

(2014) 04 KAR CK 0107

In the Karnataka High Court

Case No : Writ Petition No. 51023 of 2013 (LA-KIADB)

Sri. Krishnappa

APPELLANT

Vs

State and Managing Director, Karnataka Public Lands
Corporation Limited

RESPONDENT

Date of Decision : 03-04-2014

Acts Referred:

Karnataka Industrial Areas Development Act, 1966 — Section 28(1), 28(4)
Karnataka Land Revenue Act, 1964 — Section 136(3)
Land Acquisition Act, 1894 — Section 31(2)

Citation : (2014) 04 KAR CK 0107

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : D.R. Sundaresha, Advocate for the Appellant; D. Nagaraj, Government Advocate for Respondent No. 1, Shri. P.V. Chandrashekar, Advocate for Respondent No. 2 and Shri. D.R. Rajeshekarappa, Advocate for Respondent No. 3, Advocate for the Respondent

Final Decision : Disposed Off

Judgement

Anand Byrareddy, J.—These petitions are disposed of by this common order, as the petitioners are before this court aggrieved by identical circumstances. The facts of the case in respect of each petitioner is as follows:

Re. WP 51023/2013:

The petitioner claims to be the owner of land measuring 2 acres and 35 guntas, in land bearing Survey no. 6/P15 (Old Survey No. 6) of Singahalli village, Jala Hobli, Bangalore North Taluk. The petitioner had been cultivating the land for several years. The petitioner having been treated as an unauthorized occupant, the petitioner's case was said to have been addressed by a Bugair Hukum Saguvali Regularization Committee, and his occupation was considered favourably by the Committee and such occupation of the land stood regularized by the issuance of a Saguvalli Chit said to have been issued by the jurisdictional

Tahshildar, in fee year 1999. Consequently, the revenue records were also said to have been effected in favour of the petitioner.

Re. WP 51024/2013:

The petitioner claims to be the owner of land measuring 2 acres, in land bearing Survey no. 6/P12 (Old Survey No. 6) of Singahalli village, Jala Hobli, Bangalore North Taluk. The petitioner had been cultivating the land for several years. The petitioner having been treated as an unauthorized occupant, the petitioner's case was said to have been addressed by a Bugair Hukum Saguvali Regularization Committee, and his occupation was considered favourably by the Committee and such occupation of the land stood regularized by the issuance of a Saguvali Chit said to have been issued by the jurisdictional Tahshildar, in the year 1999. Consequently, the revenue records were also said to have been effected in favour of the petitioner.

Re. WP 51025/2013:

The petitioner claims to be the owner of land measuring 20 guntas, in land bearing Survey no. 6/P1 (Old Survey No. 6) of Singahalli village, Jala Hobli, Bangalore North Taluk. The petitioner had been cultivating the land for several years. The petitioner having been treated as an unauthorized occupant, the petitioner's case was said to have been addressed by a Bugair Hukum Saguvali Regularization Committee, and his occupation was considered favourably by the Committee and such occupation of the land stood regularized by the issuance of a Saguvali Chit said to have been issued by the jurisdictional Tahshildar, in the year 1999. Consequently, the revenue records were also said to have been effected in favour of the petitioner.

Re. WP 51026/2013:

The petitioner claims to be the owner of land measuring 2 acres, in land bearing Survey no. 6/P1 (Old Survey No. 6) of Singahalli village, Jala Hobli, Bangalore North Taluk. The petitioner had been cultivating the land for several years. The petitioner having been treated as an unauthorized occupant, the petitioner's case was said to have been addressed by a Bugair Hukum Saguvali Regularization Committee, and his occupation was considered favourably by the Committee and such occupation of the land stood regularized by the issuance of a Saguvali Chit said to have been issued by the jurisdictional Tahshildar, in the year 1999. Consequently, the revenue records were also said to have been effected in favour of the petitioner.

Re. WP 51027/2013:

The petitioner claims to be the owner of land measuring 2 acres 38 guntas, in land bearing Survey no. 6/P13 (Old Survey No. 6) of Singahalli village, Jala Hobli, Bangalore North Taluk. The petitioner had been cultivating the land for several years. The petitioner having been treated as an unauthorized occupant, the petitioner's case was said to have been addressed by a Bugair Hukum

Saguvali Regularization Committee, and his occupation was considered favourably by the Committee and such occupation of the land stood regularized by the issuance of a Saguvalli Chit said to have been issued by the jurisdictional Tahshildar, in the year 1999. Consequently, the revenue records were also said to have been effected in favour of the petitioner.

Re. WP 51028/2013:

The petitioner claims to be the owner of land measuring 3 acres 12 guntas, in land bearing Survey no. 6/P1 (Old Survey No. 6) of Singahalli village, Jala Hobli, Bangalore North Taluk. The petitioner had been cultivating the land for several years. The petitioner having been treated as an unauthorized occupant, the petitioner's case was said to have been addressed by a Bugair Hukum Saguvali Regularization Committee, and his occupation was considered favourably by the Committee and such occupation of the land stood regularized by the issuance of a Saguvalli Chit said to have been issued by the jurisdictional Tahshildar, in the year 1999. Consequently, the revenue records were also said to have been effected in favour of the petitioner.

