

(2014) 12 KAR CK 0277

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 3281 of 2011 (LAC)

Special Land Acquisition Officer

APPELLANT

Vs

Thimmegowda

RESPONDENT

Date of Decision : 02-12-2014

Acts Referred:

Citation : (2015) 1 AKR 499 : (2015) 3 KCCR 2143

Hon'ble Judges : Ravi V. Malimath, J;K.L. Manjunath, J

Bench : Division Bench

Advocate : Vasanth V. Fernandes, H.C.G.P, Advocates for the Appellant; T.N. Vishwanatha, Advocates for the Respondent

Judgement

K.L. Manjunath, J.—The appeal and cross-objections are filed by the Special Land Acquisition Officer and the claimants respectively, challenging the order passed by the learned Civil Judge (Senior Division), Ramanagara in LAC No. 6/1998, dated 16.04.2010. Heard the learned counsel for both the parties.

2. The claimant's land situated in Channapatna Town was notified for acquisition for widening of the Bangalore-Mysore highway under the preliminary notification dated 03.06.1993, final notification was issued subsequently on 08.08.1995. An award came to be passed determining the market value at Rs. 50,633/- per acre in respect of land situated in Mangalawarpet and was taken at Rs. 79,400/- per acre in respect of lands in Kuthanahalli, much prior to the issuance of the notification in the year 1936.

3. On a reference, the Reference Court has determined the market value at Rs. 3,00,000/- per acre. Therefore, the Land Acquisition Officer has filed an appeal before this court in MFA No. 3281/2011, contending that the market value determined by the Reference Court is on a higher side and also the award of interest from the date of taking possession from 1936 is bad in law and is in contrary to judgment of the Hon"ble Apex Court.

4. The cross-objection is filed by the claimants on the ground that the

compensation determined by the Reference Court is on a lower side and the same is without considering the evidence let-in by the parties.

5. Having heard the learned counsel for the parties, we notice that 1 acre, 9 guntas of land in Survey No. 531/4 and 1 acre, 3 guntas of survey No. 532/3 of Mangalawarpet of Channapatna Taluk was acquired for formation of Mysore-Bangalore road in the year 1936. Similarly, 24 guntas of land in Survey No. 108 and 14 guntas of land in Survey No. 109 of Kuthanahalli was made use of by the Government for the formation of the road without acquisition. These two villages as on the date of taking possession in the year 1936 were not within the Chennapatna Town. When the preliminary notification came to be issued in the year 1993, these two lands are part and parcel of Channapatna town. However, presently, Mangalawarpet and Kuthanahalli both the villages are now included in the Channapatna town and the property situated in Kuthanahalli is just opposite to Channapatna bus stop and police parade in the heart of the town. Similarly, the property in Mangalawarpet is also within the town municipality council of Channapatna and these lands are situated in front of the silk factory.

6. The Reference Court without considering the evidence let-in by the parties has determined the market value. Therefore, we are of the view that since the judgment and the award is passed without application of mind and without considering the market value as on the date of the acquisition, the judgment of the lower court has to be set-aside and remanded for fresh consideration. The contentions of the parties are left open and they are also permitted to let-in further evidence. In view of the remand the court fee paid by the cross-objectors is ordered to be refunded to the parties.