

KAHS010033192021



Presented on : 06-08-2021  
Registered on : 06-08-2021  
Decided on : 23-03-2026  
Duration : 4 years, 7 months, 17 days

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

Dated this the 23<sup>rd</sup> day of March 2026

PRESENT

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

AC No.5/2021

Petitioner: Special Land Acquisition Officer  
and Competent Authority,  
National Highway - 206,  
Tumkur - Shivamogga Section,  
Tumkur Unit,  
Tumkur 572 102.

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

Vs.

Respondents: 1. Smt. Jayamma,  
W/o Late Siddaiah @ Jayanna,  
Aged about 50 years,  
2. Smt. Girija,  
W/o Jeevesha,  
Aged about 29 years,

Respondent No.1 and 2 are  
Residing at Narayanaghatahalli,  
Kasaba Hobli,  
Arasikere Taluk.

3. Smt. Renukamma,  
W/o Gangadhara,  
Aged about 37 years,
4. Smt. Latha,  
W/o Siddesh,  
Aged about 31 years,

Respondent No.3 and 4 are  
Residing at Rangenahalli Village,  
Kammaraghatte Post,  
Gandasi Hobli,  
Arasikere Taluk.

5. Smt. Manjula,  
W/o Harisha,  
Aged about 34 years,  
Residing at Saraswathi Puram  
Extension,  
Sadhana Film Theater Backside,  
Arasikere.
6. Smt. Geetha,  
W/o Kirankummar S.  
Aged about 27 years,  
R/at Chikkarangapura Village,  
Kasaba Hobli, Tiptur Taluk,
7. Smt. Ramya,  
W/o Ramesh,  
Aged about 25 years,  
R/at Rangenahalli Village,

Kammaraghatta Post,  
Gandasi Hobli,  
Arasikere Taluk.

8. Sri. B.T. Yallaiah,  
S/o Late Thimmaiah,  
Aged about 54 years,  
R/at Totada Mane,  
Brick Factory Opposite,  
Narayanaghattihalli Village,  
Kasaba Hobli, Arasikere Taluk.

9. Sri. Dasappa,  
S/o Late Hanumanthiah,  
Dead by legal heirs.

9(a). Murthy,  
S/o Late Dasappa,  
Aged about 57 years,

9(b). Lokesh,  
S/o Late Dasappa,  
Aged about 42 years.

Respondent No.9(a) and 9(b) are  
R/at Narayaghattahalli Village,  
Kasaba Hobli, Arasikere Taluk.

9(c) Lokesh,  
S/o Late Dasappa,  
Aged about 50 years.

9(d) Shivanna,  
S/o Late Dasappa,  
Aged about 51 years,

- 9(e). Nilamma,  
D/o Late Dasappa,  
W/o Krishnappa,  
Aged about 45 years.

Respondent No.9(c) and 9(e) are  
R/at Badigegudla Village,  
Kandikere (Hobli), Balara (Post),  
Chiknayanakanahalli Taluk,  
Tumkur District.

10. Chandrappa,  
S/o Dasappa,  
Aged about 45 years,  
R/at Narayanaghatahalli Village,  
Kasaba Hobli, Arasikere Taluk.
11. Thimmamma,  
W/o Nalaraju,  
Aged about 65 years,  
R/at Chikkapura Village,  
Muttugadahalli Post,  
Mayasandra Hobli,  
Thuruvekere Taluk,  
Thumkur District.
12. V.T. Sannathimmaiah,  
Late Thimmaiah,  
Aged about 63 years,  
R/at Thotada Mane,  
Hale Narayanaghata Kavalu,  
Kasaba Hobli,  
Arasikere Taluk,  
Hassan District.

*(R1 to R7 - Represented  
by Sri. Lohith Kumar N.S., Advocate  
R8,11, 12 - Represented by Sri. H.S.R., Advocate  
R10- Represented by Sri. H.N.P., Advocate  
R9(a) to (e) are the placed exparte )*

### 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.81,296/- in the office of this court and also to adjudicate who are entitled for the said compensation and disburse the same to the respondent was 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 amongst the other lands acquired the portion of land bearing Sy.No.256 for Malkies, situated at Habbanaghatta Kaval Village, Kasaba Hobli, Arasikere Taluk, Hassan District. For that, the petitioner also issued a Notification as provided under Section 3D(1) dated 18.06.2018 published in the Government of India official Gazette No. S.O. 2966(E) for the knowledge of general public and same was also published in two popular daily newspapers i.e. Vijayavani and Times of India dated 17.07.2018. Subsequently, the petitioner has passed an Award bearing No.SLAO/CA/NH-206/Supplementary-AWD-66/Hasbbanaghatta Kaval/2020-21, dated 21.07.2020. After passing of the award, notice was issued to the respective owners of the land asking them to produce the supporting documents to establish the ownership to receive the compensation as per the award. But,

one Smt. Jayamma got issued a legal notice on 30.09.2019 through her advocate objecting to release the award amount in favour of Yallaiah. After examining the documents, noticed that O.S.No.553/2019 pending before Prl., Civil Judge and JMFC at Arasikere. Since, 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 produce the said amount before this court and adjudicate who are entitled for compensation. Hence, filed this petition.

