

KAMS320069292023



Presented on : 22-06-2022
 Registered on : 29-06-2022
 Decided on : 02-05-2026
 Duration : 3 years, 10 months, 10 days

**IN THE COURT OF THE VIII ADDL. DISTRICT & SESSIONS JUDGE,
 MYSURU, SITTING AT HUNSUR**

Dated this the 2nd day of May 2026

-: P R E S E N T :-

Sri.T.GOVINDAIAH,

B.Com. LL.B.

VIII ADDL. DISTRICT & SESSIONS JUDGE,
 MYSURU, SITTING AT HUNSUR

LAC(Appeal) No.193/2022

APPELLANTS
Claimants in
Trial Court

:

Swamynayaka
Since dead by Lrs

- 1. Gowramma**
 W/o Late Swamynayaka
 Aged about 76 years
- 2. Chikkanayaka**
 S/o Late Swamynayaka
 Aged about 39 years
- 3. Chowdanayaka**
 S/o Late Swamynayaka
 Aged about 37 years

4. **Ramanayaka**
S/o Late Swamynayaka
Aged about 35 years
5. **Ravinayak**
S/o Late Swamynayaka
Aged about 31 years
6. **Shivanayaka**
S/o Late Swamynayaka
Aged about 27 years

All are R/at Hosaramanahalli Village,
Bilikere Hobli,
Hunsur Taluk,
Mysuru District.

(By Sri.Bharath.R., Advocate)

V/s

RESPONDENTS
Respondents
in Trial Court

- :**
1. **The Special Land Acquisition Officer**
Harangi Project
Near Andolana Circle,
MUDA Complex,
Ramakrishnanagara,
Mysuru City.
 2. **The Additional Chief Construction Engineer**
(R&D), R.D.O. Ministry of Defence
Government of India,
Cambridge Road,
Opposite C.M.C. Office,
Agram Post,
Bangalore-560 007.

(R1 by DGP)

(R2 by Sri.K.R.Nagendra Prasad, Advocate)

: J U D G M E N T :

The appellants have preferred this appeal U/sec.54 of Land Acquisition Act and Sec.96 r/w Order 41 Rule 1 of CPC, challenging the legality and correctness of the Judgment and Award dated 07.08.2010 passed in LAC No.15/2008 on the file of Senior Civil Judge & JMFC, Hunsur.

2. There was a delay of 4336 days in preferring the instant appeal and appellants have filed an application U/sec.5 of Limitation Act, seeking condonation of delay and the said application was allowed by separate order dis-entitling the appellants for interest for the said delay.

3. The farmers have permanently lost their lands and they have no knowledge about law. Further, the farmers are depending upon their lands by leading their livelihood. The farmers raising the crops and entirely depending on the income of the land. After knowing the facts from others, they are preferred this appeal and seeking higher compensation. Further appellants filed application U/s 5 of Limitation Act, for condone the delay.

After hearing both the side, an application U/s 5 of Limitation Act, this court is of the opinion that, it is necessary to give an opportunity to the appellants to file appeal. Therefore, application U/s 5 of Limitation Act is to be consider liberally. Because, the appellants have permanently lost their lands and they are entirely depending upon said land. Therefore, considering the facts and circumstances of the case, application U/s 5 of Limitation Act is allowed and delay of 4336 days in preferring the appeal is condoned.

4. The appellants are claimants and respondents are the respondents in LAC No.15/2008 before the Reference Court which was filed by the claimant U/sec.28(A) of Land Acquisition Act, seeking enhancement of compensation awarded by the respondents with respect to acquisition of their land. Thereafter, they have preferred this appeal.

5. The brief facts of the appellants case are that, the appellants are the owners of land measuring 2 acres in Sy.No.33/35 of Kuppe-Kolagatta Village, Bilikere Hobli, Hunsur Taluk

has been acquired by the respondents for the purpose of establishment of Electronic Warfare Range on behalf of department of defence. The respondents acquired the said land under 4(1) Notification dated: 27.07.1992. The respondents without taking into consideration the potential, the actual market value of the land and yield, awarded meager compensation. Being dis-satisfied with the said award, the Claimants sought reference U/sec.18 of Land Acquisition Act, seeking proper adjudication with respect to the quantum of compensation.

