

KAHV010034902024



**IN THE COURT OF I ADDL. DISTRICT & SESSIONS
JUDGE, AT HAVERI.**

DATED THIS THE 1st DAY OF AUGUST, 2026

PRESENT: SRI. N.M.Ramesha, B.com, LL.B., LLM
I Addl. District & Sessions Judge,
Haveri.

Miscellaneous Appeal No.48/2024

Appellant : The Executive Engineer,
Shiggaon Lift Irrigation Project,
K.N.N.L., KCD Circle,
Behind Ganesh Temple,
Dharwad.
(By Sri. S.S. Khazi., Advocate)

V/s

Respondents 1 Neelavva W/o Irappa
Kivadanavar (Koti),
Age: 45 years,
Occ: Household.

2 Renavva @ Basavannevva
W/o Irabasappa Kivadanavar,
Age: 42 years,
Occ: Household.

3 Sharada W/o Irappa
Kalivala, Age: 40 years,
Occ: Household,
All are R/o: Haravi,
Hanagal taluk, Haveri district.

- 4 The Special Land Acquisition Officer, Dharwad,
Now at S.L.I.P., Bagalkot.
- 5 The Deputy Commissioner,
Haveri.

*(Sri. S.T. Tegghalli, Adv., for
R-1 to R-3)
(Respondents No.4 and 5 absent)*

JUDGMENT

The appellant has filed this Miscellaneous Appeal against the respondents No.1 to 5 under the provisions of Section 54 of the Land Acquisition Act R/w Section 96 of CPC., to set-aside the judgment and award passed by the Learned Senior Civil Judge & JMFC., Hanagal in LAC.No.25/2018 dated 01.02.2022 and to remand back the matter to the Trial Court with a direction to permit the appellant to cross-examine P.W.1, to lead oral and the documentary evidence of appellant side which is necessary in the interest of justice and equity.

2. The appellant was the 2nd respondent, respondent Nos.1 to 3 were the petitioners No.1 to 3 and respondents No.4 and 5 were the respondents No.1 and 3 before the Trial Court. Therefore, for the sake of convenience and clarity, the parties are referred to as per their ranks assigned before the Trial Court.

3. The facts leading to filing of this Miscellaneous Appeal and the facts constituting the case of the petitioners in brief is as under:

The respondents have acquired the land bearing Sy.No.49/1 measuring 03 guntas, situated at Haveri, belongs to claimants for the formation of Shiggavi Yata Niravari (Malaprabha Project). The Preliminary notifications were published in the official gazette dated 22.08.2010 under the provisions of Section 4(1) of Land Acquisition Act. The Land Acquisition Officer having complied with other conditions, has issued a final notification for acquisition of properties of the petitioners under the provisions of Section 6(1) of L.A.Act. It was published in the official gazette vide dated 30.06.2011. The general award was passed on 11.07.2012 by fixing the market value at Rs.55,152/- per acre for the acquired lands pertaining to the lands situated at Haravi.

4. According to petitioners, that the acquired land is a fertile land, in which the petitioners used to grow two crops in a year and they used to grow crops like sugarcane, paddy and other horticultural crops in their acquired lands. The acquired land has got all sorts of facilities like transportation, educational facilities and financial corporations etc., and got potential value. The acquired land comes within Malenadu area and therefore, the land would fetch a market value for more

than Rs.1,00,000/- per gunta at the time of notification. But the market value fixed by the Land Acquisition Officer to the acquired land is too meager and low. The acquiring authority has not properly measured the land and have not considered the potential value of the land while fixing the market value of the acquired land. The respondents have not considered all the aspects and wrongly awarded meager compensation for the acquired land. It is on these among other grounds, the petitioners have sought for enhancement of compensation.

5. After presentation of petition, it was ordered to be registered as LAC.No.25/2018 vide dated 12.02.2018 and notice was ordered to be issued to the respondents No.1 to 3.

6. On service of notice on petition, the respondents No.1 to 3 have appeared before the Trial Court through their respective Learned counsels and filed separate objections denying the material averments made in the petition. The petitioners have been called upon to prove the material averments made in the petition. The alleged cause of action to file the petition is stated to be imaginary one. The petitioners have not come to Court with clean hands, but they have suppressed the material facts before the Court.

