

**MFA No.101764/2015
C/W MFA No.101809/2015,
MFA. CROB.No.100156/2022,
MFA. CROB.No.100029/2023**

IN THE HIGH COURT OF KARNATAKA, AT DHARWAD

DATED THIS THE 29TH DAY OF OCTOBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT

AND

THE HON'BLE MRS JUSTICE GEETHA K.B.

MISCELLANEOUS FIRST APPEAL NO.101764 OF 2015

C/W

MISCELLANEOUS FIRST APPEAL NO.101809 OF 2015,

MISCELLANEOUS FIRST APPEAL CROB. NO.100156 OF 2022,

MISCELLANEOUS FIRST APPEAL CROB. NO.100029 OF 2023.

IN MFA NO. 101764/2015

BETWEEN:

MAHARUDRAYYA MALLAYYA MATHAPATI
DEAD BY HIS LRS

1. SMT. SHANTA W/O. MAHARUDRAYYA MATHAPATI
AGE: 67 YEARS, OCC. HOUSEHOLD WORK
TQ. GOKAK, DIST. BELAGAVI.
2. SMT. KALAVATI W/O. IRAYYA HIREMATH
AGE: 44 YEARS, OCC. HOUSEHOLD WORK
TQ. GOKAK, DIST. BELAGAVI.
3. SMT. SUDHA W/O. SHARANAYYA MATHAPATI
AGE: 40 YEARS, OCC. HOUSEHOLD WORK
TQ. GOKAK, DIST. BELAGAVI.
4. SMT. PARVATI W/O. BASAYYA MATHAPATI
AGE: 38 YEARS, OCC. HOUSEHOLD WORK

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TQ. GOKAK, DIST. BELAGAVI.

5. SMT. SAVITRI W/O. RAJASHEKHAR HIREMATH
AGE: 36 YEARS, OCC. HOUSEHOLD WORK
TQ. GOKAK, DIST. BELAGAVI.

...APPELLANTS

(BY SRI. PRANAV UMESH BADAGI, ADVOCATE FOR
SRI. K.H. BHAGI, ADVOCATE)

AND:

1. THE ASSISTANT COMMISSIONER
BAILHONGAL,
SUB-DIVISION BAILHONGAL.
2. THE EXECUTIVE ENGINEER
DIVISIONAL OFFICE,
KARNATAKA URBAN WATER
SUPPLY AND DRAINAGE BOARD,
DHARWAD.
3. THE COMMISSIONER
HUBBALLI-DHARWAD MUNUICIPAL CORPORATION
LAMINGTON ROAD, HUBBALLI.

...RESPONDENTS

(BY SMT. GIRIJA S. HIREMATH, HCGP FOR R1;
SRI. DAYANAD M. BANDI, ADVOCATE FOR R2;
SRI. BHUSHAN B. KULKARNI, ADVOCATE FOR R3)

THIS MFA IS FILED U/S.54(1) OF THE LAND ACQUISITION ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD IN L.A.C.NO.128/2011 DATED 23.02.2015 PASSED BY THE PRL. SENIOR CIVIL JUDGE SAUNDATTI, ENHANCING THE MARKET VALUE AT RS.140/-PER SQUARE FEET ALONG WITH STATUTORY BENEFITS AND WITH COST BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE.

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C/W MFA No.101809/2015,
MFA. CROB.No.100156/2022,
MFA. CROB.No.100029/2023**

IN MFA NO.101809/2015

BETWEEN:

SRI. BASAVARAJ S/O. BHEEMAPPA
KARADAGI,
AGE: 68 YEARS, OCC: AGRICULTURE,
R/O: GURLHOSUR, TQ: SAUDATTI,
DIST: BELAGAVI.

