



CNR: KAHC010491182025

NC: 2026:KHC:40394
WP No. 22620 of 2025
C/W WP No. 22738 of 2025
WP No. 22825 of 2025
AND 2 OTHERS

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

WRIT PETITION NO. 22620 OF 2025 (LA-RES)

C/W

WRIT PETITION NO. 22738 OF 2025 (LA-RES)

WRIT PETITION NO. 22825 OF 2025 (LA-RES)

WRIT PETITION NO. 22877 OF 2025 (LA-RES)

WRIT PETITION NO. 23098 OF 2025 (LA-RES)

IN WP No. 22620/2025

BETWEEN:

THE EXECUTIVE ENGINEER,
KARNATAKA NEERAVARI NIGAM LIMITED,
SHIVAMOGGA, SHIVAMOGGA-577201.
COMPANY REGISTERED UNDER
COMPANIES ACT, 1956.

...PETITIONER

(BY SRI. PRASHANTH B.R, ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER,
UPPER TUNGA PROJECT,
SHIVAMOGGA, SHIVAMOGGA-577201.
2. SMT. PUTTAMMA,
W/O D. G. CHANNAVEERAPPA,
AGED ABOUT 80 YEARS.
3. BASAPPA,



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S/O. NAVILAPPA,
MAJOR.

4. SMT. RATHNAMMA,
W/O OMKARAPPA,
AGED ABOUT 58 YEARS.
5. SMT. VEERAMMA,
W/O PARVATHAPPA,
AGED ABOUT 67 YEARS.
6. SRI. CHANNAPPA,
S/O SHVIAPPA,
AGED ABOUT 67 YEARS,
7. SRI. D.C. RAVIKUMARA,
S/O CHANNAPPA,
AGED ABOUT 40 YEARS.

RESPONDENTS NO. 2 TO 7 ARE R/AT:
DODDERI VILLAGE, GOVINAKOVI HOBLI,
HONNALI TALUK,
DAVANAGERE DISTRICT - 577230.

...RESPONDENTS

(BY SRI. P.P. JAYAKUMARA, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
CONSTITUTION OF INDIA, 1950 PRAYING TO QUASH THE
ORDER DATED 13.01.2025 VIDE ORDER NO. SLAO UTP DVG
LAQ. CR NO. 3/2012-13 PASSED BY THE SPECIAL LAND
ACQUISITION OFFICER UPPER TUNGA PROJECT, SHIVAMOGGA,
i.e., THE R-1 VIDE ANNEXURE -A.

IN WP NO. 22738/2025

BETWEEN:

THE EXECUTIVE ENGINEER,
KARNATAKA NEERAVARI NIGAM LIMITED,
SHIVAMOGGA, SHIVAMOGGA-577201,
COMPANY REGISTERED UNDER



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COMPANIES ACT 1956.

...PETITIONER

(BY SRI. PRASHANTH B.R, ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION
OFFICER, UPPER TUNGA PROJECT,
SHIVAMOGGA, SHIVAMOGGA-577201.
2. SRI. PARAMESHWARAPPA,
S/O SHIVABASAPPA,
AGED ABOUT 66 YEARS.
3. HALAMMA,
W/O. SHIVAPPA,
MAJOR.
4. SRI. MALLESHAPPA,
S/O BASAPPA,
AGED ABOUT 66 YEARS.
5. CHANNAPPA,
S/O. BASAPPA,
MAJOR.
6. SRI. D.G. BASAVARAJAPPA,
S/O PUTTAMMA,
AGED ABOUT 42 YEARS.
7. SRI. D.G. VISHWANATH,
S/O CHANNAVEERAPPA,
AGED ABOUT 55 YEARS.
8. D.G. CHANNAVEERAPPA,
S/O. CHANNABASAPPA,
MAJOR.
9. SMT. BASAMMA,



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W/O VIRUPAKSHAPPA,
MAJOR.

