(2015) 07 KAR CK 0203

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 102709 of 2014 [LAC]

Rangappa and Others APPELLANT

Vs

The Land Acquisition Officer and Assistant Commissioner and Others RESPONDENT

Date of Decision : 16-07-2015

Acts Referred:
Land Acquisition Act, 1894 — Section 23(1-A), 34, 4(1)

Citation : (2015) 07 KAR CK 0203

Hon'ble Judges : B. Veerappa, J

Bench : Single Bench

Advocate : Rajashekhar B. Halli, for the Appellant; Ravi V. Hosamani, AGA, Advocates for the Respondent

Final Decision : Partly Allowed

Judgement

B. Veerappa, J—The claimants have filed the above appeal against the impugned judgment and award dated 29.07.2013 made in LAC No. 142/2011 granting award of Rs. 1,80,000/- per acre, with all the statutory benefits.

2. It is the case of the appellants that the respondents acquired 1 acre 6 guntas in land bearing Sy. No. 60/1B of Metagudd village, Mudhol Taluk, for the purpose of construction of canal, issued a Preliminary Notification under Section 4(1) of the Land Acquisition Act, 1894 (for short the Act) on 08.09.2006 and subsequently, an award was passed by the Land Acquisition Officer on 31.12.2008, fixing Rs. 54,435/- for the dry land, considering the acquired land of the claimants are dry land. The claimants filed reference petition before the Court and after considering the matter, the reference Court, by impugned order, has granted Rs. 1,80,000/- with all statutory benefits. Against the said judgment and award, the present appeal is filed.

3. I have heard the learned counsel for the parties to the lis.

4. Sri. Rajashekhar B. Halli, learned counsel for the appellants, has contended

that the impugned judgment and award passed by the reference court is inadequate and requires to be modified and the reference court has adopted the crop capitalisation method to decide the market value of the acquired land and it has not properly assessed Exs.P-3 and 4, which are Yield Certificate of Sugarcane and Price-List of sugar cane. He also contended that the reference court has failed to consider the average price of sugarcane at Rs. 800/- per ton and yield of the sugarcane is 45 tons per acre for the acquired land. After deducting 50% of the cultivation charges, i.e., cost of cultivation, in the price of the sugarcane, the net value of the sugarcane comes to Rs. 400/- per ton. Therefore, considering the average yield of sugarcane growing at 45 tons, is without any basis and the same needs to be modified. He also stated that the Division Bench judgment of this Court, in the case of Special Land Acquisition Officer Vs. Dhareppa Dhareppa Shirahatti, passed in MFA.435/2005 & connected matters dated 08.01.2008 wherein for the acquisition made in the year 2000, has taken the yield of 50 tons at the rate of Rs. 950/- per ton of the sugarcane and has arrived at Rs. 2,37,500/- per acre by adopting multiplication method as has been done by the Reference Judge and same would be around Rs. 2,00,000/- per acre as against Rs. 2,65,000/- per acre claimed by the claimants. Therefore, he sought for enhancement.

5. Learned AGA vehemently opposed the enhancement and sought to justify the impugned judgment and award passed by the reference court and further contended that the land in the present case and the land in the judgment relied upon by the learned counsel for the appellants are entirely different and yields also vary. Therefore, he states that the judgment on which the appellants have placed reliance may be applied but, the enhancement cannot be beyond Rs. 2,35,000/- per acre.

6. I have given my thoughtful consideration to the arguments advanced by the learned Counsel for the parties and perused the entire material record.

7. It is not in dispute that the lands of appellants acquired for the purpose of construction of canal, which was irrigated land and appellants have grown sugarcane crops in the said land as on the date of Notification. There is no dispute with regard to the type of crops grown and the date of taking over possession of the respective lands and entitlement of market value of the respective claims as on the date of notification. The only dispute is with regard to yield per acre. According to the claimants, they are getting yield of 50 to 52 tons per acre, but according to the Reference Court, they may get 45 tons per acre. Accordingly, awarded Rs. 1,80,000/- per acre, (Rs. 400/- x 45 = Rs. 18,000/-, which is multiplied with proper applicable multiplier of "10", then it will come to Rs. 1,80,000/- per acre).

8. This Court, in the aforesaid judgment while dealing with the similar Notification for acquisition of land for similar purpose, in the year 2000, has come to the conclusion that the average yield of sugarcane was 50 tons per acre and therefore, they are entitled to Rs. 2,35,000/- per acre, with all statutory

benefits. In view of the peculiar facts and circumstances of the present case, similar principal has to be applied in the present case.

9. Accordingly, the judgment and award passed by the reference court requires to be modified by enhancing the compensation. The yield of sugarcane grown by the appellants would be taken at 50 tons per acre and the price at the rate of 950 per ton. Thus, the market value of the land comes to Rs. 2,37,500/- by adopting multiplication method, as has been done by the reference court, and the same may be rounded off to Rs. 2,35,000/- per acre as against the claim of Rs. 2,65,000/- per acre claimed by the appellants.

10. The Division Bench of this Court in the case of The Special Land Acquisition Officer Vs. Daso Appaji Kulkarni, in MFA.5262/2005 & connected matter, dated 28.01.2008, has fixed the same value with all statutory benefits, such as, solatium and interest under Section 23(1-A) of the Act on the enhanced market value and interest at 9% and 15% per annum as provided under Section 34 of the Act, upon the compensation awarded.

11. The reference court while passing the impugned judgment and award has observed in paragraph 16 that, Exs.P-4/price list of sugarcane crop discloses that the sugarcane prices per ton was shown as Rs. 1,200/- and the authorities who have issued price list are not examined before the court. In this case, absolutely, the claimants have not produced any documents before the Court to show that they have grown sugarcane crop at Rs. 1,200/- per ton in the year of the notification. It appears that the rate of sugarcane includes transportation and cutting charges. The said observation made by the reference Court is without any basis. On that ground also the claimants are entitled to enhanced compensation.

12. In view of the law declared by the Division Bench of this Court in the aforesaid two judgments, this Court is of the considered opinion that the impugned judgment and award passed by the reference court is to be modified by enhancing the market value of the land in question at Rs. 2,35,000/- per acre with all statutory benefits.

13. Accordingly, the appeal is allowed in-part with cost. The impugned judgment and award is modified fixing the yield at 50 tons per acre and taking the market value at Rs. 950/- per ton which comes to Rs. 2,37,500/-, rounded off to Rs. 2,35,000/- per acre of the land under acquisition. The appellants are entitled to the market value of Rs. 2,35,000/- per acre with all statutory benefits, such as, solatium and interest under Section 23(1-A) of the Act on the enhanced market value and interest at 9% and 15% p.a. as contemplated under Section 34 of the Act, upon the compensation awarded in this judgment with costs of these proceedings, less the amounts already received. But, the appellants are not entitled to any interest for the delay period of 355 days in filing this appeal. The Award of the reference court is modified accordingly.

The appeal is allowed in-part with costs in terms stated above.

