

KAVP010024952022



Presented on : 29-03-2022
Registered on : 08-06-2022
Decided on : 30-06-2026
Duration : 4Y-02M-22D

**IN THE COURT OF III ADDL.DISTRICT JUDGE AND
ADDL.LAND ACQUISITION, REHABILITATION AND
RESETTLEMENT AUTHORITY, VIJAYAPURA**

Present:

SRI.Khadarsab Husensab Benakatti,
B.A., LL.M.,
III Addl.District & Sessions Judge,
Vijayapura.

Dated this 30th day of June 2026

L.A.C.No.1184/2022

Claimant:

Namadev S/o Samba Tambe,
Age: 33 yrs, Occ: agri.,
R/o Kakhandaki, Tq.Babaleshwar,
Dist. Vijayapura.

[Absent]

// Versus //

Respondents:

1. The Spl. Land Acquisition Officer,
Almatti., Tq.B.Bagewadi,
Dist: Vijayapura.

2. The Commissioner,
Rehabilitation and Resettlement,
Secretary for Land Acquisition Division,
Navanagar, Bagalkot.
3. The Managing Director,
KBJNL, K.R.Circle, Bengaluru,
Branch office at:Alamatti,
Tq.Nidagundi, Dist. Vijayapura.

[R1 & 2/By Sri.S.S,Garasangi, Spl.G.C.]

[R3/By Sri.S.S.Shiradon, Advocate]

**Meta Data incorporated as per Circular No.48/2012
issued by the Hon'ble High Court of Karnataka,
Bengaluru, dated:16.04.2026**

Sl. No	Particulars	Details
1.	Act under which acquisition is made	The RFCTLARR Act
2.	Name of Project	Upper Krishna Project
3.	Purpose of Acquisition	Mulawad Lift Irrigation Project, Malaghan West Bank Canal
4.	Beneficiary of Acquisition	KBJNL
5.	Acquisition File No.	LAQ:SR:No.103/15-16
6.	Date of Social Impact Report	ಸರಕಾರದ ಆದೇಶ ನಂ:ಕಂಇ:36: ಭೂಸ್ವಾಧೀನ: 2014 ದಿನಾಂಕ:13/03/2014ರನ್ವಯ ಮತ್ತು ತಿದ್ದುಪಡಿ ಆದೇಶ ದಿನಾಂಕ:22/04/2014ರನ್ವಯ ಕಲಂ 6(2)ರ ಅಡಿಯಲ್ಲಿ ನೀರಾವರಿ ಯೋಜನೆಗಳಿಗಾಗಿ ಭೂಸ್ವಾಧೀನಪಡಿಸುವಾಗ ಪರಿಸರದ ಮೇಲಿನ ಪರಿಣಾಮ ನಿರ್ಧರಣದ ಅಂಶ (Environment Impact Assessment) ಪ್ರಕ್ರಿಯೆಯನ್ನು ಬೇರಾವುದೇ ಕಾಯ್ದೆಗಳಡಿಯಲ್ಲಿ ಮಾಡಬೇಕಾದಲ್ಲಿ ಸಾಮಾಜಿಕ ನಿರ್ಧರಣದ ಅಂಶ (Social Impact Assessment) ಕೃಷ್ಣಾ ಮೇಲ್ದಂಡೆ ಯೋಜನೆಗೆ ಅನ್ವಯಿಸುವುದಿಲ್ಲವೆಂದು ಸ್ಪಷ್ಟೀಕರಿಸಿದೆ.
7.	Date of Preliminary Notification (Gazette Publication)	02.05.2016
8.	Date of Final Notification (Gazette Publication)	12.03.2021
9.	Date of Possession	12.03.2021

