

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

Dated this the 10th Day of October 2011.

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

**:: L.A.C.No.81/2010, 83/2010, 84/2010, 86/2010, 87/2010,
88/2010, 90/2010 to 94/2010 clubbed with LAC No.85/2010 ::**

- | | |
|--------------------------------|---|
| Claimant in LAC.81/2010 | Bhagya D/o Somashekharaiiah,
Channapura village,
Halekote Hobli,
Holenarasipur Taluk. |
| Claimant in LAC.83/2010 | Yoganna S/o Halagappa,
Channapura village,
Halekote Hobli,
Holenarasipur Taluk. |
| Claimant in LAC.84/2010 | Lalithamma W/o Late Rudrappa,
Channapura village,
Halekote Hobli,
Holenarasipur Taluk. |
| Claimant in LAC.85/2010 | Puttaswamappa S/o Channappa,
Channapura village,
Halekote Hobli,
Holenarasipur Taluk. |
| Claimant in LAC.86/2010 | Shankaraiah S/o N.M.Dasappa,
Kamasamudra village,
Halekote Hobli,
Holenarasipur Taluk. |
| Claimant in LAC.87/2010 | Ananda S/o Raja Bovi,
Voddarapalya village,
Halekote Hobli,
Holenarasipur Taluk. |

(By Sri.R.D.R., Advocate)

-V/s-

Common Respondent:- The Special Land Acquisition Officer,
Hemavathi Reservoir Project, Hassan.

(By A.G.P)

:: COMMON JUDGMENT ::

(This judgment is not relating to LAC.No.85/10 & clubbed cases)

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

2. The case of the petitioners is that:

The petitioners are absolute owners of the acquired properties as described below:

Sl.N	Petitioner name	LAC. No	SyNo	Extent	LAO award per acre	Date of 4(1) Notn	Date of 6(1) Notn	Date of taking posn	Award date	Amt.Rd	Date of filing 18(1) Appln
1	Puttamma	9/07	3/3	10 g		7.4.05	16.8.05	7.4.05	20.1.06	34750	24.2.06

2	Shivnanje gowda	10/07	8/3	5 g	10000	7.4.05	16.8.05	7.4.05	20.1.06	21179	24.2. 06
3	Javare gowda	11/07	8/1	9 g		7.4.05	16.8.05	7.4.05	20.1.06	32309	24.2. 06
4	Mariswam appa	13/07	30/2	3 g	10000	7.4.05	16.8.05	7.4.05	21.1.06	22330	24.2. 06
5	Sakegowd a	14/07	8/4	12 g		7.4.05	16.8.05	7.4.05	20.1.06	43308	29.2. 06
6	Mallesha	19/07	7/5	15 g		7.4.05	16.8.05	7.4.05	20.1.06	52125	24.2. 06
7	Basavama ni	20/07	7/6	30 g		7.4.05	16.8.05	29.8.0 5	20.1.06	212767	24.2. 06

The said acquired properties are situated at Sanyasi Hosahally, Hallymysore Hobli, Holenarasipur Taluk. The said cases are clubbed together for leading common evidence and consideration.

3. The petitioners specifically contended that the respondent has acquired the said lands for the purpose of lift irrigation project of Hallymysore. The said lands are very fertile, they were getting two crops per annum and growing paddy, Jowar, Halasande, Hesaru, Uddinakalu, tillseed etc. The market value of the petitioners lands at the time of acquisition per gunta is Rs.30,000 to Rs.40,000.

4. The petitioners specifically contended that the compensation awarded for the acquired properties is too low, nominal, illusory and quite disproportionate to the existing market value of the lands. It is inadequate and confiscatory in nature, it is against to the prevailing market value, fertility of the soil, irrigation facilities, yield and other relevant factors for determining the value of the properties have not been taken into consideration and appreciated. The respondent has passed the award arbitrarily and unjust. Therefore, the petitioners pray for enhance the compensation as claimed in the application.

5. The notice of the references issued to parties, the petitioners appeared through their advocate. Additional Government Pleader filed their memo of appearance in all the cases, but not filed any objection.

6. The petitioners are examined as PW.1 to 7 exhibited 29 document as Ex.P.1 to 29 and closed their side. The respondent side not adduced evidence.

7. Heard arguments of both sides.

8. That on the above facts and evidence on record, following common points arise for my determination in all the cases:

1. Whether the market value of the lands of the petitioners fixed by the respondent is proper and adequate?
2. Whether the petitioners are entitled to enhance the market value of their acquired lands? If so, at what rate?
3. Whether references are in time?
4. What order?

9. 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 following |

:: REASONS ::

10. **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.

