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**(2014) 07 KAR CK 0033**

**In the Karnataka High Court**

**Case No :** M.F.A. No. 11539 OF 2012 (LAC)

R. Narayanappa APPELLANT

Vs

The Special Land Acquisition Officer RESPONDENT

**Date of Decision :** 10-07-2014

**Acts Referred:**
Constitution of India, 1950 — Article 300-A
Land Acquisition Act, 1894 — Section 10, 18(1), 23, 4(1), 6(1)

**Citation :** (2014) 3 AKR 780 : (2014) ILR 5157 : (2014) 4 KCCR 3188

**Hon'ble Judges :** N.K. Patil, J;B. Sreenivas Gowda, J

**Bench :** Division Bench

**Advocate :** K.T. Gurudeva Prasad, Advocate for the Appellant; Vasanth. V. Fernandes, HCGP and Sowbhagya. N.A, Advocate for the Respondent

**Final Decision :** Allowed

## Judgement

N.K. Patil, J.—This appeal is filed by the claimant being aggrieved by the impugned judgment and award dated 31st May 2012, passed in LAC No. 14/2006, by the Senior Civil Judge & JMFC, Devanahalli, (''Reference Court''), wherein the Reference Court has fixed the market value of the land in question @ Rs. 4,45,500/- per acre, with all statutory benefits as envisaged u/s 23 of the Land Acquisition Act, on the ground that the said compensation awarded is on the lower side and liable to be enhanced substantially.

2. Brief facts of the case in hand are, land bearing Sy. No. 109, measuring 01 acre 34 guntas situate at Handarahalli village, Channarayapatna Hobli, Devanahalli Taluk, Bengaluru Rural District, was notified and acquired in favour of the beneficiary/Defence Research and Development Organization (DRDO) for the purpose of establishment of Electronic Warfare Range Project by issuing Preliminary Notification on 24-06-1999, u/s 4(1) of the Land Acquisition Act, published in the Official Gazette on 7th July 1999, followed by final declaration issued u/s 6(1) of the Act on 23-06-2000, published in the Official Gazette on 6th July 2000. Thereafter, the Special Land Acquisition Officer, after issuing notices

under Sections 9 and 10 of the Land Acquisition Act, calling for claim/objections from the notified Khatedars and other interested persons and after looking into various aspects and considering the nature of soil and potentiality of the land acquired, passed the award on 05-05-2001, fixing the market value of the acquired land at Rs. 1,50,000/- per acre. Not being satisfied with the said market value fixed by the Special Land Acquisition Officer, the claimant/appellant sought reference by filing claim petition u/s 18(1) of the Act and the same was numbered as L.A.C. No. 14/2006. The said matter came up before the Reference Court and the Reference Court, after hearing the parties and after taking into consideration the potentiality of the land and the development of the locality and also considering the fact that, the prices of land in and around the Bengaluru International Airport have sky-rocketed and considering its high commercial value and also following the judgment rendered by this Court at Exs. P7 and P8 and also taking note of the ratio of law laid down by the Punjab and Haryana High Courts and other material available on file, allowed the reference application filed by the claimant/appellant and re-fixed the market value of the acquired land at Rs. 4,45,500/- per acre with all statutory benefits envisaged u/s 23 of the Land Acquisition Act. Being further not satisfied with the said market value fixed by the Reference Court, the claimant/appellant has presented this appeal, seeking substantial enhancement of compensation on the ground that the compensation awarded by Reference Court is meagre and on the lower side.