10.	Location of Property (District/Taluk/Village)	Dist.Vijayapura, Tq. Vijayapura, Village-Kakhandaki.
11.	Survey Number	940/4
12.	Extent of Land/property Acres/Guntas/Sq.Meters/Sq.Feet	Dry: 34 Guntas
13.	Market value awarded by acquiring authority (Per Acre/Gunta/Sq.Mtr./ Sq.ft.) with Factor	Rs.78,920/- Per Acre with Factor-2.0
14.	Market value awarded by Reference Court/ Authority (Per Acre/Gunta/ Sq.Mtr./Sq.ft.) with Factor	Confirmed the Award passed by the acquiring authority
15.	Market value awarded by Appellate Court (Per Acre/Gunta/Sq.Mtr./Sq.ft.) with Factor, if applicable.	- -
16.	Date of filing Reference	03.04.2021
17.	Date on which Issues were framed	- -
18.	Date on which evidence commenced & concluded	Claimant remained absent
19.	Date of Disposal	30.06.2026
20.	Amount awarded by Reference Court	- NIL -
21.	Amount awarded by Appellate Court (if applicable)	- -
22.	Compensation amount already paid by the SLAO to the Claimant	Rs.3,03,483/-

A W A R D

The claimant herein has filed this Reference Petition U/Sec.64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [hereinafter referred as 'RFCTLARR Act'], being dis-satisfied with the Award passed in LAQ:SR:No.103/2015-16 dated:12.03.2021, stating that compensation awarded for his acquired land is inadequate and against the actual market value

of the land under acquisition and accordingly, sought for enhancement of compensation to the tune of Rs.50,00,000/- Per Acre, along with other statutory benefits.

2. It is the case of the claimant that he is owner of land bearing Sy.No.940/4 measuring 34 Guntas land situated at Kakhandaki, Tq/Dist: Vijayapura. Said land has been acquired by the SLAO for construction of Mulawad Lift irrigation canal. That the respondent No.1-SLAO has awarded compensation of Rs.78,920/- Per Acre under dry land category. Said Award amount is too meager and inadequate when compared to the present market value of the lands in and around lands acquired by the SLAO. That the acquired land is irrigated land and he was growing crops like Sugarcane, Onion, Chilly and fetching annual agricultural income of Rs.5 Lakh Per Acre. There was open well/borewell worth Rs.2 Lakh and bund consisting of stone/mud worth Rs.2 Lakh. That the SLAO has not considered the fertility of the land before passing Award. That the method adopted by the SLAO is not on any legal base

and has not considered the relevant provisions of the RFCTLARR Act-2013. Therefore, claimant is entitled to the enhanced compensation 4 times from the market value and also entitled for all other statutory benefits provided under RFCTLARR Act. Accordingly, the claimant prayed for awarding Rs.50,00,000/- Per Acre to acquired land, along with other statutory benefits.

3. Initially, the claimant has filed petition against the respondents No.1 & 2 only. After referring the matter to this Authority, the Managing Director, KBJNL, Almatti has been impleaded as respt. No.3.

4. The respondents have appeared through their respective counsels and have filed separate objection statements.

5. It is the sum and substance of their objections is that the reference petition filed by the claimant is barred by time. The SLAO has fairly and properly determined the market value of the land under acquisition. While passing the Award, the SLAO has considered the fertility of the land, pattern of cropping and other relevant facts. The Award passed

by the SLAO is in accordance with law. The claimant has filed the present petitions only with an intention to get more compensation. Claimant has claimed Rs.50,00,000/- Per Acre, not produced any relevant documents. The claimant has not suffered any loss due to the acquisition of the lands. The SLAO has awarded compensation two times of the market value arrived in addition to 100% solatium and 12% additional market value. That in all more than 4 times than the average market value. Thus, the SLAO while fixing the market value has considered all the parameters. Therefore, the claim petition filed by the claimant is not maintainable in the eyes of law. Accordingly, prayed for dismissal of claim petition by confirming the Award passed by the SLAO.

6. In spite of sufficient opportunities given to the claimant, he failed to appear and adduce any kind of evidence. The learned advocate for the respondents submit no evidence and prayed for confirming the Award passed by SLAO.

7. Heard the Spl.G.C. appearing for respondents No.1 & 2 and the counsel appearing for

respondent No.3 and perused the materials available on records.

8. For disposal of this petition, the following Points would arise for my consideration:

- 1. Whether the instant Reference Petition filed by the claimant before SLAO is within the prescribed period of limitation?*
- 2. Whether the claimant proves that the SLAO has not awarded fair and adequate compensation, for his acquired land ?*
- 3. Whether the claimant establishes that he is entitled for enhanced compensation for his acquired land along with other statutory benefits, as prayed for ?*
- 4. What Order ?*

9. My findings on the above Points are as under;

Point No.1: In the Affirmative.

