

KABC010098702006



**IN THE COURT OF THE II ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE AT BANGALORE (C.C.H. No.17)**

Dated this the 31st day of January, 2022.

PRESENT:

Smt. Sheila B.M, M.Com.,LLM.

II Addl. City Civil and Sessions Judge, Bangalore.

: LAND ACQUISITION CASE NO.102/2006:

CLAIMANTS:

1) Smt. Sakamma
W/o Muniyappa

Since dead by her LRs

claimants 2 to 4 herein.

2) Sri. Gaviyappa
S/o Muniyappa
Gidadakonenahalli village,
Vishwaneedam post
Bengaluru North Taluka.

3) Sri. Dodda Narasimhaiah
S/o Muniyappa
Gidadakonenahalli village,
Vishwaneedam post
Bengaluru North Taluka.

4) Sri. Chikka Narasimhaiah

S/o Muniyappa

Since dead by LRs

4(a) Sri. Hanumantha Raju
S/o late. Chikka Narasimhaiah
Aged about 40 years

4(b) Sri. Narasimhamurthy
S/o late. Chikka Narasimhaiah
Aged about 37 years

4(a) and 4(b) are residents of
Muddanapalya
Gidadakonenahalli village,
Vishwaneedam post
Yeshwanthpura Hobli
Bengaluru North Taluka.

5) Sri. Byrappa
S/o Venkataramanappa
Gidadakonenahalli village,
Vishwaneedam post
Bengaluru North Taluka.

6) Smt. C. Sunitha
Muddaiahana palya
Vishwaneedam post
Bengaluru North Taluka.

7) Vasantha Puttaswamy
Muddaiahana palya
Gidadakonenahalli village,
Vishwaneedam post
Bengaluru – 560 091.

8) S. Subbalakshmi
No.4, Muddaiahana palya
Gidadakonenahalli village,

Vishwaneedam post
Bengaluru – 560 091

9) Jyothi
Muddaiahana palya
Gidadakonenahalli village,
Vishwaneedam post
Bengaluru – 560 091.

10) G. Sarvamangala
D/o Gangaguddaiah
No.145/1, 4th Main road
10th Cross road,
Govindaraja Nagara
Bengaluru -560 040.

11) K. Seetha Bai
No.659, 10th Main road
RPC layout
Vijayanagara
Bengaluru -560 040.

12) T. Ramesh
4th cross, No.30
Vasanthanagara
Bengaluru.

13) Channigappa
Boganahalli post
Holenarasipura Taluk
Hassan

14) Sridhar
No.845, 1st Main road
2nd stage, 5th Block
BEML Layout
Rajarajeshwarinagara
Bengaluru -560 098.

15) Mahadevamma
W/o A. Prakash
Anjinagara
Bathyappa -560 091.

16) Sunitha
No.19, 5th cross,
3rd 'A' Main road
RPC Layout, Vijayanagara
Bengaluru -560 040.

17) B.S. Leelambike
No.8, 14th 'B' cross,
Agrahara Dasarahalli
Bengaluru -560 079.

18) Bettaswamaiah
Hosahalli
Yalagalvad
Huthirnagar Hobli
B.L. District

19) Gangamma
Magadi Main Road
Pipeline Road
Vishwaneedam post
Bengaluru.

20) M. Puttaswamy
No.195, KSRP police quarters
Koramangala
Bengaluru -560 084.

21) N. Rohini
No.253, 12th 'A' Main
6th Block, Rajajinagar
Bengaluru -560 010.

22) Vani Sheshadri
No.18-19, Muddayanapalya

G.K. Halli
Bengaluru -560 001.

23) B.V. Sheshadri
C/o Subramanya B.V. Rao
No.20, Muddayanapalya
G.K. Halli
Bengaluru -91

24) B.R. Mohan Kumar
No.12, 7th Main Road
3rd stage, Basaveshwaranagara
Bengaluru -560 079.

25) Mohan B. Achar
No.40, 3rd Main Road
Malagala, Nagarabhavi II stage
8th Block,
Bengaluru -560 091.

26) D.S. Subramanyamurthy
Muddayanapalya
G.K. Halli, Yeshwanthpura Hobli
Bengaluru North Taluka.

27) Geetha Prabhu Shankar
Muddayanapalya
G.K. Halli, Yeshwanthpura Hobli
Bengaluru North Taluka.

28) K.H. Chandrashekar
No.89, 6th Main Road
3rd Cross, S.G. Halli
Basaveshwara Nagar
Bengaluru -560 079.

29) S. Krishnamurthy
No.573, III Block
52nd Cross, Rajajinagar

Bengaluru -560 010.

30)K.B. Vasavamba
W/o K.N. Balaji
No.2904, 14th Main
II stage, Rajajinagar
Bengaluru -560 010.

31) M. Srinivas
No.230, 2nd Cross
III Main, Hanumanthanagar
Bengaluru -560 019.

32) T.V. Krishnappa
No.4, Muddayanapalya
G.K. Halli, Yeshwanthpura Hobli
Bengaluru North Taluka.

33) S.K. Narasimha
G.K. Halli, Yeshwanthpura Hobli
Bengaluru North Taluka.

34) Smt. Sakamma
W/o Muniyappa
G.K. Halli, Yeshwanthpura Hobli
Bengaluru North Taluka.

35) Sri. Gaviyappa
S/o Muniyappa
G.K. Halli, Yeshwanthpura Hobli
Bengaluru North Taluka.

36) Chikka Narasimhaiah
G.K. Halli, Yeshwanthpura Hobli
Bengaluru North Taluka.