3. The submission of the learned counsel appearing for claimant/appellant, Shri. K.T. Gurudeva Prasad at the outset is that, the Reference Court has erred in not awarding reasonable compensation in respect of the acquired land for the reason that the claimant/appellant has lost his valuable land, which is situated at Handarahalli village, near Bengaluru International Airport and is entitled to just and reasonable compensation. Further, he submitted that, the Reference Court has failed to appreciate the material available on its file and also the judgment rendered by this Court in M.F.A. No. 4949/2004 filed against the judgment passed by Reference Court in L.A.C. Nos. 66-68/1997, produced at Exs. P5 and P6, acquired for the same beneficiary and also for the same purpose, wherein this Court has re-determined the market value at the rate of Rs. 7,00,000/- per acre with all statutory benefits envisaged u/s 23 of the Land Acquisition Act. He further submitted that, against the said judgment and award passed by this Court in M.F.A. No. 2027/2003, the beneficiary/DRDO had approached the Hon''ble Apex Court in Civil Appeal No. 7269/2013 and connected matters, in which, the Hon''ble Apex Court, by its order dated 26th February, 2014, dismissed the Civil Appeal, confirming the judgment and award passed by this Court. Therefore, the same has reached finality. Hence, he submitted that, following the judgment and award passed by this Court in M.F.A. No. 2027/2003 in L.A.C. No. 263/1996, the appeal filed by claimant/appellant also may be allowed, re-determining the market value of the acquired land at Rs. 7,00,000/- per acre and thereafter, in the light of the Hon''ble Apex Court and this Court in catena of decisions, add appreciation value between 10% and 15%, from the

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date of issuance of Preliminary Notification for acquisition of similar lands, for a period of seven years and modify the impugned judgment and award passed by Reference Court, considering the geographical location, nature and potentiality of land, development of the locality, nearness to International Airport and National Highway and also the purpose for which it is notified and acquired.

4. Per contra, learned Government Pleader appearing for first respondent and learned counsel appearing for second respondent sought to justify the impugned judgment and award passed by Reference Court, stating that the same is passed after due consideration of the entire material available on file and interference in the same is uncalled for.

5. However, after going through the judgment and award passed by this Court in M.F.A. No. 2027/2003 filed against the judgment and award passed by Reference Court in L.A.C. No. 263/1996, arising out of the same village and notified and acquired for the same purpose, in favour of the same beneficiary, awarding Rs. 7,00,000/- per acre, which is confirmed by the Hon''ble Apex Court by its order dated 26th February 2014 passed in Civil Appeal No. 7269/2013 and connected matters, they do not dispute the same and fairly submitted that following the aforesaid judgment of the Division Bench of this Court in M.F.A. No. 2027/2003 in L.A.C. No. 263/1996, which is confirmed by the Hon''ble Apex Court by its order dated 26th February 2014 passed in Civil Appeal No. 7269/2013 and connected matters, the appeal filed by claimant/appellant may be allowed, re-determining the compensation at Rs. 7,00,000/- per acre with all consequential statutory benefits envisaged u/s 23 of the Land Acquisition Act.

6. However, so far as adding appreciation value between 10% and 15% per annum, for escalation of prices of lands in between the issuance of two Preliminary Notifications, as sought for by the learned counsel appearing for claimant/appellant, they submit that this is not a fit case for adding appreciation value and the compensation of Rs. 7,00,000/- per acre as awarded by the Division Bench of this Court in the aforesaid judgment may be awarded.

Further, they submitted that, adding 10% to 15% appreciation value per annum is not justifiable for the reason that the land in question has been notified and acquired for public purpose in favour of DRDO for extension of Research Centre and reasonable enhancement has already been made.

7. We have heard learned counsel appearing for claimant/appellant, learned Government Pleader appearing for first respondent and learned Counsel appearing for second respondent/DRDO and perused the impugned judgment and award passed by the Reference Court. We have also gone through the evidence of PWs 1 and 2 and the reliance placed by the claimant/appellant at Exhibits P1 to P8 and also the judgment and award passed by the Division Bench of this Court in M.F.A. No. 2027/2003 in L.A.C. No. 263/1996 (The Special Land Acquisition Officer Vs. N. Narayanareddy S/o. Doddamuniswamy Reddy and another), which is confirmed by the Hon''ble Apex Court, by its order dated 26th

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February 2014 in Civil Appeal No. 7269/2013 and connected matters.

