



R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MRS JUSTICE K.S. HEMALEKHA

REGULAR FIRST APPEAL NO.137 OF 2011 (DEC)

C/W

REGULAR FIRST APPEAL NO.406 OF 2011 (DEC/POS)

IN R.F.A. NO.137 OF 2011

BETWEEN:

1. THE STATE OF KARNATAKA
BY ITS CHIEF SECRETARY,
VIDHANA SOUDHA,
BANGALORE-560001.
2. THE DEPUTY COMMISSIONER,
SHIMOGA DISTRICT,
SHIMOGA-577201.
3. THE ASSISTANT COMMISSIONER,
SAGAR SUB-DIVISION, SAGAR,
SHIMOGA DISTRICT-577401.

... APPELLANTS

(BY SRI KIRAN V. RON, ADDL. ADVOCATE GENERAL A/W
SRI G.S. ARUNA, HCGP)

AND:

1. SIDDALINGAPPA
S/O HONNAPPA,
HINDU, AGE: 60 YEARS,
R/AT CHITTURARA HOUSE
HARALENNE KERI, SHIKARIPURA TOWN,

Digitally signed by
MAHALAKSHMI B M
Location: HIGH
COURT OF
KARNATAKA



SHIMOGA DISTRICT-577427.
SINCE DEAD BY LR's.

- 1(a) SRI BASAVARAJAPPA
S/O. LATE SIDDALINGAPPA,
MAJOR,
- 1(b) SRI REVANAPPA
S/O. LATE SIDDALINGAPPA,
MAJOR,
- 1(c) SRI RAGHU
S/O. LATE SIDDALINGAPPA,
MAJOR,
- 1(d) SRI MALLIKARJUNA C.S.
S/O. LATE SIDDALINGAPPA,
MAJOR,

(AMENDED VIDE COURT
ORDER DATED 07/04/2015)

ALL ARE RESIDING AT
HARALENNE KERI, SRIKARIPURA,
SHIMOGA DISTRICT-577427.

- 2. DEVENDRAPPA
S/O SIDDESHWARAPPA HINDU,
HINDU, AGE: 38 YEARS,
CHITTUR HOUSE,
R/O HOSAMADARA KERI,
SHIKARIPURA TOWN,
SHIMOGA DISTRICT-577427.
- 3. LOKESHA
S/O SANKRI SIDDAPPA,
HINDU, AGE: 30 YEARS,
R/O HARALENNE KERI,
SHIKARIPURA TOWN,
SHIMOGA DISTRICT-577427.
- 4. THE CHIEF OFFICER,
PURASHABHA, SHIKARIPURA,
SHIMOGA DISTRICT-577427.

... RESPONDENTS



(BY SRI BASAVARAJ V. SABARAD, SENIOR COUNSEL FOR
SRI MAHESH R. UPPIN, ADVOCATE FOR R-1(A TO D) & R-2;
SRI SUDHARSHAN SURESH, ADVOCATE FOR R-3;
SRI CHANDRAKANTH PATIL, ADVOCATE FOR R-4)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, AGAINST THE
JUDGMENT AND DECREE DATED 23.07.2010 PASSED IN
O.S.NO.07/2008 ON THE FILE OF THE CIVIL JUDGE (SR.DN.) AND
JMFC., SORABA, PARTLY DECREETING THE SUIT FOR DECLARATION.

IN R.F.A. NO.406 OF 2011

BETWEEN:

THE TOWN MUNICIPAL COUNCIL,
SHIKARIPUR, SHIMOGA DISTRICT,
REP. BY CHIEF OFFICER.

... APPELLANT

(BY SRI G. KRISHNA MURTHY, SENIOR COUNSEL FOR
SMT. G.K. BHAVANA, ADVOCATE)

AND:

1. SIDDALINGAPPA
S/O HONNAPPA CHITTOR MANE,
AGED ABOUT 81 YEARS,
HARALENNE KEERI, SHIKARIPUR TOWN,
SHIMOGA DISTRICT.
2. SHRI DEVENDRAPPA
S/O SIDDESWARAPPA CHITTOR MANE,
AGED ABOUT 39 YEARS,
RES. OF HOSAMADHARA KEERI,
SHIKARIPUR TOWN,
SHIMOGA DISTRICT.
3. STATE OF KARNATAKA,
VIDHANA SOUDHA,
BANGALORE-560001
REP. BY CHIEF SECRETARY.
4. THE DEPUTY COMMISSIFONER,
SHIMOGA DISTRICT,
SHIMOGA.



5. ASSISTANT COMMISSIONER,
SAGAR SUB DIVISION,
SAGAR, SHIMOGA DISTRICT.
6. YANGAPPA NAIDU,
FATHER NAME NOT KNOWN
AGED ABOUT 81 YEARS,
ACHARE, RES. AVATEKOPPA
SHIKARIPUR TALUK.
7. D.S. SRIKANTIAH
S/O LATE SIDDARAMAPPA
AGED ABOUT 71 YEARS,
RES. SHANTINAGAR, SHIKARIPUR,
SHIMOGA DISTRICT.
8. P. SUBRAYA AITHAL
S/O RAMA AITHAL,
AGED ABOUT 76 YEARS,
NEW RAGHAVENDRA BHAWAN,
M.S. ROAD, SHIKARIPUR,
SHIMOGA DISTRICT.
9. K. JANARDHANAPPA
S/O HANUMANTHAPPA,
AGED ABOUT 61 YEARS,
KAPPANAHALLI, PO: KAPPANAHALLI,
SHIKARIPUR, SHIMOGA DISTRICT.
10. K. GANGADHARA
S/O HANUMANTHAPPA,
AGED ABOUT 46 YEARS,
KAPPANAHALLI, PO: KAPPANAHALLI,
SHIKARIPUR, SHIMOGA DISTRICT.
11. K.H. SANJEEVA NAIDU
S/O HANUMANTHAPPA,
AGED ABOUT 51 YEARS,
KAPPANAHALLI, PO: KAPPANAHALLI,
SHIKARIPUR, SHIMOGA DISTRICT.
12. K.H. KESHAVA
S/O HANUMANTHAPPA,



AGED ABOUT 49 YEARS,
KAPPANAHALLI, PO: KAPPANAHALLI
SHIKARIPUR, SHIMOGA DISTRICT.

13. T.H. MAHADEVAPPA
S/O LATE HALAPPA,
AGED ABOUT 61 YEARS,
OWNER: SANGAMESWARA SAWMILL,
SHISHUVIHARA ROAD, SHIKARIPUR.
14. MUDDANAHALLI RUDRAPPA
S/O BASAPPA,
AGED ABOUT 51 YEARS,
SHISHUVIHARA ROAD,
SHIKARIPUR.
15. SMT. NAGAMMA
W/O ULLI SHIVAPPA,
AGED ABOUT 61 YEARS
SHISHUVIHARA ROAD,
SHIKARIPUR,
SINCE DECEASED BY LR:
- 15(a) GANGADHARA S/O ULLI SHIVAPPA,
AGED ABOUT 50 YEARS,
SHISHUVIHARA ROAD,
SHIKARIPUR
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.15)
16. SMT. SAROJAMMA
W/O ANANDA SETTY,
AGED ABOUT 56 YEARS,
OWNER: VIJAYALAKSHMI MOTOR SERVICE,
SHISHUVIHARA ROAD, SHIKARIPUR.
17. H. MAHADEVAPPA
S/O CHANNABASAPPA,
AGED ABOUT 56 YEARS,
SHISHUVIHARA ROAD, SHIKARIPUR.
18. H. UDAYAKUMAR
S/O HALAKATI MURUGESHAPPA,
AGED ABOUT 49 YEARS,



SHISHUVIHARA ROAD,
SHIKARIPUR.

19. H. MURUGESHAPPA
S/O HALAKATI BASAVARAJAPPA,
AGED ABOUT 61 YEARS
SHISHUVIHARA ROAD, SHIKARIPUR,
SINCE DCECEASED BY LR:
- 19(a) PUTTAPPA S/O MURUGESHAPPA,
AGED ABOUT 41 YEARS,
VEERABHADRESWARA PROVISION STORE,
PETROL BUNK ROAD, SHIKARIPUR
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.19)
20. H. KASHINATHA
S/O HALAKATTI MURUGESHAPPA,
AGED ABOUT 46 YEARS,
SHISHUVIHARA ROAD,
SHIKARIPUR.
21. S.T. ANASUYAMMA
W/O D. THANDAVA MURTHY,
AGED ABOUT 56 YEARS,
SHISHUVIHARA ROAD,
SHIKARIPUR.
22. K.B. SHIVAPPAIAH
S/O VIRUPAKSHAIAH,
AGED ABOUT 53 YEARS,
EESUR VILLAGE, SHIKARIPUR TALUK.
23. K.B. RUDRAPPAIAH
S/O VIRUPAKSHAIAH,
AGED ABOUT 49 YEARS,
CHANNAKESHAVA NAGARA,
SHIKARIPUR.
24. K.B. RAJASHEKARAIAH
S/O VIRUPAKSHAIAH,
AGED ABOUT 46 YEARS,
EESUR VILLAGE, SHIKARIPUR TALUK.



25. DR. H. SHIVAKUMAR
S/O RUDRAPPA,
AGED ABOUT 56 YEARS,
P.B. ROAD, SHIKARIPUR.
26. SMT. KAMALA
W/O SOHAN RAJ,
AGED ABOUT 39 YEARS,
P.B. ROAD, SHIKARIPUR.
27. H. NARAYANA RAO
S/O BACHCHAIAH SHETTIGAR,
AGED ABOUT 59 YEARS,
P.B. ROAD, NEW RAGHAVENDRA BHAVANA,
SHIKARIPUR.
28. H. KRISHNA SHETTIGAR
S/O BACHCHAIAH SHETTIGAR,
AGED ABOUT 43 YEARS,
P.B. ROAD, NEW RAGHAVENDRA BAHVANA,
SHIKARIPUR.
29. R. PANDURANGA
S/O RAJAPPA GURU
AGED ABOUT 59 YEARS
P.B. ROAD, SHIKARIPUR.
30. THE SECRETARY,
CHARAKA AND KHADI GRAMODHYOGA
SANGHA, KHANDI MANDIRA,
P.B. ROAD, SHIKARIPUR.
31. SMT. HALAMMA
W/O DUDIHALLI KARIBASAPPA,
AGED ABOUT 71 YEARS,
VIRABHADRESWARA PROVISION STORES,
P.B. ROAD, SHIKARIPUR.
32. S.N. NARAYANA RAO,
S/O HUCHCHA RAO,
AGED ABOUT 66 YEARS,
SANDA VILLAGE,
PO: HARAGUVALLI, SHIKARIPUR.



