



**IN THE COURT OF THE PRINCIPAL JUDGE, FAMILY
COURT AT TUMAKURU**

Dated this the 17th day of February 2025

**Present:- N.Muniraja, B.A., LL.M.,
Prl. Judge, Family Court,
Tumakuru.**

R.A.No.7/2024

Appellants : 1.Chikkamma
W/o late Narasimhaiah
dead leaving no L.Rs.
2. Jayamma
2nd wife of late Narasimhaiah
Aged 57 years.

(Petitioner No.2 in the court
below in LAC.No.115/1998)
R/at Dibbur village,
Kasaba Hobli, Tumakuru taluk.

(Rep. by Sri.P.R.Jayarangaiah
Advocate)

V/s

Respondents : 1. Special Land Acquisition
Officer, Hemavathi Canal



Zone, Tumakuru City.

2. Chikkanna
S/o Boraiah,
since dead by his L.Rs
- a) Narasimhamurthy
S/o late Chikkanna
aged about 40 years,
- b) Gangamma
D/o late Chikkanna
aged about 38 years.
- c) Saroja
D/o late Chikkanna
Aged about 30 years.
- d) Puttamma
W/o late Chikkanna
Aged about 59 years.
- e) Bhagyamma
D/o late Chikkanna,
Aged about 45 years.

Respondents 3(a) to (e) are residents of Dibbur village, Tumakuru taluk.

(R.1 by Sri.J.K.Anil,Adv
and R.3(a) to (c) by
Sri.N.Mohammed Akbar, Adv)



J U D G M E N T

At the first instance this appeal was pending on the file of the Prl.District & Sessions Court, Tumakuru in R.A.No.50/2022. Subsequently, as per letter No. RSB.220/2024 dated:04.06.2024 of the Hon'ble High Court of Karnataka, Bangalore transferred the said appeal to this court and re-numbered as R.A.No. 7/2024.

2. The appellants have preferred this appeal under Section 54(1) of the Karnataka Land Acquisition Act r/w under Order 41 Rule 1 of the Civil Procedure Code being aggrieved by the common judgment and award dated:05.01.2016 passed in LAC.No.115/1998 along with LAC.Nos.17, 11, 183 and 197/1997 ,



109/1998 and 3/1999 by the learned Prl. Senior Civil Judge and C.J.M, Tumakuru for enhancement of compensation in respect of the acquired land and trees thereon.

3. The appellants and the husband of respondent No.2(d) and father of the respondents 2(a) to (c) and (e) by name Chikkanna were claimants and respondent No.1 was respondent before the reference court. During the pendency of the reference, the said Chikkanna died and his L.Rs brought on record. In this appeal the L.Rs of the said Chikkanna instead of arraying as appellants arrayed as respondents No.2(a) to (e).

4. The facts leading to this appeal are stated as follows:-



That the appellants and husband of respondent No.2(d) and the father of respondent No.2(a) to (c) and (e) by name Chikkanna were the owners and in possession of the land bearing Sy.No.11/4 measuring measuring 1 acre 25 guntas situated at Dibbur village, Kasaba Hobli, Tumakuru Taluk. The respondent No.1 acquired the said land along with malkies therein for the purpose of Hemavathi Channel and they have awarded meager compensation. The appellants and their brother-in-law have received the award amount under protest and they have sought reference U/sec.18 of the Land Acquisition Act to the civil court for enhancement of compensation. Accordingly, the respondent sent the reference to the Prl..Senior Civil Judge and C.J.M., Tumakuru and herein after referred to as reference court and the same was registered as LAC.No.115/1998.



5. Before the reference court, the respondent represented through counsel and filed objections contending that the land Acquisition Officer awarded compensation considering the fertility of land and sale statistics obtained from the Sub-registrar for 3 years prior to the notification with respect to similar lands situated near the acquired land and also valuation of the malkies fixed based on the value determined by the Horticulture and forest departments. The compensation awarded by the respondent is just and proper. The compensation claimed by the appellants is exorbitant and they are not entitle for enhancement of compensation as claimed. Accordingly prayed for dismissal of the reference with costs.



6. Before the reference court, the claimant No.1/appellant No.1 examined as PW-7, The respondent No.1 has not adduced any evidence.

7. After hearing both the parties and by considering the oral and documentary evidence the reference court by its common judgment and award dated:05.01.2016 passed in the above said LAC cases, has partly allowed the above LAC.No.115/1998 and enhanced compensation to the appellants and respondents No.2(a) to (e) at the rate of Rs.3,667/- per gunta of the acquired land towards 1 acre 25 guntas in total sum of Rs.2,38,355/- and Rs.2,000/- per coconut tree and Rs.75,000/- towards well and pump house, in total Rs.2,45,000/- towards malkies with all statutory benefits.

