

A MALLAPPA DEAD BY L.RS. & ORS.

v.

THE SPECIAL LAND ACQUISITION OFFICER & ANR.

(Civil Appeal No. 6057 of 2012)

B DECEMBER 03, 2018

[ABHAY MANOHAR SAPRE AND INDU MALHOTRA, JJ.]

Karnataka Industrial Areas Development Act, 1966: s.28(1) – Acquisition of land for public purpose – While appreciating the sale deeds produced by land owners by way of exemplars, the Special Deputy Commissioner determined the market rate of the land in question at Rs.500/- per Gunta whereas the Reference Court fixed the compensation @ Rs.21,000/- per Gunta – High Court, however, reduced it to Rs.10,250/- per Gunta – Appeal by landowners – Held: High Court was not justified in reducing the rate determined by the reference Court There was enough evidence to prove the potentiality of the land in question as was clear from the findings of the Land Acquisition Officer – Apart from it, the landowners also submitted 10 sale deeds wherein it was established that price of the land situated in the adjacent area varied from Rs.7250/- per Gunta to Rs.57,000/- per Gunta between 1977 till 1982 – In view of these factors, there was no justifiable reason for the High Court to reduce the rate from Rs.21,000/- per Gunta to Rs.14,500/- per Gunta and then deducting 30% towards development charges – In the facts and circumstances of the case and the evidence adduced by the parties, market value of the land in question is fixed at Rs.21,000/- per Gunta and after deducting 10% towards the development charges, the compensation is fixed at Rs.18,900/- per Gunta – The appellants are also entitled to get other statutory compensation payable under the Act – The respondents are accordingly directed to re-calculate the compensation amount payable to the appellants – Land Acquisition.

Disposing of the appeals, the Court

HELD: 1. The Special Deputy Commissioner (LAO) while awarding compensation recorded a finding that the acquired land

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in question is suitable for construction of the buildings. It was also held that the land is situated in the midst of well-developed area of the city and is surrounded by several big factories, industrial estate and the housing colonies. It was also held that the land is abutting the main road passing through Hubli. In addition, the appellants filed 10 sale deeds by way of exemplars to prove the market value. These sale deeds were executed from 1977 to 1982 in relation to adjacent lands. The value of the land sold by these sale deeds varied from Rs. 7250/- per Gunta to Rs.57,000/- per Gunta. The lands involved in these sale deeds were of smaller area. [Paras 13, 14][474-B-E]

2. The market rate determined by the reference Court at the rate of Rs.21,000/- per Gunta was the proper market rate of the land in question and the same, therefore, should have been upheld by the High Court. There was enough evidence to prove the potentiality of the land in question as is clear from the findings of the Land Acquisition Officer. Apart from it, the landowners also proved the market value of the land in question by filing 10 sale deeds wherein it was established that price of the land situated in the adjacent area varied from Rs.7250/- per Gunta to Rs.57,000/- per Gunta between 1977 till 1982. In view of these factors, there was no reason for the High Court to reduce the rate from Rs.21,000/- per Gunta to Rs.14,500/- per Gunta and then after deducting 30% towards development charges fixing at Rs. 10,250/- per Gunta. The market value of the land in question is fixed at Rs.21,000/- per Gunta and after deducting 10% towards the development charges fix the market price of the land in question at Rs.18,900/- per Gunta. The appellants are also entitled to get other statutory compensation payable under the Act. The respondents are accordingly directed to recalculate the compensation amount payable to the appellants in the light of the market rate fixed by this Court, i.e., Rs. 18,900/- per Gunta and after making proper verification pay to the appellants the total compensation within 3 months. [Paras 16-21][474-C-D; 475-A-E]

A CIVIL APPELLATE JURISDICTION : Civil Appeal No. 6057 of 2012.

From the Judgment and Order dated 12.10.2007 of the High Court of Karnataka at Bangalore in MFA No. 594 of 2003.

