



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF OCTOBER, 2024

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE UMESH M ADIGA

MISCELLANEOUS FIRST APPEAL NO. 4030 OF 2020 (LAC)

Between:

Infosys Limited
(formerly Infosys Technologies Limited),
Hebbal Industrial Area,
Mysuru-570018.
Represented by its Authorized Signatory
Jyoti Pawar

- Appellant

(By Sri R.V.S.Naik, Sr. Counsel for
Sri Nitin Prasad, Advocate)

And:

1. Byregowda
Since dead represented by LR's
- 1(a). B.Raju,
Aged about 49 years,
S/o Late Byregowda,
Residing at No.213/A, 6th Cross,
Kumbarakoppal,
Mysuru-570016.

(Amended as per court order
dated 27.06.2023)

2. The Special Land Acquisition Officer,
Karnataka Industrial Areas
Development Board, Zonal Office,
KRS Road, Mysuru-570016.

Digitally signed
by VEERENDRA
KUMAR K M
Location: HIGH
COURT OF
KARNATAKA



3. The Karnataka Industrial Areas
Development Board,
No.49, 5th Floor,
Khanija Bhavan,
East Wing, Race Course Road,
Bengaluru-560001.
Represented by Secretary

4. The Deputy Commissioner,
Chamarajapuram,
Mysuru District,
Mysuru-570001.

- Respondents

(By Sri Srinivasa D.C., Advocate for R1(A);
Sri P.V.Chandrashekar, Advocate for R2 & R3;
Sri Mahantesh Shettar, AGA for R4)

This MFA is filed under section 54(1) of the Land
Acquisition Act, against the judgment and award dated
29.01.2020, passed in LAC No.303/2010, on the file of the IV
Additional Senior Civil Judge and JMFC, Mysuru, and etc.

Date on which the appeal was reserved for judgment	05.09.2024
Date on which the judgment was pronounced	22.10.2024

This appeal, pertaining to Bengaluru Bench, having been
heard and reserved, coming on for pronouncement this day at
Dharwad Bench, judgment was delivered therein as under:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MR JUSTICE UMESH M ADIGA



CAV JUDGMENT

(PER: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR)

This appeal questions the correctness of award passed by IV Additional Civil Judge, Mysuru in LAC.No.303/2010.

2. Land belonging to Byregowda, the original first respondent, now deceased, in Sy.No.424/3, measuring 1.05 acres of Hebbal Village, Kasaba Hobli, Mysuru Taluk was acquired by Karnataka Industrial Areas Development Board (KIADB). It was a part of total extent of 18.04 acres comprised in various survey numbers of Hebbal village that was acquired by KIADB by issuing preliminary Notification dated 15.07.2005 under section 28(1) and final notification dated 2.12.2005 under section 28(4) of KIAD Act. The Land Acquisition Officer determined the market value at Rs.4,85,000/- per acre. The first respondent sought reference to Civil Court under section 18 of the Land Acquisition Act seeking enhancement of Compensation. The Civil Court (Reference Court), by its



award dated 29.01.2020 enhanced the compensation to Rs.220/- per sq.ft. with interest and other statutory benefits and aggrieved by the same, the appellant for whose sake land was acquired by KIADB has preferred this appeal.

3. We have heard the arguments of learned advocates for the parties.

4. The reference court adopted sales statistics method to determine the market value of the acquired land. It relied on some sale deeds produced by PW1, the son of Byregowda, and having regard to sale transactions of the year 2005 reflected in Exs.P26, 27 and Exs.P35 to P37, it arrived at a conclusion that Rs.220/- per sq.ft. could be taken as market value. The reference court also took note of other factors such as existence of other industries, hotels and residential areas for fixation of market value.

5. Sri. T. Suryanarayana, learned senior advocate who argued for appellants' counsel contended as below.



- i. The reference court should not have relied on Exs.P26, 27 and Exs.P30 to 35 that relate to auction of smaller plots. Whenever auction is held, the land is usually sold for a higher value because of competition among the bidders and in this view, the auction sale deeds do not reflect actual market value.
- ii. Total land acquired was 18.04 acres belonging to many people, and of them 80% of land owners consented for compensation.
- iii. While deciding market value of large extent of agricultural land, market value of small pieces of land, that too of a converted land cannot be considered at all.
- iv. The respondent no.1 failed to place evidence to prove that his land had non agricultural potentiality as on the date of preliminary notification; photographs and Google Satellite images cannot be considered for giving enhancement.



