

IN THE HIGH COURT OF KARNATAKA  
KALABURAGI BENCH

DATED THIS THE 20<sup>TH</sup> DAY OF JULY, 2017

PRESENT

THE HON'BLE MRS. JUSTICE B.V.NAGARATHNA

AND

THE HON'BLE MR. JUSTICE B.A.PATIL

**M.F.A.NO.6007/2004 (LAC)**

**Between:**

1. Chandrashekar  
S/o. Shankerappa,  
Age: Major.
2. Laxmikanth  
S/o. Shankerappa,  
Age: Major.
3. Sharnamma  
W/o. Shankerappa,  
Age: Major.
4. Supriya  
w/o. Chandrashekar,  
Age: Major.

All are R/o. Gadilingadahalli,  
Chincholli Taluk, Gulbarga Dist.

... Appellants

(By Sri A. Vijaykumar, Advocate)

**And:**

State, through  
 Special Land Acquisition Officer,  
 M & MIP, Gulbarga. ... Respondent

(By Smt. Archana P. Tiwari, Additional Government Advocate)

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This MFA is filed under Section 54 (1) of LAC Act, praying to allow the appeal, interfere with the judgment and award of Reference Court, Gulbarga in LAC No.612/2002 dated 24-05-2004; award the enhanced compensation at Rs.75,000/- per acre.

This MFA coming on for fresh disposal this day, ***Nagarathna J.***, delivered the following:

**J U D G M E N T**

This appeal is filed under Section 54(1) of the Land Acquisition Act, 1894 (hereinafter, referred to as "the Act" for the sake of convenience), assailing judgment and award passed by the reference Court in LAC.No.612/2002, dated 24/05/2004, by the land owner-claimants before the reference Court. According to the claimants, appellants herein, 21 acres 25 guntas of land belonging to them in Sy.No.3/A situated at Gadilingadhalli village, Chincholi Taluk, was acquired for the purpose of "Mullamari" project.

The Special Land Acquisition Officer (SLAO) awarded compensation of Rs.10,000/- per acre for dry land and Rs.15,000/- per acre for irrigated land. Not being satisfied with the compensation awarded, claimants filed an application under Section 18(1) of the Act, seeking a reference to the Civil Court seeking enhancement of compensation. On a reference being made to Civil Court i.e., the Court of Civil Judge (Sr.Dn.), Sedam, the matter was contested by the respondent herein.

2. In support of their case, claimant No.1 got examined himself as PW.1 and one more witness as PW.2. They produced two documents, which were marked as Exs.P-1 & P-2. The respondent herein did not let-in any evidence. On the basis of the evidence on record, the reference Court held that 8 acres of land out of 21 acres 25 guntas of land was irrigated land and awarded compensation of Rs.49,500/- per acre along with all statutory benefits and the rest of the land was held to be dry land and awarded compensation of Rs.33,000/- per

acre along with all statutory benefits. Still not being satisfied with the award made by the reference Court, the claimants had preferred an appeal before this Court. The appeal was allowed with cost by judgment dated 27/08/2008. Being aggrieved by judgment passed by this Court, the claimants preferred Special Leave Petition No.17545/2011 before the Hon'ble Supreme Court, which was converted as Civil Appeal No.9703/2011. The Civil Appeal was disposed of on 02/12/2015 by setting aside the judgment of this Court and remanding the matter for fresh disposal in accordance with law after affording an opportunity to hear both parties. Therefore, the appeal has been heard afresh.

3. We have heard learned counsel for appellants and learned Additional Government Advocate for respondent and perused the material on record as well as the original record.

4. Appellants' counsel contended that the entire land is irrigated land. That the reference Court is not

justified in accepting the classification of land as 13 acres 25 guntas as dry land and 8 acres as wet land. Appellants' counsel contended that reference Court was not right in holding that only 8 acres of land out of 21 acres 25 guntas land was wet land based on the observations made by Special Land Acquisition Officer, in the award passed by him, attested copy of which is found in the record. He contended that in respect of Sy.No.3/A, the Special Land Acquisition Officer has stated that the land is irrigated by lifting water from open well and Ainapur nala. He has also mentioned that crops are grown on the irrigated land. Therefore, the reference Court could not have restricted the irrigated land only to 8 acres. In fact, the claimants are growing only commercial crops like Sugarcane, Toor, Banana and Cotton using water from the well situated in the said land. Therefore, the reference Court ought to have treated the entire land as irrigated land. He contended that the reference Court has not considered the pipelines laying in the land and also trees situated in the land. He further submitted that in the award passed by

the Special Land Acquisition Officer, it has been stated that the land has valuable trees, but no compensation has been awarded either by the Special Land Acquisition Officer or by the reference Court towards the said trees. He further submitted that Ex.P-3, which is the valuation certificate, issued by PW-2 categorically states that pipelines were laid on the land in question but no compensation has been awarded towards the pipelines. He therefore, submitted that the award of compensation for the entire extent of land as irrigated land may be awarded. He contended that this Court, in similar matters has enhanced the compensation by awarding Rs.49,500/- per acre for irrigated land and the same may be awarded in the instant case also.