8. The appellants being aggrieved by the said judgment and award passed by the reference court



have filed this appeal for enhancement of compensation with respect to acquired land and coconut trees thereon on the following grounds:

The reference court not considered that the acquired land is situated adjacent to Tumakuru city and valued more than 10,00,000/- per gunta. The trial court has erred in awarding meager compensation pertaining to standing coconut trees and open well and pumpset in the acquired land. The trial court has not at all considered the market value of the coconut trees before passing the impugned order. The order of the trial court is otherwise erroneous, opposed to law, facts and probabilities of the case. On the above said grounds, prayed to enhance the compensation with respect to acquired land and coconut trees thereon by allowing this appeal.



9. The appellants along with this appeal have filed I.A.No.1 U/sec.5 of the Limitation Act for condonation of delay in filing this appeal. This court allowed the said I.A.No.1 on 17.01.2025 and condoned the delay of 7 years in filing this appeal subject to waiving off the interest for the delay period on the enhanced compensation.

10. Respondents appeared through their respective advocates.

11. The reference court records are secured.

12. Heard the arguments of the the learned counsel for the appellants. The learned counsels for the appellants and respondents No.2(a) to (e) have also filed filed written arguments and I perused the records.



13. The points that would arise for my consideration are as follows:

1. Whether the appellants made out sufficient grounds to enhance the compensation amount as prayed for in this appeal ?
2. Whether the impugned judgment and award calls for any interference from this Court ?
3. What order ?

14 . My answer to the above points are as follows:

Point No.1: Partly in the Affirmative.

Point No.2: Partly in the Affirmative.

Point No.3: As per final order
for the following:

R E A S O N S

15. Point No.1:- The appellants in this appeal have sought for enhancement of compensation with respect to the acquired land and 85 coconut trees and open well and pumpset as the reference court awarded



meager compensation without considering the oral and documentary evidence produced by them. The acquisition of land bearing Sy.No.11/4 measuring 1 acre 25 guntas and 85 coconut trees and open well and pump set as shown in JMC report situated in Dibbur village, Kasaba Hobli, Tumakuru Taluk belongs to the appellants and husband of respondent No.2(d) and father of respondent No.2(a) to (c) and (e) and awarding of compensation with respect to the said acquired land and malkies thereon and taking over possession of the acquired land by the respondent No.1 is not in dispute.

16. The reference court has awarded enhanced compensation to the appellants and respondents No.2(a) to (d) at the rate of Rs.3,667/- per gunta of land and Rs.2,000/- per coconut tree and Rs.75,000/- towards



well and pumpset which were existing in the acquired land with all statutory benefits.

17. During the course of arguments, the learned counsel for the appellants has produced the certified copies of judgments and awards 30.09.2022 passed in LAC.Appeal No.25/2022 and 74/2022 by the learned II Addl.District & Sessions Judge, Tumakuru and certified copy of judgment passed in LAC.A.No.2/2023 by the learned VI Addl.District & Sessions Judge, Tumakuru to contend that in the above said appeals enhanced compensation at the rate of Rs.50,000/- per gunta and Rs.20,000/- per Coconut tree, with respect to the acquired land of the same village and purpose.

18. In view of the above said contention of the learned counsel for the appellants, whether the market value fixed in the above said LAC.Appeal No.25/2022



and 74/2022 by the learned II Addl.District and Sessions Judge, Tumakuru and LAC.A.No. LAC.A.No.2/2023 by the learned VI Addl.District & Sessions Judge, Tumakuru can be fixed in this case or not is the question to be considered here.

19. The Hon'ble Supreme court of India in the decision reported in **(2005) 6 SCC 454 in the case of ONGC Ltd., Vs. Sendhabhai Vastram Patel and Others held as follows:**

The best method would be the amount as may be evidenced by the deeds of sale-In the absence of any direct evidence on the said point, the court may take recourse to other methods viz. Judgments and awards passed in respect of acquisition of lands made in the same village and/or neighbouring villages-However such a judgment and award in the absence of any other evidence like deed of sale, report of expert and other relevant evidence, would have only evidentiary value-Reiterating application of



comparable sales method, held, instances of sale in respect of similar land situated in the same village and/or neighbouring villages should have been taken as guiding factors by the Reference Court as well as the High Court-In the absence of any better evidence, those courts could have made additional in the sale prices for the land as evidenced by the said deeds of sale- But, wherein (i) Reference Court passing award (enhancing compensation) solely on the basis of testimony of a witness ignoring the deeds of sale produced before the Land Acquisition Collector, and (ii) it relied on awards made in certain earlier cases which had not attained finality, held, High Court was not correct in dismissing the appeal filed against the judgment and award made by the Reference Court- But, since financial implication of the present matters involved only a few thousand rupees in each case, Supreme Court dealing to interfere under Art.136.

