

(2012) 04 KAR CK 0034

In the Karnataka High Court

Case No : Miscellaneous Second Appeal No. S3 of 2011 (LA)

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

APPELLANT

Vs

Basavalingappa @ Mogganna

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 0034

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. 0.32 guntas of land in Sy.No.140 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 Rs. 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.) & CJM, Mysore, was registered as LAC No. 61/07, and clubbed along with LAC Nos. 59/07 & 60/07, 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. 60/07 by examining the claimant in the said Reference as PW-1 and marked 2 documents as Ex.PI & P2. The Land Acquisition Officer did not lead evidence, however the general award and individual awards were marked as Ex.R1 to R16,

by consent. The Civil Court having regard to the undisputed fact that the 0.32 guntas of land since acquired, was within the limits of Doddakanya Village while several other lands acquired for the very same purpose were also in the same village, under the very notifications, subject matter of Reference in LAC Nos. 76/07, 75/07, 74/07, 77/07, 95/07 & 96/07, whence the market value of the acquired lands was enhanced to Rs. 2,75,000/- 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 27/6/2008, allowed the Reference and enhanced the market, value of the acquired land to Rs. 2,75,000/- per acre. The Special Land Acquisition Officer, aggrieved by the judgment and award, preferred LACA No.7/2010 before the Principal District Judge at Mysore, who by judgment dated 16/12/2010, having found no merit, dismissed the appeal. Hence, this second appeal.

2. The only contention advanced by the learned HCGP for the appellant is that the land measuring 0.32 guntas in Doddokanya Village is not similar to the lands subject matter of LAC Nos. 76/07, 75/07, 74/07, 77/07, 95/07 & 96/07, though the lands are situated in the very same village, acquired under the very same notifications 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. 76/07, 75/07, 74/07, 77/07, 95/07 & 96/07, has already attained finality.

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