- v. The impugned judgment and award lacks reasonings.
- vi. The purpose of acquisition should not be considered.

6. Sri. Srinivas D.C., learned advocate for respondent No.1(a), put forth the following contentions.

- i. 18.04 acres of land was acquired for expansion of appellants' campus, even before acquisition of 18.04 acres of land of which 1.05 acres belonging to first respondent's was a part, the other lands had been acquired for the sake of appellant. First respondent's land is adjacent to exiting campus of the appellant; and in addition, ample evidence has been placed to establish that the acquired land was suitable for industrial use. The questions put to PW1 in the cross examination is sufficient to draw



an inference about non agricultural potential of the land.

- ii. Even if auction sale deeds are ignored, there are two more sale deeds, Ex.P42 and Ex.P43 with the help of which the market value can be fixed at more than Rs.400/-. But the reference court has fixed the market value at Rs.220/- per sq. ft., which sum the respondent has accepted only for the reason that, if he challenged it by filing cross objection, he was required to pay court fee which he cannot.
- iii. If the acquired land can be put to non agricultural use, market value cannot be determined on per acre basis.
- iv. The appellant has no locus to prefer appeal, as beneficiary is KIADB, though it was the acquiring body.



7. Sri. P.V. Chandrashekar, for respondents 2 and 3 and Sri. Mahantesh Shettar, AGA for respondent no.4 submitted that market value determined by the Special Land Acquisition Officer was correct and adequate, and if at all there is scope for giving further enhancement, it can be considered but the market value determined by the reference court is on a higher side which requires to be reduced.

8. Two questions that arise for discussion are:

- i. Whether the appellant has no locus to prefer this appeal?
- ii. Has the reference court wrongly enhanced the market value by relying on sale deeds of smaller pieces of lands?

Question No. i :

9. ***Gregory Patrao and others Vs. Mangalore Refinery and Petrochemicals limited and others - [(2022) 10 SCC 461]*** is the decision of the Supreme



Court cited by Sri. Srinivasa D.C., learned advocate for respondent no.1. It is held:

" 14. This Court in Peerappa Hanmantha Harijan Vs. State of Karnataka (2015) 10 SCC 469 considered in detail the allotment/lease agreement in favour of the allottee/lessee and also the relevant provisions of the KIAD Act, 1966 and has observed as under:-

"50. On a careful examination of the aforesaid clauses of the lease agreement executed between the parties in respect of the land of the appellants, it becomes manifestly clear that the said agreement is executed by KIADB in favour of the Company after allotment of land was made in favour of the Company as provided under Regulations 10(a) and (c) of the KIADB Regulations respectively by following the procedure of inviting applications and submission of the applications by the interested parties along with the required deposits towards the cost of the land. Further, Clauses 5(a) and (b) of the lease agreement referred to supra, would clearly state that the premium indicated in Clause 1 of the



lease agreement represents the tentative cost of the land and in the event of the lessor incurring payment of amounts to the landowners over and above the awards made by the acquiring authority by virtue of the award passed by the competent court of law or in view of the provisions of the LA Act in respect of demised premises or any part thereof, the same shall be met by the lessee within one month from the date of receipt of the communication signed by the Executive Member or any other officer authorised by the lessor. Clause 5(b) also makes similar provision to that effect between the lessor and the lessee.

51. to 62... ..

63. In view of the foregoing reasons recorded by us on the basis of the acquisition notifications issued by the State Government under the statutory provisions of the KIAD Act and therefore, we have to answer Points (i), (ii) and (iii) in favour of the landowners holding that the Company is neither the beneficiary nor interested person of the



acquired land, hence, it has no right to participate in the award proceedings for determination of the market value and award the compensation amount of the acquired land of the appellants. Hence, the writ petition filed by the Company questioning the correctness of the award passed by the Reference Court which is affirmed by the High Court is not at all maintainable in law. On this ground itself, the writ petition filed by the Company should have been rejected by the High Court, instead it has allowed and remanded the case to the Reference Court for reconsideration of the claims after affording opportunity to the Company, which order suffers from error in law and therefore, the same is liable to be set aside."

