KABG010063452023

IN THE COURT OF I ADDL. DISTRICT JUDGE, BELAGAVI AND THE LAND ACQUISITION, REHABILITATION & RESETTLEMENT AUTHORITY, BELAGAVI

PRESENT

SRI KUDAVAKKALIGER M G,
I ADDL. DIST. & SESSIONS JUDGE
AND
THE LAR & R AUTHORITY, BELAGAVI

DATED: This the 27th day of July, 2024

LAC No. 397/2023

BETWEEN

Rajendra S/o Vasant Mutalik, 50 years, Agri.,
R/o # 1262, Station Road, Housing Colony,
Ugar Khurd, Tq: Kagawad, Dist: Belagavi

...Claimant/s

(By Sri PV Sambargi, Adv.)

AND

1. The Special Land Acquisition Officer,
Malaprabha Project - III, Sector No.60,
Navanagar, Bagalkot

2. Executive Engineer,
Karnataka Niravari Nigam Ltd., HBC Division,
Athani. TQ: Athani

...**Respondent/s**

(R1 By Learned DGP,
R2 by Sri DB Thakkannavar, Adv.)

JUDGMENT

This petition has arisen out of reference made by the **The Special Land Acquisition Officer, Malaprabha Project - III, Bagalkot** (hereinafter referred as 'SLAO') u/s 64 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred as 'RFCTLARR Act, 2013') for adjudication of the claim made by the claimant for enhancement of compensation amount in respect of his acquired lands situated at Ainapur, Tq: Kagawad, Dist: Belagavi for the purpose of construction of Intake Channel under the Basaveshwar (Kempawad) Lift Irrigation , under the **Notification No. LAQ:SR-11/17-18 Dated 16.8.2022** (date of declaration of award) by issuing the preliminary notification u/sec. 11(1) dated 23.11.2017 which was affirmed on 16.12.2017 and published in the Karnataka Gazette on 21.12.2017.

2. The particulars of acquired land of the Claimant is as under:

LAC	Sy No.	Village	Measures Ac-Gn-An	Type of land (As per the Award)
397/2023	272/3	Ainapur	01-28-00	Irrigated

3. The particulars of the assessment and determination of market value by the SLAO with respect to the lands of Ainapur is as under:

Type of land	Amount (Per Acre)	Method adopted by the SLAO
Irrigated Land	Rs.6,99,520/-	Sales Statistics

4. The brief and relevant facts leading to the reference is that the SLAO has acquired the land belonging to the claimant and passed the award. Being aggrieved by the award passed by the SLAO, the claimant made protest petition u/s 64 (1) of the RFCTLARR Act, 2013 for making reference to the court submitting that “That, I am the owner of survey no. 272/3 of Ainapur Town Taluka Kagawad Dist: Belagavi has been acquired by you i.e., respondent no.1 to the benefit of respondent no.2 for the purpose of Basaveshwar (Kempwad) Lift Irrigation Project. To the acquisition proceedings you the respondent no.1 has published preliminary notification in Karnataka Gazette U/Sec.11(1) of RFCTLARR Act-2013 on 21.12.2017. Thereafter the final notification U/Sec. 19(2) is published in Karnataka Gazette on 02.02.2022. The respondent no. 1 finally awarded meager compensation amount of Rs:6,99,520/- per acre under LAQ, SR, No.11. Which is too low as compared with the

market value. Hence, I the owner / Applicant received the compensation amount awarded by your authority "Under Protest". The compensation awarded for the acquired land is too low, as compared with the market value prevailing on the date of preliminary notification under section 11(1) of RFCTLARR Act-2013. Therefore, my application may kindly be referred to the Hon'ble Ist Addl. District and Session Judge, Belagavi for determination of correct and reasonable market value and compensation amount on the following amongst other grounds, which would be urged at the time of hearing . That the Special Land acquisition officer has not issued any notice for hearing before or after publication of preliminary notification, final notification and final award. At the time of constructing the canal SLAO has not properly measured the acquired land. Actually, more than 4 Guntas of land has been taken possession by respondent no.2 beneficiary That the compensation amount awarded by the Special Land Acquisition officer is too low as we compared with the market value i.e., when the notification under section11(1) of the Act the value of acquired land is more than Rs. 10,00,000/- per gunta.Special Land Acquisition Officer has not visited the spot and without spot inspection he come to the conclusion that the acquired land is irrigated land. But my acquired land is having potentiality of Non Agricultural usage. i.e., residential and commercial usage. In our land 4 Annas of phot kharab land is acquired but failed to pay the compensation to the said phot kharab land also. The acquired land situates within the limits of Ainapur town. Ainapur town is having pattana panchayat so the population of the Ainapur is more than 5 to 6 lakhs. Our town consist several National Banks, Government School, Colleges, our town is well developed town, Private Schools, Colleges. In Kagawad/Athani taluka several institutions. The acquired land is situates western side of the Ainapur town. In Sy.No.269 of Ainapur in the year 1985 the State Government laid the residential / commercial plots as Indira Housing Colony. Now the said housing colony is fully developed with all the civic amenities. Hence I could not cultivate in my land properly as such when the adjacent land are fully developed then other commercial activities like hotels, lodges and many several types of shops will starts the business in our land In Ainapur town the Siddeshwar Temple and its muts situates which is having lakhs of devotees and the said sunstha is having Schools and Colleges which are situates adjacent to our acquired land. Our acquired land is adjacent to Ainapur Ugar State Highway road. Next to the said road the KPTCL has laid its station. More than 20 years back the said station was constructed by KPTCL. Opposite of our acquired land the office of Karnataka Niravari Nigam's Assistant Executive Engineer is running from several years and many Govt. Office located. From last 10 to 15 years adjacent to our land several commercials shops are located e.g.. Siddeshwar Traders. He is running the business of selling the building materials and thereafter adjacent to our land Cement Brick factories and small scale industries are located. These all commercial business are running surrounding our acquired land so Hotels and small business are also running. The Sy.No.237 of Ainapur town is reserved as goutan land from several years back. In the said land already more than 100 to 150 residential houses are built. Which is adjacent to our acquired land. As above mentioned facts and circumstances there is no dispute that acquired land is having a potentiality non agricultural usage apart from these parts. The lands of Kagawad/Athani taluka are having a capacity of growing grapes crop and our acquired land is irrigated through well bore-well and having a capacity of growing grapes crop as main crop. At the time of construction of canal the KNNL has damaged me structure of grapes crop i.e., pipe line of drip irrigation, pole stones, and others. For the same the value has not made by the Special Land Acquisition Officer. The entire expenditure is more than 30-35 lakhs

The Special Land Acquisition officer while passing the award to the acquired land he considered only the sale transaction of irrigated land. But failed to consider the market value of grapes growing lands. The value of the grapes growing lands are higher than the irrigated land. That the Special Land Acquisition officer has not considered that the annual yield of the grapes crop is more than 50 tones per acre and after deducting the minimum expenditure of cultivation charges the net annual income is arrived more than 5 to 6 lakhs per acre. The Special Land Acquisition officer has not taken into consideration that the market value determined by the Civil Court as well as High Court in the previous lands acquisition proceedings in respect of grapes growing acquired lands. The beneficiary i.e., Karnataka Niravari Nigam has taken the possession of the acquired land before publication of the preliminary notification. Hence the Special Land Acquisition officer has not taken into consideration of relevant provision of the Act at the time of passing award i.e., loss of standing crops, damages or interest from the date of taking possession is not awarded. The Special Land Acquisition officer while passing the award to the acquired land he considered only the sale transaction of irrigated land. But failed to consider the market value of Non agricultural lands as well as grapes crops growing lands That the Special Land Acquisition officer has not considered the compensation amount in respect of standing trees, structures in the acquired land. These actual facts have not been taken into considered by the Special Land Acquisition officer while passing the award. The Special Land Acquisition officer did not intimated to me, about the contents of the award as contemplated under provision of RFCTLARR Act-2013 as such the market value fixed for acquired land, solatium interest, award, etc., is unreasonable. And The present application is well within time from the date of knowledge.

