

Karnataka High Court

The Special Land Acquisition ... vs Mansoorsaheb on 23 June, 2005

Equivalent citations: ILR 2005 KAR 4473, 2006 (4) KarLJ 419

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Bench: N Patil

JUDGMENT N.K. Patil, J.

1. This appeal by the appellant - Special Land Acquisition Officer, UKP, Bilagi is directed against the judgment and award dated 19th January 2002 on the file of the Court of Additional Civil Judge (Senior Division), Jamkhandi in LAC No. 1408/2000 on the ground that, the enhancement made by the Reference Court is excessive.

3. Land bearing R.S. No. 80/12 measuring 01 acre 12 guntas situate at Badagi village, Bilagi Taluk, has been notified and acquired by the competent authority vide preliminary Notification issued on 25th March 1999 under Section 4(1) of the Land Acquisition Act for the purpose of submergence of backwater of UKP Almatti Reservoir. The Land Acquisition Officer, after taking all relevant factors into consideration and other material available on record, and relying on the sales statistics, has fixed the market value at the rate of Rs. 24,973/- per acre. Being not satisfied with the award passed by the Land Acquisition Officer, the respondent - claimant herein has filed the application for Reference under Section 18(1) of the Land Acquisition Act for enhancement of compensation and requested the Land Acquisition Officer to refer the matter for adjudication to the jurisdictional Civil Court. The Reference Court, in turn, after thorough evaluation of the oral and documentary evidence and placing reliance on the consent award passed by the Land Acquisition Officer in respect of dry land for a sum of Rs. 51,064/- and taking into consideration the maximum sale price and increasing the market value having regard to the nature of the lands and after appreciation of the oral and documentary evidence, has re-determined the market value at the rate of Rs. 60,000/- per acre. Being aggrieved by the judgment and award passed by the Reference Court, the appellant herein felt necessitated to present the instant appeal.

4. I have heard learned counsel appearing for appellant and learned counsel appearing for respondent. After careful perusal of the judgment and award passed by the Reference Court in the instant case, it merges on the face of the said judgment and award that, the Reference Court has recorded the finding after critical evaluation of the oral and documentary evidence and only thereafter has determined the market value at the rate of Rs. 60,000/- per acre, treating the same as dry land. The said determination by the Reference Court is just and proper. It is pertinent to note that, the Reference Court, after elaborate analysis of oral and documentary evidence at paragraph 11 of its judgment, has disbelieved the oral evidence of the claimant -respondent and not accepted the Exs. P2 to P4 which are the receipts pertaining to payment of KEB Bills. The Reference Court has given a specific finding that, the claimant - respondent has not made out a case that, the land in question is an 'irrigated land' and that, the claimant- respondent is growing 'banana crop' in the land in question. The Reference Court, has also not accepted the evidence of PW1 who is none other than claimant - respondent herein and has given a specific finding that, when the final notification is issued and published in the Karnataka Gazette, the contents thereof would be binding upon the claimant - respondent. At the time of acquisition of land, the claimant-respondent has not raised

any objections that, the land in question is an 'irrigated land' and not 'dry land', as notified in the final notification issued under Section 6(1) of the Act. It is significant to note that, the final notification issued by the competent authority under Section 6(1) of the Act is a conclusive evidence / truth to establish the nature of land that has been notified. But in the instant case, except making oral statement, claimant - respondent has failed to controvert the entry shown in the final notification as 'dry land'. The claimant - respondent has made only an oral submission that, he had the facility of irrigation through the irrigation pumpset, and is entitled for enhancement and his land has to be treated as 'irrigated land'. After evaluation of the original records available on file, threadbare, particularly Exs. P2,3 and 4 which are the KEB Bills, it is seen that, in Ex.P2, which is the KEB bill dated 30th November 2000, in shara column, it is as 'MH Mulla'. In Ex. P3-KEB Bill dated 14th December 2000, on top it is written as 'MHM'. But, both these Exhibits, namely Ex. P2 and P3 do not go to show that they pertain to the pumpset alleged to have been used by claimant - respondent in respect of the land in question. So far as Ex. P4 is concerned, the receipts therein are dated 3rd February 1992, 5th April 1992, 3rd July 1996, 27th May 1997 and 25th December 1999 in respect of the claimant - respondent. It is seen that, the said bills are issued by the Fruits and Layman Commission Agent, No. 7, APMC Market Yard, Bijapur. It is stated in the said bills, that, he has received the advance, labour charges, and the total amount for giving delivered "banana". But, they do not establish that, claimant - respondent supplied the 'banana' crop which is alleged to have been grown in the land in question. The Reference Court has rightly discussed the said matter in detail and not accepted the said Exhibits produced by the claimant - respondent. The claimant - respondent has not examined any independent witnesses such as adjacent land owners to establish that, the land in question is 'irrigated land' and that he is growing "banana crop" in the said land. So far as Exs.P2 and P3, electricity bills referred above are concerned, it can be seen that they pertain to year 2000 and the land in question notified and acquired is vide preliminary notification dated 25th March 1999. He has not produced any electricity bills for three years prior to the issuance of preliminary notification which will be the basis for considering that, he has paid the electricity bills in respect of the pumpset which is used to irrigate the land in question. Further, the Reference Court has rightly taken into consideration the consent award passed by the Land Acquisition Officer for a sum of Rs. 51,064/- and the said fact has been admitted by the Land Acquisition Officer in cross examination as DW1 which is also very much available in the original records at internal page 7. The Reference Court has rightly taken into consideration the consent award made between the land owner and the acquisition authority and having regard to the increase in market value and taking into account the nature of soil, potentiality and fertility of the same, has rightly enhanced the market value from a sum of Rs. 24,973/- per acre awarded by the Land Acquisition Officer to a sum of Rs. 60,000/- per acre. The said enhancement made by the Reference Court is just and reasonable. In spite of giving sufficient opportunity to the claimant - respondent, he has not produced any authenticated document at least before this Court, in this appeal, by way of filing an application to establish that, the land in question is an irrigated land.

5. Having regard to the facts and circumstances of the case, I do not find any good grounds or justification to interfere in the judgment and award passed by the Reference Court. Accordingly, the instant appeal filed by the appellant is dismissed.