

SUPREME COURT OF INDIA

Special Land Acquisition Officer BR Project, Davangere

Vs.

Krishna Naik

C.A.No.2019-2022 of 1990

(Dr. A. S. Anand, S. Rajendra Babu and R. C. Lahoti, JJ.)

25.01.2000

JUDGMENT:-

1. Substitution allowed.
2. The issue in these appeals is rather limited in its nature and scope.
3. In the established facts and circumstances of the case, were the claimants entitled to the benefit of enhanced solatium and interest under the amended provisions of Section 23 (1-A) of the Land Acquisition Act?
4. The learned Additional District Judge, has while disposing of the appeal filed by the claimants, answered the question in the affirmative vide judgment and order dated 25th November, 1986. Second appeal against the judgment and order of the Additional District Judge has been dismissed by a learned single Judge of the High Court on 29th June, 1987.

5. It transpires from a perusal of the record that in land acquisition proceedings which had commenced by the issuance of Notification under Section 4(1) of the Land Acquisition Act, published in the Karnataka Government Gazette, dated 14-12-1972, an Award was made by the Land Acquisition Collector. The dissatisfied claimants sought a reference under Section 18 of the Land Acquisition Act which was heard by the learned Additional Civil Judge, Davangere. By its judgment and order dated 24th August, 1979 the amount of compensation was enhanced by the Reference Court. The claimants were still not satisfied with the extent of enhancement and filed an appeal in the court of the learned Additional District Judge at Chitradurga vide judgment and order dated 20th November, 1986, those appeals were allowed and in modification of the judgment and decree made by the Reference Court, the rate of compensation was further enhanced besides additional benefit was also directed to be given to the claimants in terms of Section 23 (1-A) of the Act, as amended.

6. Mr. M. Veerappa, learned counsel appearing for the State of Karnataka submits that he is not questioning the issue of enhancement of compensation for the land but is putting in issue the grant of benefit under Section 23 (1-A) of the Act. It is submitted that in view of the law laid down by the Constitution Bench of this Court in *K.S. Paripoornan v. State of Kerala*, (1994) 5 SCC 593 : (1994 AIR SCW 4861 : AIR 1995 SC 1012) the benefit of Section 23 (1-A) is not available insofar as the claimants are concerned because the acquisition proceedings in the instant case had been initiated much prior to the date of commencement of the amending Act. Since the Reference Court itself decided the reference on 24th August, 1979. In *K.S. Paripoornan's case* (supra), while overruling the judgment of the Court in *Union of India v. Zora Singh*, (1992) 1 SCC 673 the Constitution Bench opined:

"80. It must be concluded that in respect of acquisition proceedings initiated prior to date of commencement of the amending Act the payment of the additional amount payable under Section 23 (1-A) of the Act will be restricted to matters referred to in Clauses (a) and (b) of sub-section (1) of Section 30 of the amending Act. *Zora Singh* insofar as it holds that the said amount is payable in all cases where the reference was pending before the reference Court on 24-9-1984, irrespective of the date on which the award was made by the Collector, does not lay down the correct law."

The observations of the Constitution Bench lend support to the submission of Mr. Veerappa.

7. On the admitted facts of the case, the claimant's case does not fall under Section 30(1), Clauses (a) and (b) of the amending Act and, therefore, the benefit under Section 23 (1-A) could not be granted to the claimants. Consequently, these appeals succeed to that limited extent and it is held that the claimants were not entitled to the benefits of the enhanced solatium and interest under Section 23 (1-A) of the Act.

8. These appeals, therefore, succeed to that limited extent and are allowed. Since, the respondent,

despite service, is not present, there shall be no order as to costs.

Appeals partly allowed.