"19. We see no reason to take a different view than the view taken by this Court in the case of Peerappa Hanmantha Harijan (supra) that the MRPL being a subsequent allottee after the land was acquired by KIADB, can neither be said to be a beneficiary nor a "person interested" for the purpose of determination of compensation. Under the circumstances, the impugned judgment and



order passed by the High Court taking a contrary view is unsustainable and the same deserves to be quashed and set aside.”

10. But the order of learned Single Judge of this court in W.P.55485/2017 c/w W.P.11178/2016 shows that appellant was allowed to participate in the proceeding before the Reference Court and for this reason, the appellant claims itself to be a beneficiary. Whatever may be the order in the writ petition, here, since the beneficiary, as has been held in MRPL case is KIADB, the appellant cannot be called beneficiary and for this reason the question (i) is to be answered in affirmative.

Question No. ii :

11. It is an elementary principle that burden is on the land loser to prove that the acquired land fetches compensation higher than what is determined by the Land Acquisition Officer; if according to the land loser, the land has potentiality to be put to non agricultural use, that too for industrial purpose, he has to provide proof for that. A



good number of case law has been developed, if every judgment cited by appellants' side is referred here, this judgment will become voluminous, and therefore only a few are referred here.

12. On the contention that auction sale cannot be held basis for determining the market value, it is held in ***Executive Engineer, Karnataka Housing Board Vs. Land Acquisition Officer, Gadag and others [(2011) 2 SCC 246]*** that :

"6. But auction sales stand on a different footing. When purchasers start bidding for a property in an auction, an element of competition enters into the auction. Human ego, and desire to do better and excel other competitors, leads to competitive bidding, each trying to outbid the others. Thus in a well advertised open auction sale, where a large number of bidders participate, there is always a tendency for the price of the auctioned property to go up considerably. On the other hand, where the auction sale is by banks or financial institutions, courts, etc. to recover dues, there is an element of distress, a cloud regarding title, and a chance of litigation, which have the effect of dampening the



enthusiasm of bidders and making them cautious, thereby depressing the price. There is therefore every likelihood of auction price being either higher or lower than the real market price, depending upon the nature of sale. As a result, courts are wary of relying upon auction sale transactions when other regular traditional sale transactions are available while determining the market value of the acquired land. This Court in Raj Kumar v. Haryana State - 2007 (7) SCC 609, observed that the element of competition in auction sales makes them unsafe guides for determining the market value."

13. The above paragraph therefore clearly indicates both positive and negative aspects of auction sale on account of which it is not safe to place reliance on them, but if no sale transaction other than auction sale is available, it is held by the Supreme Court in the same judgment as below:

"7. But where an open auction sale is the only comparable sale transaction available (on account of proximity in situation and proximity in time to the acquired land), the court may have to, with caution, rely upon the price disclosed by such auction sales, by providing an appropriate



deduction or cut to off-set the competitive-hike in value. In this case, the Reference Court and High Court, after referring to the evidence relating to other sale transactions, found them to be inapplicable as they related to far away properties. Therefore we are left with only the auction sale transactions. On the facts and circumstances, we are of the view that a deduction or cut of 20% in the auction price disclosed by the relied upon auction transaction towards the factor of 'competitive - price hike' would enable us to arrive at the fair market price."

14. So, in such an event, what is required is cautious approach.

15. In regard to argument that sale deeds relating to small extent of land are not to be considered, reference is made to ***Special land Acquisition Officer and another Vs. Sidappa Omanna Tumari and others [1995 Supp. (2) SCC 168]*** where it is held :

