



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF OCTOBER, 2025

BEFORE

THE HON'BLE MR. JUSTICE V SRISHANANDA

CIVIL REVISION PETITION NO. 416 OF 2018

BETWEEN:

1. SMT. JESINTHA PHILOMENA D SOUZA
W/O B ANTHONY MENDOZ
AGED ABOUT 67 YEARS,
2. EARNEST MENDOZ
S/O B ANTHONY MENDOZ
AGED ABOUT 40 YEARS,
3. ALLWYN MENDOZ
S/O B ANTHONY MENDOZ
AGED ABOUT 38 YEARS,
4. ANIA MENDOZ
D/O B ANTHONY MENDOZ
AGED ABOUT 34 YEARS,

Digitally signed
by
SHARADAVANI
B
Location: High
Court of
Karnataka

ALL ARE R/AT DOOR NO. 3-93(1)
CHURCH SCHOOL ROAD,
PAKSHIKERE
KEMRAL POST
MANGALORE TALUK,
D.K.DISTRICT - 575 025.

PETITIONERS NO.1, 3 AND 4 ARE REPRESENTED BY
THEIR GPA HOLDER PETITIONER NO.2,
EARNEST MENDOZ

...PETITIONERS

(BY SRI. SANGAMESH G. PATIL, ADVOCATE)



AND:

1. THE SPECIAL LAND ACQUISITION OFFICER
UPPER TUNGA PROJECT SHIVAMOGA
SHIVAMOGA CITY
SHIVAMOGA TALUK
SHIVAMOGA DISTRICT - 577 201.
2. THE EXECUTIVE ENGINEER
UPPER TUNGA PROJECT
KARNATAKA NIRAVARI NIGAMA NIYAMITHA
UTP DIVISION SHIVAMOGA
SHIVAMOGA CITY
SHIVAMOGA TALUK
SHIVAMOGA DISTRICT - 577 201.

...RESPONDENTS

(BY SRI. BHOJEGUDA T. KOLLER, AGA FOR R1
SRI. B.R. PRASHANTH, ADVOCATE FOR R2
(VAKALATH NOT FILED))

THIS CRP IS FILED UNDER SECTION 115 OF THE CPC.,
1908 AGAINST THE ORDER DATED 11.07.2018 PASSED IN
LA.MISC.PETITION NO.7/2017 ON THE FILE OF THE II
ADDL.SENIOR CIVIL JUDGE, SHIVAMOGGA DISMISSING THE
PETITION FILED UNDER SECTION 28 A [3] READ WITH
SECTION 18[3] OF KARNATAKA LAND ACQUISITION ACT.

THIS PETITION, COMING ON FOR ADMISSION, THIS DAY,
ORDER WAS MADE THEREIN AS UNDER:



CORAM: HON'BLE MR. JUSTICE V SRISHANANDA

ORAL ORDER

Heard Sri.Sangamesh G. Patil, learned counsel for the revision petitioner, Sri.Bhojegouda T. Koller, learned Additional Government Advocate for respondent No.1 and Sri.B.R.Prashanth, learned counsel for respondent No.2-beneficiary.

2. Even though the matter is listed for admission, by the consent of the parties, matter is taken up for final disposal, having regard to the short question involved, which to be decided in this revision petition and also taking note of the fact that the award amount carries interest at the rate of 15% per annum.

3. Validity of rejection of the application filed by the revision petitioner under Section 28A(3) read with Section 18(3) of the Karnataka Land Acquisition Act (hereinafter 'Act' for short) is called in question in this revision petition.



4. Facts in the nutshell which are utmost necessary for disposal of the revision petition are as under:

5.1. Land of the revision petitioner is acquired by virtue of the preliminary notification dated 11.01.2001 under Section 4(1) of the Act for the purpose of Upper Tunga Project and award came to be passed on 29.10.2003 awarding compensation at the rate of Rs.3,50,000/- per acre.

