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Franisis P vs Venkatappa

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Court : Karnataka Orders

Decided On : Oct-29-2024

Judge : Jyoti Mulimani

Appeal No. : WP/4358/2021

Appellant : Franisis P

Respondent : Venkatappa

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF OCTOBER, 2024 BEFORE THE HON'BLE MS. JUSTICE JYOTI MULIMANI WRIT PETITION NO. 4358 OF 2021 (GM-KEB) BETWEEN:

1. FRANSIS.P AGED ABOUT 33 YEARS, REGIONAL HEAD, REFEX ENERGY LTD., NO. 35/2, PARK MANOR, PARK ROAD, TASKAR TOWN, BANGALORE-01

2. REFEX ENERGY LTD.,

NO.67, BAZULLA ROAD, T.NAGAR CHENNAI-600 017. REPRESENTED BY ITS SPA HOLDER RAGHU.C, AGED ABOUT 30 YEARS. PETITIONERS (BY SRI. GODEKOTIMATH SRIKANTH., ADVOCATE) AND: Digitally signed by THEJASKUMAR N Location: High VENKATAPPA Court of Karnataka S/O VENKATARAMANAPPA, AGED ABOUT 60 YEARS, AGRICULTURIST, R/O PALAVALLI VILLAGE, NAGALAMADIKE HOBLI, PAVAGADA TALUK-572 136. RESPONDENT (SERVED AND UNREPRESENTED) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS. -2- THIS WRIT PETITION IS LISTED FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, AN ORDER IS MADE AS UNDER:

ORAL ORDER

Sri.Godekotimath Srikanth., counsel for the petitioners has appeared in person. An emergent notice to the respondent was ordered on 16.03.2021. A perusal of the office note depicts that the respondent is served and unrepresented. The respondent has neither engaged the services of an advocate nor conducted the case as a party in person.

2. For the sake of convenience, the parties are referred to as per their ranking before the Trial court.

3. The short facts are these: It is stated that the M/s.Refex Energy Limited - second

respondent is a Company authorized to establish 33 KV and 220 KV Transmission line from power generation station to the nearby 220 K.V sub-station. The first respondent is the Regional Head of Bangalore Regional Office of M/s.Refex Energy Limited. -3- It is stated that on 30.08.2016, the Deputy Commissioner, Tumakuru issued order bearing No.MAG (1) CR of compensation for different categories of tower structures and compensation towards cutting of different types of trees while drawing transmission line along with additional compensation of Rs.2,00,000/- (Rupees Two Lakhs only) per acre to be paid to the land owners for

laying the 220 KV and 33 KV Transmission Line. The Company paid the compensation to the farmers in accordance with the guidelines of the Deputy Commissioner, Tumakuru at the time of erecting poles and laying the transmission line. It is said that in some cases, the Company has paid more amount of compensation to the farmers than the

guidelines amount given by the Deputy Commissioner,

Tumakuru and also guidelines given by the High Court of Karnataka in various cases. It is stated that the claimant filed an application for additional compensation in Civil Misc. No.5039/2017 claiming that he is the land owner of the land bearing Sy.No.468/1 -4- measuring 09 Acres 32 Guntas situated at Palavalli Village, Nagalamadike Hobli, Pavagada Taluk, Tumakuru District. It is further stated that the respondents have drawn 120

KV K/C electric transmission line over the claimant's land and also installed a tower in the land. The Company has paid a meager compensation of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only). It is contended by the landowner that the value of the land is Rs.6,00,000/- (Rupees Six Lakh only) per acre. However, the Company has paid meager amount of compensation. Hence, he sought for additional compensation.

The claimant examined himself as PW1 and produced five

documents that were marked as Exs.P1 to P5. The PA holder was examined as RW1 and produced five documents that were marked as Exs.R1 to R5. On the trial of the action, the Trial Court vide Judgment dated 05.07.2019 awarded enhanced compensation of Rs.1,49,000/- (Rupees One Lakh Forty Nine Thousand only) with interest at the rate of 8% per annum from the date of drawing of electric wire over the petition land till realization. Under these circumstances, the petitioners having left with the no other alternate and efficacious remedy have

-5- filed this Writ Petition under Articles 226 and 227 of the Constitution of India.

