
(2013) 12 KAR CK 0381

In the Karnataka High Court

Case No : Writ Petition Nos. 31018 and 31019 of 2012 (LA-KIADB)

R. Annadanappa and Another

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 20-12-2013

Acts Referred:

Citation : (2014) 3 AKR 75 : (2014) 2 KarLJ 437

Hon'ble Judges : H. Billappa, J;Aravind Kumar, J

Bench : Division Bench

Judgement

H. Billappa, J.—In these writ petitions under Articles 226 and 227 of the Constitution of India, the petitioners have sought for writ of mandamus directing the respondents to pass an award in respect of the land bearing Sy. No. 11 measuring 1 acre 23 1/2 guntas acquired under notification dated 3-6-1999 based on the market value which was prevailing as on the date of filing the writ petitions. Briefly stated, the facts are:

The petitioners claim that they are the sons of late T.N. Ramaiah who was the owner of a portion of Sy. No. 11 of Uttarahalli Manavartheekaval Village measuring 3 acres 20 guntas. The land was acquired vide preliminary notification dated 3-6-1999 and final notification dated 8-4-2003. Thereafter, possession has been taken in the year 2005. In fact, the land has been utilised by the acquiring authority, but no award has been passed so far. In respect of the adjoining owners in the same survey number awards have been passed in the year 2006 itself. But, no award has been passed in respect of the petitioners' land. Therefore, the petitioners have prayed for a direction to the respondents to pass an award in respect of the land in Sy. No. 11 measuring 1 acre 23 1/2 guntas based on the market value which was prevailing as on the date of filing the writ petitions.

2. The respondents 2 and 3 have filed their statement of objections contending that the writ petitions are not maintainable. The land of the petitioners and others in Sy. No. 11 of Uttarahalli Manavartheekaval Village was notified for

acquisition vide preliminary notifications published in the Gazette dated 3-6-1999 and 23-3-2009. After conducting enquiry, final notifications were published in the Gazette on 8-4-2003 and 2-6-2009. Thereafter, the Board has fixed the compensation at the rate of Rs. 6,00,000/- per acre as agreed rate. In fact, nine persons have accepted the compensation in respect of the land in Sy. No. 11 of Uttarahalli Manavarthekeval Village.

3. On 21-6-2005, Sri T.N. Ramaiah, the father of the petitioners and Sri Lingappa, the brother of Ramaiah, who were the owners of certain extent of land in Sy. No. 11/2 have submitted their request to pay the compensation after taking actual measurements. Thereafter, survey has been conducted and it was found that Ramaiah was in possession of 1 acre and 25 1/2 guntas of land and Lingappa, the brother of Ramaiah was in possession of 1 acre of land and Krishnappa, the other brother of Ramaiah was in possession of 8 guntas of land. Based on the survey, Lingappa has received compensation for 1 acre on 24-10-2005. But, T.N. Ramaiah, the father of the petitioners has not produced the documents to receive the compensation. Thereafter, letters have been sent as per Annexures-R1 and R2. Notices sent on 25-10-2005 have been returned unserved. The father of the petitioners having agreed to receive the compensation has not produced the records or come forward to receive the compensation. The acquiring authorities have sent notices to conduct award enquiry. The notice sent to T.N. Ramaiah on 9-6-2009 has been returned. The brothers of Ramaiah have received the compensation at the agreed rate. The first petitioner was aware of the acquisition and compensation fixed. Copy of the notice issued on 17-10-2005 determining compensation at Rs. 9,82,500/- for the land of T.N. Ramaiah is produced as Annexure-R3. Therefore, the respondents 2 and 3 have prayed for dismissal of the writ petitions.

4. The respondents 4 and 5 have filed their statement of objections contending that they have filed a comprehensive writ petition in W.P. Nos. 35638 and 35639 of 2012 for a direction to the respondents to pass awards in accordance with law and pay compensation to the land losers in respect of the lands situated in various villages including the petitioners land. The respondents 4 and 5 have no objection for grant of prayer No. 1. Insofar as prayer No. 2 is concerned, it is misconceived and cannot be granted. The petitioners are entitled for compensation as per the market value which was prevailing on the date of preliminary notification u/s 28(1) of Land Acquisition Act, 1894 i.e., 3-6-1999 with other statutory benefits. The claim of the petitioners for compensation based on the market value which was prevailing as on the date of filing the writ petitions is misconceived and cannot be granted. Therefore, the writ petitions may be dismissed.

5. The learned Counsel for the petitioners contended that the land in Sy. No. 11 measuring in all 10 acres and 16 1/2 guntas was notified for acquisition vide preliminary notification dated 3-6-1999. Thereafter, final notification has been issued on 8-4-2003 and possession has been taken in the year 2005 itself. But,

no award has been passed so far. The petitioners' land measures 1 acre 20 guntas. Award has been passed in respect of others land except the land of the petitioners. The petitioners have not challenged the acquisition proceedings. The respondents may be directed to pass the award postponing the date of preliminary notification to the date of taking possession or to the date of filing the writ petitions.

