

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT GULBARGA

DATED THIS THE 20TH DAY OF APRIL 2010

BEFORE

THE HON'BLE MR. JUSTICE A.N.VENUGOPALA GOWDA

M.F.A.NO.1097 OF 2007*(LAC)
C/W.
M.F.A.NO.1099 OF 2007 *(LAC)

MFA NO.1097/2007

BETWEEN

1. VITHAL
S/O MARUTHI
AGE MAJOR,
OCC;AGRICULTURIST
R/AT ATNOOR VILLAGE
TALUKA BHALKI
DISTRICT BIDAR .. APPELLANT

(By Sri. K A KALBURGI, ADVOCATE)

AND

1. THE SPECIAL LAND ACQUISITION OFFICER
KARANJA PROJECT
BIDAR

2. THE EXECUTIVE ENGINEER
K.P.C. DIVISION NO.2
BIDAR DISTRICT ... RESPONDENTS

(By Sri.MALLIKALRJUN SAHUKAR, HCGP FOR R1:
R2 SERVED & UNREPRESENTED)

*Corrected vide order dated 04.01.2022.

(JMKJ)

MFA FILED U/S.54(1) OF LAND ACQUISITION ACT AGAINST THE JUDGMENT & AWARD DATED 30/10/2006 PASSED IN LAC NO.16/06 ON THE FILE OF THE CIVIL JUDGE (SD) & JMFC, BHALKI, PARTLY ALLOWING THE REFERENCE PETITION FOR ENHANCED COMPENSATION & SEEKING FURTHER ENHANCEMENT OF COMPENSATION.

MFA NO.1099/2007:

BETWEEN

1. MOHAN
S/O GUNDALI
AGE MAJOR OCC:AGRICULTURIST
R/AT ATNOOR VILLAGE
TALUKA BHALKI
DISTRICT BIDAR .. APPELLANT

(By Sri. K A KALBURGI)

AND

1. THE SPECIAL LAND ACQUISITION OFFICER
KARAJNA PROJECT
BIDAR
2. THE EXECUTIVE ENGINEER
K.P.C. DIVISION NO.2
BHALKI
DISTRICT BIDAR ... RESPONDENTS

(By Sri.MALLIKARJUN SAHUKAR, HCGP FOR R1:
R2 SERVED & UNREPRESENTED)

MFA FILED U/S 54(1) OF LA ACT, AGAINST THE JUDGEMENT AND AWARD DATED 30.10.2006 PASSED IN LAC NO.17/2006 ON THE FILE OF CIVIL JUDGE (SR.DN.), BHALKI, PARTLY ALLOWING THE REFERENCE PETITION FOR ENHANCED COMPENSATION AND SEEKING FURTHER ENHANCEMENT OF COMPENSATION.

THESE APPEALS COMING ON FOR HEARING THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

These two appeals are by the claimants, for awarding of enhanced compensation.

2. Heard learned counsel for the appellants and learned HCGP for the respondents and perused the records.

3. The appellant in MFA No.1097/2007 was the owner of dry lands in Sy.No.23/3-4 measuring 1 acre 13 guntas and Sy.No.34/2 measuring 15 guntas, situated at Atnoor village, Bhalki Taluk, Bidar District. The said lands were acquired for construction of left bank canal under the Karanja project. The preliminary notification under Section 4(1) of the Land Acquisition Act was issued on 17.2.2000. The Land Acquisition Officer has passed an award on 30.4.2002 fixing market value of the property at Rs.14,200/- per acre, as against claim of Rs.1,00,000/- per acre put forth by the appellant. The appellant protested and sought a reference to the civil court. On the reference being made, upon enquiry, the reference court by relying upon an earlier award passed in LAC No.16/2006, has

determined the market value of the acquired land at Rs.66,000/- per acre, with statutory benefits.

4. The appellant in MFA No.1099/2007 is the owner of land bearing Sy.No.3/1 -7 measuring 1 acre 10 guntas (dry) situated at Atnoor village, Bhalki Taluk of Bidar District. A notification under Section 4(1) of the Land Acquisition Act was issued on 17.2.2000 proposing to acquire the said property. Subsequently, notification under Section 6(1) of the Act was issued and the property was acquired. In the award proceedings, the Land Acquisition Officer fixed the market value of the property at Rs.14,200/- per acre and passed an award on 30.4.2002 which was not accepted and on a protest petition being filed, the matter was referred to the civil court for determination. The reference court, following an earlier award, determined the market value of the acquired property at Rs.66,000/- per acre with statutory benefits, by award dated 30.10.2006. Aggrieved by the determination

and contending that the award is not the market value of the property, the appellants have preferred these appeals.

5. Heard learned counsel for the appellants and learned HCGP for the 1st respondent and perused the records.

6. Indisputably, the owner of the land bearing Sy.No.120/3 situated at Dongapur village of Bhalki Taluk, Bidar District, had approached this court in MFA No.4616/2007 for determination of market value of property, acquired for the aforesaid project, pursuant to the preliminary notification dated 23.12.1999. In the said case, the Land Acquisition Officer had fixed the market value at Rs.11,650/- per acre. The reference court determined the market value at Rs.66,000/- per acre. In the appeal, this court determined the market value at Rs.79,200/- per acre and allowed the claim with statutory benefits. The land which became subject matter of consideration in MFA No.4616/2007 was situated in the adjoining village with reference to the properties which are subject matter of

consideration in these appeals. The lands in the instant cases were acquired pursuant to the preliminary notification dated 17.2.2000. Hence, award passed on 19.3.2010 in MFA No.4616/2007 can be the basis for the purpose of determining the market value of the acquired properties which are the subject matter of consideration in these appeals.

7. Indisputably, the lands of the appellants were acquired for the same project. The lands which became the subject matter of consideration in MFA No.4616/2007 had similar potentiality as that of the lands involved in these appeals. The respondents have not lead any evidence before the reference court to establish that the lands which were acquired for the very same project, though situated in a different village, which is adjoining, had no similar potentiality and the market value is required to be determined separately. It is settled principle of law that the awards passed in similar cases could be basis for determination of market value, when there is no credible

proof with regard to the market value of the acquired lands. Hence, following the judgment/award dated 19.3.2003 passed in MFA No.4616/2007, these appeals stand allowed and hence, I pass the following:

ORDER

- (i) Both the appeals are allowed.
- (ii) In modification of the impugned judgment/awards, the compensation payable to the appellants herein is enhanced from Rs.66,000/- per acre to Rs.79,200/-per acre.
- (iii) The appellants are entitled to all statutory benefits on the award amount of Rs.79,200/- per acre.
- (iv) The appellants are entitled to costs.

Sd/-
JUDGE

Cm/-