

KAHS700004252004



IN THE COURT OF SENIOR CIVIL JUDGE & JMFC,

HOLENARASIPURA

Presented : Smt.Nivedita M.Munavallimath
B.Com., LL.M.

Senior Civil Judge & JMFC,
Holenarasipura.

Dated 19th day of June 2026

L.A.C.No.253/2004

Petitioner : Siddaramegowda,
S/o. Late Javaregowda,
R/at Kadavinabachahalli village,
Hallimysuru hobli,
Holenarasipura taluk.

(By Sri.K.J.T., Advocate)

V/s

Respondents : 1. Spl. Land Acquisition Officer,
Hemavathi reservoir project-II (HNP),
D.C. building,
Hassan.

2. Executive Engineer H.R.B.C.,
Division Holenarasipura.

3. Deputy Commissioner,
Hassan.

(R1 & 3 by A.G.P)
(R2 by Adv., Sri.S.H.M.)

JUDGMENT

This claim petition is arising out of the reference made by the 1st respondent/Special Land Acquisition Officer, U/Sec.18(1) of Land Acquisition Act, based on the protest memo filed by the petitioner for determination of proper market value of acquired house.

2. The brief facts of the petitioners case are as under:

The respondent No.1 has acquired the house of the petitioner bearing katha No.2(1) measuring 153:90 Sq.meter situated at Kadavinabachahalli village, Holenarasipura Taluk under preliminary notification U/Sec.4(1) of Land Acquisition Act, passed Gazatee notification on 04.09.1997 for cold affected area. The respondent No.1 after following procedure contemplated under Land Acquisition Act, passed award on 04.02.2001 and determined the market value of the acquired house for Rs.153.90/- per Sq.meter and awarded compensation at Rs.2,07,417/-. The petitioner has received the award amount on 20.07.2003 under protest. Aggrieved by the award by respondent No.1, the petitioner has filed application U/Sec.18(1) of Land Acquisition Act, before respondent No.1 to refer the matter to civil court for determination of proper market value.

3. In the reference application, the petitioner contended that the market value of the acquired house more than Rs.400/- per Sq.meter. But, the compensation determined by respondent No.1 is not adequate and the award passed by respondent No.1 is arbitrary and unjust and hence, prays to allow the petition.

4. In response to the notice issued by this court, respondent No.1 and 3 appeared through AGP and respondent No.2 appeared through Sri.S.H.M. advocate. The respondents have filed objection to the main petition. In the objection the respondents contended that the petition is barred by law of limitation and bad for non-joinder of necessary parties. The respondent No.1 to 3 further contended that the market value fixed by the Land Acquisition Officer is fair and reasonable and the same is as per the provisions of Land Acquisition Act and as such, the petitioner is not entitled for the relief sought for.

5. In order to prove the claim, the petitioner examined as PW.1 and got marked sixteen documents as Ex.P1 to Ex.P16. On the other hand, the Executive Engineer by name Mahesha S/o. Late Rangegowda and in-charge Sub-registrar of Holenarasipura by name Rakesha.E S/o. Late K.K.Eshwaraiah are examined as RW.1 and 2 respectively and got marked one document as Ex.R1.

6. Heard the arguments addressed by both counsel and perused the records and written arguments. The points that arise for my consideration is as follows:-

1. **Whether respondent No.1 to 3 prove that the petition is barred by law of limitation?**
2. **Whether the petitioner has made out a case that the award passed by respondent No.1 on 04.02.2001 is inadequate and it is required to be enhanced?**

3. **Whether the petitioner is entitled for enhancement of compensation? If so, at what rate?**

4. **What order?**

7. My findings to the above points are as follows:-

Point No.1 : In the Negative

Point No.2 : In the Affirmative

Point No.3 : Partly in the affirmative and

Point No.4 : As per final order for following;

REASONS

8. **Point No.1:-** The respondents have taken the stand that the petition is barred by law of limitation. The counsel for respondent No.2 vehemently argued that as per section 18 of Land Acquisition Act, the claimant has to submit protest petition within 90 days from the date of receipt of award notice and SLAO has to refer the matter to the civil court within three years from the date of such protest petition. But, in the instant case, SLAO refereed the matter to this court after the expiry of three years 90 days and as such, the petition is hopelessly barred by limitation.

