KABG420007192023

IN THE COURT OF VII ADDL. DISTRICT AND SESSIONS JUDGE, BELAGAVI SITTING AT CHIKODI.

:: PRESENT ::

SRI. VIJAY KUMAR, B.Sc.,L.L.B,
VII Addl. District & Sessions Judge,
Belagavi sitting at Chikodi.

Dated this the day of 13th August, 2026

Misc. Appeal No. 5078/2023

APPELLANT

The Managing Director,
The Karnataka Neeravari Nigam Limited, Bangalore,
through its Executive Engineer, KNNL, G.R.B.C.C., Division No.4, Chikodi Taluka, Dist: Belagavi.

[By: Sri. A.K. Magadum, Advocate]

V/s.

RESPONDENTS:

1. The Special Land Acquisition Officer, Hidkal Dam, Hukkeri taluka, Dist: Belagavi.

2. Shri. Uttam Shankar Kulkarni, Age: 43 years, Occ: Agriculture, R/o: Hunnaragi, Tq: Nippani, Dist: Belagavi.

3. Sharadkumar Muralidhar Apastabh, Age: 40 years, Occ: Agriculture, R/o: Hunnaragi, Tq: Chikodi, Dist: Belagavi.

[R-1 By: Asst. Govt. Pleader,
R-2, 3 – T.Y.Kiwad, Advocate]

JUDGMENT

This appeal has been preferred by the appellant, Karnataka Neeravari Nigam Limited, under Section 54 of the Land Acquisition Act, 1894, challenging the common Judgment and Award dated 11.08.2022 by the learned Senior Civil Judge, Chikodi, in LAC Nos. 134/2016. By the said Judgment and Award, the learned Reference Court allowed the reference petitions filed by respondent No. 2 and 3 and re-determined the market value of the acquired lands bearing Sy. No. 265/1 and Sy.No. 265/2 totally measuring 02 guntas, situated at Hunnaragi Village, Chikodi Taluk, now at Nippani taluka at the rate of Rs.8,16,200/- per acre, together with interest and all applicable statutory benefits.

2. **Brief facts giving raise to filing of these appeals are that;**

The State Government issued a preliminary notification dated 14.12.2005 under Section 4(1) of the Land Acquisition Act, 1894, proposing to acquire various extents of land, including the subject lands. Thereafter, the Special Land Acquisition Officer passed an award dated 05.09.2010, determining the market value of the acquired lands at Rs.96,967/- per acre. Being dissatisfied with the compensation awarded, respondent No. 2 and 3 sought a reference under Section 18(1) of the Act. Upon consideration of the oral and documentary evidence on record, the learned Reference Court re-determined the market value of the subject lands at Rs. 8,16,200/- per acre, placing reliance, inter alia, on the judgments and awards passed in LAC Nos. 14/2017, 2/2018 and 1/2017, pertaining to lands situated in the neighbouring villages of Chikodi Taluk. Aggrieved by the enhancement of compensation and the re-determination of the market value by the Reference Court, the beneficiary, Karnataka Neeravari Nigam Limited, has preferred the present appeals.

3. Learned counsel for the appellant submitted that the Reference Court committed a grave error in awarding exorbitant compensation. It was contended that the market

value fixed by the Reference Court is on the higher side, merely on the assumption that the acquired lands were irrigated. The claimants failed to produce any documentary evidence to establish the nature of the acquired lands or to prove that the lands were irrigated. It was further submitted that the finding of the Reference Court regarding the yield of sugarcane, namely that one tonne of sugarcane would yield 1.4 quintals of jaggery, is without any supporting evidence. The claimants also failed to produce any material to establish that they were cultivating 70 to 75 tonnes of sugarcane per acre. The learned counsel further argued that the Reference Court erred in granting escalation at the rate of 10% for a period of 12 years. The quality and nature of the lands referred to in other judgments cannot be treated as identical to the acquired lands, and therefore, the market value determined on such basis is unsustainable. It was contended that the award passed by the Reference Court is contrary to the principles laid down by the Hon’ble Supreme Court and the High Court. On these and other grounds, the learned counsel for the appellant prayed that the judgment and award passed by the Reference Court be set aside and that the market value be restricted to Rs.3,69,000/- per acre.

