

(2003) 01 KAR CK 0113

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 2860 of 1996

The Special Land Acquisition Officer, Karanja Project

APPELLANT

Vs

Nirmala Devi and Another

RESPONDENT

Date of Decision : 27-01-2003

Acts Referred:

Citation : (2003) 3 KCCR 1918

Hon'ble Judges : M.S. Rajendra Prasad, J;M.F. Saldanha, J

Bench : Division Bench

Advocate : Chandrashekar Rodnavar, High Court Government Pleader, for the Appellant; Manikappa Patil, for the Respondent

Final Decision : Dismissed

Judgement

M.F. Saldanha, J.—We have heard the learned Counsel on both sides. The principal ground for challenge in this case emanates from the fact that the Reference Court had raised the valuation to Rs. 31,050/- per acre on the ground that these lands are wet lands. The contention on behalf of the State who are the Appellants is to the effect that the material on record does not justify this categorisation and that therefore, the market value should be reduced. The learned Government Pleader relied on the heads of evidence and he submitted that merely because there is a 5 H.P. motor as per the claimants statements and in the last two years the sugar-cane crop was raised there, that the lands do not qualify for categorisation as wet lands and that better evidence should have been produced. We are not willing to accept this submission because the Respondents' Counsel points out to us that in all other similar cases of the adjoining lands the High Court has accepted the valuation and furthermore, his submission is that the lands are situated on the bank of a river and the mere fact that sugar cane has been cultivated conclusively establishes that the categorisation is correct. The record of rights Ex.P-9 establishes the claim of the Respondents who are the original claimants and if for any reason the State contended that the records were incorrect, then the onus shifts to them to produce specific contra evidence,

documentary plus oral so that the claim could then be evaluated on the basis of better material. In the absence of this being done, we see no ground for interference with the order of the Reference Court which is accordingly confirmed.

2. In this and several other of the land acquisition appeals, the learned Counsel who represents the claimants have raised one point which this Court has referred to several times and it needs to be finally emphasised with a level of firmness which the State Government will take serious note of. What the learned Counsel points out to us is that in all these land acquisition cases, the applicants are farmers and villagers whose lands are taken away from them through the acquisition process and that if the litigation relating to the compensation were to go on for months and decades, that even if interest and other benefits accrue, that it is no compensation or redressal for the actual loss and damage that has caused. They have advanced the submission that this Court must very specifically direct the Revenue Department of the State Government to reconsider the entire set of guidelines in relation to acquisitions to do away with the antiquated notions that are one century old and to adopt a practical and realistic approach in keeping with the principles of fairness but, more importantly in consonance with the tenets of social justice. Towards this end, what they point out is that if the Land Acquisition Officer in the first instance is ordered by the State Government to render an award that is fair and correct and is absolutely in consonance with the Real value of the land, that the further litigation to the District Court and the High Court would be totally and completely unnecessary. The second submission which they have canvassed and which is also of some consequence is that the department must do a very serious application of mind before indiscriminately filing appeals to the High Court because this class of litigants Viz., the farmers and the villagers are hardly in a position to be able to deal with this litigation financially and time-wise.

3. Dealing with the second point first, we fully uphold the submission canvassed on behalf of the applicants which is something common in this and all other land acquisition cases. Unless there is something that is manifestly wrong and unless it can be demonstrated that the so-called grievance of the department or the government is capable of being sustained from the material on record, the State should not and shall not indiscriminately file appeals in land acquisition cases. The delay apart, the result is that it unnecessarily chokes up the legal system, it causes severe prejudice to the land owner and what the government seems to be overlooking is that as a result of these appeals being indiscriminately filed and the appeals being disposed of after they are kept pending 5 to 8 years, that the government is paying a huge additional amount which they need not have done had that appeal not been filed in the first instance. Some degree of consideration and more importantly we expect a responsible approach from the State Government when it comes to the question of public money and public time and the State Government cannot overlook the heavy burden that it has put on the shoulders of the Judiciary by indiscriminately filing appeals in cases where the appeals are unwarranted. Such indiscriminate filing of mass litigation in the High

Court is thoroughly unjustified and if the department does not take heed of the strong words used in this Judgment, the only option would be to award not exemplary but, a magnitude of costs that will then make the State Government sit up and take cognizance of what the High Court has been saying. It is very necessary for the officers at the level of Secretary to Government to read the High Court Judgments and follow what the High Court has been asking the State Government to do.

4. Coming to the first aspect, this Court has repeatedly pointed out that when lands are acquired, antiquated methods of valuation are not the barometer from which the market value can be assessed. This Court has also in Judgment after Judgment pointed out that the value of the land in the hands of the acquirer, whether it is a Corporation or a Company or whether it is the Government who is acquiring for housing or for whatever other purpose, is an aspect which cannot be lost sight of. Irrespective of this, the more important legal aspect is that the Land Acquisition Officers will have to be specifically ordered with immediate effect to ensure that everyone of the awards is a scientific, fair and correct evaluation and that the Land Acquisition Officers need have no hesitation in awarding a fair and correct compensation in which case, the need to approach the Reference Court would be reduced to a very large extent. It will only be in those of the cases where it can be demonstrated that the Special Land Acquisition manifestly wrong, that a reference to the Court would be required. This is an aspect of the law which we direct the Revenue Department of the State Government to forthwith take cognizance of and to issue immediate directions.

5. As far as the present case is concerned, the valuation in question has been approved of by this Court and confirmed by this Court in almost one dozen of the companion acquisitions. We have dealt with the special submissions canvassed by the learned Government Pleader in the present case and we have already indicated that these cannot be upheld.

Having regard to this position, the order of the Reference Court is confirmed. The appeal fails on merits and stands dismissed. The Appellants are directed to deposit the balance of the compensation amount after correctly computing it with the Reference Court within a period of 12 weeks from today and on receipt of the amount, the Reference Court to disburse the same to the claimants.