9. In the light of above contention, I have gone through the materials available on record. Before discussing the evidence placed by the parties, I feel it is just and necessary to discuss the scope of Sec-18 of Land Acquisition Act, and it reads as under:

Sec 18(1) Any person interested who has not accepted the award or amendment thereof, may by written

application to the Deputy Commissioner require that the matter be referred by the Deputy Commissioner for determination of the court, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, or the apportionment of the compensation among the persons interested.

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

Provided that every such application shall be made within ninety days from the date of service of the notice from the Deputy Commissioner under sub-section (2) of Section 12.

(3). (a) The Deputy Commissioner shall, within ninety days from the date of receipt of an application under sub-section (1) make a reference to the Court.

(b) If the Deputy Commissioner does not make a reference to the Court within a period of ninety days from the date of receipt of the application, the applicant may apply to the court to direct the Deputy Commissioner to make the reference, and the Court may direct the Deputy Commissioner to make the reference within such time as the Court may fix.

10. The above provisions of Land Acquisition of the Act, states that a person interested in a land acquired and who has not accepted the award of compensation by the Collector, could apply to the Collector for a reference of his claim within six weeks of the date of the award if he was present at the time of making of the award and within six weeks of the notice from the Collector under Section 12(2) of the Act if he was not so present. In a case that may not be covered by either of the above situations, the claimant has to make his application within six months of the date of the award of the

Collector. The State Legislature by an amendment brought to Section 18 of the Land Acquisition Act, substituted the proviso to Section 18(2) by replacing the period of six weeks by a period of 90 days and making the starting point, the date of service of notice from the Deputy Commissioner under Section 12(2) of the Act. Sub-section (3) was added directing that the Deputy Commissioner should make the reference to the court within a period of 90 days from the date of receipt of the application under sub-section (1) of Section 18 of the Act. If he failed to do so within the period of 90 days, the party was given a right under Section 18(3)(b) of the Land Acquisition of the Act, to apply to the court to direct the Deputy Commissioner to make the reference and the court was conferred the power to direct the Deputy Commissioner to make the reference within such period as may be fixed by the court.

11. It is worthful to note that no time for applying to the court in terms of sub-section (3) is fixed by the statute. But since the application is to the court, though under a special enactment, Article 137, the residuary article of the Limitation Act, 1963, would be attracted and the application has to be made within three years of the application for making a reference or the expiry of 90 days after the application. The position is settled by the Hon'ble Apex Court in the case of the ***Addl. Spl. Land Acquisition Officer, Bangalore vs. Thakoredas, Major and others*** reported ***in AIR 1994 SC 2227*** and held as under:

"Admittedly, the cause of action for seeking a reference had arisen on the date of service of the award under Section 12(2) of the Act. Within 90 days from the date of the service of notice, the respondents made the application requesting the Deputy Commissioner to refer the cases to the Civil Court under Section 18. Under the

amended sub-section 3(a) of the Act, the Deputy Commissioner shall, within 90 days from September 1, 1970 make reference under Section 18 to the Civil Court which he failed to do . Consequently, by operation of sub-section 3(b) with the expiry of the aforestated 90 days, the cause of action had accrued to the respondents to make an application to the Civil Court with a prayer to direct the Deputy Commissioner to make a reference. There is no period of limitation prescribed in sub-section 3(b) to make that application but it should be done within limitation prescribed by the Schedule to the Limitation Act. Since no Article expressly prescribed the limitation to make such application, the residuary article under Article 137 of the Schedule to the Limitation Act, gets attracted. Thus, it could be seen that in the absence of any special period of limitation prescribed by clause (b) of sub-section (3) of Section 18 of the Act, the application should have been made within three years from the date of expiry of 90 days prescribed in Section 18(3)(b) i.e. the date on which cause of action had accrued to the respondent-claimant”.