4. On the other hand learned counsel for respondent No.2 filed written arguments in support of the reference court judgment and award and prayed to dismiss the appeal.

5. Appellant has filed an application U/Sec. 5 of Limitation Act requesting to condone the delay of 273 days in filing this appeal. This application is supported by the affidavit of the Appellant.

6. Heard arguments on both side, perused the memorandum of appeal along with reference court record. Following points arises for consideration in this appeal are;-

1. Whether appellant has shown sufficient grounds to condone the delay?

2. Whether re-determination of market value of the subject lands by the reference court is just and proper and requires to be interfered with?

3. What order?

7. My answers to the above points are as follows:

Point No.1:- Affirmative,

Point No.2:- Negative,

Point No.3:- As per my final order:

-: **REASONS** :-

8. **Point No.1:-** On perusal of the affidavit filed by the appellant in support of I.A.No.I, it is evident that the main reason assigned for not preferring the appeal within the prescribed period is that the decision to file the appeal was required to be obtained after consultation with the higher authorities through official correspondence. It is further stated that, after obtaining approval from the Managing Director of Karnataka Neeravari Nigam Limited, Bengaluru, the present appeal came to be filed with delay. According to the appellant, the delay occurred due to administrative procedures, including obtaining approval for release of court fee, and the same is bonafide in nature.

9. The reasons assigned for condonation of delay are attributable to administrative exigencies. The contention of the appellant that filing of the appeal required opinion and approval from the higher authorities cannot be brushed aside. Therefore, some delay may have occurred due to administrative reasons; however, the delay cannot be considered as intentional or deliberate. There is a delay of 273 days in filing the appeal. The appellant has also contended that the appeal involves substantial grounds, particularly with regard to the quantum of compensation awarded by the Reference Court, which requires consideration on merits. When the appeal raises arguable grounds and dismissal of the appeal solely on the ground of limitation would result in denial of an opportunity to the appellant to challenge the correctness of the judgment and award passed by the Reference Court, it would be appropriate to condone the delay in the interest of justice. Accordingly, the delay deserves to be condoned to enable adjudication of the appeal on merits. Hence, I answer Point No.1 in the **Affirmative.**

10. **Point No.2**:- The learned counsel for the appellant, reiterating the grounds urged in the appeal memorandum, submitted that the Reference Court has committed an error in fixing the market value at an exorbitant rate, despite the fact that the acquired lands were not irrigated and the landholders were not cultivating sugar cane to the extent of 70 to 75 tonne per acre. It is contended that the compensation awarded by the Reference Court is excessive and unsustainable. Therefore, the learned counsel prayed that this Court may modify the judgment and award by restricting the market value to Rs.3,69,000/- per acre.

11. In support of his submissions, the learned counsel for Appellant placed reliance on the judgment of the Hon'ble High Court of Karnataka in the case of Karnataka Neeravari Nigam Limited Vs. Special Land Acquisition Officer, in MFA No.101133/2015. In the said judgment, while referring to the decision of the Hon'ble Apex Court in the case of Hirabai v. Land Acquisition Officer-cum-Assistant Commissioner, reported in 2010(1) SCC 492, the Hon'ble High Court held

that the claimants were entitled to the market value applicable to irrigated lands at the rate of Rs.3,69,000/- per acre, along with statutory benefits, in respect of the notification issued during the year 2004-2005.

12. The learned counsel further submitted that, considering the escalation at the rate of 5% per annum thereafter for similarly situated lands acquired for the Hipparagi Project, the said determination was made based on the principles laid down by the Hon'ble Apex Court in SLP No.8107/2016, which was preferred by the beneficiary challenging the order of the Hon'ble High Court. It was further submitted that the Hon'ble High Court subsequently modified the compensation and reduced the market value to Rs.4,61,250/- per acre.