With

B C. A. No. 1573 of 2018

Jaideep Gupta, Ms. Kiran Suri, Sr. Advs., Shankar Divate, Satish Kumar, Anand Sanjay M. Nuli, Dharam Singh, Nanda Kumar K. B., M/s. Nuli & Nuli, P. R. Ramasesh, S. J. Amith, Ms. Aishwarya Kumar, Dr. (Mrs.) Vipin Gupta, Advs. for the appearing parties.

C The Judgment of the Court was delivered by

ABHAY MANOHAR SAPRE, J.

In Civil Appeal No.6057/2012

D 1. This appeal is directed against the final order/judgment dated 12.10.2007 passed by the High Court of Karnataka at Bangalore in M.F.A. No.594 of 2003 whereby the High Court allowed the appeal filed by the respondents herein and reduced the compensation awarded to the appellants herein by award dated 30.09.2002 passed by the Additional Civil Judge (Sr. Division) Hubli in LAC No.58/87.

E 2. In order to appreciate the controversy involved in this appeal, it is necessary to set out the facts of the case hereinbelow.

F 3. The appellants are the claimants (landowners) and the respondents are the State Authorities-non-applicants in the land acquisition reference proceedings out of which this appeal arises. The State of Karnataka in exercise of powers conferred under Section 28(1) of the Karnataka Industrial Areas Development Act, 1966 (hereinafter referred to as “the Act”) acquired the land measuring 24 acres 15 guntas bearing Survey No. 44, Naruab Thimmasagar Village, Hubli Taluk District Dharwad. The land was acquired for Karnataka Industrial Areas Development Board, Bangalore for a public purpose “expansion of existing industrial estate in Tahsil Hubli”.

G 4. The notification was accordingly issued under Section 28(1) on 23/28.06.1980. It was published in the official Gazette on 03.07.1980 (page 152 part III-1). This notification was followed by issuance of another notification on 27.05.1981 under Section 28 (4) of the Act. The appellants being the owners of the land in question became entitled to claim compensation for their land.

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5. This led to initiation of the proceedings for determination of the compensation payable to the appellants for their land under the Act. The Special Land Acquisition Officer (respondent No. 1 herein) by his award dated 27.10.1986 awarded compensation to the appellants at the rate of Rs.5/- per sq. meter = Rs. 500/- per Gunta. A

6. The appellants (landowners) felt aggrieved and prayed for making a reference to the Civil Court for re-determination of the rate of compensation. It was accordingly made. By award dated 30.09.2002, the Reference Court partly answered the reference in appellants' favour and enhanced the rate of compensation at Rs.21,000/- per Gunta. B

7. The appellants and the State Authorities both felt aggrieved of the award of the Reference Court and filed appeals in the High Court of Karnataka at Bangalore. The appellants prayed for further enhancement in the rate of compensation whereas the State prayed for reduction in the rate. C

8. By impugned judgment/order, the High Court allowed the appeal filed by the State in part and reduced the rate of compensation to Rs.10250/- per Gunta from Rs.21,000/- per Gunta fixed by the Reference Court. The High Court fixed the market rate at Rs.14,500/- per Gunta and deducting 30% towards development charges fixed at Rs.10,250/- per Gunta. As a consequence, the appeal filed by the landowners was dismissed which has given rise to filing of this appeal by way of special leave by the landowners in this Court. D
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9. The question, which arises for consideration in this appeal, is whether the High Court was justified in reducing the rate of compensation from Rs.21,000/- per Gunta to Rs. 10,250/- per Gunta. F

10. In other words, the question, which arises for consideration in this appeal, is whether the High Court was justified in holding that the market value of the land in question was Rs.10,250/- per Gunta on the date of its acquisition. G

11. Having heard the learned counsel for the parties and on perusal of the record of the case, we are inclined to allow the appeal and while setting aside the impugned order of the High Court restore the award of the Reference Court/Civil Court with slight modification as indicated *infra*. G

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A 12. It may be mentioned that the State had also filed appeal by special leave in this Court against the impugned order of the High Court wherein the grievance of the State was that the High Court was not justified in fixing the market rate at Rs. 10,250/- per Gunta. According to the State, the rate should have been determined at a much lower rate than Rs.10,250/- per Gunta. This Court by order dated 04.11.2015
B dismissed the appeal filed by the State and affirmed the impugned order.