8. After critical evaluation of the entire material placed before us, it is seen that, the acquisition proceedings initiated in the aforementioned case pertain to 1992 and in the instant case, the preliminary Notification is issued during 1999. There is difference of seven years between the two Preliminary Notifications. During the period of seven years, prices of the lands in and around the Bengaluru International Airport have sky-rocketed and in fact, nearby lands have already been acquired by the same beneficiary for establishment of Research Centre and the neighbouring area is well developed and having high commercial value and the land in question is acquired for extension of the existing Research Centre. Further, it is not in dispute that, the land in question is very near to International Airport, National Highway and also Bangalore city. In and around the said land, lot of residential layouts and large industrial establishments have cropped up including Schools and Colleges. Therefore, as rightly pointed out by the learned counsel appearing for claimant/appellant, there is no doubt that there is escalation in the prices of the land acquired and some appreciation value is liable to be added to the market value re-determined by this Court, in the light of the ratio of law laid down by the Hon''ble Apex Court and this Court in catena of decisions.

9. The question as to whether to give escalation due to increase in land value and to what percentage had come up before the Hon''ble Apex Court and also other High Courts in various cases. Some of them are, Salaha Begaum, etc. Vs. Special Land Acquisition Officer, , Jasarvinder Singh and Others Vs. President, Land Acquisition Tribunal and Others, .

10. After carefully going through all the aforesaid judgments, it is crystal clear that the land-loosers are entitled to get just and reasonable compensation in respect of their acquired lands. It is the statutory right of each and every owner of the land to get just and reasonable compensation as envisaged under Article 300-A of the Constitution of India.

11. It is not in dispute that, the acquired land is situated at Handarahalli village and having high potentiality of being urbanized and commercialized. The adjacent villages also have been notified and acquired for the same purpose of establishment of Research Centre and the surrounding area is well developed having commercial value. It is also not disputed that the acquired land in question is situate very close to Bengaluru International Airport and also National Highway and also Bangalore City limits. Since the neighbouring land has already been acquired by the very same beneficiary for establishment of Research Centre, lot of industries have come up, Schools and Colleges have cropped up and lot of residential layouts also have come up.

12. Further, it is significant to note, primarily, the increase in land prices depends on four main factors, viz. situation of the land, nature of development in surrounding area, availability of land for development in the area and the

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demand for land in the area. Since the land acquired in question has close proximity to National Highway and its nearness to Bengaluru International Airport, there is a great prospect of development in the vicinity and there is sudden spurt and jump in the prices and the all round development would be faster and the escalation in market price would be at a much higher rate. Due to establishment of Airport and also Research Centre, there is rapid development and high demand for the neighbouring land all around and escalations in prices have touched great height.

13. Therefore, having regard to the facts and circumstances of the case, nature of soil, potentiality of land, purpose for which it is acquired, geographical location and also the sky-rocketing of the prices of lands around the area of the Bengaluru International Airport and also applying the ratio of law laid down by the Hon''ble Supreme Court and other High Courts as referred above, we deem it fit and proper to add the appreciation value at the rate of 12% per annum, to meet the ends of justice and to safeguard interest of both the parties.

14. Admittedly, the earlier Preliminary Notification, under which the land acquired was issued during 1992 and the land in question is acquired vide preliminary Notification issued during the year 1999. There is a difference of seven years. Therefore, for a period of seven years, we have to give escalation at 12% per annum, to safeguard the interest of both the parties and to meet the ends of justice. Accordingly, 12% for a period of seven years for a sum of Rs. 7,00,000/- comes to Rs. 5,88,000/-, which is the appreciation value to be added to the market value re-determined by this Court, i.e. Rs. 7,00,000/- per acre. Accordingly, if we add the same, the total compensation payable to claimant comes to Rs. 12,88,000/- per acre with all consequential statutory benefits envisaged u/s 23 of the Land Acquisition Act.

15. In the light of the discussion made above, the appeal filed by claimant/ appellant is allowed.

The impugned judgment and award dated 31st May 2012, passed in LAC No. 14/2006, by the Senior Civil Judge & JMFC, Devanahalli, is hereby modified, fixing the market value of the acquired land at the rate of Rs. 12,88,000/- per acre (i.e. Rs. 7,00,000/- per acre + 12% appreciation value for seven years), with all consequential statutory benefits, envisaged u/s 23 of the Land Acquisition Act, as against Rs. 4,45,500/- per acre, awarded by Reference Court.

Learned Government Pleader is permitted to file memo of appearance on behalf of respondent No. 1, within four weeks from today.

Smt. Sowbhagya N.A., learned Counsel is permitted to file vakalath on behalf of second respondent within a period of four weeks from today.

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