

IN THE COURT OF II ADDL. SENIOR CIVIL JUDGE,
DHARWAD

Dated this, the 13th day of September, 2017.

PRESENT : SMT.INDIRA MAILSWAMY CHETTIYAR,
B.Com.,LL.B.(Spl.),L.L.M.,
II Addl. Senior Civil Judge,
Dharwad.

L.A.C.No.17/2016

1. K. Anantkrishna Rao, CLAIMANTS
S/o. Sarvottam Rao
Age: 56 years,
Occ: Business,

2. Smt. Vinuta Rao,
W/o. K. Anantkrishna Rao
Age: 51 years,
Occ: House wife,

Both R/o: "Sarvottam",
Opposite JSS College,
Vidyagiri,
Dharwad-580 004.

(By Sri. V.D. Kamaraddi, Adv.,)

V/s

1. The Managing Director, RESPONDENTS
Hubli-Dharwad,
B.R.T.S. Co. Ltd.,
1st Floor K.S.F.C., Building ,
Rayapur,
Dharwad.

2. The Spl. Land Acquisition Officer,
Karnataka Road Development
Corporation Limited,
1st Floor, K.S.F.C. Building,
Rayapur,
Dharwad.

3. The Executive Engineer,
Karnataka Road Development
Corporation Ltd.,
Planning Office, No.35,
III Main Road,
Dollars Colony, Gokul Road,
Hubballi-560030.

(R.1 – Exparte.)

(R.2 & 3 - By Sri. C.V. Angadi, Adv.,)

JUDGMENT

The Claimants have filed this Reference Application under Section 35 of the Karnataka Highways Act, 1964, for reference to Court as against the Award made under Section 28 to praying to refer the Civil Court, Dharwad, for determination of enhanced compensation.

2. The very maintainability of the present petition filed by the Claimants, i.e., jurisdiction of this Court to entertain and try this petition, is involved and hence, the arguments heard by both the Learned Counsels appearing for the Claimants and the Respondent on the point of jurisdiction. Hence, the following points are arise for consideration;

POINTS

1. Whether this Court has jurisdiction to entertain and try this Reference Application?
2. What Order?
3. My answers to the above said Points are as follows;

Point No.1 : In the Negative,

Point No.2 : As per the final Order,

for the following;

REASONS

4. **POINT NO.1 :-** On perusal of the records, which are very much available on record, it is clear that, the Government of Karnataka has acquired the land bearing R.S. No.59A/3+36/1+2 Pl.No.3, measuring 00A-00G-11.00 annas situated at Lakamanahalli, Taluk Dharwad, owned by the Claimants for the purpose of developing and widening the Mangasuli-Lakshmeshwara State Highway-73 between Hubballi-Dharwad by allaying the right of ownership under Section 15 of the Karnataka Highway Act, 1964, vide Notification No.PWD 112/EAP-2012, dated 10.09.2012 and the General Award under Section 28 of the Karnataka Highway Act, 1964, has been declared under

No.ಕೆಆರ್‌ಡಿಸಿಎಲ್/ಭೂಸ್ವಾ/LKL/ಐತೀಪುರ್/ಬಿನಾಶೇತ್ಯಿ/ಎಲ್‌ಕೆಎಲ್/ಸಿಆರ್-01/2015-16 dated 17.02.2016 and as against the said Award, the application under Section 35 of the Karnataka Highway Act, 1964, has been filed for Reference to the Court. It is also clear from the records that, the application under Section 35 of the Karnataka Highway Act, 1964, i.e., the present Reference Application is filed by the Claimants on 28.03.2016. It is also clear from the records that, the General Preliminary Award No.ಕೆಆರ್‌ಡಿಸಿಎಲ್/ಭೂಸ್ವಾ/ಐತೀಪುರ್/ಬಿನಾಶೇತ್ಯಿ/LKL/ಸಿಆರ್-01/2015-16 is passed on 28.01.2016 made under Section 28 of the Karnataka Highway Act, 1964 and the General Final Award No.ಕೆಆರ್‌ಡಿಸಿಎಲ್/ಭೂಸ್ವಾ/ಐತೀಪುರ್/ಬಿನಾಶೇತ್ಯಿ/LKL/ಸಿಆರ್-01/2015-16 is passed on 17.02.2016 made under Section 28 of the Karnataka Highway Act, 1964 and notice dated 17.02.2016 is issued to the land owner, i.e., the Claimant intimating them for having made the General Award under Section 28 of the Karnataka Highway Act, 1964 and to get their compensation.

