

(1995) 11 KAR CK 0054
In the Karnataka High Court

Special Land Acquisition Officer, M.P. III, Dharwad

APPELLANT

Vs

Smt. Nanda

RESPONDENT

Date of Decision : 21-11-1995

Acts Referred:

Land Acquisition Act, 1894 — Section 23

Citation : (1995) 6 KarLJ 277

Hon'ble Judges : M. F. Saldanha, J

Judgement

1. This group of appeals has been preferred by the State and the basic challenge is with regard to the enhancement of the market value of the lands which has been scaled up by the learned District Judge to Rs. 15,000/- per acre. The various respondents are all agriculturists and their lands were acquired by the State for purposes of construction of a canal in or about the year 1983. The shocking part of the case is that the possession was taken in about the year 1976 even though the preliminary notification was issued in the year 1983. The proceedings dragged on for four years before the award was made in 1987. The Land Acquisition Officer awarded compensation at the rate of Rs. 1,400/- per acre because he had made enquiries with regard to some of the sales in the area and on that basis he fixed the market value of the land at Rs. 1,400/- per acre. The matter was taken to the Court by way of a reference and the learned Judge in the first instance accepted the land owners plea that the value as of the year 1983 is the relevant one and not the position as it obtained in 1976. Secondly, the learned Judge accepted the contention that these being agricultural lands, the only method of ascertaining the market value was not on the basis of the sale of adjoining lands but that the multiplier method should be used in relation to the produce and by capitalizing the same, the market value will have to be correctly ascertained. The learned Trial Judge has relied on the case law on the point which accepts the position that invariably for purposes of sale of immovable properties, the documents represent a figure that is an under valuation and that this may not be the most reliable method of ascertaining the market value. The learned Judge has relied on two aspects of significance. Firstly, the L.A.O. himself

has admitted that he has inspected the lands in question and he has indicated what are the crops that are grown there. He has stated that crops such as wheat, jowar and cotton apart from green gram and groundnut are being grown on those lands because they are black soil lands. The learned Judge has thereafter verified from the Record of Rights column which indicates that in fact these crops were grown on those lands. Thirdly, he has gone by the average figures as far as the yield is concerned and after making the usual allowances, he held that the land owners were entitled to compensation at the rate of Rs. 7,500/- per acre.

2. Both the parties carried the matter further. The State had objected to the enhancement of compensation as also to the interest and several other additional amounts under Section 23(1)(a) principally since the possession had been taken over much earlier. As far as the last aspect of the matter is concerned, the learned District Judge has upheld the objection of the State and he has disallowed the additional payments. He however allowed the cross-objections and enhanced the compensation payable to Rs. 15,000/- per acre even though the land owners did claim Rs. 40,000/- per acre. It is this contention that has been called into question in this group of appeals.

3. This group of appeals has been listed for hearing several times. The principal argument canvassed on behalf of the learned Government Advocate was that there was no material on record to justify the enhancement. He also submitted that the well-settled position in law is that the party claiming the enhancement of compensation must establish the grounds on which the higher compensation can be awarded and it is his case that no documents or no other reliable evidence has been produced to justify the enhancement. I do not dispute the correctness of the submission but for purposes of ascertaining whether the grievance canvassed on behalf of the State was justified, I directed that the record be called for from the lower Court.

4. The matter has been finally argued today. The respondents are agriculturists who have lost their lands almost twenty years back. As it is, they have suffered tremendously because the State had taken possession of the land in the year 1976 and even the award was not made until 1987. At this point of time therefore unless the Government makes out an absolutely cogent case for appeal, there is no ground on which this Court will entertain a second appeal. There is no point of law involved in this case. It is virtually a question of reappraisal of the material that was before the Court. That cannot be done in a second appeal as two forums have already examined the factual aspects of the matter. Moreover, when a litigation is sought to be reopened on the third round, a Court must be fully satisfied that there is a valid ground to entertain a challenge before either admitting the appeal or directing notice particularly where the respondents happen to be poor people. This is an aspect of the matter which assumes some importance and it is from this angle that I have carefully perused the records.

5. The learned Government Advocate submitted that the principles of law require

that the capitalisation method must be done on the basis of available material. He submitted that the available material pre-supposes that reliable documentary evidence with regard to the yield of the land will be available before the Court and he elaborates to point out that such material should indicate in the first instance the type of crops that were grown and the actual amount that was realised through the sale of that produce. In the present instance, it is true that the respondents have not produced documentary material of this category. He therefore submits that the enhancement that has been done by the lower Court is erroneous in law and therefore liable to be interfered with.

6. The record of this case has been perused. The order passed by the Trial Court in the first instance to my mind was fully justified and followed the correct principles. At the stage when an application was made for further enhancement before the learned District Judge, all that he has done is to have relied on the same material which the lower Court has accepted and he has thereafter gone on the basis of the average figures as appeared from the A.P.M.C. record. The A.P.M.C. is a public authority and even under the provisions of the Evidence Act a Court is required to take judicial notice of facts as they would appear to the Court. In the present instance, the average produce in respect of the lands of this type has been taken into account and the learned District Judge has not accepted the oral evidence given by the claimants since that appeared to be slightly exaggerated. To my mind, the formula adopted by the District Judge was absolutely correct. The figures relied upon by him are reliable. Under these circumstances the award of Rs. 15,000/- per acre to my mind is both reasonable and correct.

7. Having regard to the aforesaid situation, no interference is called for as far as this group of appeals are concerned. The appeals accordingly fail and stand disposed of.