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Ramaiah Vs. the Special Land Acquisition Officer and ors.

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Court : Karnataka

Decided On : Mar-17-1992

Reported in : I(1993)ACC360

Judge : M. Rama Jois and ;R. Ramakrishna, JJ.

Appellant : Ramaiah

Respondent : The Special Land Acquisition Officer and ors.

Advocate for Pet/Ap. : Sri. K.S. Sctluer

Judgement :

M. Rama Jois and R. Ramakrishna, JJ.

1. In this Appeal presented under Section 54 of the Land Acquisition Act, the following question of law arises for consideration:

Whether on a Memorandum of Appeal presented against an award made by the Court in a Reference under Section18 of the Land Acquisition Act, the appellant is liable to pay Court fee on the amount of solatium which is required to be granted on the basis of the amount of compensation awarded under Section 23 of the Land Acquisition Act

2. The brief facts of the case which have given rise to the above question are as follows: The appellant, in his reference application under Section 18 of the Land

Acquisition Act, claimed a compensation at the rate of Rs. 1,00,000/- per acre for the land acquired. The City Civil Court hearing the reference under Section 18 of the Land Acquisition Act, awarded a compensation at the rate of Rs. 61,500/- per acre. Aggrieved by the said Award, the appellant has presented this Appeal claiming the balance of compensation at Rs. 38,500/- per acre. The extent of land acquired is 3 acres and 10 guntas. For 3 acres and 10 guntas, the total amount of compensation claimed by the appellant at the rate of Rs. 38,500/- per acre works out to Rs. 1,25,125/-. The appellant has paid the court-fee on the said amount. However, according to the Office, in the event of the Appeal being allowed, 30% of Rs. 1,25,125/- will be the amount of solatium which the appellant will get under Section 23 of the Land Acquisition Act, and that the appellant was liable to pay the Court-fee on the said amount. The Office has computed the Court-fee payable on the basis of the compensation claimed at the rate of Rs. 38,500/- per acre plus 30% solatium as follows:

(a) Court fee payable on the Appeal Memo Rs. 16,263.00(b) Court fee paid on the Appeal Rs. 12,510-00----------Deficit Court fee to be paid Rs. 3,753-00

According to the Office, the said amount of Rs. 3,753/- is the Court fee payable on the amount of Rs. 37,537-50p. which would be the amount of solatium which the appellant will get. in the event of his Appeal being allowed.

3. Learned Counsel for the appellant, contends that the Office objection is untenable. It is in these circumstances, the question set out above arises for consideration.

4. Sri. K.S. Sctluer, learned Counsel for the appellant submitted that though, in the earlier Judgment of this Court, a Division Bench of this Court in Anjanappa v. Land Acquisition Officer reported in 1971 (1) Kar. L.J. 390 had held that the appellant under Section 54 of the Land Acquisition Act was liable to pay the Court fee on the amount of solatium and other statutory allowance in addition to the actual amount of compensation claimed in the Appeal, the said decision, had been over-ruled by a Full Bench of this Court in D.M. Jawarilal v. Special Land Acquisition Officer AIR 1975 Kar. 129 and that the Full Bench held that, under Section 48 of the Karnataka Court Fees and Suits Valuation Act, (in short 'the Act') an appellant

under Section 54 of the Land Acquisition Act, was liable to pay the Court fee only on the actual amount of compensation claimed in the appeal and not in respect of additional statutory allowances which he has to get in accordance with law under the provisions of the Land Acquisition Act which is not required to be adjudicated by the Court.

5. If the provision of Section 48 of the Act had remained as it was, the contention of Sri. K.S. Setlur would have been un-exceptionable. But, an explanation has been added to Section 48 of the Act by amendment Act No. 80of 1976 that is subsequent to the Full Bench Decision. Section 48 together with that explanation as it stands after the amendment reads:

48. Fee on memorandum of appeal against decision, award or order relating to compensation: The fee payable under this Act on a memorandum of appeal against a decision or an award or order relating to compensation under any Act for the time being in force for the acquisition of property for public purpose shall be computed on the difference between the amount awarded and the amount claimed by the applicant.

Explanation: For the purpose of this Section the expressions 'amount awarded' and 'amount claimed' include any other additional sum payable in accordance with the law providing for acquisition in consideration of the compulsory nature of the acquisition.

According to the main Section of 48, the Court fee has to be paid on the amount claimed in the Appeal. If we read the Section together with the explanation, it clearly means, the appellant, in an Appeal under Section 54 of the Land Acquisition Act has to pay Court fee on the amount claimed in the appeal which includes not only the additional market value claimed in the appeal but also statutory allowance, in particular, solatium payable under Section 23 of the Land Acquisition Act.

6. For the aforesaid reasons, we answer the question set out as follows:

The appellant is liable to pay Court fee on the amount of solatium which is required to be granted on the basis of the amount of compensation awarded under Section 23 of the Land Acquisition Act.

7. Learned Counsel for the appellant contended that, the explanation inserted under Section 48 of the Act was arbitrary and therefore, violative of Article 14 of the Constitution for the reason that the party is compelled to pay the Court-fee on the amount which he is entitled to get by the force of the provision of the Land Acquisition Act itself and not for adjudicating the claim. That is entirely a different issue. It is open for the appellant to challenge the constitutional validity of explanation if the appellant is so advised and if he considers that there are grounds to do so. But as far this Appeal is concerned, so long as the explanation stands, this appellant is bound to pay the Court-fee on the amount of solatium.

In the result, office objection is upheld. Two weeks' time is granted to the appellant to pay the deficit Court fee.

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