

(2000) 01 KAR CK 0092

In the Karnataka High Court

Case No : Writ Petition No. 36840 of 1999 connected with Writ Petition No. 36748 of 1999

Siddaramappa Murgappa Kudagi and others

APPELLANT

Vs

State of Karnataka and another

RESPONDENT

Date of Decision : 19-01-2000

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18 (1), 6 (1)

Citation : (2000) ILR (Kar) 1838 : (2000) 4 KarLJ 111 : (2000) 3 KCCR 1907

Hon'ble Judges : Chandrashekaraiah, J

Bench : Single Bench

Advocate : Sri C.S. Kothawale, for the Appellant; Sri Ashok N. Nayak, for the Respondent

Judgement

1. The lands belonging to the petitioners in these petitions were declared to be required for a public purpose by issuing notification u/s 6(1) of the Land Acquisition Act (for short "the Act"). Thereafter, in a proceeding relating to passing of the award as required u/s 11 of the Act, the land owners executed an agreement agreeing to receive the compensation by giving up the rights insofar as solatium and additional market value is concerned. On the basis of the said agreement the LAO passed the consent award. These awards are called in question by the petitioners in these petitions on the following grounds:

(a) The agreement relied upon by the LAO for the purpose of passing a consent award ought not to have been relied upon since the signatures of the petitioners were obtained on the blank papers and these papers were thereafter filled up and treated as agreements for the purpose of passing the awards.

(b) When once an application is filed for reference u/s 18(1) of the Act, the LAO, has no jurisdiction to reject the said application in the absence of conferment of such power on the LAO.

2. In order to consider the first contention, I called upon the learned Government

Pleader to produce the records to know whether there is a valid agreement for the purpose of passing the award. Pursuant to that direction, the learned Government Advocate has produced the records wherein, I find the petitioner in W.P. No. 36840 of 1999 has signed the agreement in English. This shows that he is not an illiterate. Hence, the contention of the petitioners that they are illiterates and have affixed their signatures on the blank papers, is stated to be rejected.

3. Insofar as the petitioner in W.P. No. 36748 of 1999 is concerned, it is submitted that the land of the petitioner is irrigated land as described in the award itself and therefore, the LAO, was not right in awarding market value treating the said land as a dry land. In this case also the award has been passed on the basis of the agreement executed by the petitioner. The award that may be passed as required u/s 11 of the Act is only an offer made by the LAO. If the land owner is not satisfied with the award, it is open for him to make an application for reference as required u/s 18 of the Act.

4. In the instant cases awards have been passed on the basis of the agreement agreeing for a particular amount as compensation. Therefore, it cannot be said that the compensation awarded treating the said land as dry land even though it is wet land cannot be accepted.

5. The learned Counsel for the petitioners contended that whenever an application is filed u/s 18 of the Act, the LAO, is bound to refer the same to the Civil Court since he has no power to reject the application. In order to appreciate this contention, it is relevant to extract Section 18(1) of the Act:

"Any person interested who has not accepted the award may, by written application, to the Collector require that the matter be referred by the Collector for the determination of the Court, whether, his objection be to the measurement of the land the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested".

6. u/s 11 of the Act, the LAO, may pass an award on the basis of the agreement reached between the parties. In this case, the LAO, has passed the award on the basis of the agreement executed by the petitioner, that is, to say the awards in question are the consent awards. Any person aggrieved of the said award no doubt may file an application u/s 18 of the Act. But if the award is a consent award, it cannot be said the land owner is not satisfied with the award so as to maintain an application for reference u/s 18 of the Act. The consent of the petitioners for passing award clearly show that they have accepted the market value and therefore, they have no right to maintain applications u/s 18 of the Act. If that is so, the LAO, is right in rejecting the application filed by the petitioner seeking for reference.

7. The Division Bench of this Court in Writ Appeal No. 5642 of 1998, dated 7-9-1999 has considered similar contention raised by the petitioner in these petitions and held that the land owner being consenting party for an award

cannot maintain an application for reference.

8. The learned Government Advocate has submitted an instructions that the petitioners have all received the compensation as awarded by the LAO, without any protest. If that is so, the petitioners cannot maintain an applications for reference u/s 18 of the Act.

9. In order to maintain an application u/s 18(1) of the Act, the petitioners are required to satisfy certain conditions. One of the condition is that they have not accepted the award.

10. From the facts narrated above, it is seen that the petitioners have accepted the award without any protest. If that is so, the LAO, has the power to reject the application filed u/s 18(1) of the Act, if the applicants fail to fulfil the conditions so as to maintain the said applications.

11. Accordingly, writ petitions are rejected.