

(2011) 06 KAR CK 0060
In the Karnataka High Court
Case No : M.F.A. 6939 of 2009

The Special Land Acquisition Officer, Mysore Urban
Development Authority

APPELLANT

Vs

Koosappa

RESPONDENT

Date of Decision : 06-06-2011

Acts Referred:

Land Acquisition Act, 1894 — Section 18 (1), 4 (1)
Mysore Court-fees and Suits Valuation Act, 1958 — Section 64

Citation : (2011) 06 KAR CK 0060

Hon'ble Judges : N.K. Patil, J;Arali Nagaraj, J

Bench : Division Bench

Advocate : T.P. Vivekananda, for P.S. Manjunath, for the Appellant; R.S. Ravi,
for the Respondent

Judgement

N.K. Patil, J.—This appeal by the Appellant -The Special Land Acquisition Officer, Mysore Urban Development Authority, Mysore, is directed against the impugned judgment and award dated 23/04/2009 passed in LAC. No. 353/2005 by the III Additional Civil Judge(Sr. Dn) and CJM, Mysore, ("Reference Court" for short).

2. The Reference Court, by its impugned common judgment and award has awarded a sum of Rs. 10,61,000/- per acre in respect of the land in question, which was notified and acquired by the Appellant for the purpose of formation of favour.

3. The land bearing Sy. No. 139, measuring 02 acre 03 guntas belonging to claimant, situated at Lalithadripura village, Varuna Hobli, Mysore Taluk, was notified and acquired by the Appellant herein for the purpose of formation of "Lal Bahaddur Shastri" layout, vide Preliminary Notification dated 24.7.1997 issued u/s 4(1) of Land Acquisition Act, followed by Final Notification The Special Land Acquisition Officer, has passed an award on 24.5.2003 awarding the compensation of Rs. 1,25,000/- per acre. Not being satisfied with the compensation awarded by the Land Acquisition Officer claimant has filed a

reference application u/s 18(1) of the L.A. Act, for referring the matter to the jurisdictional Reference Court seeking enhancement of compensation and accordingly, the matter was referred to the jurisdictional Reference Court. The Reference Court, after assessing the oral and documentary evidence and other material available on file and on the basis of the sale of fully developed site in the adjoining area, has determined the market value of the land in question at Rs. 10,61,000/- per acre. Being aggrieved by the said judgment and award, the Appellant has presented this appeal, on the ground that the compensation awarded by the Reference Court is on higher side and it requires to be reduced by modifying the impugned judgment and award.

4. We have heard the learned Counsel appearing for the Appellant and learned Counsel for Respondent.

5. Learned Counsel appearing for the Appellant Sri. Vivekananda T.P. appearing for Sri. P.S. Manjunath, at the outset, submitted that, the subject matter involved in this case is directly covered by the judgment of the Division Bench of this Court dated 24th February 2011 passed in M.F.A. No. 7564/2008 (The Special Land Acquisition Officer, Mysore Urban Development. Authority, Mysore v. Shri. Mahadevappa) and connected matter. Therefore, he submitted that, following the aforesaid judgment passed by this Court, the instant appeal may also be disposed of.

6. The above submissions made by learned Counsel appearing for the Appellant are placed on record.

7. In the light of the submissions made by learned Counsel for the Appellant and following the judgment of the Division Bench of this Court dated 24th February 2011 passed in M.F.A. No. 7564/2008 (The Special Land Acquisition Officer, Mysore Urban Development Authority, Mysore v. Shri. Mahadevappa) and connected matter and for the reasons stated therein, the appeal filed by the Appellant is allowed in part.

The impugned common judgment and award dated 23rd April 2009 passed by the Reference Court so far as it relates to L.A.C. No. 353/2005 is hereby set aside and the matter is remitted back to the Reference Court with a direction to re-determine the market value of the land in question, after affording reasonable opportunity of hearing to both the parties and decide the same in the light of the directions issued by the Division Bench of this Court in the aforesaid judgment.

Office is directed to refund the Court fee paid by the Appellant as envisaged u/s 64 of the Karnataka Court Fees and Suits Valuation Act, 1958 immediately.

The claimant is permitted to withdraw 50% of the amount deposited by the Appellant, subject to the result of the judgment of the Reference Court, without furnishing any security or surety. Ordered accordingly.