33. SMT. S.N. NAGARATHNA,
W/O NAGARAJA SHASTRY,
AGED ABOUT 46 YEARS,
POOJA ICE CREAM,
P.B. ROAD, SHIKARIPUR.
34. H. MURUGAPPA,
S/O VEERABASAPPA,
AGED ABOUT 56 YEARS,
P.B. ROAD, SHIKARIPUR.
35. M. KALLAPPA GOWDA,
S/O ADAVAPPA GOWDA,
AGED ABOUT 79 YEARS,
SIDDESWARA LODGE,
P.B. ROAD, SHIKARIPUR.
36. ASHOK KUMAR GOGI,
S/O KUBERAPPA GOGI,
AGED ABOUT 53 YEARS,
P.B. ROAD, SHIKARIPUR.
37. B. MANJUNATHA,
S/O LATE BINDAPPA GOWLI,
AGED ABOUT 39 YEARS,
OPP: RAJASHEKARA TALKIES,
TALUK OFFICE ROAD,
P.B. ROAD, SHIKARIPUR.
38. SIDDALINGESHA,
S/O SHANKARAPPA,
AGED ABOUT 56 YEARS,
VEERABHADRESWARA STORES,
P.B. ROAD, SHIKARIPUR.
39. T. KOTRAPPA,
FATHER'S NAME: NOT KNOWN,
AGED ABOUT 56 YEARS,
AMBEDKAR NAGAR,
HONNALI ROAD, SHIKARIPUR.
40. SMT. LAKSHMI BAI,
W/O D. BABU RAO,
AGED ABOUT 69 YEARS,



SWAGAT MEDICAL STORES,
P.B. ROAD, SHIKARIPUR.

41. SMT. AKTHAR BEGUM,
W/O SHEIK MUBEER AHMED,
AGED ABOUT 46 YEARS,
KANUR DURGAMMA GUDIKERI,
SHIKARIPUR.
42. DR. SUNDAR SHETTY,
S/O SHAMARAYA SHETTY,
AGED ABOUT 56 YEARS,
RAGHAVENDRA CLINIC,
P.B. ROAD, SHIKARIPUR.
43. RAKUNDI NAGARAJA,
S/O LATE HANUMANTHAPPA,
AGED ABOUT 41 YEARS,
P.B. ROAD, SHIKARIPUR.
44. RAKUNDI KRISHNAPPA,
S/O LATE HANUMANTHAPPA,
AGED ABOUT 42 YEARS,
P.B. ROAD, SHIKARIPUR.
45. H. JAYADEVAPPA,
S/O MRUTHYUNJAYAPPA,
AGED ABOUT 61 YEARS,
P.B. ROAD, SHIKARIPUR.
46. H.N. ASHOK KUMAR,
S/O HOLE BASAPPA,
AGED ABOUT 46 YEARS,
VINAYAKA RICE MILL OWNER,
BEHIND MESCOM OFFICE,
S.S. ROAD, SHIKARIPUR.
47. Y. SHANKAR,
S/O YALLAPPA,
AGED ABOUT 61 YEARS,
P.B. ROAD, SHIKARIPUR.
48. H. CHANDRASHEKARAPPA,
S/O GURULINGAPPA,



AGED ABOUT 61 YEARS,
CHANDRU STORES,
P.B. ROAD, SHIKARIPUR.

49. SUBBA RAO KATAVKAR,
S/O GANAPATHAPPA,
AGED ABOUT 56 YEARS,
NEAR BUS STAND, SHIKARIPUR.
50. SHIVAPPA SHASTRY,
S/O LATE GURUPPA SHASTRY,
AGED ABOUT 66 YEARS,
MEDICAL STORES OWNER,
RES. DODDAPETE,
SANTHE MARKET ROAD,
SHIKARIPUR.
51. BASAVARAJAPPA SHASTRY,
S/O LATE GURUPPA SHASTRY,
AGED ABOUT 61 YEARS,
RES. DODDAPETE,
SANTHE MARKET ROAD,
SHIKARIPUR.
52. HARIHARADA PARAMESWARAPPA,
S/O CHANDRAPPA,
AGED ABOUT 49 YEARS,
MARKET ROAD, SHIKARIPUR.
53. PARASMAL,
FATHER'S NAME: NOT KNOWN,
AGED ABOUT 46 YEARS,
SANTHE MARKET ROAD,
SHIKARIPUR.
54. SMT. RAMA BAI,
W/O SUBRAYA SANU,
AGED ABOUT 59 YEARS,
JEWELERS, SANTHE MARKET ROAD,
SHIKARIPUR.
55. GANAPATHI,
S/O GOVINDA THANU,
AGED ABOUT 66 YEARS,



JEWELERS, SANTHE MARKET ROAD,
SHIKARIPUR.

56. T.R. PAPANNA,
S/O LATE RAMAIAH,
AGED ABOUT 53 YEARS,
WINE STORES, SANTE MARKET ROAD,
SHIKARIPUR.
SINCE DECEASED BY LR.
- 56(a) T.R. PRAKASH
S/O. LATE RAMAIAH,
AGED ABOUT 48 YEARS,
WINE STORES, SANTE MARKET ROAD,
SHIKARIPUR.
(MANAGER OF JOINT FAMILY OF
THE RESPONDENT NO.56)
57. T.R. MANJUNATHA,
S/O LATE RAMAIAH,
AGED ABOUT 51 YEARS,
WINE STORES, SANTHE MARKET ROAD,
SHIKARIPUR.
58. CHANNABASAPPA,
S/O SIDDARAMAPPA,
AGED ABOUT 56 YEARS,
MARKET ROAD, SHIKARIPUR.
59. GOVINDAPPA,
RETIRED TEACHER,
FATHER'S NAME: NOT KNOWN,
MARKET ROAD, SHIKARIPUR.
60. JAGANNATHA,
S/O RAMAPPA,
AGED ABOUT 61 YEARS,
RES. HOSA GODDANAKOPPA,
PO: NELAVAGILU, SHIKARIPUR TALUK.
61. B. RAGHAVENERA,
S/O B. LAKSHMINARAYANA RAO,
AGED ABOUT 41 YEARS,
NAVEEN ELECTRONICS,



SANTHE MARKET ROAD,
SHIKARIPUR.

62. N. NIJALINGAPPA
S/O MALLESHAPPA,
AGED ABOUT 41 YEARS,
SANTHE MARKET ROAD,
SHIKARIPUR.
63. M. RUDRAPPA S/O MALLESHAPPA
AGED ABOUT 39 YEARS,
SANTHE MARKET ROAD,
SHIKARIPUR.
64. SMT. H.M. SAVITHRAMMA
W/O MALLIKARJUNAPPA,
AGED ABOUT 61 YEARS,
SANTHE MARKET ROAD,
SHIKARIPUR.
65. BHAWAR SINGH
S/O HANUMANTH JI,
AGED ABOUT 46 YEARS,
DURGA FANCY STORES,
SANTHE MARKET ROAD,
SHIKARIPUR.
66. SIDDIQUI MOHAMMED LIYAKATHULLA
FATHER'S NAME: NOT KNOWN,
AGED ABOUT 49 YEARS,
SANTHE MARKET ROAD,
SHIKARIPUR.
67. SUBBANNA S/O JEEVANNA,
AGED ABOUT 61 YEARS,
SANTHE MARKET ROAD,
SHIKARIPUR.
68. S.N. SRINIVASA MURTHY
S/O HUCHCHA RAO
AGED ABOUT 51 YEARS,
SANTHE MARKET ROAD,
SHIKARIPUR.



69. HANUMANTHAPPA
S/O CHOWDAPPA
AGED ABOUT 41 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
70. K. KRISHNA RAO
FATHER'S NAME: NOT KNOWN,
AGED ABOUT 53 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
71. M. MAHESWARAPPA
S/O KOTRAPPA,
AGED ABOUT 51 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
72. SMT. KAMALA BAI
W/O SHIVAJI RAO,
AGED ABOUT 41 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
73. M. PARAMESWARAPPA
S/O KOTRAPPA
AGED ABOUT 56 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
74. SMT. SHARADA
W/O DEVANANDAPPA,
AGED MAJOR,
PRAGATHI NAGAR, SHIKARIPUR.
75. A. VENKATA
S/O K. GEORGE,
AGED ABOUT 46 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
SINCE DECEASED BY LR:
- 75(a) K. PALAIAH
S/O. A. VENKATA
AGED ABOUT 31 YEARS,
PRAGATHI NAGAR,
BUS STAND AREA, SHIKARIPUR.
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.75)



76. SMT. MANJAMMA
W/O OBALAPPA,
AGED ABOUT 41 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
77. NARASIMHAIAH
S/O DODDAIAH
AGED ABOUT 46 YEARS,
PRAGATHI NAGAR, SHIKARIPURA.
SINCE DECEASED BY LR:
- 77(a) DODDAIAH
S/O NARASIMHAIA,
AGED ABOUT 31 YEARS,
PRAGATHI NAGAR,
BUS STAND AREA, SHIKARIPUR
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.77)
78. CHIKKA PANCHALAIAH
S/O NAGARAJA,
AGED ABOUT 31 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
SINCE DECEASED BY LR.
- 78(a) SMT. NAGAMMA
W/O. CHIKKA PENCHALAIAH,
AGED ABOUT 25 YEARS,
PRAGATHI NAGAR, SHIKARIPUR
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.78)
79. DURGA (DURGI)
W/O VENKATESH,
AGED ABOUT 41 YEARS,
PRAGATHI NAGAR, SHIKARIPUR,
SINCE DECEASED BY LR.
- 79(a) TIRUPATHI S/O VENKATESH,
AGED ABOUT 29 YEARS,
PRAGATHI NAGAR, SHIKARIPUR
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.79)



