

A

STATE OF KARNATAKA & ORS.

v.

MUNIKADIRAPPA & ORS.

(Civil Appeal No. 7664-7675 of 2004 etc.)

OCTOBER 08, 2010

B

**[MARKANDEY KATJU AND T.S. THAKUR, JJ.]**

*Land laws and Agricultural Tenancy – Litigation for deciding occupancy rights – During pendency of litigation the land in question acquired – Single Judge of High Court decided the occupancy rights in favour of tenant – In view of the acquisition also directed the compensation thereof to be appointed between the tenant and the erstwhile owner of the land – Division Bench of the High Court held that since the tenant was entitled to occupancy right, he was entitled to the whole compensation – On appeal, held: The courts below were right in deciding the question regarding the occupancy right – However, they fell into error in deciding the quantum of compensation – The order granting occupancy-right is affirmed, the question regarding compensation is left open to be decided in appropriate proceeding under Land Acquisition Act – Land Acquisition Act, 1894.*

**The respondents made application, claiming occupancy rights for certain Inam Lands endowed to a temple (a Mazurai institution) Land Tribunal granted occupancy rights in favour of the respondents. The temple challenged the order before Land Reforms Appellate Authority. On abolition of the Authority the case was transferred to High Court and registered as Writ petition. During pendency of the petition, the lands in question were acquired by Development Authority Single Judge of the High Court held that the Tribunal had rightly granted occupancy rights on the respondents. Taking note of the fact that the lands were acquired, the court**

STATE OF KARNATAKA & ORS. v. MUNIKADIRAPPA 251  
& ORS.

directed the compensation amount to be appointed between the temple and the respondent-occupants in the ratio of 60 : 40. Respondents filed writ appeals. Division Bench of the High Court held that since the respondents were in cultivating occupation of the land, they would be entitled to claim full compensation payable for the land acquired. Therefore, the instant appeals were filed.

Disposing off the appeals, the Court

HELD: 1. The only question that fell for consideration before the High Court in the writ petition filed by the respondents was whether the grant of occupancy rights in their favour by the Land Tribunal was justified. The Single Judge of the High Court rightly answered the said question in the affirmative. The fact that the land had been acquired in the meantime could not have deterred the Single Judge from dismissing the writ petition and upholding the order granting occupancy rights unconditionally. Instead of doing so, the Single Judge took upon himself the duty of apportioning the compensation between the writ petitioners-erstwhile owners of the land and the respondents. That was wholly unnecessary and *dehors* the provisions of the Land Reforms Act. The question as to who was entitled to claim how much compensation for parcels of land acquired by the Government was a matter which had to be agitated by the persons interested only in terms of the provisions of the Land Acquisition Act. The Land Tribunal or the High Court hearing a writ petition arising out of an order passed by the Tribunal was not concerned with the question of quantum of compensation or its apportionment among different claimants, nor has any provision in the Land Reforms Act been brought to the notice of the Court, which required the Tribunal to determine the said questions in case where lands that are the subject matter of proceedings under the said Act get

A acquired for a public purpose. [Para 3] [254-F-H; 255-A-D]

B 1.2 In the appeals filed by the respondents-occupants of the lands, the Division Bench was concerned only with the limited question whether the directions regarding apportionment of the compensation was justified. Instead of simply setting aside the said direction on the ground that the same was beyond the provisions of the Land Reforms Act the Division Bench held the respondents entitled to claim full compensation. The Division Bench C would have been justified in setting aside the direction given by the Single Judge regarding apportionment but it need not have fallen into the same error as was committed by the Single Judge, by directing payment of the full compensation to the respondents. That was a D matter to be determined by the Collector in appropriate proceedings under the Land Acquisition Act and eventually by the competent Civil Court in a reference if the same became necessary. In as much as the Division Bench itself determined the extent of compensation E payable to the respondents it committed a mistake. [Para 4] [255-F-H; 256-A-C]

F 1.3 While grant of occupancy-tenancy rights in favour of the respondents qua the parcels of land in their respective possession as on the appointed date shall stand affirmed, the question as to who is entitled to what compensation for the acquisition of said lands in question is left open to be determined in appropriate proceedings under the Land Acquisition Act, 1894 if not G already determined. [Para 5] [256-D-E]

CIVIL APPELLATE JURISDICTION : Civil Appeal Nos. 7664-7675 of 2004.

H From the Judgment & Order dated 6.7.2001 of the High Court of Karnataka in Writ Appeal No. 3470 of 2001, 3989,

STATE OF KARNATAKA & ORS. v. MUNIKADIRAPPA 253  
& ORS.

3999 of 2001 (LR).

A

Sanjay R. Hegde, Abhishek Malviya, Ramesh Kumar Mishra for the Appellants.

Rajesh Mahale for the Respondents.

