

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF MARCH, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO.1221 OF 2023 (LA-KIADB)

BETWEEN:

- 1 . THE COMMISSIONER
KARNATAKA HOUSING BOARD (KHB)
KAVERI BHAVAN
BENGALURU-560 009
- 2 . THE SPECIAL LAND ACQUISITION OFFICER
KARNATAKA HOUSING BOARD
KAVERI BHAVAN
BENGALURU-560 009

...APPELLANTS

(BY SRI. H.L. PRADEEP KUMAR, ADVOCATE)

AND:

- 1 . SMT. BYRAMMA
AGED ABOUT 53 YEARS
WIFE OF LATE KARAGAPPA
- 2 . SMT. RUDHRAMBIKA
AGED ABOUT 34 YEARS
D/O LATE SRI. KARAGAPPA
- 3 . SMT. GOWRI
AGED ABOUT 32 YEARS
D/O LATE SRI. KARAGAPPA

4 . SRI. RUDRESH K.
AGED ABOUT 30 YEARS
SON OF LATE SRI. KARAGAPPA

RESPONDENTS No.1 TO 4 ARE
R/AT. KAKARAMANAHALLI
BIDADI HOBLI
RAMANAGARA TALUK-562 109

5 . THE STATE OF KARNATAKA
DEPARTMENT OF REVENUE
M.S. BUILDING
DR. AMBEDKAR VEEDHI
BENGALURU-560 001
REP. BY ITS PRINCIPAL SECRETARY

...RESPONDENTS

(BY SRI. K.S. UDAY, ADVOCATE FOR R1 TO R4;
SMT. SAVITHRAMMA, AGA FOR R5)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT, 1961, PRAYING TO (a). CALL FOR RECORDS
PERTAINING TO W.P. No. 3866/2021 (LA-KHB) (b). SET ASIDE
THE IMPUGNED ORDER DATED 02.11.2022 PASSED BY THE
LEARNED SINGLE JUDGE IN W.P. No.3866/2021 (LA-KHB) AND
ETC.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 03.03.2026 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 MS. JUSTICE TARA VITASTA GANJU

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

This writ appeal is preferred against the Order dated 02.11.2022, passed by the learned Single Judge in W.P.No.3866/2021 (LA-KHB).

2. We have heard Shri. H.L. Pradeep Kumar, learned counsel appearing for the appellants, Shri. K.S. Uday, learned counsel appearing for respondents No.1 to 4 and Smt. Savithramma, learned Additional Government Advocate appearing for respondent No.5.

3. After considering the contentions of the parties and relying on the judgments of this Court on the point, the learned Single Judge directed the appellants to pay compensation in respect of 28 guntas of 'A' kharab land in Sy.No.5, situated at Kakaramanahalli Village, Bidadi Hobli, Ramanagara Taluk.

4. The learned counsel appearing for the appellants submits that the land owner had accepted the compensation under a consent award in respect of the acquired land, without claiming any compensation for the kharab land. It

is further contended that there is a clear indication that there was no grant of the kharab land in favour of the respondents. Relying on the Government Circulars of 2018 and 2025, the learned counsel appearing for the appellants seeks to contend that both 'A' and 'B' kharab lands are government lands and that no compensation is payable in respect of government lands to persons claiming to be in occupation of such lands.

5. Learned counsel appearing for the appellants has placed reliance on the following decisions:-

- ***State of Karnataka and Another v Sangappa Dyavappa Biradar and Others***, reported in ***(2005) 4 SCC 264***;
- ***The Special Land Acquisition Officer and Another v. Lakshmanbabu Gayakwad and Others***, reported in ***ILR 2006 KAR 4563***;
- ***The Special Land Acquisition Officer, Upper Krishna Project Bagalkot v. Sharanabasappa and Another***, reported in ***ILR 2017 KAR 1003***; and
- ***A.K. Eramma w/o A.K. Siddappa and Others v. The State of Karnataka and Others***, by

*Order dated 02.09.2013 passed in Writ Appeal
Nos.31085-86/2013 (LA-RES);*

6. The learned counsel appearing for the respondents, on the other hand, contends that the respondents are admittedly the registered occupants in respect of the kharab lands as well. It is contended that the acquisition notified was in respect of 8 acres and 24 guntas of land, out of which, 28 guntas were admittedly 'A' kharab lands. It is submitted that all the RTCs would clearly show that the respondents were in possession of 'A' kharab lands as part of their larger holding.

7. It is submitted that a Division Bench of this Court in the case ***The State of Karnataka, represented by the Principal Secretary, Revenue Department and Another v. Istak Ahmad Mohammadsaheb*** reported in ***ILR 2016 KAR 98*** has clearly held that 'A' kharab lands which are part of the larger holding of an Anubhavadar, would also be in his possession and enjoyment and therefore, compensation on acquisition is liable to be granted in respect of 'A' kharab

lands in the possession of the holder of a larger extent of land.