...APPELLANT

(BY SRI. PRANAV UMESH BADAGI, ADVOCATE FOR
SRI. K.H. BHAGI, ADVOCATE, ADVOCATE)

AND:

1. TEH ASSISTANT COMMISSIONER
BAILHONGAL SUB-DIVISION,
BAILHONGAL.
2. THE EXECUTIVE ENGINEER
DIVISIONAL OFFICE,
KARNATAKA URBAN WATER SUPPLY AND
DRAINAGE BOARD, DHARWARD.
3. THE COMMISSIONER
HUBBALLI-DHARWAD MUNICIPAL CORPORATION,
LAMINGTON ROAD, HUBBALLI.

...RESPONDENTS

(BY SMT. GIRIJA S. HIREMATH, HCGP FOR R1;
SRI. DAYANAD M. BANDI, ADVOCATE FOR R2;
SMT. SHARMILA PATIL, ADVOCATE FOR R3)

THIS MFA IS FILED U/S.54(1) OF THE LAND ACQUISITION
ACT, PRAYING TO MODIFY THE JUDGMENT AND AWARD IN
L.A.C.NO.129/2011 DATED 23.02.2015 PASSED BY THE PRL.
SENIOR CIVIL JUDGE SAUNDATTI, ENHANCING THE MARKET
VALUE AT RS.140/-PER SQUARE FEET ALONG WITH STATUTORY

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BENEFITS AND WITH COST BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE.

IN MFA. CROB. NO.100156/2022

BETWEEN:

EXECUTIVE ENGINEER
KARNATAKA URBAN WATER SUPPLY
DRAINAGE BOARD,
DIVISIONAL OFFICE, DHAWAD
SIR VISHWESHWARAIHAH ROAD,
DHARWAD-580001.

...CROSS OBJECTOR

(BY SRI. DAYANAND M. BANDI, ADVOCATE)

AND:

- 1 . THE ASSISTANT COMMISSIONER
BAILHONGAL,
SUB-DIVISION BAILHONGAL.
- 2 . THE COMMISSIONER
HUBLI - DHARWAD MUNICIPAL CORPORATION
LAMINGTON ROAD, HUBLI-580020.
- 3 . SMT. SHANTA W/O. MAHARUDRAYYA MATHAPATI
AGE. 72 YEARS, OCC. HOUSEHOLD,
- 4 . SMT. KALAVATHI W/O. IRAYYA HIREMATH
AGE. 51 YEARS, OCC. HOSEHOLD,
- 5 . SMT. SUDHA W/O. SHARANAYYA MATHAPATI
AGE. 47 YEARS, OCC. HOUSEHOLD,
6. SMT. PARVATI W/O. BASAYYA MATHAPATI
AGE. 45 YEARS, OCC. HOUSEHOLD,

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7. SMT. SAVITRI W/O. RAJASHEKHAR HIREMATH
AGE. 43 YEARS, OCC. HOUSEHOLD,
8. VEERABHADRAYYA S/O. MAHARUDRAYYA MATHAPATI
AGE. 41 YEARS, OCC. AGRI/PRIVATE

RESPONDENTS NO. 3 TO 8 ARE
R/O: TQ. GOKAK, DIST. BELAGAVI-591218.

...RESPONDENTS

(BY SMT. GIRIJA S. HIREMATH, HCGP FOR R1;
SRI. PRANAV UMESH BADAGI, ADVOCATE FOR
SRI. K.H. BHAGI, ADVOCATE FOR R3 TO R8;
SRI. BHUSHAN B. KULKARNI, ADVOCATE FOR R2)

THIS MFA. CROB. IS FILED UNDER ORDER XLI RULE 22 OF
CIVIL PROCEDURE CODE, PRAYING TO MODIFY THE
AWARD/ORDER DATED 23.02.2015 PASSED BY THE PRL.
SENIOR CIVIL JUDGE SAUNDATTI, IN L.A.C.NO.128/2011 AND
TO HOLD THAT RESPONDENT NO.1 AND 2 HEREIN ONLY (I.E.
RESPONDENT NO.1 AND 3 IN LAC NO.128/2011) ARE JOINTLY
AND SEVERALLY LIABLE TO PAY COMPENSATION TO THE LAND
LOSERS IN THE INTEREST OF JUSTICE AND EQUITY.