6. On receipt of the reference, the same was numbered as LAC No.15/2008 before the Senior Civil Judge & JMFC, Hunsur. After receipt of notice, the respondents entered appearance through their counsel.

7. The Claimant no.2 herein got examined himself as PW1 on his behalf and got marked Ex.P1 and Ex.P2.

On the other hand, authorized person of the respondent no.2 got examined himself as DW.1 on his behalf and got marked Ex.D1.

8. In the evidence of DW.1 he deposed that, appellants have preferred this appeal by suppressing the real facts. At the time of acquisition of land sufficient compensation already awarded. There is no necessity to enhance the compensation. There is a inordinate delay in filing the appeal. Hence, appellant has not entitled any higher compensation.

9. After hearing the arguments on both sides, the Reference Court formulated the following points for consideration;

1. Whether the reference application is in time ?
2. Whether the compensation awarded by the LAO is inadequate ?
3. If so, what is the compensation to be fixed ?
4. What order ?

10. After appreciating the oral and documentary evidence available on record, the learned Reference Judge answered Point No.1 in the Affirmative and point No.2 in the Affirmative and awarded compensation of Rs.1,00,000/- for

garden land and Rs.50,000/- for dry land per acre with all other statutory benefits, by passing Judgment.

11. Being aggrieved by the said Judgment and Award passed by the Reference Court, the appellants have preferred the instant appeal before this Court assailing the Judgment and Award passed by the Trial Court on the following and among other

GROUND

- ◆ That the Judgment and Award passed by the Trial Court is against to law, facts and the principles of natural justice.
- ◆ The Trial Court has not gave sufficient opportunity to the appellants to produce documents and to lead evidence to claim higher compensation.
- ◆ The trial court fails to consider the real market value of the acquired land at the time of fixing the market value to the appellant's land.
- ◆ The trial court fixed the market value of the acquired land of appellants only on the basis of its certified copy which is not just and proper.

◆ The trial court fixed the market value at Rs.9,10,726/- per acre in LAC.No.3/2021. The land of the appellant and land of the claimant in LAC.No.3/2021 are acquired by the respondents on the same notification. The lands of the appellant and lands of the claimant in LAC No.3/2021 are neighbouring village and acquired for same purpose. The soil and fertility of both the lands are one and the same. On this ground appellants prays to consider the same to awarded compensation to the appellants acquired land at Rs.9,10,726/- per acre with appreciation and all other statutory benefits.

◆ The Judgment and Award passed in LAC.No.3/2021 are attained finality in nature and the respondents deposited the amount in the above cases. On this ground also pleaded to consider the same to award compensation to this appellants acquired land.

12. On the above grounds the appellants have prayed for set aside the Judgment and Award passed in LAC.No.15/2008 dated 07.08.2010 on the file of Sr.Civil Judge & JMFC, Hunsur and prays for remand to the trial court for fresh evidence and to

produce the documents, modify the award and refixed the market value of the appellants acquired land with all other statutory benefits.

13. After registration of the appeal, notice was ordered to respondents and the respondents appeared through their counsel and filed objection contending that, documents produced by the appellants are not material documents and it is a created one. It is not required to determine the case on hand. The application filed by the appellants only with an intention to drag the proceedings. The appellants filed this appeal without any valid grounds. Hence prays for dismissal of the application and appeal.

14. The trial court records are secured.

15. Heard arguments of learned counsel appearing for appellants and respondents. Perused the Trial Court records.

16. In view of the submissions made by the learned counsel for the appellants and the respondents and on perusal of

the Trial Court records, the following points that would arise for my consideration are:-

- 1) Whether the appellants prove that the compensation awarded by the Reference Judge with respect to the land is inadequate ?
- 2) Whether the appellants prove that the impugned Judgment and Award needs to be modified ?
- 3) What order?

17. My answer to the above points are as under;

Point No.1 : In the **Affirmative**.

Point No.2 : In the **Affirmative**.

Point No.3 : As per final order for the following:

REASONS

18. **Point No.1 and 2:** These points are taken up together for discussion to avoid repetition. Further these points are interlinked with each other.