"13. Where the court has to determine the market value of large extents of acquired agricultural lands, it may not be desirable to be guided by the price fetched by sale of small extents of agricultural lands



as the possibility of genuine agriculturists buying such small extents for their cultivation purposes is, rather remote and it may not also be desirable to determine the market value of the acquired agricultural lands on the basis of value fetched by sales of small extents agricultural land even if they had been purchased for building purposes, for that would involve the consideration of too many imponderables. However, if sale deed or agreement to sell relating to the small extent of land on the basis of which the market value of the large extent of the agricultural land has to be determined is a portion of the acquired agricultural land itself or other land in its close proximity, it may be made the basis for determining the market value of the acquired large extent of agricultural land but has to be done when there is satisfactory evidence of the absence of sales or agreements to sell of bigger extents of land pertaining to the acquired land or other lands in the vicinity of the acquired land. Even when the price fetched or to be fetched by such small extents of land has to be made the basis for determining the market value of the larger extents of acquired agricultural lands, all material factors which would reduce the value of the larger extents of acquired land as on the date it was notified for acquisition must necessary be taken into account, for it is Well-known as is held by this



Court in the Collector of Lakhimpur v. Bhuban Chandra Dutta, [1972] 4 SCC 236 that when a large area of land under acquisition is the subject matter, it cannot fetch the price at the rate at which smaller plot of plots are sold. One aspect, which however, should weigh is that determination of the value of large extents of acquired lands on the basis of the prices fetched by smaller plots must be a matter of last resort and should be adopted when there is no possibility of determining the market value of acquired lands on the basis of comparable transactions of larger extents."

16. In ***Ravinder Narain and another Vs. Union of India [(2003) 4 SCC 481]***, it is held:

"6. Where large area is the subject matter of acquisition, rate at which small plots are sold cannot be said to be a safe criteria. Reference in this context may be made to three decisions of this Court in The Collector of Lakhimpur v. Bhuban Chandra Dutta (AIR 1971 SC 2015), Prithvi Raj Taneja (dead) by Lrs. v. The State of Madhya Pradesh and Anr. (AIR 1977 SC 1560) and Smt. Kausalya Devi Bogra and Ors. etc. v. Land Acquisition Officer, Aurangabad and Anr. (AIR 1984 SC 892).



7. It cannot, however, be laid down as an absolute proposition that the rates fixed for the small plots cannot be the basis for fixation of the rate. For example, where there is no other material it may in appropriate cases be open to the adjudicating Court to make comparison of the prices paid for small plots of land. However, in such cases necessary deductions/adjustments have to be made while determining the prices."

17. In the above two judgments, the broad principle laid down is that while determining compensation for a large extent of land, it is better to avoid sale transactions of small plots, but there is no absolute prohibition. It must be examined on case to case basis, having regard to other factors that help determine the compensation.

18. Topandas Kundanmal (since deceased) and others Vs. State through Law Acquisition Officer, (1995) 5 SCC 336 is another judgment referred in support of argument that determination of market value on square foot basis is improper. But what is actually held in this judgment is as below:



"3.....Obviously the documents have been brought into existence on the basis of the sq. feet to inflate higher market value. The property of 10 acres and 12 gunthas , when offered for sale in the open market, no prudent purchaser would be willing to purchase the same on sq. feet basis. If the small extent of land in a commercial area, like Nariman point in Bombay or Connaught Place in Delhi is sought to be acquired, perhaps, determination of the compensation on the basis of the sq. feet. may be justified. But when the claimant himself assessed the market value at Rs. 190/- per acre and purchased in 1957 and when in 1960 the 8 acres and 39 gunthas of neighbouring land was sold for Rs. 568/- per acre, no prudent purchaser would offer to purchase on square foot basis. This Court in a catena of decisions deprecated the practice of the reference courts or High Court to determine market value of the lands on sq.foot basis unless it is established as a fact that the acquired lands are situated in already highly developed residential and industrial area where regular sales are on sq.foot basis. The High Court also has given cogent and well considered reasons in not accepting the award and decree of the Reference Court. We have carefully gone through the judgment and we find no compelling reasons to differ from the cogent reasons given by the High Court. Accordingly, the



*appeals are dismissed but in the circumstances
without costs.”*

(emphasis supplied)

19. It can be gathered from the above that determination of market value per square foot basis is not impermitted, if proof is available that acquired land is situated in already developed residential and industrial area, market value can be determined per square foot basis.

