

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 7<sup>TH</sup> DAY OF SEPTEMBER, 2026**

**PRESENT**

**THE HON'BLE MRS. JUSTICE ANU SIVARAMAN**

**AND**

**THE HON'BLE MR. JUSTICE T.P.VIVEKANANDA**

**MISCELLANEOUS FIRST APPEAL NO.3806 OF 2019 (LAC)**

**BETWEEN:**

THE DEPUTY COMMISSIONER AND  
SPECIAL LAND ACQUISITION OFFICER  
VISHWESWARAIAH TOWERS  
3<sup>RD</sup> FLOOR, PODIUM BLOCK  
BENGALURU-560 001

...APPELLANT

(BY SRI. I. TARANATH POOJARY, AAG A/W  
SRI. G.S. ARUNA, HCGP)

**AND:**

M/S. S.V. GLOBAL MILL LIMITED  
A COMPANY INCORPORATED UNDER  
THE PROVISIONS OF THE COMPANIES  
ACT, 1956, AND HAVING ITS  
REGISTERED OFFICE AT No.106  
ARMENINAN STREET, CHENNAI  
REPRESENTED BY ITS

Digitally  
signed by  
RAKSHA  
Location:  
High Court  
of Karnataka



AUTHORIZED SIGNATORY & MANAGER  
MR. K. JOHNSON

...RESPONDENT

(BY SRI. UDAY HOLLA, SENIOR COUNSEL A/W  
SMT. MONICA PATIL, ADVOCATE FOR  
CAVEATOR/RESPONDENT)

THIS MFA IS FILED U/S 54(1) OF LAND ACQUISITION ACT,  
AGAINST THE JUDGMENT AND AWARD DATED 29.10.2018  
PASSED IN LAC. No.33/2017 ON THE FILE OF THE II  
ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU  
(C.C.H.No.17), ALLOWING THE REFERENCE PETITION FILED  
UNDER SECTION 64(1) OF THE RIGHT TO FAIR COMPENSATION  
AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION  
AND RESETTLEMENT ACT 2013.

THIS MFA HAVING BEEN HEARD AND RESERVED FOR  
JUDGMENT ON 13.08.2026 AND COMING ON FOR  
PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN  
J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN  
and  
HON'BLE MR. JUSTICE T.P.VIVEKANANDA

**CAV JUDGMENT****(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

This Miscellaneous First Appeal is filed challenging the judgment dated 29.10.2018 passed by the II Additional City Civil and Sessions Judge, Bangalore (CCH-17) ('Reference Court' for short) in LAC No.33/2017.

2. We have heard Shri. I. Taranath Poojary, learned Additional Advocate General along with Shri. G.S. Aruna, learned High Court Government Pleader appearing for the appellant and Shri. Uday Holla, learned senior counsel as instructed by Smt. Monica Patil, learned counsel appearing for the respondent.

3. The property of the respondent was notified for acquisition by a Preliminary Notification dated 07.02.2013 issued under Section 4(1) of the Land Acquisition Act, 1894 ('1894 Act' for short), invoking the urgency provisions under Sections 17(2) and 17(4) thereof. The Notification was published in the Karnataka Gazette on 14.02.2013. The Final Notification under Section 6(1) of the 1894 Act was issued on 30.11.2013 and published in the Karnataka Gazette on

12.12.2013. During the pendency of the acquisition proceedings, the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act' for short) came into force on 01.01.2014. Possession of the acquired property was taken on 16.01.2014. The Special Land Acquisition Officer passed the award dated 08.10.2014, which was pronounced on 20.10.2014, determining compensation at Rs.142,56,24,414/-. The respondent received the compensation under protest and being dissatisfied with the determination of the market value and compensation, sought a reference under Section 64(1) of the 2013 Act.

4. The Reference Court held that the sale instances relied upon by the Special Land Acquisition Officer related to small and dissimilar properties could not form the basis for determining the market value of the acquired land measuring 3 acres 16 guntas. Relying upon the Revised Master Plan, the jurisdictional Sub-Registrar's communication and the revised guideline values, the Reference Court found that the acquired property was a

commercial corner property situated on Binny Mill Road. Taking the residential guideline value at Rs.5,600/- per sq. ft, adding 40% for commercial use and a further 10% on the enhanced value for its location as a corner property, the Court redetermined the market value at Rs.8,624/- per sq. ft. It was also noticed that no rebuttal evidence had been adduced by the acquiring authorities. The compensation awarded for the structures was upheld and the Reference Court granted 75% additional compensation, 100% solatium, additional compensation at 12% per annum and interest as provided under the 2013 Act.