80. B. VENKATA S/O DEVALA,
AGED ABOUT 41 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
SINCE DECEASED BY LR.
- 80(a) SMT. NAGAMMA W/O VENKATA
AGED ABOUT 37 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.80)
81. CHENNAIAH S/O LAKSHMANA,
AGED ABOUT 51 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
SINCE DECEASED BY LR.
- 81(a) SMT. NAGAMMA W/O CHANAIAH
AGED ABOUT 46 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.81)
82. SANNA THIRUPALA S/O. OBAIAH
AGED ABOUT 56 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
SINCE DECEASED BY LR.
- 82(a) KRISHNA S/O NAGAPPA
AGED ABOUT 31 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.82)
83. OBAIAH S/O BAYYANNA
AGED ABOUT 39 YEARS,
PRAGATHI NAGAR, SHIKARIPURA.
SINCE DECEASED BY LR:
- 83(a) GOPI, DRIVER
S/O OBAIAH
AGED ABOUT 31 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.83)



84. MUNISWAMY
S/O PAMCHALIAH,
AGED ABOUT 39 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
SINCE DECEASED BY LR.
- 84(a) LAKSHMAMMA
W/O MUNISWAMY
AGED ABOUT 36 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.84)
85. G. RAMAIAH
S/O PANDU
AGED ABOUT 48 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
86. YAQUOOB
FATHER'S NAME: NOT KNOWN
AGED ABOUT 58 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
87. BASAIAH
S/O THIRUPATHI,
AGED ABOUT 45 YEARS,
PRAGATHI NAGAR, SHIKARIPUR.
SHIMOGA DISTRICT
SINCE DECEASED BY LR:
- 87(a) CHOWDAMMA
W/O THIRUPATHI,
AGED ABOUT 53 YEARS,
PRAGATHI NAGAR, SHIKARIPUR,
SHIMOGA DISTRICT.
88. KONETA
S/O PEDDAPANCHALAYYA,
AGED ABOUT 63 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT
SINCE DECEASED BY LR:



- 88(a) SEETHAMMA
W/O KONETA,
AGED ABOUT 38 YEARS,
KANUR ASHRAYA LAYOUT,
SHIKARIPURA,
SHIMOGA DISTRICT.
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.88)
89. YANKATAMMA
W/O PANCHALAYYA,
AGED ABOUT 58 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
90. MALLAIAH
S/O YELLAPPA,
AGED ABOUT 63 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
91. G. NAGAIAH
S/O OBAYYA,
AGED ABOUT 63 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT
SINCE DECEASED BY LR:
- 91(a) NAGARAJA
S/O LATE G. NAGAIAH,
AGED ABOUT 33 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
92. ASPATHRE NAGAIAH
S/O OBAYYA
AGED ABOUT 68 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT
SINCE DECEASED BY LR:
- 92(a) OBALAPPA
S/O LATE ASPATHRE NAGAIAH,
AGED ABOUT 33 YEARS,



PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.92)

93. ADIYAMMA
W/O VENKATESHA
AGED ABOUT 53 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
94. THABALA OBAYYA
S/O LATE ASPATHRE NAGIAH,
AGED ABOUT 33 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
95. PEDDAIAH
S/O PALAIAH
AGED ABOUT 73 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
SINCE DECEASED BY LR:
- 95(a) CHOWDAIAH
S/O LATE PEDDAIAH,
AGED ABOUT 48 YEARS,
EX-MUNICIPAL COUNCIL MEMBER,
PRAGATHI NAGR, SHIKARIPURA,
SHIMOGA DIST.
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.92)
96. ADAVAIAH
S/O CHOWDAIAH
AGED ABOUT 73 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DIST.
SINCE DECEASED BY LR:
- 96(a) PARASAD
S/O LATE ADAVAIAH,
AGED ABOUT 31 YEARS,
KANUR ASHRAYA LAYOUT,



SHIKARIPURA TOWN,
SHIMOGA DIST.
(MANAGER OF JOINT FAMILY
OF THE RESPONDENT NO.92)

97. MANJUNATHA
S/O LATE T. RAMAIAH,
AGED ABOUT 48 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
98. GOPALA
S/O CHIKKANNA,
AGED ABOUT 38 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
99. PALAKSHA
S/O CHIKKANNA,
AGED ABOUT 35 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
100. RADHAMMA
W/O MANJAPPA,
AGED ABOUT 30 YEARS,
PRAGATHI NAGAR, SHIKARIPURA,
SHIMOGA DISTRICT.
101. T.A.P.C.M.S.
SALUR ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
REP. BY ITS SECRETARY.
102. ASSISTANT DIRECTOR,
AGRICULTURAL DEPARTMENT,
SHIKARIPURA TALUK DIVISION,
AGRICULTURAL OFFICE
SANTHE MARKET, SHIKARIPURA,
SHIMOGA DISTRICT.
103. SHAW KALUMAL
S/O DHANUMAL,
CLOTH MERCHANT,



SRINIDHI SHOWROOM,
M.S. ROAD, SHIKARIPURA,
SHIOGA DISTRICT.

104. B. SHAFI AHMED
S/O KHADER BASHA SAB,
AGED ABOUT 63 YEARS,
ASHA FOOTWEAR,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
105. UDAYA S/O M.C. ASHOK
AGED ABOUT 43 YEARS,
ASHOKA MILITARY HOTEL,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
106. NIRANJAN SHASTRI
S/O VEERANNA SHASTRI,
AGED ABOUT 45 YEARS,
PROPRIETOR OF RAJASHEKAR TALKIES,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
107. G. KRISHNANANDA
S/O GANAPATHI SHET KARKI,
AGED ABOUT 45 YEARS,
JEWELLARY SHOP,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
108. G. RAMADASA
S/O GANAPATHI SHET KARKI,
AGED ABOUT 43 YEARS,
JEWELLARY SHOP,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
109. G. GOPINATH
S/O GANAPATHI SHET KARKI,
AGED ABOUT 41 YEARS,
JEWELLARY SHOP,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.



110. G. MOHAN
S/O GANAPATHI SHET KARKI,
AGED ABOUT 41 YEARS,
JEWELLARY SHOP,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
111. JAYADEVA SHASTRI
S/O MAHABALA SHASTRI,
AGED ABOUT 63 YEARS,
SADGURU COMPLEX, M.S. ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
112. SMT. SHANTHAMMA
W/O M. VENKATESH
HOUSEHOLD WORK, (BANGAL STORES),
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
113. H. HIRIYANNA
S/O THIMMAIAH
AGED ABOUT 63 YEARS,
FOOTWEAR BUSINESS,
MASUR ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
114. K.S. NAGARAJ
S/O KRISHNA NAVUDA,
AGED ABOUT 51 YEARS,
SRI RAMABHAVAN HOTEL,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
115. R.N. DEVARAJA
S/O RAMACHANDRA NAVULE,
AGED ABOUT 48 YEARS,
DRUGGISTS,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
116. CHITTOOR KAMALAMMA
D/O ADIVAPPA,
AGED ABOUT 58 YEARS,



R/O HOSA MEDARAKERI
SHIKARIPURA,
SHIMOGA DISTRICT.

117. PONNUMANI
S/O GOVINDA,
AGED ABOUT 45 YEARS,
DRIVER,
HOSA MEDARA KERI,
SHIKARIPURA, SHIMOGA DISTRICT.
118. ANNAPURNAMMA
W/O NARASIMHAPPA,
AGED ABOUT 48 YEARS,
HOSA MEDARA KERI,
SHIKARIPURA, SHIMOGA DISTRICT.
119. C.S. SHANMUKHAPPA
S/O SIDDAPPA,
AGED ABOUT 48 YEARS,
HARALENNE KERI, SHIKARIPURA,
SHIMOGA DISTRICT.
120. KUMSI RANGAPPA
S/O KUMSI RAMANNA,
AGED ABOUT 51 YEARS,
HOSA MEDARA KERI,
SHIKARIPURA, SHIMOGA DISTRICT.
121. KHASIMSAB
S/O IBRAHIMSAB,
AGED ABOUT 53 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
122. K. CHANDRAPPA
S/O KARIYANNA SHETTY
AGED ABOUT 58 YEARS,
BUSINESSMAN, DODDAPET,
SHIKARIPURA, SHIMOGA DISTRICT.
123. MUNISWAMY
S/O YELUMALAI,
AGED ABOUT 58 YEARS,



BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.

124. ADIYAMMA
W/O SHANMUKHA,
AGED ABOUT 53 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
125. LAKSHMAMMA
W/O SUBRAMANI,
AGED ABOUT 53 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
126. MANJULA
W/O DORAIRAJ,
AGED ABOUT 51 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
127. LAKSHMIKANTHAMMA
W/O VENKATESH,
AGED ABOUT 53 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
128. BHAGYAMMA
W/O RAMASWAMY
AGED ABOUT 51 YEARS
BEHIND RAJASHEKAR TALKIES
SHIKARIPURA, SHIMOGA DISTRICT.
129. ABDUL MAJIDSAB
S/O IMAMSAB,
AGED ABOUT 58 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
130. PARASHURAM
S/O SANJEEVA GOWDA,
AGED ABOUT 53 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.



131. YELUMALAI
S/O CHINNAPPA
AGED ABOUT 51 YEARS,
BEHIND RAJASHEKAR TALKIES
SHIKARIPURA, SHIMOGA DISTRICT.
132. PARVATHAMMA
W/O KRISHNAPPA
AGED ABOUT 53 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
133. PRESIDENT
GOVERNMENT RETIRED
EMPLOYEES UNION,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
134. K.S. SHIVAPRAKASH
S/O KANURU NAGAPPA,
AGED ABOUT 43 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
135. SIDDALINGAPPA
S/O PUTTAPPA,
AGED ABOUT 53 YEARS,
BEHIND RAJASHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
136. PISTABAI
W/O MOHANLAL
AGED ABOUT 53 YEARS,
CLOTH MERCHANTS
R/O. HARALENNE KERI,
SHIKARIPURA, SHIMOGA DISTRICT.
137. K.T. THUKARAM
S/O LAKSHMANARAO
AGED ABOUT 51 YEARS
CLOTH MERCHANTS
SHSISHUVIHARA ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.



