

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF FEBRUARY, 2025

PRESENT

THE HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR. JUSTICE K. V. ARAVIND

MISCELLANEOUS FIRST APPEAL No.1157/2016 (LAC)

C/W

MISCELLANEOUS FIRST APPEAL No.1150/2016 (LAC)

MISCELLANEOUS FIRST APPEAL No.1152/2016 (LAC)

MISCELLANEOUS FIRST APPEAL No.1158/2016 (LAC)

IN MFA No.1157/2016

BETWEEN:

- 1 . SIDDALINGAMURTHY,
S/O CHANDRASHEKARAIHAH,
AGED ABOUT 38 YEARS,
R/A ALDAKANAHALLI VILLAGE,
GUBBI TALUK,
TUMKUR DISTRICT-572101.

...APPELLANT

(BY SRI VIRUPAKSHAIAH P. H., ADVOCATE)

AND:

- 1 . THE SPECIAL LAND ACQUISITION OFFICER,
HEMAVATHI CANAL ZONE,
TUMKUR-572101.
- 2 . THE CHIEF ENGINEER
HEMAVATHI CANAL ZONE,
TUMKUR-572101.

...RESPONDENTS

(BY SRI R.A. MACHAKANUR, AGA FOR R1;
SRI K.S. BHEEMAIAH, ADVOCATE FOR R2)

IN MFA No.1150/2016

BETWEEN:

- 1 . I.N. SIDDARAMAIAH,
S/O. NANJUNDAPPA,
AGED ABOUT 68 YEARS,
R/AT IDAKANAHALLI VILLAGE,
GUBBI TALUK,
TUMKUR DISTRICT-572101.

...APPELLANT

(BY SRI VIRUPAKSHAIAH P. H., ADVOCATE)

AND:

- 1 . THE SPECIAL LAND ACQUISITION OFFICER,
HEMAVATHI CANAL ZONE,
TUMKUR-572101.
- 2 . THE CHIEF ENGINEER
HEMAVATHI CANAL ZONE,
TUMKUR - 572101.

PROPOSED RESPONDENTS No.3 TO 5

3. SMT. A.B. RADHAMANI,
W/O LATE SIDDESH,
AGED ABOUT 57 YEARS,
4. MR. DHARANEESH,
S/O LATE SIDDESH,
AGED ABOUT 24 YEARS,

BOTH ARE RESIDING AT
IDAKANAHALLI VILLAGE,
NITTUR HOBLI,
GUBBI TALUK,
TUMKUR DISTRICT.

5. SMT. RESHMA,
D/O LATE SIDDESH,

W/O SRI BASANTH KUMAR,
AGED ABOUT 29 YEARS,
R/AT THYAGATUR VILLAGE,
NITTUR HOBLI, GUBBI TALUK.

...RESPONDENTS

(BY SRI R.A. MACHAKANUR, AGA FOR R1;
SRI K.S. BHEEMAIAH, ADVOCATE FOR R2;
SRI S. VIJAYKUMAR, ADVOCATE FOR PROPOSED R3 TO R5)

IN MFA No.1152/2016

BETWEEN:

- 1 . SHIVARUDRAIAH,
S/O SIDDANANJAPPA
AGED ABOUT 57 YEARS,
R/A ALDAKANAHALLI VILLAGE,
GUBBI TALUK,
TUMKUR DISTRICT-572101.

...APPELLANT

(BY SRI R. KUMAR, ADVOCATE)

AND:

- 1 . THE SPECIAL LAND ACQUISITION OFFICER
HEMAVATHI CANAL ZONE
TUMKUR-572101.
- 2 . THE CHIEF ENGINEER
HEMAVATHI CANAL ZONE
TUMKUR-572101.

