

Ningamma Vs. The State Of Karnataka and Others

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Court : Karnataka

Decided On : Jul-01-2014

Judge : A.S. Bopanna

Appeal No. : Writ Petition No.1862 of 2014 (LA-KIADB)

Appellant : Ningamma

Respondent : The State Of Karnataka and Others

Judgement :

(Prayer: This Writ Petition Is Filed Under Articles 226 and 227 Of The Constitution Of India, With A Prayer To Direct The R-1 To 3 To Pay The Entire Compensation To The Petitioner Land To The Extent Of 1.20 Guntas Of Land Bearing Sy.No.55 Situated At Bustenahalli Village, Hassan Tq and Dist., Including The 14 Guntas Of Land Acquired By The R-4 Vide Annx-M Dt.26.6.2013.)

1. The petitioner is before this Court seeking for issue of mandamus to direct respondents No. 1 to 3 to pay the entire compensation to the petitioner to the extent of 1 acre 20 guntas of land bearing Sy.No.55 situate at Bustenahalli village, Hassan Taluk and District including 14 guntas of land acquired by respondent No.4.

2. The petitioner is the owner of the land bearing Sy.No.55 to the extent of 1 acre 20 guntas situate at Bustenahalli village, Kasaba Hobli, Hassan Taluk and District. On the said land, a petroleum pipeline was laid. Pursuant to the proceedings held

by respondent No.4, an extent of 14 guntas out of the total extent of 1 acre 20 guntas in Sy.No.55 was utilized by respondent No.4 in terms of the provisions of the Petroleum and Mineral Pipelines (Acquisition of Right of User in Land) Act, 1962 (for short 'the Act 1962'). Since the petitioner would not be divested of possession of the said land but would be prevented from using that extent of the land effectively, 10% of the market value of the land is provided as compensation and as such the petitioner was paid a sum of Rs.22,025/-. Regarding these aspects of the matter, there is no dispute between the parties.

3. Subsequent thereto, respondents No. 2 and 3 have acquired the property belonging to the petitioner and the surrounding lands. The entire extent measuring 1 acre 20 guntas belonging to the petitioner has been included in the notification issued under Section 28(4) of the KIADB Act. Though that is the position, respondents No.2 and 3 have sought to disburse the compensation only in respect of 1 acre 6 guntas since according to respondents No.2 and 3, respondent No.4 has already paid the compensation in respect of 14 guntas which was utilized by them. In that view, the petitioner has made representation seeking compensation for the entire extent and has also got issued legal notice. Since the same did not redress the grievance of the petitioner, the petitioner is before this Court.

4. Respondents No. 2 and 3 have filed their objection statement. In the objections, it has been averred that 14 guntas had been earlier acquired by respondent No.4, pipeline has been laid and therefore, respondents No. 2 and 3 would ultimately be entitled to use only 1 acre 6 guntas. Therefore, the said compensation as determined is reiterated in the objections. It is also indicated in the objection statement that taking note of the present situation, the Special Land Acquisition Officer has addressed the communication dated 14.12.2012 to the Special Deputy Commissioner seeking clarification in this regard and a note dated 22.01.2013 is prepared by the Special Deputy Commissioner seeking consideration of this aspect. Since no final decision in that regard is taken, respondents No. 2 and 3 contend that an appropriate decision would be taken and thereafter the consideration with regard to the compensation would be made.

5. Having noticed the contentions put forth herein and even though the respondents have relied on Annexures-R1 and R2 to contend that a decision in this regard is yet to be taken, I am of the opinion that the issue needs to be addressed in the instant petition itself since in respect of acquisition of the year 2007, the petitioner is seeking compensation in respect of the entire extent and until now, no decision has been taken by the respondents thus far. In order to consider this aspect, as already noticed, there is no dispute between the parties that an extent of 14 guntas was utilized pursuant to the proceedings held by respondent No.4 under the Act 1962 and the fact that the compensation to the extent of 10% amounting to Rs.22,025/- was paid to the petitioner is also not in dispute.

6. If that be the position, what is necessary to be noticed is that when the proceedings under the Act 1962 was initiated and compensation was paid, the said compensation is not after divesting the right of the petitioner to possess the land. The compensation paid is for utilization of the land to lay the pipeline and there being restrictions on the owner with regard to use of the said land. Since respondents No. 2 and 3 have subsequently decided to form an industrial layout and have acquired the property, what is necessary to be noticed is the extent of the property to which the notification is issued. The notification issued under Section 28(4) of the KIADB Act is at Annexure-J to the petition. The land of the petitioner is indicated at Sl.No.16 and the total extent of 1 acre 20 guntas has been shown to be the extent of the property acquired in Sy.No.55. When that is the position, the entire extent of 1 acre 20 guntas would vest with respondents No.2 and 3. Hence, the compensation in respect of the total extent would have to be determined by respondents No.2 and 3 and be paid to the petitioner.

7. Needless to mention that since an extent of 10% relating to the extent of 14 guntas was paid through respondent No.4, the beneficiary of that acquisition viz., HPCL who had paid the said compensation will be entitled to receive the said 10% of the amount from respondents No. 2 and 3 and the balance 90% of the amount even in relation to the said 14 guntas would be payable to the petitioner. The matter of adjusting the said 10% of the amount and the manner in which the said 14 guntas is to be treated is entirely an issue between respondents No. 2 to 4, but

in any event the petitioner cannot be deprived of the compensation.

8. Therefore, with regard to the compensation, the petitioner is entitled to receive the same and to the said extent, irrespective of the decision being taken by the respondents with regard to the manner in which the said 14 guntas is to be retained through their inter se understanding, the amount would be payable.

9. Hence, respondent No.3 shall work out the compensation for the entire extent of 1 acre 20 guntas and thereafter deduct only 10% of the amount relatable to 14 guntas and pay the remaining amount to the petitioner which would also include the compensation for 14 guntas where the pipeline exists. The said process shall be completed by respondent No.3 and the compensation shall be paid to the petitioner in an expeditious manner, but not later than three months from the date on which a copy of this order is furnished to respondent No.3.

With the said direction, the petition stands disposed of.

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