5. The LAO has made reference to the Court/Authority. The said reference petition was registered before the Hon'ble Prl. Dist. & Sessions Judge, Belagavi, in the above LAC No. and thereafter, the same was made over to this Authority/court as it is the Special Court designated as Authority/court to deal with the Land Acquisition Cases.

6. In pursuance of notice, the respondent no.1 appeared through the Learned DGP and filed objections by denying the contents of reference application. Further contended that the continents of the application are false, frivolous and vexatious and it

is denied by this respondent, hence, it is not tenable in the eye of law therefore it is deserved to dismissed. The petition/ application is hit by non-joinder of the necessary parties i.e. state Government has to be made as party and beneficiary of the acquired land is not party in the present proceedings, hence it is deserved to be dismissed on these grounds. And the respondent is not liable for pay the compensation. The application of the applicant's U/S 64 (1) & (2) of the L.A Act. is barred by limitation. Hence it is not maintainable for trial and disposal. It is submitted that while passing the award by the respondent he has followed the all the relevant procedure under the L.A. Act. and conducted the enquiry properly. Further consider all the materials for arrive the proper and legal compensation on the basis of those documents and passed the award as per provisions of L. A. Act. Hence there are no any violations of the provisions of L. A. Act, while fixing the market value of the acquired property, hence passing the award by SLA O is legal. So, prays to dismiss the application.

7. Respondent No.2 has contended that the Respondent No.2 is the water project concern. The acquired land is using for creating canals and thereby to facilitate the land irrigated, including

the claimant's also. The respondent No.2 act is for public interest. The respondent No.1 has given sufficient opportunity to the claimant prior to passing the award. The acquired land is not fertile and it is an ordinary land. There is no such crops are growing by the claimant's as stated in the petition. On the basis of the average, sales statistics in respect of surrounding lands available with concern authorities. The respondent No.1 has passed an adequate award amount which is correct one. Therefore the compensation award amount passed by the Respondent No 1 is just, proper and reasonable. The Petition filed by the claimant is barred by limitation, so it is not maintainable. On these grounds he prays for dismiss the petition against the respondent no.2.

8. Heard arguments on both sides and perused the materials placed on record. The learned counsel for claimants filed written Arguments and the learned counsel for the respondent no.2 also filed written arguments

9. Based on the claim made by the claimant and rival contentions of the parties, the following points arise for my consideration which are as under:-

(1) Whether reference application filed U/sec. 64 of the RFCTLARR Act, 2013 for enhancement of market value and reference made by the SLAO are in time?

(2) Whether the claimants prove that their land bearing Sy.No. 272/3 was situated within the limits of Pattan Panchayat touching to roads and having NA Potentiality as on the date of 11(1) notification?

(3) Whether petitioner proves that SLAO has erred in assessing the market value of the lands acquired?

(4) Whether the petitioner further proves that the compensation awarded by the SLAO in respect of the lands acquired is not in consonance with the provisions of the New Act, 2013?

(5) Whether the claimant/ petitioner is entitled for enhancement of market value as prayed for?

(6) To what order or award?

10. In order to substantiate his claim, the claimant got examined himself as PW1 and got marked as many as 23 documents as per Ex.P1 to Ex.P23. The learned DGP for respondent no.1 and Learned Sri DB Thakkannavar, Adv. for respondent no.2 have vehemently cross examined the PW1. The respondent no.1 got marked Final Award as per Ex.R1 by consent.

11. In view of material evidence on record both oral and documentary, I record my findings to the above points as under:

Point No.1: In the Affirmative
Point No.2: In the Affirmative
Point No.3: In the Affirmative
Point No.4: In the Affirmative
Point No.5: In the Affirmative
Point No.6: As per final order for the following;

: <u>REASONS</u>::

12. **<u>POINT NO.1</u>**: It is the brief facts of the case that this petition has arisen out of reference made by the SLAO u/s 64 of The 'RFCTLARR Act, 2013 for adjudication of the claim made by the claimants for enhancement of market value in respect of his acquired land situated at Ainapur, Tq: Kagawad, Dist: Belagavi for the purpose of construction of Intake Channel under the Basaveshwar (Kempawad) Lift Irrigation , under the **Notification No. LAQ:SR-11/17-18 Dated 16.8.2022** (date of declaration of award) by issuing the preliminary notification u/sec. 11(1) dated 23.11.2017 which was affirmed on 16.12.2017 and published in the Karnataka Gazette on 21.12.2017.

13. Now the point for consideration before this court is to ascertain whether the reference application filed by the claimant for enhancement of the market value and the reference made by the SLAO is in time? On careful perusal of the materials and evidence both oral and documentary, before this court, it discloses that the claimant is the owner of the acquired land, the respondent no.1 has acquired the land of the claimant for the benefit of the respondent no.2 vide 11(1) notification which was published in the official Gazette on 21.12.2017. On perusal of the Annexure IV, it is clear that

the date of Final Award is **17-07-2019** (date of declaration of award) whereas the date of issuance of notice U/sec. 37(2) is mentioned as 16.10.2021 and it was served on the claimant on 4.2.2020. In the final Award, the SLAO fixed the market value of Rs.6,99,520/- for Irrigated land per acre as U/sec. 27(1)(a) after considering the sale statistics as per Sec. 21(b) of the R F C T L A R R Act, 2013. Being aggrieved by the said award, the claimant have filed the protest petition U/sec. 64(1) of the RFCTLARR Act, 2013, on 29.9.2022.

Let me call out a statutory provisions of Sec. 64 of RFCTLARR Act, 2013, which reads thus:

> **"64. Reference to Authority.** (1)Any person interested who has not accepted the award may, by written application to the Collector, require that the matter be referred by the Collector for the determination of the Authority, as the case may be, whether his objection be to the measurement of the land, the amount of the compensation, the person to whom it is payable, the rights of Rehabilitation and Resettlement under Chapters V and VI or the apportionment of the compensation among the persons interested:
>
> Provided that the Collector shall, within a period of ***thirty days*** from the date of receipt of application, make a reference to the appropriate Authority:
>
> Provided further that where the Collector fails to

make such reference within the period so specified, the applicant may apply to the Authority, as the case may be, requesting it to direct the Collector to make the reference to it within a period of ***thirty days***.

(2) The application shall state the grounds on which objection to the award is taken:

Provided that every such application shall be made

(a) person making it was present or represented before the Collector at the time when he made his award, ***within six weeks*** from the date of the Collector's award;

(b) in other cases, within six weeks of the receipt of the notice from the Collector under section 21, or ***within six months*** from the date of the Collector's award, whichever period shall first expire:

Provided further that the Collector may entertain an application after the expiry of the said period, within a ***further period of one year***, if he is satisfied that there was sufficient cause for not filing it within the period specified in the first proviso.''

14. The following are the calendar of events which disclose the dates of issuance and service of notice and filing of protest petition by the claimant and the reference made by the SLAO.

