

The Executive Engineer vs B N Kanti

The Executive Engineer vs B N Kanti

SooperKanoon Citation : sooperkanoon.com/1882990

Court : Karnataka

Decided On : Jan-31-2024

Judge : H.P.Sandesh

Appeal No. : MFA/6819/2018

Appellant : The Executive Engineer

Respondent : B N Kanti

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JANUARY, 2024 BEFORE THE
HON'BLE MR JUSTICE H.P.SANDESH

MISCELLANEOUS FIRST APPEAL NO. 6819 OF 2018 (LAC) C/W
MISCELLANEOUS FIRST APPEAL NO. 6820 OF 2018 (LAC)
MISCELLANEOUS FIRST APPEAL NO. 6822 OF 2018 (LAC)
MISCELLANEOUS FIRST APPEAL NO. 6824 OF 2018 (LAC)
MISCELLANEOUS FIRST APPEAL NO. 6825 OF 2018 (LAC)
MISCELLANEOUS FIRST APPEAL NO. 6827 OF 2018 (LAC)
MISCELLANEOUS FIRST APPEAL NO. 6829 OF 2018 (LAC)

MISCELLANEOUS FIRST APPEAL NO. 6831 OF 2018 (LAC) MFA
CROSS OBJECTION NO. 44 OF 2021 MFA CROSS OBJECTION NO.
45 OF 2021 MFA CROSS OBJECTION NO. 46 OF 2021 MFA CROSS
OBJECTION NO. 47 OF 2021 MFA CROSS OBJECTION NO. 48 OF
2021 MFA CROSS OBJECTION NO. 50 OF 2021

Digitally signed MFA CROSS OBJECTION NO. 55 OF 2021 by SHARANYA T
MFA CROSS OBJECTION NO. 68 OF 2022 Location: HIGH COURT OF
KARNATAKA IN MISCELLANEOUS FIRST APPEAL NO. 6819 OF 2018:
BETWEEN:

1. THE EXECUTIVE ENGINEER

SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC)
KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571 426.
APPELLANT (BY SRI. SWAROOP T., ADVOCATE) -2- AND:

1. B.N. KANTI S/O LATE B.J.NANJEGOWDA MAJOR BY AGE R/O.
BALLENAHALLI VILLAGE BOOKANAKERE HOBLI K.R.PET TALUK - 571 426.

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA MANDYA
DISTRICT - 571 434.

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA REVENUE
DEPARTMENT M.S.BUILDING BANGALORE - 560 001.

4. DEPUTY COMMISSIONER MANDYA MANDYA DISTRICT - 571 401.
RESPONDENTS (BY SRI P.MAHESHA, ADVOCATE FOR R1; SMT. ADHITHI
M.V. AGA FOR R2 TO R4) THIS MFA IS FILED U/S 54(1) OF THE LAC ACT,

AGAINST THE JUDGMENT AND DECREE DATED 16.09.2014 PASSED IN LAC
NO.09/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE & JMFC, K R PET,
PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION. -3- IN
MISCELLANEOUS FIRST APPEAL NO. 6820 OF 2018: BETWEEN:

1. THE EXECUTIVE ENGINEER

SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC)
KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571 426.
APPELLANT (BY SRI. SWAROOP T., ADVOCATE) AND:

1. B.T.GOPALARAJ S/O LATE B.H.THIMMEGOWDA AGED ABOUT 52 YEARS
R/O. BALLENAHALLI VILLAGE BOOKANAKERE HOBLI K.R.PET TALUK - 571
426.

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA MANDYA
DISTRICT - 571 434.

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA REVENUE
DEPARTMENT M.S.BUILDING BANGALORE - 560 001.