5.2. Land of the revision petitioner in Sy.No.57 situated at Gadikoppa village, Shivamogga Taluk is acquired by fixing the compensation at the rate of Rs.3,50,000/- per acre.

5.3. After the award came to be passed, revision petitioner received the compensation amount under protest but did not choose to file any application seeking reference under Section 18 of the Act.



5.4. However, one of the similarly placed land losers – claimant, filed a reference petition under Section 18 of the Act which was numbered as LAC No.15/2014.

5.5. The said reference application on contest, was allowed and a sum of Rs.105 per sq. ft. was ordered for the non-converted land which has attained finality by order dated 01.06.2016.

5.6. Soon after the claimant came to know that similar land losers had obtained the compensation at the rate of Rs.105 per sq. ft. as against sum of Rs.3,50,000/- per acre, the revision petitioner filed an application under Section 28A of the Act on 20.06.2016 before the Land Acquisition Officer.

5.7. After receipt of the application under Section 28A of the Act by the revision petitioner, instead of recommending for grant of the same quantum of compensation to the revision petitioner, Land Acquisition Officer passed on an endorsement stating that the



determination of the compensation at the rate of Rs.3,50,000/- per acre is just and proper.

5. Being aggrieved by the said order (endorsement) passed under Section 28A(2) of the Act, an application was filed before the reference Court under Section 28A(3) of the Act.

6. Learned Judge in the reference Court after considering the application recorded the evidence of the parties and by impugned order, dismissed the application as time barred *inter alia* holding in paragraph Nos.11 to 13 as under:

"11. Having heard the arguments put forth by both counsels this court proceeds to analyze the evidence placed on record and to determine whether the petitioners have made out a case to order for reference and as to whether the delay of 14 years is satisfactorily explained by the petitioner. The petitioner got examined himself as PW1 and has in his evidence deposed that he is owner of the land bearing Sy. No. 57 situated at Gadikoppa village and out of the said property an extent of 12 guntas



is acquired U/S 4(1) of preliminary notification dated 11-01-2001 for the purpose of formation of Upper Tunga project and award is passed on 29-10-2003 awarding compensation of Rs.3.50,000/-per acre. PW1 relying upon the judgment and award passed in LAC 15/14 has sought for re-determination of the compensation. In support of his evidence PW1 has relied upon Ex.P1 which is the general power of attorney executed by petitioner No.1(a), 1(c), 1(d) in favour of petitioner No.1(b). Ex.P2 is the death certificate of Anthony Mendoz, Ex.P.3 is the endorsement issued by the respondent No.1 on 19.12.2016. Ex.P.4 is the application filed by the petitioner before the respondent No.2 U/S 28-A of Karnataka Land Acquisition Act and as per Ex.P3 the respondent No.1 has issued endorsement which shows that they have refused to consider the application on the ground that the compensation paid at the relevant point of time is just and reasonable and as such the application is dismissed. Ex.P5 which is the application filed by the petitioner before 1st respondent U/S 28-A of the Act for the re-determination of the compensation amount on 20.06.2016 and sought the authority to refer the matter to the Civil Court for just determination of compensation and despite of it the respondent authorities have not referred the matter and hence the petition. Ex.P6 is the copy of the judgment



passed in LAC 15/14 which shows this court has enhanced compensation at the rate of Rs. 105/- per sq. ft. pertaining to the land bearing Sy. No. 49/1 and 49/3 situated at Gadikoppa village.

12. At this point of time it is considered necessary to refer to Section 18 of the Karnataka Land Acquisition Act which deals with the procedure relating to reference and it reads thus.

"18. Reference to Court. (1) Any person interested who has not accepted the award [or amendment thereof) may, by written application the [Deputy Commissioner] require that the matter be referred by the [Deputy Commissioner) for the determination of the Court, whether his objection be to the measurement of the land, the amount of the compensation, the persons to whom it is payable, or the apportionment of the compensation among the persons interested.

(2) The application shall state the grounds on which objection to the award [or the amendment) is taken:

[Provided that every such application shall be made within ninety days from the date of service of the notice from the Deputy



Commissioner under sub-section (2) of Section 12.]