13. On perusal of the record, we find that the Special Deputy Commissioner (LAO) while awarding compensation recorded a finding that the acquired land in question is suitable for construction of the buildings. It was also held that the land is situated in the midst of well-
C developed area of the city and is surrounded by several big factories, industrial estate and the housing colonies. It was also held that the land is abutting the main road passing through Hubli.

14. In addition, the appellants filed 10 sale deeds by way of exemplars to prove the market value. These sale deeds were executed
D from 1977 to 1982 in relation to adjacent lands. The value of the land sold by these sale deeds varies from Rs.7250/- per Gunta to Rs.57,000/- per Gunta. The lands involved in these sale deeds are of smaller area.

15. As mentioned above, while appreciating the aforementioned
E evidence, the Special Deputy Commissioner determined the market rate of the land in question at Rs.500/- per Gunta whereas the Reference Court fixed the compensation at the rate of Rs.21,000/- per Gunta. The High Court, however, reduced it to Rs.10,250/- per Gunta.

16. In our considered opinion, the market rate determined by the
F reference Court at the rate of Rs.21,000/- per Gunta was the proper market rate of the land in question and the same, therefore, should have been upheld by the High Court. In other words, the High Court was not justified in reducing the rate determined by the reference Court from Rs.21,000/- per Gunta to Rs.10,250/- per Gunta and instead the High Court should have upheld the rate fixed by the Reference Court.

17. In our considered view, there is enough evidence to prove the
G potentiality of the land in question as would be clear from the findings of the Land Acquisition Officer mentioned above. Apart from it, the landowners have also proved the market value of the land in question by filing 10 sale deeds wherein it is established that price of the land situated
H in the adjacent area has varied from Rs.7250/- per Gunta to Rs.57,000/- per Gunta between 1977 till 1982.

18. Taking into consideration the aforementioned factors, we are of the view that there was no justifiable reason for the High Court to reduce the rate from Rs.21,000/- per Gunta to Rs.14,500/- per Gunta and then deducting 30% towards development charges fixed at Rs. 10,250/- per Gunta. A

19. In our opinion, having regard to the totality of the facts and the circumstances emerging from the record and keeping in view the evidence adduced by the parties, we consider just and proper to fix Rs.21,000/- per Gunta as the market value of the land in question and after deducting 10% towards the development charges fix the market price of the land in question at Rs.18,900/- per Gunta. B C

20. In other words, we hold and accordingly fix the market value of the land in question at the rate of Rs. 18,900/- per Gunta for payment of compensation to the appellants for their land. The appellants are also entitled to get other statutory compensation payable under the Act, which is now to be re-calculated on the basis of the market rate fixed by this Court. D

21. The respondents are accordingly directed to re-calculate the compensation amount payable to the appellants in the light of the market rate fixed by this Court, i.e., Rs.18,900/- per Gunta and after making proper verification pay to the appellants the total compensation within 3 months. E

22. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. Impugned order is set aside.

In Civil Appeal No.1573 of 2018

This appeal is directed against the final judgment and order dated 17.07.2017 passed by the High Court of Karnataka, Dharwad Bench in M.F.A. No.24071 of 2011 whereby the High Court dismissed the appeal filed by the appellants herein and reduced the rate of compensation to 10,250/- per Gunta from Rs.21,000/- per Gunta on the grounds of parity which was granted to the adjacent land in question in S.No.44 in LAC No.58/1987. F G

In view of the order passed above in C.A. No.6057 of 2012, this appeal is disposed of on the same terms.