138. K.T. PARASHURAM
S/O LAKSHMANARAO
AGED ABOUT 58 YEARS,
CLOTH MERCHANTS,
TALUK OFFICE ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
139. VISHWA MURTHY
S/O KALAHASTHISWAMY
AGED ABOUT 51 YEARS,
MANDIPET, SHIKARIPURA,
SHIMOGA DISTRICT.
140. K.M. KUSUMA @ CHANNAMMA
W/O NOT KNOWN TO APPELLANT
AGED ABOUT 45 YEARS,
MONEY LENDERS, HONNALI ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
141. SURESH SANU
S/O S.T. SANU
AGED ABOUT 48 YEARS,
GOLD SMITH, SHIKARIPURA,
SHIMOGA DISTRICT.
142. BHEEMARAO
S/O SHIVALAJI
AGED ABOUT 53 YEARS,
BEHIND RAJSHEKAR TALKIES
SHIKARIPURA, SHIMOGA DISTRICT.
143. SMT. HUCHANGAMMA
W/O SOMALINGAPPA,
AGED ABOUT 51 YEARS,
BEHIND RAJSHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
144. BHARMAPPA MEDARA
S/O KARIBARAMANNA,
AGED ABOUT 53 YEARS,
BEHIND RAJSHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.



145. SMT. JAYAMMA
W/O SHIVANANDAPPA,
AGED ABOUT 53 YEARS,
BEHIND RAJSHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
146. SHABBIRSAB
S/O GUDUSAB,
AGED ABOUT 55 YEARS,
BEHIND RAJSHEKAR TALKIES,
SHIKARIPURA, SHIMOGA DISTRICT.
147. Y. BASAVARAJ
S/O SANNAYAMANAPPA,
AGED ABOUT 43 YEARS,
HOSA MEDARA KERI,
SHIKARIPURA, SHIMOGA DISTRICT.
148. SMT. RATHNAMMA
W/O MANJAPPA,
AGED ABOUT 48 YEARS,
HOUSEHOLD WORK,
HOSA MEDARA KERI,
SHIKARIPURA, SHIMOGA DISTRICT.
149. S. KUMAR S/O SHIVAPPA,
AGED ABOUT 53 YEARS,
BUSINESS MAN, MARKET ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
150. SMT. SUVARNAMMA
W/O NIJALINGAPPA,
AGED ABOUT 43 YEARS,
MARKET ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
151. S.K. SHIVAPRASAD
S/O S. KUMAR,
AGED ABOUT 33 YEARS,
MARKET ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
152. M. NIJALINGAPPA
S/O MALLESHPA,



AGED ABOUT 41 YEARS,
MARKET ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.

153. SMT. SHARADAMMA
W/O KRISHNA NAVUDA,
AGED ABOUT 78 YEARS,
MARKET ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
154. GAMADHA GOVINDAPPA
RETD. MASTER,
AGED ABOUT 73 YEARS,
MARKET ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
155. ANANTHA GOVINDA SANU
AGED ABOUT 68 YEARS,
MARKET ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
SINCE DECEASED BY L.R:
- 155(a) SHIVANANDA SANU
S/O LATE ANANTHA GOVINDA SANU,
AGED ABOUT 38 YEARS,
MARKET ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
156. SUBRAYA GOVINDA SANU
AGED ABOUT 58 YEARS,
MARKET ROAD, SHIKARIPURA,
SHIMOGA DISTRICT
SINCE DECEASED BY L.R.:
- 156(a) RAGHAVENDRA SANU
S/O LATE SUBRAYA GOVINDA SANU,
AGED ABOUT 38 YEARS,
MARKET ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
157. PARAMESHWARAPPA
S/O HARIHARADA CHANDRAPPA
AGED ABOUT 53 YEARS,
GENERAL STORES,



MARKET ROAD, SHIKARIPURA,
SHIMOGA DIST.

158. MOHAN P. SANU
S/O. RATHNAKARA SANU
AGED ABOUT 61 YEARS,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
159. M. MALLAPPA S/O. BASATEPPA
AGED ABOUT 58 YEARS,
FERTILIZER AND PESTICIDES MERCHANTS,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
SINCE DECEASED BY L.R.:
- 159(a) KOTRESHA
S/O. LATE M. MALLAPPA,
AGED ABOUT 38 YEARS,
FERTILIZER AND PESTICIDES MERCHANTS,
M.S. ROAD, SHIKARIPURA.
SHIMOGA DISTRICT.
(MANAGER OF THE JOINT FAMILY
OF RESPONDENT NO.159)
160. SHERIFF
S/O. ABDUL REHAMAN SAB,
AGED ABOUT 68 YEARS,
VEGETARIAN HOTEL, M.S. ROAD,
SHIKARIPURA, SHIMOGA DIST.
161. NEELAKANTAPPA SHASTRI
S/O. GURAPPA SHASTRI,
AGED ABOUT 68 YEARS,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
162. GAMADHA BASAPPA
S/O. MANJAPPA,
AGED ABOUT 58 YEARS,
OWNER OF THE
SRI RAMABHAVANA HOTEL BLDG.,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.



163. GANESHAPPA
S/O. MANJAPPA,
AGED ABOUT 51 YEARS,
OWNER OF THE
SRI RAMABHAVANA HOTEL BLDG.,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
164. RAMAKRISHNA
S/O. MANJAPPA
AGED ABOUT 48 YEARS,
OWNER OF THE
SRI RAMABHAVANA HOTEL BLDG.,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
165. HANUMANTHAPPA
S/O. MANJAPPA,
AGED ABOUT 46 YEARS,
OWNER OF THE
SRI RAMABHAVANA HOTEL BLDG.,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
SINCE DECEASED BY L.R.:
- 165(a) SHIVANANDA
S/O LATE HANUMANTHAPPA,
AGED ABOUT 33 YEARS,
OWNER OF THE
SRI RAMABHAVANA HOTEL BLDG.,
M.S. ROAD, SHIKARIPURA,
SHIMOGA DISTRICT.
(MANAGER OF THE JOINT FAMILY
OF RESPONDENT NO.165)
166. HANJI RUDRAPPA
S/O. BASAPPA,
AGED ABOUT 58 YEARS,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
167. M.R. SRINIVASA
S/O. K.V. RAMASWAMY,



AGED ABOUT 58 YEARS,
BAKERY BUSINESS,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.

168. S. RAMAPPA
S/O. MALLAPPA,
AGED ABOUT 58 YEARS,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
169. SURYACHANDRA
S/O. BAIROJI,
AGED ABOUT 58 YEARS,
PROVISION MERCHANT,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
170. VEERABHADRAPPA
S/O SIDDAPPA MADDI,
AGED ABOUT 68 YEARS,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
171. B.G. MEGHARAJ
S/O. GOPALAPPA,
AGED ABOUT 63 YEARS,
ICE FACTORY,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
172. PAPANNA
S/O. RAMAIAH,
AGED ABOUT 58 YEARS,
WINE MERCHANT,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DIST.
173. GUNDAGATTE HANUMANTHAPPA
S/O. SIDDAPPA
AGED ABOUT 73 YEARS,
WADEYARA KERI, MASOOR ROAD,
SHIKARIPURA SHIMOGA DISTRICT.
SINCE DEAD BY L.R.:



- 173(a) G. CHANDRAPPA
S/O. LATE GUNDAGATTE HANUMANTHAPPA,
AGED ABOUT 48 YEARS,
WADEYARA KERI, MASOOR ROAD,
SHIKARIPURA SHIMOGA DISTRICT.
(MANAGER OF THE JOINT FAMILY
OF RESPONDENT NO.173)
174. MYTHRADEVI
W/O. RAMACHANDRAPPA,
AGED ABOUT 58 YEARS,
HOUSEHOLD WORK,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
175. THARADEVI
W/O. SHIVAPPA
HOUSEHOLD WORK,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
176. SYED AHMED
S/O. SYED IDRUS,
AGED ABOUT 58 YEARS,
HOSA MEDARA KERI,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
177. VENKATAMMA
W/O. OBAYYA, MAJOR,
HOSA MEDARA KERI,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
SINCE DEAD BY L.R.:
- 177(a) GOPI S/O. OBAYYA,
AGED ABOUT 38 YEARS,
HOSA MEDARA KERI,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA, SHIMOGA DISTRICT.
(MANAGER OF THE JOINT FAMILY
OF RESPONDENT NO.177)



178. A. ABDUL BASHA
S/O ABDUL NAZIR,
MAJOR,
HOSA MEDARA KERI,
SRI RAMABHAVANA HOTEL SIDE ROAD,
SHIKARIPURA SHIMOGA DISTRICT.
179. LOKESH
S/O. SUKRI SIDDAPPA,
AGED ABOUT 33 YEARS,
R/O. HARALENNE KERI,
SHIKARIPURA TOWN,
SHIMOGA DISTRICT.
180. M.K. ANJANEYA
S/O. KARIBASAPPA,
AGED ABOUT 35 YEARS,
PROPRIETOR,
BEERALINGESHWARA CASSET SHOP,
R/O. KANOOR HOSAKERI,
SHIKARIPURA, SHIMOGA DISTRICT.
181. KRISHNAPPA
ADOPTED S/O. BASAPPA,
AGED ABOUT 41 YEARS,
182. C. RAMESH
S/O. ESHWARAPPA,
AGED ABOUT 49 YEARS,
183. SURESHA
S/O. CHANDRAPPA,
AGED ABOUT 49 YEARS,
184. JAGADEESHA
S/O. ADIVEPPA,
AGED ABOUT 43 YEARS,
185. JEEVAN
S/O. LAKSHMANAPPA,
AGED ABOUT 15 YEARS,
SINCE MINOR REPRESENTED BY GUARDIAN:
JAGADEESHA, S/O. ADIVEPPA
AGED ABOUT 43 YEARS,



186. RAJAPPA
S/O. SIDDAPPA,
AGED ABOUT 43 YEARS,

187. SHANMUKHAPPA
S/O. SIDDAPPA,
AGED ABOUT 63 YEARS,

RESPONDENT NOS.181 TO 187
ARE R/O. SHIKARIPURA TOWN,
SHIMOGA DISTRICT.