10. BHADLI BAL,
W/O. BHIMA NAYKA,
MAJOR.
11. H. CHANDRAPPA,
S/O. HULIKERE VEERAPPA,
MAJOR.
12. SRI. ESHWARA NAYKA,
S/O HALLA NAYKA,
AGED ABOUT 77 YEARS.
13. GHADIGAIAH,
S/O. SHIDHAIAH,
MAJOR.
14. SRI. H. NANJAPPA,
S/O RUDRAPPA,
AGED ABOUT 73 YEARS.
15. SRI. R.H. GANESHAPPA,
S/O RUDRAPPA,
AGED ABOUT 66 YEARS.
16. RAMA NAYAK,
S/O. SHEVYA NAYAK,
MAJOR.

RESPONDENTS NO. 2 TO 6 ARE R/AT:
KENGATTE VILLAGE, GOVINAKOVI HOBLI,
HONNALI TALUK,
DAVANAGERE DISTRICT - 577230.

...RESPONDENTS

(BY SRI. P.P. JAYAKUMARA, ADVOCATE)



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THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF CONSTITUTION OF INDIA, 1950 PRAYING TO A. ISSUE A WRIT OR DIRECTION IN THE NATURE OF CERTIORARI TO QUASH THE ORDER DATED 13.01.2025, VIDE ORDER NO. SLAO UTP DVG LAQ.CR NO.5/2012-13 PASSED BY THE SPECIAL LAND ACQUISITION OFFICER UPPER TUNGA PROJECT, SHIVAMOGGA, I.E., THE RESPONDENT NO.1 VIDE ANNEXURE-A AND ETC.

IN WP NO. 22825/2025

BETWEEN:

THE EXECUTIVE ENGINEER,
KARNATAKA NEERAVARI NIGAM LIMITED,
SHIVAMOGGA,
SHIVAMOGGA-577201,
COMPANY REGISTSED UNDER
COMPANIES ACT 1956.

...PETITIONER

(BY SRI. PRASHANTH B.R, ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER, UPPER TUNGA PROJECT, SHIVAMOGGA, SHIVAMOGGA-577201.
2. SMT. SHARADAMMA, W/O D.N. ESHWARAIAH, AGED ABOUT 70 YEARS.
3. SRI. SHIVAKUMARAIAH, S/O ESHWARAIAH, AGED ABOUT 45 YEARS.
4. SRI. CHANNAIAH,



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S/O ESHWARAIAH,
AGED ABOUT 42 YEARS.

5. SRI. D.G. BASAVARAJAPPA,
S/O D.G. CHANNAVEERAPPA,
AGED ABOUT 42 YEARS.

PETITIONER NO. 2 TO 4 ARE R/AT
DODDERI VILLAGE, GOVINAKOVI HOBLI,
HONALI TALUK, DAVANAGERE DIST 577230.

...RESPONDENTS

(BY SRI. P.P. JAYAKUMARA, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
CONSTITUTION OF INDIA, 1950 RPAYING TO QUASH THE
ORDER DATED 13.01.2025 VIDE ORDER NO. SLAO UTP DVG
LAQ.CR NO.105/2018-19 PASSED BY THE SPECIAL LAND
ACQUISITION OFFICER UPPER TUNGA PROJECT,
SHIVAMOGGA, i.e., THE R1 VIDE ANNEXURE-A.

IN WP NO. 22877/2025

BETWEEN:

THE EXECUTIVE ENGINEER,
KARNATAKA NEERAVARI NIGAM LIMITED,
SHIVAMOGGA, SHIVAMOGGA-577201,
COMPANY REGISTERED UNDER
COMPANIES ACT 1956.

...PETITIONER

(BY SRI. PRASHANTH B.R, ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION
OFFICER, UPPER TUNGA PROJECT,
SHIVAMOGGA, SHIVAMOGGA-577201.
2. SRI. K.V. CHANNABASAPPA,
S/O VEERAPPA,



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MAJOR.