7. According to respondents, that the acquired land is a dry land in which only one crop was grown, which was mainly depending upon rain. The Land

Acquisition Officer has personally visited the acquired lands and after considering statistics of sale deeds of adjacent lands situated near to acquired lands, he has fixed the proper market value of the acquired land. Therefore, the petition is not maintainable either under law or on facts. The petition is also barred by law of limitation. The Land Acquisition Officer has fixed the fair market rate to the acquired lands, which does not warrant any modification or enhancement. It is on these among other grounds, the respondents have sought for dismissal of the petition.

8. In order to prove their case, the petitioner No.1 got herself examined as P.W.1 by filing affidavit-in-chief-examination, wherein she reiterated the averments made in the petition. The petitioners have produced as many as 6 documents which have been marked as per Ex.P1 to Ex.P6 through the evidence of P.W.1.

9. The evidence of respondents side was ordered to be taken as nil and closed vide order dated 21.12.2021.

10. The Trial Court based on the evidence of P.W.1 and the documentary evidence at Ex.P1 to Ex.P6, has proceeded to allow the petition filed under section 18 of Land Acquisition Act in part with cost and modified the award passed by the Land Acquisition Officer dated 11.07.2012 and determined the market value of the acquired land for Rs.35,000/- per gunta and the petitioners were ordered to be entitled for solatium at the

rate of 30% under Section 23(2) of L.A.Act, with additional amount at the rate of 12% per annum on market value as per Section 23(1A) of L.A.Act with interest at the rate of 9% per annum till completion of one year and at the rate of 15% per annum till realization of the amount or till deposit of the amount before Tribunal.

11. The respondents No.1 and 3 did not choose to prefer any appeal challenging the award passed by the Trial Court.

12. However, it is who the respondent No.2 who is the beneficiary of the acquired land, has preferred this appeal against the petitioners and respondents No.1 and 3 on the following grounds:

13. The Judgment and award passed by the Reference Court is illegal, capricious, vexatious and the facts of the case and as such not sustainable under law and deserves to be set aside. The petition filed under the provisions of Section 18(1) of L.A.Act is time barred application, which has been observed by the Reference Court in point No.1, Para No.9 of the Judgment. The Reference Court smashed the right of the respondent No.2 by not giving an opportunity to cross-examine P.W.1, to lead oral and the documentary evidence and to argue the case on merits and hurriedly passed the judgment and award and therefore, the judgment and award enhanced by the Trial Court is not in accordance

with law and the provisions of L.A.Act, 1894. The Trial Court has mechanically and without applying the judicious mind, has passed the impugned judgment and award and therefore, it is contrary to the L.A.Act and against to the principles laid down by the Hon'ble Supreme Court and Hon'ble High Court of Karnataka. The Trial Court has passed the judgment and award without observing the legal and proper documents. The Trial Court has not observed the price list for the year 2001-2003 of the Agriculture Produce Market Committee, Hangal. The petitioners have not examined the evidence of the Assistant Produce Director of Agriculture for the secretary of the Agriculture Produce Market committee, Hangal and therefore, the judgment and award passed by the Trial Court is not sustainable under law. It is on these among other grounds, the appellant/respondent No.2 has prayed for allow the Miscellaneous Appeal.

14. Along with Miscellaneous Appeal, the appellant/respondent No.2 has also filed I.A.I under Section 5 of Limitation Act to condone the delay of 866 days in preferring the appeal.

15. After presentation of Miscellaneous Appeal and I.A.I, it was ordered to be registered as M.A.No.48/2024 vide order dated 22.08.2024 and notice on appeal and on I.A.I was ordered to be issued to the respondents.

16. On service of notice on appeal and I.A.I, the respondents have appeared before this Court through their respective Learned counsels and contested the appeal and also I.A.I.

17. My Learned predecessor in office having heard the arguments on I.A.I which was filed under Section 5 of Limitation Act to condone the delay of 866 days in preferring the appeal and on considering the materials placed on record, has come to the conclusion that the appellant/respondent No.2 has not made out any grounds to allow the application and accordingly, dismissed the I.A.I filed under section 5 of Limitation Act vide order dated 21.09.2024.

