IN THE COURT OF THE II ADDITIONAL SENIOR CIVIL JUDGE AND J.M.F.C. HUBBALLI

Present:- Smt. Deepa G. Manerkar,
B.Com. LL.B, (Spl.)
II Addl. Senior Civil Judge & J.M.F.C.,
Hubballi.

Dated this the 30th day of June 2026

Misc. No.11/2016

Petitioner : 1. The Special Land Acquisition Officer, Karnataka Road Development Corporation Ltd., I Floor, KSFC Building, Rayapur, Dharwad

Present address:-
The Special Land Acquisition Officer, (HDBRTS)
KRDCL Office, II Floor,
B Block, NWKRTC Terminal,
Hosur, Hubballi

2. The Managing Director, Hubballi Dharwad Bus Rapid Transport System (HDBRTS), KRDCL Office, 2nd Floor B Block, NWKRTC Terminal Building, Hosur, Hubballi

(By Sri. C.V.Angadi, Adv.)

V/S.

<u>Respondents</u> : 1. Sri. Vinayak S/o Nagappa Palankar, Age: Major, Occ: Business, R/o: Plot No.52, Brahmn Chaitanya Park, 2nd Cross, Sadankeri, Dharwad

2. Smt. Droupadi W/o Vinayak Palankar, Age: Major, Occ: Business, R/o: Plot No.52, Brahmn Chaitanya Park, 2nd Cross, Sadankeri, Dharwad

(By Sri. P.B.Kavalur, Adv.)

Date & nature of order appealed against	-	Judgment and award passed in LAC No.23/2016 on the file of II Addl. Senior Civil Judge and JMFC., Hubballi, dated 02-12-2025
Date of institution of the appeal	-	10-02-2026
Date of Order	-	30-06-2026

		Years	Months	Days
Duration of the Appeal	-	00	04	20

~: ORDERS ON REVIEW PETITION : ~

This appeal is preferred by the respondents/appellants U/o 47 Rule 1 R/w Sec.114 of CPC against the judgment and award passed by this court in respect of Judgment and award in LAC No.23/2016 dt:02-12-2025.

2. The case of petitioners under review petition is as follows:-

The respondents are the owners of the land bearing Block No.5/5E situated at Amargol village, Hubballi. The Government of Karnataka had issued notification U/s 15 of Karnataka Highways Act, 1964 10-09-2012 for acquisition of lands for road widening of NH-4(old) between Hubballi Dharwad cities. The State of Karnataka has acquired (hereinafter written as" SLAO" for short) has acquired the land measuring 1 gunta 4 annas in Block No. 5/5E and passed an award on 18-

02-2015. This particular area of land is the subject matter of the acquisition proceedings. The SLAO has determined the market value of the land acquired and passed the award as per Sec.28 of Karnataka Highways Act, 1964, by granting 100% solatium and interest from the date of Sec. 15 notification @12% P.A. It is further contended that Rs.2,20,300/- for 1 gunta 4 annas in Block No. 5/5E is awarded. The compensation is paid under the following heads a) Towards land - Rs. 19,176/- b) Towards building -Rs. 78,200/- c) 100% Solatium Rs. 97,376/- d) 12% Additional Market Value upto the date of award - Rs. 25,548/- Total Compensation -Rs.2,20,300/-. The respondents have received the compensation amount under protest.

3. Under the statutory provisions of K.H. Act in particular Sec 28 contemplates to take into consideration the schedule to K.H. Act, as introduced by amendment and substitution. Accordingly, under

schedule, item No.2 categorically contemplates "the use to which the land was put at the date of such declaration".

4. It is further stated that the SLAO has passed the award taking into consideration the market value of agriculture lands for the last 3 years ie 2009 10, 2010-11 and 2011 12 from the Sub-Registrar, Hubballi relating to Amargol Village. It is pertinent to submit here that the highest value of the average of highest of the 50 percent transactions is considered as a guideline value. SLAO has also relied upon the Government order dt: 14-11-2014 while passing the award. Being not satisfied with the award passed by the SLAO, the respondents herein filed a reference application U/s 35 of Karnataka Highways Act, 1964 seeking enhancement of compensation at the market value. The said reference application came to be registered as LAC No 23/2016

before this Hon'ble court. In the review petition the following grounds have been stated:

1. The acquired land is agricultural. The SLAO has adduced oral and documentary evidence at Ex. R-1 which is the record of right for the year 2012-13 of block No.5/5E which categorically speaks that it is agricultural land, ought to have been considered.
2. The claimant himself gives important admission, in cross examination that the acquired land is considered as agricultural land and further he also admits that though adjacent lands are non agricultural lands, his land is still agricultural land, ought to have been considered.
3. The compensation amount determined by the SLAO is in accordance with law and as per Government Order dt: 14-11-2014.

