



IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 21ST DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

AND

THE HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

REGULAR FIRST APPEAL NO.200259 OF 2025 (DEC/INJ)

BETWEEN:

SRI. M. N. P. SHIVANAND
MAHASWAMIGALU GURU
BASAVALINGA SWAMIGALU,
AGED ABOUT 50 YEARS, OCC: MAHANT/PEETHADIPATI,
R/AT: GURUBASAVA BRAHANMATH,
MAQTOOMPUR (MAKTAMPUR) COLONY,
KALABURAGI-585 101.

...APPELLANT

(BY SRI. KALYANSHETTY ASHOK REVANASIDDAPPA, ADVOCATE FOR
SRI. SHARANABASAVESHWAR MAMADAPUR, ADVOCATES)

AND:

1. THE STATE OF KARNATAKA,
BY THE DEPUTY COMMISSIONER,
MINI VIDHAN SOUDH,
TQ AND DIST. KALABURAGI
KALABURAGI-585 101
2. THE EXECUTIVE ENGINEER,
PWD, KALABURGI DIVISION,
OLD JEVARAGI ROAD,
KALABURAGI-585 101
TQ. AND DIST. KALABURAGI
3. DIRECTORATE OF EMPLOYMENT
AND TRAINING BY IT'S DIRECTOR,
KAUSHALYA BHAVAN,





NEAR DAIRY CIRCLE EXCHANGE,
MSK MILL ROAD,
VENKATESH NAGAR,
KALABURAGI-585 101
TQ. AND DIST. KALABURAGI

4. DEPUTY DIRECTOR OF HORTICULTURE,
ZILLA PANCHAYAT KALABURGI,
AIWAN SHAHI ROAD,
KALABURAGI-585 101.

...RESPONDENTS

(BY SMT.MAYA T.R., HCGP)

THIS RFA IS FILED UNDER ORDER 41 RULE 1 READ WITH SEC. 96 OF CPC, PRAYING TO SET ASIDE THE ORDER AND DECREE DATED 15.04.2025 PASSED BY THE IIND ADDL. SENIOR CIVIL JUDGE AND JMFC, KALBURGI IN O.S.NO.196/2019 AND PASS APPROPRIATE ORDERS THEREON IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ
and
HON'BLE DR. JUSTICE CHILLAKUR SUMALATHA

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. Appellant is before this Court seeking for the following relief:-

"To set aside the order and decree dated 15.04.2025 passed by the II Addl. Senior Civil Judge and JMFC, Kalaburgi in O.S.No.196/2019 and pass appropriate orders thereon in the interest of justice and equity."



2. A suit in O.S.No.196/2019 had been filed by the appellant before the II Additional Senior Civil Judge and JMFC., Kalaburagi seeking for the following reliefs:-

a) The Hon'ble Court be pleased to declare that the plaintiff is the owner of the suit land Sy.No.104 measuring 14 acres 27 guntas of Badepur village in Kalaburgi taluk, and

b) Consequential relief of injunction restraining the defendants from making obstruction in the plaintiff's possession over the suit land and alternatively if the defendants found in the possession of the suit land, direct the defendants to deliver the possession of the suit land to the plaintiff.

c) Any other reliefs deemed fit be granted to the plaintiff in the interest of justice and equity.

d) Leave to amend the plaint as and when necessary be granted.

e) Cost of the suit be awarded from the defendants to the plaintiff's.

3. In the said suit, the respondents herein, who were arrayed as defendants, filed an application under Order VII Rule 11 of the Code of Civil Procedure seeking rejection of the plaint on the grounds that the suit was not maintainable; that the reliefs claimed were vague and ambiguous; and that the suit was barred by limitation, inasmuch as the acquisition award had been passed on 24.11.1964 whereas the suit came to be instituted only in the year 2019.



4. The Trial Court allowed the application under Order VII Rule 11 of the Code of Civil Procedure, holding that the suit property had been acquired as early as in the year 1964. It took note of the averments in paragraph 4 of the plaint, wherein the plaintiff had alleged that defendant No.1 had brought about an illegal award under the Land Acquisition Act, bearing No.1736/LAP/63-64 dated 24.11.1964, pursuant to which mutation entries were effected in M.R. No.1/2011-12. The Trial Court concluded that, in view of the said pleadings, the suit instituted on 09.09.2019 was ex facie barred by limitation. It is this order that is assailed by the plaintiff/appellant in the present appeal.
5. Sri Ashok Kalyanshetty, learned counsel for the appellant, would submit that there has been no valid acquisition of the suit land, inasmuch as neither the name of the Math nor that of the Mathadipati/Mahanth finds place in the acquisition notification. According to him, the notification refers to a third party and, therefore, cannot bind the plaintiff. He would contend that any proceedings taken pursuant to such notification are likewise not binding on the plaintiff and, consequently, the plaintiff is entitled to the reliefs sought in the suit.
6. It is in that background that the High Court Government Pleader was therefore called upon to place on record if any documents to indicate that the acquisition proceedings had taken place.



7. Today, a memo has been filed placing on record acquisition notification issued under Subsection 3(1) of Section 12 of the Land Acquisition Act dated 25.02.1959. So also a copy of the award dated 16.06.1965 has been placed on record.
8. A perusal of the acquisition notification indicates that the entire land in Survey No.104 measuring 14 acres 27 guntas has been acquired and the name of the owner and occupant has been shown as Veerayya s/o Gurubasayya Math.
9. The submission in this regard by Sri. Ashok Kalyanshetty, the learned counsel for the appellant is that the Matadipati would not have a father's name and as such the name shown in the notification is not correct.
10. The fact however remains that there is an acquisition notification. There was a Mathadipati by name Veerayya. The Math is known as Gurubasayya Math.
11. Merely, because name of son is being used would not give any benefit to the plaintiff / appellant after 40 years of the acquisition. The acquisition notification having become final in the year 1959 and award having passed on 16.06.1965 – which award according to the plaintiff is illegal but no action has been taken in relation thereto till 2019, the owner of the land namely Math would be entitled for the compensation if any awarded and deposited by the acquiring authority.



12. The State does not dispute the ownership of the land in respect to the land. In fact, the acquisition notification is also in the name of the Math. The minor incongruity by mentioning son of would not take away the ownership of the Math in respect of the said land. Once acquisition proceedings are initiated and the land has been acquired, no civil suit is maintainable in terms of Section 54 of the Act, an appeal would lie from an award passed under the Act as per the Code of Civil Procedure, 1908.
13. The award admittedly having already been passed, if at all the plaintiff/appellant is aggrieved by the same, the plaintiff would have to resort to the procedure prescribed under Section 54 of the Act. If at all the plaintiff / appellant is aggrieved by the acquisition perse, the same can only be challenged by way of a writ proceedings and not by way of a civil suit.
14. Be that as it may, the acquisition notification having been issued in the year 1959 by way of public notification which is gazetted and an award having been passed on 16.06.1965, the suit filed in the year 2019 is ex-facie barred by law of limitation.
15. We do not find any infinity in the order passed by the II Additional Senior Civil Judge and JMFC, Kalaburagi dated 15.04.2025 in O.S.No.196/2019.



16. Reserving liberty to the plaintiff / appellant to agitate his grievance before the appropriate Court, the appeal stands ***dismissed.***

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

Sd/-
(DR.CHILLAKUR SUMALATHA)
JUDGE

KJJ
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