37) Dodda Narasimhaiah
G.K. Halli, Yeshwanthpura Hobli
Bengaluru North Taluka.

38) Sri. Byrappa
G.K. Halli, Yeshwanthpura Hobli
Bengaluru North Taluka.

39) Indira Giridhar
No.158, G.K.Halli
Vishwaneedum post
Bengaluru – 560 091.

40) Siddegowda
Muddayanapalya
Bengaluru -560 091.

41) Barathi H.P.
No.14, 5th Main Road
2nd Cross, 80 feet road
Srinivasanagar
Bengaluru -560 050.

(C-1 - Dead)
(Sri.JSD, Advocate for C-2, 3 & LRs of C-4)
(Sri.ASN, Advocate for C-14 & 17)
(Sri.MS, Adv. for C-16)
(Sri.SRN, Advocate for C-18)
(Sri. KSH, Advocate for C-30)
(Sri. MNS, Advocate for C-11)
(Sri. MNS, Advocate for C-5)
(C-12 – Party in person)
(C-6 to 10, 13, 15, 19 to 29 and
31 to 34 and 36 to 41 - Absent)

–VERSUS–

RESPONDENT:

The Special Addl. Land Acquisition
Officer, B.D.A.
Bengaluru.

(By Sri. MG, Advocate)

: J U D G M E N T :

The respondent/Special Addl. LAO, Bangalore Development Authority, Bangalore has sent this reference under Sections 30 and 31(2) of L.A. Act, 1894 (hereinafter referred as 'L.A. Act' for short) for apportionment of compensation amount.

.2. The brief facts of the case is that the land bearing Sy.No. 37 measuring 8 acres 11 guntas, situated at Gidadakonenahalli village, Yeshwanthpura Hobli, Bengaluru North Taluka has been acquired for the purpose of further extension of Sir M Vishweshwaraiah Nagara layout. The SLAO has referred the case before this Court to an extent of 5 acres 7 guntas of Gidadakonenahalli village. Preliminary notification was issued on 09.04.2003 and final notification was issued on 09.09.2003. The award passed on 03.12.2003 by fixing market value at Rs.6,25,000/- per acre for dry land, Rs.6,87,500/- for

wet and garden land and Rs.3,12,500/- for phoot kharab. As there was dispute with regard to title of the interested persons, matter has been referred to this Court. The L.A.O. has deposited a sum of Rs.60,89,372/-. The said amount has been kept in F.D. in ICICI bank, Chamarajapet branch, Bengaluru.

.3. After receipt of reference, this court issued notice to both parties. In pursuance of notice, claimant No.2 (claimant No.35), claimants 3, 4, LRs of claimant No.4, 5,

.4. The claimant No.2 Gaviyappa has filed claim statement stating that the property to an extent of 8 acres 11 guntas in Sy.No. 37 of Gidadakonenahalli village, Yeshwanthpura Hobli, Bengaluru North Taluka belonged to claimant No.1 Sakamma, who had acquired the same through the registered sale deed dated 05.02.1948. The claimant No.1 Sakamma had 3 sons namely (1) Dodda Narashimhaiah; (2) Chikka Narasimhaiah; and (3) Gaviyappa – claimant No.2 (himself). The said Sakamma died intestate in the year

1981. It is stated that after the death of said Sakamma, the said property was equally divided among her three sons. After the oral partition, the claimant No.3 Dodda Narashimaiah along with his mother Sakamma has sold the property to an extent of 1 acre in-favour of Thandavachari through the registered sale deed dated 19.07.1969. As such, the said Dodda Narashimaiah has retained 1 acre 30 guntas. It is stated that the claimant No.4 Chikka Narashimaiah has sold the property to an extent of 1 acre in-favour of one Byrappa the claimant No.5 through registered sale deed dated 24.03.2000. As such, the claimant No.4 Chikka Narashimaiah has retained 1 acre 30 guntas. It is stated that the claimant No.2 Gaviyappa has acquired the property to an extent of 2 acres 30 guntas to his share in the oral partition. In addition to it, he has purchased the property to an extent of 1 acre from one Thandavachari through registered sale deed dated 29.03.1971. As such, he has owned the property to an extent of 3 acres 30 guntas in Sy.No. 37.

.5. It is stated that the respondent – B.D.A. has acquired the property to an extent of 8 acres 11 guntas and the award has been passed to an extent of 7 acres 7 guntas by excluding 1 acre 4 guntas of kharab for a sum of Rs.80,98,928/- including malkies, structures, salotium and additional value. It is stated that claimant No.5 Byrappa has received compensation to an extent of 1 acre and he has received a compensation to an extent of 1 acre, which he has purchased from Thandavachary and remaining amount of Rs.60,89,372/- is deposited before this Court.

.6. It is stated that the claimant No.30 has purchased the property to an extent of 50 X 40 feet from him through General Power of Attorney and she filed a claim statement in support of her claim. It is stated that claimant No.16 has purchased the property to an extent of 40 X 40 feet from him through registered sale deed dated 26.12.2002. It is stated that as there were some discrepancies in accepting the mutation in the names of claimants 2 to 4. As such, he and claimant No.3 and

the sons and daughters of claimant No.4 have once again divided the property to an extent of 5 acres 7 guntas by excluding 2 acres of land, since, he and claimant No.5 have received the compensation to an extent of 1 acre each. Thereafter, in Sy.No. 37, there were 8 hissass i.e., 37/1 to 37/8. In Sy.No. 37/1, he has got the property to an extent of 1 acre 10 guntas including 10 guntas of kharab, in Sy.No. 37/3 he got the property to an extent of 1 acre including 10 guntas of kharab. It is stated that in Sy.No. 37/4 he has got the property to an extent of 2 acres 9 guntas including 14 guntas of kharab and in Sy.No. 37/5 he has got property to an extent of 12 guntas. As such, he has got the property to an extent of 4 acres 7 guntas after deducting the kharab. Since he has received the compensation to an extent of 1 acre, he is entitled to the award to an extent of 3 acres 7 guntas by excluding property sold to claimants 16 and 30. It is stated that as per the partition deed dated 30.03.2011 he has got

the property to an extent of 3 acres 7 guntas. Hence, prayed for awarding compensation to him.