13. Another decision in the case of R.L.Jain V/s. DDA and others reported in AIR 2004 SC 1904 wherein Hon'ble Apex Court has discussed about the question of whether provision of Sec. 34 of the Land Acquisition Act regarding

payment of interest would be applicable to a case where possession has been taken over prior to issuance of notification U/Sec. 4(1) of the Act and Hon'ble Apex court dismissed the civil appeal observing that appellant has thus been more than adequately compensated and he is not entitled to any further amount. In another case Anita V/s. KNN Ltd., in Civil Appeal No. 10078/2013 wherein Hon'ble Apex court awarded Rs.5,36,500/- per acre to the claimants. In the case of Manojkumar V/s. State of Haryan (2018) 13 SCC 96, the Hon'ble Apex Court has awarded compensation at the rate of Rs. 95,00,000/- per acre by reducing compensation awarded by High Court. In referring the above decisions learned counsel for appellant submitted that the judgment and award passed by the reference court is against the statute and claimants not established the acquired land are irrigated land and yielded 1.4 quintal jaggery in one tonne sugarcane.

14. On the other hand, learned counsel for the claimant in support of his written arguments submitted that

the reference court has rightly awarded compensation by considering the fertility and nature of land since claimants grow commercial crops in the said land and after considering the yield receipts and certificate issued by the Sugar Factory, Agricultural Department and Tahsildar, rightly awarded enhanced compensation and therefore, appeal is liable to the dismissed.

15. I have perused the entire case records, including the judgment and award passed by the Reference Court. The Reference Court has awarded compensation at the rate of Rs. 8,16,200/- per acre, holding that the claimants not produced any documents for proof of actual yield derived from the land for a considerable number of years prior to the date of preliminary notification so as to arrive at assured income, capitalization method cannot be applied to these cases. Therefore, the reference court adopted the hypothesis method to ascertain the market value by referring the judgments of Nippani Court in respect of the lands located at Mattiwade, Adi and Sulagaon Village of Chikodi Taluk acquired for same

purpose. This findings supported by Ex.P20 to 25 judgments. It must be noted that, in recent years, the value of land has increased rapidly. Sugarcane farming in Karnataka historically yields about 40 to 60 tonnes per acre. However, in recent years, farmers using advanced techniques and they are achieving significant yield increases, reaching between 60 and 80 tons per acre. The Hon'ble High Court of Karnataka in the case of The Special Land Acquisition Officer Vs. Shri Maruti Babu Takale reported in ILR 2008 Kar 2216 held that:- The yield notification Ex.P2 of the year 1970-71 states that in Class V (five) category of the land, the maximum yield of sugarcane per acre is 45 tonnes and minimum 39 tonnes whereas, in class I (one) category lands the maximum is 96 tonnes and minimum is 73 tonnes". In view of above decision the yield of sugarcane per Acre 65 tonnes taken by reference court is justified.

16. The main contention of the appellant is that, in MFA No.23768/2013 and SLP No.8107/2016, the compensation in respect of lands acquired by the appellant

has already been determined at the rate of Rs.3,69,000/- per acre, and the said determination has attained finality. Therefore, according to the appellant, the claimants are also entitled to compensation at the same rate. However, the evidence available on record establishes that the acquired lands are irrigated lands. The certificate issued by the Tahsildar clearly indicates that the claimants were cultivating sugarcane crops in the acquired lands. Further, during the course of cross-examination of PW-1, the learned counsel for the appellant failed to elicit any admission or establish that the acquired lands were dry lands. The appellant also failed to disprove the evidence regarding the yield of 70 to 75 tonnes of sugarcane per acre and the production of 1.4 quintals of jaggery from one tonne of sugarcane. In the absence of any contra evidence produced by the appellant to discredit the evidence placed on record by the claimants, this Court finds no reason to accept the contention of the appellant that the acquired lands were dry lands or that the compensation awarded by the Reference Court is excessive.