18. Being aggrieved by the order on I.A.I passed by this Court, the appellant/respondent No.2 has preferred Miscellaneous Second Appeal No.100052 of 2025 before the Hon'ble High Court of Karnataka, Dharwad Bench, which was came to be allowed vide oral judgment dated 28.04.2026 and set-aside the order passed by this Court in M.A.No.48/2024 dated 21.09.2024, condoned the delay of 866 days in filing M.A.No.48/2024, remanded back the matter to this Court for fresh consideration of M.A.No.48/2024 on merits in accordance with law and to pass a reasoned order, after affording reasonable opportunity to both the parties and dispose of the matter expeditiously, preferably within a period of six months

from the date of receipt of a certified copy of the judgment.

19. The records in M.A.No.48/2024 has been received as per the office note and accordingly, it was ordered to be restored to its original file vide dated 15.06.2026.

20. On service of Court notice, both the parties and their respective Learned counsels have appeared before the Court.

21. The records of the Trial Court were secured as per office notice dated 01.07.2026.

22. I have heard the arguments of both the side and perused the oral and the documentary evidence placed on record and also gone through the entire records.

23. Now the points that would arises for my consideration are as under:

1. Whether the Trial Court was justified in passing the judgment and award based on the petition averments, evidence of P.W.1 and the documents at Ex.P1 to Ex.P6 without affording a reasonable opportunity to the appellant/respondent No.2 to cross-examine P.W.1, to lead oral and the documentary evidence and to argue the case on merits?
2. Whether the Trial Court has properly appreciated the pleadings of both the parties, oral and the documentary evidence placed on record in accordance with law, facts and probabilities of the case?

3. Whether the judgment and award passed by the Trial Court calls for any interference by this Court?
4. What order?

24. On considering and assessing the materials placed on record, now my answers to the above points are as under:

Point No.1 : In the **negative**,

Point No.2 : In the **negative**,

Point No.3 : In the **affirmative**,

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

REASONS

25. POINTS NO.1 TO 3: These 3 points are interrelated, interconnected and interlinked with each other. Findings on point No.1 has great bearing on point No.2 and 3 also. These 3 points revolve round the aspect of justification on the part of the Trial Court in passing the judgment and award based on the petition averments, evidence of P.W.1 and the documents at Ex.P1 to Ex.P6 without affording a reasonable and sufficient opportunity to the appellant/respondent No.2 to cross-examine P.W.1, to adduce evidence and to argue the case on merits and proper appreciation of oral and the documentary evidence placed on record and interference of this Court to the judgment and award passed by the Trial Court. Therefore, for the sake of

convenience, clarity and also to avoid repetition of facts and evidence being narrated separately, these 3 points are taken up together for common discussion.

26. The Learned counsel for the appellant/respondent No.2 has argued with force that, the Trial Court only on the basis of petition averments, evidence of P.W.1 and the documents at Ex.P1 to Ex.P6 has passed the impugned judgment and award without affording a reasonable and sufficient opportunity to appellant to cross-examine P.W.1, to lead oral and the documentary evidence, to produce documentary evidence and to argue the case on merits and therefore, it is not sustainable under law, as the Trial Court has failed to follow the principles of natural justice.

27. It is further contended by the Learned counsel for the appellant/respondent No.2 that the Trial Court has not properly appreciated the contentions raised by the respondents in their objections and also failed to appreciate the evidence on record in accordance with law, facts and probabilities of the case and since the Trial Court has hurriedly passed the judgment and award without providing opportunity to other side to lead oral and the documentary evidence and to cross-examine P.W.1, it is necessary to set-aside the judgment and award passed by the Trial Court and to remand back the matter to the Trial Court with a direction to provide an opportunity to respondents to cross-examine P.W.1, to

lead oral and the documentary evidence and to argue the case on merits, otherwise the appellant/respondent No.2 who is the beneficiary, would be put to irreparable loss and injury which cannot be compensated in any terms.