4. The acquired land is not converted into NA commercial in manner known to law and hence the commercial rate per sq ft as awarded by this Court deserves to be reviewed.

5. The copy of the sale deed dt: 25-11-2011 (Ex. P-6) does not deserves to be relied upon for the following reasons:-

i) The property sold under this sale deed is "industrial land" which was allotted by KIADB as part of KIADB layout.

ii) The vendor or vendee are not examined before this Hon'ble court.

iii) The land sold under Ex. P6 is corner site and smaller site measuring hardly 2 gunta.

iv) The land sold under Ex. P-6 is situated in Bairidevarakoppa village which is different from the acquired lands.

v) Therefore the sale consideration of Rs.50 lakh cannot be taken as base in the instant case.

vi) Even otherwise as per the Government Order dt 14-11-2014 No.PWD-175 EAP 2014 Bengaluru LA/2013-14/1244.

6. The landmark decision rendered by the Hon'ble Supreme Court in in Chandrashekar(dead) by LR's and others Vs. Land Acquisition Officer and another (3) (2012) 1 SCC 390, which categorically speaks of the "exemplar sale deed" and the deductions ought have to be made when the land is a developed one.

7. This Hon'ble Court in the judgment and award ought to have made the necessary deductions in the light of the above Supreme Court's decision but on the contrary the full value of the sale deed (Ex. P-6) consideration was considered.

8. The decision of Hon'ble High Court in W. A. No 100040/2022 dtd 03-07-2024 and scheduled to KH Act for Sec. 23 of L A Act at

Sl. No. (2) the use to which land was put at the date of such declaration required relied, as it is statutory mandate but same is not at all considered by this court.

9. The decision of Hon'ble High Court in the case of Evershine Monuments etc Vs State of Karnataka and others. (1) 2018(2) Kar. L. J. 6, which speaks of how law has to be read and law has to be applied as per its plain reading, especially item No. 2 under the Schedule appended to the KH Act. It categorically contemplates the use to which the land was put at the date of such declaration as on the date of notification This particular Schedule appended to the KH Act is not considered nor relied by this court.

10. This court has not at all considered or discussed any of the above decisions in the judgment and award.

11. If the judgment and award is reviewed or modified no prejudice will be caused to the other side, on the other hand the petitioners will be suffer great injustice, put to loss and

irreparable loss and injury. Hence, prayed for review the application.

5. After service of notice the respondents appeared through counsel and have filed objections to the main petition contended that, the contents of the petition are all false, frivolous and concocted and the same are not tenable under law. That the pleading should be precise, but the same is not followed by the petitioner and false allegations are made in the petition to prejudice the mind of the Hon'ble court from para 1 to para 24 by misleading the facts.

6. It is contended that the land acquired by the petitioner is abutting to National Highway and in between Hubli Dharwad all lands are converted in to commercial NA and are being used for commercial purpose and is situated within the Hubli Dharwad Muncipal limit and moreover the land acquired is converted in to NA Commercial as per LAC No.27/2015.

That this Hon'ble court has relied upon Ex. P-06, that said land was sold for Rs-25,00,000/- per gunta on 24.07.2011. Further the respondent has contended that nobody will mention the proper consideration to avoid stamp duty, even though the property purchased on higher rate. The respondent has already submitted the ruling the respondents are entitle for escalation price @10% per annum on the Ex. P-06 and the same is also not considered. That in view of the Judgment passed by the Hon'ble Supreme Court of India in Civil Appeal No. 13920 of 2024 reported in 2025 SAR (Civ) 236 the respondents are entitled for 10% appreciation every year cumulatively. The market value is fixed by this Hon'ble court at Rs-25,00,000/- per gunta relying upon the Ex. P-31, but the Hon'ble court has not considered 10% appreciation every year cumulatively. If the same is taken in to consideration the respondents are entitle which would come as per the calculation memo produced along with this objections today would come to Rs. 36,60,250/-per gunta. The respondents are entitled for appreciation of 10% each year from 2011 to 2015 that is for 4 years. The petitioners is liable to pay the market value of the land at Rs.36,60,250/- per gunta, i.e appreciation of 10% on Rs.25,00,000/- for 4 years which will come to the market value of Rs. 36,60,250/-per gunta in the year 2015, as per the judgment and award passed by this Hon'ble court. That in view of the Right to Fair compensation and Transferency in land acquisition, Rehabilitation and Resettlement Act 2013 the respondents are entitle for 12% interest per annum on the compensation amount from the date of notification till the date of award as per section 69 (2) of the said Act. The respondents are entitle for solatium @ 100% as per Sec-69 (3) of the said Act. further the respondents are also entitle for interest @ 9% per annum for a period of one year @ 15% per annum till the date of payment as per Sec-80 of the said Act. In the present case the petitioners have not been paid the same in view of said Act as sated above and also in view of the ruling produced by the respondents reported in Civil Appeal NO-7064/2019,Dated-19.09.2019 on the award amount and also in view of the judgment passed by the Hon'ble High Court of Allhabad in Writ-C No-11417/2023.

