

KAHS010018862022



Presented on : 05-04-2022
Registered on : 05-04-2022
Decided on : 06-03-2025
Duration : 02 years 11 months 1 day

**IN THE COURT OF ADDL. DISTRICT, SESSIONS &
SPL. JUDGE, HASSAN.**

PRESENT:

**SMT. SHEILA B.M.
M.COM., LL.M,
ADDL. DISTRICT, SESSIONS &
SPL. JUDGE, HASSAN.**

Dated This the 06th Day Of March 2025

LAC. No.226/2022

Petitioner:-

Thimmabovi S/o Late Chowdabovi,
Aged about 48 years,
R/o: Thimmanahalli Viddaracolony village,
Madihalli Hobli, Belur Taluk,
Hassan District.

(By M.S.P., Advocate)

// Vs. //

Respondents:-

1. Deputy Commissioner,
Hassan District, Hassan.
2. Special Land Acquisition Officer,
Yettinahole project,
Hassan.

3. Executive Engineer,
Yettinahole Project,
Vishveshwaraiah Jalanigama Niyamitha,
Sakaleshapura.

**(R1 & R2 – Rep. By: learned D.G.P.,
R3 - Rep. By Sri. M.D.G., Advocate)**

JUDGMENT

The petitioner has filed this petition U/s 64(1)(2) of Right to Fair Compensation, Transparency In Land Acquisition, Rehabilitation and Resettlement Act 2013 (referred to as Act) seeking for direction to respondent to send reference to this court U/s 64 of the Act.

2. The case of the petitioner is that, land bearing Sy.No.211/2 measuring 1-12 guntas of Hulugundi village, Madihalli Hobli, Belur Taluk, Hassan District has been acquired for the purpose of Yettinahole Drinking Water Project. It is stated that, award of Rs.15,59,311/- has been fixed and award notice has been issued to the petitioner. He has filed application under Section 64(1) of RFCTLARR Act on 16-12-2021. So he has filed application to refer the matter to the court. The respondent has not sent the reference. Hence, this petition.

3. The learned D.G.P. for respondent No.1 and 2 and panel advocate for respondent No.3 have filed objections

stating that, application filed by the petitioner is not in accordance with law and same is liable to be dismissed; the application is not in time. It is stated that respondent received compensation which is proper and just according to the land acquisition Act. The present petition is malicious and petitioner is not entitled for higher compensation. Hence prayed for dismissal of the petition.

4. The petitioner has been examined himself as PW-1 and got marked Ex-P-1 and Ex-P-2. The respondents have not chosen to lead any evidence.

5. Heard arguments.

6. The points that arise for determination are;

1) *Whether the petitioner has made out sufficient grounds to direct the respondents to refer the matter to the court?*

2) *What order or award ?*

7. My answers to above points are as under:

Point No.1 : In affirmative,

**Point No.2 : As per final order
for following;**

:R E A S O N S:

8. **POINT No.1:** It is undisputed fact that, land bearing Sy.No.211/2 measuring 1-12 guntas of Hulugundi village, Madihalli Hobli, Belur Taluk, Hassan District has been

acquired for the purpose of Yettinahole Drinking Water Project. The respondent has awarded compensation of Rs.15,59,311/-. It is the case of the petitioner that, compensation awarded is not in accordance to the prevailing market value so he has filed application U/s 64 of Act before respondent seeking for direction to refer the matter to this court. In support of said contention petitioner has produced award notice dated 11-11-2021 as per Ex-P-1 and petition filed before the respondent U/s 64 of RFCTLARR Act as per Ex-P-2. Ex-P-2 discloses that said petition has been filed on 16-12-2021.

Section 64(1) & (2) of RFCTLARR Act state as follows;

64. Reference to Authority.-(1) Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested: Provided that the Collector shall, within a period of thirty days from the date of receipt of application, make a reference to the appropriate Authority:

Provided further that where the Collector fails to make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of thirty days.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made—

(a) person making it was present or represented before the Collector at the time when he made his award, within six weeks from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or within six months from the date of the Collector's award, whichever period shall first expire:

9. In the present case, award has been passed on 10-11-2021 and award notice has been issued on 11-11-2021. The application is filed on 16-12-2021. The respondents have not placed any materials to show with regard to the date of service of notice nor respondent has cross-examined the petitioner in this regard. In the absence of any contrary evidence it can be presumed that petitioner has filed application within 6 months from the date of award. The entire evidence of PW-1 stands un rebutted. So it is clear that, application is in time. It is stated that, inspite of receipt of

the application respondent has not sent the reference to the court within 30 days. Therefore, under the above circumstances, I am of the opinion that, the petitioner has made out a case to direct the respondents to send the reference to the court. Hence, point No.1 is answered in affirmative.

10. Point No.2:- In view of my findings on point No.1, I proceed to pass following:

ORDER

The petition filed by the petitioner U/s 64(1) (2) of Right to Fair Compensation, Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013 is partly allowed.

The respondent is directed to send the reference in respect of petitioner's land bearing Sy.No.211/2 measuring 1-12 guntas of Hulugundi village pertaining to award notice No. ಎಹೋಯೋ/ಭೂಸ್ವಾ/01/ಹುಲುಗುಂಡಿ/2020-21 dated: 11-11-2021 within 30 days if not sent earlier.

The parties to bear their own cost.

(Dictated to Stenographer, transcribed and typed by her and corrected by me and then pronounced in open court on this the 06th day of March 2025).

(SMT. SHEILA B.M.)
ADDL.DISTRICT AND SESSIONS
& SPL. JUDGE, HASSAN.

ANNEXURE

LIST OF WITNESSES ON BEHALF OF PETITIONER:

PW-1 : Thimmabovi

**LIST OF WITNESSES EXAMINED ON BEHALF OF
RESPONDENT/S:- NIL-**

**LIST OF EXHIBITS GOT MARKED ON BEHALF OF
PETITIONER:-**

Ex-P-1	Award notice
Ex-P-2	Application U/s 64 of RFCTLARR Act.

**LIST OF DOCUMENTS GOT EXHIBITED ON
BEHALF OF RESPONDENTS:- -NIL-**

Addl. Dist., Sessions & Spl. Judge,
Hassan.

(Order pronounced in the open court vide separate order)

ORDER

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The parties to bear their own cost.

06-03-2025

**Addl. Dist., Sessions & Spl. Judge,
Hassan.**