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Court : Karnataka Dharwad

Decided On : Jan-13-2015

Judge : A.N. Venugopala Gowda

Appeal No. : Writ Petition No. 100480 of 2015 [LA-RES]

Appellant : Basaveshwar

Respondent : The State Of Karnataka, Represented By Its Under Secretary and Others

Judgement :

(Prayer: This Writ Petition Is Filed Under Articles 226 and 227 Of Constitution Of India Praying To Quash The Award Dated 13.10.2014 Passed By Respondent No.3 Herein In Favour Of The Respondents Nos.4 and 5 Herein, As Per Annexure-E Herein And Etc.)

1. The petitioner having purchased property under a sale deed dated 18.12.2012 from respondent No.4, filed this writ petition to quash the award dated 13.10.2014 passed b/ respondent No.3 and for a mandamus against respondent Nos.1 to 3, to pass an award in his favour in respect of the acquired land to an extent of 3 acres of 35 guntas and 25 guntas of pot Kharab in Sy.No.67/4 of Walaki village, Chikkodi Taluk, Belgavi District.

2. The facts and circumstances giving raise to this writ petition are as under:

A notification under Section 4(1) of the Land Acquisition Act, 1894, was issued on 21.04.2011, proposing to acquire amongst other lands, land bearing Sy.No.67/4, measuring 8 acres situated at Walaki village, Chikkodi Taluka, belonging to respondent No.4, for the purpose of formation of water tank-bund. A notice in that regard was served on 10.06.2011 on respondent No.4. A declaration under Section 6 of the Act with regard to the said land was issued on 31.05.2012. An award was passed by respondent No.3, on 13.10.2014, directing payment of compensation of Rs. 11,13,934/- in favour of respondent Nos.4 and 5, since their names were appearing in the record of rights as on the date said notifications were issued and published. Petitioner having purchased 8 acres of land with pot kharab in Sy.No.67/4, Walaki village, Chikkodi Taluk, on 18.12.2012, from respondent No.4 and having got mutated his name as per Mutation Entry No. H-18/2012-13 dated 19.03.2013, filed this writ petition on 08.01.2015 for the reliefs, mentioned supra.

3. Sri.Sanjay S.Katageri, learned advocate, contended that the petitioner having acquired right over the property pursuant to sale deed dated 18.12.2012 executed by respondent No.4, the award passed entitling the respondent Nos.4 and 5 to receive the compensation being arbitrary and illegal, interference is called for. Placing reliance on the decision in UNION OF INDIA Vs. SHIVAKUMAR BHARGAV (AIR 1995 SC 812), he contended that the impugned award is liable to be quashed and a direction issued to respondent No.3, to pass an appropriate award in favour of the petitioner.

4. Perused the writ record and considered the submissions made by Sri.Sanjay S.Katageri.

5. The notification under Section 4(1) of the Act was issued on 21.04.2011 with respect to 8 acres of land in Sy.No.67/4 of Walaki village, Chikkodi Taluka. A declaration under Section 6 of the Act with respect to the said land was issued on 31.05.2012. The entries in the revenue records relating to the said property stood in the name of respondent No.4 as on the date the said notifications were issued and published. An award was passed in favour of respondent Nos.4 and 5, on the

ground that their names appeared in the record of rights, as per the preliminary notification and final declaration issued under Section 4(1) and 6(1) of the Act respectively. The petitioner has purchased the acquired land from respondent No.4, on 13.12.2012, i.e., after the final declaration under Section 6 of the Act, was issued on 31.05.2012.

6. In LILA RAM Vs. UNION OF INDIA AND OTHERS, (1975) 2 SCC 547, Apex Court has held that anyone who deals with the land subsequent to a Section (4) notification being issued, does so at his own peril. In Smt. SNEHAPRABHA Vs. STATE OF UTTAR PRADESH, (1996) 7 SCC 426, Apex Court has held that Section 4 notification gives a notice to the public at large and the land in respect of which it was issued is needed for a public purpose and it further points out that there will be "an impediment to anyone to encumber the land acquired therein". Alienation thereafter does not bind the State or the beneficiary under the acquisition and the purchaser is only entitled to receive the compensation.

7. In UTTAR PRADESH JAL NIGAM Vs. KALRA PROPERTIES (P) LIMITED, (1996) 3 SCC 124, Apex Court has held that purchase of land after publication of a Section (4) notification in relation to such land is void as against the State and at the most, the purchaser may be a person interested in compensation, since he steps into the shoes of erstwhile owner and may, therefore, claim compensation.

8. In view of the categorical declaration of law by Apex Court, it can safely be held that, a person who purchases land subsequent to the issuance of a Section 4 notification with respect to it, has no locus to challenge the validity of the acquisition, since the sale deed executed in his favour does not confer upon him any title and at the most, he can claim compensation on the basis of his vendor's title.

9. In SHIVAKUMAR BHARGAV's case (supra), Apex Court has held that a person who purchased the land subsequent to the notification may be entitled to claim compensation by virtue of sale in his favour, namely, the right, title and interest, the purchaser had, but, he cannot be said to be the owner for allotment, since, the right of ownership would be determined with reference to the date on which notification under Section 4(1) of the Act was published.

10. In view of the undisputed facts and circumstances of the case, noticed supra, and the crystalised position of law in the decisions noticed supra, the petitioner having purchased the acquired property long after the declaration under Section 6 of the Act was issued and published on 31.05.2012, has no right to question the award, as at Annexure 'E'. Respondent No.3 has not committed any error and illegality in passing the award on 13.10.2014, since, the petitioner's name did not appear in the records of rights, when the notifications under Section 4(1) and 6(1) of the Act were issued and published. The name of the petitioner having been entered in the revenue entries as per M.E. No.H-18/2012-13, on 19.03.2013, respondent No.3 could not have taken note of the alienation and subsequent to issuance of the aforesaid notifications, while passing the award. Hence, no interference with the award, as at Annexure 'E' is called for. However, the petitioner is entitled to seek remedy before the jurisdictional civil court, by instituting a suit and seek decree for awarding compensation in respect of property sold in his favour, on the ground that he has stepped into the shoes of erstwhile owner.

Subject to the above, this writ petition being devoid of merit, is rejected.

Smt. K.Vidyavati, learned AG A is permitted to file memo of appearance within a period of four weeks.

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