The instant appeal is filed by the appellants seeking for an order to set-aside the Judgment and Award dated 07.08.2010 passed in LAC No.15/2008 on the file of learned Sr.Civil Judge and JMFC, Hunsur and thereby remand the matter to trial court for fresh evidence and to modify and refix the market value to their acquired land along with all other statutory benefits.

19. The learned counsel for appellants argued that, the land in LAC.No.3/2021 was acquired by the respondents on the same notification for the same purpose and awarded compensation of Rs.9,10,726/-/- per acre. Further, the appellants have produced the certified copy of Judgment and Award in LAC.No.3/2021 dated 08.04.2021. Therefore, it is prayed to determine and fix the market value of the land of the appellants at Rs.9,10,726/- per acre. Under application, the appellants have produced the certified copy of Judgment and Award in LAC No.3/2021 dated 08.04.2021.

20. In the arguments counsel for the respondents have contended that, appellants have already received the just and

proper compensation amount fixed by the Trial Court for the acquired land and as such, they are not entitled to claim higher compensation, the additional evidence not relevant to this appeal and the appellants have not paid sufficient Court fee on the basis of higher enhancement sought to be claimed.

21. I have perused the Judgment and Award passed in LAC No.15/2008. Learned trial court basing on the Judgment and Award passed in LAC No.3/2021 has fixed the market value of acquired land at the rate of Rs.9,10,726/- per acre as both the lands were situated in the neighbouring village, acquired under same notification dated 09.02.1989.

22. The learned Addl.Sr.Civil Judge and JMFC, Hunsur in LAC No.3/2021 dated 08.04.2021 by taking note of the fact that the land of appellant therein and land in LAC No.60/2000 are similarly situated and have been acquired for the same purpose under same notification. By relying on the decision reported in ILR 2003 Kar Page 2336 has enhanced the compensation and fixed at Rs.9,10,726/- per acre. As the land involved in this case and

land involved in LAC No.3/2021 are similarly situated and have been acquired for the same purpose. The Judgment and Award passed in LAC No.60/2000 can be made applicable to the case in hand. Moreover, it is not the case of the respondents that, the said Judgment is stayed or set aside by the higher courts.

23. There is no dispute that, the land of appellants herein and land in LAC.No.3/2021 are situated in adjacent village and have been acquired for the same purpose of establishment of Electronic Warfare Range on behalf of department of defence.. Since both the lands have been acquired under notification dated 09.02.1989, the market value fixed at the rate of Rs.9,10,726/- per acre in LAC.No.3/2021 is fixed in the present case, which is just proper and reasonable.

24. Looking to the facts and circumstances of the case and submissions made on behalf of appellants and also respondents, this court is of the opinion that, there is no need to remand the matter to the Trial Court for fresh disposal. Therefore, application deserves to be allow and the appellants have proved

that the compensation awarded by the reference Judge with respect to their acquired land is inadequate and consequently, the impugned Judgment and Award passed by the reference Judge needs to be modified. Therefore, this court answered Point Nos.1 and 2 in the **Affirmative**.

25. Point No.3: For the reasons stated and findings given to Point Nos.1 and 2, this court proceed to pass the following:

ORDER

The Appeal filed by the appellants U/sec.54 of Land Acquisition Act and Sec.96 r/w Order 41 Rule 1 of CPC is hereby partly allowed.

The Judgment and Award passed by the Sr.Civil Judge and JMFC, Hunsur, in LAC No.15/2008, dated: 07.08.2010 is modified.

The market value of the land acquired from the claimant in this case is fixed at the rate of Rs.9,10,726/- per acre (Rupees Nine Lakhs Ten Thousand Seven Hundred Twenty Six only) along with additional statutory benefits as per sections 23(1)(a), 23(2) of Land

Acquisition Act, with interest U/s.28 of the Act, on the enhanced compensation amount.

The appellants are not entitled for the interest for the period of delay of 4336 days in preferring this appeal.

Draw Award, if Court fee paid is correct.

Send back the records along with copy of this Judgment to the Trial Court forthwith.

(Dictated to the Stenographer directly on computer, then corrected and pronounced by me in the open Court on this the 2nd day of May 2026)

(T.GOVINDAIAH),
VIII ADDL. DISTRICT & SESSIONS JUDGE,
MYSURU, SITTING AT HUNSUR