.7. The claimant No.3 Dodda Narasimhaiah has filed claim statement reiterating claim statement filed by claimant No.2. Further he stated that claimant No.18 Bettaswamaiah has purchased the property to an extent of 30 X 30 feet from him through General Power of Attorney dated 30.01.1998. It is stated that as there were some discrepancies, in accepting the mutation in the names of claimants 2 to 4. As such, the claimant No.2, himself and the sons and daughters of claimant No.4 have once again divided the property to an extent of 5 acres 7 guntas by excluding 2 acres of land, since the claimant No.2 and 5 have received compensation to an extent of 1 acre each. It is stated that as per the partition deed dated 30.03.2011 he has got the property to an extent of 1 acre. As such, he is entitled to receive the compensation to an extent of 1 acre by excluding the property sold to claimant No.18 Bettaswamaiah. Hence, prayed for awarding compensation to him and to

direct the respondent B.D.A. to allot a site measuring 60 X 40 feet for 1 acre.

.8. The claimant No.4 Chikka Narasimhaiah has filed claim statement reiterating the claim statement filed by claimant No.2. He further stated that the land in question i.e., Sy.No. 37 of Gidadakonenahalli village, measuring 2 acres 30 guntas belonged to him and his name was mutated in the revenue records as the owner in possession and notified as anubhavadar and khathedar. It is stated that prior to the acquisition of the said land, he was in actual possession holder, the said land belongs to ancestral of late. Muniyappa, who obtained the said land on 11.10.2004 through panchayath partikath and the same was mutated bearing No. 24/2004-05 and enjoyment of the same.

.9. It is stated that the land has been inspected by the respondents along with Revenue Inspector, Revenue Surveyor of the authorities and the particulars of the malkies / structures are as per the mahazar and sketch placed in the file. The nature of soil is reddish.

The land under acquisition is agricultural wet land. The mahazar of the land is drawn by the Revenue Inspector on 16.09.2003 and the respondents have inspected the land on 17.09.2003 along with the Executive staff and found it to be correct in his possession. He has acquired 2 acres 30 guntas in the said land and he grown several type of crops namely Tamarind trees, Mango trees, Neem trees and Bamboo bush trees and other commercial crops. Hence, prayed for awarding compensation in-respect of entire 2 acres 30 guntas of land and to direct the respondent – B.D.A. to allot site measuring 60 X 40 feet for each acre (3) in the said extension.

.10. LRs of claimant No.4 have filed claim statement stating that the property to an extent of 8 acres 11 guntas in Sy.No. 37 of Gidadakonenahalli village, belonged to claimant No.1 Sakamma, the grand mother of these claimants, who had acquired the same through the registered sale deed dated 05.02.1948. It is stated that after the oral partition, the claimant No.3

Dodda Narasimhaiah along with his mother has sold the property to an extent of 1 acre in-favour of Thandavachary through registered sale deed dated 19.07.1969. As such, the said Dodda Narasimhaiah has retained 1 acre 30 guntas. It is stated that the father of these claimants Chikka Narasimhaiah has sold the property to an extent of 1 acre in-favour of one Byrappa the claimant No.5 through the registered sale deed dated 24.03.2000. As such, the father of these claimants Chikka Narasimhaiah has retained 1 acre 30 guntas. It is stated that the respondent B.D.A. has acquired the property to an extent of 8 acres 11 guntas and the award has been passed to an extent of 7 acres 7 guntas by excluding 1 acre 4 guntas of kharab, in a sum of Rs.80,98,928/- including malkies, structures, solatium and additional value. It is stated that the claimant No.5 Byrappa has received compensation to an extent of 1 acre and the claimant No.2 Gaviyappa has received the compensation to an extent of 1 acre, which he has purchased from Thandavachary and remaining

amount of Rs.60,89,372/- has deposited before this Court.

.11. It is stated that the claimant No.17 Smt. Leelambhike has purchased the property to an extent of 40 X 30 feet from claimant No.4 through the registered sale deed dated 17.12.1993. The claimant No.14 Sridhar H. Holalkeri has purchased the property to an extent of 40 X 30 feet through the registered sale deed dated 19.03.2003 from claimant No.4 like wise, the claimant No.11 Sethubai has purchased the property to an extent of 40 X 30 feet through the registered sale deed dated 22.11.2002 from claimant No.4 Chikka Narasimhaiah. It is stated that as there were some discrepancies, in accepting the mutation in the name of claimants 2 to 4. As such, claimants 2, 3 and sons and daughters of claimant No.4 have once again divided the property to an extent of 5 acres 7 guntas by excluding 2 acres of land, since, the claimants 2 and 5 have received the compensation to an extent of 1 acre each.

.12. It is stated that as per the partition deed dated 30.03.2011 the claimant No.4 Chikka Narasimhaiah has got the property to an extent of 1 acre. As such, they are entitled to receive the compensation to an extent of 1 acre by excluding the property sold to claimant No.11 Sethubai, claimant No.14 Sridhar and claimant No.17 Smt. Leelambike. Hence, prayed for awarding compensation to them to an extent of 1 acre by excluding the property sold to claimants 11, 14 and 17.

