

(2005) 12 KAR CK 0058

In the Karnataka High Court

Case No : Miscellaneous First Appeal No"s. 6527 and 6528 of 2004

The Special Land Acquisition Officer and Another	APPELLANT
Vs	
Siddappa Laxmappa Kariyannavar	RESPONDENT

Date of Decision : 07-12-2005

Acts Referred:

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

Citation : (2006) 1 KarLJ 543

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

Bench : Single Bench

Advocate : V. Bychappa, High Court Government Pleader for both M.F.As, for the Appellant; Lokesh Malavalli, for both M.F.As, for the Respondent

Judgement

N.K. Patil, J.—These two appeals by the common appellants-Special Land Acquisition Officer, MP-I, Saundatti and another, are directed against the judgment and award dated 29th May, 2004 in LAC No. 11 of 2002 and LAC No. 12 of 2002 on the file of the Civil Judge (Senior Division), Saundatti, on the ground that, the enhancement made by the Reference Court in excessive.

2. The land in Sy. No. 59 measuring 0-20 guntas and Sy. No. 139 measuring 0.23 guntas, situate in Hosakeri Village, Ramdurga Taluk, have been notified and acquired by the State through the appellants herein for the purpose of formation of "Malaprabha Left Bank Canal", vide preliminary notification issued u/s 4(1) of the Land Acquisition Act, 1894 on 3-6-1999. The Land Acquisition Officer has passed the award on 8-5-2001 fixing the market value of the lands in question at Rs. 24,000/- per acre. Not being satisfied with the award passed by the Land Acquisition Officer, respondents-claimants filed application u/s 18(1) of the Land Acquisition Act, for enhancement of compensation and requested the Land Acquisition Officer to refer the matter to the jurisdictional Reference Court for adjudication. The Reference Court, in turn, after evaluation of oral and documentary evidence and placing reliance on Ex. P. 28-certified copy of judgment in LAC No. 50 of 2002, Ex. P. 30-certified copy of judgment in M.F.A.

No. 959 of 2003, treating the lands in question as irrigated lands and after adopting capitalization method, deducting 50% towards cost of cultivation and applying proper multiplier placing reliance on the judgment of the Supreme Court and after giving cogent reasons, has determined the market value of the lands in question at the rate of Rs. 1,20,000/- per acre. Since the said enhancement made by the Reference Court is excessive; contrary to the materials available on file and opposed to principles of valuation, appellants felt necessitated to present these appeals, for modification of the judgment and award passed by the Reference Court.

3. I have heard the learned Government Pleader appearing for the appellants and the learned Counsel for the respondents.

4. After careful perusal of the entire original records threadbare, including the judgment and award passed by the Reference Court, it emerges on the face of the judgment and award that, the Reference Court has not committed any error, much less irregularity, while determining the market value of the lands in question at Rs. 1,20,000/-per acre, treating the lands in question as irrigated lands. The determination made by the Reference Court is just and reasonable and the interference by this Court is uncalled for.

5. The Reference Court, after appreciating the oral evidence of P.W. 1 and R.W. 1 and the entries found in the ROR at Exs. P. 11 and P. 22 in respect of Sy. Nos. 59 and 139, which are very much available in original records at ink page Nos. 28" and 39 respectively, has given a specific finding that the lands in question are irrigated lands. Ex. P. 11 pertains to Sy. No. 59. In column (8) of Ex. P. 11 source of water is shown as "Halla". Ex. P. 22 pertains to Sy. No. 139. In column (8) of Ex. P. 22, it is shown as "MLBCC Canal". In column 13(9) of Ex. P. 11, the nature of crops grown for the extent of 24 guntas is shown as sugarcane and in Ex. P. 22, the nature of crops grown is shown as sugarcane and other ancillary crops. Therefore, Reference Court after appreciating the oral evidence of P.W. 1 and having regard to the entries found in Exs. P. 11 and P. 22 and having regard to the nature of the soil and the nature of crops grown therein i.e., sugarcane, has given a specific finding at para 14 of its judgment that, lands in question have got the irrigation facility and the claimants are growing sugarcane.