20. In another decision, reported in **(2005) 12**

SCC 564 in the case of Union of India Vs. Harinder



Pal Singh and others the Hon'ble Supreme Court of India held as follows:

Comparable sales method-Acquisition of land in five different villages-Division Bench relying on sale instance in adjoining village KG and taking into consideration similarity of the acquired lands, abandoning the belting system and awarding compensation at uniform rate of Rs.40,000/- per acre, irrespective of their nature or quality-Statutory interest and solatium at rate of 30 per cent p.a was also granted besides, claimants of villages K and W were also granted benefit of S.23(1A)-Submission by State that (i) High Court erred in abandoning the belting system; and (ii) market value of lands in KG had wrongly been taken as a yardstick for awarding compensation-Held, from the sketch plan of the area concerned it is evident that acquired lands can be consolidated into a single unit and hence Division Bench of the High Court was justified in fixing a uniform rule-Further held, entire area was at a development stage and villages concerned were capable of being



developed in a similar manner as lands comprised in village KG-In absence of any contemporaneous document, market value of acquired lands of village KG, acquired at the same time as lands in the instant case, was rightly taken as the comparative unit for determination-Benefit of S.23(1-A) to claimants of village K and W approved.

21. In another decision reported in **(2008) 14 SCC 745, in the case of General Manager Oil and Natural Gas Corporation Ltd., Vs. Rameshbhai Jivanbhai Patel and another the Hon'ble Supreme Court of India** held as follows:

Determination of-Compensation awarded in earlier acquisitions as the only basis-No evidence of comparable sales-Permissibility-Land acquired in 1994 relying on rate of compensation awarded in respect of land in neighbouring villages in the years 1986 and 1987-Land acquired in village Ijapura-No evidence of earlier



sale in Village Ijapura-No evidence of land sold in other villages-Only evidence related to compensation awarded to expropriated landlords in two neighbouring villages-Evidence of compensation by way of award in the absence of evidence relating so sale, held, permissible.

22. In another decision reported in **2015(5) SCC 801 in the case of Bhupal Singh and others Vs. State of Haryana the Hon'ble Supreme Court held** that “ Based on the value of adjacent land – cut off date – held – Fair market value of acquired land is required to be determined based on market rate of adjacent lands, similarly situated acquired lands prevailing on date of acquisition or prior to acquisition but not subsequent date of acquisition – In appropriate cases addition of 10% p.a. escalation in prices specified in the sale deeds in relation to adjacent



similarly situated lands for fixing the market value of acquired land may be permitted”.

23. The Hon'ble High Court of Karnataka at Gulbarga Bench, in the decision reported **in 2015(2) KCCR 1943 (D.B) in the case of Abdul Khadar and others Vs. The Assistant Commissioner and land acquisition officer, Bijapur and another** held that “award passed in respect of comparable lands particularly the lands which are acquired under same notification for same purpose having same advantages will become valid and acceptable piece of evidence to determine market value in connected cases”.

24. In another decision reported in **ILR 2003 KAR. 2336, in case of State of Karnataka by Spl. Land Acquisition Officer and others Vs. Mallappa and others, the Hon'ble High Court of Karnataka,**



Bangalore held that “ enhancement of compensation made by the first appellate court is sought to be challenged by the State – enhancement was made on the basis of the judgment and award made by the court in similar other cases – wherein the similar nature of land of adjoining villages acquired under the same notification and for the same purpose – uniform rate of compensation for all the acquired lands which are similarly situated to the adjoining villages cannot be faulted, liable to be confirmed.

25. In view of the settled principle of law laid down in the aforesaid decisions, the market value fixed in the previous judgments relating to similarly situated lands of the same village and adjoining villages can be considered in determining the market value of the acquired lands. I have gone through the above



judgments and awards passed in LAC.Appeal No.25/2022 and 74/2022 by the learned II Addl.District Judge, Tumakuru LAC.No.2/2023 by the learned VI Addl.District & Sessions Judge, Tumakuru produced by the learned counsel for the appellants. In the above said LAC.Appeals No.25/2022, 74/2022 and L.A.C.A.No.2/2023 fixed the market value of the land at Rs.50,000/- per gunta and in LAC.A.NO.74/2022 fixed the market value at Rs.20,000/- per Coconut tree of Dibbur village, Kasaba hobli, Tumakuru taluk acquired for similar purpose.

26. The acquired land and Coconut trees involved in the above said LAC.Appeals No.25/2022, 74/2022 and LAC.A.No.2/2023 and the land involved in the present appeal are of same village i.e., Dibbur village and acquired for similar purpose during the same year. So it is crystal clear that the lands involved in the



above said LAC.Appeals No.25/2022 and 74/2022 and 2/2023 and the present case are acquired during the same year notification for similar purpose.

