

KAHS010033182021



Presented on : 06-08-2021  
Registered on : 06-08-2021  
Decided on : 19-08-2026  
Duration : 5 years 2 months 11 days

IN THE COURT OF PRINCIPAL DISTRICT &  
SESSIONS JUDGE, HASSAN.

Dated this the 19<sup>th</sup> day of August 2026

PRESENT

**Smt. Hemavathi**, BBM, LL.B.  
Principal District & Sessions Judge,  
Hassan.

**AC No.4/2021**

Petitioner: The Special Land Acquisition  
Officer and Competent Authority,  
National Highway-206,  
Tumkuru- Shivamogga Section,  
Tumkuru Unit,  
Tumkuru-572102.

*(Represented by Smt. K.G.Vijayalakshmi Advocate)*

Vs.

Respondents: 1. Sri. Panchakshari.B.V.,  
S/o Veerabhadrappe,  
Aged about 50 years,  
2. Sri. Veerabhadrappe,

S/o Late Basavegowda,  
Aged about 80 years,  
Dead by legal heirs,

2(a) Gowramma,  
W/o Late Virabadrappa,  
Aged about 60 years,  
Bendekere Village,  
Banavara Hobali,  
Arasikere Taluk,  
Hassan District.

3. Sri. Prakash,  
S/o Veerabhadrappe,  
Aged about 48 years.

4. Sri. Jayanna,  
S/o Veerabhadrappa,  
Aged about 49 years.

Respondent Nos.1 to 4 all are  
R/at Bendekere Village,  
Banavara Hobali, Arasikere Taluk.

5. Smt. Marulamma,  
W/o K.N.Rudrappa,  
Aged about 49 years,  
R/at Koranahalli Village,  
Amrutapura Hobli,  
Tarikere Taluk.

*(R1- Represented by Sri. N.A.P., Advocate  
R2, 3- Represented by Sri. B.K.V., Advocate  
R4, 5- Represented by Sri. S.R.S., Advocate  
R2(a)- Represented by Sri. B.K.V., Advocate)*

### JUDGMENT

This petition is filed by the petitioner under Section 3H(4) of the National Highways Act, 1956 read with Section 151 of Civil Procedure Code praying to permit him to deposit the award amount of Rs.2,16,910/- in the office of this court and also to adjudicate who are entitled for the said compensation and disburse the same to the respondents who were entitled to receive it.

2. Brief fact of the petitioner case is that the National Highways Authority of India Act has taken up the work of the development, maintenance and management of the National Highways entrusted to the National Highways Authority -206 falling within the stretch of the land of Tumkur – Shivamogga Section, Tumkur Unit in Hassan District, for that the said authority had appointed the petitioner as Special Land Acquisition Officer cum Competent Authority, for the purpose of acquisition of the property and determining the

compensation and to disburse the same to the owners of the land. Accordingly, the petitioner acquired the land bearing Sy.No.216/15/2 measuring 506 Sq.mtrs and Sy.No.216/16/1 measuring 254 Sq.mtrs situated at Bendekere Village, Banavara Hobli, Arasikere Taluk and Hassan District and Notification as provided under Section 3D(1) published in the Government of India official Gazette No.S.O.2966(E) dated 18.06.2018 for the knowledge of general public as per 3G(3) and same was also published in two popular daily newspapers i.e., Vijayavani and Times of India. Subsequently, the petitioner has passed award No.SLAO/CA/NH-206/AWD/CR-27/2019-20 dated 03.06.2020 and determined the compensation of Rs.2,16,910/-. After passing the award the notice issued to the respective owner of the land asking them to produce the supporting document to establish the ownership to receive the compensation as per the award. In the meanwhile Panchakshari S/o Veerabhadrappa the respondent No.1 herein got issued a legal notice dated 25.09.2019 through his

advocate informing not to disburse the compensation amount to anybody. While examining the documents produced by the objector it reveal that there is a dispute between parties in OS No.39/2017 pending before the Prl., Civil judge and JMFC Arasikere. Hence, the petitioner has no power to decide the dispute between the parties and apportionment of the compensation amount, he exercising power under Section 3(H)4 of National Highways Act passed an order to deposit the said amount before this court and also to adjudicate who are entitled for compensation. Hence, he filed this petition.