11. The petitioners are examined as PW.1 to 7, according to them they are the absolute owners of acquired properties situated at Sanyasi Hosahally, Hallymysore Hobli, Holenarasipur Taluk. The respondent has acquired the said lands for the purpose of lift irrigation of Hallymysore. The petitioners were getting two crops per annum, they are growing paddy, Halasande, Hesaru, Uddu and Tillseed. The petitioners have produced RTC extracts of their lands, it clearly goes to show that they are growing paddy, Halasande, Hesaru, Uddu and Tillseed, but all the petitioners are not growing the said crops, some of them are growing Ragi etc. The petitioners are grown coconut trees in their lands, but not available exactly about number of coconut trees and other trees were standing in their lands.

12. The petitioners have produced the certified copy of the judgment passed in LAC.260/06 etc, wherein granted Rs.1,80,000/- per acre, the lands acquired in that case are situated in Goragundi village and in LAC.18/05 granted Rs.95,000/- per acre, the lands acquired in that case are situated in Elechagahally, but acquired land of this case are situated at

Sanyasi Hosahally. The petitioners have produced the 2 sale deeds, which are marked as Ex.P.28 and 29, as per Ex.P.28, 4½ guntas situated Anekannambadi in respect of Sy.No.216/1A of Hallymysore Hobli sold for Rs.35,000/- on 3.5.2003, as per Ex.P.29, 1 gunta in Sy.No.108/1 of Anekannambadi, Hallymysore Hobli sold for Rs.9,000/- on 2.7.2003, the respondent has issued the 4(1) notification on 7.4.2005, the said two transactions prior to issuance of 4(1) notification, but the acquired lands are situated at Sanyasi Hosahally. Thus, the petitioners are not entitled compensation as per the sale statistics.

13. The petitioners specifically contended that they are growing paddy, Halasande, Hesaru, Uddu and tillseed in their lands before acquisition by the respondent. The petitioners have produced the yielding certificate as per Ex.P.22 and price list as per Ex.P.23 issued by the competent authority. As per Ex.P.22 and 23, the yielding per acre and cost of the agricultural produce as follows:

- | | |
|--------------|---------------|
| 1. Paddy | 18x600=10,800 |
| 2. Halasande | 4x1600= 6,400 |

3. Hesaru	$2 \times 3600 = 7,200$
4. Uddu	$3 \times 1700 = 5,100$
5. Tillseed	<u>$2 \times 2200 = 4,400$</u>
Total	<u>33,900</u>

The annual income of the petitioners lands is Rs.33,900/- per acre per annum, after deducting 50% for expenses, remaining amount is Rs.16,950/-, it shall be multiplied by 10, it comes around Rs.1,69,500/-. The respondent has granted Rs.1,00,000/- per acre, it is very low, but they are entitled compensation at the rate of Rs.1,69,500/- per acre as per capitalization method.

14. The petitioners have filed the applications U/s 18 of Land Acquisition Act before the respondent within 3 months from the date of receiving award notice or from the date of payment of compensation. The respondent has referred the records within 3 years 90 days. Hence, the applications and references are in time. Under these circumstances, I inclined to answer point No.1 in the negative, point No.2 in the partly affirmative and Point No.3 in the affirmative.

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

:: O R D E R ::

The references are partly allowed with cost.

- a. The petitioners are entitled compensation at the rate of Rs.1,69,500/- per acre to their acquired properties.
- b. The petitioners are entitled solatium at 30% on the enhanced amount of the compensation.
- c. The petitioners are entitled additional amount at 12% per annum as additional market value of the properties.
- d. The petitioners are entitled 9% per annum on the award amount from the date of possession for a period of 1 year and thereafter entitled interest on the enhanced amount at the rate of 15% per annum till payment of compensation by the respondent.

Advocate fee is fixed at Rs.200/- in each case.

The original judgment shall be kept in LAC.14/2007 and copies shall be kept in other clubbed cases.

Accordingly draw award.

(Dictated to the stenographer, transcribed by him, revised by me and after corrections, pronounced in the Open Court on this the 13th day of December, 2011.)

(D.KAMBEGOWDA)

Senior Civil Judge, Holenarasipura.

: ANNEXURE :

1. LIST OF WITNESSES EXAMINED FOR THE PETITIONERS:-

PW.1	:	Sakegowda
PW.2	:	Puttamma
PW.3	:	Shivananjegowda
PW.4	:	Javaregowda
PW.5	:	Mallesha
PW.6	:	Basavamani
PW.7	:	Mariswamappa

2. LIST OF EXHIBITS MARKED FOR THE PETITIONERS:-

Ex.P.1	:	Copy of award
Ex.P.2 to 21	:	Copies of RTC's
Ex.P.22	:	Copy of yield list
Ex.P.23	:	Copy of price list
Ex.P.24	:	Judgment copy in LAC.260/06
Ex.P.25	:	Award copy in LAC.260/06
Ex.P.26	:	Judgment copy in LAC.18/05
Ex.P.27	:	Award copy in LAC.18/05

3. LIST OF WITNESSES EXAMINED FOR THE RESPONDENT:-

- Nil -

4. LIST OF EXHIBITS MARKED FOR THE RESPONDENT:-

- Nil -

(D.KAMBEGOWDA)
Senior Civil Judge, Holenarasipura.