Sl. No.	Particulars	Date of Service
1	Date of approval of 11(1) notification	16.12.2017
2	Date of 11(1) notification published in the Official Gazette	21.12.2017

3	Notice U/sec. 37(2) of the Act served through their Staff, if any	No But, the date of declaration of Award is shown as 16.8.2022
4	Claim application/petition U/sec. 64(1) of the Act filed before SLAO.	29.9.2022
5	SLAO has made reference vide its Letter Dated 15.6.2023 which has been received in this court on 21.6.2023	21.6.2023
6	Date of Final Award-Ex.R1 in **Notification No. LAQ:SR-11/17-18 Dated 16.8.2022**	16.8.2022

15. On careful perusal of the provisions of Sec. 64(2)(a) and (b) of the RFCTLARR Act, 2013, the aggrieved person to submit the reference application within 6 weeks from the date of Collector's Award. In other cases, within 6 weeks of the receipt of Notice from the collector U/sec. 21 or within 6 months from the date of Collector's Award, whichever period shall first expires. In the instant case, in a Final Award, the LAO has not mentioned the date of service of notice U/sec. 37(2). However, the Date of Declaration of the Award has been shown as 16.8.2023. Reference application has been filed on 29.9.2022 . It clearly establishes that the claimant has filed reference application before the SLAO on 29.9.2022 ie., within 6 weeks from the date of declaration of the Award. Hence, this

court of the opinion that the reference application has been filed by the claimant within 6 weeks from the date of declaration of the Award. Thus, reference application filed by the claimant is well within time.

16. On careful perusal of the date of filing of the reference application by the claimant is 29.9.2022 and in turn, the SLAO, submitted the reference application of the claimant before this court on 21.6.2023. From the date of reference application i.e., 29.9.2022 till 21.6.2023, the duration is 8 months 22 days which is within the period of 1 year

At this juncture, it is to be noted that their Lordships of the Our Hon'ble High Court of Karnataka, Division Bench, consisting of Learned G.C. Bhharuka, P. Vishwanatha Shetty and V. Gopala Gowda, JJs. have held with regard to the effect of delayed reference which has been made by the Dy. Commissioner, (SLAO,) in the case of **Hanamappa and Others v/s The Special Land Acquisition Officer, Upper Krishna Project, Narayanapur, Surapur Taluk, Gulbarga District.** [1] which runs as under:

> "(A) LAND ACQUISITION ACT, 1894, Section 18(3) (a), as amended by Karnataka Act 17 of 1961 _ limitation Act, 1963, Article 137-Reference- Limitation – Making reference

1. 1999(1) Kar. L.J. 539 (FB)(A)

is statutory duty cast on Deputy Commissioner and stature directs him to make reference within 90 days from date of receipt of reference application -Provision is of nature of direction to Deputy Commissioner to act expeditiously in discharge of statutory duty towards applicant whose land has been acquired by State and it is for benefit of applicant that said provision is made – Said period of 90 days does not operate as limitation so as to hold that statutory duty not performed within said period would get extinguished after expiry of period –
Limitation of three years prescribed in Article 137 of Limitation Act is not applicable to performance of statutory duty by public authority- Statutory obligation to make reference would continue and remain subsisting so long as same has not been discharged and Deputy Commissioner is competent to make reference at all times so long as reference application is pending with him – Reference made by Deputy Commissioner on his own accord after lapse of over 4 years from date of his receipt of reference application , though belated, is to be held valid.''

(Emphasized by me.)

17. In view of the principles evolved by their Lordships of the Division Bench of the Hon'ble High Court it is quite clear that the provisions of Art. 137 of the Limitation Act, is not applicable to performance of statutory duty by public authority. Statutory obligation of SLAO to make reference would continue and remain

subsisting so long as the same has not been discharged and Dy. Commissioner (SLAO) competent to make reference at all times so long as reference application pending with him. Reference made by the Dy. Commissioner (SLAO) on his own accord, after lapse of 30 days period from the date of receipt of reference application though belated is to be held valid. Hence, though there is a delay in referring the petition at the initial stage, by exercising authority given under the proviso to sec. 64 (2) of the LA Act, he has referred the case before this authority at a belated period of 8 months 22 days for the reasons best known to him . Hence, this Authority of the opinion that by applying the principles laid down in the above mentioned decision of their Lordships, the delay of more than 30 days or 8 months 22 days can be set aside in the interest of justice. The claimant filed his protest petition before the SLAO within time cannot be rejected on the account of delayed reference made by the SLAO without fault on the part of the claimant. Hence, it is considered as valid. Thus, it was taken that the reference made by the LAO is also well within time. Hence, I answer Point No.1 in the Affirmative.

18. **POINT NO.2:** The claimants in their petition have averred that “ The acquired land situates within the limits of Ainapur

town. Ainapur town is having pattana panchayat so the population of the Ainapur is more than 5 to 6 lakhs. Our town consist several National Banks, Government School, Colleges, our town is well developed town, Private Schools, Colleges. In Kagawad/Athani taluka several institutions. The acquired land is situates western side of the Ainapur town. In Sy.No.269 of Ainapur in the year 1985 the State Government laid the residential / commercial plots as Indira Housing Colony. Now the said housing colony is fully developed with all the civic amenities. Hence I could not cultivate in my land properly as such when the adjacent land are fully developed then other commercial activities like hotels, lodges and many several types of shops will starts the business in our land In Ainapur town the Siddeshwar Temple and its muts situates which is having lakhs of devotees and the said sunstha is having Schools and Colleges which are situates adjacent to our acquired land. Our acquired land is adjacent to Ainapur Ugar State Highway road. Next to the said road the KPTCL has laid its station. More than 20 years back the said station was constructed by KPTCL. Opposite of our acquired land the office of Karnataka Niravari Nigam's Assistant Executive Engineer is running from several years and many Govt. Office located.

From last 10 to 15 years adjacent to our land several commercials shops are located e.g.. Siddeshwar Traders. He is running the business of selling the building materials and thereafter adjacent to our land Cement Brick factories and small scale industries are located. These all commercial business are running surrounding our acquired land so Hotels and small business are also running. The Sy.No.237 of Ainapur town is reserved as goutan land from several years back. In the said land already more than 100 to 150 residential houses are built. Which is adjacent to our acquired land. As above mentioned facts and circumstances there is no dispute that acquired land is having a potentiality non agricultural usage apart from these parts."...

19. In proof of Point No.2, the learned counsel for the claimants has relied upon the very admission made by the SLAO in Ex.R1-Award reading :

"ಐನಾಮರ ಗ್ರಾಮವು ಪಟ್ಟಣ ಪಂಚಾಯಿತಿ ವ್ಯಾಪ್ತಿಗೆ ಒಳಪಡುವುದರಿಂದ Multiplication factor ಅನ್ನು ಮಾರುಕಟ್ಟೆ ಬೆಲೆ ನಿರ್ಧಾರಣೆಯಲ್ಲಿ 1(ಒಂದು) ಎಂದು ಪರಿಗಣಿಸಿ ಅಳವಡಿಸಲಾಗಿದೆ."

