



IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 25TH DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE V.SRISHANANDA

MISCELLANEOUS FIRST APPEAL NO.102077/2014(LAC)

BETWEEN:

...APPELLANTS

(BY SRI G. I. GACHCHINAMATH, ADVOCATE)

AND:

1. THE S.L.A.O. HIPPARGI DAM PROJECT,
ATHANI, DIST: BELAGAVI.
2. THE EXECUTIVE ENGINEER,
KARNATAKA NIRAVARI NIGAM,
HBC DIVISION, ATHANI,
TQ: ATHANI, DIST: BELAGAVI.

...RESPONDENTS

(BY SRI PRAVEEN Y. DEVAREDDIYAVAR, HCGP FOR R1;
SRI SHIVARAJ C. BELLAKKI, ADVOCATE FOR R2)

THIS MFA IS FILED UNDER SECTION 54(1) OF THE LAND ACQUISITION ACT, PRAYING TO SET ASIDE THE IMPUGNED JUDGMENT AND AWARD DATED 25.11.2013 MADE IN LAC NO.49/2008 PASSED BY THE PRINCIPAL SENIOR CIVIL JUDGE, ATHANI AND ETC.,





THIS APPEAL, COMING ON FOR ADMISSION, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

Though the matter is listed for admission, the matter is taken up for final disposal with consent of parties.

2. Heard Sri Gurudev I. Gachchinamath, learned counsel for the appellants, Sri Praveen Devareddiyavar, learned Government Pleader and Sri Shivaraj Bellakki, learned counsel for the beneficiary.

3. The present appeal is filed challenging the order passed by the Reference Court (Principal Senior Civil Judge, Athani) dated 25.11.2023 in LAC No. 49/2008 disposing of the reference application for want of necessary evidence placed on record on behalf of the claimants and confirmed the order passed by the Land Acquisition Officer awarding the compensation. Being aggrieved by the same, claimants have preferred the present appeal.

4. Sri Gurudev I. Gachchinamath, learned counsel for the appellants contended that claimants are rustic villagers



and they were not properly advised by the counsel who represented them before the Reference Court in placing the necessary evidence seeking for assessment of the compensation.

5. He further argued that when appellants have lost the land, to eke out their livelihood, they have to move away from the village and they were not aware of the niceties of the litigation. As such appellants are seeking for affording one more opportunity for them to place necessary evidence on record to obtain legitimate compensation for the lands which have been lost in the acquisition for the project of Hipparagi barrage.

6. Per contra, learned Government Pleader and the learned counsel for the beneficiary contended that despite granting sufficient opportunity, claimants did not choose to place any evidence on record and therefore left with no alternative the Reference Court has to dispose of the reference application by confirming the award passed by the LAO and hence sought for dismissal of the appeal.



7. This court perused the material on record meticulously in view of the rival contentions of the parties.

8. In the case on hand, there is no dispute that land belonging to appellants has been acquired for the purpose of 'Hippargi Barrage' project. No doubt there is sufficient force in the opposition to the appeal by the Government as well as the beneficiary in contending that sufficient opportunity has been granted to the claimants to place the evidence on record.

9. At the same time, this Court cannot lose sight of the hard reality that occurs in case of land acquisition where the villagers when they lose their land, to eke out their livelihood and to maintain the family they were required to move away from the native place in search of labour work. In such circumstances, they were not in a position to contact their advocate after filing reference application to place necessary evidence on record as there will not be any permanent abode for them. In other words, such land losers who are possessing only a small holding of land



practically render homeless and they would be moving from place to place for eaking out their livelihood. Their life should be similar to nomads.

10. Taking note of the said fact and also taking note of the fact that the Reference Court has allowed and enhanced the compensation for the landlosers for the same project, it is just and necessary for this court to afford one more opportunity for the claimant to produce necessary evidence on record to obtain legitimate compensation for the loss of land for the Hipparagi Barrage Project.

11. Accordingly, without expressing any opinion on the merits of the matter if the appeal is allowed and matter is remitted to the trial court for fresh disposal in accordance with law in a time bound manner, would meet the ends of justice.

12. Hence, the following order.

ORDER

i) Appeal is allowed.



ii) Impugned order dated 25.11.2023 passed by the Reference Court in LAC No. 49/2008 is hereby set aside.

iii) Matter is remitted to the trial court for fresh disposal in accordance with law. Claimants and respondents shall appear before the trial court without further notice positively on 26.02.2024.

iv) In the event of the appellants succeeding in the reference application, the time spent before this court in this appeal from 06.08.2014 till 26.02.2024, they are not entitled for interest.

v) Appellants are entitled for refund of admissible court fee.

vi) Office is directed to communicate this order to the reference court forthwith.

Sd/-
JUDGE