KATK010066632022

IN THE COURT OF VI ADDL. DISTRICT & SESSIONS JUDGE AT TUMAKURU

PRESENT : **Smt.SHILPA K.S**
B.A.L, L.L.M,
VI Addl. District and Sessions Judge,
Tumakuru

L.A.C.(Appeal) No.156/2022

Dated this the 11th day of June 2026

Appellant: Nanjundaiah, Dead by Lrs.,

a) Narasidevaru M.N.,
S/o. Late Nanjundaiah, A/a. 60 years,

b) Narasegowda, S/o. Late Nanjundaiah,
A/a. 58 years,

Both are R/at. M.H. Patna village,
Kasaba Hobli, Gubbi Taluk,
Tumakuru District.

(By Sri.H.H.N.. Advocate)

V/s

Respondents : 1. The Special Land Acquisition Officer,
Hemavathi Canal Zone, Tumakuru.

2. The Chief Engineer, Hemavathi Canal
Zone, Kunigal Road, Tumakuru.

(R1 by Sri. J.K.A., Advocate
R2- Exparte)

JUDGMENT

The appellant has filed this appeal under section 54(1) of Karnataka Land Acquisition Act r/w section 96 of CPC, against the respondents being aggrieved by the impugned judgment and award passed by the Sr.Civil Judge & J.M.F.C, Gubbi in LAC.No.118/2007 dated 16.12.2014. (During pendency of the appeal the original appellant died and hence his legal heirs were brought on record).

2. For the sake of convenience, the parties herein are referred with the original ranks before the trial court.

3. The brief facts of the case are that, the original appellant and one Narayanappa have filed the reference petition due to acquisition of lands in Sy.No.3/1 measuring 0.39 guntas of Mookanahalli village. That out of the said extent of 0.39 guntas 0.17 guntas of land belongs to the original appellant having 25 arecanut trees and remaining 0.18 guntas belongs to Narayanappa. The said land was

acquired by the respondents for formation of Hemavathi canal and meagre compensation was paid by the respondents. The compensation was received under protest. After evidence the trial court has passed the award and allowed the petition partly. Aggrieved by the said award the petitioners have filed this appeal on following grounds :-

a. The impugned award is otherwise erroneous, opposed to law and probabilities of case.

b. The trial court has not at all considered the proper and actual market value of the land which was acquired. The trial court has not considered the documents produced by the appellants and passed award without proper reasons. Hence the impugned judgment and decree is not proper.

c. The impugned judgment and award is not proper and liable to be modified.

d. The respondents have acquired trees. But the trial court awarded meagre compensation. Hence the impugned judgment and award is not proper and liable to be modified.

e. The trial court erred in not considering the actual prize and not adopt the capitalization method in calculation the loss of future income from the acquired land.

g. The trial court has not properly assessed the value of land while enhancing the compensation. The reason of the trial court is not proper.

h. The trial court has erred in not placing reliance on the evidence. Hence this petition.

4. After due service of notice the respondent No.1 have appeared before this court but not filed objections. However the respondent No.2 even after service of notice did not appeared and hence they were placed absent.

5. The trial court records are summoned. Heard the counsel for appellants and they have filed written

arguments. The respondent No.1 inspite of giving sufficient opportunity did not argued and hence their arguments is taken as not addressed.

6. The appellant No.1(a) has examined himself as P.W.1 by filing affidavit evidence pertaining to I.A.No.1 filed under section 5 of Limitation Act but no documents got marked.

7. The following points have arisen for my consideration:

1. Whether the appellants have made sufficient grounds for condonation of delay of 1944 days in preferring the appeal?
2. Whether the appellants have made sufficient grounds to enhance the compensation amount as prayed for in this appeal?
3. Whether the impugned Judgment and award calls for any interference from this court?
4. What order ?

8. My answer to the above points is as under:

Point No.1: In the affirmative

Point No.2: In the affirmative

Point No.3: In the affirmative

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

REASONS

09. **Point No.1**: The appellants have also filed an application u/sec.5 of Limitation Act, seeking for condonation of the delay of 1944 days in preferring this appeal contending that, due to death of the original appellant and due to shortage of amount they could not able to meet his advocate in time due to lack of knowledge about the appeal. Recently they came to know about the fact that his neighbouring land owners cases were allowed. Thereafter, they met their counsel and filed this appeal. The delay caused is not intentional and it is bonafide one. Hence, prayed to allow the application in the ends of justice.

10. To condone the delay in preferring this appeal, the appellant No.1(a) is examined as PW.1 and re-iterated the contents of I.A.No.1. Even though he was cross-examined by counsel for respondents but nothing could be elicited in their favour. In respect of the delay caused in preferring this appeal is concerned, the appellants have not produced any documents in their support.