27. In the above said LAC.Appeal No.25/2022 and 74/2022 by the learned II Addl.District Judge , Tumakuru and enhanced compensation to the acquired land at the rate of Rs.50,000/- per gunta and Rs.20,000/- per Coconut tree of the same village i.e. Dibbur village. In LAC.A.NO.2/2023 the learned VI Addl.District and Sessions Judge, Tumakuru enhanced compensation to the acquired land at Rs.50,000/- per gunta of Dibbur village. Therefore, the same market value of the acquired land and trees can be adopted to the acquired land and the trees of the present appeal. Therefore, it can be said that the market value fixed by the reference court at the rate of Rs.3,667/- per gunta with respect to the acquired land



and Rs.2,000/- per coconut tree standing thereon is not proper and reasonable. Therefore, the appellants are entitle for the market value fixed in the above said LAC.Appeal No.25/2022 and 74/2022 by the learned II Addl.District Judge, Tumakuru and in LAC.A.No.2/2023 by the learned VI Addl.District and Sessions Judge, Tumakuru with respect to the acquired land and Coconut trees of the case on hand.

28. It is necessary to note that the respondent No.1 not produced any materials to show that the judgments and awards passed in the above said LAC.Appeal Nos.25/2022 , 74/2022 and 2/2023 are set aside by the Higher Courts. It is under these circumstances, in view of the settled principle of law laid down in the above cited decisions, this Court can adopt the compensation awarded in the above said cases to the present case. Therefore, it is just and



proper to adopt the judgments and awards in the above said LAC.Appeal Nos.25/2022, 74/2022 and 2/2023 with respect to the acquired land and trees in the present appeal. Therefore, in my considered view, in this appeal also the appellants and respondents No.2(a) to (e) are entitle for enhanced market value at the rate of Rs.50,000/-per gunta of land and Rs.20,000/-per Coconut tree, tree with all statutory benefits. The reference court enhanced compensation to the appellants and respondents No.2(a) to (e) at Rs.75,000/- towards the well and pump house existing in the acquired land. The appellants have not placed any materials to show that the compensation awarded by the reference court with respect to the said well and pump house is meager. In view of the above reasons,

I answer point No.1 partly in affirmative.



29. Point No.2:- Since the reference Court has not considered the value of the lands and trees as compared to the value of trees in LAC.Appeal Nos.25/2022, 74/2022 and 2/2023, it has awarded the less compensation, which is not accepted by the appellants. The appellants have relied upon previous judgments passed by the Appellate Courts in respect of the lands and trees similarly situated acquired for the same purpose, the impugned judgment and award passed by the reference court calls for interference by this appellate court. Accordingly, **I answer the point No.2 Partly in the Affirmative.**

30. Point No.3:- For the foregoing reasons and discussions made above, I proceed to pass the following :

**ORDER**

The appeal filed by the appellants is hereby allowed in part.

Impugned judgment and award dated:05.01.2016 passed in LAC No.115/1998 by the learned Prl. Senior Civil Judge & C.J.M Tumakuru is hereby modified as under:

The appellants and respondents No.2(a) to (e) are entitled for enhanced compensation at the rate of Rs.50,000/- (Rupees Fifty Thousand) per gunta towards 1 acre 25 guntas in Sy.No.11/4 situated at Dibbur village Kasaba hobli, Tumakuru taluk with all statutory benefits.

Further the appellants and respondents No.2(a) to (e) are entitled for enhanced compensation at the rate of Rs.20,000/-(Rupees Twenty Thousand) per coconut tree towards 85 coconut



trees standing in the above said land with all statutory benefits.

The appellants and respondents No.2(a) to (e) are not entitle for interest on the enhanced compensation amount for delayed period from 5.02.2016 to till filing of appeal on 7.02.2022.

Rest of the impugned judgment and award of the trial court is hereby confirmed.

The respondents are at liberty to deduct the amount of compensation if any, which was already paid to the appellants and respondents No.2(a) to (e).

Further the costs of Rs.6,000/- imposed while allowing I.A.No.I to condone the delay in filing the appeal is liable to be deducted from the enhanced award amount.



Considering the delay in filing the appeal, the appellants are not entitled to costs.

Draw award accordingly.

The appellants and respondents No.2(a) to (e) are directed to pay necessary court fee, if not sufficiently paid.

Send back Trial Court Record along with copy of this judgment and award.

(Dictated to the Stenographer Grade-I directly on computer and print out taken by her, corrected and then pronounced in the open Court on this the 17th day of February 2025)

(N. Muniraja)
Prl. Judge, Family Court,
Tumakuru.

KATK040003522024





Judgment pronounced in open court vide separate sheet.

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Rs.20,000/-(Rupees Twenty Thousand) per coconut tree towards 85 coconut trees standing in the above said land with all statutory benefits.

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Tumakuru