

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 17TH DAY OF SEPTEMBER, 2026**

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 198 OF 2024 (LA-RES)

BETWEEN:

CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
SAKALESH PURA TOWN,
SAKALESH PURA,
HASSAN DISTRICT-573 134.

...APPELLANT

(BY SRI.ASHOK HARANAHALLI, SENIOR COUNSEL FOR
SRI.PRATHEEP K.C., ADVOCATE)

AND:

1. SRI.A G NANJUNDA SHETTY,
S/O LATE A V GUNDAPPA SHETTY,
AGED ABOUT 72 YEARS,
R/A SURYA MEDICALS,
SAKALESH PURA TALUK,
HASAN DISTRICT-573 134.
2. S. L. GEETJHANJALI,
W/O LATE S C L N MURTHY,
AGED ABOUT 78 YEARS,
R/A SAI SADHANA TEMPLE STREET,
SAKALESH PURA,
HASSAN DISTRICT-573 134.
3. STATE OF KARNATAKA,
DEPARTMENT OF REVENUE,
REPRESENTED BY SECRETARY,
M S BUILDING,
BENGALURU-560 001.

Digitally signed
by MALA K N
Location: HIGH
COURT OF
KARNATAKA

4. THE DEPUTY COMMISSIONER,
HASSAN DISTRICT,
HASSAN-573 201.
5. THE ASSISTANT COMMISSIONER,
SAKALESH PURA,
HASSAN DISTRICT-573 134.
6. TAHSILDAR,
SAKALESH PURA,
HASSAN DISTRICT-573 134.
7. SPECIAL LAND ACQUISITION OFFICER,
HASSAN, HASSAN-573 201.

...RESPONDENTS

(BY SRI.P.P HEGDE, SENIOR COUNSEL FOR
SRI.VENKATESH SOMAREDDY, ADVOCATE FOR R1 & R2;
SRI.B.RAVINDRANATH, AGA FOR R3 TO R7)

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE IMPUGNED
ORDER IN W.P 1476/2023 DATED 20.12.23 PASSED BY
LEARNED SINGLE JUDGE OF THIS HON'BLE COURT IN THE
INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR
ORDERS ON 24.08.2026 AND COMING ON FOR
PRONOUNCEMENT THIS DAY, **HON'BLE MR. JUSTICE
H.SHANTHI BHUSHAN** MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

"The writ jurisdiction is not intended to substitute a civil trial and the extraordinary jurisdiction of the writ Court cannot be invoked to adjudicate a disputed claim for damages or compensation where determination of liability and quantum requires a full-fledged trial and appreciation of oral and documentary evidence; in such circumstances, the parties must establish their respective rights before the competent civil Court."

This intra-court appeal has been filed impugning the Order dated 20.12.2023 passed by the learned Single Judge of this Court in W.P.No.1476/2023 (LA-RES).

2. For the sake of convenience, the parties shall be referred to as per their ranks before the learned Single Judge.

3. The petitioners instituted the writ petition under Articles 226 and 227 of the Constitution of India, seeking quashing of the acquisition proceedings bearing no.ಭೂಸ್ವಾಧೀನ

ಜಿ ಎನ್ 149/1985-86 dated 21.02.1987 and a direction to respondent No.4 to pay compensation of Rs.10,00,00,000/- for the alleged illegal occupation of the subject property from the year 1989 till the date of filing of the writ petition. It was the case of the petitioners that the land bearing Sy.No.17/11B, measuring 2 acres 8 guntas, together with 16 guntas of kharab land, situated at Sakaleshpura, and the land bearing Sy.No.80/1B, originally belonging to Sri S.D. Ramegowda and purchased by Dr. S.C.L.N. Murthy, were notified for acquisition in favour of respondent No.4 for the purpose of holding the annual fair. A preliminary notification under Section 4(1) of the Land Acquisition Act, 1894, was issued on 21.02.1987, followed by a final notification dated 21.07.1988 under Section 6(1) of the Act.