3. SRI. K.V. NANJAPPA,
S/O VEERAPPA,
AGED ABOUT 75 YEARS.
4. SRI. KENCHAPPA,
S/O BASAPPA,
AGED ABOUT 70 YEARS.
5. SRI. THEEETHAPPA,
S/O BASAPPA,
AGED ABOUT 62 YEARS.
6. SRI. RAMESH,
S/O BASAPPA,
AGED ABOUT 52 YEARS.
7. BHADRALLI RAMANNA,
S/O. HANUMA,
MAJOR.

RESPONDENTS NO.2 TO 7 ARE R/AT:
KANKANAHALLI VILLAGE, GOVINAKOVI HOBLI,
NYAMATHI TALUK,
DAVANAGERE DISTRICT - 577223.

...RESPONDENTS

(BY SRI. P.P. JAYAKUMARA, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
CONSTITUTION OF INDIA, 1950 PRAYING TO QUASH THE
ORDER DATED 13/01/2025, VIDE ORDER NO. SLAO UTP
DVG LAQ. CR NO. 2/2019-20 PASSED BY THE SPECIAL
LAND ACQUISITION OFFICER UPPER TUNGA PROJECT,
SHIVAMOGGA I.E. THE R-1 VIDE ANNEXURE-A.

IN WP NO. 23098/2025

BETWEEN:

THE EXECUTIVE ENGINEER,



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KARNATAKA NEERAVARI NIGAM LIMITED,
SHIVAMOGGA, SHIVAMOGGA-577201,
COMPANY REGISTERED UNDER
COMPANIES ACT 1956.

...PETITIONER

(BY SRI. PRASHANTH B.R, ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION
OFFICER, UPPER TUNGA PROJECT,
SHIVAMOGGA, SHIVAMOGGA-577201.
2. SRI. D.G. BASAVARAJAPPA,
S/O D.G. CHENNAVEERAPPA,
AGED ABOUT 42 YEARS.
3. SRI. D.G. CHENNAVEERAPPA,
S/O CHENNABASAPPA,
MAJOR.
4. SRI. D.G. VISHWANATH,
S/O CHANNAVEERAPPA,
AGED ABOUT 55 YEARS.

RESPONDENTS NO.2 TO 4 ARE
R/AT KENGATTE VILLAGE,
GOVINAKOVI HOBLI, HONNALI TALUK,
DAVANAGERE DISTRICT - 577230.

...RESPONDENTS

(BY SRI. P.P. JAYAKUMARA, ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF
CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER
DATED 13/01/2025, VIDE ORDER NO. SLAO UTP DVG
LAQ.CR NO.3/2019-20 PASSED BY THE SPECIAL LAND
ACQUISITION OFFICER UPPER TUNGA PROJECT,
SHIVAMOGGA, I.E. THE R-1 VIDE ANNEXURE-A.



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THESE PETITIONS, COMING ON FOR DICTATING ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

ORAL ORDER

In W.P.No.22620/2025, the petitioner is before this Court seeking the following prayers:

"a. Issue a writ or direction in the nature of certiorari to quash the Order dated 13.01.2025, Vide Order No. SLAO UTP DVG LAQ.CR No.3/2012-13 passed by the Special Land Acquisition Officer Upper Tunga Project, Shivamogga, i.e., the Respondent No.1 vide Annexure-A;

b. Issue any other appropriate writ or direction, as this Hon'ble Court deems fit and proper to grant in the circumstances of the case in the interest of justice and equity."

2. In W.P.No.22738/2025, the petitioner is before this

Court seeking the following prayers:

"a. Issue a writ or direction in the nature of certiorari to quash the Order dated 13.01.2025, Vide Order No. SLAO UTP DVG LAQ.CR No.5/2012-13 passed by the Special Land Acquisition Officer Upper Tunga Project, Shivamogga, i.e., the Respondent No.1 vide Annexure-A;

b. Issue any other appropriate writ or direction, as this Hon'ble Court deems fit and proper to grant in the circumstances of the case in the interest of justice and equity."

