



**IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH**

DATED THIS THE 30TH DAY OF SEPTEMBER, 2024

BEFORE

**THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ
WRIT PETITION NO.202301 OF 2024 (GM-RES)**

BETWEEN:

G. NARESH KUMAR
S/O G. GUNNESHWARA RAO,
AGE: 35 YEARS, OCC: AGRICULTURE,
R/o. SRIPURAM JUNCTION,
TQ. SINDHANUR, DIST.RAICHUR – 584 128.

...PETITIONER

(BY SRI.MAHANTESH PATIL, ADVOCATE)

AND:

1. THE REGIONAL OFFICER,
MINISTRY OF ROAD TRANSPORT,
AND HIGHWAYS, NO.32, 2ND FLOOR,
KSCFL BUILDING,
DR.DEVARAJ URS ROAD,
(RACE COURSE ROAD),
BENGALURU – 560 001.
2. THE SPECIAL LAND ACQUISITON OFFICER,
AND COMPETENT AUTHORITY,
NATIONAL HIGHWAYS,
MINIVIDHAN SOUDHA,
DHARWAD – 560 001.
3. THE DEPUTY COMMISSIONER
OF INCOME TAX, TDS CIRCLE,
C.R.BUILDING, NAVA NAGAR,
HUBBALLI – 580 025.

...RESPONDENTS

(BY SRI.SANTOSHKUMAR MARADI, ADVOCATE FOR R1;
SMT.MAYA T.R., HCGP FOR R2;
SRI.M.THIRUMALESH, ADVOCATE FOR R3)

Digitally signed by
BASALINGAPPA
SHIVARAJ
DHUTTARGAON
Location: HIGH
COURT OF
KARNATAKA



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO a) ISSUE A WRIT IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED DIN AND LETTER BEARING NO.ITBA/COM/F/17-2024-25/1067183286(1) DATED 31.07.2024 VIDE ANNEXURE-D ISSUED BY THE RESPONDENT NO.3 AND ORDER BEARING NO.BHUSWA/RAHE/CR-1/2023-24 DATED 09.08.2024 IN SO FOR AS DEDUCTION OF RS.1,18,952/- TOWARDS TDS VIDE ANNEXURE-E IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDERS WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

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

1. The petitioner is before this Court seeking for the following reliefs:

- i. Issue a writ in the nature of certiorari to quash the impugned DIN and letter bearing No. ITBA/COM/F/17-2024-25/1067183286(1) dated 31.07.2024 vide Annexure-D issued by the respondent No.3 and order bearing No. BHUSWA/RAHE/CR-1/2023-24 dated 09.08.2024 insofar as deduction of Rs.1,18,952/- towards TDS vide Annexure-E in the interest of justice and equity.*
- ii. Issue such other writ or order or directions as this Hon'ble court deems just and proper in circumstances of the case and allow this writ petition, in the interest and equity.*



2. Respondent Nos.1 and 2 had issued a notification under Section 3A(1) of the National Highways Act, 1956, notifying the lands in various villages Mallapur, Hossalpura, Butaladinni, Sindhunur, Hosalli and Sasalamari villages of Sindhunur taluk for widening the existing road further. Thereafter, an award under Section 3G of the National Highways Act, 1956 and the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation Resettlement Act 2013 (for short, hereinafter referred to as 'the Act') was passed on 03.04.2024 awarding an amount of Rs.11,89,523/- as compensation.
3. As regards the lands of the petitioner in Sy.No.87/3 measuring 03 acres 17 guntas is concerned, situated as Hosalli (EJ) village, Sindhunur Taluk. Tax was also deducted on the said compensation in terms of Section 194A of the Income Tax Act at the rate of 10% It is challenging the same, the petitioner is before this Court seeking for the aforesaid relief.



4. The submission of learned counsel for the petitioner is that in view of the decision of this Court dated 31.05.2023 in the case of **Sharanappa S/o. Hampayya, vs. The Deputy Commissioner Raichur and others.**, in W.P.No.201497/2023, no tax deduction at source can be made in respect of compensation towards acquisition of land under the 2013 enactment and the entire amount is required to be paid to the land loser. The said submission is borne of by the above judgment. As such, I pass the following:

ORDER

- i. Writ petition is **allowed**.
- ii. A certiorari is issued, the impugned DIN and letter bearing No.ITBA/COM/F/17-2024-25/1067183286(1) dated 31.07.2024 vide Annexure-D issued by the respondent No.3 and order bearing No.BhuSwa/Rahe/CR-1/2023-24 dated



09.08.2024 insofar as deduction of
Rs.1,18,952/- towards TDS vide Annexure-
E is quashed.

iii. The respondents are directed to make
payment of the entire amounts to the
petitioner without deducting any amounts
as TDS under Section 194A of the Income
Tax Act, 1961.

**Sd/-
(SURAJ GOVINDARAJ)
JUDGE**

VNR
List No.: 1 SI No.: 87
CT:RBM