Thus, Section-18 of the Land Acquisition of the Act, is simplified as under:

Sec-18(1): Allows a person affected by land acquisition to apply for the to review and possibly enhance the compensation awarded.

Sec-18(2): Specifies that such an application must be made within 90 days from the date of service of notice.

Sec-18(3)(a): Mandates that upon receiving an application under Section 18(1), the Deputy Commissioner must refer the case to the court within 90 days.

Sec-18(3)(b): If the Deputy Commissioner fails to make the required reference within 90 days, the claimant has the right to apply to the court to compel the Deputy Commissioner to do so within a prescribed period of three years.

12. It is relevant to note that in the instant case admittedly, the preliminary notification U/Sec.4(1) was published on 04.09.1997 and Special LAO/respondent No.1 has passed a general award on 04.02.2001. The Ex.P5 and 6 discloses that the petitioner has received award amount through cheque on 28.07.2003. The Ex.P7 discloses that the petitioner has submitted protest petition under section 18(1) of Land Acquisition Act, on 12.10.2001. These documents clearly goes to show that the petitioner submitted protest petitions within the statutory 90 days from the date of knowledge. The correspondence letter discloses that SLAO has refereed matter before this court on 15.10.2001. Apart from this, first order sheet clearly discloses that this court has received the reference on 13.07.2004. The petitioner submitted 18(1) application before SLAO on 12.10.2001. Thus, it appears that SLAO refereed the matter to this court within three years 90 days from receipt of 18(1) application. Therefore, I hold that the petition is within statutory period. Therefore, the petitions are maintainable. Accordingly, I answer the above **Point No.1 in the Negative.**

13. **Points No.2 and 3 :-** These points are inter-related to each other hence, I have taken these two points together for my discussion in order to avoid repetition of facts and evidence.

14. It is the specific contentions of the petitioner that the market value of the acquired house fetches more than Rs.400/- per Sq.feet, but the compensation determined by respondent No.1 is not adequate and the award passed by respondent No.1 is arbitrary and unjust and hence, he is entitled

for enhancement of compensation amount. As against this, respondent No.1 to 3 taken the stand that the market value fixed by the Land Acquisition Officer is fair and reasonable and the same is in accordance with the provisions of Land Acquisition Act, and as such, the petitioner is not entitled for the relief sought for.

15. In order to prove the averments of the petition, after remand, the petitioner adduced evidence by filing affidavit in lieu of chief examination and reiterated all the petition averments. In the chief examination affidavit PW.1 categorically stated the property covered in LAC.No.219/2005 comes in same Hobli and this Court in the said case, determined the market value at Rs.500/- per square meter. Further, this Court in LAC.No.43/2016 determined the market value at Rs.400/- per square feet and hence, it is just and reasonable to enhance the market value of the acquired house. In support of his oral evidence, he has placed certified copies of previous judgments at Ex.P13 to Ex.P16.

16. On the other hand, the respondents taken the stand that the market value fixed by Land Acquisition Officer is fair and reasonable and the same is as per the provisions of Land Acquisition Act and moreover, the petitioner has not placed sale deed pertaining to the adjacent lands, therefore, the petition is liable to be dismissed. The respondent No.2 got examined Executive Engineer by name Mahesha S/o. Late Rangegowda and in-charge Sub-registrar of Holenarasipura by name Rakesha.E S/o. Late K.K.Eshwaraiah examined as RW.1 and 2 respectively and got marked sale statistics of Kadavinabachahalli village for the year 1996 to 1998 at Ex.R1.