Apart from it, the learned counsel for the claimant has produced the Ex.P1-Letter issued by the Pattana Panchayat Ainapur Dated 22.2.2024 which reads

"ಮೇಲ್ಕಾಣಿಸಿದ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಉಲ್ಲೇಖದಡಿಯಲ್ಲಿ ಐನಾಪೂರ

ಪಟ್ಟಣದ ಸರ್ವೆ ನಂ 272/3 ಇದು ಐನಾಪೂರ ಪಟ್ಟಣ ಪಂಚಾಯತಿಯ ವ್ಯಾಪ್ತಿಗೊಳಪಡುವ ಬಗ್ಗೆ ಮಾಹಿತಿ ಪೂರೈಸುವ ಕುರಿತು ಈ ಕಾರ್ಯಾಲಯಕ್ಕೆ ಮನವಿಯನ್ನು ಸಲ್ಲಿಸಿದ್ದು ಇರುವಂತೆ ಐನಾಪೂರ ಗ್ರಾಮ ಪಂಚಾಯತಿ ಪ್ರದೇಶವನ್ನು ವಿಶೇಷ ರಾಜ್ಯ ಪತ್ರಿಕೆ ನಗರಾಬಿ,ವೃದ್ದಿ ಸಚಿವಾಲಯದ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ ನಅಇಃ72-ಎಂಎಲ್ಆರ್ : 2015 , ಬೆಂಗಳೂರು ದಿನಾಂಕ: 20.6.2015 ರನ್ವಯ "ಐನಾಪೂರ ಪರಿವರ್ತನಾ ಪ್ರದೇಶ" ವೆಂದೂ ಹಾಗೂ ಸದರಿ ಪರಿವರ್ತನಾ ಪ್ರದೇಶವನ್ನು "ಐನಾಪೂರ ಪಟ್ಟಣ ಪಂಚಾಯತಿ" ಯ ಪ್ರದೇಶವೆಂದು ಉದ್ಘೋಷಿಸಿರುವಂತೆ ಐನಾಪೂರ ಪಟ್ಟಣ ಪಂಚಾಯತಿ" ಯ ವ್ಯಾಪ್ತಿಯ ಇಂದಿರಾ ಹೌಂಗ್ ಸೋಸೈಟಿ ವಸತಿ ಬಡಾವಣೆ ಪ್ರದೇಶಕ್ಕೆ ಹೊಂದಿಕೊಂಡು ಇರುವ ಸದರಿ ಐನಾಪೂರ ಪಟ್ಟಣದ ಸರ್ವೆ ನಂ 272/3 ಇದು ಐನಾಪೂರ ಪಟ್ಟಣ ಪಂಚಾಯತಿ ವ್ಯಾಪ್ತಿಯ ಒಳಗಡೆ ಇರತ್ತದೆ ಎಂಬ ಮಾಹಿತಿಯನ್ನು ಪೂರೈಸಲಾಗಿದೆ"

Further, the learned counsel for the claimant has relied upon Ex.P23-Two Village Maps of Ainapur (Tikka 1 and Tikka 2). On perusal of this Ex.P23-Two Village Maps of Ainapur (Tikka 1 and Tikka 2), it is proved that the acquired land bearing Sy. No. 272/3 is touching to Mangasuli-Ainapur Road and nearer to Kagwad-Athani District Road . So if the Ex.P23-Two Village Maps of Ainapur (Tikka 1 and Tikka 2) is read with the above mentioned Ex.P1-Letter issued by the Pattana Panchayat Ainapur Dated 22.2.2024 it can be considered that the acquired land in the case on hand having NA Potentiality. The respondents have not lead any contra evidence to disporve the same. Thus, the Point No.2 is answered in the Affirmative

20. **POINT NOs.3 & 4:** As Point No. 3 & 4 are interlinked , discussion of one point has its direct bearing on the discussion of another Point, hence, for the purpose of brevity and convenience with a view to avoid the repetition of discussion of evidence, I am going to discuss these points jointly.

21. The Government has acquired lands of the claimants through SLAO by forming the opinion that "ಐನಾಪುರ ಗ್ರಾಮವು ಪಟ್ಟಣ ಪಂಚಾಯಿತಿ ವ್ಯಾಪ್ತಿಗೆ ಒಳಪಡುವುದರಿಂದ Multiplication factor ಅನ್ನು ಮಾರುಕಟ್ಟೆ ಬೆಲೆ ನಿರ್ಧರಣೆಯಲ್ಲಿ 1(ಒಂದು) ಎಂದು ಪರಿಗಣಿಸಿ ಅಳವಡಿಸಲಾಗಿದೆ, but still awarded the meager compensation for their land having NA Potentiality. Hence, aggrieved claimant has filed this protest petition seeking enhancement of the market value and sought for re-fixing the market value for the acquired lands with all statutory benefits and sought to refer his application to Authority/ Court for adjudication.

22. Pursuant to the summons , the respondents Nos. 1 and 2 have put in their presence through their respective counsels. They are contending that the SLAO after due enquiry, about the nature of the acquired land and present market value, have rightly determined

the fair market value after following the parameters set out in the said New LA Act, 2013. Hence, the market value fixed by the SLAO is just, proper and in accordance with law, and prayed to dismiss the reference petition filed by the claimant/ petitioner with costs.

23. Heard the arguments on both sides and perused the materials placed on record. Now the points for consideration is whether the petitioner has proved that the SLAO has erred in assessing the market value of the acquired lands? Whether the petitioner further proves that compensation awarded by the SLAO in respect of the lands acquired is not in consonance with the provisions of the RFCTLARR Act, 2013? Whether the claimant has made out sufficient grounds to allow the petition and the petitioner is entitled for enhancement of the market value as prayed for ?

24. Basically, there are 3 well known methods, recognized, affirmed and adopted for the purpose of determination of the market value , they are (i) Capitalization Of Income Method, (ii) yield per acre on the basis of the Expert Opinion Method and (iii) Sales Statistics Method. Apart from these market value of the lands acquired can also be ascertained , computed and fixed on the basis of the covered judgments confirmed by the Hon'ble High Courts and Hon'ble Supreme Court.

25. As per the provisions of the RFCTLARR Act, 2013, the SLAO while acquiring the land had adopted the sale statistics method for determination of the market value to the acquired land. LAO has received 21 Sales Statistics of Irrigated agricultural lands sold immediately preceding 3 years from the date of the preliminary notification under the Kostaka – 2 in Page No.10. Out of which he selected 8 transactions which sold for higher considerations which made to an average of Rs.17,488/- per gunta which comes to Rs.6,99,520/- per acre as per Sec. 26(1) (a) and (b) of the RFCTLARR Act, 2013. As per the Government notification, the guidance value for the year 2017-18 fixed for the Ainapur Town for the Irrigated agricultural lands was Rs.4,79,000/- per acre and thus, SLAO has fixed the market value as per the sale statistics under the Kostaka – 3 at Page No.11 which is higher at Rs.6,99,520/- per acre considering the fact that the higher sale considerations under the Kostak No.2 at Page No.11 having high market value over the guidance value and considered it accordingly. Being aggrieved by the same, the claimants have filed this reference petition claiming to fix the fair market value.