3. The respondent No.1 filed objection with counter claim stating that other respondents are not entitled to any share in the amount of compensation awarded by the petitioner. The respondent No.2 is his father. The respondent No.3 and 4 are his brothers and respondent No.5 is his sister. The property acquired by the petitioner is allotted to his share under family oral partition subsequently same has been

reduced in to writing under a palupatti dated 01.06.2011. Till 2016 other respondents are not showing interest to get katha changed with respect to the lands allotted to their share. Hence, he has filed a suit in OS NO.247/2016 on the file of Civil Judge Arasikere against his father. Wherein he has admitted the partition affected and palupatti dated 01.06.2011. So, the suit came be compromised and compromise decree was passed in OS No.247/2016 in that case. Based on that the compromise decree, he had obtained katha of land allotted to his share. The respondent No.3 filed a suit in OS No.39/2017 before Senior Civil Judge Arasikere for relief of partition and separate possession of his share in the suit schedule property against the respondent and respondent No.2, 4 and 5. By judgment dated 09.03.2020 said suit was partly decreed holding that respondent No.3 is having 1/5th share in the suit schedule properties. Aggrieved by the said judgment and decree this respondent has preferred a Regular Appeal in R.A.No.39/2020 which is pending before V Additional District

and Sessions Court Hassan and the operation of judgment and decree in OS No.39/2017 has been stayed. Further though in holding the decree passed in OS No.247/2016 is not binding on the share of the respondent No.3 and holding that he is entitled to 1/5th share in the suit schedule property. The said decree is binding on the share of the respondent No.2 and same share shall be allotted to the share of this respondent in view of the decree in OS No.247/2016. Accordingly, even if this respondent failed to establish his case and not succeeded in R.A.No.39/2020 pending before the V Additional District and Sessions Court Hassan, he is entitled 2/5th share in the property acquired by the petitioner and also the amount awarded as a compensation. Hence, prayed to release an amount to an extent of 2/5th share in the total amount deposited/awarded by the petitioner to him and kept in court deposit of remaining amount till the disposal of R.A.No.39/2020.

4. The respondent No.2, 4 and 5 have filed objection stating that they have filed suit for partition in OS No.39/2017 before Senior Civil Judge Arasikere after contest it was decreed holding that they are entitled each 1/5th share. The joint family property acquired by the petitioner for widening the National Highway. So, they are also having 1/5th share out of Rs.4,50,360/- compensation amount deposited before this court. Hence, prayed to release their 1/5th share out of that amount.

5. The respondent No.3 filed objection stating that he filed a suit for partition in 39/2017 before Senior Civil Judge Arasikere and it was decreed holding that he is entitled 1/5th share in the acquired property and other properties. So, including him respondent No.1, 2, 4, 5 are having each 1/5th share. Hence, prayed to allot 1/5th share in his favour.

6. The respondent 2 died during the pendency of the petition, his legal heirs are brought on record. The respondent

No.2(a) field memo stating that he adopt the objection filed by respondent No.3.

7. The petitioner has neither chosen to adduce any oral evidence nor got marked any documents on its behalf.

8. The respondent No.3 and 1 examined themselves as as RW.1 and 2 and got marked 2 documents as Ex.P1 and 2.

9. Heard both sides.

10. The points that arise for my consideration are:

- 1) *Whether the petitioner is right in referring this case to this Court?*
- 2) *Who is entitled for receive the compensation amount deposited in this case?*
- 3) *What order?*

11. My findings on the above points are as hereunder:

Point No.1: In the affirmative,

Point No.2: Parties whose right has been finally adjudicated by Civil Court.

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

**REASONS**

12. **POINT NO.1 & 2**: Both the points are inter related, hence, they are taken up together for consideration to avoid repetition of discussion and appreciation of facts and evidence of the case.