...RESPONDENTS

(BY SRI R.A. MACHAKANUR, AGA FOR R1;
SRI K.S. BHEEMAIAH, ADVOCATE FOR R2)

IN MFA No.1158/2016

BETWEEN:

- 1 . SIDDALINGAMMA,
W/O SHIVARUDRAIAH,

AGED ABOUT 78 YEARS,
R/A ALDAKANAHALLI VILLAGE,
GUBBI TALUK,
TUMKUR DISTRICT-572101.

...APPELLANT

(BY SRI VIRUPAKSHAIAH P. H., ADVOCATE)

AND:

- 1 . THE SPECIAL LAND ACQUISITION OFFICER
HEMAVATHI CANAL ZONE,
TUMKUR-572101.
- 2 . THE CHIEF ENGINEER,
HEMAVATHI CANAL ZONE,
TUMKUR-572101.

...RESPONDENTS

(BY SRI R.A. MACHAKANUR, AGA FOR R1;
SRI K.S. BHEEMAIAH, ADVOCATE FOR R2)

THESE MISCELLANEOUS FIRST APPEALS FILED UNDER SECTION 54(1) OF LAND ACQUISITION ACT AGAINST THE JUDGMENT AND AWARD DATED 6.10.2015 PASSED IN LAC No.202/2006 ON THE FILE OF THE SENIOR CIVIL JUDGE, JMFC, GUBBI, PARTLY ALLOWING THE REFERENCE PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

<i>DATE ON WHICH THE APPEALS WERE RESERVED FOR JUDGMENT</i>	24.01.2025
<i>DATE ON WHICH THE JUDGMENT WAS PRONOUNCED</i>	10.02.2025

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

CORAM: HON'BLE MR. JUSTICE SREENIVAS HARISH KUMAR
and
HON'BLE MR. JUSTICE K. V. ARAVIND

C.A.V. JUDGMENT

(PER: HON'BLE MR. JUSTICE K. V. ARAVIND)

All these appeals arise from the award in LAC No.202/2006 dated 06.10.2015 on the file of the Senior Civil Judge, Gubbi. Reference to Civil Court was sought by many land losers.

2. MFA No.1157/2016 is by claimant No.18 seeking enhancement of compensation towards land and mango trees. The Reference Court has awarded compensation of Rs.3,88,500/- towards the value of 3 Acres of 28 Guntas and Rs.9,92,250/- towards the value of 27 mango trees in Survey No.28/06, Idakanahalli Village, Nittur Hobli, Gubbi Taluk.

3. MFA No.1152/2016 is by claimant No.7 seeking enhancement of compensation towards land. The Reference Court has awarded Rs.1,31,250/- compensation towards the value of 1 Acre 10 Guntas in Survey No.27/1, Idakanahalli Village, Nittur Hobli, Gubbi Taluk.

4. MFA No.1158/2016 is by claimant No.21 seeking enhancement of compensation towards land and coconut trees. The Reference Court has awarded compensation of Rs.1,94,250/-/- towards value of 1 Acre 34 Guntas, Rs.4,28,400/- towards value of 84 big coconut trees in Survey No.35/1 and Rs.1,18,125/- towards value of 1 Acre 5 guntas, award of Rs.2,55,000/- towards the value of 50 big coconut trees and Rs.21,000/- towards the value of 7 small coconut trees in Survey No.29/1A of Idakanahalli Village, Nittur Hobli, Gubbi Taluk.

5. MFA No.1150/2016 is by claimant No.9 seeking enhancement of compensation towards the land, coconut trees, tamarind trees, jackfruit trees and mango trees. The Reference Court has awarded compensation of Rs.1,31,250/- towards value of 1 Acre 10 Guntas, Rs.18,000/- towards value of 6 small coconut trees, Rs.2,49,900/- towards the value of 49 big coconut trees in Survey No.29/3A and Rs.1,31,250/- towards the value of 1 acre 10 guntas, Rs.2,95,800/- towards the value of 58 big coconut trees, Rs.72,000/- towards the value of 24