IN MFA. CROB. NO.100029/2023

BETWEEN:

EXECUTIVE ENGINEER
KARNATAKA URBAN WATER SUPPLY
DRAINAGE BOARD
DIVISIONAL OFFICE, DHARWAD
SIR. VISHWESHWARAIHAH ROAD,
DHARWAD-580001.

...CROSS OBJECTOR

(BY SRI. DAYANAND M. BANDI, ADVOCATE)

**MFA No.101764/2015
C/W MFA No.101809/2015,
MFA. CROB.No.100156/2022,
MFA. CROB.No.100029/2023**

AND:

- 1 . THE ASSISTANT COMMISSIONER
BAILHONGAL,
SUB-DIVISION, BAILHONGAL-591101.
- 2 . THE COMMISSIONER
HUBLI-DHARWAD MUNICIPAL CORPORATION,
LAMINGTON ROAD, HUBLI-580020.
- 3 . BASAVARAJ S/O. BHEEMAPPA KARADAGI
AGE. 75 YEARS, OCC. AGRICULTURE,
R/O. GURLHOSUR, TQ. SAUDATTI,
DIST. BELAGAVI-591126.

...RESPONDENTS

(BY SMT. GIRIJA S. HIEMATH, HCGP FOR R1;
SRI. PRANAV UMESH BADAGI, ADVOCATE FOR
SRI. K.H. BHAGI, ADVOCATE FOR R3;
SRI. BHUSHAN B. KULKARNI, ADVOCATE FOR R2)

THIS MFA. CROB. IS FILED UNDER ORDER XLI RULE 22 OF CIVIL PROCEDURE CODE, PRAYING TO MODIFY THE AWARD/ORDER DATED 23.02.2015 PASSED BY THE PRL. SENIOR CIVIL JUDGE SAUNDATTI, IN L.A.C.NO.129/2011 AND TO HOLD THAT RESPONDENT NO.1 AND 2 HEREIN ONLY (I.E. RESPONDENT NO.1 AND 3 IN LAC NO.129/2011) ARE JOINTLY AND SEVERALLY LIABLE TO PAY COMPENSATION TO THE LAND LOSERS IN THE INTEREST OF JUSTICE AND EQUITY.

THESE APPEALS AND CROSS OBJECTIONS HAVING BEEN HEARD AND RESERVED ON 09.10.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, DELIVERED THE FOLLOWING:

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

CAV JUDGMENT

(PER: THE HON'BLE MRS JUSTICE GEETHA K.B.)

MFA No.101764/2015 is filed under Section 54(1) of the Land Acquisition Act, 1894 (for short 'the Act') by the legal representatives of claimant-appellants challenging the Judgment and Award passed in LAC 128/2011 dated 23.02.2015 on the file of Principal Senior Civil Judge, Saundatti, praying for modification of the same and enhancing the market value at Rs.140/- per square foot along with statutory benefits and costs.

2. Cross objection No.100156/2022 is filed under Order XLI Rule 22 of CPC by the Executive Engineer of KUWSDB to modify the said award and to hold that respondent Nos.1 and 2 who are the respondent Nos.1 and respondent No.3 in original LAC No.128/2011 are jointly and severally liable to pay compensation to the land-losers and for such other reliefs.

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3. MFA No.101809/2015 is filed under Section 54(1) of the Land Acquisition Act, 1894 by the claimant-Basavaraj, challenging the Judgment and Award in LAC No. 129/2011 dated 23.02.2015 passed by the Principal Senior Civil Judge, Saundatti and to modify the market value at Rs.140/- per square foot along with statutory benefits and with costs by allowing the appeal.

4. Cross-objection No.100029/2023 is filed under Order XLI Rule 22 of CPC by the Executive Engineer of KUWSDB to modify the said award dated 23.02.2015 and to hold that respondent No.1 and 2 who are original respondent Nos.1 and 3 in LAC No.129/2011 are jointly and severally liable to pay compensation to land losers.

