

(2010) 04 KAR CK 0225
In the Karnataka High Court
Case No : MFA No. 20345 of 2010

The Special Land Acquisition Officer Sea Bird Naval Base
Project

APPELLANT

Vs

Laxman Haddu Gouda, Vasu Haddu Gowda Since deceased
by his L.Rs. Nema Vasu Gouda and The Defence Estate
Officer

RESPONDENT

Date of Decision : 06-04-2010

Acts Referred:

Land Acquisition Act, 1894 — Section 54

Citation : (2011) 3 KCCR 1930

Hon'ble Judges : N. Ananda, J;D.V. Shylendra Kumar, J

Bench : Division Bench

Advocate : C.S. Patil, AGA, for the Appellant;

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—This is an Appeal by the Special Land Acquisition Officer, Sea Bird, Naval Base Project, Karwar, u/s 54 of the Land Acquisition Act, 1894, though described in the memorandum of appeal as an appeal under the provisions of Motor Vehicles Act, which only demonstrates the utter carelessness and lack of diligence on the part of the Land Acquisition Officer in preferring this Appeal and equally so the carelessness of the Government Advocate who had prepared and presented the appeal. The appeal is replete with serious defects which the registry of this Court had pointed out on presentation of the appeal.

2. The registry has noticed that the Appeal is hopelessly out of time with delay a of 947 days and the appeal is not accompanied with any application for condonation of delay. Though the registry has indicated that such an application u/s 5 of the Limitation Act has to be filed, and it is for non compliance of such defect pointed out by the registry, the appeal is listed before the Court. Sri. C.S. Patil, learned Additional Government Advocate seeks some accommodation and submits that an application seeking condonation of delay u/s 5 was filed on

10.03.2010 before the registry, but it is conspicuously absent in the records before us. We cannot find fault with the registry for having not put up such an application along with records, as if the manner of presentation of the appeal is any indication, we are not sure of the proper presentation of the application either.

3. We also find that though the Appellant is aware that the matter pertains to Division Bench of this Court and papers should be presented in two sets, the second set presented is an apology for another set, which otherwise should be like the first set in all respects, except the certified copy of the judgment appealed and vakalath.

4. The appeal presented beyond time and without being accompanied by an application seeking for condonation of delay is an appeal barred by time. Even the application subsequently filed does not automatically cure the initial defect unless the Court permits the receipt of the application for condonation of delay and therefore the appeal is liable to be dismissed in terms of the law of limitation as the appeal was filed beyond the period permitted in law.

5. The appeal was filed after as many as 947 days from the date on which it should have been filed. Added to this, Sri. C.S. Patil, learned Additional Government Advocate submits that the acquisition of the land belonging to the Respondent for a public purpose viz., for the Sea Bird Naval Base Project at Karwar was in respect of a much larger extent of land and included lands owned by many other land owners; that in respect of such lands, initially the Land Acquisition Officer had determined the compensation at Rs. 636/- per gunta, that it came to enhanced to Rs. 11,500/- by the reference Court and the judgment of the reference court in cases of other land owners having been tested by the Land Acquisition Officer not only before this Court by way of an appeal u/s 54 but also by way of SLP before the Supreme Court has come to be confirmed, by the valuation as determined by the reference Court having been left without disturbance.

6. The Appellant having failed in both the attempts and the compensation determined by the reference Court being in consonance with the compensation determined in the earlier references which in fact was affirmed by this Court and though the matter had attained finality, it is only to get such a certificate, this appeal is presented for the sake of record as the Appellant is very much aware that no worthwhile success would come out of the present Appeal.

7. The manner in which the appeal is presented, in the above narrated background, only betrays the lack of seriousness in presenting and prosecuting, makes us feel that all such purposeless exercise is only to elicit a certificate from this Court so that compensation determined by the reference court attains finality which is in our considered opinion nothing short of an act of irresponsibility and an excuse for evading responsibility on the part of the Appellant and just to elicit a tacit approval from this Court to justify the action on

the part of the Appellant on the administration side.

8. We have come across many instances where the State comes up in Appeal before this Court without any seriousness and allows the matters to go for default. We have also come across various litigants coming up before this Court wherein the State is arrayed as Respondent and the Respondent/State and its learned Counsel conceding to grant a relief to the Petitioner/ Appellant which they are otherwise not entitled to in law. The practice of use of the forum of judiciary only as an excuse or alibi to dole out favours to persons who may have otherwise taken care of the officials working in the Government is only a mirror held to the manner of Governance.

9. The system of governance in this country administered by corrupt bureaucrats and lead by unprincipled politicians has only taken the country to the brink of disaster and in such state of affairs, judiciary which is the only ray of hope for the people of the country, also should start endorsing or even giving tacit approval to such maladministration the confidence, faith and belief in judiciary also gets eroded. Judiciary and Courts cannot be mis-used or abused for such purpose. It is the duty of the Judges to guard against such tendencies and ensure that rule of law prevails in the country by redressing the legitimate grievances of the citizens of this country and their grievances are redressed only in accordance with law and the Court does not become instrumentality for such act on the part of the executives and the greedy citizens.

10. We dismiss this Appeal with pain in our hearts and with a hope and expectation that the persons running the State Government will at least bestow some attention for good and better governance of the State and to alleviate the sufferings of the citizens of this country. Though the appeal is not presented in any proper form and no notice had been issued to the Respondent, as a measure to discipline, the Appellant, for having mis-used the process of this Court without any cause, we dismiss the Appeal levying exemplary cost of Rs. 50,000/- with a direction to remit the same to account of High Court Legal Services Committee maintained in this Bench which shall be made use for providing legal aid to the deserving litigants approaching this Court so that their litigation expenses are met by this fund.

Cost to be deposited within six weeks from today.