

(2012) 04 KAR CK 0202

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 9984 of 2010 (LAC) along with
Miscellaneous Civil No. 3809 of 2011

The Assistant Commissioner

APPELLANT

Vs

Smt. Puttamma

RESPONDENT

Date of Decision : 11-04-2012

Acts Referred:

Land Acquisition Act, 1894 — Section 18, 4(1), 6(1)

Citation : (2013) 1 KarLJ 350 : (2013) 3 KCCR 1998

Hon'ble Judges : N.K. Patil, J;B.V. Pinto, J

Bench : Division Bench

Advocate : Sangamesh G. Patil, for the Appellant;

Final Decision : Dismissed

Judgement

N.K. Patil, J.—Though this matter is posted today in orders list, with the consent of learned Additional Government Advocate appearing for the appellant, the same is taken up for final disposal. This appeal by the appellant is arising out of the impugned common judgment and decree dated 30-3-2010 passed in LAC No. 456 of 2004 by the Principal Senior Civil Judge and CJM, Mysore (hereinafter referred to as "the Reference Court" for short), on the ground that the compensation awarded by the Reference Court is on higher side and is liable to be reduced.

2. The undisputed facts of the case is that, the land bearing Sy. Nos. 62 and 63, measuring 3 acres 13 guntas, situated at Lingabudi Village, Mysore Taluk and District belonging to the claimant along with other lands have been notified and acquired by the Competent Authority of the State for the formation of Ring Road, vide preliminary notification issued u/s 4(1) of Land Acquisition Act, 1894, dated 20-8-2001, published in the Gazette on 23-8-2001, followed by final notification dated 26-11-2001 issued u/s 6(1) of the Land Acquisition Act, published in the Gazette on 12-12-2001. The Land Acquisition Officer, after issuing notices under Sections 9 and 10 of the Act, has passed the award on 10-12-2002, fixing the

market value at Rs. 2,55,000/- per acre. Thereafter, possession was taken on 17-3-2003. Not being satisfied with the award passed by the Land Acquisition Officer, the claimant has filed an application u/s 18(1) of L.A. Act, seeking enhancement of compensation and praying to refer the matter to the jurisdictional Civil Court. Accordingly, the matter was referred to jurisdictional Reference Court and numbered as LAC No. 456 of 2004.

3. The Reference Court, on the basis of the pleadings available on record, after considering the oral and documentary evidence and other relevant materials on file, following the judgment passed in LAC No. 517 of 2004 and connected matters and taking into consideration the nature and potentiality of the lands in question, has allowed the same and fixed the market value at Rs. 16,72,760/- per acre with all statutory benefits.

4. Being aggrieved by the impugned common judgment and award passed by the Reference Court, the appellant has presented this appeal, on the ground that the compensation awarded by the Reference Court is on higher side and the same is liable to be reduced.

5. We have heard the learned Additional Government Advocate appearing for the appellant.

6. Learned Additional Government Advocate appearing for the appellant, at the out set submitted that, the impugned judgment and award passed by the Reference Court is contrary to the law, facts and probabilities of the case and the evidence on record and has failed to appreciate that the lands in question is agricultural land and it docs not have the commercial potentiality and also erred in placing reliance on the judgment and award passed in LAC No. 517 of 2004 and connected matters when the claimant has not established her case that the land covered under Ex. P.7 and the land in question are similar in nature and having similar potentiality. Therefore, he submitted that the impugned judgment and award is liable to be modified by reducing the compensation.

7. After careful consideration of the submissions made by learned Additional Government Advocate appearing for appellant, after careful perusal of the materials available on file, including the impugned judgment and award passed by the Reference Court, we do not find any error of law, muchless material irregularity as such committed by the Reference Court in passing the said judgment. The Reference Court, after considering the oral and documentary evidence and other material available on file, taking into consideration the nature and potentiality of the land in question and following the judgment passed by his predecessor in LAC No. 517 of 2004 in respect of adjacent land which has been notified and acquired for the same purpose and after assigning cogent and valid reasons in para 21 of its judgment has fixed the market value at Rs. 16,72,760/- per acre. Further, it is significant to note that, during the course of submission, learned Additional Government Advocate for appellant has submitted that, the judgment and award passed by the Reference Court in LAC No. 517 of 2004 has

attained finality. Therefore, having regard to the facts and circumstances of the case, in the light of the submission made by learned Additional Government Advocate for appellant, in view of the cogent and valid reasons assigned by the Reference Court for determining the market value and as the judgment passed by the Reference Court in LAC No. 517 of 2004 has attained finality, we do not find any arbitrariness or unreasonableness in the compensation awarded by the Reference Court and the same is just and reasonable. Therefore, interference by this Court is not called for. Nor the appellant has made out any good grounds as such to entertain the relief sought in this appeal.

8. For the foregoing reasons, the appeal filed by the appellant is liable dismissed as devoid of merits and accordingly, it is dismissed. In view of the dismissal of the main matter on merits, the prayer sought by the appellant in Misc. Cvl. No. 3809 of 2011 does not survive for consideration. Hence, it is dismissed as having become infructuous. Ordered accordingly.