17. The counsel for the petitioner relying on Ex.P13 to Ex.P16 vehemently argued that the appellate court in LAC (Appeal) No.421/2023 determined the market value of the acquired property at Rs.500 per square meter, which has been acquired for the same purpose under same notification and hence, it is just and reasonable to determine the market value the acquired land as ordered by the appellate court. As against this the counsel for respondent No.2 relying on the Judgments rendered by the Hon'ble Apex Court in the case of **Manojkumar and Others V/s. State of Haryana and Others**, reported in **(2018) 13 Supreme Court Cases 96**, **Surender Singh V/s. State of Haryana** reported in **AIR 2018 Supreme Court 1013**, and **Vithal Rao V/s. Special LAO** reported in **2017 AIAR (Civil) Supreme Court**, vehemently argued that the court is not supposed to follow previous judgments without due consideration of facts and circumstances and evidence adduced by the claimants. The previous judgments are only piece of evidence and the court cannot solely rely on the previous judgments to determine the market value. In the instant case, the petitioner has not placed any iota of documents to prove the value of the house as referred in his affidavit and even not placed sale deeds and hence, this court cannot enhance the amount only on the basis of previous judgments.

18. In the light of above contentions of both counsels, I have gone through the above refereed citations and materials available on record. It is well-settled principle of law that, the market value of the lands is to be determined by any one of the following recognized modes namely:-

1. Capitalization of income method.
2. Sale statistics method.

3. Opinion of experts.
4. Following the judgments of courts.

19. In the instant case, the petitioner solely relied on previous judgments passed by this court in LAC.No.191/1996 C/w Others and the judgments passed by the Hon'ble appellate court in LAC (Appeal) No.310/2023. It is pertinent to note that in the citation reported in **(2018) 13 Supreme Court Cases 96**, which relied on by the counsel for respondent No.2, the Hon'ble Apex Court discussed the relevancy of previous judgments and its applicability and held that as under:

A. Land Acquisition Act, 1894-S. 23-Compensation-Award/compensation granted by court qua land in close vicinity-Relevance of-Previous award/judgment -When is not binding.

Held, the court has to apply the judicial mind and is not supposed to follow the previous awards without due consideration of the facts and circumstances and evidence adduced in the case in question- Further, previous awards/judgments are piece of evidence on a par with comparative sale transactions and similarity of the land covered by previous judgment/ award is required to be proved like any other comparative exemplar- When the previous award/judgment is based on exemplar, which is not similar or acceptable, previous award/judgment of court cannot be said to be binding and such determination has to be outrightly rejected- Further, when some mistake has been done in awarding compensation, it cannot be followed, as on the ground of parity an illegality cannot be perpetuated.

20. In the above referred Judgment, the Hon'ble Apex Court laid down a dictum that previous judgments are the piece of evidence and the same can be considered along with facts and circumstances of the case in

question. The Hon'ble Apex Court, at para No.19 and 20 of the Judgment categorically observed that when there are several comparable sales or awards pertaining to different lands are produced, the court has to choose the sale deed or award of previous judgment which is closely or nearly compares with market value of the land. The claimants has to adduce the evidence to show the similarity of the land in question to the one covered by the previous judgment/award and he has to tender the same in the evidence. Then only the previous judgment can be considered to fix the market value of the land in question.

21. It is relevant to note that the petitioner relied upon the previous judgments passed by the 5th Addl. District and Sessions Judge, Hassan in LAC(Appeal) No.421/2023. It is pertinent to note that the house cover in LAC(Appeal) No.421/2023 is Kadavinabachahalli village and acquired for purpose under same notification. It is relevant to note that in the citation reported in **(2018) 13 Supreme Court Cases 96**, which relied by the counsel for respondent No.2, the Hon'ble Apex Court concluded that if evidence is adduced to show that there is similarity in the land in question and to the one covered by the previous judgment/award, the court can determine the market value of the land in question by following previous judgment/award. In the instant case, the house covered in LAC(Appeal) No.421/2023 is the similar house and acquired for same purpose, under same notification. The respondent No.2 has not placed any documents to show that the judgment passed by the Hon'ble Vth Additional District and Sessions Judge, Hassan in LAC(Appeal) No.421/2023 has been stayed or set-aside by the Hon'ble Appellate court. Therefore, I am the opinion that that the Judgment passed by the Hon'ble Vth Additional District and Sessions

Judge, Hassan in LAC(Appeal) No.421/2023, could form the basis for fixing the market value of the present acquired land. Therefore, I am of the considered opinion that it would be just, reasonable and adequate to enhance the compensation amount to Rs.500/- per square meter to the acquired house of the petitioner.