B

The Judgment of the Court was delivered by

**T.S. THAKUR, J.** 1. These appeals by special leave arise out of an order passed by the High Court of Karnataka at Bangalore whereby Writ Appeals No.3470 of 2001 and 3989-3999 of 2001 filed by the respondents have been allowed and the order passed by a learned Single Judge of that Court in Writ Petition No.30500 of 1993 set aside to the extent the same directed apportionment of the compensation payable for the acquisition of the land in dispute. The controversy arises in the following backdrop:

C

D

2. The respondents claimed to be in cultivating occupation of certain Inam lands endowed to the temple of Kumaraswamy situate at Hanumanthanagar, Bangalore City. They made applications before the Land Tribunal under the Karnataka Land Reforms Act for grant of occupancy rights in their favour. The Tribunal by an order dated 10th April, 1987 allowed the said applications and granted occupancy rights to the respondents for the respective parcels of land in their occupation. The temple which happens to be a Muzurai Institution challenged the said order before the Land Reforms Appellate Authority in appeal. During the pendency of the said appeal the Appellate Authority was abolished with the result that the records of the appeal case pending before the Authority were transferred to the High Court and registered as Writ Petition No.30500 of 1993. While the said writ petition was still pending the lands in question were acquired by the Bangalore Development Authority for the formation to what is known as Kumaraswamy layout. The writ petition eventually came up for hearing before a Single Judge of the High Court who took the

E

F

G

H

A view that the respondents were in occupation of different  
 parcels of land even prior to 1970 and that applications filed  
 by them for grant of occupancy-tenancy rights were within time.  
 The High Court also came to the conclusion that the Land  
 Tribunal was right in holding that the respondents were  
 B cultivating the land in question as tenants and in granting  
 occupancy rights to them. In the ordinary course the Court could  
 have simply dismissed the writ petition upholding the order  
 passed by the Land Tribunal but instead of doing so it went a  
 step further. Taking note of the fact that the lands in question  
 C stood acquired the learned Single Judge directed that  
 compensation payable for the lands in question shall be  
 apportioned between the Muzurai Institution who happened to  
 be erstwhile owner of the land and the tenants-occupants in the  
 ratio of 60:40. It is noteworthy that the Muzurai Institution did  
 D not question the aforementioned order passed by the Single  
 Judge. The respondents, however, assailed the said order in  
 writ appeals which were allowed by the Division Bench of the  
 High Court in terms of the order impugned in the present  
 appeals. The Division Bench held that since the respondents  
 E were found to be in cultivating occupation of the land on the  
 appointed date on 1st March, 1974 they shall be deemed to  
 be so even on the date of acquisition and that they shall be  
 entitled to claim full compensation payable for the land acquired  
 from them. The present appeals assail the said judgment as  
 F already noticed above.

3. We have heard learned counsel for the parties. The only  
 question that fell for consideration before the High Court in the  
 writ petition filed by the respondents was whether the grant of  
 occupancy rights in their favour by the Land Tribunal was  
 G justified. The Single Judge of the High Court answered the said  
 question in the affirmative and in our opinion rightly so. The fact  
 that the land had been acquired in the meantime could not have  
 deterred the Single Judge from dismissing the writ petition and  
 upholding the order granting occupancy rights unconditionally.  
 H Instead of doing so, the Single Judge took upon himself the

STATE OF KARNATAKA & ORS. v. MUNIKADIRAPPA 255  
& ORS. [T.S. THAKUR, J.]

duty of apportioning the compensation between the writ petitioners-erstwhile owners of the land and the respondents. That was, in our opinion, wholly unnecessary and *dehors* the provisions of the Land Reforms Act. The question as to who was entitled to claim how much compensation for parcels of land acquired by the Government was a matter which had to be agitated by the persons interested only in terms of the provisions of the Land Acquisition Act. The Land Tribunal or the High Court hearing a writ petition arising out of an order passed by the former was not concerned with the question of quantum of compensation or its apportionment among different claimants, nor has any provision in the Land Reforms Act been brought to our notice, which required the Tribunal to determine the said questions in case where lands that are the subject matter of proceedings under the said Act get acquired for a public purpose. The only question that fell for consideration before the High Court was whether the respondents were in cultivating occupation of the land on the appointed date as stipulated under the Act so as to be entitled to the grant of occupancy rights. Once that question was answered the fact that the land had been acquired and the cultivating tenant had gone out of possession of such land did not affect his entitlement to be declared as a tenant occupant.

4. As noticed earlier the finding that the respondents were entitled to occupancy tenancy rights qua the lands in question was not assailed by the Muzurai Institution. This implied that the question regarding grant of such rights had gone beyond the pale of any controversy. In the appeals filed by the respondents occupants of the lands the Division Bench was concerned only with the limited question whether the directions regarding apportionment of the compensation was justified. Instead of simply setting aside the said direction on the ground that the same was beyond the provisions of the Land Reforms Act the Division Bench held the respondents entitled to claim full compensation. Now that may indeed be the position, in cases where the land is under the Land Reforms Act vested in the

- A State and then granted to the persons entitled to the occupancy rights over the same, but the question is whether any such declaration ought to have been granted in the proceedings under the Land Reforms Act. Our answer is in the negative. The Division Bench would have been justified in setting aside the
- B direction given by the Single Judge regarding apportionment but it need not have fallen into the same error as was committed by the Single Judge, by directing payment of the full compensation to the respondents. That was a matter to be determined by the Collector in appropriate proceedings under
- C the Land Acquisition Act and eventually by the competent Civil Court in a reference if the same became necessary. In as much as the Division Bench itself determined the extent of compensation payable to the respondents it committed a mistake.
- D 5. In the result, we direct that while grant of occupancy-tenancy rights in favour of the respondents qua the parcels of land in their respective possession as on the appointed date shall stand affirmed, the question as to who is entitled to what compensation for the acquisition of said lands in question is
- E left open to be determined in appropriate proceedings under the Land Acquisition Act, 1894 if not already determined. The appeals are accordingly disposed off, leaving the parties to bear their own costs.

K.K.T.

Appeals disposed of.