

(2012) 04 KAR CK 0049

In the Karnataka High Court

Case No : Miscellaneous Second Appeal No. 96 of 2011 (LA)

The Special Land Acquisition Officer K.R. Project,
Parakalamata Building Mysore - 570001

APPELLANT

Vs

Thimmaiah

RESPONDENT

Date of Decision : 17-04-2012

Acts Referred:

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

Citation : (2012) 04 KAR CK 0049

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Nasrulla Khan, HCGP, for the Appellant;

Final Decision : Dismissed

Judgement

Ram Mohan Reddy

1. 0.11 guntas of land in Sy. No. 98/1C of Doddakanya Village, Jayapura Hobli, Mysore Taluk, amongst other small extents of land when acquired by the state government in exercise of its eminent domain power to wit for "Varuna Nala" by issuing a preliminary notification dt. 24/6/2004 under Sec. 4 (1) of the Land Acquisition Act, 1894, for short "the Act", followed by a final notification under Sec. 6 (1) on 29/8/2005, the special land acquisition officer, based on sales statistics, fixed the market value of the acquired land at 35,000/-per acre, by award dt. 27/6/2006. The land loser's application under Sec. 18(1) of the Act for enhancement of compensation when referred to the I Addl. Civil Judge (Sr.Dn.), Mysore, was registered as LAC No. 96/07, and clubbed along with LAC No. 76/07, 74/07, 77/07, 75/07 & 95/07, also for enhancement of compensation in respect of immovable properties acquired under the very same preliminary and final notifications for the very same public purpose. The claimants adduced common evidence in LAC No. 76/07 by examining the claimant in the said Reference as PW-1 and marked 3 documents as Ex.P1 to P3. The Special Land Acquisition Officer did not lead evidence, however the general award and

individual awards were marked as Ex.R1 to R28, by consent. The Civil Court having regard to the undisputed fact that the 0.11 guntas of land since acquired under the preliminary notification dt. 24/6/2004, was in Doddakanya Village, while several other lands acquired for the very same purpose were in the adjoining Chikkakanya village, under the notification dt. 13/5/2004, subject matter of Reference in LAC Nos. 238/07 & other cases, whence the market value of the acquired lands was enhanced to 2,74,219/- per acre, following the opinion of this Court in Bhim Singh & Others Vs. State of Haryana & Another AIR 2003 SC 4382 holding that the rate of compensation for all the acquired lands similarly situated in the adjoining villages cannot be found fault with and liable to be confirmed, therefore, by judgment and award dated 15/12/2007, allowed the Reference and enhanced the market value of the acquired land to 2,74.219/- per acre. The Special Land Acquisition Officer, aggrieved by the judgment and award, preferred LACA No. 64/2010 before the Principal District Judge at Mysore, who clubbed LACA No. 63/2010 and by a common judgment dated 7/1/2011, having found no merit, dismissed the appeals. Hence, this second appeal.

2. The only contention advanced by the learned HCGP for the appellant is that the land measuring 0.11 guntas in Doddakanya Village is not similar to the lands subject matter of LAC Nos. 238/07 and other cases, though the lands are situated in the adjoining village, acquired under the notification less than a month prior to the notification in question, though for the very same public purpose of forming Varuna Nala. Having heard the learned HCGP, perused the pleadings and examined the judgment and award of the Courts below, in the absence of any distinct material brought on record in the evidence, both oral and documentary, before the reference court, this court cannot hasten to conclude that the acquired lands did not offer a comparable value in particular, when the award earlier passed in LAC Nos. 238/07 and other cases, has already attained finality.

No substantial question of law arise for decision making and the appeal is accordingly dismissed.