

KAVP010053952019



Presented on : 07-09-2019
Registered on : 21-09-2019
Decided on : 23-12-2021
D M Y
Duration : 02 03 02

**IN THE COURT OF I ADDITIONAL DISTRICT JUDGE & THE
LAND ACQUISITION REHABILITATION AND
RESETTLEMENT AUTHORITY,
VIJAYAPURA**

**PRESENT: Sri. Joshi Venkatesh, B.A.,LL.B.(Spl),
I Addl. Sessions Judge,
Vijayapura.**

Dated this 23rd day of December, 2021

LAC. No.1381/2019

Claimant:

Hampanna S/o Basappa Satihal,
Age: Major, Occ: Agril., R/o
Masabinal, Tq: B. Bagewadi, Dist:
Vijayapura.

(By Sri NRG Adv.)

//Verses//

Respondent:

The Spl. Land Acquisition officer,
UKP Almatti.

(Spl. G.C. Sri. BBY Adv.)

JUDGMENT

1	Date of 11(1) notification in official Gazette on	20.02.2016
2	Date of award	30.01.2019
3	Date of filing of reference application before SLAO by the claimant.	21.03.2019

Being aggrieved by the award passed by Respondent/SLAO UKP Alamatti in **LAQ/SR/127/2014-15 Dated:30.01.2019** and the amount fixed there under in respect of the acquired **Dry land Sy.No.1100** to the extent of **03 guntas** of **Ingaleshwar village**, claimant filed reference petition before respondent/SLAO for determination of proper compensation amount. Said reference petition is submitted to this court by respondent/SLAO for determination of proper market value of the acquired land on the date of 11(1) notification.

2. Sum and substance of the Reference Petition is as under:

Land bearing **Sy.No.1100 of Ingaleshwar village to the extent of 03 guntas belongs to claimant is acquired by the Respondent/SLAO** and awarded compensation at the rate of **Rs.1,01,560/-** per acre by considering the acquired

land as **dry land**. Claimant is the owner of the acquired land. claimant received compensation amount under protest. Claimant is the owner of the acquired land. 10 guntas of land acquired but it is shown in the Award that 03 guntas of land is acquired. Compensation awarded by the SLAO is low and meager. Market value fixed is not in accordance with law. Land acquired is nearer to Ingaleshwar village. It is birth place of Vishwa Guru Sri. Basavanna the historical place and included in special project by Basava planing authority. Acquired land has got NA potentiality. Acquired land values more than 4 croers per acre. Agricultural land values more than 80 lakhs per acre. Without looking the same market value of acquired land is fixed which is not correct. Total 3 acres land is acquired. 15 years old 2 Mango Trees and 2 Neem trees. Claimant is entitled for compensation @ Rs.1 lakh per Mango tree and Neem tree. Canal passes in the center of the acquired land. Hence, remaining land divided in to two parts which is unfit for cultivation. Hence, claimant is entitled for compensation to the remaining land. Claimant is

entitled for higher compensation under New LA Act. Matter is to be referred to court. No notice is given before passing the award. No opportunity is given to participate in the proceedings. Fertility of the land is not considered. Claimant is entitled for higher compensation. On the above grounds and also grounds shown in the Reference Petition prayed this Court for determination of proper Market value of the acquired land of the claimant.

- 3.** Respondent appeared through Special Govt Counsel (SGC) and filed detailed objections to the reference petition filed by the claimant.

Sum and substance of the objections are that, Reference petition filed by the claimant U/Sec.64 of the RFCTLARR Act is not within the period of limitation and in accordance with law. It has no merit at all. Contents of the reference petition are not based on any materials. Claimant not suffered any loss or injury due to the acquisition of the land. Respondent/SLAO followed the provisions of law and determined proper compensation. Contents of the reference petition are not supported by any documents. Proper notice is issued. It is false to

say that SLAO not given proper opportunity to the petitioner before passing the award. SLAO awarded compensation two times of the market value arrived in addition to 100% solution and 12% Addl. Market value. In all more than 4 times of the average market value is awarded. SLAO personally visited the acquired land and inspected. Other grounds raised are baseless and deserves to be rejected. Along with other grounds shown in the objections prayed this Court to reject the Reference Petition filed by the claimant by confirming award passed by the SLAO.

