

(2015) 01 KAR CK 0099
In the Karnataka High Court
Case No : M.F.A. No. 8680 of 2012 (LAC)

Special Land Acquisition Officer

APPELLANT

Vs

Hanumanthappa

RESPONDENT

Date of Decision : 06-01-2015

Acts Referred:

Land Acquisition Act, 1894 — Section 10, 18(1), 23, 4(1), 9

Citation : (2015) 01 KAR CK 0099

Hon'ble Judges : G. Narendra, J.; N.K. Patil, J.

Bench : Division Bench

Advocate : Vasanth V. Fernandes, HCGP, for the Appellant; S.V. Prakash, Advocates for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—This appeal by the appellant is directed against the impugned judgment and award dated 21st May 2012, passed in LAC No. 135/2004, by the Principal Senior Civil Judge and CJM, Shimoga, (for short, "Reference Court"), determining the market value of the land in question at the rate of Rs. 47/- per sq. ft., with all statutory benefits, envisaged under Section 23 of the Land Acquisition Act.

2. The appellant has filed this appeal for setting aside the impugned judgment and award passed by Reference Court on the ground that the compensation awarded is on the higher side and liable to be reduced.

3. The brief facts of the case are that, the land bearing Sy. No. 57, measuring 36 guntas, situate at Gonikoppa village, Shimoga Taluk, came to be notified and acquired vide preliminary notification issued under Section 4(1) of the Land Acquisition Act on 11th August 2000, followed by final declaration for the purpose of upliftment to Upper Tunga Channel. The Special Land Acquisition Officer, after issuing notices under Sections 9 and 10 of the Land Acquisition Act, passed the award dated 29th January, 2004, awarding compensation of Rs.

4,00,000/- per acre. Not being satisfied with the award passed by the Special Land Acquisition Officer, the first respondent/claimant filed an application under Section 18(1) of the Land Acquisition Act, 1894 (for short Act") seeking reference before the jurisdictional Reference Court, for enhancement of compensation. The said application was numbered as L.A.C. No. 135/2004, on the file of the Principal Civil Judge (Senior Division), Shimoga.

4. The said matter had come up for consideration before the Reference Court on 21st May 2012. The Reference Court, in turn, after assessing the oral and documentary evidence and other relevant material available on file, allowed the same in part, awarding compensation at the rate of Rs. 47/- per sq.ft. with all statutory benefits envisaged under Section 23 of the Act. Being aggrieved by the enhancement of compensation, the appellant has filed the appeal seeking reduction of compensation.

5. We have heard learned Government Pleader appearing for appellant and learned counsel appearing for first respondent/claimant and perused the impugned judgment and award passed by the Reference Court.

6. After hearing the learned counsel appearing for both the parties and after perusal of the impugned judgment and award passed by Reference Court, it emerges that, the land in question has been notified and acquired for the purpose of upliftment to Upper Tunga Channel vide preliminary notification issued on 11th August 2000 followed by final declaration. The Special Land Acquisition Officer, after following due procedure, has passed the award, awarding compensation of Rs. 4,00,000/- per acre. Not being satisfied with the award passed by the Special Land Acquisition Officer, the claimant has filed the application under Section 18(1) of the Act, seeking reference. The Reference Court, after appreciation of oral and documentary evidence available on file and by assigning valid reasons, has determined the market value of the land in question at the rate of Rs. 47/- per sq.ft., after deducting 53% per sq.ft. towards developmental expenses, with all benefits envisaged under Section 23 of the Land Acquisition Act, by recording a specific finding of fact at paragraph Nos. 8 to 10 of its judgment. The said compensation awarded by Reference Court is just and reasonable for the reason that the Reference Court, after taking into consideration various aspects including the fact that lot of development has taken place in and around the land in question. Therefore, interference in the well considered judgment and award passed by Reference Court is uncalled for nor the appellant has made out a good case for entertaining the relief sought in this appeal.

7. Having regard to the facts and circumstances of the case, the appeal filed by appellant is liable to be dismissed as devoid of merits. Accordingly, it is dismissed.

Office to draw award, accordingly.