[(3) (a) The Deputy Commissioner shall within ninety days from the date of receipt of an application under sub-section (1) make a reference to the Court.

(b) If the Deputy Commissioner does not make a reference to the Court within a period of ninety days from the date of receipt of the application, the applicant may apply to the Court to direct the Deputy Commissioner to make the reference, and the Court may direct the Deputy Commissioner to make the reference within such time as the Court may fix.]"

13. So as per the aforesaid provision to make an application seeking reference, 90 days is the prescribed period from the date of receipt of award and application U/S 18 of the Act application has to be made within 90 days from the date of service of award notice. But in the present case it is evident from the records, the petitioner had the notice of award and had received compensation without any protest and there is no iota of evidence to show the amount was received under protest and application was made within stipulated period. Further no application is made before the court for over 14



years. So, in the case on hand before expiry of 90 days petitioner has not made any application before respondents and the present petition filed after lapse of 14 years is contrary to the statutory time limit fixed under the aforesaid provision and as such the petition is hopelessly barred by time. So the aforesaid ratios, relied upon by the L/C for petitioner are not applicable to the facts and circumstances of the case on hand and as such the petitioner has not made out a case to direct the respondents for reference and to call for records of the acquisition proceedings for enhancement of compensation and no satisfactory grounds are forthcoming so as to condone the delay of such a long period. Hence, aforesaid point for consideration is answered in the negative."

7. Being aggrieved by the same, the claimant has preferred the present revision petition on following grounds:

- *That the order of the Reference court is contrary to the materials on record and against to the settled principles of law and provisions of Land Acquisition Act, 1894.*
- *That the reasons assigned by the Reference court in Para 14 of its order is contrary to the*



section 18 and 28-A of the LA Act. The Reference court has not considered the section 28-A of the Act but it gone through the section 18 of the Act. The Reference court specifically failed to understand the section 28-A (3) of the LA Act which says 'the provisions of section 18 to 28 shall, so far as may be apply to such reference as they apply to a reference under section18'.

- *That the Reference court considered the limitation point from the dated of Award passed by the SLAO in respect of petitioner's land. While deciding the matter court has not considered the provisions of section 28-A of the Act, which s the says who aggrieved from the SLAO Award and had not filed application under the section 18 of the Act, may by written application to the SLAO within three months from the Award of the court require the SLAO to re determine the market value of e the land acquired from him. If the SLAO not considered the same the remaining half provisions of section 18 of the Act will apply.*
- *That in the present case the petitioner is the owner of the land in Sy.No.57 situated at Gadikoppa village, Shivamoga Taluk. The*



petitioner has not filed petition under section 18 of the LA Act before the Land Acquisition Officer for enhancement of the compensation. The nearby land belongs to one Basamma w/o Bellodi Yallappa bearing Sy. No.49/1 and 49/3 of Gadikoppa village Shivamoga on Taluk was also acquired under the same notification for the same purpose. The said se Basamma filed application under section 18 of the LA Act before the Land Acquisition Officer for enhancement of the compensation. The Land Acquisition Officer referred the matter to the Reference Court, ie., II Additional Senior Civil Judge at Shimoga for determination of the market value of the land acquired. The Reference Court initiated proceedings in LAC No.15/2014 and after enquiry passed Award dated 01-06-2016 determining market value of the land in Sy. No.49/1 and 49/3 of Gadikoppa village Shivamoga Taluk belongs to Basamma at Rs. 105/- per square feet. From the Award dated 01-06-2016 passed by the Reference Court in LAC No. 15/2014 within stipulated period the petitioner filed application under section 28-A (1) of the Act, and same is in accordance with law. Consequently the order passed by the Reference Court is bad under law and liable to set aside.