4. In order to prove his contentions claimant is examined before the Court as **PW.1 and got exhibited Ex.P.1 to 9** documents and closed his side. Respondent SLAO not led oral evidence. With consent of the advocate for the claimant notice U/Sec.65(2), U/Sec.37(2) of New act and award passed by SLAO are marked as **Ex.R.1 to Ex.R.3**. In view of the same respondent submits before the Court that respondent has no oral evidence to lead.
5. Heard the arguments. Perused the records before the Court.

6. The points arose for my consideration are as under:

- 1) Whether Reference Petition/Application filed by the claimant before SLAO is within the period of limitation?
- 2) Whether the Respondent/SLAO proves that SLAO awarded fair and adequate compensation?
- 3) Whether the claimant prove that he is entitled for enhanced compensation as prayed?
- 4) What order or award?

7. My findings on the above points are as under:

Point No.1 : In the affirmative.

Point No.2 : In the Negative.

Point No.3 : Partly In the affirmative.

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

REASONS

8. **POINT No.1:-** This court has to consider whether Reference Petition filed by the Claimant/petitioner is well within the period of limitation or not. On perusal of the award passed by SLAO marked at **Ex.R-3** it is clear that award is passed on **30.01.2019**. From Ex.R.2 it is clear that Notice under section **37(2)** of new LA Act is issued to the claimant on **21.02.2019**. Claimant filed reference

petition as per Ex.P.1 before SLAO on **21.03.2019** which is well within the period of limitation prescribed under law. Said reference petition is submitted to this court by SLAO for determination of proper market value. Hence, much discussion is not required on this aspect. **Accordingly, court comes to the conclusion that reference petition filed by the claimant in respect of acquired land before SLAO is well within the period of limitation and answered point No.1 in the affirmative.**

9. **POINT NO.2 and 3 :** I would like to discuss both the points in a single discussion to avoid the repetition of facts and discussion. Claimant aggrieved by the award passed by SLAO in respect of the acquired land filed application under section 64 of LA Act for enhancement of the compensation amount and claimed more than 80,00,000/- per acre contending that award amount is low and inadequate. On the contrary respondent SLAO contending that award passed is reasonable and proper.

- 10.** In the first instance this court has to decide about the nature of the land acquired. Claimant contending that acquired land is fertile dry land. He uses to grow 2 crops per year and getting income of Rs.3-4 lakhs per year per acre. On the contrary Respondent SLAO also contended that acquired land is dry and accordingly it is considered.
- 11.** In award SLAO clearly shown that at the time of inspection it is noticed that acquired land is dry land. Claimant in his cross-examination admitted that acquired land is dry land on the date of preliminary notification. When it is so, then Respondent SLAO rightly considered the acquired land as dry land. Admitted facts need not be proved. **Hence, this court comes to the conclusion that acquired land of claimant is Dry Land on the date of 11(1) preliminary Notification.**
- 12.** Award passed by the Respondent SLAO is marked as Ex.R-3 with the consent of the advocate for the claimant. When claimant is contending that award passed and compensation amount is awarded is not proper and adequate, then it is to bounden duty of

the claimant to prove the said fact before the court by leading evidence and producing necessary documents.

- 13.** In order to prove his case, the claimant examined himself as P.W.1 and got marked documents as per Ex.P-1 to Ex.P-9 documents on his behalf. Claimant stated in the examination in chief that acquired land is more fertile land and it has got NA Potentiality. No documents produced to show that 5 acre 20 guntas of land belongs to claimant is acquired. **Claimant clearly deposed in the examination-in-chief that 03 guntas land in land Sy.No.1100 of Ingaleshwar village is acquired by SLAO. Hence, contention of claimant that 10 guntas land is acquired is no force at all.** No documents produced to accept the income stated in the examination.

