

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 28TH DAY OF NOVEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

WRIT APPEAL NO.100211 OF 2025 (LA RES)

BETWEEN:

BAGALKOT CEMENT & INDUSTRIES LIMITED, BAGALKOT,
(AN ASSIGNEE OF BAGALKOT UDYOG LIMITED),
A COMPANY INCORPORATED UNDER THE PROVISIONS
OF COMPANIES ACT, 1956,
AND HAVING REGISTERED OFFICE AT
6TH FLOOR, BLOCK NO.1, STADIUM HOUSE,
VEER NARIMAN ROAD, CHURCHGATE, MUMBAI-400 020.
R/BY ITS AUTHORISED SIGNATORY,
MANAGER - LEGAL,
MR. ABBAS RAJESAB NIDASESHI,
AGE. 57 YEARS, OCC. MANAGER (LEGAL),
R/O. BAGALKOT-587 111.

...APPELLANT

(BY SRI. M.B. NARAGUND, SENIOR COUNSEL FOR SRI. S.B. HEBBALLI,
ADVOCATE)

AND:

1. SPECIAL LAND ACQUISITION OFFICER,
UKP, BAGALKOTE-587 101.
2. THE STATE OF KARNATAKA,
R/BY THE DEPUTY COMMISSIONER,
NAVANAGAR, BAGALKOTE-587 101.
3. RAVI S/O SHANKAR BASANNAVAR
AGE. 55 YEARS, OCC. ADVOCATE,
R/O. BAGALKOTE-587 101.

...RESPONDENTS

(BY SRI. SHARAD V. MAGADUM, AGA FOR R1-R2;
SRI. JAGADISH PATIL, ADVOCATE FOR R3)

THIS WRIT APPEAL IS FILED UNDER SEC.4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 27-02-2025 PASSED BY THE LEARNED SINGLE JUDGE IN WP NO.101551/2025 AND ALLOW THE ENTIRE PETITION FILED BY THE APPELLANT IN WP NO.101551/2025 & ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED ON 06.11.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **S G PANDIT J.**, DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MRS JUSTICE GEETHA K.B.

CAV JUDGMENT

(PER: THE HON'BLE MR. JUSTICE S G PANDIT)

This intra-court appeal by the unsuccessful petitioner filed under Section 4 of the Karnataka High Court Act, 1961, is directed against the learned Single Judge's order dated 27.02.2025 passed in W.P. No.101551/2025, whereunder the petitioner's prayer to quash the judgment and award passed in L.A.C. No.748/2019 dated 05.12.2024 on the file of the II Additional District Judge and Addition Land Acquisition Rehabilitation and Resettlement Authority, Bagalkote, (Annexures-J & J1) and further prayer for a direction to respondent No.3 to receive the compensation amount awarded till disposal of the apportionment proceedings initiated by the petitioner in L.A.C. No.216/2019, are rejected.

2. The parties would be referred to as they stood before the learned Single Judge.

3. The petitioner states that lease in favour of the petitioner by predecessor-in-title of respondent No.3 in respect of the land in question was executed on 01.04.1953 for a period of 30 years. On completion of the lease period of 30 years, the petitioner sought extension of lease for another 30 years and, as respondent No.3 refused to extend the lease, the petitioner is said to have filed O.S. No.5/1984 seeking specific performance. The said suit came to be decreed, and subsequently, a lease deed leasing out the land in question for another 30 years was executed and registered on 30.07.1983. On expiry of the said lease period, the petitioner filed O.S. No.92/2013 on 23.03.2013, against respondent No.3 seeking further extension of lease for another 30 years. The said suit came to be dismissed on 02.11.2022. Against the said dismissal, the petitioner filed R.A. No.27/2022 on 01.12.2022 and the same is pending consideration before the learned Senior Civil Judge, Bagalkote.

4. In the meanwhile, a Preliminary Notification under Section 11(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013 (for short, 'the 2013 Act') was issued to acquire the land in question. Thereafter, the Final Notification was issued on 09.10.2013. Notice under Section 21(4) of the 2013 Act was issued to the petitioner on 23.11.2017. It is the grievance of the petitioner that no notice was issued to the petitioner – an interested person. The award was passed on 04.07.2018 in respect of 29 guntas in Sy.No.89 of Veerapura Village for Rs.2,81,776/- at the rate of Rs.3,91,220/- per acre. The Company is said to have filed a claim petition on 10.07.2017. The Company is also said to have filed a reference under Section 76 and 77 of the 2013 Act for apportionment. Respondent No.3 also filed L.A.C. No.748/2019 seeking enhancement of compensation. The appellant is not a party to the said proceeding. It is stated that on 05.12.2024 reference application of respondent No.3 filed under Section 64(1) and (2) of 2013 Act was allowed and compensation was enhanced to Rs.790/- per sq. ft. to the acquired land. Questioning the said award passed in L.A.C. No.748/2019, the petitioner was before this Court in W.P. No.101551/2025 contending that the petitioner was a necessary party to the proceedings as he had interest in the land acquired. The learned Single Judge under

impugned order dated 27.02.2025 dismissed the writ petition holding that the petitioner is only a lessee and cannot seek to substitute the owner while claiming compensation. Aggrieved by the same, the petitioner is before this Court in this appeal.