28. The Learned DGP for respondents No.1 and 3 has supported the contentions raised by the Learned counsel for respondent No.2 and prayed to remand back the matter to the Trial Court to provide an opportunity to respondent No.2 who is the beneficiary to cross-examine P.W.1 and to lead oral and the documentary evidence and to argue the case on merits.

29. Per-contra, the Learned counsel for the petitioners has vehemently contended that the Trial Court has appreciated all the pleadings of both the parties, oral evidence of P.W.1 and the documentary evidence at Ex.P1 to Ex.P6 and rightly passed the judgment and award based on the evidence on record. It is further contended by the Learned counsel for the petitioners/respondent No.1 that, the Trial Court has provided sufficient opportunity to the respondents to cross-examine P.W.1, but it is who the appellant/respondent No.2 has failed to avail the opportunity given by the Trial Court and also failed to cross-examine P.W.1 and to lead oral and the documentary evidence and therefore, the Trial Court without any alternative way has proceeded to pass the judgment and award and therefore, question of setting-

aside the judgment and award passed by the Trial Court does not arise and question of remanding the matter to the Trial Court for fresh disposal in accordance with law also does not arise and the appeal is liable to be dismissed with cost by confirming the judgment and award passed by the Trial Court.

30. Now keeping the arguments canvassed by both the side in mind, let us consider as to whether the Trial Court was justified in passing the judgment and award only on the basis of petition averments, evidence of P.W.1 and the documents at Ex.P1 to Ex.P6 without affording an opportunity to other side to cross-examine P.W.1 and whether the Trial Court has properly appreciated the evidence on record and whether the judgment and award passed by the Trial Court calls for any interference by this Court or not.

31. As could be seen from the petition averments, oral evidence of P.W.1 and the documentary evidence at Ex.P1 to Ex.P6, it is the specific case of the petitioners that the acquired land is a fertile land which was used to grow two crops in a year namely sugarcane, paddy and other horticultural crops and the acquired land has got all sorts of facilities and financial corporations etc., and got potential value which comes within Malenadu area and would fetch a market value for more than Rs.1,00,000/- per gunta at the time of notification, but the market value fixed by the Land Acquisition Officer to

the acquired land is too meager and low and has not properly measured the land and not considered the potential value of the land while fixing the market value of the acquired land and not considered all the aspects and wrongly awarded meager compensation, which required to be redetermined and it is necessary to enhance the compensation.

32. But, as could be seen from the statement of objections filed by the appellant/respondents and contesting respondent No.2 who is the beneficiary that the respondent No.2, has specifically denied all the averments made in the petition and taken a contention that the petition is not maintainable either under law or on facts and it is also barred by limitation. It is the specific objection of respondent No.2/appellant that, the acquired land is a dry land in which only one crop has been grown which was mainly depending upon rain and the Land Acquisition Officer has personally visited the acquired land and after considering statistics of sale deeds of adjacent lands situated near to acquired lands, has fixed the market value of the acquired land, which does not warrant any modification or enhancement.

33. As could be seen from the records of the Trial Court, more particularly the order of the Trial Court, the petition was ordered to be registered on 12.02.2018. The respondents have made their appearance through their respective Learned counsels and resisted the petition by

filing detailed objections on 18.06.2019 and 14.01.2020. But, the petitioners did not choose to adduce their evidence till 30.03.2021. It is only on 30.03.2021, the petitioner No.1 has filed her affidavit-in-chief-examination and got herself examined as P.W.1, but the petitioners did not choose to adduce further chief of P.W.1 till 21.12.2021, but it is only on 21.12.2021, further chief of P.W.1 was completed and got the documents marked as Ex.P1 to Ex.P6.

34. No doubt, the Learned counsel for respondent No.1 and 3 has cross-examined P.W.1 on 21.12.2021. But, P.W.1 was not subjected for cross-examination by the Learned counsel for appellant/respondent No.2. The evidence of petitioner's side was closed on 21.12.2021 itself. The evidence of respondents side was taken as nil vide dated 21.12.2021. The judgment was pronounced on 01.02.2022.

35. On careful perusal of records of the Trial Court, more particularly the order sheet dated 14.12.2021 and 21.12.2021, it is crystal clear that the Trial Court has not provided a reasonable opportunity to appellant/respondent No.2 to cross-examine P.W.1, to lead oral and the documentary evidence and to argue the case on merits.