4. DEPUTY COMMISSIONER MANDYA MANDYA DISTRICT - 571 401.
RESPONDENTS (BY SRI P.MAHESHA, ADVOCATE FOR R1; SMT.
M.V.ADHITHI, AGA FOR R2 TO R4) -4-

THIS MFA IS FILED U/S 54(1) OF THE LAC ACT, AGAINST THE JUDGMENT
AND DECREE DATED 16.09.2014 PASSED IN LAC NO.12/2008 ON THE FILE
OF THE SENIOR CIVIL JUDGE & JMFC, K R PET, PARTLY ALLOWING THE
CLAIM PETITION FOR COMPENSATION. IN MISCELLANEOUS FIRST APPEAL
NO. 6822 OF 2018: BETWEEN:

1. THE EXECUTIVE ENGINEER

SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC)
KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571 426.
APPELLANT (BY SRI. SWAROOP T., ADVOCATE) AND:

1. B.N. APPAJIGOWDA S/O NANJUNDEGOWDA AGED ABOUT 84 YEARS, R/O
BALLENAHALLI VILLAGE BOOKANAKERE HOBLI K.R.PET TALUK - 571 426.

2. DYAVEGOWDA S/O RAMALINGEGOWDA AGED ABOUT 60 YEARS, R/O
BALLENAHALLI VILLAGE BOOKANAKERE HOBLI K.R.PET TALUK - 571 426.

3. MAHADEVEGOWDA S/O RAMALINGEGOWDA AGED ABOUT 65 YEARS, R/O BALLENAHALLI VILLAGE -5- BOOKANAKERE HOBLI K.R.PET TALUK - 571 426.

4. SMT. VANAIAKSHI W/O CHANDREGOWDA AGED ABOUT 48 YEARS, R/O BALLENAHALLI VILLAGE BOOKANAKERE HOBLI K.R.PET TALUK - 571 426.

5. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA MANDYA DISTRICT - 571 434

6. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA REVENUE DEPARTMENT M.S.BUILDING BANGALORE - 560 001

7. DEPUTY COMMISSIONER MANDYA MANDYA DISTRICT - 571 401. RESPONDENTS (BY SRI P.MAHESHA, ADVOCATE FOR R2 & R3; SMT. M.V.ADHITHI, AGA FOR R5 TO R7; R1 & R3 SERVED & UNREPRESENTED) THIS MFA IS FILED U/S 54(1) OF THE LAC ACT, AGAINST

THE JUDGMENT AND DECREE DATED 16.09.2014 PASSED IN LAC NO.08/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE & JMFC, K.R. PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION. -6- IN MISCELLANEOUS FIRST APPEAL NO. 6824 OF 2018: BETWEEN:

1. THE EXECUTIVE ENGINEER SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571 426. APPELLANT (BY SRI. SWAROOP T., ADVOCATE) AND:

1. SMT. THAYAMMA W/O. LATE VENKATARAMEGOWDA AGED ABOUT 75 YEARS R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, K.R.PET TALUK-571 426

2. LAKSHMINARAYANA S/O. VENKATARAMEGOWDA, AGED ABOUT 59 YEARS R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, KR PET TALUK 571 426

3. B.V.KESHAVAMURTHY S/O. VENKATARAMEGOWDA, AGED ABOUT 57 YEARS R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, KR PET TALUK 571 426

4. B V MADHAVA S/O. VENKATARAMEGOWDA, -7- AGED ABOUT 55 YEARS R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, KR PET TALUK 571 426

5. B V SITARA S/O. VENKATARAMEGOWDA, AGED ABOUT 50 YEARS R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, KR PET TALUK 571 426

6. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT 571 434

7. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, MS BUILDING, BANGALORE 560001

8. DEPUTY COMMISSIONER

MANDYA, MANDYA DISTRICT 571 401 RESPONDENTS (BY SRI P.MAHESHA, ADVOCATE FOR R2 & R5; SMT. M.V.ADHITHI, AGA FOR R6 TO R8) THIS MFA IS FILED U/S 54(1) OF THE LAC ACT, AGAINST THE JUDGMENT AND ORDER DATED 16.09.2014 PASSED IN LAC NO.10/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K R PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION -8- IN MISCELLANEOUS FIRST APPEAL NO. 6825 OF 2018: BETWEEN:

1. THE EXECUTIVE ENGINEER

SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571 426. APPELLANT (BY SRI. SWAROOP T., ADVOCATE) AND:

1. B.N. NAGEGOWDA S/O. NARASIMHEGOWDA, MAJOR BY AGE, R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, KR PET TALUK 571 426

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT 571 434

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, M.S. BUILDING, BANGALORE 560001

4. DEPUTY COMMISSIONER MANDYA, MANDYA DISTRICT 571 401
RESPONDENTS (BY SRI P.MAHESHA, ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4) -9-

THIS MFA IS FILED U/S 54(1) OF THE LAC ACT, AGAINST THE JUDGMENT AND DECREE DATED.16.09.2014 PASSED IN LAC NO.14/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K R PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION. IN MISCELLANEOUS FIRST APPEAL NO. 6827 OF 2018: BETWEEN:

1. THE EXECUTIVE ENGINEER

SECRETARY, AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571 426.
APPELLANT (BY SRI. SWAROOP T., ADVOCATE) AND:

1. B.N.NARASHIMEGOWDA S/O. NARASIMHEGOWDA, MAJOR BY AGE, R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, KR PET TALUK 571 426

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT 571 434

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, MS BUILDING, BANGALORE 560001 - 10 -

4. DEPUTY COMMISSIONER MANDYA, MANDYA DISTRICT 571 401
RESPONDENTS (BY SRI P.MAHESHA, ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4)

THIS MFA IS FILED U/S 54(1) OF THE LAC ACT, AGAINST THE JUDGMENT AND DECREE DATED 16.09.2014 PASSED IN LAC NO.03/2008 ON THE FILE

OF THE SENIOR CIVIL JUDGE JMFC, K R PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION. IN MISCELLANEOUS FIRST APPEAL NO. 6829 OF 2018: BETWEEN:

1. THE EXECUTIVE ENGINEER

SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571 426. APPELLANT (BY SRI. SWAROOP T., ADVOCATE) AND:

1. B.K. RAMU S/O LATE THIMMEGOWDA ALIAS KARIGOWDA MAJOR BY AGE R/O BALLENAHALLI VILALGE BOOKANAKERE HOBLI K R PET TALUK-571426

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA MANDYA DISTRICT-571434 - 11 -

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA REVENUE DEPARTMENT M S BUILDING BANGALORE-560001

4. DEPUTY COMMISSIONER MANDYA MANDYA DISTRICT-571401 RESPONDENTS (BY SRI P.MAHESHA, ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4)

THIS MFA IS FILED U/S 54(1) OF THE LAC ACT, AGAINST THE JUDGMENT AND DECREE DATED 16.09.2014 PASSED IN LAC NO.05/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE JMFC, K R PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION. IN MISCELLANEOUS FIRST APPEAL NO. 6831 OF 2018: BETWEEN:

1. THE EXECUTIVE ENGINEER

SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571 426. APPELLANT (BY SRI. SWAROOP T., ADVOCATE) AND:

1. B.N.NANJUNDASWAMY S/O LATE NAJEGOWDA AGED ABOUT 56 YEARS R/O BALLENAHALLI VILLAGE - 12 - BOOKANAKERE HOBLI K R PET TALUK-

571426

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA MANDYA DISTRICT-571434

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA REVENUE DEPARTMENT, M.S.BUILDING BANGALORE-560001

4. DEPUTY COMMISSIONER MANDYA, MANDYA DISTRICT-571401
RESPONDENTS (BY SRI P.MAHESHA, ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4)

THIS MFA IS FILED U/S 54(1) OF THE LAC ACT, AGAINST THE JUDGMENT AND DECREE DATED 16.09.2014 PASSED IN LAC NO.07/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE & JMFC, K R PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION. IN MFA CROB. NO. 44 OF 2021: BETWEEN: 1 . B.N. NANJUNDASWAMY S/O LATE NANJEGOWDA AGED ABOUT 58 YEARS R/O BALLENAHALLI VILLAGE BOOKANAKERE HOBLI K R PET TALUK-571426. CROSS OBJECTOR (BY SRI. P.MAHESHA, ADVOCATE) - 13 - AND:

1. THE EXECUTIVE ENGINEER SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE(APMC) KRISHNARAJPET(K R PET) TOWN AND TALUK MANDYA DISTRICT-571426.

2. SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA MANDYA DISTRICT-571434.

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA REVENUE DEPARTMENT M.S. BUILDING BANGALORE-560001.

4. DEPUTY COMMISSIONER

MANDYA MANDYA DISTRICT-571401. RESPONDENTS (BY SRI SWAROOP T., ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4) THIS MFA.CROB IS FILED UNDER ORDER XLI RULE 22 READ WITH SECTION 54(1) OF THE LAND ACQUISITION ACT, AGAINST THE JUDGMENT AND

AWARD DATED 16.09.2014 PASSED IN LAC NO.7/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K.R. PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION. - 14 - IN MFA CROB. NO. 45 OF 2021: BETWEEN:

1. SRI. B.N. KANTI

S/O B N NANJEGOWDA SINCE DEAD REP. BY HIS LRS 1(a) SMT. HONNAMMA W/O LATE B N KANTI AGED ABOUT 53 YEARS 1(a) SRI B K TEJUMURTHY S/O LATE B N KANTI AGED ABOUT 34 YEARS 1(c) SRI B K SACHIN S/O LATE B N KANTI AGED ABOUT 25 YEARS ALL ARE R/AT BALLENAHALLI VILLAGE BOOKANAKERE HOBLI, K.R.PET TALUK MANDYA DISTRICT- 571 426. CROSS OBJECTORS (BY SRI. P.MAHESHA, ADVOCATE) AND:

1. THE EXECUTIVE ENGINEER SECRETARY, AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571426.

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT - 571434. - 15 -

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, M.S.BUILDING, BANGALORE - 560001.

4. DEPUTY COMMISSIONER MANDYA MANDYA DISTRICT-571401 RESPONDENTS (BY SRI SWAROOP T., ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4)

THIS MFA.CROB IS FILED UNDER ORDER XLI RULE 22 READ WITH SECTION 54(1) OF THE LAND ACQUISITION ACT, AGAINST THE JUDGMENT AND AWARD DATED 16.09.2014 PASSED IN LAC NO.9/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K.R. PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA CROB. NO. 46 OF 2021: BETWEEN: 1 . SRI. B.N. NAGEGOWDA S/O. NARASHIMEGOWDA, AGED ABOUT 51 YEARS R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, K R PET TALUK -571 426 CROSS OBJECTOR (BY SRI. P.MAHESHA, ADVOCATE) - 16 - AND:

1. THE EXECUTIVE ENGINEER SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571426.

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT - 571434.

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, M.S.BUILDING, BANGALORE - 560001.

4. DEPUTY COMMISSIONER

MANDYA MANDYA DISTRICT-571401 RESPONDENTS (BY SRI SWAROOP T., ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4) THIS MFA.CROB IS FILED UNDER ORDER XLI RULE 22 READ WITH SECTION 54(1) OF THE LAND ACQUISITION ACT, AGAINST THE JUDGMENT AND AWARD DATED 16.09.2014 PASSED IN LAC NO.14/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K.R. PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION. - 17 - IN MFA CROB. NO. 47 OF 2021: BETWEEN: 1 . SRI. B.N. NARASHIMEGOWDA S/O LATE NARASHIMEGOWDA AGED ABOUT 55 YEARS R/AT BALLENAHALLU VILLAGE BOOKANAKERE HOBLI K R PET TALUK-571426 CROSS OBJECTOR (BY SRI. P.MAHESHA, ADVOCATE) AND:

1. THE EXECUTIVE ENGINEER SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571426.

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT - 571434.