5. In this context, learned counsel for appellants has placed reliance on a judgment passed by the Division Bench of this Court in the case of *Sri Sidramappa vs. Special Land Acquisition Officer, Gulbarga*, (M.F.A.No.2137/2008), disposed of on 24/11/2016 (*Sri*

*Sidramappa*). He submitted that in the case of *Sri Sidramappa*, the date of preliminary notification issued under Section 4(1) of the Act, was 25/03/1993 and that in the said judgment reference has been made to the decision of this Court in the case of *Sri Basavant Rao vs. Special Land Acquisition Officer (M.F.A.No.2274/2001 connected with M.F.A.No.2272/2001) (Sri Basavant Rao)*, wherein the award of compensation in the case of irrigated land as well as dry land as has been assessed therein and that, in the case of *Sri Basavant Rao* the date of preliminary notification was 30/05/1991. He submits that 8% escalation may be awarded and accordingly, the compensation may be awarded at the rate of Rs.1,86,440/- per acre in respect of the irrigated land by reversing the finding arrived at by the reference Court with regard to non-irrigated land.

6. *Per contra*, learned Additional Government Advocate appearing for the State at the outset submitted that the appellants have not let-in any evidence to

substantiate the fact that the entire extent of 21 acres 25 guntas of land is irrigated land. She submitted that the Special Land Acquisition Officer has categorically stated that the nature of crops grown on 8 acres of land, which is irrigated extent only. Therefore, the reference Court has rightly awarded compensation to that extent of land as irrigated land and 13 acres 25 guntas of land has been awarded compensation as dry land and that there is no merit in the submission made by the learned counsel for appellants, as far as nature of land is concerned. She further submitted that no material has been produced by the appellants with regard to the nature of trees that have been grown on the land. In the absence of there being any material in that regard, compensation for trees could not have been awarded by the reference Court or by the Special Land Acquisition Officer. As far as the demand of compensation for laying pipelines is concerned, she submitted that the same does not find a place in the award of the Special Land Acquisition Officer. The valuation report submitted by PW.2 has not been corroborated by



any other person. In fact, PW.2 has not pleaded about the laying of the pipelines in the land in question. Hence, no compensation could be awarded for the said pipelines.

7. Having heard learned counsel for the respective parties and on perusal of the material on record as well as the original record, the following points would arise for our consideration:-

1. *Whether the entire extent of 21 acres 25 guntas of land belonging to the claimants is irrigated land, so as to be awarded compensation on that basis?*
2. *Whether the claimants are entitled for enhancement of compensation on the basis of the nature of the land found while answering point No.1?*
3. *What order?*

8. From the material on record as well as the original record, it is noted that the appellant has not produced any material to point out about the nature of the land. But reliance has been placed by the appellants on the observation made by the Special Land Acquisition

Officer in the award, so as to contend that the entire extent of land in question is irrigated land. The Special Land Acquisition Officer in his award has stated as under:-

**"Sy. No.3:-**

*The land comprises of black soil. There are Earthen bunds and valuable trees. There is one open well. The land is irrigated by lifting water from the open and the Ainapur Nala. The crops grown are sugarcane in 4 acres, Ginger in 2 acres, Paddy in 2 acres."*

A reading of the above makes it clear that Sugarcane, Ginger and Paddy are crops grown on irrigated land in an extent of 4 acres, 2 acres and 2 acres respectively i.e., 8 acres totally. If indeed, the entire land in question comprises of 21 acres 25 guntas was irrigated land, then the Special Land Acquisition Officer would have noted that the entire land is irrigated land and also, various crops grown on the entire extent of land. There being no contradictory evidence to what has been stated by the Special Land Acquisition Officer in the award, it cannot be held that the entire extent of land in question is irrigated

land. Therefore, the finding arrived at by the reference Court that 8 acres out of 21 acres 25 guntas land is irrigated land is just and proper and the balance extent of 13 acres 25 guntas land is dry land. Accordingly, point No.1 is answered against the appellants.

9. Further, it is noted from the Special Land Acquisition Officer's award that there are valuable trees on the land. But there being no description of the trees available in the Special Land Acquisition Officer's award or, in the pleading and, no evidence being adduced before the reference Court, the nature of the trees or their value are not known. Hence, no valuation of the trees could be made at this stage.

10. As far as the laying of pipelines are concerned, there is no pleading to that effect in the petition filed under Section 18(1) of the Act. The valuation report submitted by PW-2 is also not corroborated. Hence, no reliance can be placed in that regard so as to award any compensation for the pipelines that may have been laid in the land in

question. Hence, no compensation can be awarded for the trees or pipelines laid in the land in question.

11. It is noted that the reference Court has awarded Rs.33,000/- per acre for dry land and Rs.49,500/- per acre for irrigated land. Learned counsel for appellants as well as learned Additional Government Advocate jointly submit that the assessment arrived at by this Court in the aforesaid judgment could be squarely applied to the present case also. It is also noted that in *Sri Basavant Rao's* case, the date of preliminary notification was 30/05/1991. In the instant case, the date of preliminary notification is 25/03/1993 and the notification in *Sri Sidramappa* case is also of the same date i.e., 25/03/1993, wherein compensation of Rs.1,86,400/- per acre was awarded for irrigated land (8 acres herein) and Rs.1,24,292/- per acre was awarded for dry land (13 acres 25 guntas herein). Therefore, the escalation of 8% is payable in the instant case. The compensation for irrigated land would after applying 8% escalation be

Rs.1,86,440/- per acre and for dry land, it would be Rs.1,24,292/- per acre as has been awarded in the case of *Sri Sidramappa* for dry land .

The appellants would be entitled to all statutory benefits in respect of the said compensation.

The appeal is allowed in part in the aforesaid terms with cost.

**Sd/-  
JUDGE**

**Sd/-  
JUDGE**

RSP