3. In W.P.No.22825/2025, the petitioner is before this

Court seeking the following prayers:



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'a. Issue a writ or direction in the nature of certiorari to quash the Order dated 13.01.2025, Vide Order No. SLAO UTP DVG LAQ.CR No.105/2018-19 passed by the Special Land Acquisition Officer Upper Tunga Project, Shivamogga, i.e., the Respondent No.1 vide Annexure-A;

b. Issue any other appropriate writ or direction, as this Hon'ble Court deems fit and proper to grant in the circumstances of the case in the interest of justice and equity."

4. In W.P.No.22877/2025, the petitioner is before this

Court seeking the following prayers:

a. Issue a writ or direction in the nature of certiorari to quash the Order dated 13.01.2025, Vide Order No. SLAO UTP DVG LAQ.CR No.2/2019-20 passed by the Special Land Acquisition Officer Upper Tunga Project, Shivamogga, i.e., the Respondent No.1 vide Annexure-A;

b. Issue any other appropriate writ or direction, as this Hon'ble Court deems fit and proper to grant in the circumstances of the case in the interest of justice and equity.

5. In W.P.No.23098/2025, the petitioner is before this

Court seeking the following prayers:

"a. Issue a writ or direction in the nature of certiorari to quash the Order dated 13.01.2025, Vide Order No. SLAO UTP DVG LAQ.CR No.3/2019-20 passed by the Special Land Acquisition Officer Upper Tunga Project, Shivamogga, i.e., the Respondent No.1 vide Annexure-A;

b. Issue any other appropriate writ or direction, as this Hon'ble Court deems fit and proper to grant in the circumstances of the case in the interest of justice and equity."



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6. In all these cases, heard Sri.Prashanth B.R., learned counsel appearing for the petitioner, Sri.P.P.Jayakumara, learned counsel appearing for the respondents and have perused the material on record.

7. Learned counsel appearing for the respondents would submit that the issue in the *lis* stands covered by the judgment rendered by the Coordinate Bench in W.P.No.106472/2025 and connected matters, disposed on 10.07.2026, wherein it has held as follows:

"24. This Court has carefully considered the rival submissions and perused the material on record. The points that arise for consideration is:

- i. "Whether the impugned damage award passed by the SLAO, granting equitable damages for anterior period prior to issuance of notification under Section 4(1) of the Act on the ground of submergence, backwater effect and deprivation of beneficial enjoyment of the lands due to Malaprabha Reservoir Project calls for interference?*
- ii. Whether, after reference Court had declined grant of interest for the anterior period prior to issuance of notification under Section 4(1) of the Act, the claimants would subsequently seek equitable damages for the very same period by submitting representations before the SLAO?"*

25. The principal contentions urged by the petitioner-KNNL is that the claimants are not entitled to damages for the anterior period prior to issuance of notification under Section 4(1) of the Act on the following grounds:



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- i. No formal possession was taken prior to notification.
- ii. The lands are not continuously submerged from 1991 onwards.
- iii. Cultivation admittedly continued in several lands.
- iv. The impugned awards have been passed mechanically, on the basis of subsequent representations made after the conclusion of acquisition proceedings.

26. The claimants, on the other hand, contend that because of the increase in FRL of the Malaprabha reservoir, water had entered into the lands from around 1991 onwards, resulting in recurring backwater effect, water stagnation and substantial reduction in agricultural utility and beneficial enjoyment of the land, much prior to the formal acquisition proceedings. The material placed on record by the State, discloses that the year wise reservoir level statement relied by the parties indicates as under:

<i>Statement Showing Year Wise Maximum Reservoir Level And Corresponding Capacities Of Malaprabha Reservoir</i>				
<i>SL No.</i>	<i>Year</i>	<i>Maximum Reservoir level</i>		<i>Capacity in TMC</i>
<i>1</i>	<i>2</i>	<i>6</i>	<i>7</i>	<i>8</i>
1	1990-91	09-09-1990	2066.45	22.268
2	1991-92	20-08-1991	2078.8	36.756
3	1992-93	01-09-1992	2069.2	25.036
4	1993-94	28-08-1993	2069.55	25.402
5	1994-95	27-10-1994	2079.05	37.100
6	1995-96	27-10-1995	2062.7	18.83
7	1996-97	09-11-1996	2070.45	26.361
8	1997-98	26-08-1997	2079.5	37.731