3. The respondent No.8 filed objection stating that the petition is not maintainable either in law or on facts. The acquired property is in possession and enjoyment of the this respondent and he is the only person entitled to the said compensation. But, the petitioner on the basis of the false objection filed by the respondent No.1 to 7 deposited compensation amount before this Court. The suit in OS

No.553/2019 filed by respondent No.1 to 7 against this respondent is pending before II Additional Civil Judge and JMFC Court Arasikere. But, the property bearing Sy.No.256/2 measuring 2 acre of Habbanaghatta Village originally the Government land. It was allotted to his father Thimmaiah S/o Yallaiah by order bearing No. A.R.C.D.R. No.1/1955-56 dated 31.01.1956. He was in possession and enjoyment of the same as an absolute owner and without permission of the court said Thimmaiah sold the said property during the year 1986-87 to one Puttachar S/o Rangachar, Thirupathihalli Village. Later, it was challenged the Thimmaiah before the Assistant Commissioner under P.T.C.L. Act in L.N.D. S.C/S.T(A.S.K.) No.132/1998-99 to re-grant the land to in his favour by deciding that sale deed in favour of Puttachari is null and void. Said petition was allowed on 27.07.1998 by the Assistant Commissioner. Said Puttachar had challenged the same before the Deputy Commissioner in R.Misc.No.6/1993-94. It was dismissed. Thereafter, he also approached the Hon'ble High

Court of Karnataka in Writ.P.No.28452/1995, which was also dismissed on 28.07.1995. Thimmaiah the father of this respondent had been enjoying the said property, he was cultivating it and he passed away on 02.11.2001. The land was granted in favour of Thimmaiah by the Government. So, it became his absolute property. During his life time he executed a Will dated 21.09.1999 in favour of this respondent and it was registered before the Arasikere Sub-Registrar Office, it was his last Will. So, on death of his father, he became the absolute owner in possession of the said property. Said property has been acquired by the petitioner for widening the National Highway. When the award was passed, respondent No.1 to 7 filed false objection. This respondent alone his entitled for said compensation. Nobody is having any right over it. Hence, prayed to release the same in his favour.

4. The respondent No.11 and 12 filed a memo adopting the objection filed by respondent No.8.

5. The respondent No.1 to 7 filed objection stating that petition is not maintainable either in law or on facts. They admitted that the Sy.No.256 measuring 5261 Sq.mtrs situated at Habbanghatta Kavalu was acquired by the petitioner and further contended that the respondent No.1 to 7 are not served with the any notice. They also admitted that Jayamma had sent a notice through advocate objecting for release of the amount and suit in OS No.553/2019 filed by her for partition. It is still pending. But, they contended that they are also having right over the property. The compensation awarded is not sufficient. The petition is bad for non joinder of necessary parties. All the members of the family has not been made as a party. Finally, prayed to release the amount in their favour.

6. The respondent No.9 and 10 filed objection statement stating that the petition is not maintainable either in law or on facts and respondent No.8 with an intention to grab the compensation amount got changed the katha in his name.

Hence, the respondent No.1 to 7 have filed a objection before the petitioner and also filed a suit in O.S.553/2019 before Senior Civil Judge Arasikere. Yallamma @ Sannamma is the W/o respondent No.9 and grand mother of respondent No.10. Said Sy.No.256 was allotted in favour of Thimmaiah S/o Yallaiah on 31.01.1956 since then he had been in possession and enjoyment of the same. Without permission of the Government he had sold the property during the year 1986-87 to one Puttachar S/o Rangachari. Thereafter, Thimmaiah challenged the same before the Assistant Commissioner under PTCL Act for re-garant the said land declaring the sale deed is null and void it was allowed. Though Puttachar had challenged the same before the Deputy Commission it was dismissed and also before the Hon'ble High Court of Karnataka it was also dismissed. The respondent No.9 and his wife and the husband of respondent No.1 have assisted Thimmaiah to defend the case before the Assistant Commissioner, the Deputy Commissioner and the Hon'ble High Court of Karnataka. The

property held by Thimmaiah is the joint family property. All the family members of Thimmaiah is having right over the property. Hence, prayed to release the amount to all the legal heirs of Thimmaiah.

7. The petitioner has not chosen to adduce any oral evidence or got marked any documents on its behalf. The respondent No.1 to 7 examined respondent No.3 as R.W.1. The respondent No.8 examined him as R.W.2. The respondent No.10 him examined as R.W.3. They produced documents and got marked at Exs.R.1 to R.7.