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, M.S.BUILDING, BANGALORE - 560001.

4. DEPUTY COMMISSIONER MANDYA, MANDYA DISTRICT-571401
RESPONDENTS (BY SRI SWAROOP T., ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4) - 18 -

THIS MFA.CROB IS FILED UNDER ORDER XLI RULE 22 READ WITH SECTION 54(1) OF THE LAND ACQUISITION ACT, AGAINST THE JUDGMENT AND AWARD DATED 16.09.2014 PASSED IN LAC NO.3/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K.R. PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION.

IN MFA CROB. NO. 48 OF 2021: BETWEEN: 1 . SRI. LAKSHMINARAYANA S/O LATE VENKATARAMEGOWDA AGED ABOUT 61 YEARS 2 . SRI B V KESHAVAMURTHY S/O LATE VENKATARAMEGOWDA AGED ABOUT 57 YEARS 3 . SRI B V MADHAVA S/O LATE VENKATARAMEGOWDA AGED ABOUT 57 YEARS CROSS OBJECTORS 1 TO 3 ARE ALL R/O BALLENAHALLI VILLAGE BOOKANAKERE HOBLI K R PET TALUK-571426. 4 . SRI B V SITARAM

S/O LATE VENKATARAMEGOWDA AGED ABOUT 61 YEARS R/O NO.1293/A, 1ST FLOOR, NALABEEDI, K R MOHALLA, MYSORE-570024. CROSS OBJECTORS (BY SRI. P.MAHESHA, ADVOCATE) - 19 - AND:

1. THE EXECUTIVE ENGINEER SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571426.

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT - 571434.

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, M.S.BUILDING, BANGALORE - 560001.

4. DEPUTY COMMISSIONER

MANDYA MANDYA DISTRICT-571401 RESPONDENTS (BY SRI SWAROOP T., ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4) THIS MFA.CROB IS FILED UNDER ORDER XLI RULE 22 READ WITH SECTION 54(1) OF THE LAND ACQUISITION ACT, AGAINST THE JUDGMENT AND AWARD DATED 16.09.2014 PASSED IN LAC NO.10/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K.R. PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION AND SEEKING ENHANCEMENT OF COMPENSATION. - 20 - IN MFA CROB. NO. 50 OF 2021: BETWEEN: SRI B.N. APPAJIGOWDA S/O NANJUNDEGOWDA, DEAD REP. BY HIS LRS,

1. SRI KUMAR, S/O. LATE B.N.APPAJIGOWDA, AGED ABOUT 54 YEARS
2. SRI DYAVEGOWDA S/O. RAMALINGEGOWDA, AGED ABOUT 67 YEARS,
3. SRI MAHADEVEGOWDA S/O RAMALINGEGOWDA, AGED ABOUT 67 YEARS,
4. SMT. VANAIAKSHI W/O. CHANDREGOWDA, AGED ABOUT 50 YEARS,

ALL THE ABOVE CROSS OBJECTORS 1 TO 4 ARE R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, K.R.PET TALUK, MANDYA DISTRICT 571426. CROSS OBJECTORS (BY SRI. P.MAHESHA, ADVOCATE) AND:

1. THE EXECUTIVE ENGINEER SECRETARY, AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571426. - 21 -
2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT - 571434.
3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, M.S.BUILDING, BANGALORE - 560001.
4. DEPUTY COMMISSIONER

MANDYA, MANDYA DISTRICT-571401 RESPONDENTS (BY SRI SWAROOP T., ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4) THIS MFA CROB IN MFA NO.6822/2018 IS FILED UNDER

