

(2015) 06 KAR CK 0279

In the Karnataka High Court

Case No : Writ Petition Nos. 62491 to 62495/2012, 62709 to 62711/2011 and
W.P. Nos. 60781 to 60783/2012 (LA-KIADB)

Shantaveerappa and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 01-06-2015

Acts Referred:

Karnataka Industrial Areas Development Act, 1966 — Section 28(1), 28(3), 29(2), 5
Karnataka Industries (Facilitation) Act, 2002 — Section 5

Citation : (2015) 06 KAR CK 0279

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Anand R. Kolli, for the Appellant; K. Vidyavathi, HCGP, Advocates for
the Respondent

Final Decision : Dismissed

Judgement

S. Abdul Nazeer, J.—In all these cases, the petitioners have called in question the validity of the preliminary notification bearing No. CI.498.SPQ.2008 dated 25.11.2008 and the final notification bearing No. CI.237.SPQ.2010 dated 10.5.2010.

2. The subject matter of W.P. Nos. 62709 to 62711/2011 is three items of land in Sy. No. 299/2 measuring 2 acres 50 cents, 2 acres and 2 acres situated at Bhujanganagar, Sondur Hobli of Sandur Taluk, Bellary District. In W.P. Nos. 60781 to 60783/2012, the lands in question are Sy. Nos. 139/2 and 139/3 measuring 1 acre 53 guntas and 2 acres 32 guntas respectively of Hulkunt, Sandur Taluk, Bellary District. The subject matter of W.P. Nos. 62491 to 62495/2012 is Sy. Nos. 224/B6, 224/B7, 224/B8 and 224/B9 measuring 58 guntas, 57 guntas, 54 guntas and 54 guntas respectively of Bhujanganagar, Sondur Hobli and Taluk, Bellary District.

3. Sri Mallikarjuna Swamy Hiremath, learned Counsel appearing for the petitioners in W.P. Nos. 62709 to 62711/2011 submits that JSW Steel has not

complied with the conditions contained in the order of Karnataka Udyog Mitra at Annexure "E". No notice has been issued to the petitioners under Section 28(3) of the KIADB Act. It is not permissible for the SLAO to draw the mahazar regarding service of notice. The consent of the petitioners has not been taken for acquisition of the said land.

4. Sri Anand R. Kolli, learned Counsel appearing for the petitioners in W.P. Nos. 62491 to 62495/2012 and 60781 to 60783/2012 has also supported the contention of Sri Mallikarjuna Swamy Hiremath, learned Counsel appearing for the petitioners in W.P. Nos. 62709 to 62711/2011.

5. On the other hand, learned Counsel appearing for the respondents submit that the entire land except the petitioners' lands has been acquired and the railway line has been laid. It is further submitted that since the petitioners have refused to receive the notice, mahazar was drawn regarding the service of notice, which is permissible in law. Even otherwise, except the petitioners' lands, the other lands have been acquired and in the entire area, the land owners knew the acquisition of the lands. Therefore, petitioners cannot deny that they have no notice of acquisition. It is only in W.P. Nos. 62709 to 62711/2011, objections have been filed. In the objections, they have sought for enhanced compensation. Therefore, they cannot oppose the acquisition of the lands. In W.P. Nos. 62491 to 62495/2012 and 60781 to 60783/2012, objections have not been filed. In these two cases, there is a long delay in approaching this Court challenging the acquisition proceedings. They pray for dismissal of the writ petitions.

6. I have carefully considered the arguments of the learned Counsel made at the Bar and perused the materials placed on record.

7. M/s. JSW Steel Industry, Torangal, Sandur Taluk, Bellary District has contended that the State Government invited it to set up an integrated steel plant and assured various infrastructure facilities in the year 1994. Accordingly, M/s. JSW Steels has set up an integrated steel plant with an initial capacity of 1.25 million tones per annum ("mtpa" for short). Based on the approval from the State Government and with periodical huge investments, the capacity of the JSW Steel plant was enhanced to 7.0 mtpa and further expanded its steel production capacity to 10.0 mtpa, which is commissioned in July, 2011. The requirement of iron ore for producing 1.0 tonne of finished steel is approximately 2.10 tonnes of iron ore. The iron ore needs to be made available for uninterrupted operation of steel plant on a daily basis. It is the case of the JSW Steels that the daily requirement of iron ore has further gone up-to 57,000 tonnes w.e.f July, 2011 upon the commissioning of 10.0 mtpa steel plant. This has necessitated the truck movement of 5700 trips on an average per day considering the allowable maximum carrying capacity of truck for transporting the iron ore as 10.0 tonnes per trip. Considering the practical difficulties in transporting the iron ore through road and also the resultant environmental impact, it was necessary for the JSW Steel to have a dedicated railway corridor arrangement for transporting iron ore to steel plant for a sustained and uninterrupted operation of the steel plant

throughout its life cycle period.