4. The petitioners further stated that the acquisition proceedings were challenged before this Court in W.P. Nos.2574/1988 and 2575/1988. By order dated 09.02.1998, the final notification issued under Section 6(1) of the Act was quashed, with liberty to the

respondents to continue the acquisition proceedings from the stage of enquiry under Section 5-A of the Act. The review petition in R.P. No.379/2005 was dismissed on 27.06.2005 and W.A. No.1109/2006 was dismissed on 30.03.2009. It was the specific contention of the petitioners that, despite the aforesaid orders, no further effective steps were taken for completion of the acquisition proceedings within a reasonable time. Reliance was placed upon the communication dated 26.03.2014 issued by the Principal Secretary, Revenue Department, wherein the draft notification was stated to be barred by time and the proceedings were declared to have lapsed. The petitioners accordingly contended that the acquisition proceedings had lapsed and that their property continued to remain in the occupation and use of respondent No.4 without lawful completion of acquisition.

5. It was the further case of the petitioners that, although the acquisition proceedings had not been completed, respondent No.4 continued to utilise the subject property for holding the annual Jatra and other

programmes and derived income therefrom. The petitioners contended that the occupation of the property was illegal and that they were entitled to appropriate compensation for such occupation. They also stated that, on 08.08.2016, a proposal was made for initiating fresh acquisition proceedings under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and that, on 08.02.2017, the Deputy Commissioner directed the Assistant Commissioner to verify the proposal. It was further stated that the Assistant Commissioner submitted a report dated 25.07.2022 and that petitioner No.1 submitted a reply thereto on 01.11.2022. On these pleadings, the petitioners sought quashing of the acquisition proceedings and payment of compensation for the alleged illegal occupation of their land.

6. Respondent No.4, the Chief Officer, Town Municipal Council, Sakaleshpura, opposed the writ petition and contended that the acquisition proceedings were initiated for a public purpose, namely, for conducting the

annual Jatra festival and other public activities. It was stated that the preliminary notification under Section 4(1) of the Land Acquisition Act was issued on 21.02.1987 and that objections were filed by the original landowners on 20.07.1987 and 25.07.1987. After conducting the enquiry under Section 5-A, the objections were rejected by order dated 25.09.1987. The final notification under Section 6(1) was issued on 27.04.1988 and published in the Karnataka Gazette on 21.07.1988. The respondent further stated that mutation of the property bearing Sy.No.17/11B was effected in favour of the Town Municipal Council on 18.08.1988.

7. It was the case of respondent No.4 that, pursuant to the award dated 03.08.1990, compensation of Rs.3,51,208/- was deposited in the Government treasury and that possession of the property was taken and handed over to the Town Municipal Council on 22.10.1991. The respondent contended that it had been in lawful possession and enjoyment of the property since then. It was further stated that, after the death of the original

landowners, disputes arose regarding succession and title, including proceedings in P. & S.C. No.2/2013 and O.S. No.27/2009. The respondent referred to the dismissal of the said suit on 18.06.2013, the dismissal of R.A. No.10/2013 on 08.11.2013 and the pendency of R.S.A. No.166/2014. On this basis, respondent No.4 contended that the petitioners were aware of the acquisition proceedings and that the writ petition, filed after a considerable lapse of time, was liable to be dismissed on the ground of delay and laches.

8. Respondent No.4 further stated that, pursuant to the liberty granted by this Court in the earlier writ proceedings, steps were taken to continue the acquisition from the stage of Section 5-A enquiry. It was stated that a communication dated 12.05.2009 was addressed to the Deputy Commissioner seeking permission to proceed with the acquisition, that the Section 5-A enquiry was conducted on 28.01.2012 and that, on 19.03.2012, a communication was addressed to the Principal Secretary, Revenue Department, for proceeding with the final

notification. The respondent further stated that compensation of Rs.55,13,560/- was deposited on 31.08.2013 and that, thereafter, the compensation was revised to Rs.76,62,961/-. It was also stated that, on 26.03.2014, the Principal Secretary, Revenue Department, declared the notification sent by the Assistant Commissioner to be ineffectual. Thereafter, communications dated 08.08.2016, 22.08.2016 and 24.12.2016 were addressed seeking initiation of fresh acquisition proceedings under the new Act, followed by the Deputy Commissioner's direction dated 08.02.2017. The respondent accordingly contended that the delay in completion of acquisition was attributable to the State authorities and that respondent No.4 could not be held responsible for the same. It further disputed the claim for compensation of Rs.10,00,00,000/- and sought dismissal of the writ petition.

9. The learned Single Judge vide order dated 20.12.2023 in W.P. No.1476/2023, considered the rival submissions of the parties. The petitioners contended that

the final notification dated 27.04.1988 had been quashed in the earlier writ proceedings, with liberty to the respondents to continue the acquisition from the stage of Section 5-A enquiry, but that no further steps had been taken for completion of the acquisition. The respondents, on the other hand, contended that possession had been handed over to respondent No.4 after deposit of the acquisition amount, that efforts had been made to complete the proceedings, and that the title to the property was in dispute in P. & S.C. No.2/2013.

