SUPREME COURT OF INDIA

State of Karnataka

Vs.

Munikadirappa

C.A.Nos.7664-7675 of 2004

(Markandey Katju and T.S.Thkur JJ.)

08.10.2010

JUDGEMENT

T.S.Thakur, J.

1. These appeals by special leave arise out of an order passed by the High Court of Karnataka at Bangalore whereby Writ Appeals No.3470 of 2001 and 3989-3999 of 2001 filed by the respondents have been allowed and the order passed by a learned Single Judge of that Court in Writ Petition No.30500 of 1993 set aside to the extent the same directed apportionment of the compensation payable for the acquisition of the land in dispute. The controversy arises in the following backdrop:

2. The respondents claimed to be in cultivating occupation of certain Inam lands endowed to the temple of Kumaraswamy situate at Hanumanthanagar, Bangalore City. They made applications before the Land Tribunal under the Karnataka Land Reforms Act for grant of occupancy rights in their favour. The Tribunal by an order dated 10th April, 1987 allowed the said applications and granted occupancy rights to the respondents for the respective parcels of land in their occupation. The temple which happens to be a Muzurai Institution challenged the said order before the Land Reforms Appellate Authority in appeal. During the pendency of the said appeal the Appellate Authority was abolished with the result that the records of the appeal case pending before the Authority were transferred to the High Court and registered as Writ Petition No.30500 of 1993. While the said writ petition was still pending the lands in question were acquired by the Bangalore Development Authority for the formation to what is known as Kumaraswamy layout. The writ petition eventually came up for hearing before a Single Judge of the High Court who took the view that the respondents were in occupation of different parcels of land even prior to 1970 and that applications filed by them for grant of occupancy-tenancy rights were within time. The High Court also came to the conclusion that the Land Tribunal was right in holding that the respondents were cultivating the land in question as tenants and in granting occupancy rights to them. In the

ordinary course the Court could have simply dismissed the writ petition upholding the order passed by the Land Tribunal but instead of doing so it went a step further. Taking note of the fact that the lands in question stood acquired the learned Single Judge directed that compensation payable for the lands in question shall be apportioned between the Muzurai Institution who happened to be erstwhile owner of the land and the tenants-occupants in the ratio of 60:40. It is noteworthy that the Muzurai Institution did not question the aforementioned order passed by the Single Judge. The respondents, however, assailed the said order in writ appeals which were allowed by the Division Bench of the High Court in terms of the order impugned in the present appeals. The Division Bench held that since the respondents were found to be in cultivating occupation of the land on the appointed date on 1st March, 1974 they shall be deemed to be so even on the date of acquisition and that they shall be entitled to claim full compensation payable for the land acquired from them. The present appeals assail the said judgment as already noticed above. We have heard learned counsel for the parties. The only question that fell for consideration before the High Court in the writ petition filed by the respondents was whether the grant of occupancy rights in their favour by the Land Tribunal was justified. The Single Judge of the High Court answered the said question in the affirmative and in our opinion rightly so. The fact that the land had been acquired in the meantime could not have deterred the Single Judge from dismissing the writ petition and upholding the order granting occupancy rights unconditionally. Instead of doing so, the Single Judge took upon himself the duty of apportioning the compensation between the writ petitioners- erstwhile owners of the land and the respondents. That was, in our opinion, wholly unnecessary and dehors the provisions of the Land Reforms Act. The question as to who was entitled to claim how much compensation for parcels of land acquired by the Government was a matter which had to be agitated by the persons interested only in terms of the provisions of the Land Acquisition Act. The Land Tribunal or the High Court hearing a writ petition arising out of an order passed by the former was not concerned with the question of quantum of compensation or its apportionment among different claimants, nor has any provision in the Land Reforms Act been brought to our notice, which required the Tribunal to determine the said questions in case where lands that are the subject matter of proceedings under the said Act get acquired for a public purpose. The only question that fell for consideration before the High Court was whether the respondents were in cultivating occupation of the land on the appointed date as stipulated under the Act so as to be entitled to the grant of occupancy rights. Once that question was answered the fact that the land had been acquired and the cultivating tenant had gone out of possession of such land did not affect his entitlement to be declared as a tenant occupant. As noticed earlier the finding that the respondents were entitled to occupancy tenancy rights qua the lands in question was not assailed by the Muzurai Institution. This implied that the question regarding grant of such rights had gone beyond the pale of any controversy. In the appeals filed by the respondents occupants of the lands the Division Bench was concerned only with the limited question

whether the directions regarding apportionment of the compensation was justified. Instead of simply setting aside the said direction on the ground that the same was beyond the provisions of the Land Reforms Act the Division Bench held the respondents entitled to claim full compensation. Now that may indeed be the position, in cases where the land is under the Land Reforms Act vested in the State and then granted to the persons entitled to the occupancy rights over the same, but the question is whether any such declaration ought to have been granted in the proceedings under the Land Reforms Act. Our answer is in the negative. The Division Bench would have been justified in setting aside the direction given by the Single Judge regarding apportionment but it need not have fallen into the same error as was committed by the Single Judge, by directing payment of the full compensation to the respondents. That was a matter to be determined by the Collector in appropriate proceedings under the Land Acquisition Act and eventually by the competent Civil Court in a reference if the same became necessary. In as much as the Division Bench itself determined the extent of compensation payable to the respondents it committed a mistake. In the result, we direct that while grant of occupancy- tenancy rights in favour of the respondents qua the parcels of land in their respective possession as on the appointed date shall stand affirmed, the question as to who is entitled to what compensation for the acquisition of said lands in question is left open to be determined in appropriate proceedings under the Land Acquisition Act, 1894 if not already determined. The appeals are accordingly disposed off, leaving the parties to bear their own costs.