.13. The claimant No.14 Sridhar H. Holalkeri has filed claim statement stating that he has purchased the immovable property in Sy.No.37 situated at Gidadakonenahalli village, measuring to an extent of 40 X 30 feet under the registered sale deed dated 19.03.2003. He has been in possession and enjoyment of the schedule property. It is stated that the B.D.A. vide its advertisement dated 10.01.2004 had announced for allotment of 30 X 40 feet site to revenue site owner and called for application to revenue site owners of

Gidadakonenahalli village. It is stated that in consequent to this advertisement, he had registered his name vide Registration No.332974 and filed the application No.154824 dated 23.01.2004 along with registered sale deed. So far no communication is received in this behalf from the opponent.

.14. It is stated that the compensation amount is very meager and the market value of the property in this area at the time of filing this statement is more than Rs.20 lakhs per site of dimension of about 30 X 40 feet. Therefore, this Court may be pleased to enhance the award. Hence, the compensation amount may be disbursed in his favour or in the alternative, he may be allotted alternative site for which he is ready to pay the differential amount.

.15. The claimant No.16 Sunitha has filed claim statement stating that she is the owner of the property bearing khatha No.942, assessment No.37 in Sy.No. 37 of Gidadakonenahalli village measuring 40 X 40 feet. The said property was purchased under the registered

sale deed dated 26.12.2002. It is stated that after purchase of the said site, she has constructed a house and she is residing in the said house with her family. It is also relevant to mention as per survey and spot inspection made by the survey department, the house constructed in Sy.No. 37 has been mentioned as there are 25 houses as per full report prepared. It is stated that she along with others filed a writ petition before the Hon'ble High Court of Karnataka in W.P. No.1035/2004 (LA-BDA), the Hon'ble High Court of Karnataka directed the authority to consider her case as per the case decided in Jamuna Vs. BDA reported in ILR 2005 Kar. 508 as per order dated 08.12.2005. It is stated that the compensation amount has calculated for the entire survey number, is too meager and inadequate and it is not the exact market value of the property i.e., site measuring 30 X 40 feet in the area is more than Rs.25,00,000/-. This Court considering the facts stated above, may direct the respondent to allot or convey the site in question for the claimant more fully described

below or in the alternative direct the respondent to refer the matter for fair adjudication of the market value of the property. Hence, prayed for awarding the compensation amount to her.

.16. The claimant No.17 B.S. Leelambike has filed claim statement stating that she has purchased an immovable property situated in Sy.No. 37, Muddaiahnanapalya, Khatha No.212:296 Gidadakonenahalli village, measuring to an extent of 40 X 30 feet under the registered sale deed from one Sri. Chikkanarasimhaiah. It is stated that ever since the date of purchase of the said property, she has been in possession and enjoyment of the schedule property. Without prejudice to the above said contention, she submits that the B.D.A. vide its advertisement dated 10.01.2004 (advertised in the Indian Express Daily Newspaper) had announced for allotment of 30 X 40 feet site to revenue site owner and calling for application to revenue site owners of Gidadakonenahalli village. It is stated that as a consequent to this advertisement, she

had registered her name by filing an application along with her registered sale deed. So far no communication is received in this behalf from the opponent. It is stated that the compensation amount awarded is very meager and the market value of the property in this area as at the time of filing this statement is more than 20 lakhs per site of dimension of about 30 X 40 feet. Hence, she prayed for the compensation award may be disbursed in her favour or in the alternative, she may be allotted alternative site for which she is ready to pay the differential amount.

.17. The claimant No.18 Bettaswamaiah has filed claim statement stating that she purchased the site bearing No. 2 carved in Sy.No. 37 of Gidadakonenahalli village, from one Dodda Narasimhaiah, who is the claimant No.3 in this case measuring to an extent of 30 X 30 feet under the registered sale deed dated 30.01.1998. Ever since the date of purchase, he has been in possession and enjoyment of the schedule property without any let or hindrance from any third

party, till the said site came to be acquired. As affidavit has also been entered hading over the possession of the property. By virtue of General Power of Attorney coupled with affidavit, he is sole and absolute owner. It is stated that since there was a ban in registration of sites, he has got executed General Power of Attorney coupled with interest. It is stated that at the time of acquisition, 1 sq. feet was measuring approximately Rs.1,500 to 2,000. It is submitted that the book value prescribed by the Government for CMC sites is Rs.800/- per sq. feet. It is stated that the market value is always higher than the book value prescribed by the Government and hence, he is entitled to Rs.18,00,000/- awarding to Rs.2000/- per sq. feet. Hence, he prayed to release a sum of Rs.18,00,000/- as his share.

.18. The claimant No.30 Smt. K.B. Vasavamba has filed the claim statement stating that she is the owner in possession and enjoyment of the revenue site measuring 50 X 40 feet formed in Sy.No. 37 situated at Gidadakonenahalli village. It is stated that she

purchased the said property by means of registered General Power of Attorney coupled with an affidavit from its previous owner in possession and enjoyment for valuable consideration. It is stated that she purchased the said site with fond hope of putting up residential house and to live with her family members. It is stated that she is deprived of her possessing a roof over her head. The site acquired by the respondent is having a potential value and the compensation awarded by the L.A.O. is very low and is a meager one. Hence, prayed for awarding the compensation of Rs.20,00,000/- at the rate of Rs.1000/- per sq. feet.

.19. The respondent has not filed objections to the claim statements filed by the above claimants.