ORDER 41 RULE 22 R/W UNDER SECTION 54(1) OF LAND

ACQUISITION ACT AGAINST THE JUDGMENT AND AWARD DATED 16.09.2014 PASSED IN LAC.NO.08/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K R PET, PARTLY ALLOWING THE CLAIM PETITION FILED UNDER SECTION 18 OF THE LAND ACQUISITION ACT. IN MFA CROB. NO. 55 OF 2021: BETWEEN: 1 . SRI. B.T. GOPALARAJ S/O. B.H.THIMMEGOWDA, AGED ABOUT 54 YEARS R/O. BALLENAHALLI VILLAGE, BOOKANAKERE HOBLI, K.R PET TALUK MANDYA DISTRICT-571 426 CROSS OBJECTOR (BY SRI. P.MAHESHA, ADVOCATE) - 22 - AND:

1. THE EXECUTIVE ENGINEER SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571426.
2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT - 571434.
3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, M.S.BUILDING, BANGALORE - 560001.
4. DEPUTY COMMISSIONER

MANDYA MANDYA DISTRICT-571401 RESPONDENTS (BY SRI SWAROOP T., ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4) THIS MFA CROB IS FILED U/O.41 RULE 22 OF CPC, R/W SEC.54(1) OF LAND ACQUISITION ACT, AGAINST THE

JUDGMENT AND AWARD DT.16.09.2014 PASSED IN LAC

NO.12/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K.R.PET, PARTLY ALLOWING THE CLAIM PETITION FOR COMPENSATION U/S.18 OF

THE LAND ACQUISITION ACT. - 23 - IN MFA CROB. NO. 68 OF 2022: BETWEEN: 1 . SRI B.K. RAMU S/O LATE THIMMEGOWDA AGED ABOUT 54 YEARS R/O BALLENAHALLI VILLAGE BOOKANAKERE HOBLI K R PET TALUK MANDYA DISTRICT - 571426 CROSS OBJECTOR (BY SRI. P.MAHESHA, ADVOCATE) AND:

1. THE EXECUTIVE ENGINEER SECRETARY AGRICULTURAL PRODUCE MARKET COMMITTEE (APMC) KRISHNARAJPET (K.R.PET) TOWN AND TALUK MANDYA DISTRICT - 571426.

2. THE SPECIAL LAND ACQUISITION OFFICER PANDAVAPURA, MANDYA DISTRICT - 571434.

3. PRINCIPAL SECRETARY GOVERNMENT OF KARNATAKA, REVENUE DEPARTMENT, M.S.BUILDING, BANGALORE - 560001.

4. DEPUTY COMMISSIONER MANDYA, MANDYA DISTRICT-571401 RESPONDENTS (BY SRI SWAROOP T., ADVOCATE FOR R1; SMT. M.V.ADHITHI, AGA FOR R2 TO R4) - 24 -

THIS MFA CROB IS FILED U/O.41 RULE 22 R/W SEC.54(1) OF LAND ACQUISITION ACT, AGAINST THE JUDGMENT AND AWARD DT.16.09.2014 PASSED IN LAC NO.05/2008 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, K.R.PET, PARTLY ALLOWING THE REFERENCE U/S.18 OF THE LAND ACQUISITION ACT. THESE MFAs AND MFA CROBs COMING ON FOR ADMISSION THIS DAY, THE COURT DELIVERED THE FOLLOWING:

JUDGMENT

Heard the learned counsel for the appellant, learned counsel for the cross-objectors and learned counsel for the respondents.

2. The following appeals and cross-objections are filled

against the order dated 16.09.2014 passed by the Senior Civil Judge and JMFC at K.R.Pet challenging the respective LAC Numbers which reads as under: Sl. M.F.A.

Nos. LAC Nos. No. M.F.A. CROB. Nos.