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9	1998-99	09-11-1998	2063.37	19.419
10	1999-2000	14-08-1999	2074.43	30.985
11	2000-01	30-10-2000	2064.22	20.181
12	2001-02	15-10-2001	2057.63	14.728
13	2002-03	25-10-2002	2058.69	15.535
14	2003-04	29-10-2003	2057.7	14.78
15	2004-05	27-08-2004	2067.25	23.055
16	2005-06	21-09-2005	2079.5	37.731
17	2006-07	21-08-2006	2079.5	37.731
18	2007-08	28-09-2007	2079.5	37.731

27. The above statement indicates that the water level exceeded 2078 feet during the years 1991-1992, 1994-95, 1997-98, 2005-06, 2006-07 and 2007-08. The contention of the petitioner-KNNL that the reservoir level did not continuously remain above 2078 feet during all these years between 1991 and 2007, may probabilise that the lands were not under permanent continuous underwater existence throughout the entire period. However, the same does not completely negate the existence of recurring backwater effect, intermittent submergence and water stagnation affecting the lands situated within the affected contour area. The affidavit filed by the claimants before the reference Court (Annexure-R4), which is annexed along with the statement of objections and at paragraph Nos.2 and 4 it is stated as under:

“2] ಈ ಜಮೀನು ಯರಿ ಜಮೀನು ಇದ್ದು ಇದು ಮಲಪ್ರಭಾ ನದಿಯ ದಂಡೆಯ ಮೇಲೆ ಇರುತ್ತದೆ. ಸದರಿ ಜಮೀನು ಬಹಳ ಫಲವತ್ತಾದ ಜಮೀನು ಇರುತ್ತದೆ. ಈ ಜಮೀನಿನಲ್ಲಿ ನಾನು ಕಬ್ಬು ಬೆಳೆಯುತ್ತೇನೆ. ಮಲಪ್ರಭಾ ನದಿಯಿಂದ ಪೈಪಲ್ಯನ ಮೂಲಕ ನೀರಾವರಿ ಮಾಡಿರುತ್ತೇನೆ. ಪ್ರತಿ ಎಕರೆಗೆ 60 ರಿಂದ 70 ಟನ್ ಕಬ್ಬು ಬೆಳೆಯುತ್ತೇನೆ. ಸದರಿ ಬೆಳೆಯಿಂದ ಖರ್ಚು ತೆಗೆದು ನಮಗೆ ರೂ.50,000/- ದಷ್ಟು ಉಳಿತಾಯವಾಗುತ್ತದೆ. ಸದರಿ ಬೆಳೆ ಬೆಳೆಯಲು ಒಕ್ಕಲುತನ ಖರ್ಚು ರೂಪಾಯಿಯಲ್ಲಿ ನಾಲ್ಕನೆ ಬರುತ್ತದೆ. ಈ ಜಮೀನು ನಮ್ಮೂರಲ್ಲಿ ಮಾರಾಟ ಮಾಡಿದರೆ ಭೂಸ್ವಾಧೀನ ಸಮಯದಲ್ಲಿ ಪ್ರತಿ ಎಕರೆಗೆ ರೂ.5,00,000/- ಕ್ಕಿಂತ ಹೆಚ್ಚಿಗೆ ಬೆಲೆ ಬಾಳುತ್ತಿತ್ತು.