Ex.P-1 is the Reference Petition filed by claimant before SLAO. Ex.P-2 to Ex.P-8 are the Certified Copies of Sale Deeds of the land of Ingaleshwar village. Ex.P.9 is CC of Deed of Agreement of Sale of land of Ingaleshwar village. Acquired land is also situated in the Ingaleshwar village.

During cross-examination of P.W.1 admit that officials visited the acquired land. Claimant denied that Respondent SLAO awarded proper market value of the acquired land. Claimant denied the suggestion that reference petition is beyond the period of limitation. Claimant also denied the suggestion made by respondent that his land is not fertile land. Claimant not produced documents or led independent evidence regarding existence of Trees in the acquired land as contended. Hence, his contention is not fit to be accepted. Nothing is elicited by respondent/SLAO in the cross examination of claimant to show that SLAO awarded proper compensation to the acquired land.

- 14.** Court feels it is necessary to refer Section 26 of the RFCTLARR Act , 2013. It reads as under:

26. Determination of market value of land by Collector.-(1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:—

- (a) the market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or

- (b) the average sale price for similar type of land situated in the nearest village or nearest vicinity area; or
- (c) consented amount of compensation as agreed upon under sub-section (2) of section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher:

Provided that the date for determination of market value shall be the date on which the notification has been issued under section 11.

Explanation 1.—The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in Explanation 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in Explanation 1 or Explanation 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

Section 26 of the New LA Act clearly reveals the criteria to be adopted by the Collector in assessing and determining the market value of acquired land based on the market value, if any, specified in Indian Stamp Act for registration of Sale Deeds or agreement to sell as the case may be in the area where the land is situated or average sale price for similar type of land situated in the nearest Village or nearest vicinity area, whichever is higher.

- 15.** This Court has to decide the market value of the acquired land as per Explanation II of Section 26 of New LA Act. Ex.P-2 to Ex.P-8 are the Certified Copies of Sale Deeds of the land of Ingaleshwar village. Ex.P.9 is CC of Deed of Agreement of Sale of land of Ingaleshwar village. Acquired land is also situated in the Ingaleshwar village.

To decide the market value of the acquired land sale deed of the land situated in Ingaleshwar village is just and proper to taken in to consideration. When sale deeds of the village where acquired land is situated are not available then this Court has to search for other village sale deeds for determining the market value of the acquired land.

- 16.** Admittedly award is marked with consent of the claimant as Ex.R.3. Acquired land Sy.No.1100 and land shown in Ex.P.2 to 9 are situated in the same Ingaleshwar village. Hence, this Court feels it is just and necessary to consider the market value shown in Ex.P.2 to 8 sale deeds to determine the market value of the acquired land. EX.P.9 is the Deed of Agreement of Sale of the land of Ingaleshwar village. It came into existence in the year 2013. But

CC of the sale deed of said land is not produced before the court, Hence Ex.P.9 is not considered. Under **Ex.P.2 to 8 sale deeds only** Gunta land of Ingaleshwar village is sold. In view of the decision of Hon'ble Apex Court of India certified copy of the sale deeds can be accepted without examining the witnesses. In the present case also the petitioner marked Ex.P.2 to 9 sale deeds without examining the vendor or vendee. No contrary documents produced before the Court to disbelieve Ex.P.2 to 8 certified copies of the sale deeds of dry land situated in Ingaleshwar village where acquired land is also situated. Hence, this Court is of the opinion that it is safe to believe Ex.P.2 to 8 to fix the proper market value of the acquired dry land. **In view of the discussions made above this Court considered Ex.P.2 to 8 certified copies of the sale deeds of dry land to fix the market value of the acquired dry land per acre.**

- 17. 10 guntas** of dry land sy.No.674/1 of Ingaleshwar village sold under Ex.P.2 sale deed for Rs.3,40,000/-. Price of land shown in Ex.P.2 per acre comes to Rs.13,60,000/-.

