



IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MRS JUSTICE K.S.HEMALEKHA

WRIT PETITION NO. 108589 OF 2017 (LA-RES)

C/W

WRIT PETITION NO. 110071 OF 2019 (LA-RES)

IN WP No. 108589/2017:

BETWEEN:

1. LOKARE VENKOBA RAO
S/O. LATE NAGENDRA RAO,
AGED ABOUT 66 YEARS,
2. RAGHUNATH RAO
S/O. LATE NAGENDRA RAO,
AGED ABOUT 64 YEARS,
3. RATAN RAO
S/O. LATE NAGENDRA RAO,
AGED ABOUT 62 YEARS,
4. BABU @ SATYANARAYAN
S/O. PRABHAKAR
AGED: ABOUT 35 YEARS,

ALL ARE R/O: SANKALAPUR VILLAGE,
TQ: HOSAPETE, DIST: BALLARI.

...PETITIONERS

(BY SMT. VIDYAVATHI M.KOTTURSHETTAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
BY ITS SECRETARY,
HOUSING URBAN DEVELOPMENT DEPT.,
M.S. BUILDING, BENGALURU-01.
2. THE DEPUTY COMMISSIONER,
D.C. COMPOUND, BALLARI.





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3. THE ASSISTANT COMMISSIONER/
LAND ACQUISITION OFFICER,
HOSPET SUB-DIVISION, DIST: BALLARI.
4. THE COMMISSIONER,
HOSPET URBAN DEVELOPMENT AUTHORITY,
I.S.R. ROAD, HOSPET, DIST: BALLARI.

...RESPONDENTS

(BY SRI. PRAVEEN K.UPPAR, AGA FOR R1 TO R3;
SRI. B.SHARANABASAVA, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENT NO.3 TO PAY THE COMPENSATION UNDER THE NEW ACT 2013 AND TO CONSIDER THE REPRESENTATION DATED 16.08.2016 AND 14.07.2017 IN PASSING THE AWARD UNDER THE NEW ACT AND PAYING THE PETITIONERS THE SAID COMPENSATION AS PER ANNEXURE-"H" & "H1"; AND ETC.

IN WP NO. 110071/2019:
BETWEEN:

L. PAMPAPATHI RAO
S/O. LATE MUNI RAO,
SINCE DEAD BY HIS LRS.,

1. SMT. SHOBHA V. TELKAR
W/O. VENKATESH TELKAR,
AGED ABOUT 54 YEARS, SINECURE.
2. SMT. JAYA W/O. RAVI R. TAPSE
AGED 52 YEARS, SINECURE.
3. SMT. VIJAYA W/O. VIJAYKUMAR PISR
AGE: 52 YEARS, SINECURE,

ALL ARE DAUGHTERS OF
LATE L. PAMPAPATHI RAO
R/O: DOOR NO.11/101, SUDHA COMPLEX,
BESIDES JAYARAM HOSPITAL,
COLLEGE ROAD, HOSAPETE POST AND TALUK,
BALLARI DISTRICT-583201.

...PETITIONERS

(BY SRI. SHIVARAJ S.BALLOLI, ADVOCATE)



AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
HOUSING AND URBAN DEVELOPMENT
DEPARTMENT, M.S. BUILDING,
DR. AMBEDKAR VEEDHI, BENGALURU-560001.
2. THE DEPUTY COMMISSIONER AND CHAIRMAN
CITY IMPROVEMENT TRUST BOARD,
HOSAPETE, BALLARI DISTRICT.
(NOW CALLED AS HOSAPETE URBAN
DEVELOPMENT AUTHORITY).
3. THE ASSISTANT COMMISSIONER
CUM LAND ACQUISITION OFFICER,
HOSAPETE.
4. THE COMMISSIONER
HOSAPETE URBAN DEVELOPMENT AUTHORITY,
HOSAPETE, BALLARI DISTRICT.
5. THE TAHASILDAR
TALUK OFFICE, HOSAPETE.