10. The learned Single Judge recorded that the final notification under Section 6(1) of the Land Acquisition Act, issued on 27.04.1988, had been quashed in the earlier writ proceedings, with liberty to continue the acquisition from the stage of the Section 5-A enquiry. It was further noticed that the review petition and the subsequent writ appeal had been dismissed and that the final notification had consequently stood quashed. The learned Single Judge thereafter held that the respondents had not taken steps for conclusion of the acquisition proceedings and,

relying upon the decisions cited by the learned Senior Counsel for the petitioners, concluded that the acquisition proceedings had lapsed.

11. The learned Single Judge further considered the claim for compensation/damages. It was observed that it would not be appropriate to conduct an enquiry into the quantum of compensation or damages in exercise of jurisdiction under Article 226 of the Constitution. However, on the basis of the material placed before the Court, it was prima facie found that approximately 40% of the land used for Jatra appeared to belong to the petitioners. The Court accordingly held that the petitioners would be entitled to compensation corresponding to 40% of the total money earned by the Municipality from the use of the land. On that basis, 40% of Rs.2,68,39,194/- was calculated as Rs.1,07,35,677.06.

12. By the operative portion of the order, the learned Single Judge partly allowed the writ petition and quashed the impugned notification bearing

No.G.S.149/1985-86 dated 21.02.1987. Respondent No.4 was directed to hand over vacant possession of the land bearing Sy.No.17/11B, measuring 2 acres 8 guntas, together with 16 guntas of kharab land in Sy.No.80/1B, Sakaleshpura village, Kasaba Hobli, Sakaleshpura, within four weeks from the date of receipt of the certified copy of the order. Respondent No.4 was also directed to pay Rs.1,07,35,677/- to the petitioners within four weeks. The petitioners were given liberty to seek restoration of their names in respect of the land and to approach the Civil Court for quantification of damages, if so desired.

13. Aggrieved by the aforesaid order, the Chief Officer, Town Municipal Council, Sakaleshpura, has preferred the present writ appeal under Section 4 of the Karnataka High Court Act, read with Articles 226 and 227 of the Constitution of India. Respondent No.4 contends that the order of the learned Single Judge is perverse, opposed to law and requires interference by this Court.

14. We have heard the arguments of Sri.Ashok Haranahalli, learned Senior Counsel for the respondent No.4/appellant herein and Sri.P.P.Hegde, learned Senior Counsel for the petitioners and Sri.B.Ravindranath, learned AGA for the State.

15. The principal grievance urged by the respondent No.4 is that the learned Single Judge erred in quashing the entire notification bearing No.G.S.149/1985-86 dated 21.02.1987. It is contended that the said notification covered approximately 6 acres 8 guntas along with 16 guntas of kharab land belonging to four persons, whereas the writ petition was filed only by respondent Nos.1 and 2, who claimed to be the legal heirs of A.N. Varadarajulu and Dr. S.C.L.N. Murthy. According to the respondent No.4, the notification ought not to have been quashed in its entirety insofar as the other landowners, who had not approached the Court, were concerned. In

support of this contention, reliance is placed on the decision in ***Shyam Nandan Prasad v. State of Bihar***¹.

16. Respondent No.4 further contends that the learned Single Judge erred in holding that it was in illegal possession of the property. It is pleaded that the acquisition proceedings had culminated in the award dated 03.08.1990, that the compensation amount had been deposited in the treasury and that possession of the land had been taken and handed over to them on 22.10.1991. Respondent No.4 also refers to the investment of more than Rs.25 lakhs in the property for construction of a commercial building and a garbage shed, and to the use of the land for the annual Jatra and the weekly market. On this basis, it is contended that the Respondent No.4's possession was pursuant to the acquisition proceedings and that the finding of illegal occupation was unsustainable.

¹ (1993) 4 SCC 255

17. The Respondent No.4 has also challenged the direction to pay compensation of Rs.1,07,35,677/-. It is contended that possession had been taken pursuant to the acquisition proceedings and that compensation had already been deposited. Respondent No.4 further submits that any procedural irregularity in the acquisition proceedings was between the State Government and the petitioners, and that respondent No.4 could not be held responsible for the issuance of the final notification. It is therefore contended that the direction to pay the aforesaid amount was unsustainable.