small coconut trees in Sy.No.29/3B and Rs.86,625/- towards the value of 33 guntas, Rs.5,000/- towards the value of 1 tamarind tree, Rs.8,000/- towards the value of 1 jackfruit tree, Rs.8,82,000/- towards the value of 24 mango trees in Sy.No.36/1 and Rs.63,000/- towards the value of 24 guntas, Rs.2,29,500/- towards the value of 45 big coconut trees, Rs.3,000/- towards the value of 1 small coconut tree, Rs.56,700/- towards the value of 45 small coconut trees in Sy.No.26 of Idakanahalli Nittur Hobli, Gubbi Taluk.

6. The lands in question were notified by preliminary notification dated 08.11.1990 and final notification dated 14.01.1992. The claimants filed a protest petition before the respondents seeking enhancement of compensation awarded by the Land Acquisition Officer, and the same was referred to the Court under Section 18 of the Land Acquisition Act, 1894.

7. In the case of claimant No.18, compensation awarded by the Reference Court and enhancement sought in this appeal are as under:

Particulars	Compensation fixed by the Trial Court	Compensation claimed before this Court
Sy. No.28/6		
3 Acre 28 guntas	3,88,500/-	74,00,000/-
27 Mango trees	9,92,250/-	13,50,000/-

		87,50,000/-
		(-) 13,80,750/-
Total	13,80,750/-	73,69,250/-
30% Solatium	25,35,635/-	22,10,775/-
12% Additional Market Value		25,79,974/-
	Total	1,21,59,999/-

8. In case of claimant No.9, compensation awarded by the Reference Court and enhancement sought in this appeal are as under:

Particulars	Compensation fixed by the Trial Court	Compensation claimed before this Court
Sy. No.29/3A		
1 Acre 10 guntas	1,31,250/-	25,00,000/-
6 coconut trees	18,000/-	90,000/-
49 coconut trees	2,49,900/-	12,25,000/-
Sy. No. 29/3B		
1 Acre 18 guntas	1,31,250/-	29,00,000/-
58 coconut trees	2,95,800/-	14,50,000/-
24 coconut trees	72,000/-	3,60,000/-
Sy. No.36/1		
33 guntas	86,625/-	16,50,000/-
1 Tamarind tree	5,000/-	30,000/-
1 Jackfruit tree	8,000/-	40,000/-
24 Mango trees	8,82,000/-	12,00,000/-

Sy. No. 26		
24 guntas	63,000/-	12,00,000/-
45 coconut trees	2,29,500/-	13,75,000/-
1 coconut trees	3,000/-	15,000/-
45 coconut trees	56,700/-	6,75,000/-
		(-)22,32,025/-
		1,24,77,975/-
30% Solatium		37,43,393/-
12% interest [For Sy. No. 29/3A, 29/3B, 26 (1065)]		39,81,161/-
[For Sy. No.36/1 (661) 16.4.91-4.2.93]		2,02,02,529/-

9. In case of claimant No.7, compensation awarded by the Reference Court and enhancement sought in this appeal are as under:

Particulars	Compensation fixed by the Trial Court	Compensation claimed before this Court
Sy. No.27/1		
1 Acre 10 guntas Sugarcane (Rs.37,500/- per yield x 6 yields)	1,31,250/- ----	25,00,000/- 2,25,000/- ----- 27,25,000/- -----
	Amount awarded 1n LAC 202/06	(-) 1,31,250/-
		25,93,750/-
	30% Solatium	7,78,125/-
For calculation of 12% AMV No. of days: 16.04.1991 - 15.3.1994 :1065 days		9,08,167.80
Total		42,80,042.80

10. In case of claimant No.21, compensation awarded by the Reference Court and enhancement sought in this appeal are as under:

Particulars	Compensation fixed by the Trial Court	Compensation claimed before this Court
Sy. No.35/1 1 Acre 34 guntas 84 coconut trees	1,94,250/- 4,28,400/-	27,00,000/- 21,00,000/-
Sy. No. 29/1A 1 Acre 5 guntas 50 coconut trees 7 coconut trees	1,18,125/- 2,55,000/- 21,000/-	22,50,000/- 12,50,000/- 1,05,000/- (-)10,16,775/-
Total	10,16,775/-	73,88,225/-
30% Solatium	3,05,032/-	22,16,468/-
12% interest (661 days) 16.4.91- 4.2.93	5,45,414/-	16,05,573/-
Total	18,67,221/-	1,12,10,266/-

11. Heard Sri P.H.Virupakshaiah and Sri R.Kumar, learned advocates appearing for the appellants, Sri R.A.Machakanur, learned AGA appearing for respondent No.1 and Sri K.S.Bheemaiah, learned Counsel appearing for respondent No.2.

12. Learned advocates for the appellants submit that the assessment of compensation of lands, malkis and trees is not proper. The lands acquired were fertile, yielding commercial crops and fetching huge income. The loss of income is not considered while assessing the compensation.

12.1 Learned Counsel further submits that in the acquired lands, there were standing fruit bearing trees like mango, jackfruit etc. The assessment of compensation towards the fruit bearing trees is without any basis and the compensation awarded is irrational.

12.2 Learned Counsel for the appellants relies on the following judgments passed by the Reference Court:

- (i) 2010 (5) Supreme Court Cases 747
Union of India Vs. Bal Ram and Another.
- (ii) Order dated 03.07.2023 in MSA No.94/2016
(LA) passed by this Court.
- (iii) Order dated 02.08.2023 in LAC (App)
No.153/2022 passed by the VI Additional
District & Sessions Judge, at Tumkur.

- (iv) Order dated 09.02.2023 in LAC (App) No.69/2022 passed by the II Additional District & Sessions Judge, at Tumkur.
- (v) Order dated 27.06.2022 in RA No.80/2022 passed by the Principal District & Sessions Judge, at Tumkur.

12.3 Learned Counsel would submit that the lands in question and the subject matter of the lands in Reference Courts judgment are similarly situated and acquired for the same purpose. It is contended that applying the parity as held by the Hon'ble Supreme Court in **(2010)5 SCC 747, Union of India Vs. Bal Ram and Another**, no distinction can be made between the lands which are identical and similar, though situated in different villages.

13. Shri R.A.Machakanur, learned AGA appearing for respondent No.1 submits that the compensation awarded by the Reference Court is just and reasonable and no interference is warranted.

14. Shri K.S.Bheemaiah, learned Counsel appearing for respondent No.2 submits that the compensation awarded

towards the land was based on its geographical location, fertility and potentiality.

14.1 Learned Counsel further submits that unless the claimants demonstrate the similarity and identicalness of the property, mere on principles of parity, appellants are not entitled to higher compensation.

14.2 Learned Counsel further submits that the compensation awarded to fruit bearing trees is on the analysis of it's yield and the price that would fetch from sale of the fruits and also the age of the tree. In the absence of any specific evidence by the claimants on the age of the trees, the variety of fruit, the market conditions of the fruit and other aspects, they are not entitled to higher compensation, more so, on parity.

14.3 Insofar as the judgments of the Reference Court relied on by the learned Counsel for the appellants, learned Counsel submits that the compensation awarded at Rs.30,000/- per gunta in LAC (App) No.69/2022 is without any basis. Further, the lands situated in the

referred judgment were in a different location. It is the specific submission that the lands in the present case and in the above referred case are of different Hoblis though of the same Taluk. In the absence of similarity of the land for its nature and locality, the principles of parity will not apply. Learned Counsel submits that the said judgment is under review seeking reduction of compensation.