5. The learned Additional Advocate General appearing for the appellant submits that the acquisition was initiated under the 1894 Act. Since the award was not passed before the enactment and before the 2013 Act came into force, the compensation had to be determined on the basis of the said Act. However, since possession of the property had to be taken in advance due to the emergent situation, Notification had been issued under Section 17 of the 1894 Act on 07.02.2013. It is contended that since the

Notification was issued under the 1894 Act, the provisions of Section 40(5) of the 2013 Act relating to grant of 75% additional compensation for taking over advance possession of the land were not applicable and the order of the Reference Court, granting the said benefit is erroneous and is liable to be reversed in appeal.

6. The learned Additional Advocate General appearing for the appellant places reliance on a Division Bench decision of the High Court of Kerala in ***Premchand, represented by his Power of Attorney Holder, Sreeju K.K v. State of Kerala, Represented by Special Tahsildar (LA) and Others*** reported in **2023 SCC OnLine Ker 10163** in support of the said contention.

7. The learned senior counsel appearing for the respondent would, on the other hand, contend that Section 40(5) of the 2013 Act specifically speaks of additional compensation and can, by no stretch of imagination, be treated as a measure of rehabilitation or resettlement. It is submitted that on an appeal preferred by the appellants themselves, the Apex Court has rendered an inter partes

judgment holding that Section 24(1) of the 2013 Act would be attracted in the facts and circumstances of the instant case and that all the provisions regarding the determination of compensation under the 2013 Act would be applicable to the instant acquisition. It is submitted that Section 40(5) of the 2013 Act, being specifically an element of additional compensation provided under the Act, the said provision would clearly be applicable in the instant case. It is further contended that no such contention is taken up either before the Reference Court or before this Court in the instant appeal and that such a contention cannot be raised at the stage of arguments, especially in view of the clear finding of the Apex Court in the case of ***The Deputy Commissioner and Special Land Acquisition Officer v. M/s. S.V. Global Mill Limited*** reported in **2026 INSC 138**. The learned senior counsel would also contend that the judgment of the Kerala High Court is one rendered without considering the provisions of Section 69 of the 2013 Act and that the same is pending in an SLP.

8. The learned senior counsel appearing for the respondent has also placed reliance on the following decisions:-

- ***Chhattisgarh State Electricity Board v. Central Electricity Regulatory Commission & Ors.*** reported in **(2010) 5 SCC 23**;
- ***Bengal Chemists and Druggists Association v. Kalyan Chowdhury*** reported in **(2018) 3 SCC 41**.
- ***Oil and Natural Gas Corporation Limited v. Gujarat Energy Transmission Corporation Limited & Ors.*** reported in **(2017) 5 SCC 42**;
- ***Commissioner of Customs and Central Excise v. Hongo India Private Limited & Anr.*** reported in **(2009) 5 SCC 791**;
- ***Patel Brothers v. State of Assam & Ors.*** reported in **(2017) 2 SCC 350**.
- ***P. Radhabai and Others v. P. Ashok Kumar and Another*** reported in **2018 SCC OnLine SC 1670**;
- ***Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department & Ors.*** reported in **(2008) 7 SCC 169**;
- ***Singh Enterprises v. Commissioner of Central Excise, Jamshedpur & Ors.*** reported in **(2008) 3 SCC 70**;
- ***Commissioner of Customs, Central Excise Noida v. Punjab Fibres Limited, Noida*** reported in **(2008) 3 SCC 73**;
- ***Union of India v. Popular Construction Company*** reported in **(2001) 8 SCC 470**;

- ***Hukumdev Narain Yadav v. Lalit Narain Mishra*** reported in **(1974) 2 SCC 133**, and
- ***State of Haryana v. Hindustan Machine Tools Limited and Others*** reported in **AIR 2015 P&H 45**.

