



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. 6899 OF 2017 (LAC)

Between:

Sri Swamygowda,
S/o Kalegowda,
Aged about 43 years,
R/at Channangihalli Village,
Kattaya Hobli,
Hassan Taluk & District-571201.

- Appellant

(By Sri Rajaram Soorayambail, Advocate)

And:

1. Special Land Acquisition Officer,
Hemavathi Reservoir Project-II,
Office at D.C.Office Building
Hassan-571201.

2. Executive Engineer
Cauvery Niravari Nigama,
Holenarasipura,
Hassan-571201.

- Respondents

(By Sri Mahantesh Shettar, AGA for R1;
Sri B.R.Prashanth, Advocate for R2)

This MFA is filed under Section 54(1) of the Land Acquisition Act 1894, against the judgment and award dated 24.06.2015 passed in LAC No.173/2014 on the file of the Principal Senior Civil Judge at Hassan, and etc.,

Digitally signed by
VEERENDRA
KUMAR M

Location: HIGH
COURT OF
KARNATAKA



Date on which the appeal was reserved for judgment	12.09.2024
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)

Judgment and award dated 24.06.2015 in LAC No.173/2014 on the file of Principal Senior Civil Judge, Hassan is assailed in this appeal by the land loser, who was the claimant for compensation.

2. Background for this appeal is, 0-33 guntas of land in Sy.No.9/p27 of Channangihalli village, Kattaya Hobli, Hassan Taluk was notified under Section 4(1) of Land Acquisition Act for acquisition for the purpose of Yagachi Reservoir Project. The date of preliminary notification is



04.02.2009. The Land Acquisition Officer passed award on 04.01.2012 by fixing the market value at Rs.52,000/- per acre. Upon a reference under Section 18(1) of Land Acquisition Act, the Reference court relying on Ex.P16, the certified copy of the judgment and award in LAC No.133/2013 and other connected cases, enhanced the compensation by determining the market value at Rs.20,000/- per gunta. Not satisfied with this enhancement, the claimant has preferred this appeal.

3. We have heard the submissions of Sri Rajaram Sooryambail, learned advocate for claimant/appellant, Sri Mahantesh Shettar, Additional Government Advocate for respondent No.1 and Sri B.R.Prashanth, learned advocate for respondent No.2.

4. Sri Rajaram Sooryambail relied on judgment of the co-ordinate Bench in MFA



No.3703/2018 and submitted that the land therein was notified for the same project, and this court enhanced the market value at Rs.1,00,000/- per gunta. This appeal therefore may be allowed in terms of the said judgment.

5. Sri B.R.Prashanth, learned advocate for respondent No.2 opposed the enhancement to any extent. His submission was that in MFA No.3703/2018, land was of another village. Though the purpose of acquisition was same, compensation cannot be enhanced by merely following judgment in other cases as every case stands on its own facts and circumstances. He has placed reliance on the judgment in **MANOJ KUMAR AND OTHERS V. STATE OF HARYANA AND OTHERS**¹. Sri Mahantesh Shettar, Additional Government Advocate also opposed the appeal.

¹ (2018)13 SCC 96



6. What is found in Manoj Kumar is a word of caution that previous awards cannot be simply followed without application of mind to the given set of facts and circumstances. Therefore the judgment in MFA No.3703/2018 can be followed provided facts and circumstances are akin to the facts of this case.

7. Here the preliminary notification was issued on 04.02.2009. The land is situated in Channangihalli, Kattaya Hobli, Hassan Taluk. In MFA No.3703/2018, it is stated that the lands of Byadarahalli village, Kattaya Hobli, Hassan Taluk was notified under Section 4(1) of Land Acquisition Act on 11.02.2009. That means the claimant's land and the land of the claimant in MFA No.3703/2018 belonged to different villages, but of same Hobli and Taluk. They must be neighboring villages, otherwise acquisition for same purpose would not have been possible. In the case on



hand, notification was issued on 04.02.2009, and a week later i.e., on 11.02.2009, lands of Byadarahalli were notified.

8. Sri Rajaram Sooryambail has relied on another judgment of the co-ordinate Bench in MFA No.3760/2018 where market value was enhanced to Rs.1,00,000/- per gunta in respect of acquisition of another piece of land of Byadarahalli village under notification dated 11.02.2009 for Yagachi Reservoir Project. The Hon'ble Supreme Court in ***UNION OF INDIA VS. BAL RAM AND ANOTHER²***, has made it very clear that there is no justification if distinction is made between one land and another whenever lands of different villages were notified for same purpose. Only thing to be noted is that nature of all the lands must be identical.

² (2010)5 SCC 747



9. Here the claimant's land is of Channangihalli village, but the land referred to in MFA No.3703/2018 belongs to Byadarahalli, both are in same hobli and the nature of the lands is also same. The learned counsel for respondent No.2 did not distinguish the nature of lands of two villages. In view of this factual position, market value can be enhanced to Rs.1,00,000/- per gunta by following judgment in MFA No.3703/2018 and MFA No.3760/2018. Hence the following:

ORDER

(i) *Therefore appeal is allowed.*

(ii) *The judgment and award impugned in this appeal is modified. Market value for the acquired land of the claimant is enhanced to Rs.1,00,000/- per gunta.*



(iii) *The claimant is entitled to all other statutory benefits and interest. But in view of order dated 01.04.2022 in this appeal, the claimant/appellant is not entitled to interest for 711 days.*

(iv) *There is no order as to costs. If the claimant has paid excess court fee, the same shall be refunded to him.*

**SD/-
(SREENIVAS HARISH KUMAR)
JUDGE**

**SD/-
(UMESH M ADIGA)
JUDGE**

KMV/bvv
List No.: 19 Sl No.: 4