

Karnataka High Court

G. Gurubasappa vs Special Land Acquisition ... on 29 October, 1958

Equivalent citations: AIR 1959 Kant 93, AIR 1959 Mys 93

Author: N S Rau

Bench: N S Rau, K Hegde

JUDGMENT N. Sreenivasa Rau, J.

1. The appellant (now deceased and represented by his L. Rs) has claimed additional compensation of Rs. 5000/- over the amount awarded by the District Court, Bangalore, for a piece of vacant land situated in the Jumma Masjid Road, very near Avenue Road, Bangalore city. The Land Acquisition Officer has made an award at the rate of Rs. 25/- per Sq. yard apart from the value of the structure on the land and the statutory allowance. The learned Third Additional District Judge enhanced the award amount by increasing the rate to Rs. 50/- per sq. yard.

2. It is urged by the learned advocate for the appellant that, considering the location of the plot, the compensation awarded is too low. He has examined 7 witnesses including himself. But that evidence affords to firm basis for arriving at any enhanced valuation as claimed by the appellant C. W. 1 speaks about the shop owned by him in the Avenue Road and the rent fetched by it. C. W. 2 speaks generally about the prevailing rents for shops in the neighbouring locality.

C. W. 4 says that he has purchased a house at a distance of about a quarter furlong from the plot in question for about Rs. 40,000/- with a view to demolish and put up shops and gives the dimensions of the property purchased by him. C. W. 5 is the tenant of a shop in the neighbourhood and speaks about the rent he pays for the shop. C. W. 6 gives his opinion about the market value of the plot as Rs. 20000 at about the time of acquisition.

C. W. 7 speaks of one Jayanthi Venkataramanappa negotiating through him for purchasing the plot for Rs. 15000 or Rs. 20000/-. The intending purchaser is not examined; nor is there any documentary evidence about the matter. The appellant, who examined himself as C. W. 3, has stated that the plot is worth more than Rupees 40000. In fact he put forward that claim before the court though he has abated the claim considerably in this appeal,

3. It is hardly necessary to say that the evidence mentioned above can give no idea of the market value of the plot with any degree of approximation. The rent fetched in the neighbouring area and particularly in the Avenue Road would afford no criterion for the rent that might be fetched in the area in question, and even then other factors like the cost of the structure have to be taken into consideration. Even the estimate given by the claimant's witnesses varies over a large range from Rs. 15000 to Rs. 40000.

4. It is urged for the appellant that it was not possible for the appellant to adduce any evidence as to the state of any plots in the neighbourhood at about the time of acquisition as there were no vacant plots at all there at that time. That may be so, but in arriving at the market value of the plot such evidence as is available has to be considered, and that evidence is totally inadequate to support the appellant's claim for enhancement.

5. The appellant has claimed costs against Respondent 3 as also interest on the amount awarded on the ground that Respondent 3 unjustifiably contested the appellant's claim for compensation. It is seen that both the appellant and respondent No. 3 -- claimant 3 -- figured in this matter as trustees, the appellant being a trustee for the residents in the neighbourhood in respect of a Gymnasium which claimed the site and the claimant 3 being the Amildar, Bangalore North Taluk and Muzrai Officer in charge of a neighbouring temple on behalf of which compensation was claimed.

It is seen that the appellant himself was interested in the temple. Respondent 3, though he put forward the claim on behalf of the temple, does not appear to have proceeded further and pressed it before the Court. We do not think there is any warrant for interference with the manner in which the court below has awarded the costs which was a matter in its discretion.

6. As regards the claim for interest from respondent 3 it has to be remembered that the proceedings under Land Acquisition Act are governed by special provisions of that statute and under Section 28 of the Act it is only the Deputy Commissioner (Land Acquisition Officer) that can be directed to pay interest on the excess amount awarded by the Court. Hence the appellant cannot sustain his claim for interest against any other competing claimant. We do not express any opinion as to whether such a claim can be made in any other proceedings.

7. In the light of what is stated above we dismiss this appeal. The appellant shall pay the costs of Respondent 1. Respondent 2 has not appeared before us and we do not think that the circumstances of the case warrant any costs being awarded to respondent 3.

K.S. Hegde, J.

8. I agree:

9. Appeal dismissed.