

KAVP010051482025



Presented on : 07-07-2025
Registered on : 08-07-2025
Decided on : 08-07-2026
Duration : 01Y-0M-0D

**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 08th day of July 2026

Misc.No.76/2025

Petitioners/Claimants:

1. Bhouramma W/o Mallikarjun Tambake,
Age: 52 yrs, Occ: HH & agri.,
2. Shivanand S/o Mallikarjun Tambake,
Age: 26 yrs, Occ: agri.,
3. Shivaleela D/o Mallikarjun Tambake,
Age: 24 yrs, Occ: agri.,
4. Sujata D/o Mallikarjun Tambake,
Age: 23 yrs, Occ: agri.,

All are R/o Korawar,
Tq.Sindagi, Dist. Vijayapura.

[By Sri.B.M.Malkapur, Advocate]

// Versus //

Respondent:

The Spl. Land Acquisition Officer,
KBJNL, UKP Camp at Indi R.S.,
Tq. Indi, Dist: Vijayapura.

[By Sri.C.V.Badri, Spl.G.C.]

Order on maintainability

The petitioners/claimants have filed this Petition U/O IX Rule 9 R/w Sec.151 of CPC praying to set-aside the Order passed by this court in LAC No.2019/2020 dated: 24.03.2021.

2. It is the case of the petitioners/claimants that they are the owners of land measuring 34 Guntas in Sy.No.269/2 situated at Korawar village, Tq.Sindagi and it has been acquired by the respondent for the purpose of Korawar Branch Canal under LAQ.SR. No.58/2015-16 dated: 01.08.2018 and accordingly passed Award. Being dissatisfied with the said compensation awarded by the respondent in respect of their property, the petitioners had filed reference petition U/Sec.64 of the RFCTLARR Act, seeking for enhancement of the compensation amount. Said reference petition had been numbered as LAC

No.2019/2020 on the file of this court. The sale deeds were not available at the earlier point of time. That due to Covid-19 the two family members of petitioners have been admitted to hospital in the month of March to May 2021 and they were looking-after them and hence they could not attend the court when the said case was posted for petitioners' evidence on 24.03.2021, due to their absence, this court dismissed the petition by confirming the Award passed by the respondent. Hence, they have filed the instant petition for recalling Order of dismissal.

3. Along with this petition, the petitioners have filed I.A.No.I U/Sec.5 of the Limitation Act for condonation of delay in filing the instant petition.

4. Upon receipt of notice, the respondent has filed objections to the petition.

5. Heard both sides on the point of maintainability of the petition in the present form and perused the materials available on records.

6. The Point would arise for my consideration is that:

“Whether the instant Petition filed by the petitioners before this authority is maintainable in the present form?”

7. My findings to the above Point is in the **“Negative”** for the following:

REASONS

8. The counsel for the petitioners/claimants argued that the petitioners have filed reference petition U/Sec.64 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, for re-determination of market value of the acquired property, but due to some unavoidable circumstances, they remained absent before this court, therefore this court has dismissed the petition by confirming the Award passed by the respondent. The non-appearance of the petitioners on the date of evidence was neither deliberate nor intentional. Accordingly, prayed for allowing the petition.

9. Per Contra, the learned counsel for the respondent argued that the petition filed by the petitioners is not maintainable in the present form

before this court. The petitioners ought to have preferred Appeal before the Hon'ble High Court of Karnataka. Hence, prayed to dismiss the petition.

10. On perusal of entire material available on record, it reveals that the petitioners are the owners of land measuring 34 Guntas in Sy.No.269/2 situated at Korawar village. Said property has been acquired by the respondent under Korawar Branch Canal and has passed Award under LAQ.SR.No.58/2015-16. Being aggrieved by the said Award, the petitioners/claimants have filed Reference Petition U/Sec.64(1) of the RFCTLARR Act, 2013 for re-determination of market value of the acquired property. Same has been numbered as LAC No.2019/2020 and referred to this court. After registration of said LAC case, notice has been issued to both parties. Both parties have appeared through their respective counsels and subsequently matter has been posted for recording claimant's evidence. This court has provided sufficient opportunity to the claimants for adducing evidence, but they failed. By considering materials available on record, on 24.03.2021 this court has dismissed the

petition by confirming the Award passed by the respondent.

11. Being aggrieved by the said Order of this court, the petitioners have filed instant petition U/O IX Rule 9 of CPC. Order IX Rule 9 CPC deals with decree against the plaintiff by default bars fresh suit. If the suit/petition has been dismissed for non-prosecution, then plaintiff/petitioner can very well file petition for restoration. But in the instant case, the Award passed of the respondent has been confirmed by this court. Once the Award has been confirmed, the petitioners/claimants ought to have prefer Appeal U/Sec.74 of the RFCTLARR Act. The petitioners without resorting the proper remedy available under the RFCTLARR Act, have filed present petition, which is not maintainable under law. Hence, the petition filed by the petitioners is not maintainable in the present form. Accordingly, this Point is answered in the Negative and proceed to pass the following:

ORDER

The Petition filed by the petitioners/claimants U/O IX Rule 9 of CPC is hereby dismissed as not maintainable with cost.

In view of dismissal of main petition,
I.A.No.I do not survive for consideration.

[Dictated to the Steno-Gr-I directly on the Computer, script corrected and then pronounced by me in the Open Court on this the 08th day of July, 2026]

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

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