6. Placing reliance on the decisions of the Hon'ble Supreme Court in *Ram Chand and Others Vs. Union of India (UOI) and Others*, ; *Competent Authority Vs. Barangore Jute Factory and Others*, and *Haji Saeed Khan and Others Vs. State of U.P. and Others*, , the learned Counsel for the petitioners submitted that if award is not passed within a reasonable time, then, the preliminary notification needs to be postponed to the date of taking possession. He, therefore, submitted that the respondents may be directed to pass the award postponing the date of preliminary notification to the date of taking possession or to the date of filing the writ petitions.

7. As against this, the learned Counsel for the respondents 2 and 3 submitted that the Board has fixed the compensation at Rs. 6,00,000/- per acre as agreed. Thereafter, notice has been sent to the petitioners' father Ramaiah. He and his brother Lingappa had given representation requesting to measure the land and pay compensation. Thereafter, Lingappa has taken compensation, but the petitioners' father has not taken the compensation. The petitioners' father having agreed to receive the compensation has failed to receive the compensation. Therefore, the respondents 2 and 3 have initiated award enquiry proceedings and notices have been sent. There is no fault on the part of the respondents 2 and 3 and therefore, question of postponing the date of preliminary notification does not arise. Therefore, the writ petitions may be dismissed.

8. The learned Counsel for the respondents 4 and 5 submitted that insofar as the first prayer is concerned, they had filed writ petitions in W.P. Nos. 35638 and 35639 of 2012 and this Court has directed to pass the awards including the land in question. Insofar as the second prayer is concerned, it is misconceived and cannot be granted.

9. We have carefully considered the submissions made by the learned Counsel for the parties.

10. The point that arises for our consideration is:

Whether the relief claimed in the writ petitions can be granted?

11. It is relevant to note, the land in Sy. No. 11 measuring in all 10 acres 16.5 guntas of Uttarahalli Manavartheekaval Village has been acquired vide preliminary notifications published in the Gazette on 3-6-1999 and 23-3-1999 and final notifications published in the Gazette on 8-4-2003 and 2-6-2009. Thereafter, the Price Advisory Committee in its meeting held on 25-8-2003 has fixed the price at

Rs. 6,00,000/- per acre in respect of the land in Sy. No. 11 of Uttarahalli Manavarthekeval Village which has been approved by the Board. In all, nine persons have received compensation. The father of the petitioners Sri T.N. Ramaiah and his brother Lingappa have given representation as per Annexures-R1 and R2 to measure the land and pay compensation. After taking measurement, it was found that Sri T.N. Ramaiah was in possession of 1 acre 25 1/2 guntas of land and Lingappa was in possession of 1 acre of land and Krishnappa another brother of Ramaiah was in possession of 8 guntas of land. Lingappa has received compensation for 1 acre. Similarly, Krishnappa has received compensation for 8 guntas. But, Ramaiah has not received the compensation. The records disclose that the first petitioner has signed the statement agreeing to receive the compensation at the rate fixed by the Price Advisory Committee. Notice has been sent to Ramaiah as per Annexure-R3 determining compensation at Rs. 9,82,500/-. In spite of that, Ramaiah, the father of the petitioners has not received the compensation. It is clear from the records, the parties have agreed to receive the compensation at the rate fixed by the Price Advisory Committee which has been approved by the Board. In fact, the first petitioner has signed the statement. Therefore, the petitioners cannot contend that no award has been passed within a reasonable time. As the petitioners' father has failed to receive the compensation, award enquiry notice has been sent to the petitioners' father. The records disclose that notice has been sent to the petitioners father Ramaiah and first petitioner has signed the copy having received the same. Therefore, it is clear, the proceedings have been initiated to pass the award. Apart from this, the respondents 4 and 5 had filed writ petitions in W.P. Nos. 35638 and 35639 of 2012 for writ of mandamus directing the acquiring authorities to pass the awards. This Court by its order dated 29-11-2013 has directed the concerned authorities to pass the awards within six months. The petitioners' land is also included in the said writ petitions. Therefore, a separate direction is Unnecessary. While it is true, as contended by the learned Counsel for the petitioners, if there is delay in passing the award, in some cases, the date of preliminary notification has been postponed to the date of taking possession. But in the present case, the land has been acquired and possession has been taken in the year 2005. Thereafter, within a reasonable time, the Board has fixed the compensation at the rate of Rs. 6,00,000/- per acre. The landowners of Sy. No. 11 have accepted it and except the petitioners' father, the others have received the compensation also. The petitioners father having agreed to receive the compensation has failed to receive the compensation. Therefore, the authorities cannot be blamed for that. In the circumstances of the case, in our considered view, there can be no direction to postpone the date of preliminary notification as claimed by the petitioners. As there is already a direction in W.P. Nos. 35638 and 35639 of 2012 to pass the awards within six months, it holds good for this case also.

Accordingly, the writ petitions are dismissed.