

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 31st DAY OF MAY 2012

BEFORE

THE HON'BLE MR.JUSTICE S.N.SATYANARAYANA

MFA 26041/2011

BETWEEN:

Smt. Shanta, W/o Iranagouda Patil,
Aged about 50 years, occ: agriculturist
R/o Kadrolli, Bailhongal taluk,
Belgaum district.

... Appellant

(By Sri. Hemanthkumar L. Havaragi, adv. for Sri. S.N. Hatti and
P.V. Sambaragi)

AND:

1. The Special Land Acquisition Officer,
Malaprabha Project, Dharwad 3.

2. The Executive Engineer,
MLBCC Dn.No.2
Karnataka Neeravari Nigam Ltd.,
Navilutherth Damsite
Taluk Saundatti, Dist. Belgaum.

... Respondents

(By Sri. Anand K. Navalgimath, HCGP for R1. And sri. G.K.
Hiregoudar, Adv. for R2.)

This MFA is filed under Section 54(1) of Land Acquisition
Act against the judgment and award dated 24/10/2011 passed in

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LAC No.280/2009 on the file of the senior Civil Judge, Bailhongal, partly allowing the reference petition for compensation and seeking enhancement of compensation.

This MFA coming on for admission, this day, the Court delivered the following:

J U D G M E N T

By consent, this appeal is taken up for final hearing.

2. The claimant in LAC No.280/2009 on the file of the Civil Judge(Senior Division), Bailhongal has come up in this appeal. The said LAC No.280/2009 is allowed by judgment dated 24/10/2011 determining the market value of the land acquired under the MalaPrabha Project at Rs.2,85,000/-.

3. Admittedly, the land of the petitioner is acquired under preliminary notification dated 19/07/2007 for Malaprabha Project and final notification in this behalf is issued on 16/12/2007. The Special Land Acquisition Officer has passed the award dated 20/07/2009. As stated supra, the market value determined by the Special Land Acquisition was challenged under Section 18 reference in LAC No.280/2009 wherein the

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compensation is enhanced to Rs.2,85,000/- per acre considering the escalation at the rate of 9% based on the earlier judgment passed in MFA 1269/2003 in respect of the land of same village which was acquired under preliminary notification dated 13/07/1999.

3. In the instant appeal, the short question that arises for consideration is whether the appellant is entitled for escalation at the rate of 10% or 9%.

4. The Division Bench of this Court while deciding this aspect, has held the same in favour of the appellants holding that the claimants are entitled to 10% escalation in the judgment passed in MFA No.22947/2001 which is disposed of on 01/12/2011. Giving the benefit of finding given by the Division Bench of this Court in aforesaid LAC, same ratio of escalation is applied to the case on hand.

In the result, the appellant is entitled for a further sum of Rs.15,000/- per acre as enhanced compensation and based on that she is also entitled to consequential benefits under LAC.

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Accordingly, the appeal is allowed in part with costs.

Learned Government Pleader is permitted to file memo of appearance on behalf of the first respondent. So far as second respondent is concerned, Sri. G.K. Hiregoudar, is directed to file vakalat on behalf of second respondent.

Sd/-
JUDGE

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