
(2015) 08 KAR CK 0132

In the Karnataka High Court

Case No : Writ Petition No. 7833 of 2007 (LA-RES)

Ramappa

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 04-08-2015

Acts Referred:

Citation : (2015) 6 KarLJ 300

Hon'ble Judges : Ashok B. Hinchigeri, J.

Bench : Single Bench

Advocate : Mahantesh Patil for S.S. Patil, Advocate, for the Appellant; Ravi V. Hosamani, Additional Government Advocate and B.M. Angadi, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Ashok B. Hinchigeri, J.—The petitioner has called into question the preliminary notification, dated 8-11-2006 and the final notification, dated 14-3-2007 (Annexures-G and L respectively) acquiring the petitioner's land measuring 3 acres 20 guntas for providing burial ground to the people of Basava Hanchinal. Sri Mahantesh Patil, the learned Counsel for the petitioner submits that the acquisition of the land in question would have the effect of depriving the petitioner of his solitary source of livelihood. He submits that the land in question is a fertile agricultural land. He submits that there is already a burial ground just 2 kms. away from the petitioner's land. He submits that the whole exercise of acquiring the land is at the instance of the 3rd respondent-MLA.

2. Sri Ravi V. Hosamani, the learned Additional Government Advocate appearing for the respondents 1 and 2 submits that the statement that the petitioner has no other land is not correct. In addition to the land in question, the petitioner owns large extent of lands. He submits that the existing burial ground is at a distance of 3.2 kms. from Basava Hanchinal Village.

3. I do not see any infirmity in the acquisition proceedings in question. The

existence of another burial ground is not even one of the objections taken by the petitioner in response to the preliminary notification. Be it as it may, the residents of one village cannot be compelled to take the dead body of a resident of their village to another village. As far as the choice of the land for a burial ground or for any other public purpose is concerned, it would be in the realm of the executive. The Court would not substitute its wisdom for the wisdom of the Government.

4. In the result, this writ petition is dismissal negating the challenge to the acquisition proceedings. However, it is open to the petitioner to seek the enhancement of compensation in accordance with law. Alternatively, it is also open to the petitioner to approach the Government seeking the withdrawal of the land from acquisition, provided the possession of the land is not yet taken from the petitioner. However, such an observation should not be considered as a direction to the Government to withdraw the land from the acquisition. It is for the Government to take a call on the issue as to whether the land is required for the burial purpose or not. No order as to costs.