8. Learned counsel for the revision petitioner reiterating the grounds urged in the revision petition would contend that learned Judge in the Trial Court grossly erred in not noticing that application filed before the Land Acquisition Officer/collector on 20.06.2016, was well within 90 days period of limitation envisaged under Section 28A of the Act having regard to the fact that the order came to be passed in LAC No.15/2014 on 01.06.2016 redetermining the compensation at the rate of 105 per sq. ft. as against sum of Rs.3,50,000/- per acre and thus, sought for allowing the revision petition.

9. Per contra, Sri.Bhojegouda T. Koller, learned Additional Government Advocate for respondent No.1 and Sri.B.R.Prashanth, learned counsel for respondent No.2 – beneficiary supports the impugned order stating that when once the amount of compensation was received by the claimant under protest and did not choose to file any reference under Section 18 of the Act, cannot take



advantage of the enhanced quantum of compensation passed in LAC No.15/2014 and therefore, endorsement issued by the Land Acquisition Officer is just and proper which has been rightly considered by the learned Trial Judge and sought for dismissal of the revision petition.

10. Having heard the parties in detail, this Court perused the material on record meticulously.

11. In order to appreciate the rival contentions of the parties, it is just and necessary for this Court to cull out Section 28A of the Act, which reads as under:

"28A. Re-determination of the amount of compensation on the basis of the award of the Court. -

(1) where in an award under this part, the court allows to the applicant any amount of compensation in excess of the amount awarded by the collector under section 11, the persons interested in all the other land covered by the same notification under section 4, sub-section (1) and who are also aggrieved by the award of the Collector may, notwithstanding that they had not



made an application to the Collector under section 18, by written application to the Collector within three months from the date of the award of the Court require that the amount of compensation payable to them may be re-determined on the basis of the amount of compensation awarded by the court:

Provided that in computing the period of three months within which an application to the Collector shall be made under this sub-section, the day on which the award was pronounced and the time requisite for obtaining a copy of the award shall be excluded.

(2) The Collector shall, on receipt of an application under sub-section (1), conduct an inquiry after giving notice to all the persons interested and giving them a reasonable opportunity of being heard, and make an award determining the amount of compensation payable to the applicants.

(3) Any person who has not accepted the award under sub-section (2) may, by written application to the Collector, required that the matter be referred by the Collector for the determination of the Court and the provisions of sections 18 to 28



shall, so far as may be, apply to such reference as they apply to a reference under section 18.]”

12. On careful consideration of the above provisions in the light of the admitted facts in the case on hand, the award of compensation fixed by the Land Acquisition Officer by award dated 29.10.2003 in a sum of Rs.3,50,000/- per acre for the acquired land bearing Sy.No.57 situated in Gadikoppa village, Shivamogga Taluk was received by the claimant/revision petitioner under protest.

13. Further, the claimant did not choose to file an application under Section 18 of the Act seeking reference for redetermination of the compensation.

14. Pertinent to note that the object for enacting Section 28A of the Act is to treat the like alike on the ground of parity in respect of the claimant who has not filed any reference application under Section 18 and



should get the same compensation if acquired for the same project under the same notification.

15. In this regard, this Court gainfully places on record, the judgment of the Hon'ble Apex Court in the case of ***Banwari and Others v. Haryana State Industrial and Infrastructure Development Corporation Limited (HSIIDC) and Another*** reported in ***2024 SCC Online SC 3685***.

16. The relevant portion of the said decision is culled out hereunder:

"14. This Court has laid down the conditions which are required to be satisfied for invoking the provisions of Section 28-A(1) of the 1894 Act as follows:

(i) An award has been made by the Court under Part III of the Act after coming into force of Section 28-A;

(ii) By the said Award, the amount of compensation in excess of the amount awarded by the Collector under Section 11 has been allowed to the applicant in that reference;



(iii) The person moving the application under Section 28-A is interested in other land covered by the same notification under Section 4(1) to which the said award relates;

(iv) The person moving the application did not move the application under Section 18;

(v) The application is moved within three months from the date of the award on the basis of which redetermination of amount of compensation is sought; and

(vi) Only one such application can be moved under Section 28-A for redetermination of the compensation by the applicant.