8. Learned counsel appearing for the respondents has placed reliance on the following decisions:-

- ***State of Karnataka and Others v. V. Varadaraja***, by Order dated **29.07.2013** passed in **Writ Appeal No.1969 of 2010 (KLR-CON)**;
- ***The State of Karnataka, rep. by Principal Secretary, Revenue Department & Another v. Istak Ahmad Mohammadsaheb***, reported in **ILR 2016 KAR 98**; and
- ***Kukreja Construction Company and Others v. State of Maharashtra and Others***, by Order dated **13.09.2024** passed in **Civil Appeal No.9702 of 2024**.

9. We have considered the contentions advanced. The specific contentions raised in this appeal have been considered by the learned Single Judge. It is an admitted fact that the respondents were shown as the owner in possession and enjoyment of the land measuring 8 acres and 24 guntas in Sy.No.5, Kakaramanahalli Village, Bidadi Hobli, Ramanagara Taluk. The revenue records produced

would show that the name of Shri. Karagappa, the predecessor-in-interest of the private respondents was shown as 'khatedar' in respect of the entire extent of property. The acquisition proceedings were initiated by issuance of a Preliminary Notification on 21.06.2008. The consent award was made in respect of only 7 acres, 16 guntas of land, ignoring both 'A' kharab and 'B' kharab lands in possession of the writ petitioners.

10. The learned Single Judge, relying on the decisions of this Court in the cases of ***Sadappa, s/o Yallappa Hadapad and Another v. The General Manager and Another***, by Order dated **22.01.2020** passed in ***W.P.No.201108/2018 (LA-RES)*** and ***Rajisa s/o Nabisa Doddamani and Others v. The General Manager and Another***, by Order dated **01.02.2019** passed in ***W.P.No.201101-105/2018 (LA-RES)***, directed the grant of compensation at the same rates in respect of 28 guntas of 'A' kharab land in possession of the writ petitioners. This Court in ***Sadashivaiah and Others v. State of Karnataka***

and Others, reported in **ILR 2003 KAR 5088** has clearly held as follows:

"31. *The words Phut Kharab, therefore, mean and have reference to a land which is included in an assessed survey number but which is unfit for cultivation. After coming into the force of the Karnataka Land Revenue Act, 1964 the word phut Kharab has been defined under Rule 21 (2) as under:- "during the process of classification, land included as un-arable shall be treated as "Pot Kharab". Pot Kharab land may be classified as follows. (a) That which is classified as unfit for agriculture at the time of survey including the farm buildings or threshing floors of the holder; (b) That which is not assessed because, (i) it is reserved or assigned for public purpose; (ii) it is occupied by a road or recognized footpath or by a tank or stream used by persons other than the holders for irrigation, drinking or domestic purpose; (iii) used as burial ground or cremation ground; (iv) assigned for villager potteries.*

32. *Therefore, it becomes clear if the land falls within the category of 21(2)(a) it is not a government land, it belongs to the ownership of the petitioners. If it falls under 21(2)(b) then it belongs to the government and the petitioners cannot have a claim over the said land. However, when the petitioners claim that the said land falls within 21(2)(a) and therefore they are entitled to the compensation LAO proceeds on the assumption that*

it falls within Section 22(1)(b) and therefore they are not entitled to compensation as it belongs to the government and accordingly he has declined to pass any award. It is not in dispute that before arriving at such a conclusion the LAO has not given an opportunity to the petitioners in the enquiry under Section 11 of the Act to substantiate their contention. Without any such enquiry, without affording an opportunity to the petitioners he proceeds on the assumption that the said Kharab land falls within 22(1)(b) and therefore petitioners have no claim, as such he has declined to pass the award. On that ground also, the impugned orders passed by the LAO cannot be sustained and is liable to be set aside.”

11. Having considered the contentions advanced, we notice that the contentions raised by the appellants have been considered by the learned Single Judge. It was found that the respondents were admittedly in possession of the entire extent of the land including the kharab lands. Relying on the decisions of this Court, the learned Single Judge directed grant of compensation in respect of 'A' kharab lands.

12. We are of the opinion that the circulars relied upon by the learned counsel appearing for the appellants

being much later in point of time, cannot have any application in the instant case. We find no grounds to interfere with the finding of the learned Single Judge, which is supported by the earlier judgments in this intra Court appeal. The appeal is therefore fails and same is accordingly, ***dismissed***.

Pending applications, if any, also stand disposed of.

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

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

PN