... RESPONDENTS

(BY SRI BASAVARAJ V. SABARAD, SENIOR COUNSEL FOR
SRI MAHESH R. UPPIN, ADVOCATE FOR R-1 & R-2;
SRI KIRAN V. RON, ADDL. ADVOCATE GENERAL, A/W
SRI G.S. ARUNA, HCGP FOR R-3 TO R-5;
SRI K. SRIKANTH PATIL, ADVOCATE FOR R-13,
V/O. DATED 09.01.2013, - NOTICE TO R-6 TO R-178 D/W;
R-179, R-180 & R-187 ARE SERVED;
V/O. DATED 07.10.2014, R-181 TO R-186 HELD SUFFICIENT
BY WAY OF PAPER PUBLICATION)

THIS RFA IS FILED UNDER SECTION 96, ORDER 41, RULE-1 OF
CPC, AGAINST THE JUDGMENT AND DECREE DATED 23.07.2010
PASSED IN O.S.NO.07/2008 ON THE FILE OF THE CIVIL JUDGE
(SR.DN.) AND JMFC., SORABA, ITINERARY, SHIKARIPURA, PARTLY
ALLOWING THE SUIT FOR DECLARATION AND POSSESSION.

Date on which the appeals were reserved for Judgment	08.04.2025
Date on which the Judgment was pronounced	29.04.2025

THESE APPEALS HAVING BEEN HEARD AND RESERVED,
COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS
DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MRS JUSTICE K.S. HEMALEKHA



CAV JUDGMENT

(PER: HON'BLE MRS JUSTICE K.S. HEMALEKHA)

The regular first appeals arise from the judgment and decree dated 23.07.2010 passed in OS No.7/2008 by the Civil Judge (Sr. Dn.) and JMFC, Soraba, (hereinafter referred to as 'trial Court' for short), whereby the plaintiff's suit seeking compensation and alternatively for declaration of ownership and possession over the suit schedule property was decreed.

2. RFA 137/2011 is preferred by the State- (defendants No.1 to 3) and RFA 406/2011 is preferred by defendant No.4, the Town Municipal Council, Shikaripura, (TMC for short).

3. On 01.03.1941 TMC passed a resolution to form and distribute sites in Sy.No.6. On 08.08.1941 TMC passed a resolution to acquire Sy. No.6 (suit properties are shown as Sy. Nos.6/1 and 6/2). On 30.12.1941 TMC passed a resolution and resolved that Rs.2,106/- must be



deposited for the land acquisition as per LAC:10/41-42. On 11.10.1945, a final notification was issued by the State under Section 6(1) of the Land Acquisition Act, 1894 ('LA Act' for short). Chittur Siddappa's sons i.e., Honnappa and Siddabasappa effected oral partition on 24.09.1934. The oral partition was reduced in writing on 15.02.1949. Under the said document, the parties agreed to share the compensation receivable in respect of the acquisition of Sy. No.6. On 01.06.1951 one site each was allotted in Sy.No.6 in favour of four persons of the family of the plaintiffs. A layout formed in respect of Sy.No.5 and Sy.No.6 was sent to the State Government for approval in view of certain changes on 28.07.1952. TMC resolved to shift the bus stand by a resolution dated 31.12.1952. According to the appellants in both the appeals, Sy. No.6 (shown as Sy. Nos.6/1 and 6/2 in the schedule) along with other properties were acquired for the benefit of the municipality. The revenue records from 1951-52 indicate the suit property has been acquired for municipality. This being the state of affairs, one Mallikarjun, family member



of plaintiff No.1 instituted suit for partition and separate possession in OS No.177/2006. Plaintiff No.2 instituted another suit for partition and separate possession in OS No.106/2006 by including Sy. No.6 and obtained injunction order not to put up any bus stand. OS No.106/2006 was transferred and re-numbered as OS No.180/2006. The interim order granted by the trial Court was vacated. The same came to be challenged by plaintiff No.2 in MFA No.11858/2006 and an order of status quo was granted. The TMC filed review petition in RP No.519/2006. This Court in review petition revoked the order of status quo on an undertaking given by the TMC that defendant will demolish the building if the plaintiff succeeds in the suit. OS No.180/2006 and OS No.177/2006 were transferred to the Court of Civil Judge, (Sr. Dn.), Soraba and re-numbered as OS No.252/2007 and OS No.254/2007. The said suits came to be withdrawn with liberty to file fresh suit on the same cause of action. The present suit, OS No.7/2008, is filed seeking direction to the defendants to complete the acquisition



proceedings, pay compensation based on current market value to both the plaintiffs and defendant No.178, in proportion to their ownership rights in the suit property. Alternatively, if the acquisition is not completed, declare the plaintiffs and defendant No.178 as rightful owners and order that vacant possession of the specified properties be handed over to them. The plaintiffs' state that the suit properties are the joint family properties. They allege that the defendants have neither taken possession nor passed an award nor paid compensation. Thus, they remain the owners. The plaintiffs aver that as per the partition deed dated 15.02.1949, item No.1 of the schedule property was divided between Honnappa (father of plaintiff No.1) and Siddabasappa (father of the mother of defendant No.178), both being sons of Siddappa and item No.2 of the schedule property is the joint family property of plaintiff No.2's family.

4. It is further averred that a bus stand has been constructed on the land, with portions leased or sold to



third parties (other defendants), and "Hakku Patras" (land ownership documents) have been issued to several defendants, who have made unauthorized construction. Despite protest the TMC tried to construct a bus stand in 2006. It is averred that although earlier suits had been instituted, they were subsequently withdrawn and the present suit seeking declaration.

5. Defendant Nos.1 to 3 opposed the plaintiff's claim, denied the averments and asserted that the plaintiffs are not the owners of the suit properties. It is averred that the plaintiffs must prove ownership, as their title is disputed. According to the defendants, the Government issued notification for acquisition on 11.10.1945 and the suit properties in question are in exclusive possession of TMC and some portion with other defendants. The defendants' claim that the acquisition process was completed, and they have been in possession – specifically TMC for more than 65 years, some even over



100 years. They asserted that the suit is barred by limitation.

6. The TMC-defendant No.4 filed separate written statement stating that Sy. No.6 was acquired in 1945 for the expansion of Shikaripura town and construction of bus stand. Portions of the suit property were in use by the TMC from the year 1908 – 09 as “Kacheri Koppalu”. Even before 1941 some government offices existed on the suit property. Further, that a resolution was passed by the TMC to acquire the land on 08.08.1941 and the TMC decided to form and distribute sites in Sy. No.6. On 01.06.1951, some plots were allotted to the members of Chittur family and sale deeds were executed in their favor. A layout modification for Sy.Nos.5 and 6 was sent to the Government for approval on 28.07.1952. In the year 1951-52 part of land was used to build a bus stand and by 1952-53 shops were leased. The partition deed executed in the year 1949 clearly indicates about the acquisition of the suit property. The municipal records consistently show



the area as the bus stand and revenue records from 1954-55, 1955-56 reflect the land as required for municipal use.

7. The other defendants adopted this stand, denying the plaintiffs' ownership and claimed ownership through TMC and in some cases by way of adverse possession as well. All the defendants contested the suit specifically contending the suit is barred by limitation.

8. The trial Court held that the matter revolves around an alleged deficiency of duty on the part of the authorities in awarding compensation following acquisition. It observed that the exact date of such deficiency could not be determined, and hence the claim was not barred by limitation. The trial Court observed that Article 113 of the Limitation Act, 1963 (residuary provision) ("Limitation Act" for short) may apply but reasoned that the cause of action arose only when the Deputy Commissioner refused to award compensation, and since no time limit is specified for such deposit the claim could not be dismissed as time barred solely based on the lapse of 60 years. The trial



Court observed that there was no formal request made by the plaintiffs to the Government for compensation, but that alone could not be their right to claim it. The plaintiff's right to compensation is a continuing right, and as such delay did not by itself justified dismissal of the suit. The trial Court invoked the doctrine of legitimate expectation, stating that plaintiffs' inaction to protest construction may be due to their belief that compensation would eventually be paid. Additionally, the Court held that since the plaintiffs admitted that defendants are in illegal possession, Article 64 of the Limitation Act was not applicable. The trial Court proceeded to allow the suit finding that plaintiffs are entitled to relief.

9. Heard Sri G Krishnamurthy, learned Senior counsel for the appellant in RFA No.406/2011, Sri Kiran V Ron, learned Additional Advocate General along with Sri G S Aruna, learned HCGP for the State in RFA No.137/2011 and Sri Basavaraj V Sabarad, learned Senior counsel for Sri Mahesh R Uppin, learned counsel for respondent Nos.1



and 2 (plaintiffs); Sri Sudharshan Suresh, learned counsel for respondent No.3 and Sri Chandrakanth Patil, learned counsel for respondent No.4.

10. Learned senior counsel for the appellants and learned AAG for the State would argue that Sy. No.6 was acquired in 1945 for public purposes specifically for town expansion and construction of a bus stand. There was a resolution by the TMC in 1941 to acquire the land followed by action pursuant to the 1945 notification. The bus stand was constructed and made operational in 1951-52. Revenue and municipal records reflect consistent use and control of Sy. No.6 (suit property) by the defendants. The plaintiffs' family members were allotted sites in 1951 and they accepted the sale deeds from TMC, evidencing consent to acquisition. It is submitted that the suit is hopelessly barred by limitation as the present suit is filed after a lapse of 63 years. Taking the Court to various judgments of the Apex Court which would be discussed later, learned counsel for the appellants submits that the



suit was not maintainable as admittedly the land was subject matter of acquisition and the plaintiffs ought to have filed an appropriate writ petition. It is submitted that even for granting relief under Article 226 of the Constitution of India, the reasonable period has been prescribed. However, there is no discretion or authority to relax the period of limitation in respect of Civil Suits. The acquisition in question took place prior to independence i.e., on 11.10.1945. Under the relevant law then in force, the limitation prescribed for claiming compensation was one year. The Limitation Act that came into force on 01.01.1964 did not prescribe a specific article for suits seeking compensation for non-payment pursuant to land acquisition. Consequently, Article 113 of the Limitation Act applies which provides that a suit for which no specific limitation period is prescribed must be filed within three years from the date when the right to sue accrues. It is submitted that Section 9 of CPC excludes suits of which their cognizance is either expressly or impliedly barred, a suit of the present nature is not maintainable as the LA Act



is a complete code by itself and preferring a writ petition was the only remedy as per the law laid down by the Apex Court in the case of ***Commissioner, Bangalore Development Authority and another vs. Brijesh Reddy and another***¹ (*Brijesh Reddy*) and even to prefer a writ petition the delay and laches would play an important role while exercising discretion under Article 226 of the Constitution.