6. The Reference Court having regard to the nature of crops grown by the respondents i.e., sugarcane and other crops, has adopted capitalization method for evaluating the market value. As per Ex. P." 25-Yield Notification issued by the Competent Authority, the yield of sugarcane crop in Ramdurga area for the relevant year is shown as 40 tonnes per acre and as per Ex. P. 26-certificate issued by the Assistant Director of Agriculture, Ramdurga, the jogger for the relevant year was shown at 110 kgs. for one tonne of sugarcane. Exs. P. 25 and P. 26 are very much available in original records at ink page Nos. 42 and 43. The Reference Court has taken the average yield of jogger at 32 quintals instead of 40 quintals as shown in Ex. P. 25 and the price of jogger at Rs. 919/- per quintal, placing reliance on Ex. P. 27-Price list issued by the APMC and arrived at the

gross income per acre at Rs. 29,408/- (32 x Rs. 919/-). Out of which, 50% was deducted towards the cost of cultivation and arrived the net income at Rs. 14,704/- per acre and multiplied the same by Multiplier 10, placing reliance on the decision of the Supreme Court in Special Land Acquisition Officer, Davangere Vs. P. Veerabhadarappa and Others, and arrived at Rs. 1,47,040 (32 x Rs. 919/- x 10) as the value of the acquired lands as on the date of 4(1) Notification. However, the Reference Court has reduced the same to Rs. 1,20,000/- per acre, placing reliance on the judgment of the Division Bench of this Court in M.F.A. No. 959 of 2003-Ex. P. 30, wherein this Court has enhanced the compensation from Rs. 96,000/- to Rs. 1,20,000/- per acre in respect of irrigated lands situated at Kunnal Village acquired for the purpose of construction of canal and the lands in question are situated adjacent to the said village and in the same Taluk and the purpose for which it has been acquired is one and the same. Therefore, the Reference Court taking into consideration the nature of the soil, potentiality of the lands and the crops grown therein, has determined the market value by assigning cogent reasons with reference to the credible documentary evidence in paras 16 and 17 of the judgment. The said reasoning given by the Reference Court for determining the market value of the lands in question is just and reasonable and it is in accordance with the mandatory provisions of the Land Acquisition Act and the law laid down by the Supreme Court. Therefore, I do not find any infirmity or illegality committed by the Reference Court, while determining the market value of the lands in question at Rs. 1,20,000/- per acre and the same is just and reasonable. The interference by this Court is uncalled for. Nor the appellants have made out any good grounds to modify the judgment and award passed by the Reference Court, except making oral submissions which suits to the Counsel appearing for the appellants on the instructions given by the concerned officer, without producing any iota of documentary evidence before this Court. Nor they have made sincere efforts to rebut the evidence available on record before the Reference Court also.

7. Having regard to the facts and circumstances of the case as stated above, the appeals filed by the appellants are liable to be dismissed. Accordingly, they are dismissed.

Further, it is needless to clarify that, the interest awarded by the Reference Court from 28-1-1983 to 3-6-1999 is liable to be modified for the reason that, the respondents-claimants are entitled for interest from 3-6-1999 i.e., from the date of issuance of preliminary notification, in view of the law laid down by the Apex Court.

Liberty is reserved to the respondents-claimants to make necessary application before the Competent Authority, as envisaged under the mandatory provisions of the Land Acquisition Act, seeking damages/compensation from 28-1-1983 to 3-6-1999, if so advised, within four weeks from the date of receipt of a copy of the judgment and award.

If in case respondents-claimants file application before the Competent Authority

seeking damages/compensation, the Competent Authority, is directed to receive, consider the same and pass appropriate orders in accordance with law, as expeditiously as possible, within an outer limit of six months from the date of receipt of the application filed by the respondents-claimants, after affording an opportunity to the appellants and the respondents-claimants.

With these observations the appeals filed by the appellants stand disposed of.