11. At this stage I would like to rely upon the Judgment of Hon'ble Supreme court in the case of K.Subbarayudu V/s Special Deputy Collector (Land Acquisition) reported in (2017) 8 SCC 61, wherein the Hon'ble Supreme court while condoning the delay of 3971 days on a condition that the appellant shall not be entitled to any interest during the period of delay, it is held as " *When the concerned court has exercised its discretion either condoning or declining to condone the delay, normally the superior court will not interfere in exercise of such discretion. The true guide is whether the litigant has acted with due*

diligence. Since the appellants/claimants are the agriculturists whose lands were acquired and when similar situated agriculturists were given a higher rate of compensation, there is no reason to decline the same to the appellants. Merely on the ground of delay such benefit cannot be denied to the appellants. The interest of justice would be served by declining the interest on the enhanced compensation and also on the solutium and other statutory benefits for the period of delay."

12. In view of above preposition of law the delay has to be liberally condoned. Hence, the said IA.No.I is allowed and the delay of 1944 days in filing this appeal is condoned, but the appellants shall not be entitled for any interest during the period of delay of 1944 days. Hence, point No.1 is answered in the a**ffirmative.**

13. **Point No.2:** The appellants being aggrieved by the impugned judgment and award passed in LAC No.118/2007 dated 16.12.2014 on the file of Senior Civil Judge & JMFC,

Gubbi has preferred this appeal on the ground that the trial court has not at all considered the proper and actual market value of the land and trees which had been acquired for Hemavathi Canal Zone. The respondent No.1 and 2 have acquired the land of the appellant with trees, but the land was not properly valued.

14. It is well settled principle of law that the market value of the land is to be determined by any one of the following recognized methods

(I) Capitalization method

(ii) Sale statistics method

(iii) Opinion of experts

(iv) Following the judgments of Courts

15. The counsel for petitioner relied upon several judgments of other courts. I have perused the said judgments. At this stage I would like to rely upon the judgment reported in

a. ILR 2003 KAR 2336 in between State of Karnataka by Spl.Land Acquisition Officer and others V/s Mallappa and others, wherein it is held that " *Enhancement was made on the basis of the judgment and award made by the Court in similar other cases, Wherein, the similar nature of lands of adjoining villages acquired under the same notification and for the same purpose-held on facts- Uniform rate of compensation for all the acquired lands which are similarly situated to the adjoining villages cannot be faulted, liable to be confirmed".*

b. **2015(5) SCC 801** - **Bhupal Singh and others V/s State of Haryana** wherein it is held that "based on the value of adjacent land, cut off date, fair market value of acquired land is required to be determined based on market rate of adjacent lands, similarly situated acquired lands prevailing on date of acquisition or prior to acquisition but not subsequent date of acquisition. In appropriate cases addition of 10% p.a escalation in prices specified in the sale deeds in relation to adjacent similarly situated lands for fixing the market value of acquired land may be permitted”.

c. **2015(2) KCCR 1943** - A**bdul Khadar and others Vs. The Assistant Commissioner –** It is held that award passed in respect of comparable lands particularly the lands which are acquired under same notification for same purpose having same advantages will become valid and acceptable piece of evidence to determine market value in connected cases”.

d. **ILR 2003 KAR 2336 - State of Karnataka by Spl.Land Acquisition Officer and others V/s Mallappa and others –** It is held that “enhancement of compensation made by the first appellate court is sought to be challenged by the State – enhancement was made on the basis of the judgment and award made by the court in similar other cases, wherein the similar nature of land of adjoining villages acquired under the same notification and for the same purpose, uniform rate of compensation for all the acquired lands which are similarly situated to the adjoining villages cannot be faulted, liable to be confirmed.

e. **Civil Appeal No.3677/2010 - Udho Dass V/s The State of Haryana and others-** It is held that from the date of Notification under Section 4 and 14 years from the date of the award of the Collector on which date the possession of the land must have been taken from the land owner. Concededly, the Act also provides for the payment of the solatium, interest and an additional amount but we are of the opinion, and it is common knowledge, that even these payments do not keep pace with the astronomical rise in prices in many parts of India, and most certainly in North India, in the land price and cannot fully compensate for the acquisition of the land and the payment of the compensation in driblets. The 12% per annum increase which courts have often found to be adequate in compensation matters hardly does justice to those land owners whose land have been acquired as judicial notice can be taken of the fact that the increase is not 10 or 12 or 15% per year but is often up to 100% a year for land which has the potential of being urbanized and commercialized such as in the present case. Be that as it may, we must assume that the land owners were entitled to the compensation fixed by the High Court on the date of the award of the Collector and had this amount been made available to the land owners on that date, it would have been possible for them to rehabilitate their holdings in some other place".