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4] ಕಳೆದ 25 ವರ್ಷಗಳಿಂದ ನಮ್ಮ ಜಮೀನಿನಲ್ಲಿ ಪ್ರತಿ ವರ್ಷ ನೀರು ಸಂಗ್ರಹವಾಗಿ ಬೆಳೆ ನಾಶವಾಗುತ್ತ ಬಂದಿರುತ್ತದೆ. ಈ ಕುರಿತು ಭೂಸ್ವಾಧೀನ ಸಂಸ್ಥೆಯವರು ಪರಿಹಾರ ಕೊಡಲು ಯಾವುದೇ ಕ್ರಮ ಕೈಕೊಳ್ಳದ್ದರಿಂದ ಈ ವಿಷಯವಾಗಿ 1991 ನೇ ಇಸ್ವಿಯಲ್ಲಿ ವಿಧಾನ ಸಭೆಯಲ್ಲಿ ಚರ್ಚೆ ಕೂಡ ಆಗಿರುತ್ತದೆ. ಅಲ್ಲಿಂದ ಭೂಸ್ವಾಧೀನವಾಗುವವರೆಗೆ ಸದರಿ ಜಮೀನಿಗೆ ನಷ್ಟ ಪರಿಹಾರ ಕೊಡಿಸುವದಾಗಬೇಕು. ಸದರಿ ಜಮೀನು ಗರಿಷ್ಠ ಪಾತಳಿಗೆ ಭೂಸ್ವಾಧೀನವಾಗದೇ ಉಳಿದ ಜಮೀನು ಆಗಿರುವದರಿಂದ ಡ್ಯಾಂ ಕಟ್ಟಿದಾಗಿನಿಂದ ಬಡ್ಡಿ ಕೊಡಿಸುವದಾಗಬೇಕು.”

28. The observations recorded in the earlier LAC proceedings, wherein, reference Court observed that due to the construction of the dam, backwater has entered the lands and that the lands had been under submergence for nearly 25 years. The material on record indicate that because of increase in reservoir level, water had entered into the lands resulting in substantial reduction in beneficial enjoyment and agricultural utility of the land prior to issuance of notification under Section 4(1).

29. Learned Senior Counsel for the petitioner-KNNL has heavily relied upon the RTC entries and evidence regarding cultivation of sugar cane, coconut, cotton and tulsi to contend that there could not have been submergence. However, merely because some cultivation activities continued in certain areas, it cannot automatically be inferred that there was no backwater effect or no deprivation whatsoever. Plants affected by recurring reservoir backwater conditions may still permit seasonal, partial or limited cultivation depending upon the recession of water and the nature of land. Therefore, isolated cultivation entries cannot conclusively disprove recurring submergence or reduction in beneficial enjoyment.

30. It is true that no formal possession mahazar or statutory possession proceedings prior to issuance of Section 4(1) notification has been produced. However, the claim of the respondents is not one of a formal statutory possession under Sections 16 or 17 of the Act. But, one of the constructive deprivation of beneficial enjoyment attributable to recurring submergence caused by the reservoir project and the fact that the lands of the claimants were affected by recurring reservoir backwaters from the material on record remains undisputed.



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31. The Apex Court in the case of **R.L. Jain** has held at paragraph Nos.13 to 15, 17 and 18 as under:

"13. *In Union of India v. Budh Singh [(1995) 6 SCC 233] after analysis of the provisions of the Act the Bench arrived at the following conclusions: (SCC p. 236, para 5)*

"The parameter for initiation of the proceedings is the publication of the notification under Section 4(1) of the Act in the State Gazette or in an appropriate case in District Gazette as per the local amendments. But the condition precedent is publication of the notification under Section 4(1) in the appropriate gazette. That would give legitimacy to the State to take possession of the land in accordance with the provisions of the Act. Any possession otherwise would not be considered to be possession taken under the Act."

14. *In Shree Vijay Cotton & Oil Mills [(1991) 1 SCC 262] the precise question raised here, namely, whether in a case where the possession is taken prior to the issuance of notification under Section 4(1) of the Act, interest can be awarded in accordance with Section 28 or 34 of the Act was not examined and the only issue examined was whether in an appeal which has been preferred by the State Government challenging the quantum of compensation awarded by the District Judge it is open to the High Court to award interest to the claimant even though he had not preferred any appeal or cross-objection for the said purpose. It is well settled that a decision is an authority for what it actually decides. What is of the essence in a decision is its ratio and not every observation found therein nor what logically follows from the various observations made therein. (See Krishena Kumar v. Union of India [(1990) 4 SCC 207], Municipal Corpn. of Delhi v. Gurnam Kaur [(1989) 1 SCC 101] and Orient Paper and Industries Ltd. v. State of Orissa [1991 Supp (1) SCC 81].) Shree Vijay Cotton & Oil Mills [(1991) 1 SCC 262] is therefore not an authority for the proposition that where possession is taken before issuance of notification under Section 4(1), interest on the compensation amount could be awarded in accordance with Section 34 of the Act with effect from the date of taking of possession.*