5. Heard learned Senior Counsel, Sri. M.B.Naragund for Sri. S.B.Hebballi, learned counsel for the appellant, Sri. Jagadish Patil, learned counsel for respondent No.3 as well as Sri. Sharad V.Magadum, learned Additional Government Advocate for respondents No.1 and 2. Perused the entire writ appeal papers.

6. Learned Senior Counsel, Sri. M.B.Naragund would contend that the petitioner, who is in occupation of the land in question, is an interested party and non-making of the interested person a party to the reference proceedings vitiates entire proceedings. Hence, learned Senior Counsel submits that the learned Single Judge was not right in dismissing the writ petition. Further learned Senior Counsel would submit that the petitioner is in occupation of the land in question since 1953 and from time to time the lease was extended. Though the suit in O.S. No.92/2013 seeking extension of lease was dismissed, R.A. No.27/2022 filed against the dismissal of the said suit is pending

consideration and, as such, the petitioner becomes an interested person in terms of definition of 'person interested' under the 2013 Act. Learned Senior Counsel would submit that reference application under Section 64 of the 2013 Act could be made by any interested person. Further, he submits that even in dispute for apportionment, the matter has to be referred to adjudication before the appropriate authority and since the petitioner is an occupier and is holding leasehold rights, the petitioner would be entitled to apportionment. Learned Senior Counsel would submit that without appreciating the above fact, the learned Single Judge committed an error in dismissing the writ petition. Thus, he prays for allowing the writ appeal.

7. Learned Senior Counsel places reliance on the decision of the Hon'ble Apex Court in **Madan and Another Vs. State of Maharashtra¹**, **Inder Parshad Vs. Union of India and others²**, and **Urmila Devi and Others Vs. Deity, Mandir Shree Chamunda Devi and Others³** in support of his contentions.

8. Sri. Jagadish Patil, learned counsel for respondent No.3 would submit that the petitioner is not an interested person

¹ (2014)2 SCC 720

² (1994)5 SCC 239

³ (2018)2 SCC 284

since lease is not extended and the suit filed seeking specific performance for extension of lease is dismissed. It is further submitted that the possession of the petitioner was not legal as on the date of Preliminary Notification dated 25.02.2015. He submits that, even to this date, the possession of the petitioner was unauthorized and as such, he submits that the petitioner cannot be considered as an interested person. Since the petitioner is not an interested person, he submits that the learned Single Judge is justified in dismissing the writ petition. Thus, he prays for dismissal of the writ appeal.

9. Having heard the learned counsel for the parties and on perusal of the entire writ appeal papers, the only point which falls for consideration is,

Whether the impugned order passed by the learned Single Judge requires interference in the facts and circumstances of the case?

10. The answer to the above point would be in the negative for the following reasons:

(a) The petitioner/appellant is not disputing the ownership of respondent No.3 over the land in question. It is also an

admitted fact that the lease in favour of the petitioner came to an end on 31.03.2013. Subsequently, the suit filed by the petitioner in O.S. No.92/2013 seeking extension of lease was dismissed by judgment dated 02.11.2022. A regular appeal in R.A. No.27/2022 filed by the petitioner against the dismissal of O.S. No.92/2013 is pending consideration before the Senior Civil Judge, Bagalkote.

- (b) Admittedly, preliminary notification for acquisition of land in question under the 2013 Act was issued on 22.05.2015. As on that date, the lease in favour of the petitioner had already expired and the possession of the petitioner over the land in question was not legal. Though the petitioner claims that he is in actual possession, the said possession is not lawful. Legal possession is derived by virtue of law or contract which creates an interest in the subject matter of land.
- (c) The term "person interested" is defined under Section 3(x) of the 2013 Act, which reads as follows

"(x) "person interested" means— (i) all persons claiming an interest in compensation to be

made on account of the acquisition of land under this Act;

(ii) the Scheduled Tribes and other traditional forest dwellers, who have lost any forest rights recognised under the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006 (2 of 2007);

(iii) a person interested in an easement affecting the land;

(iv) persons having tenancy rights under the relevant State laws including share-croppers by whatever name they may be called; and

(v) any person whose primary source of livelihood is likely to be adversely affected;”

- (d) The petitioner would not fall under any of the above four clauses as the lease in favour of the petitioner had already expired and the suit filed for extension of lease is also dismissed.