9. Having considered the contentions advanced, we notice that Section 40 of the 2013 Act, specifically reads as follows:-

**"40. Special powers in case of urgency to acquire land in certain cases.** (1) *In cases of urgency, whenever the appropriate Government so directs, the Collector, though no such award has been made, may, on the expiration of thirty days from the publication of the notice mentioned in section 21, take possession of any land needed for a public purpose and such land shall thereupon vest absolutely in the Government, free from all encumbrances.*

(2) *The powers of the appropriate Government under sub-section (1) shall be restricted to the minimum area required for the defence of India or national security or for any emergencies arising out of natural calamities or any other emergency with the approval of Parliament:*

*Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours notice of*

*his intention to do so, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.*

- (3) *Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall tender payment of eighty per cent of the compensation for such land as estimated by him to the person interested entitled thereto.*
- (4) *In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1), sub-section (2) or sub-section (3) are applicable, the appropriate Government may direct that any or all of the provisions of Chapter II to Chapter VI shall not apply, and, if it does so direct, a declaration may be made under section 19 in respect of the land at any time after the date of the publication of the preliminary notification under sub-section (1) of section 11.*
- (5) *An additional compensation of seventy-five per cent of the total compensation as determined under section 27, shall be paid by the Collector in respect of land and property for acquisition of which proceedings have been initiated under sub-section (1) of this section:*

*Provided that no additional compensation will be required to be paid in case the project is one that affects the sovereignty and integrity of India, the security and strategic interests of the State or relations with foreign States."*

10. Section 69 of 2013 Act specifically states that the Authority considering a reference under Section 64, shall take into consideration whether the Collector has followed the parameters set out under Section 26 to Section 30 and the provisions under Chapter V of the Act.

11. It is therefore clear that what is contemplated by Section 40(5) of the 2013 Act is the award of additional compensation to the land losers when their land is taken possession of under the emergency provision. Though it is contended that Notification had been issued under Section 17(1) of the 1894 Act, it is an admitted fact that possession was taken only after the 2013 Act came into force. Further on a pointed question, whether the 80% of compensation as provided under Section 17(3-A) of the 1894 Act had been deposited or disbursed to the landowners, the Additional Advocate General answers in the negative.

12. We further notice that paragraph No.8 of the judgment of the Kerala High Court specifically states that the land was taken possession after payment of 80% of the land value under the provisions of the 1894 Act. The

narration of facts would also show that the urgency clause under the 1894 Act, was pressed into service and the land was taken possession of after payment of 80% of the land value before the 2013 Act came into force.

13. However, in the instant case, it is clear that, though the urgency clause under Section 17 of the 1894 Act was pressed into service and advance possession was taken, 80% compensation payable under Section 17(3-A) of the 1894 Act, was not disbursed to the land losers.

14. In the above circumstances, we are of the opinion that the contention raised that since Notification had been issued under Section 17(1) of the 1894 Act, no additional compensation under Section 40(5) of the 2013 Act is payable is a fallacious argument. Since no amount of compensation had been deposited, possession had not been taken and award had admittedly not been passed as on the date of the coming into effect of the 2013 Act, Section 24(1) of the 2013 Act would squarely be applicable to the facts and circumstances of the instant case. This conclusion is inescapable in view of the finding of the Apex Court in **The**

***Deputy Commissioner and Special Land Acquisition***

**Office** 's case (supra), which reads as follows:-

*"97. We conclude as follows:*

*(i) Section 24(1)(a) of the 2013 Act is applicable to all those cases where awards are passed after the commencement of the 2013 Act.*

*(ii) For passing the award under Section 24(1)(a), the provisions of the 2013 Act alone will have to be followed, except for the rehabilitation and resettlement entitlements.*

*x x x x x"*

15. Further, in the light of the provisions of Section 40, read with Section 69 of the 2013 Act, we are clearly of the view that in a case where Section 24(1) is completely applicable, the award of the additional compensation under Section 40(5) would also be applicable in a case where no compensation has been awarded under the urgency clause and where the possession has not been taken over and award has not been passed.

16. In the above view of the matter, we are of the opinion that the contention raised in the appeal cannot be

accepted. The appeal fails and the same is accordingly  
***dismissed.***

All pending interlocutory applications shall stand  
disposed of.

**Sd/-  
(ANU SIVARAMAN)  
JUDGE**

**Sd/-  
(T.P.VIVEKANANDA)  
JUDGE**

PN