

IN THE COURT OF THE SENIOR CIVIL JUDGE, AT
HOLENARASIPURA.

Dated this the 28th Day of September, 2011.

Present:- Sri. D.Kambegowda, B.A.,LL.B.,
Senior Civil Judge & J.M.F.C.,
Holenarasipura.

:: L.A.C.No.39/2011 ::

Claimant : Puttamma W/o Anna Bovi,
r/o Channapura village,
Halekote Hobli, Holenarasipur Taluk.

(By Sri.K.V.N Advocate)

-V/s-

Respondents : The Special Land Acquisition Officer,
H.R.P, DC Building, Hassan.

(Exparte)

:: J U D G M E N T ::

The respondent has referred the records of the petitioner for adjudication of the market value of the property as sought by the petitioner U/s 18(1) of the Land Acquisition Act.

2. The case of the petitioner is that:

The petitioner was the absolute owner in possession and enjoyment of the 3 acre 30 guntas of dry land in Sy.No.29 of Channapura village, Holenarasipur Taluk. The respondent has acquired the said land for public purposes in No.LBC.LAQ:59/2007-08 and awarded compensation of Rs.32,000/- per acre. The petitioner has received the total compensation of Rs.1,93,200/- under protest subject to adjudication of the market value of the acquired property by the competent Civil Court. The petitioner has filed the application U/s 18 of the Land Acquisition Act for refer the records to Civil Court for adjudication, contending that the compensation awarded for the acquisition of petitioner's land is too low, nominal, illusory and quite disproportionate to the existing market value of lands and inadequate, it is confiscatory in nature. The prevailing market rates, fertility of the soil, irrigation facilities, yield and other relevant factors for determining the value of the property have not been taken into consideration and appreciated. Therefore, the petitioner prays for compensation of Rs.2,00,000/- per acre and sought for total compensation of Rs.6,00,000/-.

3. The reference is received from the respondent. Notice of the reference issued to parties. The petitioner appeared through her advocate, the respondent has not appeared before the Court and placed *exparte*.

4. The petitioner is examined as Pw.1 and exhibited 9 document as Ex.P.1 to Ex.P.9 and closed her side.

5. Heard the arguments.

6. That on the above facts and evidence on record, the following points arise for my determination:

1. Whether the market value of the land of the petitioner fixed by the respondent is proper and adequate?
2. Whether the petitioner is entitled to enhance the market value of her acquired land? If so, at what rate?
3. Whether reference is in time?
4. What order?

7. My findings to the above points are:

Point No.1 : Negative

Point No.2 : Partly affirmative
Point No.3 : Affirmative
Point No.4 : As per final order, for the following

:: REASONS ::

8. **Point Nos.1 to 3:-** These points are closely inter-linked with one another, thus I took up these points together for common discussion in order to avoid repetition of facts and appreciation of evidence on record.

9. The petitioner in her chief-examination affidavit specifically contended that, she was the absolute owner in possession and enjoyment of 3 acre 30 guntas in Sy.No.29 of Channapura village, Holenarasipur Taluk. The Government has acquired the petitioner's land for public purposes for providing rehabilitation to the persons, who have displaced under the Hemavathi Reservoir Project and granted Rs.32,000/- per acre. The petitioner is an agriculturist, she was getting two crops per annum, the acquired land is very good fertile land, she was growing Potato, Till seed, Castor seed and Sunflower, she is getting 80-90 quintals per acre and also growing another crop like Jowar, Ragi and Groundnut and getting yielding 20-

35 quintals per acre. At the time of acquisition of the petitioner's land the market value of the Potato per quintal from Rs.700-800 and market value of the Ragi per quintal from Rs.750-800, she is getting income of Rs.2,00,000/- to 2,50,000/- per annum, per acre.

