

Jade Basappa Vs. Assistant Commissioner and Land Acquisition Officer

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Court : Karnataka

Decided On : Mar-20-1995

Reported in : ILR1995KAR2474; 1995(6)KarLJ130

Judge : M.F. Saldanha, J.

Acts : [Land Acquisition Act, 1894](#) - Sections 23

Appeal No. : M.F.A. No. 82 of 1995

Appellant : Jade Basappa

Respondent : Assistant Commissioner and Land Acquisition Officer

Advocate for Def. : A.S. Mahesh, HCGP

Advocate for Pet/Ap. : F.V. Patil, Adv.

Disposition : Appeal succeed

Judgement :

Saldanha, J.

1. Heard the learned Advocate on both sides. This being an old case wherein the appellants are only asking for an enhancement in the compensation, I had directed notice to the learned Government Advocate. The learned Government Advocate points out that the lower Court records are not yet received and that there are

certain records on which he desires to rely on. For instance, he points out that the copies which have been furnished to him and which have been scrutinized pertain to the previous years and not to the year during which acquisition took place. He further submits that for purposes of following the capitalization method it will be very necessary that the Court scrutinizes, on the basis of the figures in the impugned order, as to whether any interference is called for. It is his submission that the Court is required to average the yield and thereafter multiply the same and that the learned trial Judge has been not only cautious but absolutely correct while following this procedure.

2. Learned Advocate for appellants submits that there is no dispute with regard to the lower Court records and that there is no need to defer the disposal of the Appeal on this ground. He points out that the documents produced before the Court as far as the dry land is concerned indicate that on an average 3.5 quintals of cotton was yielded. The learned trial Judge after averaging the price of cotton at Rs. 350/- per quintal has multiplied it by 2.5 and it is precisely this error that the appellant's learned Advocate points out. He demonstrates to the Court that if the figure of '3.5' were to be used, that the ultimate working would indicate that the compensation payable would come to Rs. 7,600/- per acre instead of Rs. 6,500/- as awarded by the learned trial Judge. He also submits that even if the averaging method were to be used, this is the barest minimum that should be awarded.

3. This formula is opposed by the learned Government Advocate who submits that there is no justification to vary the figures. Apart from the actuals not being demonstrated for that year, it is his contention that the figure of '2.5' which is the least average has been correctly computed and that merely because on some occasions the record indicated the yield as being a little more that it would not be permissible to apply the figure of '3.5'. I am not in agreement with this argument for the simple reason that the approach of the Courts while dealing with the case of an agriculturist, who has harvested his crop, is to average and round off the figure, the acceptance always being on a little higher side rather than on the lower side. The object has not been to end up with the State paying more money, but to take note of the fact that whatever amount that the land owner seeks is a one time compensation, the computation of which must never be grudgingly done because

even a generous compensation is more than offset by the real land value in the hands of the acquirer, and that consequently the lands have always a tremendous potential both for actual financial yield and capital appreciation.

4. Under these circumstances, to my mind the order passed by the learned trial Judge is liable to be varied to the extent that the compensation payable in respect of the dry land shall be computed at Rs. 7,500/- per acre instead of Rs. 6,500/- as has been done in the impugned order. As a result of this the appellants shall be entitled to a higher compensation which shall be computed by the Land Acquisition Officer and the amount in question shall be deposited in the trial Court within eight weeks from today.

5. The office of this Court shall forthwith draw up a decree in keeping with the modification indicated in this order. The Appeal succeeds accordingly. No costs.

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