15. On consideration of the pleadings and the submissions made by the learned Counsel for the parties, the following points arise for consideration of this court:

- (i) Whether the compensation awarded by the Reference Court towards value of land and the mango, coconut and areca trees requires interference of this Court?
- (ii) Whether the claimants are entitled for enhanced compensation?

Regarding Point No.1:

16. The ownership of the lands in question and the claimants' entitlement to compensation are not under

dispute. A preliminary notification was issued on 18.11.1990, followed by the issuance of the final notification on 14.01.1992. The acquisition was undertaken for the purpose of constructing Hemavathi Canal. The Reference Court, taking into account that compensation at the rate of Rs. 2,625/- per gunta of garden land had been awarded in LAC No. 250/2006 for acquisitions during the year 1989-90, proceeded to award compensation at the same rate of Rs. 2,625/- per gunta. The present appeals have been filed challenging the said compensation, with the claimants seeking an enhancement thereof.

17. The learned Counsel for the appellants has relied upon the judgment in LAC (App) No. 153/2022 dated 02.08.2023, wherein compensation was awarded at the rate of Rs. 14,000/- per gunta. The determination of compensation in LAC (App) No. 153/2022 was based on the findings in LAC No. 70/2022, where the compensation was assessed based on the material placed on record. The lands involved in LAC No. 70/2022 and LAC (App) No.

153/2022 are situated in Sankapura Village, Nittur Hobli, Gubbi Taluk, while the lands under consideration in the present case are located in Idakanahalli Village, Nittur Hobli, Gubbi Taluk. Although there is no evidence on record regarding the exact distance between Sankapura and Idakanahalli, it is evident that both villages are located within the same Hobli and Taluk. Consequently, it can be reasonably presumed that the fertility and yielding potential of the lands in both villages are comparable. While an exact equivalence between the lands cannot be established due to inherent variances in agricultural properties, compensation for acquisition is assessed on the basis of probabilities and reasonable comparisons. Under such circumstances, reliance can be safely placed on the compensation determined for similar lands. Accordingly, this Court deems it appropriate to award compensation at the rate of Rs. 14,000/- per gunta, consistent with the award passed in LAC (App) No. 153/2022.

18. The reliance placed on LAC No. 69/2022, on the ground that the acquisition was for the formation of

Hemavathi Canal and that compensation of Rs. 30,000/- per gunta should be awarded on the principle of parity, is not acceptable. The lands in LAC No. 69/2022 were situated in Lakkenahalli Village, Kasaba Hobli, Gubbi Taluk. No evidence has been adduced to establish the similarity in geographical location or fertility between the lands involved in the present case and those in LAC No. 69/2022. In the absence of such evidence, the principle of parity cannot be applied solely on the basis of the purpose of acquisition.

19. The learned Counsel for the appellants has placed reliance on the judgment in R.A. No. 80/2022 to claim compensation at the rate of Rs. 1,00,000/- per gunta. However, the said judgment is not applicable to the present case for the following reasons:

19.1 Firstly, the lands in R.A. No. 80/2022 were located in Halanur Village, Kasaba Hobli, Tumakuru Taluk, which falls in a different Hobli and Taluk. No evidence has been produced to demonstrate any similarity in geographical

location or fertility between the lands in that case and the lands under consideration in the present matter.

19.2 Secondly, the perusal of the reasoning in R.A. No. 80/2022 reveals that there is no clear or substantive basis for determining compensation at Rs. 1,00,000/- per gunta. Consequently, reliance on the said judgment is untenable.

20. The Counsel for respondent No. 2 has argued that due to the arbitrary fixation of compensation, a review petition has been filed, which is still pending. Notwithstanding the pendency of the review, the award of Rs. 1,00,000/- per gunta in R.A. No.80/2022 is unsupported by any reasonable basis and cannot be applied merely on the grounds of parity. For the principle of parity to be applicable, the reasoning and rationale behind the judgment must be justifiable and align with the judicial conscience of the Court. In the present case, we are unable to find any valid or cogent grounds to apply the judgment in R.A. No. 80/2022 or to award compensation at the rate of Rs. 1,00,000/- per gunta.

