

(2012) 04 KAR CK 0012

In the Karnataka High Court

Case No : Miscellaneous Second Appeal No. 86 of 2011 (LA)

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

APPELLANT

Vs

Kullegowda

RESPONDENT

Date of Decision : 17-04-2012

Acts Referred:

Citation : (2012) 04 KAR CK 0012

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. 0.06 guntas of land in Sy. No. 53/1A of Kadanahalli 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. 1/12/2005 under Sec. 4(1) of the Land Acquisition Act, 1894, for short "the Act", followed by a final notification under Sec. 6(1) on 12/1/2007, the Special Land Acquisition Officer, based on sales statistics, fixed the market value of the acquired land at Rs. 39.000/- per acre, by award dt. 20/8/2007. The land loser's application under Sec. 18(1) of the Act for enhancement of compensation when referred to the 1 Addl. Civil Judge (Sr. Dn.). Mysore, was registered as LAC No. 858/07, and clubbed along with LAC No. 854/07, 851/07, 855/07, 856/07 & 869/07, 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. 854/07 by examining the claimant in the said Reference as PW-1 and marked two documents as Ex. P1 & P2. The land acquisition officer did not lead evidence, however the general award and individual awards were marked as Ex R1 to R25, by consent. The Civil Court

having regard to the undisputed fact that the 0.06 guntas of land since acquired under preliminary notification dt. 1/12/2005, was within the limits of Kadanahalli Village while several other lands acquired for the very same purpose were also in the same village, under the preliminary notification dt. 9/12/2004 (i.e., 11 months 23 days earlier), subject matter of Reference in LAC Nos. 36, 23, 24 & 28/07, whence the market value of the acquired lands was enhanced to Rs. 2,61,479/- per acre, and, following the opinion of this Court in Bhim Singh and Others Vs. State of Haryana and Another, 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 15/4/2008, allowed the Reference and enhanced the market value of the acquired land to Rs. 2,61,479/- per acre The Special Land Acquisition Officer, aggrieved by the judgment and award, preferred LACA No. 13/2010 before the Principal District Judge at Mysore, who clubbed LACA No. 14/2010 and by a common judgment dated 5/1/2011, 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 0.06 guntas in Kadanahalli Village is not similar to the lands subject matter of LAC Nos. 36, 23, 24 & 28/07. though the lands are situated in the very same village, acquired under the notification dt. 9/12/2004 i.e., 11 months and 23 days earlier to the notification dt. 1/12/2005 in question, and 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. 36, 23, 24 & 28/07, has already attained finality.

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