

(1989) 07 KAR CK 0007
In the Karnataka High Court
Case No : M.F.A. (FR) No. 4954 of 1989

The Spl. Land Acquisition Officer and another	APPELLANT
Vs	
L.K. Sunthakar and others	RESPONDENT

Date of Decision : 21-07-1989

Acts Referred:

Karnataka Civil Courts Act, 1964 — Section 19

Citation : AIR 1990 Kar 275 : (1989) ILR (Kar) 2272 : (1989) 2 KarLJ 395

Hon'ble Judges : M. Ramakrishna, J; M. Rama Jois, J

Bench : Division Bench

Advocate : N. Devadas, G.A, for the Appellant;

Judgement

1. In view of the office objections raised in this appeal, the following question of law arises for consideration.

For the purpose of deciding as to whether the appeal lies to the High Court or to the District Court in view of the amendment to Section 19 of the Karnataka Civil Courts Act, 1964, whether the value of the subject-matter in the trial Court or the value of the subject-matter in dispute in appeal, should be taken as the basis?

2. Section 19 of the Act prior to its amendment by Act 13 of 1989 reads :

"19. Appeals from Civil Judge: Appeals from the decrees and orders passed by a Civil Judge in original suit and proceedings of a civil nature, shall when such appeals are allowed by law, lie :

(1) to the District Court, when the amount or value of the subject-matter of the original suit or proceeding is less than twenty thousand rupees;

(2) to the High Court, in other cases."

According to the above provision, as against judgment and decrees passed by the Court of Civil Judge, appeal lies to the District Court when the amount or value of the subject-matter of the original suit or proceeding is less than Rs.

20,000/- and to the High Court in other cases. In the case of K. Malkoji Rao v. Asst. Commr. and The Land Acquisition Officer (1977) 1 Kar LJ 173, interpreting Sec. 19 of the Act this Court has held, that it is the value of the subject-matter in the original suit or proceeding which determines the appellate forum.

3. The only change brought about by the amendment Act 13 of 1989 is to substitute Rs. 1,00,000/- for Rs. 20,000/- in sub-sec. (1) of S. 19. Therefore even after amendment, it is the value of the subject-matter in the original suit or proceeding should be taken as the basis to determine as to whether the appeal lies to the High Court or to the District Court. Section 4 of the amending Act which provides for transfer of appeals is only a consequential provision. By the force of that provision such of the appeals which lies to the District Court after amendment of Sec. 19 but which have been filed and pending before the High Court are transferred to the District Court.

4. According to the office objection, the subject-matter of this appeal is less than rupees one lakh and therefore this appeal is not maintainable before this Court, in view of the amendment to Sec. 19 by Act 13 of 1989. According to the learned Government Advocate the value of the subject-matter in appeal was more than Rs. 1,00,000/- if to the amount awarded, solatium and interest payable, are added. In support of his submission that solatium and interest should also be added to ascertain the value of the subject-matter, the learned Government Advocate relied on Sec. 48 of the Act which reads :--

"48. Fee on memorandum of appeal against decision, award or order relating to compensation. -- The fee payable under this Act on a memorandum of appeal against a decision or an award or order relating to compensation under any Act for the time being in force for the acquisition of property for public purpose shall be computed on the difference between the amount awarded and the amount claimed by the applicant. ,

Explanation : For the purpose of this Section the expression of "amount awarded" and "amount claimed" include any other additional sum payable in accordance with the law providing for acquisition in consideration of the compulsory nature of the acquisition."

Relying on the explanation to Sec. 48, learned Government Advocate submitted that for purpose of valuation for payment of court-fee, the expression "amount awarded" and "amount claimed" include any other additional sum payable in accordance with the law providing for acquisition of the compulsory nature of the acquisition. Learned Counsel further submitted that though Sec. 48 applies to the appeal by claimants Explanation (1) to Sec. 49 provides that whether the appeal is against the refusal of a relief or against the grant of the relief, the fee payable in the appeal shall be the same as the fee that would be payable on the relief in the Court of first instance and therefore, the value of subject-matter of an appeal by the Special Land Acquisition Officer would be not only the amount of compensation awarded, but also amount of solatium and interest payable on the

amount of compensation.

5. In our opinion, Ss. 48 and 49 of the Court-fees Act has no relevance to the question which arises for consideration. As pointed out earlier, what is relevant to decide the question of appropriate forum for appeal according to Sec. 19 of the Civil Courts Act is the value of the subject-matter in the original proceedings and not the value of the subject-matter in dispute in appeals whether it is higher or lower than the value of the subject matter in the original proceedings.

6. In the light of the above discussion, we respectfully agree with the view taken in Malkoji Rao's case ((1977) 1 Kar LJ 173), and answer the question set out as follows :

For the purpose of deciding as to whether the appeal lies to the High Court or the District Court in the light of the amendment to Sec. 19 of the Karnataka Civil Courts Act, 1964, the value of the subject-matter in the trial Court should constitute the basis and not the value of subject-matter in dispute in appeal.

7. In the present case, though the office objection that the appeal is not maintainable before this Court is correct, for, the value of the subject-matter before the Civil Judge was Rs. 54,000/-, the basis on which the objection is raised is wrong. The submission of the learned Government Advocate that value of the subject-matter in appeal would be not only the amount of compensation awarded plus the solatium and interest payable on it according to Ss. 48 and 49 of the Court-fees Act is correct, and that if so, calculated the value of the subject-matter in this appeal would exceed rupees one lakh, as shown in the memorandum of calculation, is also correct, but not relevant for purpose of determining as to whether appeal lies to this Court or the District Court under S. 19(1) of the Civil Courts Act.

8. As undisputedly in this case, the value of the subject-matter in the original proceeding under S. 18 of the Land Acquisition Act before the Civil Judge was Rs. 54,000/-only we hold that the appeal in this case lies to the District Court and not to this Court.

9. Accordingly, we direct, that the records of this appeal be transmitted to the District Court, Uttar Kannada District.

10. Let a copy of this order be sent to each of the District Courts in the State forthwith.

11. Order accordingly.