13. The petitioner to prove that the land bearing Sy.No.216/15/2 measuring 506 Sq.mtrs and Sy.No.216/16/1 measuring 254 Sq.mtrs situated at Bendekere Village, Banavara Hobli, Arasikere Taluk and Hassan District has been acquired for widening the National Highway has produced award proceedings dated 03.06.2020 bearing No. SLAO/CA/NH-206/AWD/CR-27/2019-20 and also to show that the respondent No.3 had submitted objection by way of legal notice has produced copy of the legal notice dated 25.09.2019.

14. RW.1/the respondent No.3 in his chief-examination deposed about the suit filed by him in OS No.39/2017 before Senior Civil Judge and JMFC Court Arasikere and also that it was decreed in his favour holding that all the respondents having each 1/5th share out of the property mentioned therein including the property acquired in this case. He also produced certified copy of the order sheet and judgment in the said suit as per Ex.R.1 and 2.

15. In the course of cross-examination the respondent No.1 had tried to prove that the Sy.No.216/15/2 is purchased by his father respondent No.2 and Sy.No.216/16 is purchased by their uncle Siddabasappa and there was a partition way back in the year 1970 between his father and Siddabasappa and in that partition Sy.No.216/16 was allotted to share of his father. So, it is the self acquired property of their father and he acquired the same as per the compromise decree in OS No.247/2016. So, he is not entitled for any share in the said

property and also the compensation deposited before this court.

16. RW.2 being a respondent No.1 repeated his objection statement in the chief-examination. In the course of cross-examination he admitted that the suit filed by respondent No.3 against him and others for relief of partition in OS No.39/2017 before Senior Civil Judge and JMFC Court Hassan. It was decreed and he challenged the said judgment and decree. It is pending before V Additional District and Sessions Court.

17. This petition is registered as the petitioner referred the case acting under Section 3H(4) of NH Act in view of the objection raised by the respondents. This petitioner has no authority to decide the rights of parties. Hence, the petitioner has rightly referred the matter to this Court.

18. On going through the documentary as well as oral evidence of the respondents it is very clear that there is a civil suit pending between the respondents in RA No.39/2020 before the V Additional District and Sessions Judge Hassan including the property acquired in this case. So unless and until their right has been decided by the Civil Court, this Court cannot decide who is entitled for compensation. Hence, I opine that the parties, who succeeds finally before the civil court establishing their right are entitled to receive the compensation amount. Since the suit is filed for partition and it is pending for adjudication, it takes time for final disposal of the suit. This reference Court need not wait until dispose off the said civil matter. Hence, I deem fit to dispose off this petition keeping open the question and apportionment of compensation amount after final adjudication of right of parties in civil suit and give liberty to the parties who succeeds to revive the matter. Hence, I answer point No.1 in the affirmative and Point No.2 accordingly.

19. **POINT No.3:** From the discussion made herein above, I proceed to pass the following:

### **ORDER**

The petition filed by the petitioner under Section 3H(4) of National Highways Act, 1956 read with Section 151 of Civil Procedure Code is hereby disposed off.

Consequently, the apportionment of compensation amount is kept in abeyance until final adjudication of the rights of the parties before the civil Court.

The parties whose right will be adjudicated finally are given liberty to revive the matter.

Office is directed to retain the file, not to send the file to CRR.

*(Dictated to the Stenographer Grade-III, transcribed by her, corrected and then pronounced by me in Open Court on this the 19<sup>th</sup> day of August 2026)*

***(Hemavathi)***

Principal District & Sessions Judge,  
Hassan.

### **ANNEXURE**

**Witnesses examined for petitioner: NIL**

**Witnesses examined for respondents:**

R.W.1 : Praksh

R.W.2 : Panchakshari

**Documents marked for petitioner:** NIL

**Documents marked for respondents:**

Ex.R.1 : Certified copy of the order sheet in OS No.39/2017

Ex.R.2 : Certified copy of the judgment in OS No.39/2017

**(Hemavathi)**  
Principal District & Sessions Judge,  
**Hassan.**