15. *Similar view has been taken in a recent decision by a Bench of two Judges in Lila Ghosh v. State of W.B. [(2004) 9 SCC 337] and the reasons given there in*



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para 16 of the Report are being reproduced below: (SCC pp. 343-44, para 19)

"19. Even though the authority in Shree Vijay Cotton & Oil Mills Ltd. [(1991) 1 SCC 262] appears to support the claimants, it is to be seen that apart from mentioning Sections 28 and 34, no reasons have been given to justify the award of interest from a date prior to commencement of acquisition proceedings. A plain reading of Section 34 shows that interest is payable only if the compensation, which is payable, is not paid or deposited before taking possession. The question of payment or deposit of compensation will not arise if there is no acquisition proceeding. In case where possession is taken prior to acquisition proceedings a party may have a right to claim compensation or interest. But such a claim would not be either under Section 34 or Section 28. In our view interest under these sections can only start running from the date the compensation is payable. Normally this would be from the date of the award. Of course, there may be cases under Section 17 where by invoking urgency clause possession has been taken before the acquisition proceedings are initiated. In such cases, compensation, under the Land Acquisition Act, would be payable by virtue of the provisions of Section 17. As in cases under Section 17 compensation is payable, interest may run from the date possession was taken."

x x x

17. Shri Dave, learned counsel for the appellant has also placed strong reliance on Satinder Singh v. Umrao Singh [AIR 1961 SC 908] wherein the question of payment of interest in the matter of award of compensation was considered by this Court. In this case the initial notification was issued under Section 4(1) of the Land Acquisition Act, 1894 but the proceedings for acquisition were completed under East Punjab Act 48 of 1948. The High Court negated the claim for interest on the ground that the 1948 Act made no provision for award of interest. After quoting with approval the following observations of the Privy Council in Inglewood Pulp and Paper Co. Ltd. v. New Brunswick Electric Power Commission [AIR 1928 PC 287]

"upon the expropriation of land under statutory power, whether for the purpose of private gain or of good to the public at large, the owner is entitled to interest upon the principal sum awarded from the date when possession was taken, unless the statute clearly shows a contrary intention"

the Bench held as under:



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"... when a claim for payment of interest is made by a person whose immovable property has been acquired compulsorily he is not making claim for damages properly or technically so-called; he is basing his claim on the general rule that if he is deprived of his land he should be put in possession of compensation immediately; if not, in lieu of possession taken by compulsory acquisition interest should be paid to him on the said amount of compensation".

17.1. The normal rule, therefore, is that if on account of acquisition of land a person is deprived of possession of his property he should be paid compensation immediately and if the same is not paid to him forthwith he would be entitled to interest thereon from the date of dispossession till the date of payment thereof. But here the land has been acquired only after the preliminary notification was issued on 9-9-1992 as earlier acquisition proceedings were declared to be null and void in the suit instituted by the landowner himself and consequently, he was not entitled to compensation or interest thereon for the anterior period.

18. In a case where the landowner is dispossessed prior to the issuance of preliminary notification under Section 4(1) of the Act the Government merely takes possession of the land but the title thereof continues to vest with the landowner. It is fully open for the landowner to recover the possession of his land by taking appropriate legal proceedings. He is therefore only entitled to get rent or damages for use and occupation for the period the Government retains possession of the property. Where possession is taken prior to the issuance of the preliminary notification, in our opinion, it will be just and equitable that the Collector may also determine the rent or damages for use of the property to which the landowner is entitled while determining the compensation amount payable to the landowner for the acquisition of the property. The provisions of Section 48 of the Act lend support to such a course of action. For delayed payment of such amount appropriate interest at prevailing bank rate may be awarded."