11. *Per contra*, the learned Senior counsel appearing for the respondent–plaintiff argues that the plaintiffs have not challenged the acquisition proceedings. On the other hand, the prayer sought by the plaintiff is to complete the land acquisition proceedings by passing award and pay compensation to the plaintiffs. It is argued that the ouster of jurisdiction of a Civil Court must be construed having regard to the scheme of the Land Acquisition Act as also the object it seeks to achieve.

¹ 2013 (3) SCC 66



12. Learned senior counsel submits that it is well settled proposition of law that where a statute confers finality upon the orders of the special tribunal, the jurisdiction of the Civil Court is generally excluded, provided the statute offers an adequate and effective remedy to address the issues that Civil Court would ordinarily entertain in a suit. However, this exclusion does not apply in cases where the provisions of the statute have not been duly complied with, or where statutory tribunal has failed to act in accordance with the fundamental principles of judicial procedure. Finding support to his argument, reliance is placed on the decision of the Apex Court in the case of ***Dhulabhai etc. vs. State of Madhya Pradesh***² (*Dhulabhai*). Further the submission is that the appellant's contention regarding the ouster of the jurisdiction of the Civil Court is misconceived and contrary to the provisions of the LA Act. It is contended that the decisions relied upon by the appellant are distinguishable and not applicable to the present case. In those cases,

² AIR 1969 SC 78



the issue involved was the validity of the land acquisition notification issued under Sections 4 and 6 of the LA Act, and the Courts therein held that such questions fall exclusively within the domain of the Constitutional Court and cannot be adjudicated by Civil Courts. However, the present suit does not challenge the validity of the acquisition notification *per se*, rather it pertains to non-compliance with statutory provisions, such as the failure to complete the acquisition proceedings, non-passing of award and non-payment of compensation despite taking possession. Further, that the right to property is a Constitutional as well as a human right, safeguarded under Article 300-A of the Constitution of India, which mandates that no person shall be deprived of his property except by authority of law. Such right cannot be abrogated or curtailed except in strict compliance with the due process of law. In cases of acquisition, without payment of compensation, limitation cannot be mechanically applied, as the obligation to compensate is a continuing one. It is further contended that the delay in asserting the right



does not extinguish the right to receive the compensation particularly when the State has already taken the possession and benefited from the land, places reliance on the decision of the Apex Court in the case of ***Dharnidhar Mishra (D) vs. State of Bihar***³ (*Dharnidhar Mishra*); ***M/s. Ultra-tech Cement Ltd., vs. Mast Ram and others***⁴ (*M/s. Ultra-tech Cement Ltd.*).

13. Having heard the learned counsel appearing for the parties, the points that arise for consideration in the present appeals are,

1. *Whether the suit filed by the plaintiffs is maintainable in law when the suit property was subject matter of land acquisition proceedings and whether the trial Court was justified in law in decreeing the suit despite the statutory bar ?*
2. *Whether the suit filed by the plaintiff is barred by limitation in view of the inordinate delay in asserting their rights and seeking compensation despite the alleged acquisition in 1945 and long standing possession by the*

³ AIR Online 2024 SC 396

⁴ AIR 2024 SC 5042



defendants, and whether the trial Court was justified in law in holding the suit to be within time ?

14. **Point No.1:** It is undisputed fact that the land in question was proposed for acquisition by TMC for purposes including town expansion and sites formation. On 01.03.1941 and 08.08.1941 TMC passed resolution to acquire Sy.No.6 for forming sites and for their distribution to individuals, as evidenced by Ex.P.248. A further resolution was passed on 30.12.1941, specifically referring to the scheduled properties, for which a sum of Rs.2,106/- was resolved to be deposited as compensation is evidenced by Ex.P.247. A voucher associated with resolution Ex.P.249 contains the voucher number and amount supporting the case that the compensation was deposited and reference to the same transaction is found in LAC 10/41-42. PW.1, the Power of Attorney of the plaintiff admitted during his cross-examination that the Government deposited a sum of Rs.2,000/- and Rs.1,350/- was reserved to be paid for compensation. The



formation of layout and the allotment of sites by the municipality to the family members of the plaintiff necessarily implies that the land was validly acquired, the process of compensation was initiated, and the right of third parties have since arisen through site allotments and sale deeds. The TMC has not specifically denied that the compensation was paid. Instead, they have stated that the documentary records evidencing payment of compensation was not traceable, owing to lapse over 60 years. Notably, the plaintiffs have now come forward to seek compensation after delay of nearly six decades, raising serious questions of delay and laches and limitation.

15. At this juncture, it is pertinent to consider the decision of the Apex Court in the case of **Brijesh Reddy**, which has been relied upon by the appellants. In the said case, the Apex Court held that a civil suit is not maintainable in respect of land that has been acquired under the LA Act, once the acquisition proceedings are



complete and possession is taken. The Court emphasized that the appropriate remedy for challenging acquisition or seeking compensation lies within the frame work provided under the LA Act and not by way of Civil Suit. In the instant case, the plaintiffs despite admitting acquisition proceedings and possession having been taken decades ago, have sought to invoke the jurisdiction of the Civil Court for compensation. The Apex Court observed at para No.18 as under:

"18. It is clear that the Land Acquisition Act is a complete code in itself and is meant to serve public purpose. By necessary implication, the power of the civil Court to take cognizance of the case under Section 9 CPC stands excluded and a civil Court has no jurisdiction to go into the question of the validity or legality of the notification under Section 4, declaration under Section 6 and subsequent proceedings except by the High Court in a proceeding under Article 226 of the Constitution. It is thus clear that the civil Court is devoid of jurisdiction to give declaration or even bare injunction being granted on the invalidity of the procedure contemplated under the Act. The only



right available for the aggrieved person is to approach the High Court under Article 226 and this Court under Article 136 with self-imposed restrictions on their exercise of extraordinary power.”

16. In similar line, in the case of ***State of Bihar vs. Dhirendra Kumar and others***⁵ (*Dhirendra Kumar*), the Apex Court observed at para No.3 as under:

“3. The question is whether a civil suit is maintainable and whether ad interim injunction could be issued where proceedings under the Land Acquisition Act was taken pursuant to the notice issued under Section 9 of the Act and delivered to the beneficiary. The provisions of the Act are designed to acquire the land by the State exercising the power of eminent domain to serve the public purpose. The State is enjoined to comply with statutory requirements contained in Section 4 and Section 6 of the Act by proper publication of notification and declaration within limitation and procedural steps of publication in papers and the local publications envisaged under the Act as amended by Act 68 of 1984. In publication of the notifications and declaration under Section 6, the

⁵ (1995) 4 SCC 229



public purpose gets crystallised and becomes conclusive. Thereafter, the State is entitled to authorise the Land Acquisition Officer to proceed with the acquisition of the land and to make the award. Section 11-A now prescribes limitation to make the award within 2 years from the last date of publication envisaged under Section 6 of the Act. In an appropriate case, where the Government needs possession of the land urgently, it would exercise the power under Section 17(4) of the Act and dispense with the enquiry under Section 5-A. Thereon, the State is entitled to issue notice to the parties under Section 9 and on expiry of 15 days, the State is entitled to take immediate possession even before the award could be made. Otherwise, it would take possession after the award under Section 12. Thus, it could be seen that the Act is a complete code in itself and is meant to serve public purpose. We are, therefore, inclined to think, as presently advised, that by necessary implication the power of the civil Court to take cognizance of the case under Section 9 of CPC stands excluded, and a civil Court has no jurisdiction to go into the question of the validity or legality of the notification under Section 4 and declaration under Section 6, except by the High Court in a proceeding under Article 226 of the Constitution. So, the civil suit itself was not maintainable. When such is the situation, the finding



of the trial Court that there is a prima facie triable issue is unsustainable. Moreover, possession was already taken and handed over to the Housing Board. So, the order of injunction was without jurisdiction."

17. The Apex Court in the case of ***Laxmi Chand and others vs. Gram Panchayat, Kararia and others***⁶ (*Laxmi Chand*) observed that the Civil Court has no power to pronounce on invalidity of procedure adopted under Sections 4 and 6 of the LA Act. In ***S.P. Subramanya Shetty and others vs. Karnataka State Road Transport Corporation and others***⁷ (*S.P. Subramanya Shetty*) the Apex Court held that the Civil Suit was not maintainable in view of the settled legal position that the notification had become final and the proceedings had attained finality.

18. The Apex Court in the case of ***Rajasthan Housing Board and another vs. Chandi Bai and***

⁶ (1996) 7 SCC 218

⁷ (1997) 11 SCC 250



others⁸ (*Chandi Bai*), emphasized that the Civil Courts do not have jurisdiction to entertain suits questioning land acquisition proceedings, as the relevant LA Act is a complete code itself. The only remedy available to the aggrieved parties is to file writ petitions before the High Court or to approach the Apex Court. The Apex Court found that the suit filed by the plaintiff was not maintainable as it ought to declare the land acquisition proceedings against a deceased person as illegal. The trial Court's decree was set aside and the suit was dismissed. In the instant case, though the plaintiff is not challenging the land acquisition proceedings, but a direction to the defendants to complete land acquisition proceedings and pay compensation is nothing but a proceeding which is under Land Acquisition Act. The Apex Court in the case of **Brijesh Reddy** held that the LA Act is complete Code in itself and is meant to serve public purposes. This framework explicitly excludes the jurisdiction of Civil Courts to adjudicate on validity or legality of acquisition

⁸ Civil Appeal No.11912/2018 D.D. on 07.12.2018



notifications, declaration or subsequent proceedings, specifically stating that the Civil Courts do not have authority to examine the validity of notifications issued under Land Acquisition Statutes or to interfere with the acquisition process itself. The appropriate remedy for the aggrieved party was to seek relief through Constitutional Courts such as the High Court, or the Supreme Court under the respective Constitutional powers. The BDA's action - such as issuing notification for land acquisition, passing awards and taking possession - are considered final and conclusive with the statutory process. Any challenge to these proceedings must be made through constitutional remedies rather than Civil Suits. Furthermore, the Apex Court emphasized that the Courts have consistently held that once land acquisition proceedings are complete and possession is taken, Civil Courts lack jurisdiction to entertain suits that challenge the acquisition or seek to question its legality. Such suits are deemed not maintainable if they are based solely on the assertion of possession or ownership after the land has



been acquired and vested with authorities. The decisions stated *supra* are aptly applicable to the present facts. The suit filed by the plaintiffs was not maintainable because they sought to challenge the possession and ownership of the land that had been already acquired and vested with TMC through statutory proceedings. The remedy for such dispute in light of the law declared as stated *supra* lies within the statutory and constitutional framework and not in the Civil Court. In ***Ganpatibai and another vs. State of Madhya Pradesh and others***⁹ (*Ganpatibai*) and ***Narayan Prasad Agrawal vs. State of Madhya Pradesh and others***¹⁰ (*Narayan Prasad*) the Apex Court held that the civil suit is not maintainable to question the land acquisition and even belated writ petition cannot be entertained. The Civil Court thus does not have jurisdiction to entertain the dispute related to land acquisition proceedings once they are completed, and the

⁹ (2006) 7 SCC 508

¹⁰ (2003) 11 SCC 456



appropriate course of action of the aggrieved person is to approach the Constitutional Courts for relief.

