

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.13785 OF 2024
(Arising out of SLP(C) No.12362/2022)

JAYALAKSHMAMMA & ORS.

APPELLANTS

VERSUS

THE STATE OF KARNATAKA & ORS.

RESPONDENTS

O R D E R

1. Leave granted.

2. The appellants are owners of land measuring 1 acre 23 guntas in Survey No.237/2B and land measuring 37.5 guntas in Survey No.238/2 in Hinkal Village, District Mysore, Karnataka. The aforesaid land was proposed to be acquired vide notification dated 01.04.1981 issued under Section 16 of the City of Mysore Improvement Act, 1903 (in short, the "CITB Act"), which is corresponding to Section 4 of the Land Acquisition Act, 1894 (in short, the "1894 Act") and Section 6 of the 1894 Act.

3. An award was passed on 21.04.1986. It is, however, an admitted fact that the compensation amount was neither offered to the expropriated land owners nor deposited before the Reference Court.

4. According to the appellants, physical possession of the acquired land was also not taken and there are several dwelling houses, commercial premises, poultry farm, 64 coconut trees, 50 teak-wood trees, 30 silver

oaks, 10 jack fruit trees, 21 tamarind trees and 20 arecanut nut trees, along with a bore well that exist at the acquired land.

5. On the other hand, learned counsel for the respondents strongly refutes the appellants' claim regarding retention of physical possession, as according to him, a huge chunk of 900 acres of land was acquired for the formation of the Vijayanagara Layout Scheme in Mysore City and possession of the entire land, including the small chunk owned by the appellants, was taken on 09.10.1992.

6. It seems that nothing moved further till the appellants filed Writ Petition Nos.781-785/2014 before the Karnataka High Court for quashing of the acquisition. It was thereafter only that the respondents deposited a sum of Rs.2,06,332/- as compensation, on 11.06.2019.

7. The High Court eventually dismissed the writ petition on the ground of constructive *res judicata* as it appears that some previous writ petitions challenging the subject acquisition were dismissed. The appellants tried their luck in an Intra-Court Appeal, but that too has been turned down vide the impugned judgment dated 17.03.2020, giving rise to these proceedings.

8. We have heard learned senior counsel/counsel for the parties and perused the record.

9. The question as to whether physical possession of

the parcel of land owned by the appellants had been taken or not is apparently a disputed question of fact which need not to be gone into by us. But the fact remains that no amount of compensation was offered or paid to the appellants till commencement of the second round of lis through the writ petitions filed in the year 2014, and it was much thereafter that the compensation amount was deposited on 11.06.2019.

10. In our considered view mere passing of an award on 21.04.1986 did not absolve the respondents of their statutory obligation to offer fair and just compensation to the expropriated land owners. Denial thereof is directly in the teeth of Article 300A of the Constitution of India.

11. That apart, the respondents have miserably failed to show any provision either under the CITB Act or under the 1894 Act, which can enable them to withhold the payment of compensation endlessly, which would comprise of over 34-35 years in the instant case. Non-payment of compensation, in the given facts and circumstances of this case, in our considered opinion, has vitiated the subject acquisition and the same is liable to be quashed. Ordered accordingly.

12. The question that arises further for consideration is whether as a consequence to the quashing of the acquisition, the possession should be

restored/regularized in favour of the appellants?

13. We cannot be oblivious to the fact that the appellants' land is a small part of a big chunk of 900 acres of land acquired for regulated development of an urban area. The release of a parcel of land can affect the development activities or disrupt basic amenities to be provided in the newly developed urban area. Still further, the small parcel of land owned by the appellants is not likely to be of any use unless it is integrated as a contiguous part of the development plan.

14. We also take notice, at this stage, of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (in short, the "2013 Act"), which has essentially been brought into force as a welfare measure to minimize the hardship of expropriated land owners. The scheme of the Statute contemplates an exhaustive procedure, which is required to be followed by the Prescribed Authority for acquiring land under the 2013 Act. Following such a procedure will neither be beneficial for the appellants nor will it serve any purpose of the respondents.

15. We are, thus, satisfied that this is a fit case to invoke our powers under Article 142 of the Constitution of India in order to do complete justice between the parties. We, therefore, dispose of this appeal with the following directions:-

(i) The appellants are permitted to submit their objections, confined to the assessment of compensation in accordance with the provisions of the 2013 Act, within a period of four weeks.

(ii) On receipt of such objections, the Special Land Acquisition Officer - respondent no.3 is directed to re-assess the market value of the appellants' land in accordance with the provisions of the 2013 Act.

(iii) For the purpose of the cut-off date to assess the market value, 01.06.2019 shall be taken as the cut-off date. We have fixed this date keeping in mind that the compensation was first time deposited by the respondents on 11.06.2019.

(iv) The appellants shall be entitled to 100% solatium, interest and other statutory benefits in accordance with the provisions of the 2013 Act.

(v) The Special Land Acquisition Officer shall pass the award within two months from the date of receipt of objections from the appellants.

(vi) The amount of compensation, so assessed by respondent no.3, shall be deposited with the Reference Court within a period of four weeks from the date of passing of the award.

(vii) The appellants may thereafter approach the Reference Court for disbursement of the compensation

amount and after making necessary verifications, the Reference Court will release the compensation amount without any delay.

(viii) On passing of the award and deposit of the compensation amount, the physical possession of the acquired land, free from all encumbrances, shall be deemed to have always vested with the respondents since the time of previous acquisition, for all intents and purposes.

(ix) The appellants shall not resist the re-taking of possession and/or utilization of the land for the public purpose for which it was acquired.

(x) No claim for the release of land from acquisition shall be entertained.

.....J.
(SURYA KANT)

.....J.
(UJJAL BHUYAN)

New Delhi;
December 04, 2024

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No(s).12362/2022

[Arising out of impugned final judgment and order dated 17-03-2020 in WA No.2908/2019 passed by the High Court of Karnataka at Bengaluru]

JAYALAKSHMAMMA & ORS.

Petitioner(s)

VERSUS

THE STATE OF KARNATAKA & ORS.

Respondent(s)

(FOR ADMISSION and I.R.)

Date : 04-12-2024 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) Mr. Anand Sanjay M Nuli, Sr. Adv.
Mr. Suraj Kaushik, Adv.
Mrs. Samina S, Adv.
Mr. Abhishekh Singh, Adv.
M/s. Nuli & Nuli, AOR

For Respondent(s) Mr. Mahesh Thakur, AOR
Mrs. Vipasha Singh, Adv.

UPON hearing the counsel, the Court made the following
O R D E R

1. Leave granted.
2. The appeal is disposed of in terms of the signed order.
3. All pending applications, if any, also stand disposed of.

(ARJUN BISHT)
ASTT. REGISTRAR-cum-PS

(signed order is placed on the file)

(PREETHI T.C.)
ASSISTANT REGISTRAR