(emphasis supplied)

32. The Apex Court held that though statutory interest prior to issuance of notification under Section 4(1) may not be payable, the landowners would nevertheless be entitled to equitable damage, where they have deprived of



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possession or beneficial enjoyment of the lands due to State action prior to acquisition proceeding. Similar view was taken by the Apex Court in the case of **Balwan Singh**.

33. The contention of the petitioner-KNNL that the claimants could not have subsequently sought damages through representations after reference Court denied interest also cannot be accepted in its entirety. What was denied by the reference Court was statutory interest under the Act. In light of the judgment in **Karigowda**, the subsequent claim made by the claimants was one for equitable damages based upon prior deprivation of beneficial enjoyment, which stands on a different footing as recognized in **R.L. Jain** and subsequent judgments. Further, the impugned awards were not passed merely on unilateral representations. Earlier writ petitions had been filed seeking consideration for claim of damages and this Court directed the authorities to consider the representation in accordance with law.

34. Pursuant thereto, notices were issued to the parties, including the beneficiary-KNNL and after considering the material placed on record and objections filed by the parties, the SLAO proceeded to pass the impugned award.

35. The petitioner-KNNL had sought to challenge the award of damages made by the SLAO in relation to the lands which were submerged even prior to the 4(1) notification. In MSA.No.620/2013, this Court granted liberty to the land losers to claim damages since they contended that they have asked for submerged even prior to issuance of 4(1) notification and this Court held at paragraph Nos.15 and 16 as under:

"15. Therefore, in view of the dictum of the Hon'ble Supreme Court in Lila Ghosh, which has been approved in R.L.Jain and subsequently in Karigowda, the appellant would be entitled to interest under Section 34 of the Act only from the date of award i.e. 24.12.2009, the date of passing of the award by the SLAO and not for any period prior thereto. It is needless to observe that this is subject to condition that it is established that possession was taken i.e. submergence of the 2nd respondent's land took



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place prior to 16.08.2007 which is the date of issuance of preliminary notification under Section 4(1) of the Act.

16. With regard to the period prior to the issuance of the said notification, the 2nd respondent is at liberty to file an application seeking damages from the date of dispossession till the date of realisation, in case the submergence was prior to the notification under Section 4(1) of the Act. If any such application is filed by the 2nd respondent, then the competent authority to consider the same and award such amounts as the claimant is entitled to in accordance with law.”

(emphasis supplied)

36. The determination of damages by adopting the method of additional 15% compensation for the anterior period is also substantially in consonance with the principles approved by the Apex Court in **Madhishetti Ramul** and **Balwan Singh**. On overall appreciation of the material placed on record, this Court is of the considered view that the findings recorded by the SLAO regarding recurring submergence, backwater effect, and deprivation of beneficial enjoyment cannot be said to be wholly unsupported by evidence. Accordingly, the KNNL has failed to make out a sufficient ground warranting interference with the impugned damage award passed by the SLAO and the points framed for consideration are answered and this Court pass the following:

ORDER

- i. The writ petitions filed by the petitioner-KNNL-beneficiary, challenging the impugned damage award stands **dismissed**. Consequently, the connected writ petitions filed by the claimants-landowners seeking implementation and release of the damage/compensation determined under the impugned award stands **allowed**.
- ii. The impugned damage awards dated 25.11.2020 (16.01.2024), 07.06.2024 and 31.07.2025 passed by the Special Land Acquisition Officer, are hereby **confirmed**.
- iii. The petitioner-KNNL-beneficiary shall deposit the damage amount, if not already deposited,



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together with the accrued interest before the Special Land Acquisition Officer within a period of eight (8) weeks from date. Failing, the said amount shall carry an interest of 6% till realization."

8. In the light of the order passed by the Coordinate Bench (*supra*) and for the reasons aforementioned, the Writ Petitions are **dismissed**.

Sd/-
(M.NAGAPRASANNA)
JUDGE