.20. In order to prove their case, claimant No.2 (claimant No.35) Gaviyappa is examined as PW.4. The claimant No.4 Chikka Narasimhaiah is examined as PW.3. The LR i.e., claimant No.4(b) Narasimhamurthy of claimant No.4 is examined as PW.5. Claimant No.16

Smt. C. Suneetha is examined as PW.6. The claimant No.18 Bettaswamaiah is examined as PW.2. The claimant No.30 K.B. Vasavamba is examined as PW.1. Documents got marked at Ex.P.1 to 49. The respondent has not adduced oral evidence.

.21. Heard the arguments.

.22. The following points that would arise for my consideration are:

- 1) Which of the claimants are entitled for compensation in-respect of the land bearing Sy.No. 37 measuring 5 acres 7 guntas of Gidadakonenahalli village, Yeshwanthpura Hobli, Bengaluru North Taluka?
- 2) What order or award?

.23. My findings on the above points are as under:

Point No.1: As per decision

Point No.2: As per final order, for the following:

REASONS

.24. **POINT No.1:** Claimant No.2 Gaviyappa has been examined as PW.4. He has stated that the property to an extent of 8 acres 11 guntas in Sy.No. 37 of Gidadakonenahalli village, originally belonged to his mother Sakamma, who had acquired the same under the registered sale deed dated 05.02.1948. To corroborate the said contention, he has produced sale deed as per Ex.P.24. Ex.P.24(a) is typed copy of the said sale deed. From the said sale deed, it is seen that Sakamma had purchased the property measuring 6 acres 34 guntas from Sheik Raheem. From Ex.P.30 RTC Extract for the year 1988-89 to 1991-92, it is seen that originally extent is 8 acres 11 guntas. Out of which, 1 acre 19 guntas was kharab and the remaining extent is 6 acres 34 guntas.

.25. PW.4 has stated that his mother Sakamma had 3 sons namely (1) Dodda Narasimhaiah (claimant No.3); (2) Chikka Narasimhaiah (claimant No.4); and (3) Gaviyappa (himself). The said Sakamma died intestate in the year 1981 leaving behind her the above persons to succeed the said property. After the death of Sakamma, the property was

equally divided amongst her 3 sons by means of oral partition.

.26. PW.4 has stated that the claimant No.3 Dodda Narasimhaiah along with his mother had sold the property to the extent of 1 acre in-favour of Thandavachary through the registered sale deed dated 19.07.1969. Ex.P.25 is the said sale deed. Ex.P.25(a) is typed copy of Ex.P.25. From the said sale deed, it is seen that claimant No.3 Dodda Narasimhaiah had retained 1 acre 30 guntas of land. He has further stated that claimant No.4 Chikka Narasimhaiah had sold the property to an extent of 1 acre in-favour of one Byrappa i.e., claimant No.5 under the registered sale deed dated 24.03.2000. Ex.P.27 is the said sale deed. Ex.P.27(a) is the typed copy of Ex.P.27. From the document, it is seen that Chikka Narasimhaiah has sold the property to an extent of 1 acre out of 2 acres 30 guntas. Thus, he retained with him only 1 acre 30 guntas.

.27. PW.4 has stated that he acquired the property to an extent of 2 acres 30 guntas to his share in the oral partition. In addition, he has purchased the property to an

extent of 1 acre from one Thandavachary through the registered sale deed dated 29.03.1971. Ex.P.26 is the said sale deed. Ex.P.26(a) is the typed copy of Ex.P.26. The said document corroborated the contention of PW.4. As per say of PW.4 that he was in possession of 3 acres 30 guntas.

.28. PW.4 has stated that B.D.A. has acquired the property to an extent of 8 acres 11 guntas and the award has been passed to an extent of 7 acres 7 guntas by excluding 1 acre 4 guntas of kharab, in a sum of Rs.80,98,928/- including malkies, structures, solatium and additional value. He has stated that the claimant No.5 Byrappa has received compensation to an extent of 1 acre and he received compensation to an extent of 1 acres, which he has purchased from Thandavachary and remaining amount of Rs.60,89,372/- has deposited before this Court. By excluding 2 acres out of 7 acres 7 guntas, remaining extent is 5 acres 7 guntas in-respect of which the reference is made. Some of the persons had filed objections before the respondent. PW.4 has stated that the claimant No.30 has purchased the property to an extent of 50 X 40 feet from him

and she has produced several documents. The claimant No.16 has also purchased the property to an extent of 40 X 40 feet from him through registered sale deed dated 26.12.2002. From the say of PW.4, it is clear that PW.4 in all sold 3600 sq. feet (2000 + 1600).

.29. PW.4 has stated that as there were discrepancies in accepting the mutation in his name as well as in the names of claimants 3 and 4. As such, he, claimant No.3 and sons and daughters of claimant No.4 have once-again divided the property to an extent of 5 acres 7 guntas by excluding 2 acres of land, as he and claimant No.5 have received compensation to an extent of 1 acre each. To substantiate the said contention, the claimant No.4 has produced registered paluparikath as per Ex.P.28. From th said document, it is seen that 'A' schedule property has fallen to the share of Dodda Narasimhaiah (claimant No.3). Under the document, the claimant No.3 got item No.1 property in Sy.No. 37 to an extent of 18 guntas, item No.2 property in the same survey number to an extent of 22 guntas, in all he got 1 acre. The LR's of Chikka Narasimhaiah under the document got 'B'