38 guntas of dry land sy.No.674/2 of Ingaleshwar village sold under Ex.P.3 sale deed for Rs.12,12,000/-. Price of land shown in Ex.P.3 per acre comes to Rs.12,75,789/-.

32 guntas of dry land sy.No.703 of Ingaleshwar village sold under Ex.P.4 sale deed for Rs.8,96,000/-. Price of land shown in Ex.P.4 per acre comes to Rs.11,20,000/-.

10 guntas of dry land sy.No.718/2 of Ingaleshwar village sold under Ex.P.5 sale deed for Rs.3,75,000/-. Price of land shown in Ex.P.5 per acre comes to Rs.15,00,000/-.

09 guntas of dry land sy.No.718/1 of Ingaleshwar village sold under Ex.P.6 sale deed for Rs.3,50,000/-. Price of land shown in Ex.P.6 per acre comes to Rs.15,55,555/-.

30 guntas of dry land sy.No.619/6 of Ingaleshwar village sold under Ex.P.7 sale deed for Rs.9,00,000/-. Price of land shown in Ex.P.7 per acre comes to Rs.12,00,000/-.

29 guntas of dry land sy.No.264/4 of Ingaleshwar village sold under Ex.P.8 sale deed for

Rs.8,70,000/-. Price of land shown in Ex.P.8 per acre comes to Rs.12,00,000/-.

Admittedly Ex.P.2 to 8 sale deed are came in to existence prior to preliminary notification. No contrary documents filed by respondent to disbelieve the same.

Total market value of the lands shown in Ex.P.2 to 8 comes to i.e. Rs.92,11,344/-. Said amount of Rs.92,11,344 is to be divided by 7, then Average price/Market Value comes to Rs.13,15,906/- per acre. Sale deeds marked at Ex.P.2 to 8 are only gunta lands less than 1 acre land is sold under the said sale deeds. Normally for commercial purpose gunta lands will be purchased for which value will be more. The same can not be considered to determine actual market value of the acquired agricultural land. Towards development charges 50% of the amount arrived for one acre land is to be deducted. In this case also land sold under Ex.P.2 to 8 are gunta lands. Hence, in average sale price of land situated in Ingaleshwar village shown in Ex.P.2 to 8 per acre comes to Rs.13,15,906/-. 50% of the amount is to be deducted towards

developmental charges as land sold under Ex.P.2 to 8 are only gunta land and less than 1 acre. 50% of Rs.13,15,906/- comes to Rs.6,57,953/-. Said amount is proper actual market value of the acquired land of Ingaleshwar village per acre. Said sale deeds taken in to consideration are the sale deeds of the year 2014. preliminary notification is in the year 2016. Advocate for the claimant argued that lands acquired are fertile lands. Hence, claimant is entitled for escalation on the above said amount for a period of 1 year. Escalation at the rate of 7.5% is to be given to the claimants. 7.5% of Rs.6,57,953/- comes to Rs.49,346/-. One year escalation comes to Rs.49,346/-. Said amount of Rs.49,346/- is to be added to Rs.6,57,953/-. Then it will come to Rs.7,07,299/-. Same is rounded up to Rs.7,07,300/-. Said amount of Rs.7,07,300/- is the proper and reasonable market value per acre of the acquired land of Ingaleshwar village. **Hence, claimant is entitled for enhanced market value of the acquired dry land at the rate of Rs.7,07,300/- per acre.**

- 18.** Even though the some of the sale deeds relied by claimant is referred by SLAO in his award, but no proper reasons given to discard the same. Hence contention of the Respondent that sale deeds relied upon by claimant are not fit to be considered to arrive market value of acquired land is not fit to be accepted. Therefore, **in view of the discussions made above this court is of the opinion that Market value of the acquired dry land Sy.No.1100 of Ingaleshwar Village is Rs.7,07,300/- per acre as on the date of preliminary Notification. Accordingly, Claimant is entitled for enhanced Market value/ compensation at the rate of Rs.7,07,300/- per acre for his acquired dry land Sy.No.1100.** Claimant is also entitled for market value with multiplier factor as per the Schedule-I of the RFCTLARR Act-2013.