26. In order to substantiate his petition, the claimant has

entered into the witness box got himself examined as PW1. In his examination in chief, he has deposed reiterating the averments made in the protest petition. He has got marked as many as 23 documents i.e., Ex.P1-Letter issued by the Pattana Panchayat Ainapur Dated 22.2.2024, Ex.P2-CC of Dairy No.64, Ex.P2(a)-Typed copy of Dairy No.64, Ex.P3-Order of Spl. Dy. Commissioner in respect of Sy. No. 269/1 Dated 21.2.1992, Ex.P4-CC of Dairy No. 3644 , Ex.P4(a)-Typed copy of Dairy No.3644, Ex.P5-CC of Dairy No.4239 Ex.P5(a)-Typed copy of Dairy No.4239, Ex.P6-CC of Dairy No.5401, Ex.P6(a)-Typed Copy of Dairy No.5401, Ex.P7-CC of Order passed by Dy. Commissioner in respect of Sy. No.262 , Ex.P8-CC of Dairy No.5299 , Ex.P8(a)-Typed copy of Dairy No.5299 , Ex.P9-CC of Order of Dy. Commissioner in respect of Sy. No. 262, Ex.P10-CC of Dairy No. 5361, Ex.P10(a) -Typed copy of Dairy No. 5361, Ex.P11-CC of order of Dy. Commissioner in respect of Sy. No.264, Ex.P12-CC of Dairy No.948, Ex.P12(a)-Typed copy of Dairy No.948, Ex.P13-Digital Copy of Sale Deed dated 28.1.2016, Ex.P14-Digital Copy of Sale Deed dated 21.4.2017, Ex.P15-Digital Copy of Sale Deed dated 13.4.2017, Ex.P16-Digital Copy of Sale Deed dated 3.7.2017, Ex.P17-Digital Copy of Sale Deed dated 15.9.2017, Ex.P18-Digital Copy of Sale Deed dated 8.2.2016 for Property No.998B/2, Ex.P19-Digital Copy of Sale

Deed dated 8.2.2016 for Property No.998B, Ex.P20-Digital Copy of Sale Deed dated 8.2.2016 for Property No.998A, Ex.P21-Digital Copy of Sale Deed dated 27.11.2017 , Ex.P22-Certificate issued U/sec. 65(B) , Ex.P23-Two Village Maps of Ainapur (Tikka 1 and Tikka 2)

27. Now the duty incumbent upon the Court is to consider whether SLAO has fixed the market value and awarded the market value in respect of the acquired land as per the provisions of RFCTLARR Act, 2013 as set out U/sec. 26 to 30 Chapter V of the RFCTLARR Act, 2013. Therefore , the reference Court/ Authority has to consider the factors contemplated U/sec. 69 of the RFCTLARR Act, 2013.

28. Before adverting to the other aspects of the case, let me note the relevant statutory provisions of the RFCTLARR Act, 2013. On the basis of which, the Authority/ Court has to determine the market value . Sec. 69 of the Act, 2013 reads thus;

Section 69 of Land Acquisition Act 2013 "Determination of award by authority"

> (1) In determining the amount of compensation to be awarded for land acquired including the Rehabilitation and Resettlement entitlements, the Authority shall take into consideration whether the Collector has followed the parameters set out under section 26 to section 30 and the

provisions under Chapter V of this Act.

(2) In addition to the market value of the land, as above provided, the Authority shall in every case award an amount calculated at the rate of twelve per cent per annum on such market value for the period commencing on and from the date of the publication of the preliminary notification under section 11 in respect of such land to the date of the award of the Collector or the date of taking possession of the land, whichever is earlier.

Explanation- In computing the period referred to in this sub-section, any period or periods during which the proceedings for the acquisition of the land were held up on account of any stay or injunction by the order of any Court shall be excluded.

(3) In addition to the market value of the land as above provided, the Authority shall in every case award a solatium of one hundred per cent. over the total compensation amount.

The plain reading of the above provisions of Sec. 69 , it is clear that Judicial Power of review of this Authority/ Reference Court is very limited i.e., to consider whether SLAO/ Collector has followed the parameters set out U/sec. 26 to 30 of the RFCTLARR Act, 2013. The main grounds urged by the claimant in the protest petition are that SLAO has awarded meager compensation when compared to the market value of the land which is more than Rs.12,00,000/- per Gunta.

29. Thus, at this juncture, it is incumbent upon the

Court/Authority to refer the provisions of Sec. 26 of the RFCTLARR Act, 2013 which has given guidelines to ascertain the market value. As per Sec. 3(u) of the RFCTLARR Act, 2013, the ''Market Value'' means the value of the land determined in accordance with sec. 26 of the RFCTLARR Act, 2013 which reads thus;

> **26. Determination of market value of land by Collector.-** (1) The Collector shall adopt the following criteria in assessing and determining the market value of the land, namely:-
>
> a) The market value, if any, specified in the Indian Stamp Act, 1899 (2 of 1899) for the registration of sale deeds or agreements to sell, as the case may be, in the area, where the land is situated; or
>
> b) The average price for similar type of land situated in the near village or nearest vicinity area; or c) Consented amount of compensation as agreed upon under sub-section (2) of Section 2 in case of acquisition of lands for private companies or for public private partnership projects, whichever is higher: provided that the date for determination of market value shall be the date on which the notification has been issued under Section 11.
>
> Explanation 1:- The average sale price referred to in clause (b) shall be determined taking into account the

sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity area during immediately preceding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2.—For determining the average sale price referred to in *Explanation* 1, one-half of the total number of sale deeds or the agreements to sell in which the highest sale price has been mentioned shall be taken into account.

Explanation 3.—While determining the market value under this section and the average sale price referred to in *Explanation* 1 or *Explanation* 2, any price paid as compensation for land acquired under the provisions of this Act on an earlier occasion in the district shall not be taken into consideration.

Explanation 4.—While determining the market value under this section and the average sale price referred to in *Explanation* 1 or *Explanation* 2, any price paid, which in the opinion of the Collector is not indicative of actual prevailing market value may be discounted for the purposes of calculating market value.

30. It is submitted that, the SLAO has committed grave error or mistake in considering the sale deeds of the only the Irrigated Lands of Ainapur Town instead of considering the sale deeds of lands having NA Potentiality / compensation awarded in

judgments relating to same village or neighboring villages and caused huge financial loss to the claimants.

31. The above provisions of Sec. 26 of the RFCTLARR Act, 2013 clearly reveals the criteria to be adopted by the Collector in assessing and determining the market value of acquired land, based on (a) market value, if any, specified in Indian Stamp Act for registration of sale deeds or (b) agreement to sell or (c) average sale price for similar type of land situated in a nearest village or nearest vicinity area or (d) consented amount of compensation **whichever is higher**, shall be considered. While considering this aspect as per Explanation No.1 to 3, the average sale price of the sale deeds or agreements to sell immediately preceding 3 years has to be taken and out of them one half of the total number of sale deeds or agreements of sale shall be taken into consideration to determine the market value of acquired lands and if as per Explanation No.1 and 2, the market value is determined in the earlier occasion in the District, the same shall not be considered for determining the market value in future coming reference petitions and as per Explanation No.4, the SLAO can discount the average sale price referred in Explanation No.1 and 2 or any price paid if it is not indicating the actual prevailing market value. As per sec. 26 (2) of the

RTCTLARR Act, 2013 if the market value is calculated as per Sub Sec. (1) , then, it shall be multiplied by the factor shown in First Schedule. As per Sec. 26 (3) of the RFCTLARR Act, 2013 if the sale transactions are restricted, no sale deeds or agreements to sell for similar lands are not available immediately for the preceding 3 years and the market value has not been specified by the Sub-Registrar , then, the State Government has to fix the floor price or minimum price by taking into consideration of adjoining lands.