8. Heard the arguments of the learned counsel for the respondent No.1 to 7 and respondent No.10.

9. Now the points that arise for my consideration are:

- 1) *Whether the petitioner is right in referring this matter before this Court?*
- 2) *If so, who is entitled for compensation?*
- 3) *What order?*

10. 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**

11. **POINTS No.1 & 2**: Both the points are taken up for consideration together to avoid repetition of discussion on the facts of the case.

12. The petitioner to prove that the land bearing Sy.No.256 for Malkies, situated at Habbanaghatta Kaval Village, Kasaba Hobli, Arasikere Taluk, Hassan District has been acquired for widening the National Highway-206 in the stretch of land at Tumkur – Shivamogga Section has produced award proceedings dated 21.07.2020 bearing No.SLAO/CA/NH-206/Supplementary-AWD-66/Hasbbanaghatta Kaval/2020-21, acquisition in Sy.No.256 is shown.

13. The petitioner also produced the copy of the legal notice dated 30.09.2019 got issued by respondent No.1 to the petitioner. Stating that Sy.No.256 is the joint family property consisting all the children of Thimmaiah and all are having right over the said property and objected for release of the same.

14. The copy of plaint in OS No.553/2019 reveals that the respondent No.1 to 7 have filed a suit against respondent No.8 and the petitioner for relief of partition and separate possession and also permanent injunction to restrain the petitioner herein from releasing the amount. The petitioner produced Order dated 17.01.2020 bearing No.SLAO/CA/NH-206/3(H)/ARA/43/18-19 which reveal that in view of the suit filed by respondent No.1 to 7 the petitioner has ordered to deposit the amount before this court with request to determine who are entitled for compensation.

15. RW.1/respondent No.2 deposed on par with what they are stated in their objection statement. In the course of cross-examination she admitted that suit for partition was filed before JMFC Court Arasikere, now it is transfer to Senior Civil Judge, Arasikere and registered as OS No.124/2023. In the course of cross-examination by the learned counsels for respondent No.9 and 10, he admitted that all the legal heirs of Thimmaiah are having right over the landed property as well as compensation determined by the petitioner.

16. RW.2/respondent No.8 herein repeated his objection statement in his chief-examination. In the course of cross-examination he admitted that O.S.No.533/2019 is pending before Civil Judge Court Arasikere.

17. RW.3/respondent No.10 also repeated the objection statement in his affidavit for chief examination. He also admitted in the course of cross-examination by the counsel for

the respondent No.8 that the suit is pending before the Civil Judge Court Arasikere.

18. Here, the contention of the respondent No.1 to 7, 9 and 10 that Sy.No.256 was granted in the name of one Thimmaiah by the Government under PTCL Act and he sold the same to Puttachari. Later, Thimmaiah challenged the same before the Assistant Commissioner and sought for cancel the said sale deed and regrant the said property. It it was allowed. Challenging the same, Puttachar, the purchaser filed an appeal before the Deputy Commissioner. It was dismissed. Later, Puttachar challenged said order before the Hon'ble High Court of Karnataka in Writ.P.No.28452/1995. It was also dismissed. But, the respondent No.8 contended that his father had executed a Will in his favour during his life time. So, on death of his father he became a absolute owner, but other respondents are disputing the same. So, the burden is on the respondent No.8 prove that there is a Will in his favour

executed by his father. It is also admitted facts that the respondent No.1 to 7 have filed a suit for partition against this respondent No.6 and it is still pending. When such being the facts the genuineness of the Will cannot be decide at this stage.

19. On going through all these documents it is very clear that after passing of award, respondents No.1 filed objection by way of legal notice objecting for disbursement of the compensation amount. The petitioner has no right to decide who is entitled for compensation, as it is a civil dispute. So the petitioner is right in referring the matter to this court.

20. The documents produced by the petitioner itself is sufficient to say that there is a civil dispute between the parties. 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.

21. **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 civil suit in OS.553/2019 pending on the file of Prl., Civil Judge & JMFC, Arasikere.

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.

*(Typed to my dictation by the Stenographer-III directly on Computer, corrected and then pronounced by me in Open Court on this the 23<sup>rd</sup> day of March 2026)*

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

### **ANNEXURE**

**Witnesses examined for petitioner:**

NIL

**Witnesses examined for respondents:**

R.W.1: Renukamma

R.W.2: V.T. Yallaiah

R.W.3: Chandrappa

**Documents marked for petitioner:**

NIL

**Documents marked for respondents:**

Ex.R.1 : RTC Extract

Ex.R.2 : Copy of the Mutation Register

Ex.R.3 : Certified copy of order sheet in OS 124/2023

Ex.R.4 : Certified copy of the amended plaint in OS No.124/2023

- Ex.R.5 : Certified copy of the written statement of respondent No.1 and 3 in OS No.124/2023
- Ex.R.6 : Certified copy of the written statement of respondent No.2 in OS No.124/2023
- Ex.R.7 : Certified copy of Will

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