17. The reference court has determined the market value of the acquired lands in terms of the judgment of Hon'ble High Court of Karnataka in MFA No. 101345/2016 in the case of Mallayya Shivamurtayya Hiremath V/s. Assistant Commissioner, Bagalkot by taking escalation at 10% per year by considering Ex.P20 to 25 judgments. In Ex.P20 to 25 lands therein and acquired lands in this case acquired by the Government/appellant for same purpose i.e., construction of Canal under the Doodhaganga Project. It is not the case of the appellant that judgment and award passed by the reference court as per Ex.P20 to 25 have been set aside or modified by the Higher court.

18. In Ex.P20 to 25 the land acquired therein under the notification of the year 2005. The lands acquired in the case on hand is also under notification in 2005 for the same purpose. In MFA No. 23768/2013 Hon'ble High Court of

Karnataka has awarded the compensation to the land of Athani Taluka at the rate of Rs. 3,69,000/- per acre for the irrigated land acquired under the notification in 2004-2005 and same has been upheld by the Hon'ble Apex Court in SLP No. 8107/2016. But in the case at hand lands located at Hunnargi village of Chikodi taluk acquired under notification in 2009, in view of the Judgment dated 20.10.2016 in MFA No. 101345/2016, escalation at 10% has to be taken per year to the market value from the year 2005 as per Ex.P20 to 25 which are earlier judgments and awards of similar lands acquired for same purpose.

19. The Hon'ble Apex Court in the decision of Bhimsing V/s. State of Haryan reported in AIR 2003 SC 4382 held that, "*when the compensation has already been fixed by the High Court in earlier proceedings, this court has already approved the rate fixed therein, best method would be to look at the earlier judgments and awards*". In view of the above decision the reference court has relied upon the judgment and award passed as per Ex.P20 to 25 pertaining to the

similar land acquired for same purpose, which are situated in and around the acquired land in these appeals.

20. Another judgment referred by the appellant counsel reported in 2004 SC 3981 (Union of India V/s. Balram and another), wherein it is held that, "*if the nature/quality of the lands was by and large similar to those lands acquired for the same purpose, there would be no justification to make any distinction between the lands which are identical and similar though laying in different villages*". In view of the above decision it is settled law that compensation enhanced on the basis of the judgment and award passed by the reference court in similar other cases for the similar nature of lands in ad-joining parties acquired under the same notification for the same purpose cannot be faulted.

21. The land in MFA No. 23768/2013 and SLP No. 8107/2016 are acquired under notification in 2005. The subject lands in these appeals have been acquired in 2009. The land acquired involved in these appeals and lands

mentioned in Ex.P20 to 25 are situated in Chikodi taluk and both lands are irrigated, having fertility and quality growing sugarcane, compensation enhanced by the reference court is not exorbitant. Therefore, the contention of the appellant that judgment and award are exorbitant and liable to be modified is not sustainable.

22. Keeping in mind the facts and circumstances of the case, evidence placed before the reference court, nature, quality, fertility and location of acquired land which are situated in Chikodi taluk, to the land acquired in Ex.P20 to 25 which are also located in Chikodi taluk. The judgment and award passed by the reference court is not erroneous. Since re-determination of the market value at the rate of Rs. 8,16,200/- per acre with regard to adjacent land referred to supra has attained finality. I do not find any justification to reduce the market value determined by the reference court. The reference court on appreciation of evidence available on record has recorded a categorical finding with regard to re-determining of market value of the subject lands at Rs.

8,16,200/- per acre. The said finding of the reference court are neither perverse nor contrary to the settled principle of law or evidence on record calling for interference by this court in the present appeals. Hence, I answer the point No.2 in **Negative**.

23. **Point No.3**:- For the forgoing reasons and answer to the above points No.1 and 2, I to pass the following;-

ORDER

I.A. No. I filed U/Sec. 5 of Limitation Act is allowed and delay is condoned.

Misc. Appeal filed by the appellant is dismissed.

The judgment and award passed by Reference Court is confirmed.

Draw award accordingly.

(Dictated to the Stenographer directly on computer, typed by her, corrected by me and then pronounced in the open Court on this the 13th day of August, 2026).

(SRI. VIJAY KUMAR)
VII Addl. District and Sessions Judge,
Belagavi, sitting at Chikodi.