schedule property, they got item No.1 property in Sy.No. 37 to an extent of 1 acre. PW.4 i.e., claimant No.2 under the document, got 'C' schedule property (item No.1) in Sy.No. 37 to an extent of 1 acre, item No.2 to an extent of 1 acre 35 guntas, item No.3 in the same survey number to an extent of 12 guntas, in all the claimant No.2 has got 3 acres 7 guntas. PW.4 has stated that in Sy.No. 37, there were 8 hissas i.e., 37/1 to 37/8. In Sy.No. 37/1, he has got the property to an extent of 1 acre 10 guntas including 10 guntas of kharab, in Sy.No. 37/3 he got the property to an extent of 1 acre including 10 guntas of kharab, in Sy.No. 37/4 he has got the property to an extent of 2 acres 9 guntas including 14 guntas of kharab and in Sy.No. 37/5 he has got property to an extent of 12 guntas. As such, he has got the property to an extent of 4 acres 7 guntas after deducting the kharab. Since he has received the compensation to an extent of 1 acre, he is entitled to an extent of 3 acres 7 guntas by excluding property sold to the claimants 16 and 30. PW.4 has stated that he is entitled to receive the compensation to an extent of 3 acres 7 guntas by excluding the property sold to claimants

16 and 30. To corroborate his contention, PW.4 has produced mutation register extract as per Ex.P.29. Ex.P.30 and 31 are the RTC Extracts for the year from 1988-89 to 1996-97. From the said RTC Extracts, it is seen that at col. No.9, the name of Sakamma has been mentioned and at Col. No.12(2) the names of Chikka Narasimhaiah, Dodda Narasimhaiah and Gaviyappa are shown to be in possession of 1 acre 17 guntas and 5 acres 17 guntas for the year 1988 to 1999 and for the year 1993-97 to an extent of 6 acres 34 guntas. Preliminary notification has been issued on 09.04.2003 and final notification has been issued on 10.09.2003. In the award, Sakamma and claimants 2 to 5 are mentioned as khathedars/ anubhavadars. Sakamma had purchased 6 acres 34 guntas of cultivable land and remaining extent was kharab land. It is settled law that boundaries will prevail over the extent. Hence, LRs of Sakamma Sakamma are entitled to claim for 7 acres 17 guntas.

.30. From the above discussion, it is clear that claimant No.2 after receipt of compensation remaining extent with him was 3 acres 7 guntas. From the said extent land sold to

claimant No.16 to an extent of 40 X 40 feet and claimant No.30 to an extent of 50 X 40 feet is deducted remaining extent is (3 acres 7 guntas – 3.30 guntas) = 3 acres 3 guntas. The claimant No.2 is entitled to get compensation to the said extent.

.31. The General Power of Attorney holder of claimant No.4 i.e., Narasimhamurthy is examined as PW.3. When claimant No.4 Chikka Narasimhaiah is reported to be dead, his son Narasimha Murthy filed the affidavit as PW.3. PW.3 could not come to give evidence on behalf of Chikka Narasimhaiah as his General Power of Attorney holder. So LR of Chikka Narasimhaiah i.e., claimant No.4(b) has examined as PW.5. He has admitted the documents marked by PW.3 as per Ex.P.17 to 21. PW.3 has reiterated the evidence of PW.4. Further he has stated that as per the partition deed dated 30.03.2011 his father i.e., claimant No.4 Chikka Narasimhaiah has got the property to an extent of 1 acre. He is entitled to receive the compensation to the extent of 1 acre by excluding the property sold to claimant No.11 Smt. Sethubai, claimant No.14 Sridhar Holalkeri and claimant

No.17 Smt. Leelambike. He has stated that claimant No.17 Smt. Leelambike has purchased the property to an extent of 40 X 30 feet from his father i.e., claimant No.4, under the registered sale deed dated 17.12.1993. The claimant No.14 Sridhar purchased the property to an extent of 40 X 30 feet through the registered sale deed dated 19.03.2003, claimant No.11 Smt. Sethubai has purchased the property to an extent of 40 X 30 feet through the registered sale deed dated 22.11.2002 from his father Chikka Narasimhaiah. The advocate for the claimant No.4 has filed details of land available to claimant No.4 after deducting the land sold to claimants 11, 14, 16, 17, 18 and 30 are as follows:

claimant No.4	-	1 acre
Land sold to claimant No.11 in guntas	-	1 $\frac{1}{4}$ guntas
Land sold to claimant No.14 in guntas	-	1 $\frac{1}{4}$ guntas
Land sold to claimant No.17 in guntas	-	1 $\frac{1}{4}$ guntas
Remaining land of claimant No.4	-	36 $\frac{3}{4}$ guntas

The LRs of claimant No.4 are entitled to receive compensation to an extent of 36 $\frac{3}{4}$ guntas.

.32. The claimant No.16 Smt. C. Sunitha has been examined as PW.6. PW.6 has stated that she is the owner of the property bearing khatha No.942, assessment No.37 in Sy.No.37 of Gidadakonenahalli village, measuring 40 X 40 feet. She purchased the same under the registered sale deed dated 26.12.2002. Ex.P.34 is the said registered sale deed. It discloses that she purchased the property from Gaviyappa (claimant No.2). She has stated that after the purchase, she has put up construction with asbestos sheet building with all civic amenities. PW.6 has stated that she has constructed the house and she is residing in the said house with her family. She further stated that as per survey and spot inspection made by the survey department, the house constructed in Sy.No. 37 has been mentioned that there are 25 houses. She has filed Writ petition before the Hon'ble High Court of Karnataka in W.P. No.1035/2004 and Hon'ble High Court had directed the respondent to consider her case as per the case decided in Jamuna Vs. B.D.A. reported in ILR 2005 Kar. 508 dated 08.12.2005. Ex.P.35 is the order passed by the Hon'ble High Court of Karnataka in the said case. Ex.P.36,