32. The above provisions of the Sec. 26 of the RFCTLARR Act, 2013 clearly reveals that the Collector, before institution of the land acquisition proceedings in any area, shall take all necessary steps to revise and update the market value of the lands on the basis of the prevalent market rate in that area. In ascertaining the prevailing market value of the lands acquired the appropriate Government shall constitute **Multi Member Land Pricing Commission or Authority** to finalize cost of land acquisition / compensation State wise or area wise as determined U/sec. 30(1) R/w. Schedule I of the LA Act, 2013. The criteria to be adopted by the Collector in assessing and determining the market value of the acquired land under the Act, 2013, based on the market value , if any,

(i) specified in Indian Stamp Act, 1988 for registration of the sale deeds (Guidance Value of Land) or (ii) agreement to sell or (iii) average sale price for similar type of land situated in the nearest village or (iv) nearest vicinity area, whichever is higher. But, it is unfortunate that the LAO has not furnished any materials with regard to the constitution of **Multi Member Land Pricing Commission Or Authority** constituted by **the Appropriate Government** to finalize cost of land acquisition market value/compensation State wise or area wise as determined U/sec. 30(1) R/w. Schedule I of the RFCTLARR Act, 2013. It is provided that the date of determination of the market value shall be the date on which the notification has been issued U/sec. 26 First Proviso of the Act, 2013.

33. As per Explanation I to sec. 26 of the Act, 2013, the average sale price referred into Clause (b) shall be determined keeping into account the sale deeds or the agreement of sale registered for the similar type of land of the area in the near village or near vicinity area during immediately preceding 3 years of the year in which the acquisition of the land proposed to made. As per Explanation II for determining the average sale price referred to in

Explanation I one half of the total number of sale deeds or agreement to sell in which the highest sale price has been mentioned shall be taken into consideration. As per Explanation III while determining the market value under this section, the average sale price referred to in Explanation I or II, any price paid as compensation for the lands acquired under the provision of the Act, 2013 , in an earlier occasion in the District shall not be taken into consideration. As per Explanation IV while determining the market value under this Section the average sale price referred to in Explanation I or Explanation II any price paid, which is the opinion of the Collector not indicative of the actual prevailing market value may be discounted for the purpose of calculating the market value. As per Sec. 26 of the RFCTLARR Act, 2013, the Collector shall before initiation of the any land acquisition proceedings in any area take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area. According to LA Act, 2013, the appropriate Government shall constitute Multi Member Land Pricing Commission or Authority to finalize of the cost of the land acquisition / compensation State wise or Area wise as determined U/sec. 31(i) R/w. Schedule I to the Act. Therefore, as per the provisions of the Sec. 26 of the New Act, 2013, the compensation has to be fixed on the sale consideration of the adjoining lands immediately preceding 3 years prior to the notification. The learned counsel for the claimant has vehemently argued that on perusing the final award, LAO has relied on the sale deeds for fixing the compensation without furnishing the material particulars of those sale deeds.

34. The learned counsel has relied on the ruling reported in the case of **Major General Kapil Mehra and Another V/s. Union Of India,**[2] the judgment of Hon'ble Delhi High Court wherein it has been held that

> "...The law mandates that when the state compulsorily deprives as person of his land for public purpose, by invoking the provisions of the land acquisition act, he must be paid compensation in accordance with law, i.e., he must be paid the <u>true market value</u> of the acquired land. It has been held in a catena of decisions that the market value, as postulated in Sec. 23(1) of the Act, is deemed to be the just and fair compensation for the acquired land and that the words "Market Value" would be the price of the land prevailing on the date of publication of the preliminary notification under sec 4(1) of the Act. The <u>acid test</u> for determining the market value of the land is <u>the price , which a willing vendor might reasonably expect to obtain from the willing purchaser</u>. In determining the market value, the factors enumerated in Sec. 23 are to be taken into consideration and those set out in sec. 24 are to be excluded".

2 LAAPP 149/2007 Delhi High Court pronounced on 24.12.2010

(I am highlighted by underlining)

35. Their lordships of the Hon'ble Supreme Court in the case of **Viluben Jhalejar Contractor (deceased) through LR's v/s State of Gujrat**[3] held in the judgment para No.20 and 25;

> **Para 20:** The amount of compensation cannot be ascertained with mathematical accuracy. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. For determining the market value of the land under acquisition, suitable adjustment has to be made having regard to various positive and negative factors vis-a-vis the land under acquisition by placing the two in juxtaposition. The positive and negative factors are as under;

Positive factors	Negative factors
i) Smallness of size	i) Largeness of area
ii) Proximity to a road	ii) Situation in the interior at a distance from the road
iii) frontage on a road	iii) Narrow strip of land with very small frontage compared to depth
iv) Nearness to developed area	iv) Lower level requiring the depressed portion to be filled up
v) regular shape	v) remoteness from developed locality
vi) level vis-a-vis land under acquisition	vi) Some special disadvantageous factors

3. AIR 2005 SC 2214.

which would deter a purchaser

vii) Special value for an owner of an adjoining property to whom it may have some very special advantage".

> **Para 25:** For ascertaining market value of the acquired land, the court can no doubt relay upon such sale transactions, which would offer a reasonable basis to fix the price, for which purpose, a sale transaction relating to a smaller parcel of land can be considered for the purpose of assessing the market value in respect of a large tract of land, after making appropriate deductions such as for development of land, for providing space for roads, sewers, drains, expenses involved in formation of a layout, lump
>
> (I am highlighted by underlining)

36. The standard method of determination of the market value of any acquired land is by the valuer evaluating the land on the date of acquisition or publication of initial publication of the RFCTLARR Act, 2013, acting as a hypothetical purchaser willing to purchase the land in open market at the prevailing price on that day from the seller willing to sell such land at a reasonable price. Thus, the market value is to be determined with reference to the open market sale of comparable land in the neighborhood by willing seller to willing buyer on or before the date of preliminary notification as

that would give a fair and reasonable indication of market value. Where definite material evidence is not forthcoming either in a shape of land in similar in neighborhood or about the date of notification U/sec. 4(1) of the Old Land Acquisition Act, or 11(1) as per the New Land Acquisition Act, 2013 as the case may be or other sale instances as well as other evidence have to looked into and considered. The amount of the compensation cannot be ascertained with mathematical accuracy as evolved by their Lordships of Hon'ble Supreme Court. A comparable instance has to be identified having regard to the proximity from time angle as well as proximity from situation angle. In determining the market value of the land under acquisition switchable adjustment has to be made having regard to various positive and negative factors vis-a-vis. The land under acquisition by placing the two in juxtaposition. While taking the comparable sale statistics method of valuation of land for fixing the market value of the acquired land there are certain factors which are to be satisfied and only on fulfillment of those factors the compensation can be awarded according to the value of the land stated in the sale deeds. The word 'Fair market value' might be used exchangeable with 'market value'. But, there is distinction between them. The fairness of the market value herein reflects the estimated price for the transfer of the property between willing parties who have the respective interest of both parties. It is necessary to carry out the assessment of the price i.e., fair for those parties taking consideration on the respective advantages and disadvantages that each is able to obtain from the transaction. Meanwhile, market value entails the strong points that are not available to market participants generally to be ignored . Therefore, the concept of 'market value' is narrower than the 'fair market value.'

For better appreciation, I cull out the Explanation 1 and 2 of Sec. 26 of the RFCTLARR Act, 2013 which runs as under:

> 26. Determination of market value of land by Collector:-
> (1)…………….
> (a)….
> (b)….
> (c)…..
> whichever is higher

Provided that the date for determination of market value shall be the date on which the notification has been issued under Section 11.

Explanation 1.-The average sale price referred to in clause (b) shall be determined taking into account the sale deeds or the agreements to sell registered for similar type of area in the near village or near vicinity are during immediately preceeding three years of the year in which such acquisition of land is proposed to be made.

