

(2012) 04 KAR CK 0200

In the Karnataka High Court

Case No : Miscellaneous Second Appeal No. 103 of 2011 (LA)

The Special Land Acquisition Officer, Mysore

APPELLANT

Vs

Chennabasavegowda

RESPONDENT

Date of Decision : 12-04-2012

Acts Referred:

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

Citation : (2012) 4 KarLJ 84

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Akkamahadevi, for the Appellant;

Final Decision : Dismissed

Judgement

Ram Mohan Reddy, J.—The Special Land Acquisition Officer has preferred this miscellaneous second appeal aggrieved by the common judgment and award dated 13-4-2009 of the 1 Additional Civil Judge (Senior Division), Mysore, insofar as it relates to LAC No. 635 of 2007 enhancing the market value of the land measuring 0.011/2 guntas in Sy. No. 19/2 of Megalapura Village, Mysore Taluk, belonging to the respondent, from Rs. 67,700/- to Rs. 3,35,412/- per acre and the judgment and award dated 29-7-2010 in LACA No. 206 of 2009 of the Principal District Judge, Mysore, dismissing the appeal. There is no dispute that the State, in exercise of its eminent power, acquired lands measuring 0.011/2 guntas in Sy. No. 19/2; 0.06 guntas in Sy. No. 72/3; 12 guntas in Sy. No. 79/1 and 0.03 guntas in Sy. No. 62/1, amongst other extents of land at Megalapura Village, Mysore Taluk, by issuing preliminary and final notifications under the Land Acquisition Act, 1894 (for short, "the Act"), for a public purpose to with "Varuna Nala", whence the Special Land Acquisition Officer by award, fixed the market value of the land at Rs. 67,700/- per acre based on sales statistics. The owners of the lands, dissatisfied with the market value fixed by the Special Land Acquisition Officer, having filed application u/s 18 of the Act, for enhancement of compensation, when referred to the III Additional Civil Judge (Senior Division),

Mysore, were numbered as LAC Nos. 635, 636, 634 and 936 of 2007. The Reference Court, having clubbed the aforesaid references, recorded the testimony of claimant in LAC No. 635 of 2007 i.e., the respondent herein as P.W. 1 and marked two documents as Exs. P. 1 and P. 2, while for the Special Land Acquisition Officer, 5 documents were marked as Exs. R. 1 to R. 5 by consent and no oral evidence was recorded. The Reference Court having regard to the judgment and award in LAC No. 459 of 2007 of the II Additional Civil Judge (Senior Division), Mysore, enhancing the market value to Rs. 3,35,412/- per acre of lands situated in Keelanapura Village, Varuna Hobli, Mysore Taluk, acquired for the very same public purpose under preliminary notification dated 18-9-2003, observed that the preliminary notification u/s 4(1) of the Act, acquiring the respondent's lands published on 11-12-2003, was 2 months and 23 days after the notification, subject-matter of Ex. P. 1, coupled with the fact that Ex. P. 2, the map of Megalapura Village disclosed that Keelanapura Village was an adjoining village, opined that the market value of land fixed in Ex. P. 1 was an acceptable legal basis to fix the market value of the acquired land in question. The Reference Court, following the observation in State of Karnataka and Others Vs. Mallappa and Others, that when enhancement was made on the basis of judgment and award of the Court in similar other case wherein similar nature of lands of adjoining villages acquired under the very same notification for the very same purpose, uniform rate of compensation for all the acquired lands which are similarly situated to the adjoining villages, cannot be faulted, but liable to be confirmed, and the decision of the Apex Court in Bhim Singh and Others Vs. State of Haryana and Another, , observing that compensation already fixed by the High Court in the earlier proceeding and the Supreme Court in one such proceeding approving the rates fixed, was the best method and could not be faulted with, accordingly by the judgment and award dated 13-4-2009, fixed the market value of the acquired land at Rs. 3,35,412/- per acre.

2. The Special Land Acquisition Officer, aggrieved by the judgment and award, having preferred LACA No. 206 of 2009 insofar as it relates to LAC No. 635 of 2007, before the Principal District Judge at Mysore, on a re-appreciation of the material on record, was dismissed by judgment and award dated 29-7-2010. Learned Counsel for the appellant-Special Land Acquisition Officer submits that no appeal is preferred against the common judgment of the Reference Court in LAC Nos. 636, 634 and 936 of 2007 and has become final and binding. If that is so, then this second appeal, calling in question the common judgment insofar as it relates to LAC No. 635 of 2007, deserves to be dismissed.

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