

(2013) 04 KAR CK 0038

In the Karnataka High Court

Case No : Miscellaneous Second Appeal No. 1031 of 2013 (LAC) connected with Miscellaneous Second Appeal No's. 1032, 1034 to 1042 and 1033 of 2013 (LAC)

Tippanna (dead) by L.Rs.

APPELLANT

Vs

The Special Land Acquisition Officer, MI and MIP and Another

RESPONDENT

Date of Decision : 09-04-2013

Acts Referred:

Land Acquisition Act, 1894 — Section 28-A

Citation : (2013) 4 KarLJ 62

Hon'ble Judges : Huluvadi G. Ramesh, J

Bench : Single Bench

Advocate : A.M. Biradar, for the Appellant; S.K. Babshetty, Government Pleader, for the Respondent

Judgement

Huluvadi G. Ramesh, J.—Heard the Counsel for the appellants and the Government Pleader. These appeals are filed after lapse of several days as indicated in these appeals. It appears with regard to acquisition of property for Lower Mullamari Project, the Land Acquisition Officer awarded Rs. 17,000/- per acre for dry land in MSA Nos. 1031, 1032, 1034, 1042, 1033, 1041, 1040 of 2013. Rs. 15,000/- per acre for dry land in MSA Nos. 1035 to 1038 of 2013 and Rs. 32,250/- per acre for irrigated land in MSA No. 1039 of 2013. On reference, the Reference Court awarded Rs. 38,000/-per acre for dry land in MSA Nos. 1031, 1032, 1034 and 1033 of 2013, Rs. 36,000/- per acre for dry land in MSA Nos. 1040 to 1042 of 2013, Rs. 43,300/- per acre for dry land in MSA Nos. 1035 to 1038 of 2013 and Rs. 75,600/- per acre for irrigated land in MSA No. 1039 of 2013, as against which seeking for enhancement of compensation, the claimants moved the First Appellate Court relying upon the decision of this Court to enhance the compensation from Rs. 38,000/- per acre to Rs. 91,000/- per acre. It appears, mainly on the ground of delay, the First Appellate Court rejected the claim of the appellants. In these cases, there is a delay of 461 days to 1041 days.

2. Submission of the learned Counsel for the appellants is that as per Section 28-A of the Land Acquisition Act, 1894 claimants are entitled for compensation irrespective of the fact that they moved the Court or not and they can very well move before the acquisition authority. It is submitted by the Counsel for the appellants, in the interest of substantial justice, delay has to be condoned to advance justice and matter has to be remitted back for reconsideration for enhancement of compensation.

3. The learned Government Pleader submitted that the claimants are not entitled for interest for the delay period. However, the delay has not been properly explained by the claimants before the lower Appellate Court.

4. The delay in each of these appeals has been condoned subject to the condition that the claimants would not be entitled for interest for the period of delay on the enhanced compensation and also will not be entitled for additional benefits. So far as, the additional benefits to be granted during delay period, it would be decided by the First Appellate Court whether the claimants are entitled for additional benefits or not for the delay period apart from denying the interest for the delay period. With the above observations, these appeals are allowed in part. The delay in preferring these appeals are condoned as noted above. It is for the lower Appellate Court to take note of the situation in awarding the additional benefits and interest for the delay period and also as to whether the claimants could be awarded enhanced rate or not etc.