Explanation 2._ For determining the average sale price referred to in Explanation 1, one -half of the total number of sale deeds or the agreements to sell **in which the highest sale price has been mentioned shall be taken into account**.“

37. **(I)** The learned counsel for the claimants has produced sale deeds under the Ex.P13-Digital Copy of Sale Deed dated 28.1.2016, Ex.P14-Digital Copy of Sale Deed dated 21.4.2017, Ex.P15-Digital Copy of Sale Deed dated 13.4.2017, Ex.P16-Digital Copy of Sale Deed dated 3.7.2017, Ex.P17-Digital Copy of Sale Deed dated 15.9.2017, Ex.P18-Digital Copy of Sale Deed dated 8.2.2016 for Property No.998B/2, Ex.P19-Digital Copy of Sale Deed dated 8.2.2016 for Property No.998B, Ex.P20-Digital Copy of Sale Deed dated 8.2.2016 for Property No.998A of which brief discriptions are as under:

List of registered sale deeds of Residential Plots taken place in Ainapur

Sl. No.	Sy. No.	Extent in Sq.Fts	Sale considered to Rs.	Date of Registration	Ex.Ps
1	3827	1199.9	2,00,000/-		Ex.P13
2	2627	900	1,22,000/-		Ex.P14
3	1909	1453	1,85,000/-		Ex.P15
4	2644	1200	1,60,000/-		Ex.P16
5	998 B/2	252	1,50,000/-		Ex.P17
6	998B	126	85,000/-		Ex.P18
7	998A	360	2,00,000/-		Ex.P19
8	622	924	4,50,000/-		Ex.P20

As per Sec.26, Explanation 2, out of total Eight Sale Deeds, one half of the total number of sale deeds which are of highest sale price l.e. 4 sale deeds are to be considered for fixing the correct market value of acquired land.

The highest three sale deeds are as follows:

Sl. No.	Sy. No.	Extent in Sq.Fts	Sale considered to Rs.	Date of Registration	Ex.Ps
1	3827	1199.9	2,00,000/-		Ex.P13

3	1909	1453	1,85,000/-		Ex.P15
7	998A	360	2,00,000/-		Ex.P19
8	622	924	4,50,000/-		Ex.P20

Total: 10,35,000/- for 3936 Sq. Fts.

If Rs.10,35,000/- is divided by 3,936 Sq. Fts., it comes to Rs.262/- per Sq. Ft.

However, the sales under the Ex.P13, Ex.P15, Ex.P19, Ex.P20 are having convert into NA, it is just and reasonable to deduct by 33% towards developmental charges . Then, if Rs.262/- - 87/- (1/3rd of Rs.262/-) is deducted it comes to Rs.175/- Per Sq. Ft. which would be just and reasonable.

Accordingly, As per the above highest 4 sale deeds under Ex.P13, Ex.P15, Ex.P19, Ex.P20, the market value of the acquired land comes to Rs.175/- per Sq.Ft.

38. The market value means the open market sale of the comparable land in the neighborhood by willing seller to a willing buyer to a willing seller on or before the date of preliminary notification as that would give fair indication of the market value. The real market value of the lands will thus have to be taken into

consideration while ascertaining the market rate of acquired lands, their lordships of the Hon'ble Supreme Court as held in the case of **Lal Chand v/s Union of India**[4]

> "The market value of the acquired lands has to be determined on the basis of the sale deeds of comparable lands. The under valued sale deeds have to be excluded from consideration as they are not reliable evidence"...
>
> (I am highlighted by underlining)

39. Their lordship of the Hon'ble High Court has held in the case of **Assistant Commissioner, Land Acquisition Officer, Gulbarga V/s Smt. Kurshid Begum** that;

> "The principles of fairness would requires the owners of similarly situated lands who are parties to the acquisition must receive compensation on similar terms. It is not a question of legal bar. But more importantly on issue of Judicial discipline which would require that there must be uniformity in relations to similar situation."

40. The Learned DGP argued that the SLAO has awarded the compensation amount which is fair and adequate and hence, the

4. AIR 2010 SC 170

Claimant is not entitled for any enhancement of compensation amount.

41. The Learned Advocate appearing for respondent no.2 argued that the SLAO has awarded the compensation amount which is fair and adequate and hence, the Claimant is entitled for any enhancement of compensation amount. Hence, the award of the SLAO has to be confirmed.

42. The Claimant has sought for enhancement of compensation amount awarded by the SLAO on the grounds that “ That, to the acquisition proceedings you the respondent no.1 has published preliminary notification in Karnataka Gazette U/Sec.11(1) of RFCTLARR Act-2013 on 21.12.2017. Thereafter the final notification U/Sec. 19(2) is published in Karnataka Gazette on 02.02.2022. The respondent no. 1 finally awarded meager compensation amount of Rs:6,99,520/- per acre under LAQ, SR, No.11. Which is too low as compared with the market value. Hence, I the owner / Applicant received the compensation amount awarded by your authority "Under Protest". The compensation awarded for the acquired land is too low, as compared with the market value prevailing on the date of preliminary notification under section 11(1) of RFCTLARR Act-2013. Therefore, my application may kindly be

referred to the Hon'ble Ist Addl. District and Session Judge, Belagavi for determination of correct and reasonable market value and compensation amount on the following amongst other grounds, which would be urged at the time of hearing . That the Special Land acquisition officer has not issued any notice for hearing before or after publication of preliminary notification, final notification and final award. At the time of constructing the canal SLAO has not properly measured the acquired land. Actually, more than 4 Acres of land has been taken possession by respondent no.2 beneficiary That the compensation amount awarded by the Special Land Acquisition officer is too low as we compared with the market value i.e., when the notification under section11(1) of the Act the value of acquired land is more than Rs. 10,00,000/- per gunta.Special Land Acquisition Officer has not visited the spot and without spot inspection he come to the conclusion that the acquired land is irrigated land. But my acquired land is having potentiality of Non Agricultural usage. i.e., residential and commercial usage. In our land 4 gunta of phot kharab land is acquired but failed to pay the compensation to the said phot kharab land also. The acquired land situates within the limits of Ainapur town. Ainapur town is having pattana panchayat so the population of the Ainapur is more than 5 to 6 lakhs. Our town consist several National Banks, Government School, Colleges, our town is well developed town, Private Schools, Colleges. In Kagawad/Athani taluka several institutions. The acquired land is situates western side of the Ainapur town. In Sy.No.269 of Ainapur in the year 1985 the State Government laid the residential / commercial plots as Indira Housing Colony. Now the said housing colony is fully developed with all the civic amenities. Hence I could not cultivate in my land properly as such when the adjacent land are fully developed then other commercial activities like hotels, lodges and many several types of shops will starts the business in our land In Ainapur town the Siddeshwar Temple and its muts situates which is having lakhs of devotees and the said sunstha is having Schools and Colleges which are situates adjacent to our acquired land. Our acquired land is adjacent to Ainapur Ugar State Highway road. Next to the said road the KPTCL has laid its station. More than 20 years back the said station was constructed by KPTCL. Opposite of our acquired land the office of Karnataka Niravari Nigam's Assistant Executive Engineer is running from several years and many Govt. Office located. From last 10 to 15 years adjacent to our land several commercials shops are located e.g.. Siddeshwar Traders. He is running the business of selling the building materials and thereafter adjacent to our land Cement Brick factories and small scale industries are located. These all commercial business are running surrounding our acquired land so Hotels and small business are also running. The Sy.No.237 of Ainapur town is reserved as goutan land from several years back. In the said land already more than 100 to 150 residential houses are built. Which is adjacent to our acquired land. As above mentioned facts and circumstances there is no dispute that acquired land is having a potentiality non agricultural usage apart from these parts. The lands of Kagawad/Athani taluka are having a capacity of growing grapes crop and our acquired land is irrigated through well bore-well and having a capacity of growing grapes crop as main crop. At the time of construction of canal the KNNL has damaged me structure of grapes crop i.e., pipe line of drip irrigation, pole stones, and others. For the same the value has not made by the Special Land Acquisition Officer. The entire expenditure is more than 30-35 lakhs

