

KABI600021242018



TITLE SHEET FOR JUDGMENT IN SUIT
IN THE COURT OF THE CIVIL JUDGE & JMFC, SANDUR
:: PRESENT ::

Sri. Md. Shaiz Chouthai,

B.A.,LL.B. (Hons.), LL.M,(M.L.)

Civil Judge & JMFC, Sandur.

Dated: 3rd day of August, 2026

O.S. No. 114/2018

Plaintiff/s : Kurubara Kalgudeppa,
S/o Lingappa,
Age: 56 years, Occ: Agriculturist,
R/o Kurekuppa Village,
Sandur Taluk, Ballari District.

(By Sri. U.T.P., Advocate)

V/S

Defendant/s : 1. The State of Karnataka,
Represented by the Deputy Commissioner,
Ballari.

2. The Assistant Commissioner – cum-
Land Acquisition Officer,
Ballari.
3. The National Highway Authority,
NH 63, No. 678/3, Neerubhavi,
Kempanna Layout, Hebbal,
Bengaluru-560024.
4. The National Highway Authority,
NH 63, Office at Opp: NCC Office,
Near Sudha Cross, Cantonment,
Ballari town,
Ballari Taluk and District.
5. The Executive Engineer,
Public Works Department, Fort,
Ballari.
6. The Assistant Executive Engineer,
Public Works Department,
Hosapete.
7. The Assistant Executive Engineer,
Karnataka Urban Water Supply and
Drainage Board Sub-division,
Hosapete.
8. The Divisional Engineer,
KRDCL, Hosapete Division.

(D-1 to 6 By Sri. A.G.P.)

(D-7 By Sri. G.M. Advocate)

(D-8 By Sri. Y.R.R. Advocate)

Date of Institution of the Suit	18.12.2018		
Nature of the Suit	Suit for Permanent Injunction		
Date of Commencement of Recording of Evidence	29.09.2021		
Date on which the Judgment was pronounced	03.08.2026		
Duration	<u>Years</u> 07	<u>Months</u> 07	<u>Days</u> 16

(Md. Shaiz Chouthai)
Civil Judge & JMFC, Sandur.

:: J U D G M E N T ::

This is a suit instituted by the plaintiff for the relief of permanent injunction against the defendant No.1 to 8. As the suit is filed against the Government authorities, the plaintiff had maintained I.A. No.II under section 80(2) of CPC with a prayer to dispense the issuance of statutory notice. The application was allowed on 19.12.2018.

2. **The brief facts of the case of the plaintiff are as under:-**

The plaintiff is the owner and has inherited the land bearing Sy. No.417, measuring 1.85 acres, situated at Kurekuppa village, Sandur taluk, from his ancestors. Except the said land, there is no source of income.

3. The defendant No.1 is the State of Karnataka represented by the Deputy Commissioner, Ballari. The defendant No.2 is the Assistant Commissioner, Ballari cum Land Acquisition Officer. For the purpose of widening the road, the defendant No.2 *vide* proceedings No.2/1996-97 Dt. 22.11.1999 acquired the land bearing Sy. No.417 to the extent of 0.74 cents (out of 1.85 acres). The acquired portion of the land is the suit property. According to plaintiff, there are neem trees, coconut trees, mango trees, tamarind trees and also bore-well. But, the defendant No.2 in its report mentioned that there are no agricultural produces in the acquired land. It is the case of the plaintiff that the suit land is

having a bore-well from which water is being used for cultivation of the land not only by the plaintiff but also adjacent land owners. The plaintiff and others are depended upon bore-well water for agricultural purpose.

4. It is further contended that the defendant No.2 has not served any notice either to the plaintiff or his ancestors before acquisition of the land and thereby the provisions of Karnataka Land Acquisition Act is not followed by the defendant No.2. The defendant No.3 to 7 are carrying out work for laying and widening road and pipeline. The said pipeline is passing through the middle of the Well which is situated in the suit property. If this work is carried out, the plaintiff will sustain loss which cannot be compensated in terms of money. According to plaintiff, he has no objections for the public work that is being carried out but there is a waste land towards eastern side of the suit property which can very well be used for carrying out such work and not in the suit land which has trees and bore-well. The construction of the road and laying pipeline can be done at distance of 20 feet

away from the Well.