5. The Learned Senior Civil Judge has passed common judgment in LAC No.129/2011 c/w LAC No.128/2011 and LAC No.132/2011 on 23.02.2015 holding that all the three claim petitions were allowed in part with costs and claimants are entitled for enhanced compensation

on the market value at the rate of Rs.5,60,000/- per acre along with all statutory benefits available under the provisions of the Act and held that respondent Nos.1 to 3 are jointly and severally liable to satisfy the award amount.

6. The petitioner in Cross-objection is respondent No.2 in original LAC case contended that second respondent Board is not responsible for making payment because it is the statutory Corporation and expert body under Government of Karnataka to build infrastructure for drinking water supply and drainage facility wherever either the local bodies or the Government wishes to provide drinking water facility or drainage facility. The Board after building infrastructure hand over the project to the respective local bodies or the Government and its function is akin to the contractor who builds the building and hand over the same to the owner. Hence, prayed for modification of the award by absolving him from the liability.

7. In this regard, IA under Order XLI Rule 27 CPC is filed by advocate for respondent No.2.

8. Heard the arguments of learned counsels appearing for the parties.

9. Learned counsel for appellants in MFA Nos.101764/2015 and MFA No.101809/2015 Sri.Pranav Umesh Badagi for Sri.K.H.Bhagi submitted that this is the appeal challenging the award granting enhanced compensation at Rs.5,60,000/- per acre by learned trial judge, which is meager. He contended that the learned trial judge has already recorded a clear finding that the acquired lands are having NA potentiality and thus it ought to have awarded the compensation at square foot basis but awarded the compensation on acre basis and not considered the Ex.P.6 and P.4 and thus the Reference Court committed an error in not accepting the valuation shown in Ex.P.4 to P.6 and thus prayed for allowing the appeal.

10. Learned counsel for respondent No.2 Sri. Dayanand M. Bandi on the other hand supported the judgment of the Reference Court and submitted that the award passed by the Reference Court is in accordance with law by examining all the material particulars and properly relied upon the documents produced in the case and appreciated the evidence in a proper perspective. Hence, prays for rejection of appeal.

11. Learned counsel for cross-objector has submitted his arguments that the cross objector is not liable to make payment. It is the contention of the cross objector that its duty is only to build infrastructure and then hand over project to the respective local bodies or to the Government and in this case originally respondent No.3 is the beneficiary and handed over the project to them and hence, its duty is only like the duty of contractor and it is not liable to pay the compensation. In this regard, this cross objector has taken this specific defence even before learned trial Judge. Learned trial judge has discussed this point in its judgment

at paragraph Nos.10 to 13 and held that present cross objector along with other two respondents are being Government bodies and all of them are jointly and severally liable to make payment.

12. Having heard the learned counsel for the parties and on perusal of the appeal papers along with trial Court records, the points that arise for our consideration are:

- 1) Whether the claimants-appellants proves that the award passed by the reference Court by determining the compensation at Rs.5,60,000/- per acre was meager and whether it requires interference ?
- 2) Whether the respondent No.2-cross objector be permitted to adduce additional evidence?
- 3) Whether respondent No.2-cross objector is not liable to make payment of the award amount?
- 4) What order?

13. **POINT No.2:-** This point is considered first, as it is pertaining to production of additional documents.

14. The cross-objector has produced four documents along with IA under Order XLI Rule 27 Code of Civil Procedure. i.e., 1) Estimate for Bulk Water Supply improvement to Hubli-Dharwad Twin city with Malaprabha Reservoir as source 2) Karnataka Government Resolution order 3) Order of Karnataka Government and 4) Form-A.

15. The other parties to the appeal have not filed objection to this IA No.3.

16. For the reasons stated in affidavit annexed to this IA No.III, as he intends to produce only public documents, we are of the opinion that cross-objector be permitted to produced them. Accordingly, Point No.2 is answered in the **affirmative**.