22. The petitioner is further entitled to all the statutory benefits as concluded by the Hon'ble Apex Court in the case of **Sundar V/s Union of India**, reported in **2001 SAR (Civil) 799**. Therefore, the petitioner is entitled to additional market value at the rate of 12% per annum on the enhanced amount from the date of preliminary notification till the date of award. Apart from this, the petitioner further entitled to 30% solatium on the enhanced market value as provided under Sec.23(2) of Land Acquisition Act. Further, as per Sec.28 of Land Acquisition Act, the petitioner is entitled to the interest at the rate of 9% per annum on the enhanced compensation amount in the first year and he is further entitled for 15% p.a. for the subsequent years till realization. Thus, I am of the considered opinion that, the petitioner is entitled to enhanced compensation amount of Rs.500/- per square meter, along with other benefits as mentioned above. Accordingly, I answer point No.2 in the **Affirmative** and point No.3 **Partly in the Affirmative**.

23. **Point No.4:** For the foregoing reasons on the above points, I proceed to pass the following:-

ORDER

The reference made by respondent No.1 U/Sec. 18(1) of Land Acquisition Act, is hereby partly allowed with cost.

- a. The market value of the acquired house is enhanced to Rs.500/- (Rupees Five hundred only) per square meter.
- b. The petitioner is entitled to 30% solutium on the enhanced market value.
- c. The petitioner is entitled to 12% additional market value on the enhanced amount from the date of preliminary notification till the date of award.
- d. As per Section 28 of Land Acquisition Act, the petitioner is entitled to interest at the rate of 9% p.a., on the enhanced amount in the first year and they are further entitled to 15% p.a., for subsequent years till realization.
- e. The respondent No.1 shall deposit the enhanced amount within the statutory period of 90 days from the date of award.

Advocate's fee is fixed at Rs.1,000/-.

Draw award accordingly.

(Dictated to the stenographer through computer, typed by his, revised by me and after corrections, pronounced in the open Court on this the 19th day of June 2026)

(Smt. Nivedita M.Munavallimath)
Senior Civil Judge & JMFC,
Holenarasipura.

: ANNEXURE :

List of witnesses examined on behalf of the petitioner:

PW.1 : Siddaramegowda S/o. Late Javaregowda

List of exhibits marked on behalf of the petitioner:

Ex.P1	:	4(1) notification
Ex.P2	:	Certified copy of 6(1) notification
Ex.P3	:	Certified copy of general award
Ex.P4	:	Certified copy of personal award
Ex.P5 & 6	:	Voucher for payment of award
Ex.P7	:	18(1) application
Ex.P8	:	Check list
Ex.P9	:	Form of reference to the court
Ex.P10	:	Certificate
Ex.P11	:	Certificate
Ex.P12	:	Form B
Ex.P13	:	Certified copy of the judgment in LAC 219/2005
Ex.P14	:	Certified copy of order sheet
Ex.P15	:	Certified copy of judgment in LAC 60/2014
Ex.P16	:	Certified copy of the judgment in LAC (appeal) No.421/2023

List of witnesses examined on behalf of the respondents:-

RW.1	:	Mahesha S/o. Late Rangegowda
RW.2	:	Rakesh.E. S/o. Eshwaraiah.K.K.

List of documents marked on behalf of the respondents:-

Ex.R.1 : Sale statistics

Senior Civil Judge & JMFC,
Holenarasipura.