(2005) 12 KAR CK 0022

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 6326 of 2004

The Special Land Acquisition Officer, UKP — APPELLANT

Vs

Huliyappa and Another — RESPONDENT

Date of Decision : 03-12-2005

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 133
Land Acquisition Act, 1894 — Section 18 (1), 4 (1)

Citation : (2006) 1 KCCR 273

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : V. Bychappa, High Court Government Pleader, for the Appellant; S.S. Patil Gugihal, for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—This appeal by the State through the Special Land Acquisition Officer, UKP Bilagi No. 1-Appellant herein is directed against the judgment and award dated 8th March, 2004 in LAC No. 181 of 2000 on the file of the Additional Civil Judge, (Sr. Dvn.) Jamkhandi, on the ground that the amount awarded by the Reference Court is excessive.

2. Land bearing RS No. 11/1 measuring 1 acre 30 guntas, situate at Yatnatti village, Bilagi Taluk has been notified and acquired by the State Government through the Special Land Acquisition Officer, UKP Bilagi No. 1-Appellant herein for the purpose of ''Upper Krishna Project'', vide preliminary Notification issued u/s 4(1) of the Land Acquisition Act on 3.10.1996. The Land Acquisition Officer, after taking all the relevant factors into consideration, has fixed the market value of the land in question and passed the award on 26.3.1999. Not being satisfied with the award passed by the Land Acquisition Officer, Respondent s-claimants herein have filed Reference application u/s 18(1) of the Land Acquisition Act, for enhancement of compensation, on the ground that, the amount awarded by the Land Acquisition Officer is inadequate and requested the Land Acquisition Officer

to refer the matter to the juridictional Reference Court for consideration. The Reference Court, in turn, after evaluation of oral and documentary evidence available on record and with reference to the entries found in RTC extract for the agricultural years 1994-95 to 1997-98 treated the land in question as irrigated land and claimants are growing irrigated crops like groundnut, cotton etc., and after assigning cogent reasons with reference to credible documentary evidence in para No. 9 of the judgment, adopting capitalization method having regard to the fertility and potentiality of the land, crops grown by the claimants, taking the Yield and price of groundnut and sunflower as per yield Notification and price list issued by the competent authority, after giving necessary deduction towards cost of cultivation and applying multiplier 10 placing reliance on the judgment of the Supreme Court, has re-determined the market value of the land in question at the rate of Rs. 1,08,000/- per acre. Since the said determination made by the Reference Court is excessive and contrary to the oral and documentary evidence and other materials available on record and Reference Court has committed an error in classifying the land as ''irrigated land'' and the yield and price taken in respect of groundnut and sunflower is on higher side, Appellant felt necessitated to present the instant appeal, for modification of the judgment and award passed by the Reference Court.

3. I have heard the learned Government Pleader appearing for the Appellant and learned Counsel appearing for Respondent s.

4. After careful perusal of the judgment and award passed by the Reference Court, it emerges on the face of the judgment and award that, Reference Court has not committed any error, much less irregularity while determining the market value of the land in question at the rate of Rs. 1,08,000/- per acre, treating the land in question as irrigated land. It is significant to note that, the Reference Court has treated the land in question as ''irrigated land'', in view of the entries found in RTC extracts for the agricultural years 1994-95 to 1997-98 as per Ex.R17 to R24, which shows that, the land in question is an irrigated land and claimants are growing irrigated crops like, groundnut, sunflower, cotton, onion etc. and the said Ex.R17 to R24 have got its presumptive value u/s 133 of Land Revenue Act to presume its genuineness unless rebutted by the other side. Further Reference Court has specifically stated in its judgment that, claimants have fully corroborated the same stating that, as on the date of 4(1) Notification and earlier, land in question was an irrigated land and they are growing two irrigated crops per year, observations made by the Land Acquisition Officer in the award and the entries found in the RTC as per ExR17 to R24 and on the contrary no worthwhile material has been elicited to disbelieve the same and there is no contra evidence produced by the Appellant before the Reference Court to disprove the same. Hence, Reference Court has treated the land in question as ''irrigation land'' by assigning cogent reasons in para No. 11 of its judgment. The said reasoning given by the Reference Court is just and reasonable and there is no error or irregularity committed by the Reference Court in treating the land in question as irrigated land. The intereference by this Court is uncalled for.

5. The Reference Court has adopted capitalization method for evaluating the market value, placing reliance on the judgment of the Supreme Court. It has taken the yield of groundnut at 10 quintals per acre with the average price of Rs. 1,199/- per quintal and arrived at the total income from groundnut at Rs. 11,990/-. In respect of sunflower, it has taken the average yield of 8 quintals per acre with the average price at Rs. 1,203/- per quintal and arrived at the income from sunflower at Rs. 9,624/-. Placing reliance on the decision of the Supreme Court reported in State of Gujarat and others Vs. Rama Rana and others, , dedicated 50% towards the cost of cultivation and arrived the net income of groundnut at Rs. 5,995/- and sunflower at Rs. 4,812/- and multiplied the same by Multiplier 10 and arrived at Rs. 59,950/- (Rs. 5,995/- x 10) per acre, as the income from groundnut and Rs. 48,120/- (Rs. 4,812/- x 10) per acre, as the income from sunflower and added both the incomes and arrived at the total income at Rs. 1,08,070/- (Rs. 59,950/- + Rs. 48,120/-) and rounded of it to Rs, 1,08,000/- per acre, by assigning cogent reasons with reference to the credible documentary evidence in para No. 16 of its judgment. The said reasoning given by the Reference Court for determining the market value of the land in question is in accordance with law and on the basis of the law laid down by the Supreme Court. Therefore, I do not find any infirmity or illegality, committed by the Reference Court, while determining the market value of the land in question. The determination made by the Reference Court is just and reasonable. The Appellant has not produced any rebuttal evidence at least before this Court to establish that, the amount awarded by the Reference Court is excessive and made out any good grounds to entertain the appeal.

6. Having regard to the facts and circumstances of the case as stated above, the instant appeal filed by the Appellant is liable to be dismissed. Accordingly, it is dismissed.

deducted