5. The plaintiff contended that he obstructed in the process of laying road and pipeline that is being carried out in the middle of the suit land. In spite of such obstruction, the defendant No.5 and 7 and their workers are continuing with the work of laying pipeline from HLC canal, Kurekappa to Taranagar dam. If the said work is carried out, the plaintiff and other landlords will be put to great loss. The plaintiff and others approached defendant No.2 on 26.02.2014 with a memorandum and requested him to stop the construction of the road and laying pipeline in the suit land. The plaintiff even requested the defendants to change the sketch prepared by defendant No.5 and 7 but they are highhandedly continuing their work of laying road and pipeline. The defendants by taking undue advantage of the name of the Government in the revenue records are making efforts to finish the work. As such, the plaintiff is constrained to file this suit for the relief of permanent injunction. Amongst other grounds, the plaintiff prays to decree the suit.

6. After filing of the suit, the defendant No.1 to 6 appeared through the learned AGP. The defendant No.7 appeared through Sri. G.M. Advocate and defendant No.8 appeared through Sri. Y.R.R. Advocate. The defendant No.2 filed written statement. Other defendants did not file written statement.

7. **The contentions of defendant No.2 are as under :**

The defendant No.2 denied the entire case and the allegations made in the plaint. It is submitted that the land in question i.e., Sy. No.417, measuring 0.74 cents, situated at Kurekuppa village, Sandur taluk, is acquired by the Land Acquisition Officer (LAO) for public purpose for providing pucca Road from Thoranagallu to Sandur, as the present road is witnessing heavy traffic and is narrow to accommodate heavy vehicles. The project is initiated by PWD after JSW steel plant started functioning. Visualizing the heavy traffic and congestion the authorities have planned in the year 1998-99 and initiated acquisition proceedings for providing parallel broad road after

following procedures as laid down under Land Acquisition Act. It is further submitted that the award has been passed by Assistant Commissioner and LAO, Ballari in Proceeding No.2/1996-97 Dt: 22-11-1999. The preliminary notification under section 4(1) and final notification under section 6 of the Land Acquisition Act was published in the gazette in the two local news paper and was pasted on conspicuous place. On the date of acquisition one Sri. K. Lingappa was pattedar to the said land. As per section 4(1) of and section 6 of the Act notice was served on him but no objections were raised by him during any stage of the acquisition proceedings. The plaintiff did not explain his relationship with Sri. K. Lingappa. By cleverly not mentioning the relationship with Sri. K. Lingappa, the plaintiff tried to get orders from this court suppressing the true facts. At the time of passing of the award on 22.11.1999, there were no trees, structure and Well in the suit land as it could be seen from the recordings of the award. The entries in the ROR for the year 1995-96 to 1998-99 does not reflect the existence of the Well in the suit land. However, the

construction of road could not commence owing to certain procedural aspects. Now, the KRDCL is entrusted with the project to undertake construction of road work. When the work has been started, the present suit after lapse of 19 years is barred by limitation. When the land is acquired by the Government, the right of the land owner automatically gets extinguished.

8. The plaintiff without questioning the acquisition proceedings before proper forum is seeking the relief of injunction. Further, the compensation has already been awarded, but the plaintiff did not appear before the Office of LAO for receiving the compensation. As such, the compensation amount has been deposited in Revenue Deposit. Furthermore, the LAO clearly recorded that the land to the extent of 0.74 acres out of 1.85 acres in land Sy.No.417A/2 has no trees, structure or Well. The existence of Well and trees is not recorded in Column No.8 of record of rights. The plaintiff without filing reference application for enhancement of compensation under section 18 of Land Acquisition Act has filed this suit for bare permanent injunction.

The plaintiff has no right either to stop the ongoing work or to file a suit for injunction.

9. It is further submitted that this court has no jurisdiction to entertain the suit questioning the award passed under the Land Acquisition Act, 1894. The grant of injunction will hamper the execution of entire project. Amongst other grounds, the defendant No.2 prays to dismiss the suit.

10. On the basis of the above pleadings and other materials, this court framed following;

ISSUES

- 1) Whether plaintiff proves that, he is in possession of suit schedule property?
- 2) Whether plaintiff proves that, the defendants are interfered with the possession of plaintiff in the suit schedule property ?
- 3) Whether the defendant No.2 proves that the suit schedule property was acquired for public purpose as stated in the written statement ?

- 4) Whether the plaintiff entitled for any relief as claimed in the plaint ?
- 5) What order or decree ?

