acquisition Officer to consider determination of compensation by way of agreement under sub-section (2) of Section 29 of the Act on the basis of the judgment and decree of the Civil Court wherein petitioner's title to the property acquired is confirmed. In the absence of such a representation, no writ of mandamus lies.

Reserving such liberty, this petition is rejected.