37 and 38 are the nil Encumbrance certificates in-respect of the said property. Ex.P.39 is the electricity connection taken. Ex.P.40 is the invoice bill. Ex.P.41 and 42 are the electricity bills. Ex.P.43 is the water charges bill. Ex.P.45 is the receipt for having paid the electricity bill. Ex.P.46 is the application form of BWSSB. Ex.P.47 is the receipt for having given by BWSSB. Ex.P.48 is the sketch with regard to the water reservoir connection. Ex.P.49 is the endorsement issued by B.D.A. authorities. The documents produced by claimant No.16, indicate that she was in possession and enjoyment of the property. She has stated that the compensation amount awarded is very meager. This reference is pertaining to Sections 30 and 31 of L.A. Act, so the Court cannot enhance the compensation in this reference. She has further stated that the Hon'ble High Court had directed the B.D.A. to allot or convey the site for the claimant or in the alternative to direct the respondent to refer the matter for fair adjudication of the market value of the property. The copy of the order which is available in the file, it discloses that the Hon'ble Court has noted that the petitioner is one such beneficiary and figures

in the list prepared in this regard at Sl. No.164 and would be allotted a site in due course, in the order of seniority. The respondent had submitted that she would be allotted a site in her turn in due course and her order of seniority is at Sl. No.164. As such regarding the submission, the petition was disposed of.

.33. From the oral and documentary evidence, it is clear that claimant No.16 was the owner in possession of site measuring 40 X 40 feet. Hence, she is entitled for the compensation to the said extent.

.34. The claimant No.18 Bettaswamappa is examined as PW.2. He has stated that he has purchased the site bearing No.2 carved in Sy.No. 37 situated at Gidadakonenahalli village, from one Dodda Narasimhaiah, who is claimant No.3 in this case, measuring to an extent of 30 X 30 feet on 30.01.1998 under the General Power of Attorney. Even since the date of purchase, he has been in possession and enjoyment of the schedule property without any hindrance from any body, till the said site came to be acquired. He has stated that by virtue of General Power of

Attorney coupled with affidavit, he is the sole and absolute owner. To corroborate his contention, he has produced General Power of Attorney as per Ex.P.13 and affidavit as per Ex.P.14. From Ex.P.13, it is seen that he has been authorized to receive the compensation amount also and apart from other transactions which he is permitted to do. The claimant No.3 in the claim statement filed by him has categorically admitted the sale made by him in-respect of claimant No.18. Ex.P.15 is the notice given by B.D.A. and Ex.P.16 is the award notice. He has not been cross-examined. So his evidence stands unrebutted. Though the General Power of Attorney does not confer title, in view of the claim statement and averments in Ex.P.13, this claimant can receive the compensation amount in-respect of 30 X 30 feet out of the compensation amount deposited.

.35. The claimant No.30 K.B. Vasavamba is examined as PW.1. She has stated that she is the absolute owner in possession and enjoyment of the revenue site bearing No. 24 measuring 50 X 40 feet, formed in Sy.No. 37 situated at Gidadakonenahalli village, which she purchased under the

registered sale deed dated 09.11.1995 coupled with the affidavit from Gaviyappa S/o Muniyappa for valuable consideration. Ex.P.1 is the General Power of Attorney executed by Gaviyappa in-favour of this claimant. In Sl. No.4 of Ex.P.1, it is specifically mentioned that if the land is acquired, she is entitled to receive the compensation and if compensation awarded is less she can also seek for enhancement. Ex.P.2 is the demand register extract, which discloses that Gaviyappa is the owner of the said property. Ex.P.3 is the publication of acquisition notice in newspaper. Ex.P.4 is the affidavit of Gaviyappa which discloses that he has sold the site bearing No.24 to this claimant. The sale deed could not be registered as the registration was not allowed then. So, he has executed registered General Power of Attorney in her favour. PW.1 has stated that she has purchased the site with fond hope of putting up residential house and to live with her family members. Now the said site has been acquired. She has stated that the compensation awarded is very low. The acquired property is very close to the bus stand, railway station and hence, she is entitled to

receive the compensation of Rs.20,00,000/- at the rate of Rs.1,000/- per sq. feet. Ex.P.5 is the reply given by respondent to drop the acquisition proceedings. Ex.P.6 is the award notice. Ex.P.7 is the notice given to the vendor asking him to return sale consideration. Ex.P.8 is the RPAD receipt. Ex.P.9 is the RPAD acknowledgment. Ex.P.11 is the corrigendum notice to Gaviyappa.

.36. The claimant No.2 Gaviyappa in the claim statement and in the affidavit filed by him by way of evidence has admitted the sale made by him in-favour of claimant No.30. Apart from that in the calculation filed by him he has deducted extent sold by him to claimant No.30 and asked for compensation amount to the remaining extent. Al-though General Power of Attorney does not confer title on PW.3 since claimant No.2 admits the same and has deducted the said extent from compensation claimed by him and in view of the averments in General Power of Attorney that claimant No.30 can receive compensation amount, I am of the view that the claimant No.30 can receive the compensation amount to an extent of 50 X 40 feet.

.37. The claimant No.3 Dodda Narasimhaiah, claimant No.14 Sridhar, claimant No.17 B.S. Leelambike though filed claim statements, have not led any evidence. The claimant No.1 reported to be dead. The claimants 5 and 11 had entered appearance through advocate but not filed claim statements. The claimant No.12 had entered appearance party in person but not filed claim statement. The claimants 6 to 10, 13, 15, 19 to 29 and 31 to 34 and 36 to 41 remained absent. Hence, claim against them is rejected.

