

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 29TH DAY OF JUNE 2012

BEFORE

THE HON'BLE MR. JUSTICE S. ABDUL NAZEER

WRIT PETITION No.41110/2010 (LA-KHB)

BETWEEN :

Smt. K. Rathnamma
D/o. M. Krishnappa
W/o. D. Ramachandra
Aged about 47 years
R/a. Hinnakki village
Jigani Hobli, Anekal Taluk
Bangalore Urban District

... PETITIONER

(By Sri. V. Vishwanath, Adv.)

AND :

1. The Karnataka Housing Board
Cauvery Bhavan, K.G. Road
Bangalore
Rep. by its Commissioner
2. The Special Land Acquisition Officer
The Karnataka Housing Board
Cauvery Bhavan, K.G. Road
Bangalore
3. The State of Karnataka
Rep. by Secretary
Housing and Urban Development Department

Vikasa Soudha
Bangalore

... RESPONDENTS

(By Sri. Basavaraj V. Sabarad, Adv. for R-1 and R-2
Sri. K.S. Mallikarjunaiah, HCGP for R-3)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the preliminary notification dated 1.4.2005 as per Annexure-B and etc.

This writ petition coming on for *Preliminary Hearing 'B' Group* this day, the Court made the following:

ORDER

The land belonging to the petitioner bearing Sy. No. 95/2 measuring 3 acres 37 guntas of Hinnakki Village, Jigani Hobli, Anekal Taluk, Bangalore Urban District, was notified for acquisition by the State Government for the benefit of the Karnataka Housing Board. In this connection, preliminary notification under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') was issued on 1.4.2005. After holding an enquiry under Section 5-A of the Act, final notification under Section 6(1) of the

Act was issued on 2.11.2006. An award was passed on 26.12.2008, which was approved on 11.2.2009. The petitioner made a representation for deletion of the entire land from the acquisition on the ground that her son, who was suffering from serious ailments, has joined MBBS course and that, he wants to set up a clinic and a school for physically challenged persons. The said representation was positively considered by the Board and it passed a resolution as per Annexure-E dated 24.11.2009 resolving to drop the land from the acquisition. However, a fresh resolution as per Annexure-H dated 31.7.2010 was passed resolving to allot developed property as per the scheme dated 2.12.2010. In accordance with the resolution, the 2nd respondent has issued an endorsement at Annexure-G dated 4.10.2010 permitting the petitioner to avail the benefit of the scheme dated 2.12.2010 which provides for allotment of developed land in the ratio of 60:40 in lieu of compensation. The petitioner has called in question the

validity of the said endorsement at Annexure-G and the resolution at Annexure-H and in this writ petition.

2. Learned Counsel for the petitioner submits that the petitioner was the owner of 12 acres 37 guntas of land in the same village. She has agreed for acquisition of 9 acres of land. Awards have been passed by consent. The aforesaid 3 acres 37 guntas of land is essential for her son to start a clinic and open a school for physically challenged persons. The 1st respondent ought to have deleted the said land from the acquisition. It is argued that the resolution at Annexure-H, therefore, requires to be quashed.

3. On the other hand, learned counsel for respondent Nos.1 and 2 submits that in respect of Survey No.95/2 measuring 3 acres 37 guntas situated at Hinnakki Village, Jigani Hobli, Anekal Taluk, Bangalore Urban District, award has been passed on 26.12.2008, which was approved on 11.2.2009. Having regard to the request

made by the petitioner, she was given the benefit of the scheme dated 2.12.2010. She is not entitled for deletion of the land from the acquisition.

4. I have heard the learned Counsel for the parties.

5. The State Government has framed a scheme dated 2.12.2010 whereby the land owners are entitled for allotment of developed land in the ratio of 60:40 in lieu of compensation. It is not permissible to resolve to drop the entire land of 3 acres 37 guntas in Sy. No.95/2 from the acquisition. That is why, a subsequent resolution at Annexure-H was passed, which was in conformity with the Government order dated 2.12.2010. Petitioner's agreement for acquisition of other lands belonging to her by consent cannot be a ground for exclusion of the land in question from acquisition. The resolution of the Board at Annexure-H dated 31.7.2010 is in conformity with the Government order date 2.12.2010. I do not find any merit in this writ

petition. It is accordingly dismissed. The petitioner is permitted to harvest the existing crop in the land in question. Possession of the land shall be taken only after harvesting the crop as above. No costs.

**Sd/-
JUDGE.**

Cs/-