11. The Hon’ble Apex Court in ***Sunderlal Vs. Paramsukhdas***⁴ explaining the term “person interested” under

⁴ 1967 SCC OnLine SC 301

the earlier Land Acquisition Act, 1894, at paragraphs 10 to 12, has observed as follows:

"10. Before examining the authorities cited at the Bar, it is necessary to examine the scheme and the provisions of the Act insofar as they are relevant to the question of determination of compensation, the question of apportionment of the compensation, and the question as to the persons who are entitled to be heard. Section 3(b) defines the expression "person interested" as follows:

"the expression 'person interested' includes all persons claiming an interest in compensation to be made on account of the acquisition of land under this Act, and a person shall be deemed to be interested in land if he is interested in an easement affecting the land".

It will be noticed that it is an inclusive definition. It is not necessary that in order to fall within the definition a person should claim an interest in land, which has been acquired. A person becomes a person interested if he claims an interest in compensation to be awarded. It seems to us that Paramsukhdas is a "person interested" within Section 3(b) of the Act because he claims an interest in compensation. But before he can be made a party in a reference it has to be seen whether he comes within Section 20(b) and Section 21 of the Act.

11. The scheme of the Act seems to be to first deal with persons who are interested in land. These persons are heard under Section 5-A of the Act. The ordinary meaning of "the person interested in land" is expanded by

Section 5-A(3), for the purposes of this section, to include a person who would be entitled to claim an interest in compensation. It would be strange to come to the conclusion that the legislature is keen that a person claiming an interest in compensation should be heard before the land is acquired but is not interested in him after the land is acquired. On the contrary, it follows from Section 5-A(3) that a person claiming an interest in compensation would be one of the persons whose interests are meant to be safeguarded. It appears from Sections 6 to 10 that a person claiming an interest in compensation is not expressly mentioned. But in Section 11 he is expressly mentioned, and it is directed that the Collector shall inquire into respective interests of the persons claiming the compensation and shall make an award. Section 12 makes the award final and conclusive as between persons interested i.e. including persons claiming an interest in compensation. Under Section 14 the Collector has power, inter alia, to summon the parties interested.

12. Under Section 18 any person interested can claim a reference. A person claiming an interest in compensation would also be entitled to claim a reference. After a reference is made the Court is enjoined under Section 20 to determine the objections, and serve, among others, all persons interested in the objection. A person claiming an interest in compensation would, it seems to us, be a person interested in the objection if the objection is to the amount of compensation or the apportionment of compensation, and if his claim is likely to be affected by

the decision on the objection. Section 21 restricts the scope of enquiry to a consideration of the interests of the persons affected by the objection. But it does not follow from Section 21 that there is any restriction on the grounds which can be raised by a person affected by the objection to protect his interests. The restriction that is laid is not to consider the interests of a person who is not affected by the objection. Section 29 deals with apportionment of compensation, if there is agreement, and Section 30 enables the Collector to refer disputes as to apportionment to the Court. From the above discussion it follows that a person claiming an interest in compensation is entitled to be heard under Sections 20 and 21 of the Act. The provisions of the Act, including Sections 20 and 21, do not prescribe that his claim to an interest in compensation should be "at compensation", as urged by Mr Desai. This is really a contradictory statement. For, a fortiori, he has no interest in land, and compensation is given for interests in land. He can never claim compensation qua compensation for what he claims is an interest in the compensation to be awarded. This is not to say that a person claiming an interest in compensation may not claim that the compensation awarded for the acquired land is low, if it affects his interests."

12. In view of the fact that lease has expired and the suit filed for extension of lease is also dismissed, the petitioner cannot be said that he is in legal possession of the land in

question. Therefore, the above decisions relied upon by the petitioner would not come to the aid of the petitioner. The decisions referred to by the learned Senior Counsel for the petitioner are on different facts and circumstances and would not deal with the question of 'interested person', and those decisions would relate to contract and specific relief which, at this stage in this proceedings, would not help the petitioner.

13. For the reasons recorded above, we are of the considered opinion that the appellant has not made out any ground to interfere with the impugned order and as such, the appeal stands rejected.

Pending interlocutory applications, if any, stand disposed of as not surviving for consideration.

**Sd/-
(S G PANDIT)
JUDGE**

**Sd/-
(GEETHA K.B.)
JUDGE**

KMS