

O R D E R

Leave granted. Heard.

2. 221 acres 20 guntas of land in Keragalli village, Mysore Taluk, including three acres of land belonging to the respondent in each of these two appeals were acquired for the Mysore Urban Development Authority for formation of layout under preliminary notification dated 15.7.1997 (Gazetted on 24.7.1997) and final notification dated 29.3.2001, issued under Sec.17 (1) and 19(1) of Karnataka Urban Development Authorities Act, 1987. After making the award, possession was taken on 16.8.2003 and 27.11.2003 respectively.

3. The Land Acquisition Officer, by his Award dated 4.2.2003, determined the compensation as Rs.1,55,000/- per acre. On reference, the reference Court, by judgment and award dated 17.4.2008, increased the compensation to Rs.13,49,000/- per acre. It also awarded 30% solatium, 12% additional amount from the date of preliminary notification to date of award and interest at the rate of 9% per annum for one year from the date of preliminary notification and thereafter at the rate of 15% per annum.

4. Feeling aggrieved, the appellants filed appeals before the High Court. The High Court, by the impugned judgment dated 21.10.2008, confirmed the award of the reference Court. The said judgment is challenged in these appeals by special leave.

5. Two contentions are urged by the appellants:

(i) The award of compensation at Rs.13,49,000/- per acre

is excessive, erroneous and not based on any evidence; and

(ii) Interest could be awarded only from the date of taking possession and not from the date of preliminary notification.

6. The reference Court and the High Court have increased the compensation by relying upon the judgment and award dated 16.3.2006 of the reference Court (Ex.P-2) in regard to acquisition of certain lands situated at Maragowdanahalli village under preliminary notification dated 13.9.1990, wherein compensation was awarded at the rate of Rs.9,50,000/- per acre. Reference Court and the High Court have thought fit to give an increase of 7% per annum for the period between 13.9.1990 to 24.7.1997 to arrive at the market value of the acquired land as Rs.13,49,000/- per acre.

7. The evidence shows that Maragowdanahalli village is far away from Keragalli where the acquired lands are situated. They are separated by two villages namely Bhogadi and Hinakall. The distance between the two villages is stated to be 3 to 5 kilometers. The appellant contends that the actual distance is around 9 kilometer, but there is no such evidence on behalf of the appellant. The evidence also shows that Maragowdanahalli is situated near a railway station whereas Keragalli does not have facility of a railway station. Further that Maragowdanahalli is nearer to Mysore city and far more developed when compared to Keragalli. (It is also stated that Maragowdanahalli is within the municipal limits of Mysore whereas Keragalli is outside the municipal limits, but there is no specific evidence in that behalf).

8. There is no evidence to show that the acquired lands at Keragalli and Maragowdanahalli are comparable lands with

similar market value. The distance, the extent of development and the facilities available in the two villages make it clear that award made by the reference Court with reference to an acquisition in Maragowdanahalli village cannot be the basis for determining the market value for the lands at Keragalli. We are of the view that the reference Court and the High Court committed a serious error in relying upon the Judgment (Ex.P-2) relating to Maragowdanahalli, to determine the market value of lands at Keragalli. If Ex. P-2 is excluded, we find that there is no evidence to determine the market value, as the only other document relied upon by the land owners was a sale transaction of 2007 which being nearly one decade after the acquisition, is not of any assistance. We also find that no evidence has been let in by the appellant in regard to market value though the award of LAO refers to sale transactions during 1997-1998 showing a value of Rs.2,50,000/- per acre in Keragalli. But those sale deeds were not produced.

9. We are also told that the reference cases in regard to several other lands under the same acquisition are still pending before the Reference Court and some cases are pending in High Court. In the absence of any acceptable evidence, it is not possible for us to determine the market value. It would appear that sale transactions relating to 1996-1997-1998 for lands near to acquired lands are available but not produced. Some of them are now produced by appellant. We cannot obviously rely upon them as they are produced for the first time in this court and the land owners did not have an opportunity to have their say in regard to such transactions by letting evidence. Interests of justice, therefore, requires that the matter should be remanded.

10. Insofar as interest is concerned, it is clear that

having regard to the provisions of Section 28 of the Land Acquisition Act, 1894, interest can be awarded only from the date of taking possession of the acquired lands and not from the date of preliminary notification.

11. We, therefore, allow these appeals, set aside the judgment of the High Court and the reference Court and remand the matter to the reference Court which shall decide the matter afresh after giving due opportunities to both parties to produce further evidence regarding market value.

12. Learned counsel for the appellants submits that the Mysore Urban Development Authority has already formed a layout and the plots are ready for allotment and any delay in determining compensation will affect the determination of allotment price of plots. Therefore, there is some urgency in the matter. On the facts and circumstances, we request the reference Court to dispose of the matter expeditiously preferably within four months from 27.1.2011, on which date both parties shall appear before the reference court without further notice.

.....J.
(R.V. RAVEENDRAN)

.....J.
(P. SATHASIVAM)

New Delhi;
November 30, 2010.

.....J.
(A.K. PATNAIK)