5. On perusal of the said materials, which are very much available on record, it is made crystal clear that, the acquisition proceedings of the said land owned by the Claimants is already over by passing General Final Award on 17.02.2016 and since the Claimants have submitted Reference Application under Section 35 of the Karnataka Highway Act, 1964, on 28.03.2016 after passing the said General Final Award dated 17.02.2016, the Respondent has submitted the said Reference Application under Section 35 of the Karnataka Highway Act, 1964, before this Court for Reference as against the Award made under Section 28.

6. The Right to Fare Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, came into force with effect from 01.01.2014. As per the Government Notification dated 05.03.2014 and also as per Section 2 of the Right to Fare Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the provisions of this Act relating to land acquisition, compensation, rehabilitation and resettlement, shall apply, when the appropriate Government acquired land for its own use, hold and control, including for public sectors undertakings and for public purpose. In the present case, the Special Land Acquisition Officer, KRDC, Rayapur, Dharwad, has acquired the land owned by the Claimant for the purpose of developing and widening the Mangasuli-Lakshmeshwara State Highway-73 between Hubballi-Dharwad, which is for public purpose.

7. It is also clearly mentioned in the Government Notification dated 05.03.2014, since the said Act came into force on 01.01.2014, the earlier Land Acquisition Act, 1894, is repealed.

8. Further, as per Section 63 of the Right to Fare Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the Civil Court has no jurisdiction to entertain any dispute relating to land acquisition in respect of which, the Collector or the Authorities are empowered by or under the said Act. Further, as per Section 64 of the said Act, any person interested, who has not accepted the Award, may by written application to the Collector required that, the matter be

referred by the Collector for the determination of the Authority as the case may be, whether his objection be the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of rehabilitation and resettlement under Chapter V and VI or the apportionment of the compensation among the person interested. From the said provisions of the Act, it is made crystal clear that, this Court has no jurisdiction to entertain and try the present application filed by the Claimant under Section 35 of the Karnataka Highway Act, 1964, for reference to this Court as against the Award passed by the SLAO for determination of correct market value of the land acquired.

9. The Government of Karnataka has issued Notification dated 10.01.2017 by exercising the power under Section 51 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, designating the Hon'ble I Addl. District Judge of each District as Presiding Officer of the Land Acquisition, Rehabilitation and Resettlement Authority for that District and in case, if the Hon'ble I Addl. District and Sessions Judge is not available in any District, the Hon'ble Prl. District and Sessions Judge is designated as Presiding Officer of the said Authority. From this, it is made crystal clear that, Section 51 of the said Act designates the Hon'ble I Addl. District Judge as the Presiding Officer to consider the cases for enhancement of the compensation, i.e., for disposal of References under Section 64 of the said new Act.

10. When as per Section 63 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, the jurisdiction of this Civil Court is barred, i.e., when the Presiding Officer for deciding the cases for enhancement of compensation is not the Senior Civil Judge for disposal of References made under Section 64 of the said Act and when as per the Government Notification dated 10.01.2017, the Government of Karnataka designates the Hon'ble I Addl. District and Sessions Judge of each District as the Presiding Officer of the Land Acquisition, Rehabilitation and Resettlement Authority for that District and in case, if the Hon'ble I Addl. District and Sessions Judge is not available in any District, the Hon'ble Prl. District and Sessions Judge is designated as the Presiding Officer of the said Authority, the present Reference Application submitted by the Special Land Acquisition Officer, KRDCL, Rayapur, Dharwad, before this Civil Court is not maintainable and this Civil Court has no jurisdiction to entertain and try the present Reference Application submitted by the Claimants. **Accordingly, I answered Point No.1 in the Negative.**

11. **POINT NO.2** :- For the aforesaid reasons, I proceed to pass the following,

ORDER

The Application under Section 35 of the Karnataka Highway Act, 1964, for reference to the Court submitted by the

Special Land Acquisition Officer, KRDC, Rayapur, Dharwad, along with the annexure furnished by him is returned to the SLAO, KRDC, Rayapur, Dharwad, to present the same before the competent Court of law in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

The Office is hereby directed to return the original application under Section 35 of the Karnataka Highway Act, 1964, for Reference to the Court along with other documents submitted by the Special Land Acquisition Officer, KRDC, Rayapur, Dharwad, before this Court at the time of its presentation, to him.

No order as to costs.

(Dictated to the Stenographer, transcribed and typed by her, corrected and then, pronounced by me in the open Court on this, the 13th day of September, 2017.)

(INDIRA MAILSWAMY CHETTIYAR)

II Addl. Senior Civil Judge,
Dharwad.