...RESPONDENTS

(BY SRI. PRAVEEN K.UPPAR, AGA FOR R1 TO R3 AND R5;
SRI. B.SHARANABASAVA, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR A WRIT OF ANY OTHER NATURE QUASHING THE IMPUGNED PRELIMINARY NOTIFICATION DATED NIL. SEPTEMBER 1989 PUBLISHED IN KARNATAKA OFFICIAL GAZETTE DATED 22.03.1990 ISSUED BY 1ST RESPONDENT VIDE ANNEXURE-A AND ALSO THE IMPUGNED FINAL DECLARATION DATED 05.01.1993 ISSUED BY 1ST RESPONDENT AND PUBLISHED IN THE KARNATAKA OFFICIAL GAZETTE DATED 05.01.1993 VIDE ANNEXURE-B IN SO FOR SCHEDULE PROPERTY IS CONCERNED; AND ETC.

THESE WRIT PETITIONS COMING ON FOR DICTATING ORDERS THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MRS JUSTICE K.S.HEMALEKHA



ORAL ORDER

These writ petitions are filed challenging the acquisition proceedings initiated in respect of land bearing Sy.Nos.108/3C and 108/3A situated at Sankalapura Village, Hospet Taluk. The petitioners seek declaration that the acquisition proceedings initiated pursuant to the preliminary notification issued in the year 1989 and culminating in the award dated 10.03.1992 have lapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act' for short).

Brief facts in WP 108589 of 2017:

2. Sy.No.108/3C originally belonged to late Nagendra Rao, who died on 09.09.1975. The petitioners claim to be his legal heirs. A preliminary notification was issued in September 1989 for formation of residential layout. Award was passed on 10.03.1994. The petitioners state that no lawful tender of compensation was made.



Deposit allegedly made in 1994 was not in compliance with Section 31 (2) of the Land Acquisition Act, 1894 ('LA Act' for short). No reference under Section 30 was made though dispute is assumed in the award. Physical possession was never taken and by way of amendment, the petitioners sought declaration of lapse under Section 24(2) of the 2013, Act on the ground that the compensation was not lawfully paid and possession was not taken.

Brief facts in WP No. 110071/2019:

3. Petitioners claim interest in the land acquired under the same notification (September-1989) and award (10.03.1994). It is stated that the civil suit *inter se* private parties was disposed of on 19.08.1993. The deposit of compensation was allegedly made on 27.09.1994 and no subsisting dispute existed warranting deposit under Section 31 (2). It is stated that the petitioners' survey number is not reflected in the alleged possession proceedings and the subsequent letter dated 12.10.1998



being a letter from the beneficiary calling upon the Assistant Commissioner to take possession is relied upon to show that possession had not been taken earlier. It is stated that both the conditions under Section 24 (2) stand satisfied and the acquisition has lapsed.

4. Learned counsel appearing for the petitioners W.P.No.108589/2017 submits that L. Nagendra Rao died on 09.09.1975. Therefore, any reference in the Award Sl.No.2 (Suggestive Civil Dispute) is only assumed and not based on an actual subsisting dispute. It is contended that the award amount was allegedly deposited in the year 1994. However, no reference under Section 30 of the LA Act, was made. There was no actual adjudication of title dispute ever pending. Hence, the deposit was not made in terms of Section 31 (2). Reliance is placed under Section 77 of the 2013 Act to contend that the deposit must be in the manner known to law and in the absence of a valid tender or lawful deposit, the compensation cannot be deemed to have been paid. By way of amendment, the



petitioners seek declaration of lapse under Section 24 (2) of the 2013 Act, contending that both limbs are satisfied, namely, lawful possession was not taken and no lawful payment was made.

5. Learned counsel appearing for the petitioner in W.P.No.110071/2019 places reliance on the ***Indore Development Authority Vs Manoharlal and Others***¹ (*Indore Development Authority*) and submits that both the conditions must coexist for lapse and in the present case, no lawful possession and no lawful deposit. He relies upon Annexure-R7 which is produced along with the statement of objection to contend that the survey number pertaining to the petitioners is not included in Annexure-R7 and that the beneficiary addressed a letter dated 12.10.1998 (Annexure-R10) to the Assistant Commissioner, calling upon him to take possession of the petitioners' land and that this indicates possession has not been taken earlier. It is contended that the civil dispute *inter se* between

¹ (2020) 8 SCC 129



private parties was disposed in the year 1993 and the deposit having been made on 27.09.1994, there was no subsisting dispute or impediment warranting such deposit in the year 1994. It is submitted that if deposit existed, the Special Land Acquisition Officer (SLAO) ought to have referred the matter to Civil Dispute under Section 30 and failure to do so renders deposit invalid.

