

The Executive Engineer vs the Land Acquisition Officer

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Court : Karnataka Dharwad

Decided On : Dec-19-2024

Judge : Anant Ramanath Hegde

Appeal No. : RP/100002/2024

Appellant : The Executive Engineer

Respondent : The Land Acquisition Officer

Judgement :

-1- IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH DATED THIS THE 19TH DAY OF DECEMBER, 2024 BEFORE THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE REVIEW PETITION NO. 100002 OF 2024 (-) BETWEEN: THE EXECUTIVE ENGINEER, M.B.C DIVISION-I, GADDANAKERI. PETITIONER (BY SRI. SHIVARAJ C.BELLAKKI, ADVOCATE) AND:

1. THE SPECIAL LAND ACQUISITION OFFICER, MALAPRABHA PROJECT-III, DHARWAD. PIN - 580001.

2. HANMANTH

S/O. BALAPPA GIRIGANVI, AGE: ABOUT 65 YEARS, OCC: AGRICULTURE, R/O. JALIBERI VILLAGE, Digitally signed by DIST. BAGALKOT. ASHPAK PIN -

587206. KASHIMSA MALAGALADINNI RESPONDENTS Location: HIGH (BY SMT. KIRTELATA R. PATIL, HCGP FOR R1; COURT OF KARNATAKA SRI. R.B. HALLI, ADVOCATE FOR R2)

THIS REVIEW PETITION FILED UNDER ORDER 47 RULE 1 OF CPC, PRAYING TO REVIEW THE JUDGMENT DATED 08.09.2023 PASSED IN MFA NO. 104281/2017 AND CONSEQUENTLY SET ASIDE THE SAID JUDGMENT AND DISMISS THE MFA NO.104281/2017 FILED BY THE RESPONDENT NO.2 IN THE INTEREST OF JUSTICE AND EQUITY. THIS PETITION COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING: -2-

CORAM: THE HON'BLE MR. JUSTICE ANANT RAMANATH HEGDE

ORAL ORDER

Heard the learned counsel appearing for the petitioner.

2. This petition is filed to review the judgment

dated 08.09.2023. In terms of the judgment under review, this Court allowed the appeal in part and compensation is enhanced to Rs.2,20,000/- per acres with consequential benefits.

3. Learned counsel appearing for the petitioner would submit that the Reference Court has granted compensation of Rs.1,80,000/- per acre with

consequential benefits and the appellant in MFA No.104281/2017 did not bring it to the notice of the Court that he had filed an appeal before the I Additional District Judge, Jamkhandi in LAC Appeal No.95/2020 seeking enhancement wherein compensation is enhanced to Rs.2,00,000/- per acre. -3-

4. It is his further submission that even the review petitioner was not aware of order in LAC Appeal No.95/2020 and only after the disposal of this appeal, the

review petitioner came to know about the judgment

passed by the District Court and as such, the present petition is filed seeking review of the judgment passed by the Court.

5. Learned counsel would submit that order XLVII

Rule 1 of the Code of Civil Procedure would enable the petitioner to seek review on discovery of new facts, which in spite of due diligence was not discovered earlier. It is his case that appellant has suppressed the material fact that his claim for enhancement of compensation is already adjudicated by the District Court, as such, he would

contend that the review petition is to be allowed and order

under review is to be set-aside.

6. Learned counsel for the petitioner has cited two judgments of this Court. In the case of Sri. R. M Manjunath Gowda and State of Karnataka in -4-

W.A. No.1396/2021, Division Bench of this Court held

that if the party had suffered an order from a Court which had no jurisdiction and if he had subjected himself to the jurisdiction of the Court, he cannot subsequently raise a contention that the Court had no jurisdiction. He has also relied upon the judgment of Shri. Surendra Nayak V/s A.M. Mohammed Shafi¹, wherein the co-ordinate Bench of this Court has dealt with the doctrine of estoppel by

judgment.

7. The respondent though served with the notice has not appeared before this Court.

8. This Court has considered the contentions raised at the Bar and perused the judgments.

9. It is noticed that the appellant had filed LAC

No.87/2010 before the I Additional District Court at Mudhol. LAC Appeal No.95/2020 before the I Additional District Court, Jamkhandi. Though appeal is decided in terms of judgment dated 06.09.2021, it is noticed in the ILR 2016 KAR 4162 -5- said judgment that appeal was filed in the year 2020. By the time, the said appeal was filed, MFA No.104281/2017 was already filed before this Court.

10. There is no dispute that the appeal lies before this Court on account of pecuniary jurisdiction. The appeal does not lie before District Court because of pecuniary jurisdiction.

11. In addition to that, the appeal could not have

been filed before the District Court at all, as the appeal was already filed before this Court. Thus, there is suppression of material fact by the appellant, who is the respondent.

12. In addition, the respondent is also equally guilty of suppression of fact that an appeal is filed before this Court and the appeal does not lie before the District Court for want of pecuniary jurisdiction.

13. It is also relevant to state that the present petitioner has not disclosed before this Court that the -6- appeal by the District Judge which had no jurisdiction to decide the case is already disposed of, by the time this case was decided.

14. Under these circumstances, this Court is of the

view that the judgments cited by the learned counsel appearing for the petitioner does not apply to the present set of facts of the case as appellant is also equally guilty of suppression of material fact. This Court does not find any

reason to review the impugned order, since the judgment

rendered in LAC No.95/2020 is by the Court which had no jurisdiction and that judgment cannot be given effect to and the judgment dated 08.09.2023 in MFA No.104281/2017 prevails over as the said judgment is by the Court of competent jurisdiction.

15. Hence, the review petition is dismissed. Sd/- (ANANT RAMANATH HEGDE)
JUDGE AM para 1 to 5 RKM para 6 to end CT:ANB List No.: 1 SI No.: 22

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