.38. **Point No.2:** In view of my findings on point No.1, I proceed to pass the following:

O R D E R

The reference made by the respondent/SLAO under Sections 30 and 31 of the Land Acquisition Act, 1894 is hereby partly allowed.

Claimant No.2 (claimant No.35) Gaviyappa is entitled to receive compensation in-respect of 3 acres 3 guntas in Sy.No.37 of Gidadakonenahalli village, Yeshwanthpura Hobli, Bengaluru North Taluka, Bengaluru with accrued

interest thereon.

LRs of Claimant No.4 are entitled to receive compensation in-respect of 36 $\frac{3}{4}$ guntas in Sy.No.37 of Gidadakonenahalli village, Yeshwanthpura Hobli, Bengaluru North Taluka, Bengaluru with accrued interest thereon.

Claimant No.16 Smt. C. Sunitha is entitled to receive compensation in-respect of 40 X 40 feet in Sy.No.37 of Gidadakonenahalli village, Yeshwanthpura Hobli, Bengaluru North Taluka, Bengaluru with accrued interest thereon.

Claimant No.18 Bettaswamappa is entitled to receive compensation in-respect of 30 X 30 feet in Sy.No.37 of Gidadakonenahalli village, Yeshwanthpura Hobli, Bengaluru North Taluka, Bengaluru with accrued interest thereon.

Claimant No.30 K.B. Vasavamba is entitled to receive compensation in-respect of 50 X 40 feet in Sy.No.37 of Gidadakonenahalli village, Yeshwanthpura Hobli, Bengaluru North Taluka, Bengaluru with accrued interest thereon.

Claimant No.2, LRs of claimant No.4, claimant No.16, claimant No.18 and claimant No.30 shall have to execute indemnity bonds with one surety, undertaking to re-deposit the compensation amount either in this court or in any other court, if ordered to do so, which amount they are going to receive in this case.

The reference made by the respondent/SLAO in-respect of claimants 3, 5 to 13, 15, 19 to 29, 31 to 34, 36 to 41 is hereby rejected.

The compensation payable in-respect of remaining extent of acquired land to be continued in F.D. until further orders.

Draw award accordingly.

(Dictated to the Judgment Writer, transcribed by her, revised by me and after corrections, pronounced in open Court on this the 31st day of January, 2022.)

(Sheila B.M.)
II Addl. City Civil and Sessions Judge,
& Spl. Judge, Bangalore

A N N E X U R E

1. WITNESSES EXAMINED FOR CLAIMANTS:

P.W.1	K.B. Vasavamba
P.W.2	Bettaswamaiah
P.W.3	Narasimha Murthy
P.W.4	Gaviyappa
P.W.5	Narasimhamurthy
P.W.6	C. Suneetha

2. DOCUMENTS MARKED FOR THE CLAIMANTS:

Ex.P.1	Registered sale deed dated 09.11.1995
Ex.P.2	RTC Extract
Ex.P.3	Public instruction issued by B.D.A.
Ex.P.4	Gaviyappana certificate
Ex.P.5	Copy of application to B.D.A.
Ex.P.6	Copy of award notice
Ex.P.7	Copy of lawyer notice by Gaviyappa
Ex.P.8 to 10	Postal acknowledgments and postal receipts
Ex.P.11	Notice copy
Ex.P.12	Certificate of original owner
Ex.P.13	General Power of Attorney dated 30.01.1998
Ex.P.14	Certificate dated 30.01.1998
Ex.P.15	Notice issued by B.D.A. dated 06.06.2003
Ex.P.16	Award notice
Ex.P.17	General Power of Attorney

Ex.P.18	RTC Extract
Ex.P.19	Mutation register extract
Ex.P.20 & 21	RTC Extracts
Ex.P.22 & 23	Notice copies (2 in numbers)
Ex.P.24	Certified copy of sale deed dated 05.02.1948
Ex.P.24(a)	Typed copy of Ex.P.24
Ex.P.25	Certified copy of sale deed dated 19.07.1969
Ex.P.25(a)	Typed copy of Ex.P.25
Ex.P.26	Certified copy of sale deed dated 29.03.1971
Ex.P.26(a)	Typed copy of Ex.P.26
Ex.P.27	Certified copy of sale deed
Ex.P.28	Registered paluparikattu
Ex.P.29	Mutation register extract
Ex.P.30 & 31	RTC Extracts (2 in numbers)
Ex.P.32	Mutation register extract
Ex.P.33	Death certificate of Chikkanarasimhaiah
Ex.P.34	Original sale deed dated 26.12.2002
Ex.P.35	Copy of order dated 08.12.2005 in W.P No.1035/2004 passed by the Hon'ble High Court of Karnataka
Ex.P.36 to 38	Encumbrance Certificates
Ex.P.39	Letter dated 15.03.2003 given by KPTCL
Ex.P.40	Invoice (bill)
Ex.P.41 & 42	Two electricity paid bills
Ex.P.43	Bill for having paid the water charges
Ex.P.44	Electricity bill
Ex.P.45	Receipt for having paid the electricity bill

Ex.P.46	Endorsement issued by BWSSB
Ex.P.47	Receipt
Ex.P.48	Sketch copy
Ex.P.49	Endorsement annexed with list issued by B.D.A.

3. WITNESSES EXAMINED FOR THE RESPONDENT:

Nil

4. DOCUMENTS MARKED FOR THE RESPONDENT:

Nil

(Sheila B.M.),
II Addl. City Civil & Sessions Judge,
& Spl. Judge Bangalore.

