

IN THE COURT OF THE SENIOR CIVIL JUDGE AND J.M.F.C.
AT JEWARGI

PRESENT: Sri. Sandeep A. Naik B.A., LL.B.,(Spl.)
Senior Civil Judge & J.M.F.C.,
Jewargi.

Dated This the 25th Day of MARCH- 2023

LAC NO.14/2019

APPELLANT : Abrahimsab S/o Dastagirsab Tamboli,
Age: 49 years, Occ: Agriculture,
R/o. Devalghanapur, Tq. Afzalpur,
Dist. Kalaburagi.

(By. Sri.B.M.M.Advocate)

V/s.

RESPONDENTS : 1. The Deputy Commissioner,
Vidhanasoudha At: Kalaburgi.
2. The Special Land Acquisition Officer,
KBJNL, UKP, At. B.Gudi, Tq. Shahapur.

(Absent)

PARTIES TO IA NO.4

Applicants/
Original claimant

Abrahimsab S/o Dastagirsab Tamboli,

V/s.

Oponents/
Proposed R3

**The Executive Engineer
KBJNL (O & M) Division
Ramapur & another**

ORDER ON I.A No.IV FILED BY CLAIMANTS
U/O 01 RULE 10(2) OF C.P.C.

The claimants have filed Instant application under Order 1 rule 10(2) of CPC requesting the Court to implead respondent No.3 and 4 as parties to the present proceedings.

2. After filing of the IA, IA notice were issued to proposed respondent No.3 & 4. The proposed respondent No.3 & 4 appeared through their counsel Sri. GP. The counsel for proposed respondent No.3 & 4 submitted no objection IA No.4.

3. The respondent No.1 also submitted no objection to IA No.4. The claimant sworn to the affidavit to the present application stated that he knows the facts and circumstances of the case. The proposed respondents are acquiring body of KBJNL and have acquired their land on 14.10.2005. However, the acquisition proceedings were initiated by the SLAO/ respondent No.2 by issuing 4(1) notification dated 31.01.2008 without inspecting the acquiring lands and suppressed the facts of possession and passed award without providing interest as per provisions of Land Acquisition Act.

4. The proposed respondents have acquired their lands on 14.10.2005 for formation of canal but never provided the possession certificate which denotes the date of taking over possession of lands to the SLAO/R2 and they refused to provide possession certificate to the land losers. The proposed respondents supplying water to the acquired lands since from 1996-97 but failed to provide water supplying certificate to the land under acquisition to the land losers. In order to prove the date of taking over possession of the land and also to prove the supply of water from UKP canals from the year 1996-97. It is just and proper to implead the proposed respondents in the present proceedings. The claimant No.1(a) further stated that the Hon'ble Supreme Court in SLP No.13687-13692/2012 pleased to direct that either the head of the department of acquiring body or head of

the state shall be the necessary party in all land acquisition proceedings and without impleading them as necessary parties the acquisition matters and appeals are not maintainable. The claimant No.1 further stated the Govt. of Karnataka also issued a G.O. by G.O. No.Law/191/LAC/ 2012 dated 27.09.2012. Even the KNNL authorities filed several writ petitions alleging that they were not impleaded as parties in the acquisition proceedings as such the present proposed respondent No.3 & 4 are proper and necessary parties to the present proceedings. Therefore claimant No.1 prayed to allow the application.

5. Following points arise for my consideration :
Point No.1: Whether proposed opponents are the necessary and parties to the present petition?
Point No.2: What order?
6. My answer to above points are as fallows;
Point No.1: In the Affirmative
Point No.2: as per final order for the following:

REASONS

7. **Point No.1:** Present application filed by the claimants seeking impleadment of proposed parties as respondents to petition on the ground that, the proposed respondents are proper and necessary parties to the present petition. Hence now it is necessary to implead those respondents as parties to present petition. On perusal of the order sheet it reveals that when the case was posted for hearing at that time the applicants have filed this application to implead proposed respondents as party to the present suit.

8. After filing of the application notice of the IA issued to the proposed respondents appeared through its counsel and submitted no objection IA No.4. The applicants intends to implead the proposed respondent No.3 and 4 who are stated to be beneficiaries of the acquisition

proceedings. Further they are necessary and proper parties to the present petition. At this stage it is necessary to refer decision report in **AIR 1995 SC 1004** wherein the Hon'ble Supreme Court pleased to held that beneficiaries i.e. local authority or company, a co-operative society registered under the relevant state law or statutory authority is a person interested to determine just and proper compensation for the acquired is an aggrieved person. The beneficiary has the right to be heard by the collector or the court. If the compensation is enhanced it is entitled to question its correctness by filing an appeal or defend the award of the collector. If it is not made a party, it is entitled to seek leave of the court and file the appeal against the enhanced award and decree of the civil court U/s.26 or of the judgment and decree U/s.54 or is entitled to file petition under articles 226 and assail its reality or correctness. In view of the decision of Hon'ble Supreme Court the acquisition proceedings the beneficiary is a necessary and proper party to the proceedings as such without impleading the proposed respondents who are beneficiary of the land acquisition proceedings. The present petition cannot be disposed off in a effective manner.

9. On the basis of on going thorough discussions, I am of the opinion that the proposed respondents are proper and necessary party to the present petition. Hence, they have to be impleaded as parties to the petition. In case if the application not allowed, it will be definitely multiplicity of proceedings. Hence, for all these reasons, I am of the view that, the application filed by the claimants U/o.1 rule 10 of CPC is deserves to be allowed. Hence, I answer point No. 1 in the Affirmative.

10. **Point No. 2:** For the reasons stated above, I proceed to pass the following:

ORDER

I.A. No.4 filed by the plaintiff under Order 1 Rule 10 (2) R/w. Sec.151 of C.P.C., is hereby allowed.

The claimants are permitted to bring proposed respondents as additional respondent No.3 and 4 in the present petition.

The claimants are hereby directed to carry out necessary amendment and to furnish amended petition copy.

Call on for amendment by 03.04.2023.

(Dictated to the Typist directly on computer, typed by him, corrected and then pronounced by me in the Open Court on this 25th Day of March-2023)

Senior Civil Judge
Jewargi