11. The plaintiff got himself examined as PW1 and relied upon 4 documents from Ex.P1 to Ex.P4 and closed his side. On the other hand, the learned AGP filed an authorization letter authorizing the Tahasildhar Grade-II, AC Office, Ballari to lead evidence on behalf of defendant No.2. Thereafter, the Tahasildhar Grade-II, AC Office, Ballari examined himself as DW1 and relied upon Ex.D1 to Ex.D19, and closed their side of evidence. Other defendants have not led evidence.

12. Heard the arguments of learned counsel for plaintiffs and learned AGP for defendant No.1 to 6. Other defendants have not argued the matter. Perused the records.

13. My answer to the above said issues are as under:

Issue No.1	: In the Negative;
Issue No.2	: In the Negative;

Issue No.3 : In the Affirmative;
Issue No.4 : In the Negative;
Issue No.5 : As per final order
for the following:-

:: R E A S O N S ::

14. **ISSUE NO.1 AND 3:** These issues deal with the question of the plaintiff's possession and the acquisition of the suit land by defendant No.2, which consequently affects whether a permanent injunction should be granted. Therefore, these two issues are taken together for common disposal to avoid repetition of facts and evidence and to maintain brevity.

15. The plaintiff claims to be the owner of the suit land, having inherited it from his ancestors. This suit relates to land already acquired by defendant No.2. It is an admitted fact that the suit land bearing Sy. No. 417 to the extent of 0.74 acres (out of 01.85 acres), situated at Kurekuppa village, Tq: Sandur, was acquired by defendant No. 2—the Assistant Commissioner, Ballari, cum Land Acquisition Officer *vide* proceedings No.

2/1996–97, dated 22.11.1999, for widening the road. The plaintiff in his entire pleadings has not claimed that he is in possession of the suit land. There is no evidence in this regard. The ROR of the suit land filed by the plaintiff nowhere indicates his possession. Therefore, this Court has no hesitation in holding that the plaintiff is not in possession of the suit land.

16. The grievance of the plaintiff is that: (a) the report of defendant No.2 showed no trees in the acquired land, even though it contains Neem trees, coconut trees, mango trees, tamarind trees, and a borewell; (b) the notice of acquisition of the suit land was not served on the plaintiff; (c) the plaintiff has not received the compensation amount towards the acquisition of the suit land; (d) the borewell existing in the suit land is being used by the plaintiff and other adjoining landholders, and therefore, the plaintiff seeks the acquisition of waste land falling 20 ft. away on the eastern side of the suit property for laying a road and pipelines.

17. As can be seen from the above pleadings of the plaintiff, he challenges the very acquisition proceedings and the procedure followed by defendant No.2. The plaintiff also complains about not receiving the compensation amount and further proposes the de-notification of the acquired land and the acquisition of adjacent wasteland.

18. The plaintiff—PW1 during his cross-examination admitted to the acquisition of the suit land. Interestingly, PW1 further admitted that a notice was served on him by the Land Acquisition Officer. He conceded that the acquisition of the suit land was notified by publishing it in two daily newspapers, by the beat of drums in the village, and by affixing a copy on the notice board of the Gram Panchayat office. According to him, he filed objections to the quantum of compensation awarded by defendant No.2.

19. The documents produced by defendant no. 1 through DW1 *ipso facto* prove that there is a notification under sections

4(1), 6(1), and 12(2) of the Land Acquisition Act, 1894. DW1 deposed that the compensation amount awarded was deposited before the court of the Hon'ble I Additional District Judge, Ballari. Therefore, the notification having become final and the proceedings having attained finality, the civil suit challenging the very notification and procedure adopted is not maintainable. A civil suit relating to acquisition proceedings is not maintainable and, by implication, cognizance under section 9 of the CPC is barred. The court cannot issue an injunction against defendant No.2 to de-notify the acquisition and direct them to acquire land away from the borewell alleged to be situated in the suit land. Therefore, the question of granting an injunction against the authority from proceeding in accordance with the law does not arise.

20. In the case between *State Of Bihar vs Dhirendra Kumar & Ors*, reported in *AIR 1995 SC 1955*, the Hon'ble Apex Court held as under :

“We are, therefore, inclined to think, as presently advised, that by necessary implication the power of the civil court to take cognizance of the case under Sec.9 of CPC stands excluded, and a civil court has no jurisdiction to go into the question of the validity or legality of the notification under s.4 and declaration under Sec.6, except by the High Court in a proceeding under Article 226 of the Constitution. So, the civil suit itself was not maintainable. When such is the situation, the finding of the trial court that there is a prima facie triable issue is unsustainable. Moreover, possession was already taken and handed over to Housing Board. So, the order of injunction was without jurisdiction.”