21. In view of the foregoing reasons, it is necessary to interfere with the order of the Reference Court by modifying the compensation as awarded.

Regarding Point No.2:

22. The lands involved in these appeals are located within Nittur Hobli, Gubbi Taluk, which is the same locality as the lands in LAC No. 153/2022. There is no reason to conclude that the fertility or yielding capacity of the lands in question differs from those in LAC No. 153/2022. Furthermore, the compensation awarded in LAC No. 153/2022 is based on the findings in LAC No. 70/2022, and these orders are not under challenge by the acquiring authorities. The compensation rate of Rs. 14,000/- per gunta has been consistently upheld for lands situated in Nittur Hobli, acquired for the formation of the Hemavathi Canal. In the absence of any contradictory evidence, this Court is inclined to apply the principle of parity. Therefore, the compensation for the land in the present case is fixed at Rs. 14,000/- per gunta.

23. Insofar as the prayer for enhancement of compensation for the mango tree, it is essential to consider a variety of factors in determining the compensation. These factors include the age of the tree, the variety of the fruit or yield, the market value of the fruit or yield, the expected lifespan of the tree, and its yield capacity. Additionally, when valuing compensation for trees, it is important to consider the number of fruits or nuts produced by each tree, as well as the prevailing market conditions, including demand and sustainability.

24. In the case of claimant No. 9, the Reference Court awarded compensation of Rs. 5,100/- for the big coconut tree, Rs.3,000/- for the small coconut tree, Rs. 5,000/- for the tamarind tree, Rs. 8,000/- for the jackfruit tree, and Rs. 1,260/- for the areca nut tree. Despite the claimants' request for a substantial enhancement, no supporting evidence was presented before either the Reference Court or this Court.

25. In the absence of evidence regarding the age of the trees, the variety of the fruit, its market sustainability, and

other pertinent factors, the request for enhancement cannot be upheld. Moreover, no material has been placed before this Court to indicate that the compensation determined by the Reference Court for the trees is unreasonable. After a thorough examination of the Reference Court's order, this Court finds no grounds to interfere or warrant an enhancement.

26. Therefore, the prayer for enhancement of compensation for the trees is hereby rejected. Consequently, point Nos. 1 and 2 are answered accordingly.

27. In the light of the above, the following:

ORDER

- (i) Appeals are allowed in part;
- (ii) The judgment and award dated 06.10.2015 in LAC No.202/2006 passed by the Senior Civil Judge, Gubbi, is modified.
- (iii) The claimants are entitled to compensation at the rate of Rs. 14,000/- per gunta of land,

along with the applicable statutory benefits and interest.

Before concluding, it is noted that the award of compensation is currently in deposit before the Reference Court.

I.A.No.1/2024 is filed under Section 151 of CPC by the claimant in MFA No.1150/2016 on behalf of Smt. A.B.Radhamani, who is not a party to the appeal before this Court. The application has been filed solely for the purpose of requesting the Court for return of the trial court record in order to release the compensation amount held in deposit.

I.A. No.2/2024 is filed under Order 1 Rule 10(2) r/w Section 151 of CPC seeking impleadment of applicants as respondent Nos.3 to 5. The applicants are stated to be legal heirs of claimant No.1. The impleadment is sought to seek direction for return of TCR for release of the amount.

It is to be noted that the claimant No.1 in LAC No. 202/2006 is not in appeal before this Court.

In light of the appeals having been finally disposed of, the Registry is directed to immediately return the records to the trial Court. Consequently, the applications in I.A. Nos.1/2024 and 2/2024 do not remain for further consideration and they are accordingly disposed of.

The Reference Court shall release the compensation amount in deposit expeditiously in favour of the claimants.

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

**Sd/-
(K. V. ARAVIND)
JUDGE**

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