36. It is pertinent to note here that, the order sheet dated 21.12.2021, do not indicate or reveals as to whether the appellant/respondent No.2 was present or

not and whether he was properly represented by his respective Learned counsel or not. The order sheet dated 21.12.2021 also does not reveal or indicate about rejection of prayer of either appellant/respondent No.2 or his Learned counsel for cross-examination of P.W.1.

37. Be that as it may, even the order sheet dated 21.12.2021 also do not indicate or reveal about the presence of respondents No.1 to 3 and the Learned counsel for appellant/respondent No.2.

38. It is pertinent to note here that, when the petitioner No.1 has filed affidavit-in-chief-examination and got herself examined as P.W.1 and got the documents marked as Ex.P1 to Ex.P6, the prudence was prevailed on the Trial Court either to adjourn the case for cross-examination of P.W.1 by appellant/respondent No.2 or to reject the prayer of appellant/respondent No.2 or his Learned counsel for cross-examination of P.W.1 or at-least to provide an opportunity to lead oral and the documentary evidence of respondent side and to argue the case on merits. But, the Trial Court has not done so. On the other hand, the Trial Court has taken the evidence of respondents side as nil without rejecting either the prayer of appellant/respondent No.2 or his Learned counsel. Under these circumstances, it cannot be said that the Trial Court has followed the principles of natural justice by providing a reasonable opportunity to the appellant/respondent No.2 to cross-examine P.W.1,

to lead oral and the documentary evidence and to argue the case on merits.

39. The appellant/respondent No.2 being the beneficiary of the acquired land, is legally entitled to contest the petition including cross-examination of P.W.1, to lead oral and the documentary evidence and to argue the case on merits. But, the Trial Court has not provided a reasonable opportunity to the appellant/respondent No.2 to cross-examine P.W.1 and to lead oral and the documentary evidence and to argue the case on merits. Under these circumstances, this Court has no option, but to remand the matter to the Trial Court for disposal in accordance with law by providing a reasonable opportunity to the appellant/respondent No.2 to cross-examine P.W.1, to lead oral and the documentary evidence and to argue the case on merits and then to proceed in accordance with law.

40. Therefore, for the reasons discussed above, this Court is of the considered view that the Trial Court was not justified in passing the judgment and award without providing an opportunity to the appellant/respondent No.2 to cross-examine P.W.1, to lead oral and the documentary evidence and to argue the case on merits and thereby, failed to appreciate the evidence on record. Therefore, interference of this Court is necessary to the judgment and award passed by the Trial Court. Hence, I

answer point Nos.1 and 2 in the **negative** and point No.3 in the **affirmative**.

41. POINT NO.4 : In view of my findings on point Nos.1 to 3, I proceed to pass the following.

ORDER

The Miscellaneous Appeal filed by the appellant against the respondents under the provisions of Section 54 of Land Acquisition Act R/w Section 96 of CPC., is hereby allowed.

No order as to cost.

Consequently, the judgment and award passed by the Trial Court in LAC.No.25/2018 dated 01.02.2022 in allowing the petition under Section 18 of L.A.Act in part is hereby set-aside.

The matter is remanded back to the Trial Court with a specific direction to restore LAC.No.25/2018 to its original file, to provide a reasonable opportunity to appellant/respondent No.2 to cross-examine P.W.1, to lead oral and the documentary evidence and to argue the case on merits and then to proceed with the case in accordance with law.

Since the matter is relates to the year 2018, which is admittedly more than 8 years old case, both the parties and their respective Learned Counsels are specifically directed to approach the Trial Court on 24.08.2026 without expecting any notice or summons and shall assist the Trial Court in disposal of the case as expeditiously as possible without fail.

The Office is directed to send the copy of the judgment to the trial court through email forthwith without any amount of delay.

The Office is also directed to send back the entire records to the trial court along with copy of the judgment forthwith without any amount of delay.

*(Directly dictated to the Stenographer on computer, typed by him, corrected, signed and then pronounced in the open court on this the **1st day of August, 2026.**)*

(N.M. Ramesha)
I Addl. District and Sessions Judge,
Haveri.