IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 28TH DAY OF OCTOBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

MISCELLANEOUS FIRST APPEAL NO. 100996 OF 2024 (LAC)

BETWEEN:

1. THE LAND ACQUISITION OFFICER
AC, JAMAKHANDI-587301.

2. THE STATE OF KARNATAKA
REPRESENTED BY DEPUTY COMMISSIONER
BAGALKOT DISTRICT BAGALKOT-587101.

...APPELLANTS

(BY SMT KIRTILATA R PATIL, HCGP)

AND:

1. PRABHAVATI DASHARATH NIMBALKAR
AGE 38 YEARS,
R/O MUDHOL, TQ. MUDHOL, DISTRICT. BAGALKOT.

2. JYOTIBA DASHARATH NIMBALKAR
AGE MAJOR,
R/O MUDHOL TQ. MUDHOL, DISTRICT. BAGALKOT.

3. ASHWINI DASHARATH NIMBALKAR
AGE. MAJOR,
R/O MUDHOL, TQ. MUDHOL DISTRICT. BAGALKOT.

...RESPONDENTS

(BY SRI K.L. PATIL & S.S. BETURMATH, ADVOCATES FOR C/R1)

Digitally signed by SAROJA HANGARAKI
Location: High Court of Karnataka, Dharwad Bench
Date: 2024.11.12 15:13:57 +0530

THIS MFA IS FILED U/SEC.74 (1) OF RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013, PRAYING TO SET-ASIDE THE JUDGEMENT AND AWARD PASSED BY THE I ADDL. DISTRICT AND SESSIONS JUDGE BAGALKOT TO SIT AT JAMAKHANDI AND THE LAND ACQUISITION, REHABILITATION AND RESETTLEMENT AUTHORITY JAMAKHANDI IN LAC NO.5218/2021 DATED. 05/07/2023 BY ALLOWING THIS APPEAL IN THE INTEREST OF JUSTICE.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, THE COURT DELIVERED THE FOLLOWING:
CORAM: THE HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE C.M. POONACHA)

This appeal is filed under Section 74(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013[1] laying a challenge to the Judgment & Award dated 05.07.2023 passed by the Reference Court in LAC No.5218/2021, whereunder enhancement of compensation has been accorded. The above appeal is filed beyond the prescribed period of 60 + 60 = 120 days and there is a delay of 162 days in filing the appeal. An application is filed seeking condonation of delay.

2. Section 74(1) along with the Proviso thereto (sub-section (2) not being relevant) of the 2013 Act is noticed for ready reference:

> "***74. Appeal to High Court.***
>
> *(1) The Requiring Body or any person aggrieved by the Award passed by an Authority under section 69 may file an appeal to the High Court within sixty days from the date of Award:*

[1] Hereinafter referred as "the 2013 Act"

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."

3. The language of Sub-section (1) of Section 74 and the proviso thereof of the 2013 Act is clear. Further, a Division Bench of this Court in the case of **THE DEPUTY COMMISSIONER AND SPECIAL LAND ACQUISITION OFFICER, BENGALURU VS. M/S. S.V. GLOBAL MILL LIMITED, CHENNAI[2],** has examined the matter in great detail and held that Section 74 of the 2013 Act is mandatory in nature and an application for condonation of delay beyond the statutorily permissible time limit is not liable to be favourably considered. Further, a Division Bench of this Court in the case of **THE EXECUTIVE ENGINEER VS. SPECIAL LAND ACQUISITION OFFICER[3]** has declined the request for referring the matter for reconsideration to a larger Bench.

4. In view of the aforementioned, the application seeking condonation of delay is dismissed. Consequently, the appeal is also dismissed.

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[2] ILR 2020 KAR 1897

[3] Order dated 23.09.2024 passed in MFA No.102543/2022

5. It is made clear that this Court has not examined the matter on merits with regard to the sustainability of re-determination of market value and consequent enhancement of compensation awarded by the reference Court. The dismissal of this appeal is subject to the decision in SLP Nos.215 -2016 of 2023 ***(M/s S.V Global Mill Limited)*** pending before the Hon'ble Apex Court.

6. In view of dismissal of this appeal, the Registry to transmit the amount in deposit, if any, to the Reference Court immediately for being released in favour of claimants in accordance with law.

7. In view of disposal of the appeal, pending interlocutory applications, if any, do not survive for consideration.

Sd/-
(C.M. POONACHA)
JUDGE

ND
List No.: 2 Sl No.: 43