Point No.1 :-

17. The acquired lands in LAC No.128/2011 are at Survey No.591/2 measuring 21 guntas and in LAC

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No.129/2011 are at Survey No.69/4 measuring 14 guntas, situated at Kenchalarakoppa village, Saundatti taluka. The 4(1) Notification was issued on 10.06.2004 for acquisition and award was passed on 17.09.2009 fixing the market value of the land acquired at Rs.50,000/- per acre. Then, under Section 18 reference, the learned Senior Civil Judge enhanced the compensation and determined the market value at Rs.5,60,000/- per acre by relying upon the sale deed dated 15.07.2005 as per Ex.P.8. Admittedly, this sale deed is not disputed by the respondents at any point of time. According to Ex.P.8, KHB has purchased 4 acres land at survey No.951/1A situated at Saundatti village for formation of residential layout at Rs.4,00,000/- per acre. Relying on this sale deed, learned reference judge held that the compensation granted by the SLAO is meager and held that this amount can be considered to determine the compensation.

18. Ex.P.6 is the paper publication given by KHB dated 20.08.2008 calling for applications to allot the sites to

be formed in the KHB layout at different places which includes Saundatti.

19. Learned counsel for appellant vehemently submitted that Exs.P.4 to P.6 were not considered by the learned Reference Court. Ex.P.4 is the sale deed executed by KHB in favour of a purchaser of site formed out of survey No.951/1 measuring East-West 12 mtrs. and North-South-18.5 mtrs. This sale deed is dated 26.07.2013, whereas, the preliminary Notification of present case was issued on 17.09.2009, i.e., about four years earlier to said sale deed. Hence, rightly, Reference Court has not considered this sale deed. Further, this sale deed is only in respect of a site which is situated in the lay out already formed. Thus, it is a developed area. However the acquired lands in present case are not developed area but have NA potentiality. Hence, on this ground also the said sale deed ought not to have been considered by the Reference Court and rightly, it was not considered by the Reference Court.

20. As far as paper publication given in Ex.P.6 dated 20.08.2008 is concerned, reference Court has not relied upon it because only after developing the area, forming layout, KHB has called for applications to allot sites at Saundatti. Hence, non-consideration of market value determined in this document by the reference Court is also in right perspective.

21. Admittedly, the reference judge has categorically held that the lands in question are having NA potentiality because it comes within the limits of Kenchalarakoppa. They are acquired for laying pipe lines. Petitioners-claimants have not developed these lands as on the date of notification under Section 4(1) of the Act, whereas the area developed by KHB is within Saundatti town limits. However, in the area developed by KHB, the formation of sites are sold at a considerable high price and thus that price cannot be applied in respect of a distant land because the prices of the layout sites vary on the ground of dimension, location, access etc., and thus rightly not relied by the Reference

Court. However, the Reference Court relied on Ex.P.8 i.e., the sale deed of the year 2005 wherein 4 acres of land were sold for a sum of Rs.4,00,000/- per acre in favour of KHB for the proposed housing project and taking it as the base, the learned reference court has given 10% increase against the market price of Rs.4,00,000/- per acre per annum and thus fixed the market value at Rs.5,60,000/- per acre. This fixing of market value at Rs.5,60,000/- per acre by the Reference court is in accordance with the principles laid down by this Court and by Hon'ble Apex Court in several cases.

22. Learned counsel for claimants relied upon the following judgments: 1)CA No.410/1962 wherein parties are **M. Vijayalakshamma Rao Bahadur Vs. the Collector of Madras**, Civil Appeal No.4005/2005 arising out of SLP(C) No.26866/2009 wherein parties are **Mehrwal Khewarji Trust registered, Faridkot and others Vs. State of Punjab**. C.A.No.2170-2171/2020 arising out of a SLP(C)16954-46/2018 dated 17.03.2020 wherein parties

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are ***Sajan Vs. The State of Maharashtra and others;***
C.A.No.6958/2013 arising out of SLP(C) No.24357/2010
wherein parties are ***Indraj Singh(dead) by LRs and
others Vs. State of Hariyana and another*** on
19.08.2013.

23. In these cases, the Hon'ble Supreme Court time and again has stated that there shall be some deductions towards the developmental charges and also further categorically held that when two or more sale deeds were relied upon by the Reference Court, then the highest market value which is admissible in law is to be taken in to consideration and not the average market value.