7. That the petitioners has paid Rs-6,250/-, but the same is not considered by this Hon'ble court in view of the ruling submitted by the respondents in AIR 1996 Delhi Page-101 and hence the petitioners are liable to pay Rs-6,250/- per Sq. feet of the market value. In view of the judgment passed by the division bench by Hon’ble High Court of Karnataka, Bengaluru dt:12-04-2021 the consent award, the petitioners cannot make any discrimination from one land to another land which is acquired for the same purpose. Hence, prayed to reject the appeal.

8. Based on the above, the points that arise for my consideration is:-

POINTS

1. Whether the petitioners have made out grounds for review of award passed in LAC No.23/2016 dt: 2-12-2025 is liable to be reviewed?
2. What Order?

9. Heard arguments from both side counsels. After hearing and perusing the records, my answer to the above points is as follows:-

Point No.1 : Partly in the Affirmative.

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

REASONS

10. **POINT NO.1 :** The present petitioners have sought for review of award passed by this court in LAC No.23/2016 on 02.12.2025 on the ground that in the record of rights produced in said case at Ex.R1 for the

year 2012-13 pertaining to Block No.5/5E, the said property is mentioned as agricultural land. The claimant in the said petition has also given admission in his cross-examination that the said land is considered as agricultural land and though adjacent lands are non-agricultural lands, his land is still agricultural land hence, this court ought to have considered the same. That the acquired land is not converted into N.A. land of commercial in any manner as such the commercial rate per square feet awarded by this court deserves to be reviewed.

11. No doubt while passing the award in LAC No.23/2016 by the SLAO, the said land acquired bearing Block No.5/5E situated at Amargol, Hubballi was agricultural land and in the record of rights also it is mentioned as agricultural land. However, it is pertinent to make note that in the cross-examination of RW-1 i.e., SLAO himself she has admitted that the

adjacent land bearing Plot No.2 in Sy.No.5/6 situated at Amargol is converted into commercial purpose and the said witness has also admitted that acquired land is just opposite to Cancer Hospital, Navanagar and the office of Commissioner of Police, RTO Office and Income Tax Office as well as APMC Yard are just within half kilometer distance from the acquired land. She also admitted that there is a building and mango trees in acquired land. No doubt as per item No.2 mentioned in Schedule to Karnataka Highway Act at the time of determination of compensation, the use to which land was put has to be considered. As per the petitioners is that as per decision of Hon'ble High Court of Karnataka in WA No.10040/2022 dated 03.07.2024 and schedule to Karnataka Highways Act for Sec.23 of LA Act at Sl.No.2 the use to which land was put as on the date of acquisition has to be taken into consideration and it is a statutory mandate but same is not considered by this court while passing the award. In this regard, reliance is placed on decisions of Hon'ble High Court of Karnataka **in 2018(2) K.L.J.6 and Writ Appeal No.100040/2022 dated 03.07.2024**.

