



CNR: KAHC010830752025

NC: 2026:KHC:50378-DB
WA No. 2130 of 2025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF SEPTEMBER, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT APPEAL NO. 2130 OF 2025 (LA-RES)

BETWEEN:

1. NATIONAL HIGHWAYS AUTHORITY OF INDIA
REPRESENTED BY ITS PROJECT DIRECTOR
NO.3/29, BETHAL, TARETHOTA
NEAR PUMPWEL, NH-66
MANGALORE
DAKSHIN KANNADA DISTRICT - 575 002

...APPELLANT

(BY SMT. SHILPA GHANSHYAMBHAI SHAH, ADVOCATE)

AND:

1. SMT. HEERA J SHETTY @ VANITHA J SHETTY
W/O. JAYAPRAKASH SHETTY
AGED ABOUT 73 YEARS
RESIDING AT BADA VILLAGE,
KAPU TALUK,
UDUPI DISTRICT - 574 117
2. SRI. RAJNISH SHETTY
S/O. LATE KASTURI G SHETTY
AGED ABOUT 52 YEARS
RESIDING AT BMP 24, 6TH CROSS
10TH MIAN, MARUTHINAGAR



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MALLESHPALYA
BANGALORE - 560 075

3. LAND ACQUISITION OFFICER AND
COMPETENT AUTHORITY
ASSISTANT COMMISSIONER NATIONAL HIGHWAYS
AUTHORITY OF INDIA KUNDAPURA
UDUPI DISTRICT
UDUPI - 576 102
4. THE UNION OF INDIA
REPRESENTED BY ITS SECRETARY
MINISTRY OF ROAD TRANSPORT AND HIGHWAYS
NEW DELHI - 110 001

...RESPONDENTS

(BY SRI SACHIN B.S., ADVOCATE FOR R-1 & R-2;
SMT. NAVYA SHEKAR, AGA FOR R-3 &
SRI B.M. KUSHALLAPPA, CGC FOR R-4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 16TH SEPTEMBER 2025 PASSED BY THE LEARNED SINGLE JUDGE IN WP No. 14786/2025 (LA-RES) b) GRANT COSTS OF THE PROCEEDINGS; PASS SUCH OTHER ORDER/s AS THIS HONBLE COURT MAY DEEM FIT TO GRANT IN THE FACTS AND CIRCUMSTANCES OF THE CASE.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MRS. JUSTICE K.S. HEMALEKHA



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ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. National Highways Authority of India (NHAI) has filed the present appeal, impugning the order dated 16.09.2025, passed by the learned Single Judge in W.P.No.14786/2025 (LA-RES).

2. Respondents Nos.1 and 2 (hereafter 'the respondents') filed the said petition, *inter alia* praying that the appellant herein be directed to pay compensation for illegally utilising their land to the extent of 0.07.39 cents in Sy.No.74/27A1, (which according to the respondents translates to 299 square meters), situated at Bada Village, Kapu Taluk, Udupi District. The respondents alleged that although the said land had not been acquired by NHAI, it had utilised the same for the construction of the National Highway No. 66.

3. The learned counsel for the respondents submits that the acquisition proceedings commenced with the publication of the preliminary notification under Section 3A(1) of the National Highways Act, 1956, [**NH Act**]. The land to the extent of 0.01.61



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cents out of a total area of 9 cents falling in Survey No.74/27A1 was proposed to be acquired for the purpose of formation of the national highway, and the declaration under Section 3D(1) of the NH Act, published on 24.02.2011, was also confined to the said extent of 65 Square Meters.

4. The respondents allege that although the acquisition was limited to only 65 square meters, NHAI had utilised 299 square meters of land in excess of what was acquired and therefore is liable to pay compensation for the same. The respondent's case largely rested on the communication dated 08.11.2022 addressed by the Competent Authority for Land Acquisition, National Highway NO.66 [**CALA**] to the Project Director, NHAI. The said letter indicates that a report was obtained from Contract Surveyor, which indicated that, out of a total area of 0.09 acres in Bada Village, Survey No. 74/27A1, a land measuring 65 square metres was located within 30 metres from the middle of the road. Accordingly, the notification under section 3D of the NH Act was published with respect to the said land. It was submitted that in the said area, 0.07.394 acres falls within 30 metres of the middle of the road.



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Instead of preparing the JMC map for this land, the JMC was prepared for only 65 square meters.