6. *Per contra*, Sri Sharanabasava, learned counsel for respondent No.4 submits that the acquisition commenced in the year 1989 and award was passed on 10.03.1994, possession was taken and mahazar was drawn. Notice was issued under Section 12 (2) of the LA Act, since multiple claimants existed and entitlement was disputed, the compensation was deposited before the SLAO. It is contended that the beneficiary deposited amount before the SLAO (Annexure-R5) and notices were issued to the concerned claimants. It is contended that the subject land was reserved for civic amenities and hence, the same was not developed. Other acquired lands have



been fully developed and sites have been formed and allotted. It is contended that the deposit of compensation in Court amounts to valid compliance with the statutory requirement relating to payment of compensation.

7. This Court has carefully considered the rival submissions and perused the material on record. The point that arises for consideration is:

"Whether the acquisition proceedings initiated pursuant to the preliminary notification in the year 1989 and culminating in award dated 10.03.1994 have lapsed under Section 24 (2) of the 2013, Act for want of lawful payment of compensation and lawful taking of possession?"

8. Section 31 (1) of the LA Act mandates the Collector shall tender of compensation. Section 31 (2) permits the Collector to deposit the compensation only upon refusal or existence of a dispute regarding entitlement or apportionment. The said provision reads as under:



"31. Payment of compensation or deposit of same in Court-. (1) *On making an award under section 11, the Collector shall tender payment of the compensation awarded by him to the persons interested entitled thereto according to the award and shall pay it to them unless prevented by some one or more of the contingencies mentioned in the next sub-section.*

(2) If they shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it, the Collector shall deposit the amount of the compensation in the Court to which a reference under section 18 would be submitted:

Provided that any person admitted to be interested may receive such payment under protest as to the sufficiency of the amount:

Provided also that no person who has received the amount otherwise than under protest shall be entitled to make any application under section 18:

Provided also that nothing herein contained shall affect the liability of any person, who may receive the whole or any part of any compensation awarded under this Act, to pay the same to the person lawfully entitled thereto."



9. In the present case, no material is produced evidencing actual tender of compensation to petitioners. No order of reference under Section 30 is placed. A mere recital in the award regarding a dispute cannot substitute statutory compliance. The deposit, therefore, appears to have been made mechanically, without any demonstrable recording of reasons in conformity with the statutory consistency. The payment of compensation amounts to payment, only if it is in accordance with Section 31 (2).

10. The respondents have failed to establish lawful payment. The petitioners contend that they continue to remain in physical possession and the possession has not been taken. Annexure-R7 does not include the petitioner's land, i.e., in W.P. No.110071/2019. Added with that is the Annexure-R10 dated 12.10.1998 showing beneficiary calling upon the authority to take possession indicates that the possession has not been taken earlier.



11. Though the respondents contend that the possession was taken, mahazar was drawn, land was reserved for civic amenities and therefore, not developed and other lands have been developed, the legal position remains that once possession is taken under Section 16 of the LA Act, results in vesting. However, the burden lies on the authority to establish lawful possession.

12. As stated *supra*, there is no contemporaneous taking of possession, no mahazar demonstrating actual taking over of possession has been placed before this Court. If possession had already been taken in 1994, a communication at Annexure-R10 dated 12.10.1998 would be unnecessary. Section 24 (2) of the 2013 Act arises when compensation has not been paid and physical possession has not been taken.

13. In the present case, compensation paid or deposited cannot be treated as lawfully paid. Lawful possession is not established. Consequently, the



acquisition proceedings stand lapsed under Section 24 (2) of the 2013 Act and accordingly, the point framed for consideration is answered and this Court pass the following:

ORDER

- i. W.P. No.108589/2017 and W.P.No.110071/2019 are hereby ***allowed***.
- ii. It is declared that the acquisition proceedings initiated pursuant to the preliminary notification in September 1989 in respect of the land, Survey No.108/3C, situated at Sankalapura Village, Hospete Taluk measuring 2 acres and 13 guntas have lapsed under Section 24 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- iii. Liberty is reserved to the respondents to initiate fresh acquisition proceedings, if so advised,



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strictly in accordance with the provisions of 2013
Act.

Sd/-
JUSTICE K.S.HEMALEKHA

MBM
Ct:VH
List No.: 1 Sl No.: 44