Point No.2: In the Negative.

Point No.3: In the Negative.

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

REASONS

10. **Point No.1:** The main contention of the respondents is that claim petition filed by claimant is

barred by limitation. Section.64 of the RFCTLARR Act prescribes time limit for filing Reference Petition. As per Sec.64 of the Act, the claimant has to file Reference Petition within 30 days. In the instant petition, Award was passed on 12.03.2021. The reference petition U/Sec.64 of the Act has been filed before the SLAO on 03.04.2021 which is within 30 days from the date of receipt of notice. The respondents have not denied the service of Notice issued U/Sec.37(2) of the Act upon claimant. Hence, the claimant has filed reference petition within stipulated time.

11. Admittedly, the RFCTLARR Act is a social legislation. The land-losers who are entirely depending upon their livelihood on their acquired land has filed the petition for enhancement of compensation. The claim of the claimant cannot be rejected at the threshold. Once the claim petition has been filed within time, it is the duty of acquisition authority to refer the same to the concerned authority/court. They cannot shift their burden upon the poor rustic farmers. Mere delay in filing the claim petition under

RFCTLARR Act is not sole ground to deny the claim. Delay is not absolute bar to consideration of the claim particularly when the merits of the case warrants examination.

12. It is well settled law that a failure by the Collector to make the necessary reference is not a ground to reject, if the reference is properly filed within the statutory period. It is the Collector who has to send the reference to this authority within time.

13. As discussed supra, the claimant has filed the reference within the prescribed period, but the SLAO has not referred the matter to the concerned authority within stipulated period. In the administrative process, the acquisition authority is required to refer the application to the appropriate authority within 30 days. Failure on the part of acquisition authority, the claimant cannot suffer. The failure of the acquisition authority to initiate reference within the stipulated time does not negate the claimant's rights.

14. It is well settled law that cases merit should not be discarded solely on technical grounds of delay.

That, the procedural rules are essential for orderly conduct of legal proceedings but they should not be applied rigidly to defeat the ends of justice. Hence, there is no water in the arguments advanced by the learned counsel for the respondents that the petition filed by the claimant is barred by time. On careful perusal of claim petition and the Award passed by the SLAO clearly goes to show that the reference petition has been filed within stipulated time. Accordingly, I answered Point No.1 in the ***Affirmative***.

15. **Points No.2 & 3:** These two points are interconnected and interdependent, hence they are taken together for common discussion, in order to avoid repetition of similar facts.

16. It is case of claimant that he is the owner of land bearing Sy.No.940/4 measuring 34 Guntas situated at Kakhandaki, Tq/Dist: Vijayapura. That acquired land is wet land and the claimant was growing crops like Sugarcane, Onion, Chilly etc., and fetching annual agricultural income of Rs.5 Lakh Per Acre. There was open well/borewell worth Rs.2 Lakh and bund consisting of stone/mud worth Rs.2 Lakh.

Market value of his land is more than Rs.50,00,000/- Per Acre, but the SLAO has fixed the market value of the acquired land at Rs.78,920/- Per Acre under dry land category, which is meager one. SLAO has not considered the market value of the lands in and around Kakhandaki and has passed Award which is not in accordance with law. The SLAO has not fixed the fair market value to the acquired land. Accordingly, he prayed for enhancement of market value of acquired land to the tune of Rs.50,00,000/- Per Acre.

17. In spite of sufficient opportunities given to the claimant, he failed to adduce any kind of evidence.

18. The respondents have not adduced their oral evidence.

19. Though, the claimant has contended that acquired land is rich alluvial/black soil and irrigated land and the market value fixed by the respondent No.1 is inadequate, but on careful perusal of Award passed by the SLAO at Sl.No.172, it reveals that there is no mention about existence of borewell or any water source and bund of any kind and the acquired

land is dry land. In order to rebut the observation made in the Award, there is no reliable evidence on record. In spite of this authority granting sufficient opportunity to the claimant for adducing evidence, even then he failed to adduce evidence. Hence, there is no reliable evidence on record in order to come to conclusion that market value fixed by the SLAO is inadequate and improper. Unless and until, the claimant establish that Award passed by the SLAO is contrary to law, his claim cannot be considered.