19. In the decision of the Apex Court in the case of ***Dhulabhai*** stated supra referred to by the respondents, the Apex Court held that “*where the statute gives a finality to the orders of the special tribunals the civil Court’s jurisdiction must be held to be excluded if there is adequate remedy to do what the Civil Courts would normally do in a suit. Such exclusion is not absolute and jurisdiction is not barred if the tribunal is not acted in conformity with the fundamental judicial procedures or the provisions of the Act have not been complied with.*” In the present case, the land was admittedly acquired in 1945, and the possession has been taken. The plaintiffs have not challenged the acquisition proceedings for being ultra vires or for lack of procedural compliance at the relevant time. Since the LA Act provides a full mechanism for redressal, including for claiming compensation and resolving disputes the bar on the Civil Court’s jurisdiction



applies squarely. The plaintiff had access to statutory remedies, but failed to avail them over 60 years thus taking the case outside the ***Dhulabhai's*** exception.

20. In ***Dharnindhar Mishra*** relied upon by the respondents, the Apex Court upheld the right of the petitioner to compensation, recognizing the continued obligation of the State under Article 300-A. The present case involves a duly initiated acquisition proceedings in 1945, with resolutions, layout formation, allotments and documented possession by the authorities. The issue involved in ***Dharnindhar Mishra's*** case are distinguishable and not applicable to the present facts.

21. In ***M/s. Ultra-tech Cement Ltd.,*** the Apex Court recognized that the compensation must be paid even in the absence of formal request and delay alone may not bar such claim. However, this principle applies only where acquisition proceedings are either not completed or possession is taken without authority. Unlike the present case where the acquisition was completed in



1945, compensation was deposited as per records and the plaintiffs own predecessors received site allotments and sale deeds. Hence, the decision in ***M/s. Ultra-tech Cement Ltd.***, cannot be invoked where acquisition was legally concluded and parties acquiesced for decades without any right. The decisions relied upon by the respondents are thus distinguishable and not applicable to the present facts. For the foregoing reasons, point No.1 is answered accordingly.

22. **Point No.2:** The word "limitation" in its literal term means a restriction or the rule or circumstances which are limited. The law of limitation has been prescribed as the time limit which is given for different suits and proceedings to the aggrieved persons within which they can approach the Court for redress or justice. The basic concept of limitation is relating to fixing or prescribing the time period for barring legal actions. According to Section 2-j of the Limitation Act, "period of limitation" means the period of limitation prescribed for



any suit, appeal or application by the schedule and the “prescribed period” means the period of limitation computed in accordance with the provisions of this Act.

23. According to Halsbury’s Laws of England, the main object of law of limitation are as follows:

- (1) long dormant claim has more of cruelty than justice in them;
- (2) a defendant might have lost the evidence to dispute the State claim.
- (3) A person with only good cause of action should peruse them with ;
- (4) There are two major consideration on which the doctrine of limitation and prescription are based on; firstly, the rights which are not exercised for a long time are said to be non-existent and secondly, the rights which are related to property and the rights which are in general should not be in a state of constant uncertainty, doubt and suspense.



24. The main object to limit any legal action is to give effect to the maxim "*interest reipublicae ut sit finis litium*" which means that in the interest of the State is required that there should be a limit to the litigation and also to prevent any kind of disturbance or deprivation of what may have been acquired in equity and justice or by way of long enjoyment or what may have been lost by a party's own inaction, negligence or leaches acquiescence. The Apex Court in the case of ***Bharat Barrel and Drum Mfg. Co. Ltd., and another vs. Employees State Insurance Corporation***¹¹ (*Bharat Barrel and Drum Mfg. Co. Ltd.,*) observed thus, *the object of the statutes of limitations to compel a person to exercise his rights of action within a reasonable time as also to discourage and suppress stale, fake or fraudulent claims. While this is so, there are two aspects of statutes of limitation – the one concerns with the extinguishment of the right if a claim or action is not commenced within a particular time and the*

¹¹ AIR 1972 SC 1935



other remedy bars the claim without affecting the right which either remains merely as a moral obligation or can be availed to furnish the consideration for a fresh enforceable obligation. Where a statute prescribing the limitation extinguishes the right if affects substantive right while that which purely pertains to the commencement of action without touching the right is said to be procedural.

In ***N.Balakrishnan vs. M. Krishnamurthy***¹²

(*N.Balakrishnan*) the Apex Court held that the Limitation Act is based upon public policy which is used for fixing a lifespan of a legal remedy for the purpose of general welfare. It has been pointed out that the law of limitation are not only meant to destroy the rights of parties, but are meant to look to the parties who do not resort to the tactics but in general seek remedy. It fixes the lifespan for legal injury suffered by the aggrieved party which has been enshrined in the maxim "*interest reipublicae ut sit finis litium*" which means the law of limitation is for general welfare and the period is to be put into litigation

¹² (1998) 7 SCC 123



and not meant to destroy the rights of persons or parties who are seeking remedy. The idea with regard to this is that every legal remedy must be alive for a legislatively fixed period of time. The decision relied on by the appellant in the case of ***State of Himachal Pradesh and others vs. Chandervir Singh Negi***¹³ (*Chandervir Singh Negi*) the Apex Court held that in a suit for mandatory injunction directing the State to complete acquisition proceedings and pay compensation, the High Court ought to have taken into consideration that the alleged construction of the road and damage to the property by the State was in the year 1987 and the suit is filed in the year 2003 and held that the suit was barred by limitation considering Article 58 and 72 of the Limitation Act and held at para Nos.10 and 11 as under:

"10. At this stage, it is required to be noted that it was the specific case on behalf of the defendants that the road was constructed with the help and consent of the plaintiff which is established

¹³ 2023 SCC Online SC 190



and proved by the conduct on the part of the plaintiff mainly not raising any dispute till 2002.

11. From the impugned judgment and order passed by the High Court and the substantial question of law framed it is to be noted that the High Court has not framed any substantial question of law on the limitation and/or the suit being barred by limitation. The High Court has gone on general and broad principles. However, the High Court has not at all considered the real facts which are narrated hereinabove. Even the substantial question of law framed by the High Court also cannot be said to be a substantial question of law at all. Be that it may the fact remains that the road in question was constructed in the year 1987; the trees, if any, were damaged/removed in the year 1987; the retaining/protection wall was constructed on the land of the plaintiff in the year 1987 and the suit was filed in the year 2003 and therefore the suit was barred by limitation considering Articles 58 and 72 of the Limitation Act, the impugned judgment and order passed by the High Court is unsustainable and the same deserves to be quashed and set aside.”

25. The acquisition in question took place on 11.10.1945, which is prior to independence. Accordingly,



Article 18 of the Limitation Act is applicable. Under Article 18, suits for compensation in cases where the acquisition is not completed must be filed within one year from the date of refusal to complete the acquisition. Even assuming that the suit is maintainable, it ought to have been instituted within one year from the date of the notification dated 11.10.1945. A suit for compensation does not specify any limitation period. Article 113 of the Limitation Act reads as under:

<i>Description of suit</i>	<i>Period of limitation</i>	<i>Time from which period begins to run</i>
<i>113. Any suit for which no period of limitation is provided elsewhere in this Schedule.</i>	<i>Three years.</i>	<i>When the right to sue accrues.</i>

26. Assuming that Article 113 of the Limitation Act is applicable, in that event also a suit seeking compensation should have been filed within 3 years from the date when the cause of action arose. In the instant case the possession was taken way back in the year 1951-52; the cause of action arose long back and the plaintiffs



must have claimed compensation within the prescribed time limit. The plaintiffs in this case waited for 60 years by filing the present suit which was clearly not maintainable and exceeds the period of limitation. As stated by us every civil suit must be filed within a prescribed period from the date of cause of action arises. The suit filed is after nearly 60 years and the suit is liable to be dismissed as time barred. The contention of the plaintiff-respondent is that acquiring the land and non-payment of compensation violates Article 300-A of the Constitution, but the said contention is unacceptable as the principle of doctrine of delay and laches applies even for granting relief under Article 226 of the Constitution of India. In the case of **Ganapatibai** and **Narayan Prasad**, stated *supra* the Apex Court has held that even belated writ petitions cannot be exercised. In writ jurisdiction, under Article 226 of the Constitution there is no strict limitation period. However, "delay and laches" principles are applied and if the writ petitioner approaches the High Court after an inordinate delay and unexplained delay, the High Court



may refuse to entertain the writ petition. The Civil Suits are strictly governed by limitation period and the writs are governed by equity and good conscience – and even there, delay and laches can defeat the remedy. Therefore, if a writ cannot be entertained after a long delay, a Civil Suit which is governed by statutory bar definitely cannot be entertained. The Apex Court in ***Pathapati Subba Reddy (Died) by L.Rs. and others vs. Special Deputy Collector (LA)***¹⁴ (*Pathapati Subba Reddy*) held at para No.26 as under:

"26. On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

- (i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*
- (ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*

¹⁴ 2024 SCC Online SC 513



- (iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*
- (iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*
- (v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*
- (vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the Court is not satisfied with the cause shown for the delay in filing the appeal;*
- (vii) Merits of the case are not required to be considered in condoning the delay; and*



(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision."

