
Hanamant and Others Vs The Special Land Acquisition Officer, Upper Krishna Project

Miscellaneous First Appeal No. 101561/2014 (LAC)

Court: Karnataka High Court (Dharwad Bench)

Date of Decision: July 15, 2015

Acts Referred:

Land Acquisition Act, 1894 - Section 18(1), 23(1A), 34, 4(1)

Hon'ble Judges: B. Veerappa, J

Bench: Single Bench

Advocate: M.C. Hukkeri and S.C. Bhuti, for the Appellant; Ravi Hosamani, A.G.A., Advocates
for the Respondent

Final Decision: Partly Allowed

Judgement

B. Veerappa, J

The present appeal is filed by the claimants seeking for enhancement of compensation, against the judgment and award

dated 01.10.2007 passed by the Addl. Civil Judge (Sr. Dn.), Jamkhandi, in LAC. No. 443/2006, allowing their Reference in-part
awarding

compensation of Rs. 1,80,000/- per acre after excluding pot kharab area, if any, and granting 30% solatium on the enhanced
market value along

with 12% additional market value from the date of 4(1) notification to the date of award passed by the SLAO, and also granting
interest at the rate

of 9% p.a. on the enhanced market value from the date of dispossession for the first year and 15% per annum for subsequent
years till realization.

2. Brief facts are:

It is the case of the appellants that the property bearing RS. No. 127/1 measuring 04 acres 21 guntas situated at Chikkalaki
village, Jamkhandi

taluk, Bagalkot District, belongs to them. The respondents issued preliminary notification on 27.05.2003 under Section 4(1) of the
Land

Acquisition Act, for the purpose of Upper Krishna Project and published the same in the Grama Chawadi on 18.07.2003 and an
award was

passed on 24.10.2005. The Land Acquisition Officer has awarded compensation of Rs. 62,597/- per acre. Aggrieved by the said award,

appellants filed application under Section 18(1) of the Act before the Special Land Acquisition Officer for reference. Accordingly, he has referred

the matter to the learned Addl. Civil Judge, (Sr. Dn), Jamakhandi. The Reference Court after considering the entire material on record, allowed the

reference application in-part by the impugned judgment and award dated 01.10.2007 and awarded compensation at the rate of Rs. 1,80,000/-

per acre, with all statutory benefits for irrigated lands except pot-kharab land.

3. Against the said judgment and award, the present appeal is filed.

4. I have heard the learned Counsel for the parties.

5. Sri M.C. Hukkeri, learned Counsel for the appellants has contended that the reference court failed to apply the exact yield per acre and price

per ton and the reference court has not assigned any reasons while taking yield at 45 tons per acre and price at Rs. 400/- per ton while determining

the market value and even if the average price of Rs. 996/- per ton is considered the yield should be at 50 ton per acre and then the market value

of the land would be Rs. 2,49,000/- per acre. Therefore, the award of the reference court is on the lower side and requires to be enhanced.

6. The learned Counsel for the appellants in support of his contention relied upon the Division Bench judgment of this Court in the case of Special

Land Acquisition Officer Vs. Dhareppa Dhareppa Shirahatti, passed in MFA. 435/2005 & connected matters dated 08.01.2008 wherein for the

acquisition of the year 2000 this court has taken the yield of 50 tons at the rate of Rs. 950/- per ton of the sugarcane and has arrived at Rs.

2,37,500/- per acre by adopting multiplication method as has been done by the Reference Judge and therefore, the market value in the present

case has to be Rs. 2,37,500/- per acre. Accordingly, he sought for enhancement.

7. The learned AGA vehemently opposed for enhancement and sought to justify the impugned judgment and award passed by the reference court

and further contended that the lands in the present case and the lands in the judgment relied upon by the learned Counsel for appellants are entirely

different and yields also vary. Therefore, he submitted that the judgment on which the appellants have placed reliance may be applied but the

enhancement cannot be beyond Rs. 2,35,000/- per acre.

8. I have given my thoughtful consideration to the arguments advanced by the learned Counsel for the parties and perused the records.

9. It is not in dispute that the lands of appellants acquired for the purpose of UKP Project were irrigated lands and appellants have grown

sugarcane crops in the said lands as on the date of notification. There is no dispute with regard to the type of crops grown and the date of taking

over possession of the respective lands and entitlement of market value of the respective claims as on the date of notification. The only dispute is

regarding yield per acre. According to the claimants, they are getting yield of 50 tons per acre but according to the Reference Court they may get

45 tons per acre. Therefore the conclusion arrived at by the Reference Court on the basis of sales statistics is without any basis. This Court in the

aforesaid judgment while dealing with similar notification of the year 2000 has come to the conclusion that the average yield of sugarcane was 50

tons per acre and therefore, they are entitled to Rs. 2,35,000/- per acre with all statutory benefits. Similar principle has to be applied in the present

case.

10. Accordingly, the judgment and award passed by the Reference Court requires modification by enhancing the compensation. The yield of

sugarcane grown by appellants would be taken at 50 tons per acre and priced at the rate of Rs. 950/- per ton. Thus the market value of the land

comes to Rs. 2,37,500/- by adopting multiplication method as has been done by the Reference Court, and the same may be rounded off to Rs.

2,35,000/- as claimed by the appellants.

11. It is also to be seen that the Division Bench of this Court while disposing of another matter in the case of The Special Land Acquisition Officer

Vs. Daso Appaji Kulkarni, in MFA. 5262/2005 & connected matter, dated 28.01.2008, while considering the notification of the year 1998 in

respect of neighboring village acquired for the same project and relying upon the earlier Division Bench Judgment of this Court in MFA. 435/05 &

connected matters, dated 08.01.2008, has taken the yield of the sugarcane at 50 tons per acre and market value at Rs. 950/- per ton and arrived

the market value at Rs. 2,35,000/- per acre of land under acquisition with all statutory benefits, such as, solatium and interest under Section

23(1A) on the enhanced market value and interest at 9% and 15% per annum as provided under Section 34 of the Land Acquisition Act upon the

compensation awarded.

12. In view of the law declared by Division Bench of this Court in the aforesaid two judgments, I am of the considered opinion that the impugned

judgment and award passed by the reference court is to be modified by enhancing the market value at Rs. 2,35,000/- per acre with all statutory

benefits.

Accordingly, the appeal is allowed in-part with costs. The impugned judgment and award is modified fixing the yield at 50 tons per acre and taking

the market value at Rs. 950/- per tone which comes to Rs. 2,37,500/- rounded off to Rs. 2,35,000/- per acre of land under acquisition. The

appellants are entitled to the market value of Rs. 2,35,000/- per acre with all statutory benefits, such as, solatium and interest under Section

23(1A) on the enhanced market value and interest at 9% and 15% p.a. as provided under Section 34 of the Land Acquisition Act, upon the

compensation awarded in this judgment with costs of these proceedings, less the amounts already received. The Award of the reference court is

modified accordingly.

The appellants are not entitled to any interest for the delay period of 2355 days in filing the appeal, in terms of the order dated 15.04.2015 passed

by this Court.