S U P R E M E C O U R T O F I N D I A RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s).36418/2009

(From the judgement and order dated 01/12/2008 in MFA No.1664/2006

of The HIGH COURT OF KARNATAKA AT BANGALORE)

MALLAPPA DUNDAPPA ZHALAKE(D) BY LRS. Petitioner(s)

VERSUS

KARNATAKA URBAN WATER SUP.& DRAINAGE BD. Respondent(s)

(With office report)

Date: 10/05/2010 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE R.V. RAVEENDRAN HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. Vivek C. Solshe, Adv.

Mr. C.G. Solshe, Adv.

For Respondent(s) Mr. H.C. Shiva Ramu, Adv.

Mr. M.A.Chinnasamy, Adv. Mr. K. Krishna Kumar, Adv.

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

Leave granted.

The appeal is allowed in order and the order of the High court is set aside and the matter is remanded to the High Court for fresh consideration in accordance with law.

(O.P. Sharma) (M.S. Negi)
Court Master Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4398 OF 2010 (Arising out of SLP (Civil) No.36418/2009)

MALLAPPA DUNDAPPA ZHALAKE(D) BY LRS. ...Appellant(s)

VERSUS

KARNATAKA URBAN WATER SUPPLY & DRAINAGE BOARD. ...Respondent(s)

ORDER

order of the High Court:

Leave granted. Heard learned counsel.

- The land belonging to appellants were acquired in pursuance of preliminary notification dated 22.2.1994 for a drinking water Project. The Land Acquisition Officer awarded compensation at the rate of Rs.18,000/- (Rupees Eighteen thousand) per acre. The Reference Court award 29.9.2004 dated increased the compensation to Rs.2,60,000/-(Rupees Two lakhs sixty thousand) per acre. The State filed an appeal and the High Court by judgment dated 10.3.2008 dismissed the appeal holding hat Rs.2,60,000/-(Rupees Two lakhs sixty thousand) awarded by the Reference Court did not call for interference.
- 3. Thereafter, the respondent-Board which is the beneficiary of the acquisition filed an appeal before the High Court contending that it was not made a party either in the proceeding before the Reference Court or before the

High Court and therefore, it was not bound by the decision

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of the High Court and the Reference Court. Ιt also contended that compensation awarded was excessive. The High Court allowed the said appeal by the impugned order dated 1.12.2008 the the on around that respondent not having been made a party, was not bound by the award of the Reference Court fixing the compensation or the judgment of the High Court confirming it. Having done so, the High Court without considering the evidence or without reference to any facts, reduced the compensation from Rs.2,60,000/-(Rupees lakhs Two sixty thousand) to Rs.1,90,000/-(Rupees One lakhs ninety thousand) per acre. Wе below the impugned extract relevant portion of the

"4. This court in the case of similarly placed lands acquired for the supply of drinking water has granted compensation at the rate of Rs.1,90,000/- per acre. that view of the matter, the appeal is partly allowed. The compensation is reduced to Rs.1,90,000/- per acre as against Rs.2,60,000/- awarded by the Reference Court. The claimants are entitled to statutory benefits also."

The Court has also not stated which are the cases which are similarly placed where compensation at the rate of Rs.1,90,000/- has been awarded. The Rs.1,90,000/has been awarded. Therefore, it is not to possible discern the reasoning for reducing the compensation from Rs.2,60,000/- per acre to Rs.1,90,000/per acre. As the order of the High Court is virtually a non speaking order and cannot be upheld.

The appeal is therefore allowed and the order of the High Court is set aside and the matter is remanded to the High Court for fresh consideration in accordance with law.

>J. [R.V. RAVEENDRAN]

NEW DELHI; MAY 10, 2010

[GYAN SUDHA MISRA]