5. In addition to the above communication, the respondents also rely on Communication dated 09.05.2024, sent by CALA to the Project Director. The said letter refers to an application furnished by the respondents in respect of Survey No.74/27A1, which falls within 30 metre Right of Way (RoW) alignment of National Highway 66. The said letter emphasises that the said land is required for road works on National Highway No. 66. The CALA further stated that since compensation for 65 square meters had already been sanctioned, the remaining 234 square meters of land would have to be purchased directly from the landowners.

6. The learned Single Judge, on the aforesaid basis, allowed the writ petition and quashed the endorsement dated 25.07.2022 issued by respondent No.3. The learned Single Judge concluded that NHAI had already utilized the land for construction of the highway, and on the said basis, directed NHAI to calculate the compensation for utilising 0.07.39 cents of the respondents' land without initiating acquisition proceedings, in accordance with law.



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7. NHA1 contends that it has not utilised any land in excess of what was acquired. There is no dispute that the NHA1 had acquired 65 square meters of land belonging to the respondents in accordance with the provisions of the NH Act, and had paid the compensation for the same. In regard to the balance land, the NHA1 disputes, that it has utilized any excess land, as claimed by the respondents. In view of the said controversy, this Court, vide order dated 02.09.2026, appointed a three-member court commission and directed it to conduct a spot inspection.

8. The said order is reproduced below:

"There is a factual dispute regarding the alleged use of the respondents' land besides 65 square meters by the National Highway Authority of India. We deem it appropriate to appoint a Three Member Commission consisting of Assistant Commissioner of Udupi District, Tahsildar of Kapu Taluk, Udupi District and Taluka Surveyor, to submit a report in respect of use of land by the National Highways Authority of India in Survey No.74/27A1 situated at Bada Village, Udupi Taluk, Udupi District. The 3 Member Commission should make a spot inspection and submit report on following points: (i) Whether the 65 square meters of land acquired by the National Highways Authority of India in Survey No.74/27A1 stands fully utilized or what is the extent of land which has been utilized so far? (ii) Whether the National Highways Authority of India has utilized more land besides 65 square meter in the said Survey No.74/27A1? or if so, what is the extent of land utilized by the National Highways Authority of India? The respondents are directed to deposit a sum of Rs.50,000/- towards cost of the Commission. We make it clear that if the Commission is of the opinion that some land of the respondents besides 65 square meter has been utilized, the costs paid by the respondents for Commission shall be reimbursed by the National



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Highways Authority of India. Let the order passed today for appointment of Commissioner be communicated to the concerned Authorities by the learned Additional Government Advocate, forthwith. Report before this Court should be submitted by the Commission on or before 12.09.2026. We also make it clear that the parties should remain present when the Commission inspects the site in order to submit a report for the spot as directed by them. Post this appeal on 15.09.2026. The Commission and the parties should remain present on the spot on 07.09.2026 at 12.30 p.m."

9. Pursuant to the said order, the Commission comprising of three officers - Assistant Commissioner of Udupi District, Tahsildar of Kapu Taluk, Udupi District and Taluka Surveyor of Kapu Taluk, Udupi District - conducted a spot inspection at 12.00 noon on 07.09.2026. The Commission furnished a report. The English translation of the same indicates that, it was found that 65 square meters of land falling in Survey No.74/27AI of Bada Village was acquired out of which, only 20 square meters has been utilized by NHAI. It is further reported that the NHAI has not utilized any additional land falling in Survey No. 74/27AI of Bada Village. The said report fully supports the NHAI's contention that it has not utilized any land in excess of what it has procured.

10. The learned counsel for NHAI submits that there may be some controversy as to electricity poles and drains, which the respondents claim, have been installed or constructed on their



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land. However, NHAI states that it has not installed the poles or constructed the drains and is not responsible for the same. NHAI reiterates that it has not utilized any land in excess of what has been acquired. The learned counsel appearing for NHAI also submits that if the respondents have any grievance in regarding utilisation of any lands by any other authority or person, the respondents are not precluded from availing of its remedies

11. In view of the unequivocal stand of NHAI that it has not utilized any land in Sy.No.74/27A1, other than the land acquired by it, the directions for payment of compensation in proceedings under Article 226 of the Constitution of India are not sustainable. At best, this is a factual dispute which would require determination on the basis of evidence in a proper trial.

12. In view of the above, we consider it apposite to dispose of the present appeal by setting aside the impugned order. However, we clarify that this would not preclude the respondents from availing their remedies including seeking eviction or damages in accordance with law.

13. The appeal is disposed of in the aforesaid terms.



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14. In view of the disposal of the main appeal, pending applications, do not survive for consideration and stand disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(K.S. HEMALEKHA)
JUDGE**

HR
List No.: 2 Sl No.: 20