This Court comes to conclusion that market value of the acquired dry land of Ingaleshwar village is **Rs.7,07,300/-** per acre on the date of preliminary notification. Hence, market value awarded by the SLAO for acquired dry land of

claimant per acre is not proper and adequate. Respondent fails to show before the Court that SLAO has awarded proper and adequate market value of the acquired dry Land to the claimant. Hence, Claimant is entitled for enhanced compensation as shown above. **Accordingly, Point No.2 answered in the negative and Point No.3 answered in partly affirmative.**

- 19. POINT No.4**:- In view of findings on Points No.1 to 3 I proceed to pass the following:

O R D E R

Reference petition filed by claimant under Section 64 of RFCTLARR Act-2013 is allowed in part with costs.

Claimant-Hampanna S/o Basappa Satihal is entitled for enhanced compensation/Market value in respect of the **acquired dry land Sy.No.1100 of Ingaleshwar village to the extent of 03 guntas only @ of Rs.7,07,300/- per acre.**

Claimant is also entitled for market value Multiplied by factor 2 as per first schedule of RFCTLARR Act-2013.

Claimant is also entitled for solatium at the rate of 100% of the market value of acquired land U/Sec.30(1) of RFCTLARR Act-2013.

Claimant is also entitled to additional compensation at the rate of 12% per annum U/Sec.30(3) of RFCTLARR Act-2013.

Claimant is also entitled for interest on the enhanced compensation amount as per section 72 and 80 of RFCTLARR Act-2013.

Claimant is entitled to all statutory benefits available under the law.

Amount, if any, already paid to the claimant, shall be deducted in the above said amount.

The Advocate Fee is fixed at Rs.1,000/-.

Draw Award accordingly.

(Dictated to the Stenographer directly on computer, typed by him, corrected by me and then pronounced in the open Court on this the **23rd day of December, 2021.**)

(Joshi Venkatesh)
I Additional District Judge &
Land Acquisition, Rehabilitation
and Resettlement Authority,
Vijayapura.

ANNEXURE

List of Witnesses examined on behalf of Claimant

P.W.1 Hampanna S/o Basappa Sathihal, Age: %% years, Occ: Agril., R/o Ingaleshwar, Tq: B. Bagewadi, Dist:Vijayapura.

List of Documents marked on behalf of Claimant

Ex.P-1 : Copy of Reference petition filed before SLAO.
Ex.P-2 : CC of sale deed of land Sy.No.674/1 of Ingaleshwar village.
Ex.P-3 : CC of sale deed of land Sy.No.674/2 of Ingaleshwar village.

- Ex.P-4 : CC of sale deed of land Sy.No.703 of Ingaleshwar village.
- Ex.P-5 : CC of sale deed of land Sy.No.718/2 of Ingaleshwar village.
- Ex.P-6 : CC of sale deed of land Sy.No.718/1 of Ingaleshwar village.
- Ex.P-7 : CC of sale deed of land Sy.No.619/6 of Ingaleshwar village.
- Ex.P-8 : CC of sale deed of land Sy.No.264/4 of Ingaleshwar village.
- Ex.P-9 : CC of sale deed of land Sy.No.676/2 of Ingaleshwar village.

List of Witnesses examined on behalf of Respondent

- NIL -

List of Documents marked on behalf of Respondent

- Ex.R-1 : Copy of notice U/Sec.65(2) of LA Act.
- Ex.R-2 : Copy of notice U/Sec.37(2) of LA Act.
- Ex.R-3 : Copy of Award passed by SLAO.

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