(2005) 06 KAR CK 0015

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 4079 of 2002

The Additional Special Land Acquisition Officer U.K.P — APPELLANT

Vs

Hanamanth Yamanappa Kolakar and Another — RESPONDENT

Date of Decision : 23-06-2005

Acts Referred:
Land Acquisition Act, 1894 — Section 18 (1), 4 (1)

Citation : (2005) 3 KCCR 2124

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : V. Bychappa, High Court Government Pleader, for the Appellant; Basavaraj Kareddy, for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—Though this appeal is listed in orders list, with the consent of the learned Counsel appearing for Appellant and learned Counsel appearing for Respondent s, the matter is taken up for final hearing and is disposed of as hereunder having regard to the fact that, the subject matter involved in the instant case is directly covered by the judgment of this Court in identical matters as submitted by learned Counsel appearing for the parties.

2. This appeal by the Appellant - Additional Special Land Acquisition Officer, Bilagi is directed against the judgment and award dated 4th January, 2002 on the file of the Court of Additional Civil Judge (Senior Division), Jamkhadi in LAC No. 3505 of 1999 on the ground that, the enhancement made by the Reference Court is excessive.

3. Land bearing R.S. No. 9/1A/2 measuring 01 acre 22 guntas of Gulabal village, Bilagi Taluk, along with several lands, have been notified and acquired by the competent authority vide preliminary Notification issued on 29th October, 1996 u/s 4(1) of the Land Acquisition Act for the purpose of submergence of backwater in Upper Krishna Project, Alamatti Reservoir. The Land Acquisition Officer, after

taking all relevant factors into consideration and other material available on record, classified the land in question as ''dry land'' and fixed the market value at the rate of Rs. 09,500/- per acre. Being not satisfied with the award passed by the Land Acquisition Officer and classification of the entire land as dry land, the claimants-Respondents herein have filed the application for Reference u/s 18(1) of the Land Acquisition Act for enhancement of compensation and requested the Land Acquisition Officer to refer the matter for adjudication to the jurisdiction Civil Court. The Reference Court, in turn, after thorough evaluation of the oral and documentary evidence such as Exhibits P2 to P6-the bills regarding payment of rent for purchase of water; Ex.P7 - certified copy of the record of rights in respect of the land in question; and Exs.P8 and P9 the price-lists issued by the APMC; Ex.P10 - Yield Certificate issued by the Agriculture Department, Bilagi; and Ex.P11 price-list of sugar cane given by Nandi Sugar Factory, has classified the land as ''irrigated land'' and after evaluation of Exs. P2 to 7, so far as land where sugar cane crop is grown, the Reference Court has determined the market value at the rate of Rs. 01,10,000/- and so far as dry land where ''maize crop'' is grown, it has determined the market value at the rate of Rs. 21,000/- per acre. It is the case of Appellant that, the said determination made by the Reference Court is in the absence of cogent evidence and it has committed an error in taking the yield of sugar as 45 tonnes and maize as 15 quintals and also erred in arriving at the price of sugar at Rs. 500/- per tonne and Rs. 296/- per tonne for maize and the same is arbitrary and excessive. Therefore, the determination of market value by the Reference Court is opposed to principles of evaluation. Having regard to this background, the Appellant herein felt necessitated to present the instant appeal.

4. I have heard learned Counsel appearing for Appellant and learned Counsel appearing for Respondent s. After careful perusal of the judgment and award passed by the Reference Court, I do not find any error much less material irregularity in determining the market value of the land in question by the Reference Court. The Reference Court has fixed the market value at the rate of Rs. 01,10,000/- per acre in respect of irrigated land in respect of 01 acre of land where sugarcane crop is grown; and in respect of dry land of 22 guntas, where maize crop is grown, it has fixed the market value at the rate of Rs. 21,000/- per acre. The Reference Court, after discussing the matter elaborately and after evaluation of the oral and documentary evidence, at paragraphs 14 and 15, has fixed the market value in respect of land where sugar cane crop is grown and dry land where maize crop is grown. For arriving at such a conclusion, the Reference Court has relied upon Ex.P11 and the entry found in the Record of Rights and has taken into consideration Ex.P10-yield certificate given by Agricultural Department, Bilagi and Exs.P8 and P9 - price-lists issued by APMC. Further, the Reference Court has rightly come to the conclusion that, the claimants-Respondents have grown sugarcane crop in 01 acre of land and the same is irrigated land. This finding is given after considering Exs. P2 to P6, the bills in respect of rent for purchase of water and Ex.P7-certified copy of the entry found

in the record of rights in respect of the land in question. In spite of having this material on file, the Land Acquisition Officer has committed an error in classifying the entire land as ''dry land''. The Reference Court, after appreciation of the oral and documentary evidence has given a finding that, an extent of 01 acre is ''irrigated land'' and remaining 22 guntas is ''dry land''. After adopting capitalisation method and as per the price-lists of sugarcane grown for the years 1994-95, 1995-96 and 1996-97, at the rate of Rs. 700/- Rs. 715.50 and Rs. 800/- respectively, by taking the average three years'' minimum price, the Reference Court has taken the minimum price of three years, at Rs. 700/- per tonne. After deducting Rs. 100/- per tonne each towards transportation and harvesting of cane, that net amount comes to Rs. 500/- per tonne. The Price of 45 tonnes of sugar at the rate of Rs. 500/- per tonne comes to Rs. 22,500/-, and after deducting 50% of it, the annual income comes to Rs. 11,250/- and by adopting multiplier 10, the income from sugar cane crop per year per acre comes to Rs. 01,12,500/-. So far as growing of ''maize crop'' in respect of 22 guntas of dry land is concerned, the Reference Court has taken the annual income from maize crop per acre at the rate of Rs. 04,340/, and after deducting 50% towards cost of cultivation, it comes to Rs. 02,170/- and by applying the multiplier ''10'', the annual income from maize crop per acre comes to Rs. 21,700/- and the Reference Court has fixed the market value for 22 guntas at Rs. 21,000/- per acre. The said calculation made by Reference Court is in strict compliance of the mandatory provisions of the Land Acquisition Act and the law laid down by the Apex Court and this Court and the same have been discussed elaborately in paragraphs 14 and 15 of the impugned judgment and award, referred above. The finding given by the Reference Court for determination of market value is after critical evaluation of the oral and documentary evidence and other material available on file, referred above. Therefore, I do not find any material irregularity as such committed by the Reference Court nor the Appellant has made out any sincere efforts to produce any documentary evidence to controvert the oral and documentary evidence adduced by claimants-Respondent s. Therefore, I am of the considered view that, the determination of market value at the rate of Rs. 01,10,000/- in respect of sugar cane for 01 acre of irrigated land and Rs. 21,000/- per acre in respect of 22 guntas of dry land where maize crop is grown, is just and reasonable. The Appellant has also not produced any authenticated document or material before this Court to modify the judgment and award passed by the Reference Court.

5. Having regard to the facts and circumstances of the case the instant appeal filed by the Appellant is dismissed.