

KAHS010013532023



Presented on : 09-03-2023
Registered on : 09-03-2023
Decided on : 12-12-2024
Duration : 1 year 9 months 3 days

**IN THE COURT OF ADDL. DISTRICT, SESSIONS &
SPL. JUDGE, HASSAN.**

PRESENT:

**SMT. SHEILA B.M.
M.COM., LL.M,
ADDL. DISTRICT, SESSIONS &
SPL. JUDGE, HASSAN.**

Dated This 12th Day Of December 2024.
LAC. No.149/2023

Petitioner:-

Bhuvanendra M.R.,
S/o Late Ramalingappa,
Aged about 50 years,
R/o: Adagur village,
Madihalli Hobli,
Alur taluk, Belur Taluk.

(By A.B.S., Advocate)

// Vs. //

Respondents:-

1. Deputy Commissioner,
Hassan District, Hassan.
2. Special Land Acquisition Officer,
Yettinahole project, 4th cross,
Masti Venkateshaiyengar road,
Kuvempu Nagara, Hassan.

3. Managing Director,
Yettinahole project,
Neeravari Nigama, Tumkur.

4. Executive Engineer,
Yettinahole Project,
Vishweshwaraiah Jala Nigama Niyamitha,
Sakaleshpura.

**(R1 – Rep. By learned D.G.P.,
R2 to R4 – Exparte.**

JUDGMENT

The petitioner has filed this petition U/s 64(1) and 64(2) of Right to Fair Compensation, Transparency In Land Acquisition, Rehabilitation and Resettlement Act 2013 (referred to as Act) seeking for direction to respondent to send reference to this court U/s 64(1) of the Act and to enhance the compensation to Rs.6,00,000/- per gunta and to pay all statutory interest.

2. The case of the petitioner is that, land bearing Sy.No.61/2 measuring 1-04 guntas of Adagur village, Madihalli Hobli, Belur taluk, has been acquired for the purpose of Yettinahole Drinking Water Project. He has received the compensation under protest. It is stated that, acquired land has a high market value of Rs.6-00 lakhs per gunta. So he has filed application to refer the matter to the court. The respondent has not sent the reference. Hence, this petition.

3. The learned DGP for respondent No.1 has filed objections stating that, application filed by the petitioner is not in accordance with law and same is liable to be dismissed; the application is not in time. It is stated that, respondent received compensation which is proper and just according to the land acquisition Act. The present petition is malicious and petitioner is not entitled for higher compensation. Hence, prayed for dismissal of the petition. Respondent No.2 to 4 placed Exparte.

4. The petitioner has been examined himself as PW-1 and got marked Ex-P-1 and Ex-P-2. The respondents have not chosen to lead any evidence.

5. Heard arguments.

6. The points that arise for determination are;

- 1) *Whether the petitioner has made out sufficient grounds to direct the respondents to refer the matter to the court?*
- 2) *Whether the petitioner is entitled for enhancement of compensation?*
- 3) *What order or award ?*

7. My answers to above points are as under:

- | | |
|-------------------|--|
| Point No.1 | : In affirmative, |
| Point No.2 | : Does not survive for consideration, |
| Point No.3 | : As per final order for following; |

:R E A S O N S:

8. **POINT No.1:** It is undisputed fact that, land bearing Sy. No.61/2 measuring 1-04 guntas of Adaguru village has been acquired for the purpose of Yettinahole Drinking Water Project. The respondent has awarded compensation of Rs.38,62,156/-. It is case of the petitioner that, compensation awarded is not in accordance to the prevailing market value so he has filed application U/s 64(1) of Act before respondent seeking for direction to refer the matter to this court. In support of said contention petitioner has produced award notice dated: 19-12-2022 as per Ex-P-1 and petition filed before the respondent U/s 64(1) of RFCTLARR Act as per Ex-P-2. Ex-P-2 discloses that said petition has been filed on 23-02-2023.

Section 64(1) & (2) of RFCTLARR Act state as follows;

64. Reference to Authority.-(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested: Provided that the Collector shall, within a period of thirty days from

the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

9. In the present case, award has been passed on 21-11-2022 and award notice has been issued on 19-12-2022. The application is filed on 23-02-2023. The respondents have not placed any materials to show with regard to the date of service of notice nor respondents have cross-examined the petitioner in this regard. In the absence of any contrary evidence it can be presumed that petitioner has filed application within 6 months from the date of award.

The entire evidence of PW-1 stands un rebutted. So it is clear that, application is in time. It is stated that, inspite of receipt of the application respondent has not sent the reference to the court within 30 days. Therefore, under the above circumstances, I am of the opinion that, the petitioner has made out a case to direct the respondents to send the reference to the court. Hence, point No.1 is answered in affirmative.

10. Point No.2:- The reference is not sent by the respondents to the court U/s 64 of the Act. This court does not get jurisdiction to examine whether the compensation award is adequate or not. So the question with regard to the enhancement of compensation is left open. It is for the petitioner to agitate the same when reference is sent to the court. Accordingly, point No.2 does not survive for consideration.

11. **POINT No.3:** In view of my findings on points No.1 and 2, I proceed to pass following:

ORDER

The petition filed by the petitioner U/s 64(1) (2) of Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 is partly allowed.

The respondent is directed to send the reference in respect of petitioner's land bearing Sy. No.61/2 measuring 1-04 guntas of Adaguru village pertaining to award notice No.ಎ.ಹೊ.ಯೋ/ಭೂಸ್ವಾ/10/ಅಡಗೂರು/2021-22 dated 19-12-2022 within 30 days if not sent earlier.

The parties to bear their own cost.

(Dictated to stenographer, transcribed and typed by her and corrected by me and then pronounced in open court on this the 12th day of December 2024).

(SMT. SHEILA B.M.)
ADDL.DISTRICT AND SESSIONS
& SPL. JUDGE, HASSAN.

ANNEXURE

LIST OF WITNESSES ON BEHALF OF PETITIONER:

PW-1 : Bhuvanendra A.R.

LIST OF WITNESSES EXAMINED ON BEHALF OF RESPONDENT/S:- NIL-

LIST OF EXHIBITS GOT MARKED ON BEHALF OF PETITIONER:-

Ex-R-1	Award notice.
Ex-R-2	Application U/s 64(1) of RFCTLARR Act.

LIST OF DOCUMENTS GOT EXHIBITED ON BEHALF OF RESPONDENTS:- -NIL-

Addl. Dist., Sessions & Spl. Judge,
Hassan.

(Order pronounced in the open court vide separate order)

ORDER

The petition filed by the petitioner U/s 64(1) (2) of Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 is partly allowed.

The respondent is directed to send the reference in respect of petitioner's land bearing Sy. No.61/2 measuring 1-04 guntas of Adaguru village pertaining to award notice No.ಎ.ಹೊ.ಯೋ/ಭೂಸ್ವಾ/10/ಅಡಗೂರು/2021-22 dated 19-12-2022 within 30 days if not sent earlier.

The parties to bear their own cost.

**Addl. Dist., Sessions & Spl. Judge,
Hassan.**