

(2001) 06 KAR CK 0073

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 2123 of 2000 (LAC)

S.M. Sundar Raj

APPELLANT

Vs

The Deputy Commissioner (Administration) and Land
Acquisition Officer, Corporation of the City of Bangalore and
another

RESPONDENT

Date of Decision : 28-06-2001

Acts Referred:

Land Acquisition Act, 1894 — Section 4 (1)

Citation : (2001) ILR (Kar) 4067 : (2001) 4 KCCR 2429

Hon'ble Judges : B.K. Sangalad, J

Bench : Single Bench

Advocate : Sri B. Ramaswamy Iyengar, for the Appellant; Sri Muniyappa, for the Respondent

Final Decision : Allowed

Judgement

The Court

1. The appellant who is the claimant filed this appeal against the judgment and award dated 27-1-2000 passed in LAC No. 473 of 1980 by the II Additional City Civil Judge, Bangalore partly allowing the reference for enhanced compensation.

2. The appellant is the owner of the property bearing No. 53, Risaldar Street, Seshadripuram, Bangalore, and in the said property an extent of 3,320 sq. foot with structure thereon was acquired vide final notification published in the Gazette on 8-7-1975 for the purpose of continuation of Sweepers Colony Road to join Subedar Chatram Road, and II Main Road, Seshadripuram, Bangalore. The possession of the property was taken over on 30-4-1976. The award of the LAO was passed on 5-2-1976 and approved on 17-3-1976. The reference u/s 31(2) was concluded on 7-4-1978 in previous LAC No. 95 of 1976. After the establishment of the City Civil Court at Bangalore, the above case was renumbered as LAC No. 473 of 1980.

3. There is a notification u/s 4(1) of the Land Acquisition Act, dated 8-7-1975. The LAO fixed the award at Rs. 80/- per square yard and after the reference it was enhanced to Rs. 90/- per square yard. Being aggrieved by this, the present appeal arises on the ground that the area now acquired is in the heart of the Bangalore City and in the near vicinity of the Bus Stand and Railway Station. The learned Civil Judge on the basis of the guesswork made the enhancement, though there were materials to rely upon. He also did not place reliance on Ex. P. 1- the registered sale deed produced between the parties (Smt. Rathnabai, Vendor and Sri Chandrashekar, Vendee).

4. For the petitioner, P.Ws. 1 and 2 are examined and Ex. P. 1 (certified copy of the sale deed) is marked. No witness is examined for the respondents.

5. Mr. Ramaswamy Iyengar, learned Counsel for the claimant vehemently submitted that the lower Court has mis-guessed the facts of the case, As a result, it has fixed the award on the lower side. The lower Court has observed that as the vendor and the vendee of Ex. P. 1 are not examined, the document could not be believed. As against this, Mr. Iyengar relied upon a decision in the case of Land Acquisition Officer and Mandal Revenue Officer Vs. V. Narasaiah, , wherein it is stated as follows:

"Land Acquisition Act (1 of 1894), Sections 51A (as inserted by Act 68 of 1984) and 23 -- Market value of acquired land -- Fixation of-- Certified copy of-- Sale deed relating to similar lands situated in vicinity -- Can be relied upon without examining vendee or vendor or anybody else connected with the sale",

6. As against these submissions, Mr. Muniyappa, learned Counsel for the Corporation opposed all these submissions and supported the award passed by the lower Court.

7. In view of these submissions, now it is to be seen whether the market price fixed is on the lower side or not. The location of the place is not in dispute. The only material that is available for the enhancement of the market price is Ex. P. 1. This is the document of 1974. The land was acquired in the year 1975. As such, there is no impediment to place reliance on this document. Mr. Iyengar submits that he has sought for the compensation at the rate of Rs. 200/- per square yard. The observation of the learned Civil Judge (Senior Division) has to be rejected in view of the decision cited supra. Moreover it is a registered document. It has got a presumptive value. The omission to examine either the vendor or vendee is not fatal to the case of the appellant. In Ex. P. 1, the market price is fixed at Rs. 270/- per square yard. Now the claimant has restricted his claim only for Rs. 200/- per square yard. I think in view of Ex. P. 1 absolutely there is no impediment to fix the market price at the rate of Rs. 200/- per square yard. If this is taken as the market price, the compensation comes to Rs. 74,800/-. In the light of these observations, the following order is passed:

8. The appeal is allowed. The market price of the site is fixed at Rs. 74,800/- with all statutory benefits.