

(1975) 02 KAR CK 0001

In the Karnataka High Court

Case No : Misc. First Appeal No's. 196 and 228 of 1974

The Special Land Acquisition Officer, Hassan

APPELLANT

Vs

M.S. Mallesha

RESPONDENT

Date of Decision : 04-02-1975

Acts Referred:

Land Acquisition Act, 1894 — Section 11, 18

Citation : AIR 1975 Kar 165 : (1975) ILR (Kar) 1008 : (1975) 2 KarLJ 74

Hon'ble Judges : G.K. Govinda Bhat, C.J.; M.K. Srinivasa Iyengar, J

Bench : Division Bench

Advocate : N. Venkatachala, 2nd Additional Government Advocate, for the Appellant; S.V. Shama Rao, for the Respondent

Judgement

G.K. Govinda Bhat, C.J.—These appeals by the Special Land Acquisition Officer, Hemavathi Reservoir Project, II, Hassan, are directed against the common Award and Decrees dated 17th November, 1973 made in L.A.C. Nos. 70 and 77 of 1973 on the file of the Court of the Civil Judge, Hassan.

2. Several acres of wet and dry lands situate in Mandira village, Alur Taluk in Hassan District, were acquired for the Hemavathi Reservoir Project, pursuant to the Preliminary Notification published in the Mysore Gazette dated 2nd January, 1971. The Land Acquisition Officer, in the award made by him u/s 11 of the Land Acquisition Act, fixed the market value at Rs. 2,200 an acre for dry Lands and at Rs. 5,400 an acre for wet lands. The basis of his valuation was the capitalisation of the net income assessed by him. He assessed the net income of the dry land at Rs. 150 an acre and that of the wet land at Rs. 362 an acre. He employed the multiple of 15 and capitalised the net income for the purpose of arriving at the market value.

3. The claimant was not satisfied with the award of the Land Acquisition Officer and therefore sought reference to the Civil Court u/s 18 of the Act. Before the learned Civil Judge, the claimant did not adduce evidence of any transaction of sale of similar lands. The claimant alone was examined with regard to the yield

from the lands. There was not much variance between the evidence of P.W. 1 regarding the yield and the income estimated by the Land Acquisition Officer. The Court was of the opinion that the deduction made by the Land Acquisition Officer for cultivation expenses was excessive, and therefore, fixed the net income at Rs. 130 an acre for dry lands and at Rs. 360 an acre for wet lands. The Court, however, adopted the multiple of 20 and thus arrived at the marked value of Rs. 3,600 an acre for dry lands and Rs. 7,200 an acre for wet lands.

4. In these appeals, the learned High Court Government Advocate, did not dispute the net income as assessed by the Court below and, in our opinion, rightly, as the same is based on the evidence on record. The learned Advocate, however, submitted that the learned Civil Judge was in error in employing the multiple of 20 for the purpose of capitalisation of the net income. He argued that there was no material for the learned Civil Judge to capitalise the net income by employing the multiple of 20 when the Land Acquisition Officer had employed the multiple of 15.

5. The only question for determination in these appeals is as to what is the proper multiple to be employed for valuation of the wet and dry lands acquired in the year 1971.

6. In the absence of evidence of transactions of sale of similar lands, one of the well-known methods of valuation is the method of capitalising the net income by employing 3 proper multiple, which is called the number of years' purchase value. The number of years' purchase value depends upon the rate of return which a prudent investor in the class of property would expect in the relevant year. A person investing his capital in agricultural lands ordinarily expects a return of 2% to 3% more than what he could obtain from Gilt-edged Security, Government Security is Gilt-edged Security. When the rate of return has to be determined, the valuer has to start with the rate of return from Gilt-edged Security in the year 1971.

7. In the Government of Karnataka Publication called "Finance Accounts for 1972-73" at page 180, it is seen that the rate of interest on the Mysore State Development Loans issued in the years 1967, 1968, 1969, 1970, 1971 and 1972 was uniformly 53/4%. Mysore Government's Loan is also Gilt-edged Security. Therefore, when the Government Securities earn 53/4% return, an investor in agricultural lands would naturally expect a higher rate of at least 7% return. If an investor in agricultural lands like dry and wet lands in the State would expect a minimum of 7% return in the year 1971, the proper multiple to be employed for the purpose of capitalisation cannot exceed 15 which is the multiple adopted by the Land Acquisition Officer.

8. As already stated, the net income of dry lands has been assessed by the Court below at Rs. 180 an acre and that of the wet lands at Rs. 360 an acre. We capitalise the said amounts by 15 years' purchase value and arrive at the market value of the dry lands and wet lands at Rs. 2,700 and Rs. 5,400 an acre

respectively.

9. Accordingly, we allow these appeals and fix the market value of the dry and wet lands at Rs. 2,700 an acre and Rs. 5,400 an acre respectively. The Award and the Decrees of the Court below are modified. The claimant will be entitled to the usual solatium of 15% of the market value fixed. Parties shall bear their own costs.

10. Appeals allowed.