1. M.F.A.No.6819/2018 / LAC No.09/2008 M.F.A. Crob. No.45/2021
2. M.F.A.No.6820/2018 / LAC No.12/2008 M.F.A. Crob. No.55/2021
3. M.F.A.No.6822/2018 / LAC No.08/2008 M.F.A. Crob. No.50/2021
4. M.F.A.No.6824/2018 / LAC No.10/2008 M.F.A. Crob. No.48/2021
5. M.F.A.No.6827/2018 / LAC No.03/2008 M.F.A. Crob. No.47/2021
6. M.F.A.No.6829/2018 / LAC No.05/2008 - 25 - M.F.A. Crob. No.68/2022
7. M.F.A.No.6831/2018 / LAC No.07/2008 M.F.A. Crob. No.44/2021

3. The appeals are being aggrieved by the judgment

and award passed in the above LAC numbers granting enhanced compensation of Rs.2,77,200/- per acre as against Rs.44,240/- per acre and cross-objections are filed for enhancement. The subject matter of the properties were acquired consequent upon preliminary notification dated 19.03.2005 and final notification dated 01.12.2005 which is situated at Ballenahalli Village, Bookanakere Hobli, K.R. Pet Taluk and those properties are acquired for the purpose of formation of sub-market yard of Agricultural Produce Market Committee (the APMC for short), K.R. Pet Taluk. The cross-objections are also filed by land losers for enhancement challenging the judgment and award passed by the Trial Court.

4. The factual matrix of the case is that the appellant

in M.F.A.Nos.6819/2018, 6820/2018, 6822/2018, 6824/2018, - 26 - Executive Engineer, Secretary, APMC, K.R. Pet Taluk. The properties are also acquired for the formation of flower market. No dispute with regard to fixing of rate at the rate of Rs.1,106/- per gunta i.e., Rs.44,240/- per acre, the same was enhanced by the Trial Court for Rs.2,77,200/- per acre. The main contention of the appellant i.e., by the Executive Engineer, Secretary, APMC, K.R. Pet Taluk that the land acquisition officer while acquiring the property initiated the proceedings wherein taken note of

the sale deeds which have been taken place between 2002 to 2005. Based on that compensation is awarded. The counsel also would submits that the Trial Court has relied on the order passed in LAC No.15/2012 wherein the land measuring 9 guntas in Sy.No.36/2 situated at Attuppe village, Bookanakere Hobli, K.R.Pet Taluk belonging to Smt.Lakshamma was acquired for the purpose of Hemavathi Reservoir Project and the compensation in that case was fixed at Rs.2,64,000/- per acre. Therefore, the lower Court has taken note of the same rate and fixed the compensation at Rs.2,77,200/- per acre and the same is not correct. The counsel also brought to notice of this Court - 27 - that in cross-examination of PW1, it has been admitted that, Attuppe village is situated about 2 kms from the present land of the claimant. The Trial Court committed an error in relying on the said order in LAC No.15/2012 and also an erraneous observation is made that document of sale deeds are not produced. The counsel would vehemently contend that in proceedings Ex.P4 is very clear that 13 sale deed transactions were taken place in Ballenahalli village from 01.04.2002 to 28.04.2005, average rate from these 13 sale deeds was Rs.1,106/- per gunta and fixing of Rs.2,77,200/- per acre is erraneous and hence it requires interference.

5. The counsel appearing for the respondents in his

argument he vehemently contend that even claimants have filed an appeal before the District Court fixing the rate of Rs.2,77,200/- per acre in LAC No.15/2012. The appellate Court having reassessed the same, based on the order passed in appeal LAC No.1/2009, the market value which was fixed was enhanced at the rate of Rs.3,88,080/- and allowed the appeal. Hence, it requires enhancement by filing cross objections. The - 28 - counsel would vehemently contend that the land involved in LAC No.15/2012 was acquired for the purpose of Hemavathi Reservoir Irrigation Project. The appellant land was also acquired for the purpose of APMC yard which is for commercial purpose, the said property was acquired in the year 2000 and the land of land losers was acquired even after 2005, but the rate fixed by the Trial Court is not correct. Hence, the cross objections are filed and hence they are entitled for enhancement.