20. Now in this case, it is true that the sale deeds, Ex.P26, Ex.P27, Exs.P30 to Ex.P33 and Ex.P35 relate to auction sales. Ex.P26 and Ex.P27 are the sale deeds executed pursuant to auction held in respect of residential sites at Hebbal. Ex.P30 to Ex.P32 and Ex.P35 are the sale deeds executed by KIADB after conducting auction of industrial plots. The reference court has relied upon these documents. Even if these sale deeds are ignored accepting the argument of the appellant, it can be stated that the market value determined by the reference court is



not on higher side. Relevantly the answers extracted by PW1 by the respondent's counsel in the cross examination may be mentioned here. The answers elicited from PW1 are that Mysuru City has seen good growth and development for the last thirty years, that industries were started in Metagalli and Yaduvagiri, and then in Hebbal, Nanjangud, Koorgalli and Belavadi, that Hebbal area was being called Electronic City, that adjacent to Infosys, there exists companies called Global Lubricants, Synt's Electronics and Sudarshan Electronic and in the opposite there is L and T Company. It is also elicited that in an around 1 km. distance from Infosys, Software Companies are situated and there is no residential area and about 300 acres of land has been allotted to Infosys.

21. These answers elicited by counsel for the appellant indicate high potentiality of the acquired land. In addition PW1 produced a map as per Ex.P24 which shows that Mysuru Urban Development Authority included Hebbal village in its development plan. Star hotels are



also there in that vicinity. Above all it is not in dispute that 18.04 acres of land is contiguous to the campus of Infosys, that means 18.04 acres was acquired for expansion of Infosys. If this much of evidence is available, it is highly impossible to accept the argument that the land loser has not placed evidence to prove that the land has no non agricultural potentiality.

22. The land loser has not produced any sale deed in relation to sale of larger extent of land in that area so that market value of the acquired land could have been determined. It is not known whether such a sale deed was available or not, and for the reason that it was not produced, it cannot be said that the court should not determine the market value. The documents made available are sale deeds of small plots. As has been held in the cited decisions that are referred to above, the sale deeds of small sites or plots may be relied on with circumspection. Even if sale deeds of auctioned sites are ignored, there are four other sale deeds, Ex.P42, Ex.P43,



Ex.P47 and Ex.P8. Ex.P42 and Ex.P43 are the sale deeds of residential plots in Hebbal area and they were executed in the year 2005. Ex.P47 and Ex.P48 are the sale deeds that were executed in the year 2007 in respect of industrial plots. But Ex.P42 and Ex.P43 can be considered as exemplars even though they are in connection with residential plots as they are of the year 2005, instead of Ex.P47 and Ex.P48, as the land involved in this case was notified in the year 2005.

23. The appellant has no objection for relying on Ex.P37, which is a sale deed in respect of 18 guntas of land (19602 sq.ft.) situate at Anagahalli, Srirangapatna Taluk. The sale consideration is Rs.24,00,000/- and per sq.ft. value is Rs.122/-. It was submitted that this sale deed can be followed by allowing deductions. But this sale deed cannot be followed because it is in respect of another village. The plots covered under Ex.P42 and Ex.P43 are situated in Hebbal II Stage. Though they are in respect of residential sites, by making provision for 50% deductions



towards developmental cost, they can be held as exemplars because the acquired land is also situated in Hebbal.

24. Ex.P42 shows that residential plot measuring 108 sq.mts. (1162 sq. ft.) was sold for Rs.5,80,000/-. Per square foot value is Rs.499/-. Ex.P43 shows that 216 sq.mt. (2325 sq. ft.) was sold for Rs.10,00,000/-, i.e., Rs.430/- per sq.ft. This information is provided in the chart prepared by appellants' counsel. Now the average of $499 + 430$ is 464. If 50% is deducted from 464 towards developmental charges, the remaining amount is Rs.232/-. Since land was acquired for industrial purpose, higher market value can be fixed. The amount that works at Rs.232/- per sq.ft is higher than Rs.220/-. But the land loser is satisfied with what the Reference court has awarded.

25. In this view, we find no good ground to interfere with impugned judgment and award. Appeal is therefore dismissed with costs payable to respondent 1(a).



All pending applications do not survive for consideration, they stand disposed of.

SD/-
(SREENIVAS HARISH KUMAR)
JUDGE

SD/-
(UMESH M ADIGA)
JUDGE

sd/bvv
List No.: 19 SI No.: 7