16. The appellants have relied upon decisions reported in :-

a. **(2004) AIR SCW 4355 – UOI V/s Balram** – It is observed that when purpose of acquisition is same and lands are identical and similar though lying in different villages no discrimination could be made to pay more to the land losers.

b. **(2018) 181 AIC 191 – K.Subbarayudu V/s Spl.Deputy Collector** – It is observed that the claimant would also be awarded for the yield of trees in the acquired land.

c. **Hiralal V/s Spl.LAO** – It is observed that it is true that every day delay is explained but it does not mean that the court shall take pedantic approach and dismiss the application.

17. Further the appellants have relied upon the judgment passed in LAC.A.115/22 with respect to the land acquired under Gubbi Taluk wherein in majority of case Rs.14,000/- per gunta was considered, Rs.20,000/- per coconut tree and Rs.12,000/- per arecanut tree were considered. Hence, on basis of this judgments the market value fixed in the previous judgments relating to land and trees situated adjacently or same village may be considered. In the case on hand, as already observed, the land and 25 coconut trees were acquired under different notification for

same purpose as acquired in above said appeals. When such being the case the appellants in the present case also entitled for the same compensation as awarded in the above said appeals. Under these circumstances and also in view of settled principle laid down in the aforesaid rulings, the market value fixed for similarly situated land is to be considered and hence the appellants are also entitled for enhanced market value.

18. Therefore, in my considered view, in this appeal the appellants are jointly entitled for enhanced market value at the rate of Rs.14,000/- per gunta of the acquired land as in other cases. Even the petitioners are entitled for Rs.5,00,000/- enhanced compensation towards value of 25 coconut trees at the rate of Rs.20,000/- per coconut trees and Rs.84,000/- enhanced compensation towards value of 07 arecanut trees at the rate of Rs.12,000/- per arecanut trees by deducting the earlier payment if made with all benefits

and interest to the enhanced amount. Hence, the point No.2 is answered in the **affirmative.**

19. **Point No.3** : Since the reference Court has not considered the value of the land as compared to the value of other lands, it has awarded the less compensation, which is not accepted by the appellants. The appellants have relied upon previous judgments passed by the trial court and the appellate court in respect of the lands situated adjacent to the land of the present case on hand, acquired for the same purpose under the same notification. The impugned judgment and award passed by the reference court calls for interference by this appellate court. Accordingly, point No.3 is answered in the **affirmative**.

20. **Point No.4:** For the reasons stated and discussed as above, I proceed to pass the following :-

ORDER

The appeal filed by the appellants U/Sec.54(1) of the Karnataka Land Acquisition Act R/w Sec.96 of C.P.C is hereby allowed with costs.

Consequently, the judgment and award, passed by the learned Senior Civil Judge & JMFC, Gubbi in L.A.C.No.118/2007 dated 16.12.2014 is hereby modified by enhancing the compensation in respect of acquired land.

Consequently it is ordered that the appellants are jointly entitled for compensation at the rate of Rs.14,000/- per gunta for acquired lands bearing Sy.No.3/1 measuring 0.17 guntas situated at Mookanahallipatna village, Kasaba Hobli, Gubbi Taluk.

The petitioners/appellants are also jointly entitled for total Rs.5,00,000/- enhanced compensation towards value of 25 coconut trees at the rate of Rs.20,000/- per coconut trees and Rs.84,000/- enhanced compensation towards value of 07 arecanut trees at the rate of Rs.12,000/- per arecanut trees situated at Mookanahallipatna village, Kasaba Hobli, Gubbi Taluk by deducting the earlier payment if made with all benefits and interest to the enhanced amount.

The I.A.No.1 filed U/s 5 of limitation Act is hereby allowed on without costs.

However the appellants are not entitled for the interest and other statutory benefits for the delay period of 1944 days.

The rest of the judgment and award of the trial court is hereby confirmed.

The respondent No.1 and 2 are at liberty to deduct the amount of compensation if any, which was already paid to the appellant.

The appellants are directed to pay necessary court fee, if not sufficiently paid.

Draw award accordingly.

Transmit the trial court records along with the copy of this judgment forthwith.

(Dictated to the Stenographer grade 1 directly on computer, got typed by her, print out taken by her and then pronounced by me in the open Court on this the 11th day of June 2026)

K S SHILPA Digitally signed by K S SHILPA Date: 2026.06.12 17:50:08 +0530

(SHILPA. K.S)
VI Addl. Dist. & Sessions Judge,
Tumakuru.

ANNEXURE (Enquiry on I.A.No.1)

List of witnesses examined for the appellants:

P.W.1 - Narasidevaru M.N.

List of documents marked on behalf of the appellants:

-Nil-

List of witnesses examined for the respondents:

-Nil-

List of documents marked on behalf of the respondents:

-Nil-

K S
SHILPA

Digitally signed by K S SHILPA
Date: 2026.06.12 17:50:14 +0530

(SHILPA.K.S)
VI Addl.District & Sessions Judge
Tumakuru.