6. Having heard the appellants counsel and also the

counsel appearing for the respondents this Court would like to mention undisputed facts. The fact that the properties are acquired for the purpose of establishment of sub-market for APMC is not in dispute. The preliminary notification was issued on 19.03.2005, final notification was issued on 01.12.2005. The award was also passed on 05.02.2007, while fixing the rate Rs.1,106/- per gunta, the market value it comes to Rs.44,240/- per acre. It is important to note that the counsel appearing for the appellant would vehemently contend that the Trial Court - 29 - committed an error in making a reference of order passed in other appeal and those properties are acquired for the purpose of different purpose i.e., for Hemavathi Reservoir Project and not disputed the fact that enhancement was made. The counsel also not disputed the fact that as against the enhancement an appeal was also filed in MA LAC No.5089/2015 wherein an amount of Rs.3,88,080/- was awarded and also the fact that the said award amount has been satisfied is not in dispute. It is also important to note that the subject matter of the acquisition is of the year 2005 and the appeals which have been filed in respect of formation of reservoir and acquisition was made on 06.01.2000. The properties which are acquired in the year 2000 i.e., vide preliminary notification dated 06.01.2000 and already the compensation is satisfied to an extent of Rs.3,88,080/- in terms of the order passed in MA LAC No.5089/2015.

7. It is important to note that the properties are

situated within the Hobli head quarters of Bookanakere village and also it is emerged in the evidence that the distance - 30 - between both the properties is only hardly 2 kms. Apart from that this Ballenahalli village situated in panchayat head quarter and also both the properties are acquired for the public purpose. The present properties are acquired for the establishment of sub-market of APMC. When such being the case, the very contention of the appellants counsel is that in the proceedings itself i.e., in Ex.P4 the rate is fixed based on the sale deed cannot be accepted, those documents have not been placed before the Trial Court while determining the market value and mere taking reference of those documents itself cannot be criteria for fixing the market value, the same has not been produced before the Trial Court and the appellants have not placed any material before the Trial Court while fixing the market value. The proceedings itself cannot be a

criteria for fixing the market value at the rate fixed by the land acquisition officer. Hence, the very contention of the appellants counsel that sale deeds 13 in number were relied upon by the land acquisition officer at the time of fixing the market value itself is an ultimate price cannot be accepted. The court has to take note of the fact that the similar properties are - 31 - acquired for the public purpose and that too as contended by the respondents counsel this acquisition is for the commercial purpose i.e., for establishing sub-market of APMC. When such material is placed before the Court and also the appellants have already satisfied with regard to the award passed in other matters with distance of 2 kms are acquired for the purpose of formation of Hemavathi Reservoir Irrigation Project which has already been satisfied as contended by the respondents counsel and no appeal is filed against the award passed, under these circumstances, the very contention of the appellants counsel cannot be accepted.

8. On the other hand, the counsel for respondents

claims for an enhancement and when this Court and also the Trial Court taking into note of the fact that already award has been passed in LAC No.15/2012 and also an enhancement is fixed based on the award passed in LAC No.1/2009 to the tune of Rs.3,88,080/-. Both the properties were acquired for the public purpose and admittedly, in the present case for the purpose of establishment of sub-market of APMC. Hence, the - 32 - cross objectors are entitled for enhanced compensation amount of Rs.3,88,080/- in terms of the award passed in MA LAC sitting at Srirangapatna, the same is the basis for enhancement also and similar property having the same potentiality. In the case on hand also the property is situated at Ballenahalli village which is panchayat head quarter and the distance between the other properties which were acquired at Attuppe village and the same is hardly at the distance of 2 kms. Hence, the cross objectors are entitled for enhanced compensation of Rs.3,88,080/-.

9. In view of the discussions made above, I pass the following:

ORDER

The Miscellaneous First appeals filed by the appellants are dismissed. The cross objections are allowed. The market value is fixed for an amount of Rs.3,88,080/- with other statutory benefits. - 33 - In view of dismissal of the appeals, I.As., if any do not survive for consideration, the same stands disposed of. Sd/- JUDGE ST,RHS List No.: 1 SI No.: 22

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