

CASE NO.:
Appeal (civil) 7754 of 2001

PETITIONER:
STATE OF KARNATAKA & ORS.

Vs.

RESPONDENT:
SIDDAIAH

DATE OF JUDGMENT: 06/11/2001

BENCH:
R.C. Lahoti & K.G. Balakrishnan

JUDGMENT:

R.C. Lahoti, J.

The respondent Siddaiah is a poor person belonging to a downtrodden class of community. His daughter Bairamma was studying in Xth standard as a boarder in a Government School. On 7.1.1991 she died an unnatural death. Probably it was a case of food poisoning in the hostel mess. The respondent filed a civil writ petition before the High Court of Karnataka seeking compensation for the death of his daughter and also grant of 10 acres of land out of Survey No.78 of village Doddakallu Balu in Kanakpura Taluk. The State of Karnataka disputed the entitlement of the respondent to seek compensation and grant of land putting in issue the cause of death of Bairamma and the liability of the State to compensate in the manner claimed by the respondent. The High Court thought that the matter was fit to be adjudicated in the Civil Court. However, by the time the writ petition came up for hearing, the limitation for filing the civil suit had expired. The learned Single Judge of the High Court directed the matter to be referred to Arbitration of a local Advocate whose name was agreed upon by both the parties.

The Arbitration proceedings concluded by an award dated 3rd May, 1999. The award was filed by the Arbitrator in the High Court for making it a rule of the court. The learned Arbitrator directed a sum of Rs.1,50,000/-, with interest calculated at the rate of 10% per annum from 18.3.1992, the date of filing of writ petition till the date of payment, to be paid by appellant State to respondent. The award also directed 4 acres of agricultural land out of 14.05 acres area of land comprised in Survey No.78 of Village Doddakallu Balu to be allotted to the respondent free of cost subject to his remaining restrained from making an alienation or encumbering the same for a period of 10 15 years as may be deemed just and reasonable by the allotting authority. Cost were also directed to be paid by the appellant to the respondent.

Objections to the award being made a rule of court were preferred by the appellant before the High Court. However, the High Court has by its impugned judgment overruled the objections and directed the award to be made a rule of court followed by a decree to be drawn in terms of the award. The

aggrieved State has filed this petition seeking special leave to appeal.

Leave granted.

It appears that when the respondent, shaken and shattered by the untimely unnatural death of her young promising daughter, was running from pillar to post seeking allotment of land so as to settle himself, on 26.3.1991 Taluk Social Welfare Officer Kanakpura Taluk had sent a recommendation to the Deputy Commissioner, Bangalore Rural District, Bangalore for grant of 2 acres of land out of Sy.N.78. This document was brought to the notice of the Arbitrator. However, the Arbitrator directed 4 acres of land to be allotted overlooking the recommendation made by Taluk Social Welfare Officer. On 24.7.2000, this Court directed a limited notice to be issued to the respondent to show cause why the award as confirmed by the High Court be not modified by substituting a direction for allotment of 2 acres of land (as recommended) instead of 4 acres of land as awarded by the Arbitrator. The parties have joined their pleadings on this limited issue and they have been heard.

During the course of hearing, the learned counsel for the State brought to our notice letter No.DSW/KAT/CR-32/92-93 dated 12.3.2001 from Director, Department of Social Welfare, Bangalore wherein it is stated that Deputy Commissioner, Bangalore was agreeable to the grant of 2 acres of land out of Survey No.41 of Village Vaderahalli, Kanakpura Taluk. It is pointed out by the learned counsel for the appellant State that Survey No.78 of village Doddakallu Balu out of which some land was proposed to be allotted initially was situated in a tank bed, and therefore, complications are bound to arise if the land forming part of tank bed was allotted. The learned counsel for the respondent did not seriously resist the proposal for change in the place of land which the State was agreeable to allot.

It is clear from the proceedings leading up to this Court that the respondent was not being allotted land in recognition of any statutory entitlement. The allotment was by way of compassion. The learned counsel for the State stated during the course of hearing that the State has already paid an amount of Rs.1,55,000/- by way of compensation and also an amount of Rs.1,29,000/- by way of interest on the amount of compensation to the respondent. We agree with the submission of the learned counsel for the appellant that the award made by the arbitrator was partially vitiated on account of overlooking the contents of the document brought to his notice, and therefore, to that extent the award should have been modified by the High Court.

The Appeal is partly allowed. The award made by the Arbitrator, as also the judgment of the High Court making the award a rule of court, are directed to be modified to the extent that in place of a direction for allotment of 4 acres of land out of Survey No.78 of Dodakalla Balu Village, a direction for allotment of 2 acres of land out of Survey No.41 of Village Vaderahalli, Taluk Kanakpura shall stand substituted. The appeal stands allowed to the extent indicated hereinabove. The direction for allotment of land, followed by delivery of vacant and peaceful possession to the respondent, shall be carried out within a period of 3 months from today failing which the respondent shall be entitled to costs of these proceedings quantified at Rs.5,000/- over and above the allotment of land.

.J.
(R.C. LAHOTI)

J.
(K.G. BALAKRISHNAN)

November 6, 2001

JUDIS