24. Even in the instant case also, the Reference Court has not taken the average value in the sale deeds but relied only on one sale deed i.e. Ex.P.8 and thus, the arrival of market value by the Reference Court is proper. However, the respondents have not challenged the enhancement of compensation, by the Reference Court. In the instant case

also, the learned reference judge has not considered the average market value but has considered the market value in one sale deed i.e., as per Ex. P.8 of the year 2005.

25. Further, no material is produced by the appellant in both appeals for enhancement of the market value of the acquired properties. Accordingly, this point is answered in **negative**.

26. **Point No.3:-** cross objector has taken contention that its duty is only to build infrastructure and then hand over project to the respective local bodies or to the Government and in this case respondent No.3 before trial court is the beneficiary and handed over the project to them and hence, its duty is only like the duty of contractor and it is not liable to pay the compensation. In this regard, this cross objector has taken this specific defence even before learned trial Judge.

27. Learned trial judge has discussed this point in its judgment at paragraph Nos.10 to 13 and held that present

cross objector along with other two respondents are being Government bodies and all of them are jointly and severally liable to make payment. However, some important documents are not produced before Reference Court.

28. In this appeal, the cross-objector has produced 1) Estimate for Bulk Water Supply improvement to Hubli-Dharwad Twin city with Malaprabha Reservoir as source 2) Karnataka Government Resolution order 3) Order of Karnataka Government and 4) Form-A and prayed for absolving the liability of the cross-objector.

29. On perusal of these documents, we noticed that the responsibility of the cross objector is only to make estimation of the proposed project, install it and then hand over it to respondent No.3 who is beneficiary.

30. In this regard learned counsel for the cross-objector produced certified copy of the judgment passed in WP No.102016/2018.

31. The learned counsel for cross-objector has produced the order passed by the co-ordinate bench of this Court in WP No.102016/2018(GM-CPC) dated 25.03.2022, wherein at paragraph No.4 held as under:-

"4. Aggrieved by the same, the petitioner had filed a Review Petition which came to be numbered as Misc.No.15/2017 contending that the petitioner is only a facilitating Nodal Agency or at the most the implementing Agency or at the most the implementing agency by the beneficiary of the plant being the respondent No.1 herein namely Hubballi- Dharwad Municipal Corporation. It is the respondent No.1 who is required to make payment of the compensation amount."

32. On careful perusal of the said order, in the case of present nature, the learned single judge has passed an order that present cross objector is not liable to make payment and it is beneficiary under project i.e. Commissioner, Hubli-Dharwad Municipal Corporation is liable to make payment. In that case, at paragraph No.7, the circular issued by the Chief Secretary was discussed and

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it indicated that when there is dispute in between inter-department of Government then, Inter-Departmental dispute redressal Committee will address the same and in the case of present nature, it was addressed and it is Hubli-Dharwad Municipal Corporation is liable to make payment and not the present cross objector and thereby said writ petition was allowed.

33. In the present case also liability of cross objector could be absolved and it could be fastened only on respondent Nos.1 and 2 of said cross objection that is the respondent Nos.1 and 3 before the Reference Court. Accordingly, the point No.3 is answered in the **affirmative**.

34. Point No.4:-In view of finding on point Nos.1 to 3, we proceed to pass the following:-

ORDER

1) MFA Nos.101764/2015 and MFA No.101809/2015 filed under Section 54(1) of the Land Acquisition Act, 1894 are dismissed.

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2) MFA Cross objection Nos.100156/2022 and 100029/2023 filed under Order XLI Rule 22 of CPC are allowed.

3) The award passed by the Tribunal in LAC Nos.128/11 129/11 dated 23.02.2015 in respect of awarding of compensation is confirmed; as far as liability fixed on respondent Nos.1 to 3 is modified and only respondent Nos.1 and 3 in LAC Nos.128/2011 and 129/2011 are responsible for satisfying the award.

4) No order as to costs.

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

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

HMB
CT-CMU
LIST NO.: 1 SL NO.: 28