21. Therefore, the validity of an acquisition notification acquiring land under compulsory land acquisition laws for a public purpose cannot ordinarily be questioned in a civil court, though its validity may be questioned before a competent court. A civil court does not have jurisdiction to entertain or adjudicate suits, including suits for injunction, in respect of acquired lands. In the instant case, the stand of defendant No.1 is categorical that

the land in dispute has already been acquired. From the date of the acquisition proceedings *vide* notification, the khatedar (or for that matter, the plaintiff) is deemed to be dispossessed and the land vests with the government. There is clear evidence of the acquisition of the suit land. The plaintiff himself did not claim in the pleadings to be in possession of the suit land. Hence, this court answers Issue No.1 in the **NEGATIVE** and Issue No.3 in the **AFFIRMATIVE**.

22. **ISSUE NO.2:** According to the plaintiff, the defendants, by taking undue advantage of the entries in the name of the government in the ROR, are making hectic efforts by continuing the work of constructing the road and laying pipelines. As already discussed, the suit land was acquired by the government for a particular purpose. Doing any act in furtherance of carrying out work to fulfill the purpose of acquisition cannot be termed as interference. In fact, the plaintiff himself claimed in his pleadings that he himself obstructed the authorities while they were carrying out the work of laying a road and pipelines in the

acquired land. Moreover, when the plaintiff is found to be not in possession of the suit land, the question of interference does not arise. The plaintiff has failed to prove the interference. Consequently, this court answers Issue No.2 in the **NEGATIVE**.

23. **ISSUE NO.4:** In order to claim the relief of permanent injunction, the plaintiff must prove two factors—possession coupled with proof of interference. In the instant case, the plaintiff is not in possession of the suit land. Therefore, the question of interference pales into insignificance. The plaintiff tried to question the very validity of the acquisition proceedings, which cannot be challenged before this civil court. As such, the plaintiff is not entitled to the relief of permanent injunction. Hence, this court answers Issue No.4 in the **NEGATIVE**.

24. **ISSUE NO.5:** In view of the above discussions and answers to the above issues, it is just and proper to pass the following:-

ORDER

The suit of the plaintiff is hereby dismissed.

Draw Decree accordingly.

(Dictated to the stenographer, computerized by him, corrected by me and then pronounced in the open Court, on this the 3rd day of August 2026)

(Md. Shaiz Chouthai)
Civil Judge & JMFC, Sandur.

ANNEXURE**1. List of witnesses examined for plaintiff/s:**

PW.1 : Kurubara Kalgudeppa S/o Lingappa

2. List of documents exhibited for plaintiff/s:

Ex.P1 : Handwritten RTC's
Ex.P2 : Computerized RTC's
Ex.P3 : Letter to defendant No.2 Dt. 26.02.2014
Ex.P4 : Newspaper

3. List of witnesses examined for defendant/s:

DW.1 : Syed Shashavali S/o Syed Mehaboob Sahib

4. List of documents exhibited for defendant/s:

Ex.D.1 : Form of reference of particulars of land acquired

- Ex.D.2 : Letter Dt. 10.08.2023 given by defendant No.2
- Ex.D.3 : Letter Dt. 28.01.2019 to defendant No.2
- Ex.D.4 : Certified copy of cheque bearing No.269825
- Ex.D.5 : Certified copy of cheque bearing No.269824
- Ex.D.6 : Certified copy of cheque bearing No.269830
- Ex.D.7 & 8 : Certified copy of letter Dt. 28.01.2019 to defendant No.2
- Ex.D.9 : Certified copy of letter Dt. 14.01.2022 to defendant No.2
- Ex.D.10 : Certified copy of computerized RTC's
- Ex.D.11 : Certified copy of letter Dt. 18.02.2022 to defendant No.2
- Ex.D.12 : Certified copy of letter Dt. 26.02.2014 to defendant No.2
- Ex.D.13 : Certified copy of letter Dt. 28.01.2019 to defendant No.2
- Ex.D.14 : Certified copy of proceedings Dt. 18.01.2000
- Ex.D.15 : Certified copy of gazette
- Ex.D.16 : Certified copy of announcement made under section 6(A)
- Ex.D.17 : Certified copy of notice given under section 12(2)
- Ex.D.18 : Certified copy of proceedings Dt. 22.11.1999
- Ex.D.19 : Certified copy of list describing the compensation amount.

(Md. Shaiz Chouthai)
Civil Judge & JMFC, Sandur.