2. It is the case of all the petitioners that the second respondent, acting on behalf of the State government issued notifications under the provisions of the Karnataka Industrial Areas Development Act, 1966 (Hereinafter referred to as the "KIAD" Act, for brevity) proposing to acquire lands to the extent of 256.18 acres, including the lands of the above petitioners, in and around Singahalli for the purposes of establishment of an Information Technology Park. The notification u/s 28(1) was dated 7.8.2006 and the notification u/s 28(4) was dated 29.9.2008.

It is the case of the petitioners that in so far as the payment of compensation is concerned-there was an Advisory Committee constituted by the State government consisting of the Deputy Commissioner as the President, the Special Land Acquisition Officer (SLAO) and the Joint Director, District Industries and Commerce. The said committee, after having held parleys with the land owners, are said to have recommended to the Karnataka Industrial Area Development Board (KIADB) that a sum of Rs. 62 lakh per acre was payable as compensation for the land owners to voluntarily surrender their lands. The said recommendation was accepted. It is the case of the petitioners that possession of the lands was also taken by the SLAO, in the year 2009 and the names of the petitioners are said to be found against the list of lands of which possession was so taken. It is their further case that on their demand for payment of compensation, the respondents had verified their bona fides from the Tahshildar concerned as to the petitioners having been recognized as the land holders of the respective extents of land in their possession.

It is the further contention of the petitioners, that when matters stood thus, the Special Deputy Commissioner, Bangalore District, is said to have initiated proceedings u/s 136(3) of the Karnataka Land Revenue Act, 1964 (Hereinafter

referred to as the "KLR Act", for brevity), individually against each of the petitioners, as regards the genuineness of the revenue entries made in their favour in respect of the lands in question. The petitioners having produced material documents in respect of their lands and the Deputy Commissioner on an examination of the record, had dropped further proceedings in the year 2010.

The third respondent, namely, the Karnataka Public Lands Corporation (KPLC), a Government of Karnataka undertaking, is said to have challenged the Orders passed by the Deputy Commissioner in writ proceedings before this court in WP 29066/2011 and connected cases. The same was however, said to have been dismissed by an order dated 3.11.2011.

The petitioners had thereafter exercised their option to receive the compensation in terms of a consent award, whereby a sum of Rs. 62 lakh per acre was assured. But since the Second respondent failed to disburse the compensation, the petitioners were again constrained to file writ petitions before this court in WP 17197-98/2013 and connected cases-those petitions were said to have been allowed on 17.4.2013, with a direction to the respondents to pass the award in favour of each of the petitioners.

However, the Second respondent is said to have informed the petitioners that the third respondent had expressed serious reservations of the genuineness of the grants, under which the petitioners were claiming as land holders and intimated them that it would be necessary for the petitioners to obtain a No Objection certificate from the said respondent if the consent award was to be drawn. The petitioners having approached the third respondent seeking such certificates, it transpires that the third respondent failed to respond.

The petitioners having then initiated contempt of court proceedings before this court, the second respondent claimed to have passed an award and the proceedings were closed. But the petitioners learnt later that the award was a general award-which restricted the compensation payable to Rs. 25 lakh per acre. It is that which is under challenge in these proceedings.

On hearing counsel for the parties, it is clear that on the Karnataka Land Corporation having raised doubts and objections of the petitioners' claims and their claim to the property-it is by way of abundant caution and exercising prudence that the SLAO has proceeded to act u/s 31(2) of the Land Acquisition Act, 1894. This is notwithstanding the fact that the claim of fee petitioners for compensation purportedly under, a consent award had been considered along with other similarly placed persons.

The result, however, of the volte face by the SLAO is that the petitioners who would have received a larger amount of compensation in the usual course are" now to be satisfied with a much lesser amount of compensation-even if they are able to overcome the cloud that has been cast on their entitlement.

This would not be fair to the petitioners. It is further stated by the learned

Government Advocate that proceedings have now been initiated against the petitioners by the issuance of a notice under Rule 108-K of the Karnataka Land Revenue Rules, 1966. Therefore, if the petitioners should emerge unscathed in those proceedings-there should be no impediment to consider their case for being awarded the rightful amount of compensation.

Consequently, the State Government through its Competent Officer may proceed with the action initiated in accordance with law and should the proceedings result in favour of the petitioners. They should be paid the compensation in terms of a deemed consent award, with interest at 9% per annum from the date of taking possession of the land till the date of payment.

In the meanwhile, the amount in deposit before the reference court may be withdrawn by the competent authority, awaiting the decision, as aforesaid, of the Revenue authorities. The petitions are disposed of in terms as above.