18. Respondent No.4 has further contended that the learned Single Judge erred in relying upon the decision in ***Padma Sundara Rao v. State of Tamil Nadu***². It is submitted that the said decision was prospective in operation from 13.03.2002 and that the final notification in the present case had been quashed on 09.02.1998. Respondent No.4, therefore, contends that the requirement of issuance of a final notification within one

² (2002) 3 SCC 533

year of the preliminary notification was not applicable to the present case. It is further submitted that, after the dismissal of W.A. No.1109/2006 on 30.03.2009, steps had been taken to proceed from the stage of Section 5-A enquiry, including the enquiry conducted on 28.01.2012, the report submitted thereafter and the deposit of the recomputed compensation amount.

19. The respondent No.4 also urges that the writ petitioners approached this Court after an inordinate delay and had not explained the delay in challenging the acquisition proceedings. It is contended that the learned Single Judge failed to record a finding on the aspect of delay and laches, despite a specific contention having been raised in the statement of objections. The respondent No.4, therefore, submits that the order requires interference on that ground as well.

20. It is further contended that the writ petitioners have no locus to challenge the acquisition proceedings, since the original owners of the land bearing Sy.No.17/11B

had died issueless and the petitioners claim to be successors of A.N. Varadarajulu on the basis of the succession certificate issued in P. & S.C. No.2/2013. The respondent No.4 accordingly disputes the entitlement of the petitioners to seek quashing of the acquisition proceedings.

21. The respondent No.4 has also challenged the assessment of damages by referring to the income and expenditure statements maintained by the Town Municipal Council. It is contended that the amounts collected from the annual Jatra and other programmes conducted in the subject property were spent towards organizing the festivals and programmes and that the respondent No.4 had not earned any amount from the use of the property. On this basis, the appellant submits that the direction to pay Rs.1,07,35,677/- was erroneous and calls for interference.

22. In the circumstances, the respondent No.4 seeks setting aside of the impugned order dated

20.12.2023 passed in W.P.No.1476/2023 and such other reliefs as this Court may deem fit in the interests of justice and equity.

23. Sri.P.P.Hegde, learned Senior Counsel appearing for the petitioners opposed the writ appeal and supported the judgment under challenge, contending that it was a well-reasoned order and did not call for any interference.

24. Having carefully considered the pleadings, the material placed on record, the submissions advanced by the learned counsel for the parties and the reasoning assigned by the learned Single Judge, the question that arises for consideration is whether the learned Single Judge was justified in partly allowing the writ petition by granting damages and compensation in favour of the petitioners against respondent No.4 in exercise of the jurisdiction under Article 226 of the Constitution of India.

25. At the outset, it is necessary to observe that the challenge to the acquisition proceedings and the claim

for damages and compensation stand on different legal and factual foundations. The question relating to the validity of the acquisition notification is required to be examined with reference to the statutory proceedings, the orders passed in the earlier litigation and the material available on record. Insofar as the learned Single Judge has quashed the impugned acquisition notification, we do not find sufficient ground to interfere with that part of the order. The said finding is, accordingly, affirmed.

26. However, insofar as the claim of the petitioners for damages and compensation is concerned, we are of the considered view that the writ petition is not maintainable. The claim for payment of Rs.10,00,00,000/- is founded upon the allegation that respondent No.4 had illegally occupied and utilised the subject property from the year 1989 and had derived income by conducting the annual Jatra and other programmes. The said allegation is seriously disputed by the respondents. Respondent No.4, on the other hand, contends that the acquisition proceedings were initiated for a public purpose, that an

award was passed, that compensation was determined and deposited and that possession of the property was handed over to it on 22.10.1991.

27. Thus, the very foundation of the claim for damages, namely, the alleged illegal occupation and utilisation of the subject property, is a disputed question of fact. The determination of the claim would require examination of several factual issues, including the title and possession of the property, the effect of the acquisition proceedings, the date and nature of possession, the authority under which respondent No.4 utilised the property, the precise period of occupation, the income allegedly derived from the property, the actual loss allegedly suffered by the petitioners and the basis for quantifying the claim at Rs.10,00,00,000/-.