16. *From the perusal of the judgment of this Court in the case of Pradeep Kumari (supra), it is clear that the limitation for moving the application under Section 28-A of the 1894 Act will begin to run only from the date of the award on the basis of which redetermination of the compensation is sought. The appellants are seeking redetermination of the compensation on the basis of the judgment and order of the High Court in First Appeal No. 429 of 2023 dated 2nd May 2016. It is not disputed that the application of the appellants under Section 28-A*



of the 1894 Act is within a period of three months from 2nd May 2016.

24. *As already discussed hereinabove, the provisions of Section 28-A(1) of the 1894 Act have been elaborately considered by a three Judges Bench of this Court in the case of Pradeep Kumari (supra). In the said case, it has been held that the Statement of Objects and Reasons of Section 28-A would reveal that the object underlying the enactment of the said provision is to remove inequality in the payment of compensation for same or similar quality of land. It has been held that the said provision is for giving benefit to inarticulate and poor people not being able to take advantage of the right of reference to the civil court under Section 18 of the Act. It has been held that this is sought to be achieved by providing an opportunity to all aggrieved parties whose land is covered by the same notification to seek redetermination once any of them has obtained orders for payment of higher compensation from the reference court under Section 18 of the Act. The same benefit would be available to the other landholders under Section 28-A. It has been held that Section 28-A being a beneficent legislation enacted in order to give relief to the inarticulate and poor people, the principle of interpretation*



which would be required to be adopted is the one which advances the policy of the legislation to extend the benefit rather than a construction which has the effect of curtailing the benefit conferred by it."

17. Applying the principles of law enunciated in the aforesaid decision, it is crystal clear that the claimant would be entitled to compensation at the rate of 105 per sq. ft. for the acquired land in line with the award passed in LAC No.15/2014 dated 01.06.2016 which has attained finality.

18. However, learned Trial Judge was of the opinion that the application filed before the reference Court under Section 28A (3) was belated and said application is barred by limitation for more than 14 years is *per se* incorrect having regard to the fact that the award came to be passed in LAC No.15/2014 on 01.06.2016 and application under Section 28A of the Act came to be filed before the Land Acquisition Officer on 20.06.2016.



19. It is also pertinent to note that there is no time limit fixed to challenge the order passed under Section 28A(2) of the Act seeking reference before the reference Court under 28A(3) of the Act.

20. Therefore, reasoning recorded by the learned Trial Judge that the application before the reference court is barred by limitation cannot be countenanced in law.

21. At this stage, learned counsel for respondent No.2 – beneficiary contended that the matter to be remitted to the learned Judge in the reference Court for redetermination of compensation in order to facilitate them to file objections.

22. Admittedly, the order passed in LAC No.15/2014 having attained finality, only for the purpose of redetermination of the compensation in line with the award passed in LAC No.15/2014, there is no necessity to remit the matter to the Trial Court for fresh enquiry.



23. Doctrine of Finality will be squarely applicable to the case on hand and therefore, the revision petition needs to be allowed and consequently, application under Section 28A(3) of the Act filed by the revision petitioner before the reference Court also needs to be allowed by setting aside the order of the Trial Court.

24. Hence, the following:

ORDER

- i. Revision petition is ***allowed***.
- ii. Order dated 11.07.2018 passed by the reference Court in LAC Miscellaneous Petition No.7/2017 on the file of II Additional Senior Civil Judge, Shivamogga is hereby set aside.
- iii. Consequently, petition filed under Section 28A(3) of the Act filed by the claimant before the II Additional Senior Civil Judge, Shivamogga is hereby allowed.



- iv. Revision petitioner is entitled to compensation for the acquired land at the rate of Rs.105 per sq. ft. as is decided in LAC No.15/2014 dated 01.06.2016 with consequential benefits.
- v. No order as to costs.

Sd/-
(V SRISHASNANDA)
JUDGE

KAV
CT-SG
List No.: 1 Sl No.: 0