20. Since the claimant is claiming that the market value arrived by the SLAO is inadequate, he has to prove that his land fetches more value, he cannot take the weakness of the respondents as a trump-card. In a decision reported in **2004 (1) KCCR 662** [*K.Gopala Reddy (deceased) by L.Rs Vs. Suryanarayan and others*], wherein Hon'ble High Court of Karnataka held that;

“Whenever party approaches the Court for the relief based on the pleadings and issues, he has to prove his case. A suit has to be decided based on merits and demerits of the party who approach the Court. Weakness of the defendants cannot be considered as a trump card for the plaintiff.”

21. Looking from any angle, claimant has utterly failed to prove that the market value fixed by the SLAO is inadequate. As per Section 104 of Bharatiya Sakshya Adhiniyama, 2023, burden of proving of fact always lies upon person who asserts the fact. Until such burden is discharged, the other party is not required to be called upon to prove his case. The Court has to examine as to whether the presumption upon whom the burden lies has been able to discharge his/her burden. Until he/she arises at such conclusion he cannot proceed on the basis of weakness of other party. In this case also, the claimant has to prove his case on his own, he cannot take the advantages of the weakness of the respondents. In a decision reported in **(2011) 12 SCC 220** (*Rangammal Vs. Kuppaswamy*), it is clearly held that;

“Section 101 of Evidence Act has clearly laid down that the burden of proving a fact always lies upon the person who asserts the fact. Until such burden is discharged, the other party is not required to be called upon to prove his case. The Court has to examine as to whether the person upon whom the burden lies has been able to discharge his burden. Until he arises at such conclusion, he cannot proceed on the basis of weakness of the other party.”

The said decisions are aptly applicable to the case in hand. The claimant has to establish his case

on his own and he cannot take the weakness of the respondents.

22. On careful perusal of the Award passed by the SLAO, it reveals that before passing Award, SLAO has considered relevant documents and has fixed the market value of the dry land at Kakhandaki at the rate of Rs.78,920/- Per Acre. The Award itself speaks that before fixing the fair market value, the SLAO has obtained sale deeds of Kakhandaki and has considered all the parameters for fixing the market value. There is no irregularity or perversity in the market value fixed by the SLAO. Even there is no other evidence to disbelieve the market value fixed by the SLAO. The claimant utterly failed to prove that market value fixed by the SLAO is too meager or contrary to law. Hence, the claimant is not entitled for enhancement of market value of the acquired land. Accordingly, Points No.2 & 3 are answered in the **Negative**.

23. **Point No.4:** In view of my finding on above said Points, I proceed to pass the following:

ORDER

The Reference Petition filed by the claimant U/Sec.64 of the RFCTLARR Act, 2013 is hereby dismissed.

Consequently, the Award passed by the respondent No.1-SLAO under LAQ.SR. No.103/2015-16 dated 12.03.2021 with respect to the acquired land bearing Sy.No.940/4 measuring 34 Guntas of land situated at Kakhandaki, Tq/Dist: Vijayapura is hereby confirmed.

Advocate fee is fixed @ Rs.1,000/-.

In view of judgment passed by the Hon'ble High Court of Karnataka in MFA No.104109/2023 (LAC) on the file of Dharwad Bench dated 08.07.2025, passing of separate Award is not necessary.

[Dictated to the Steno-Gr-I directly on the Computer, script corrected and then pronounced by me in the Open Court on this the 30th day of June, 2026]

[Khadarsab Husensab Benakatti]
III Additional District Judge
& Additional Land Acquisition,
Rehabilitation & Resettlement Authority,
Vijayapura.

ANNEXURE

List of Witnesses examined for Claimant:

- NIL -

List of Documents marked for Claimant:

- NIL -

List of Witnesses examined for Respondents:

- NIL -

List of Documents marked for Respondents:

- NIL -

III Additional District Judge
& Additional Land Acquisition,
Rehabilitation & Resettlement Authority,
Vijayapura.