28. A writ Court is not ordinarily constituted as a fact-finding Court for recording evidence, examining witnesses and assessing complicated tortious liabilities or contractual damages. When a claim requires extensive

adjudication or involves disputed questions of fact, such as a routine claim arising out of breach of contract or negligence resulting in an accident, the appropriate forum is the competent civil Court and not a writ proceeding. The writ jurisdiction cannot be converted into a substitute for a civil trial merely because the claim is projected against a State authority or a local body.

29. A writ Court operating under Article 226 of the Constitution of India cannot assess the quantum of damage or compensation where the determination of such quantum depends upon disputed facts and evidence. The Court would necessarily have to examine the evidence relating to the alleged occupation, the nature of the use of the property, the income derived, the loss suffered and the basis of the amount claimed. Such an exercise is beyond the ordinary scope of summary writ jurisdiction.

30. The Supreme Court, in decisions such as (i) ***Chairman, Grid Corporation of Orissa Ltd. v.***

***Sukamani Das*³**, and ***State of Kerala v. M.K.Jose*⁴**, has emphasized that a writ proceeding is not the proper mechanism for adjudicating claims for tortious damages or contractual compensation where the dispute requires a trial and determination of disputed questions of fact. The principle underlying the said decisions is that, where the claim involves detailed factual investigation and assessment of liability, the parties must be relegated to the ordinary civil remedy.

31. In the present case, the writ Court could not have gone into the legality and correctness of the claim made by the petitioners in the absence of the evidence required to be led by them. The petitioners were required to establish, by acceptable evidence, that respondent No.4 was in unauthorised occupation of the property, that such occupation resulted in legally compensable loss and that the amount claimed by them was supported by a proper and legally sustainable basis. In the absence of such evidence, the learned Single Judge could not have

³ (1999) 7 SCC 298

⁴ 2015 SCC Online SC 726

proceeded to determine the liability of respondent No.4 or quantify the damages payable by it.

32. The petitioners have not been able to make out any such case which could be entertained and adjudicated under Article 226 of the Constitution of India. The present claim does not relate to an admitted or incontrovertible monetary liability, nor does it arise from a clear and established violation of a fundamental right warranting the exercise of extraordinary public law jurisdiction. On the contrary, the claim is based upon disputed allegations concerning possession, occupation, utilisation of the property, loss and quantification of damages.

33. The learned Single Judge, therefore, erred in partly allowing the writ petition by granting damages and compensation in favour of the petitioners against respondent No.4. The learned Single Judge ought to have come to the conclusion that the disputed questions relating to title, possession, occupation, utilisation of the property, liability and quantum of damages could not be

determined in a proceeding under Article 226 of the Constitution of India. The parties ought to have been relegated to the competent civil Court for proper adjudication, where they would have an opportunity to lead oral and documentary evidence and establish their respective claims and defences.

34. There is also substance in the contention of respondent No.4 that, if the petitioners were aware that the fourth respondent was utilising the subject property for conducting the annual Jatra and other programmes, nothing prevented them from taking appropriate steps to protect and secure the property, including by fencing the land and retaining it in their custody, subject to their lawful rights. If the petitioners claimed to be in possession or entitled to possession, they could have taken appropriate proceedings to restrain respondent No.4 from entering upon or utilising the property, including by fencing the land and preventing the fourth respondent from conducting the Jatra therein. The effect of the petitioners' failure to take such steps, the circumstances in

which respondent No.4 entered upon the property and the conduct of the parties are all matters requiring examination on the basis of evidence and cannot be summarily decided in writ jurisdiction.

35. It is, therefore, held that the writ petition is not maintainable insofar as the petitioners seek adjudication and quantification of damages and compensation against respondent No.4. The petitioners are at liberty to approach the competent civil Court and seek appropriate relief in accordance with law. All contentions of the parties relating to title, possession, occupation, liability and quantum of damages are left open. Accordingly, we pass the following;

ORDER

(i) The Writ Appeal is partly allowed;

(ii) The impugned order of the learned Single Judge is affirmed insofar as it relates to quashing of the impugned acquisition notification. However, the order is

set aside insofar as it relates to granting damages/compensation against respondent No.4;

(iii) The petitioners are at liberty to work out their remedies before the competent civil Court, in accordance with law. The period spent by the petitioners in prosecuting the proceedings before this Court shall not be reckoned for the purpose of limitation, subject to the petitioners satisfying the requirements of Section 14 of the Limitation Act, 1963, before the competent civil Court.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(H.SHANTHI BHUSHAN)
JUDGE**

KNM