8. M/s. JSW Steel filed an application along with the project report to the High Level Committee/State Level Single Window Agency, Karnataka Udyog Mitra, seeking approval of the project. The State Level Single Window Clearance Committee in its 34th meeting held on 7.7.2007 approved the project. This was approved by the Karnataka Udyog. Thereafter, the Karnataka Udyog communicated the same to the Karnataka Industrial Area Development Board (KIADB" for short). Thereafter, JSW Steel made an application to the KIADB for seeking allotment of approximate 200 acres of land in Bhujanganagar, Laxmipura and Hulikunte villages. Thereafter, notification under Section 28(1) was issued by the competent authority. The petitioners in W.P. Nos. 60781 to 60783/2012 and in W.P. Nos. 62491 to 62495/2012 did not file any objections to the notice issued by the SLAO under Section 28(3) of the KIADB Act. The petitioners in W.P. Nos. 62709 to 62711/2011 have filed their objections. The objections in these cases have been over ruled and the final notification has been issued.

9. As noticed above, except the lands of the petitioners all the other lands notified under the impugned notification have been acquired. Perusal of the objections filed in W.P. Nos. 62709 to 62711/2011 clearly indicate that they have sought enhancement of compensation at the rate of Rs. 15 lakhs. A Division Bench of this Court in V.T. KRISHNAMOORTHY v. STATE OF KARNATAKA - ILR 1991 KAR 1183 has held that acquisition proceedings cannot be challenged when the land owner seeks compensation. On this ground alone, these writ petitions are liable to be rejected.

10. In so far as W.P. Nos. 62491 to 62495/2012 and 60781 to 60783/2012 are concerned, the final notification was issued on 10.5.2010 and the writ petitions are filed on 31.1.2012 and on 20.3.2012. There is a delay of 1 year 8 months and 1 year 10 months respectively in filing the writ petitions. The writ petitions are liable to be rejected on this ground. In the case of Hari Singh and Others Vs. State of U.P. and Others, AIR 1984 SC 1020 : (1984) 1 SCALE 625 : (1984) 2 SCC 624 : (1984) 3 SCR 417 : (1984) 16 UJ 648 there was a delay of 2 1/2 years in filing the writ petition. The Hon"ble Supreme Court has dismissed the writ petition on the ground of delay alone. In the instant case also, petitioners cannot plead that they are not aware of the issuance of the final notification. As noticed above, except the petitioners herein, whose land totally measures 2 acres 50 cents, 2 acres and 2 acres in Sy. No. 299/2 situated at Bhujanganagar, Sondur Hobli of Sandur Taluk, Bellary District, Sy. Nos. 139/2 and 139/3 measuring 1 acre 53 guntas and 2 acres 32 guntas respectively and Sy. Nos. 224/B6, 224/B7, 224/B8 and 224/B9 measuring 58 guntas, 57 guntas, 54 guntas and 54 guntas respectively, all the owners of the other lands have not contested the acquisition proceedings.

11. The submission of the learned counsel for the petitioners that the acquisition of the lands without the consent of the petitioners is also without any merit. Section 5 of the Karnataka Industries (Facilitation) Act, 2002 states that the

State High Level Clearance Committee constituted under the said Act shall be final authority in granting approval for the projects placed before it. The approval given by the Committee shall be binding on all the concerned departments of authorities and such departments or authorities, shall issue the required clearance within the stipulated time and subject to compliance by the entrepreneur undertaking of the provisions of the applicable Central or State Acts and the Rules made there under. Section 5 has to be read with Section 29(2) of KIAD Act. Consent of the land owners is necessary for determination of compensation by agreement between the State Government and the land owners. Consent of the land owners is not contemplated for acquisition of the lands.

12. There is no merit in these writ petitions. They are accordingly dismissed. No costs.