12. I have gone through Item No.2 provided in schedule to the Karnataka Highways Act as per which while granting compensation the use to which the land was put at the time of acquisition has to be taken into consideration while determining the market value of land acquired. However, in the present case no doubt the land acquired is agricultural land, but in the award itself, on page No.6 there is a mention that the land acquired i.e. Block No.5, Hissa No.5E measuring 1 acre 4 gunta is Masari Barren land and it is not being cultivated and there is a RCC building situated in the said property. Meaning that though in the RTC it is shown as it is agricultural land, but same is not under

cultivation. Besides the same building is also situated in said property. In the cross examination of RW1 i.e., SLAO she has admitted that the acquired land is just situated opposite to Cancer Hospital, Navanagar and the acquired land comes within the jurisdiction of Hubballi-Dharwad Municipal Corporation and the land shown in Ex.P10 pertaining to Sy.No.5, which is part of the acquired land, is converted into commercial purpose. It is pertinent to make mention that the Hon'ble Apex Court in decision reported in **AIR 2005 Supreme Court 4189 in between R.P. Singh Vs Union Oof India & Ors on 4 August, 2005** has held that the potentiality of land has to be considered while determining the compensation even though same is agricultural land.

13. Under such circumstances when the surrounding properties are converted into commercial land merely because the acquired land is not converted

into commercial land, its potentiality cannot be denied and if item No.2 mentioned in schedule is also considered, the acquired land was not being cultivated and no agriculture activities has taken out in the said land. Therefore, considering the said aspect and as noted by the SLAO itself, the use to which land was put at the time of acquisition is not for agricultural purpose. As such the said ground of review setup by the petitioners cannot be considered.

14. As regards one more ground for review sought by the present petitioners is concerned, about determining of the compensation on sale statistics method by relying on Ex.P6, it is the grievance of petitioners that under the said document land was sold for industrial purpose which was allotted by KIADB and the vendor or vendee of said sale deed were not examined and it is a corner site and smaller site hardly measuring 2 guntha and situated at

Bharidevarakoppa Village, which is different from acquired land. As such, the same cannot be considered and deductions ought to have been made towards development charges. As regards considering Ex.P6 as a basis for determining the market value by this court is concerned, the Land Acquisition Officer himself has considered the sale deed pertaining to Bharidevarakoppa Village for last 3 years and determine the compensation in the similarly situated and acquired land for BRTS Project in other cases. Therefore this Court by considering Ex.P6 pertaining to the said area has determined compensation based on the market value in Ex.P6. It is already pointed above that the suit property is situated just opposite to Cancer Hospital, Hubballi and though it is agricultural land merely because it is not converted its potentiality cannot be doubted when many buildings and showrooms have come up nearby the acquired property as this court has taken judicial note of the same. Therefore the said contention of the petitioners that this court has wrongly relied Ex.P6 while determining the compensation cannot be accepted.

15. As regards making deductions towards the development charges is concerned on perusal of the award passed by this court in LAC No.23/2016, no amount towards development charges has been deducted. Therefore, in view of the decision reported in **MFA No.6082/2019 (LAC) C/w MFA No.5511/2019 (LAC) MFA No.978/2021 (LAC) in between Bangaluru Metro Rail Corporation Ltd., (BMRCL) Vs. Smt. B.A. Indiramma W/o Late M. Venkatareddy R/ by her GPA holder Sri. Manjunath V.** The Hon'ble court has deducted 15% towards development charges. As such the said amount has to be deducted from the differential market value awarded at Rs.2,296/-. If 15% of 2296/- is considered then it comes to 1952/-

hence an amount of Rs.1,952/- has to be deducted towards development charges from Rs.2,296/-. As the award is determined by this Court taking into consideration the nature of acquired land as N.A. land.

16. As regards the objections filed to the petition by the respondents is concerned, they have sought for acceleration of price of acquired land at the rate of 10%. However there is no any review petition filed seeking the aid amount. The scope of review petition is very much limited and when there is the error apparent on the face of record then only the court can review its own order. In the absence of same, the said contention raised by the respondents cannot be considered.

17. As discussed above, since no value has been deducted towards development charges, same has to be deducted from compensation amount awarded in

LAC 23/2016. Hence above point is answered **partly in the affirmative.**

18. **<u>Point No.2</u>** : In view of the findings and answer to point No.1, this court proceeds to pass the following:-

<u>ORDER</u>

The appeal preferred by the appellants U/o 47 Rule 1 R/w Sec.141 of CPC is hereby allowed in part.

The award passed in LAC No.23/2016 dt:02-12-2025 is modified as under:-

The claimants/ respondents herein are entitled for differential market value of Rs.1,952/- per sq. ft.,

Rest of the order portion dt:02-12-2025 shall remain intact.

No order as to costs.

(Dictated on AI Adalath, corrected by stenographer, verified by me, and then pronounced in the open court on this the 30th day June 2026.)

Sd/-
(Smt. Deepa G Manerkar)
II Addl. Senor Civil Judge and JMFC
Hubballi.