27. The Apex Court in the case of ***State of Maharashtra vs. Digambar***¹⁵ (Digambar), has held at para Nos.14, 23, 24 and 25 as under:

"14. How a person who alleges against the State of deprivation of his legal right, can get relief of compensation from the State by invoking writ jurisdiction of the High Court under Article 226 of the Constitution even though, he is guilty of laches or undue delay is difficult to comprehend, when it is well settled by decisions of this Court that no person, be he a citizen or otherwise, is entitled to obtain the equitable relief under Article 226 of the Constitution if his conduct is blameworthy because of laches, undue delay, acquiescence, waiver and the like. Moreover, how a citizen claiming discretionary relief under Article 226 of the Constitution against a State, could be relieved of his obligation to establish his unblameworthy conduct

¹⁵ (1995) 4 SCC 683



for getting such relief, where the State against which relief is sought is a Welfare State, is also difficult to comprehend. Where the relief sought under Article 226 of the Constitution by a person against the Welfare State is founded on its alleged illegal or wrongful executive action, the need to explain laches or undue delay on his part to obtain such relief, should, if anything, be more stringent than in other cases, for the reason that the State due to laches or undue delay on the part of the person seeking relief, may not be able to show that the executive action complained of was legal or correct for want of records pertaining to the action or for the officers who were responsible for such action not being available later on. Further, where granting of relief is claimed against the State on alleged unwarranted executive action, is bound to result in loss to the public exchequer of the State or in damage to other public interest, the High Court before granting such relief is required to satisfy itself that the delay or laches on the part of a citizen or any other person in approaching for relief under Article 226 of the Constitution on the alleged violation of his legal right, was wholly justified in the facts and circumstances, instead of ignoring the same or leniently considering it. Thus, in our view, persons seeking relief against the State under Article 226 of the Constitution, be they citizens or



otherwise, cannot get discretionary relief obtainable thereunder unless they fully satisfy the High Court that the facts and circumstances of the case clearly justified the laches or undue delay on their part in approaching the Court for grant of such discretionary relief. Therefore, where a High Court grants relief to a citizen or any other person under Article 226 of the Constitution against any person including the State without considering his blameworthy conduct, such as laches or undue delay, acquiescence or waiver, the relief so granted becomes unsustainable even if the relief was granted in respect of alleged deprivation of his legal right by the State.

x x x

23. Therefore, where a High Court in exercise of its power vested under Article 226 of the Constitution issues a direction, order or writ for granting relief to a person including a citizen without considering his disentitlement for such relief due to his blameworthy conduct of undue delay or laches in claiming the same, such a direction, order or writ becomes unsustainable as that not made judiciously and reasonably in exercise of its sound judicial discretion, but as that made arbitrarily.

24. Since we have held earlier that the person seeking grant of relief under Article 226 of



the Constitution, even if it be against the State, is required to satisfy the High Court that he was not guilty of laches or undue delay in approaching it for relief, need arises for us to consider whether the respondent in the present appeal (writ petitioner in the High Court) who had sought for relief of compensation on the alleged infringement of his legal right, had satisfied the High Court that he was not guilty of undue delay or laches in approaching it for relief. The allegation of the petitioner in the writ petition, as becomes clear from the judgment under appeal, was that although a certain extent of his land was taken away in the year 1971-72 by the agency of the State for the scarcity relief road works undertaken by the State Government in the year 1971-72, to find work for small agriculturists and agricultural labourers in the then prevailing severe drought conditions, without his consent, he was not compensated therefor, despite requests made to the State Government and various agencies in that regard ever since till the date of filing of the writ petition by him.

25. *In our view, the above allegation is in no way sufficient to hold that the writ petitioner (respondent here) has explained properly and satisfactorily the undue delay of 20 years which had occurred between the alleged taking of possession*



of his land and the date of filing of writ petition in the High Court. We cannot overlook the fact that it is easy to make such kind of allegations against anybody that too against the State. When such general allegation is made against a State in relation to an event said to have occurred 20 years earlier, and the State's non-compliance with petitioner's demands, the State may not at all be in a position to dispute such allegation, having regard to the manner in which it is required to carry on its governmental functions. Undue delay of 20 years on the part of the writ petitioner, in invoking the High Court's extraordinary jurisdiction under Article 226 of the Constitution for grant of compensation to his land alleged to have been taken by the governmental agencies, would suggest that his land was not taken at all, or if it had been taken it could not have been taken without his consent or if it was taken against his consent he had acquiesced in such taking and waived his right to take compensation for it."

28. The Apex Court in **Syed Maqbool Ali vs. State of Uttar Pradesh and another**¹⁶ (Syed Maqbool Ali), held at para Nos.10 and 11 as under:

¹⁶ (2011) 15 SCC 383



"10. But that does not mean that the delay should be ignored or the appellant should be given relief. In such matters, the person aggrieved should approach the High Court diligently. If the writ petition is belated, unless there is good and satisfactory explanation for the delay, the petition will be rejected on the ground of delay and laches. Further the High Court should be satisfied that the case warrants the exercise of the extraordinary jurisdiction under Article 226 of the Constitution of India, and that the matter is one where the alternative remedy of suit is not appropriate. For example, if the person aggrieved and the State are owners of adjoining lands and the claims that the State has encroached over a part of his land, or if there is a simple boundary dispute, the remedy will lie only in a civil suit, as the dispute does not relate to any high-handed, arbitrary or unreasonable action of the officers of the State and there is a need to examine disputed questions relating to title, extent and actual possession. But where the person aggrieved establishes that the State had high-handedly taken over his land without recourse to acquisition or deprived him of his property without authority of law, the landholder may seek his remedy in a writ petition.



11. *When a writ petitioner makes out a case for invoking the extraordinary jurisdiction under Article 226 of the Constitution, the High Court would not relegate him to the alternative remedy of a civil Court, merely because the matter may involve an incidental examination of disputed questions of facts. The question that will ultimately weigh with the High Court is this : whether the person is seeking remedy in a matter which is primarily a civil dispute to be decided by a civil Court, or whether the matter relates to a dispute having a public law element or violation of any fundamental right or to any arbitrary and high-handed action. (See the decisions of this Court in ABL International Ltd. v. Export Credit Guarantee Corpn. of India Ltd. and Kisan Sahkari Chini Mills Ltd. v. Vardan Linkers.)"*

29. The Apex Court in the case of **Shankar Das alias Shankru vs. State of Himachal Pradesh, through the Secretary (PWD) and another**¹⁷ (Shankar Das) at para Nos.44 and 48 held as under :

"44. *From a reading of the aforesaid judgments, it is more than apparent that the principle of delay and laches is applicable to Writ*

¹⁷ 2013 SCC Online HP 681



Courts and merely because the petitioners claim that their Constitutional Rights have been violated is no ground to entertain a petition which has been filed after undue delay. In such a case, the writ Court can refuse to grant relief to the petitioner if there is no explanation for the delay.

x x x

48. While taking this view, we are also looking at a practical aspect of the matter. Under Section 4 of the Limitation Act, the compensation amount has to be awarded by calculating the market value of the land as on the date of the notification issued under Section 4 of the Land Acquisition. The principle of delay and laches can be used to deny relief to those petitioners, who have approached the Court after an inordinate and unexplained delay. The value of the land, thirty years earlier, may have been very low and now with the construction of the very roads, for which compensation is sought, and with inflationary trends, the value of the land may have increased thousands of times. Why should those people, who sat over their rights for so many long years, be given the benefit of acquisition of land at higher rates than those prevalent at the time when the land was actually used."



30. The Apex Court in the case of ***Banda Development Authority, Banda vs. Moti Lal Agarwal and others***¹⁸ (*Moti Lal Agarwal*) held at para Nos.17 and 37 as under:

"17. It is true that no limitation has been prescribed for filing a petition under Article 226 of the Constitution but one of the several rules of self-imposed restraint evolved by the superior Courts is that the High Court will not entertain petitions filed after long lapse of time because that may adversely affect the settled/crystallised rights of the parties. If the writ petition is filed beyond the period of limitation prescribed for filing a civil suit for similar cause, the High Court will treat the delay unreasonable and decline to entertain the grievance of the petitioner on merits.

X X X

37. The principles which can be culled out from the abovenoted judgments are:

- (i) No hard-and-fast rule can be laid down as to what act would constitute taking of possession of the acquired land.*
- (ii) If the acquired land is vacant, the act of the State authority concerned to go to the spot*

¹⁸ (2011) 5 SCC 394



and prepare a panchnama will ordinarily be treated as sufficient to constitute taking of possession.

- (iii) If crop is standing on the acquired land or building/structure exists, mere going on the spot by the authority concerned will, by itself, be not sufficient for taking possession. Ordinarily, in such cases, the authority concerned will have to give notice to the occupier of the building/structure or the person who has cultivated the land and take possession in the presence of independent witnesses and get their signatures on the panchnama. Of course, refusal of the owner of the land or building/structure may not lead to an inference that the possession of the acquired land has not been taken.*
- (iv) If the acquisition is of a large tract of land, it may not be possible for the acquiring/designated authority to take physical possession of each and every parcel of the land and it will be sufficient that symbolic possession is taken by preparing appropriate document in the presence of independent witnesses and getting their signatures on such document.*



(v) If beneficiary of the acquisition is an agency/instrumentality of the State and 80% of the total compensation is deposited in terms of Section 17(3-A) and substantial portion of the acquired land has been utilised in furtherance of the particular public purpose, then the Court may reasonably presume that possession of the acquired land has been taken.”

31. Thus from the cited decisions stated *supra* we hold that once the land is acquired and possession is taken, and especially when it is used for public purposes, the title vests with the State / Authority. Delay of several decades is fatal to both civil suits and Writ Petitions, unless fraud or suppression is clearly proved. Even constitutional protection under Article 300-A of the Constitution does not extend to claim that are stale, especially there has been public developments, site allotments and third party rights. The Civil Suit filed beyond limitation suffers from incurable delay. In view of the doctrine of limitation applicable to Civil Suits, the



plaintiffs are not entitled to the relief sought and point No.2 framed for consideration is answered accordingly.

32. The Trial Court was not justified in decreeing the suit. Accordingly, the appeals are ***allowed*** with costs, the judgment and decree of the trial Court is ***set aside*** and the suit O.S.No.7/2008 stands ***dismissed***.

Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE

Sd/-
(K.S. HEMALEKHA)
JUDGE