10. The petitioner specifically contended that the compensation awarded by the respondent for the acquired land of the petitioner is very meager, inadequate and not on the basis of the market value of the property. The petitioner in support of her contention she has produced the sale deed in respect of Sy.No.44, it clearly goes to show that 5 guntas sold for Rs.20,000/- on 11.08.2003 prior to 4(1) notification issued by the respondent. The petitioner has produced the award, price list of the Ragi and Potato during 2006-07 and 2010-11, yielding certificate and sale deed dated 11.08.2003, it clearly goes to show that one Nanjappa has alienated the 5 guntas in favour of Neelamma for consideration of Rs.20,000/- for an extent of 5 guntas, the said property is situated at Channapura village. The petitioner has produced the judgment and award passed in LAC.47/2007, wherein the market value of the property per acre

fixed at the rate of Rs.1,56,000/- per acre. The RTC extracts during 2006-07 stands in the name of the Puttamma. The above said documents clearly speak that the petitioner is the absolute owner of the 3 acre 30 guntas in Sy.No.29 of Channapura village. The respondent has acquired the land for public purposes and granted Rs.32,000/- per acre and awarded Rs.1,93,200/- for acquisition of 3 acre 30 guntas. The sale deed produced by the petitioner as per Ex.P.5 clearly shows that 5 guntas of land in Sy.No.44 sold for Rs.20,000/- on 11.08.2003. The said transaction took place prior to 4(1) notification issued by the respondent. The respondent has issued the 4(1) notification on 30.08.2007. The Ex.P.5 is relating to sale transaction dated 11.08.2003, 4 years prior to issue of 4(1) notification of the respondent. As per the sale deed the petitioner is entitled compensation of Rs.1,60,000/- per acre.

11. The compensation granted by the respondent for acquisition of the petitioner's land is inadequate, unjust and it is against to the prevailing market value of the properties. The Ex.P.5 clearly proves that during 2003 the market value of the Channapura village is about Rs.1,60,000/- per acre. The compensation granted is

inadequate, the petitioner is entitled compensation as per prevailing market value of the property.

12. The petitioner has received the award notice on 24.07.2010 and filed the application U/s 18 of the Land Acquisition Act on 26.07.2010 within 90 days from the date of receipt of award notice. The respondent has referred the records to Civil Court on 05.02.2011 within 3 years 90 days. The petition is in time. Under such circumstances, I inclined to answer the point No.1 in the negative, point No.2 in the partly affirmative and point No.3 in the affirmative.

13. **Point No.4:-** In view of the reasons and findings on points No.1 to 3, I proceed to pass the following:

:: O R D E R ::

The reference is partly allowed with cost.

- a. The Petitioner is entitled to market value at the rate of Rs.1,60,000/- per acre.
- b. The petitioner is entitled 30% solatium on the enhanced market value of the land, additional amount

at 12% from the date of preliminary notification to the date of award and interest at 9% per annum for one year from the date of taking possession and thereafter 15% per annum on enhanced award amount.

- c. The respondent is directed to deposit the enhanced compensation within 3 months from the date of award.

Advocate fee is fixed at Rs.200/-.

Accordingly draw award.

(Dictated to the stenographer, transcribed by him, revised by me and after corrections, pronounced in the Open Court on this the 28th day of September, 2011.)

(D.KAMBEGOWDA)
Senior Civil Judge, Holenarasipura.

: A N N E X U R E :

1. LIST OF WITNESSES EXAMINED FOR THE PETITIONER:-

PW.1 : Puttamma

2. LIST OF EXHIBITS MARKED FOR THE PETITIONER:-

Ex.P.1 : Copy of award
Ex.P.2 : Yield list issued by Horticulture Department
Ex.P.3 : Price list issued by APMC, Holenarasipur

Ex.P.4	:	Yield list issued by Assistant Director
Ex.P.5	:	Sale deed dated 11.08.2003
Ex.P.6	:	Judgment copy in LAC.No.47/07
Ex.P.7 & 8	:	2 RTCs
Ex.P.9	:	Award

3. LIST OF WITNESSES EXAMINED FOR THE RESPONDENT:-

- Nil –

4. LIST OF EXHIBITS MARKED FOR THE RESPONDENT:-

- Nil –

(D.KAMBEGOWDA)
Senior Civil Judge, Holenarasipura.