

(2011) 01 KAR CK 0073

Karnataka High Court

Case No: Miscellaneous First Appeal No. 8154 of 2005

The Special Land Acquisition
Officer

APPELLANT

Vs

P. Nagappa Reddy and Others

RESPONDENT

Date of Decision: Jan. 19, 2011

Acts Referred:

- Land Acquisition Act, 1894 - Section 18

Citation: (2011) 1 KCCR 613

Hon'ble Judges: K.L. Manjunath, J; H.G. Ramesh, J

Bench: Division Bench

Advocate: Sangamesh G. Patil, High Court Government Pleader, for the Appellant; M. Narayana Swamy, for Respondent-1 and Gurudev I. Gachchinamath, for Respondent-2, for the Respondent

Final Decision: Dismissed

Judgement

K.L. Manjunath, J.

The legality and correctness of the judgment and award passed by the Additional City Civil Judge, Bangalore City dt. 18.3.2003 in LAC 223/2003 is called in question by the Special Land Acquisition Officer and also by the beneficiary.

2. The facts leading to this case are as hereunder:

1 acre 10 guntas of land situated in Sy. No. 46 of Dodda Thogur Village, Begur Hobli, Bangalore South Taluk was notified for acquisition under the preliminary notification for acquisition under the preliminary notification dt. 4.2.1997 for construction of water tank by the BWSSB. An award was passed on 16.6.2000 and possession was taken on 25.8.2000. The Land Acquisition Officer determined the market value at the rate of Rs. 5 lakhs per acre. Being not satisfied with the same, on the request of the Landlord matter was referred to the Reference Court u/s 18 of the Land Acquisition Act for determination of the market value. The parties let in their

evidence. On behalf of the claimant, one Yellappa was examined as PW1 and he relied upon Ex.P1 to P6. On behalf of the Respondents one B. Nagaraj was examined as RW1 and he relied upon Ex. R1 and R2.

3. The Reference Court formulated the following point for its consideration:

1) Whether the claimants prove the market value determined by the Land Acquisitions Officer is not just and proper and inadequate? If so, what is the just and reasonable market value for the acquired land?

4. After considering the entire evidence, the Reference has been allowed-in-part determining the market value of the land at the rate of Rs. 12 lakhs per acre including the statutory benefits like solarium and additional market value. This order is called in question in this appeal.

5. The main contention of the Appellant before us is that the determination of the market value by the Court below is excessive, arbitrary and not based on the evidence let in by the parties. According to him, the Reference Court has determined the market value relying upon Ex. P2 in respect of the land acquired by KAIDB at Konappana Agrahara, Doddathogur Village, Begur Village, Bangalore, fixing the market value at Rs. 22 lakhs per acre. The land acquired by KAIDB and the land acquired in the present case are not comparable one and therefore he requests to reduce the compensation awarded by the Reference Court.

6. Per contra, Learned Counsel for the Respondent submits that the determination of the market value itself is on lower side and that he has filed cross objections. But Cross objections filed by the Respondent has been dismissed for non-prosecution on 21.10.2006 and till today the said order has not been recalled.

7. Though the claimant states that a Cross - objection is filed, we are unable to consider the same on account of the default committed by the Respondent - claimant.

8. In the circumstances, what is to be considered by us in this appeal is whether the adjudication of the market value by the Reference Court is on higher side or on lower side.

9. Admittedly, the land in question is acquired for the construction of water tank by the BWSSB. The land is situated in Begur Hobli and the preliminary notification is of the year 1997. Considering Dodda Thogur village is very near to Electronic City and it is highly developed area and it is capable of using the same either as residential area or for industrial area, considering the valuation of development in and round the area during the relevant acquisition as a matter of fact, the Trial Court has relied upon Ex. P2 for determining the market value. But the Trial Court for the reasons best known to it did not consider the relevant sale deeds produced in respect of the lands situated in and around property acquired. But relying upon Ex. P2 it is only a package granted to the land in Koonappana Agrahara, has determined the market

value, which according to us is bad in law. As a matter of fact in other connected matters, the market value of the land has been determined at higher rate than Rs. 12 lakhs.

10. In the circumstances, we do not see any merits in this appeal.

11. Accordingly, the appeal is dismissed.