4. Sri.Godekotimath Srikanth, counsel for petitioners

submits that the order is illegal, arbitrary and hence the same is liable to be quashed. Next, he submitted that the trial Court has erred in taking the market value of the land as Rs.6,00,000/- per acre without any basis. A further submission was made that the Company has installed both 33 KV Tower and 220 KV Tower drawn transmission line and connected to 220 KV substation. Counsel also submitted that 220 KV line are different from 220 KV substation. Learned Judge has misdirected and has erroneously concluded that the Company has installed 220 KV tower and awarded compensation of Rs.90,000/- (Rupees Ninety Thousand only). Counsel vehemently contended that as per the Valuation Certificate issued by the Sub-Registrar, Pavagada, the market value of the dry land is only Rs.60,000/- per acre. Counsel drew the attention of the Court to Annexure-'C'. It is also -6- submitted that learned Judge has not considered the case reported in the EXECUTIVE ENGINEER, KPTCL, CHITRADURGA AND ANOTHER VS DODDAKKA reported in ILR 2015 KAR 677, in so far as diminishing value of the land. Lastly, he submitted that viewed from any angle, the

order is unjust and prayed that the writ petition may be

allowed.

5. Heard the arguments and perused the writ papers with care. I have perused Annexure-'C' with care. It is a Valuation

Certificate issued by the Sub-Registrar, Pavagada. The market value of the dry land is only Rs.60,000/- per acre. If the ratio of DODDAKKA's case is applied to the facts and circumstances of the present case, then the order requires modification. The total measurement of the land is 09 Acres 32 Guntas. There are no standing trees, it is a dry land. The valuation of the land is to be taken as per Sub-Registrar Value i.e., Rs.60,000/- per Acre. -7- It is needless to say that 01 acre is equal to 40 guntas. So, for 40 guntas, the valuation of the land will be Rs.60,000/-. The Company has made use of the land to an extent of 22 Guntas. Hence, calculation for 22 guntas will be Rs.60,000 X 22/40 = 33,000/-. Therefore, the claimant is entitled for a sum of Rs.33,000/- (Rupees Thirty-Three Thousand only) towards valuation of land. 30% has to be deducted towards diminishing value of the land per acre. The value of land per acre is Rs.60,000/-. Hence, 30% of the

diminishing value will be 60,000 X 30/100 = 18,000/-. Rs.18,000/- for 40 Guntas. For 22 Guntas: 18,000 X 22/40 = 9,900/-. Hence, the claimant is entitled for a sum of Rs.9,900/- towards diminishing value of the land to the extent of 22 guntas. Therefore, the claimant is entitled for a sum of Rs.33,000/- towards the value of the land and a sum of Rs.9,900/- towards the diminishing value of the land. In total, -8- the claimant is entitled for compensation of Rs.42,900/- (Rupees Forty-Two Thousand and Nine Hundred only).

6. In the result, the Writ Petition is allowed. The

Judgment dated 05.07.2019 passed by the IV Addl. District and

Sessions Judge, Madhugiri in Civil Misc.No.5039/2017 is modified holding that the claimant is entitled for total compensation of Rs.42,900/- (Rupees Forty-Two Thousand and Nine Hundred only). Lastly, counsel Sri.Godekotimath Srikanth, submits that a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only) has already been paid to the claimant in the year 2016. Counsel submits that in this petition, the compensation is

modified holding that the claimant is entitled for total compensation of Rs.42,900/-. However, the Authority has paid a sum of Rs.1,50,000/-. Hence, there is no need to pay any amount to the claimant. Counsel further submits that by virtue of the interim

order the petitioners have deposited 50% of the award amount

before the Trial Court. He submits that in view of the modification of the total compensation, a direction may be -9- issued to the Trial Court to refund the amount in deposit to the petitioners. Submission is noted. In view of modification of the total compensation, the Trial Court is hereby directed to look into the deposit made by M/s.Refex Energy Limited and if any excess amount is deposited, the same shall be refunded to M/s.Refex Energy Limited. Sd/- (JYOTI MULIMANI) JUDGE TKN List No.: 2 Sl No.: 70

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