

(2003) 06 KAR CK 0025

In the Karnataka High Court

Case No : Miscellaneous First Appeal No. 4864 of 2002

The Special Land Acquisition Officer, Upper Krishna Project

APPELLANT

Vs

Pavadeppa and Another

RESPONDENT

Date of Decision : 05-06-2003

Acts Referred:

Citation : (2003) 5 KarLJ 202

Hon'ble Judges : S.R. Nayak, J;K. Ramanna, J

Bench : Division Bench

Advocate : K.P. Ashok Kumar, for the Appellant;

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—The Special Land Acquisition Officer, Upper Krishna Project, Lingasugur, being aggrieved by the judgment and award dated 20-4-2002 in Land Acquisition Case No. 154 of 1999 on the file of the Additional Civil Judge (Senior Division) at Raichur, has preferred this appeal, contending that the determination of compensation at the rate of Rs. 74,000-00 per acre by the Reference Court is highly excessive.

2. We have heard learned Government Advocate for the appellant and perused the judgment of the Reference Court.

3. The Reference Court has awarded compensation at the rate of Rs. 74,000-00 per acre by adopting capitalisation method. The Reference Court placing reliance on yield stated by the Agricultural University, Dharwad, in a book published by it, in the absence of any yield certificate issued by the Agricultural Department and taking into account the average yield for determining the compensation, has held that the net income per acre after deducting 50% of gross income towards cost of cultivation and adopting multiplier of 10 would be Rs. 7,400-00. The determination of compensation, as could be seen from the judgment, is based on substantive legal evidence. We do not find any flaw, legal or factual, in the judgment. Learned Government Advocate was not in a position to point out any

error in the judgment on the basis of which we could possibly interfere with the award passed by the Reference Court.

4. We find from the impugned award that the Reference Court has not awarded interest on solatium and additional market value as mandated by the Act and settled by case-law when this fact was pointed out to the learned Government Advocate, he would maintain that though that is a fact and the claim of the owners to interest on solatium and additional market value cannot be contested, the same could not be directed to be paid to the landowners inasmuch as they are not before the Court and that such a direction would not lie to the Land Acquisition Officer and State Authorities in an appeal preferred by them. We do not agree with learned Government Advocate. The claim for interest arises under the Land Acquisition Act which is a public law. The principle is that under no circumstance, the State can be permitted to withhold a legitimate amount due to a landowner by virtue of a settled position in law or to make unlawful gain. Technicalities cannot be permitted to overtake justice. It is not a case of learned Government Advocate that in the light of provisions of the Land Acquisition Act and the law settled conclusively by the Apex Court, the claimants/owners are not entitled to interest on solatium and additional market value. If in terms of law, the claimants are entitled to interest on solatium and additional market value, it is appropriate that this Court should direct the State which is undoubtedly a "welfare State" and its authorities to perform their statutory obligations and prevent them from making unlawful gains. In that view of the matter, we hold that the respondents-owners are also entitled to interest on solatium and additional market value, and the Land Acquisition Officer is directed to pay the same to them.

The appeal is devoid of merits and it is accordingly dismissed