The Special Land Acquisition officer while passing the award to the acquired land he considered only the sale transaction of irrigated land. But failed to consider the market value of grapes growing lands. The value of the grapes growing lands are higher than the irrigated land. That the Special Land Acquisition officer has not considered that the annual yield of the grapes crop is more than 50 tones per acre and after deducting the minimum expenditure of cultivation charges the net annual income is arrived more than 5 to 6 lakhs per acre. The Special Land Acquisition officer has not taken into consideration that the market value determined by the Civil Court as well as High Court in the previous lands acquisition proceedings in respect of grapes growing acquired lands. The beneficiary i.e., Karnataka Niravari Nigam has taken the possession of the acquired land before publication of the preliminary notification. Hence the Special Land Acquisition officer has not taken into consideration of relevant provision of the Act at the time of passing award i.e., loss of standing crops, damages or interest from the date of taking possession is not awarded. The Special Land Acquisition officer while passing the award to the acquired land he considered only the sale transaction of irrigated land. But failed to consider the market value of Non agricultural lands as well as grapes crops growing lands That the Special Land Acquisition officer has not considered the compensation amount in respect of standing trees, structures in the acquired land. These actual facts have not been taken into considered by the Special Land Acquisition officer while passing the award. The Special Land Acquisition officer did not intimated to me, about the contents of the award as contemplated under provision of RFCTLARR Act-2013 as such the market value fixed for acquired land, solatium interest, award, etc., is unreasonable. And The present application is well within time from the date of knowledge...”

43. As per the provisions of Sec. 26(3) IIIrd proviso Collector shall take all necessary steps to revise and update the market value of the land on the basis of the prevalent market rate in that area before initiating the acquisition proceedings. But in the instant case, nothing is mentioned either in the Final Award-Ex.R1 or in any other document with regard to effort made by the SLAO except aggregating the available sale deeds immediately preceding 3 years of the date of preliminary notification .

Thus:

(I) As per Ex.R1-Final Award , the average market value of the acquired land having NA Potentioality by situating within the limits of Ainapur Pattan Panchayat, would be Rs.6,99,520/- Per Acre.

(II) As per 4 sale deeds under Ex.P13, Ex.P15, Ex.P19, Ex.P20 , the average market value of the acquired land having NA Potentioality by situating

within the limits of Ainapur Pattan Panchayat and touching to Road, would be Rs.175/- Per Sq.Ft.

44. The RFCTLARR Act, 2013 is the beneficial legislation . The provisions of the Act, 2013 are to be interpreted for the benefits of the land losers. Thus, if the option under calculation under (II) is considered for the acquired land having NA Potentiality **by situating within the limits of Ainapur Pattan Panchayat,** it would meet the ends of justice.

45. So, the Award passed by the SLAO that the market value of the acquired lands at Rs.6,99,520/- per acre is inadequate and unreasonable and it has to be **Rs.175/- per Sq. Ft. As per the** 4 sale deeds under Ex.P13, Ex.P15, Ex.P19, Ex.P20. Hence, the claimant is entitled for enhanced market value of the acquired land having NA Potentiality as per Ex.P1, Ex.P23, acquired under the preliminary notification dated 16.12.2017 to the extent of **Rs.175/- per Sq. Ft.** Hence, I answer Point No.3 and 4 in the Affirmative

46. **POINT NO.5**: In view of my above discussions and the reasons stated therein and my findings on Point Nos. 3 and 4, this Authority is of the opinion that the claimant is entitled for enhanced

market value of **Rs.175/- per Sq. Ft.** under the present notification. Further as per the observations in the impugned award, it is clear that the land of the claimant situated within the Pattan Panchayat Limits of Ainapur and hence, he is entitled to the market value with multiplier factor 1 in accordance with the I schedule and also for solatium at the rate of 100% of the market value as per section 30 (1) and claimant is also entitle for an additional amount calculated at the rate of 12% per annum on the market value for a period commencing on and from the date of publication of the notification or from the date of taking possession of the land whichever is earlier as per Section 30 (3) of the RFCTLARR Act, 2013 . Hence, Point No. 5 is answered In The Affirmative.

47. **POINT NO.6:** In view of my above discussions and the reasons stated therein and my answer to Point No.s 1 to 5, I proceed to pass the following:

ORDER

The reference petition filed u/s 64 (1) of The RFCTLARR Act, 2013, is partly allowed.

The land of the claimants is considered as having NA Potentiality apart from being Irrigated.

The claimants are awarded market value of **Rs.175/-**

per Sq. Ft. for the acquired land having NA Potentiality

LAC	Sy No.	Measures Ac-Gn-An
397/2023	272/3	01-28-00

of Ainapur , Kagwad Tq., Belagavi Dist. with statutory benefits instead of Rs.6,99,520/- per acre.

The claimant is also entitle for the market value with multiplier factor 1 as per the first schedule to The RFCTLARR Act, 2013.

The respondent authorities are also directed to pay solatium at the rate of 100% of the market value of acquired land U/sec. 30(1) of The RFCTLARR Act, 2013.

The claimant is also entitle to additional compensation at the rate of 12% p.a. on market value U/sec. 30 (3) of The RFCTLARR Act, 2013.

The claimant is also entitle for interest on enhanced compensation as per Sec. 72 and 80 of The RFCTLARR Act, 2013.

The claimant is entitled for the enhancement of the market value of the lands acquired with all statutory benefits.

The amount, if any, already paid to the claimant, shall be deducted in the above determined enhanced compensation amount.

Draw awards accordingly.

The advocate fee is fixed at Rs 1,000/-

(Dictated to the Stenographer Gr-III, typed by her same time on Ubuntu, corrected, print taken out and then, pronounced by me in the open court on this the 27th day of July, 2024)

(KUDAVAKKALIGER M G),
I ADDL. DIST. & SESSIONS JUDGE
AND
THE LAR & R AUTHORITY, BELAGAVI

ANNEXURE

Witnesses examined on behalf of the claimant/s:
PW1-Rajendra S/o Vasant Mutalik

Witnesses examined on behalf of the respondent/s:
-Nil-

Exhibits marked on behalf of the claimant/s:
Ex.P1-Letter issued by the Pattana Panchayat Ainapur Dated 22.2.2024

Ex.P2-CC of Dairy No.64

Ex.P2(a)-Typed copy of Dairy No.64

Ex.P3-Order of Spl. Dy. Commissioner in respect of Sy. No. 269/1 Dated 21.2.1992

Ex.P4-CC of Dairy No. 3644

Ex.P4(a)-Typed copy of Dairy No.3644

Ex.P5-CC of Dairy No.4239

Ex.P5(a)-Typed copy of Dairy No.4239

Ex.P6-CC of Dairy No.5401

Ex.P6(a)-Typed Copy of Dairy No.5401

Ex.P7-CC of Order passed by Dy. Commissioner in respect of Sy. No.262
Ex.P8-CC of Dairy No.5299
Ex.P8(a)-Typed copy of Dairy No.5299
Ex.P9-CC of Order of Dy. Commissioner in respect of Sy. No. 262
Ex.P10-CC of Dairy No. 5361
Ex.P10(a) -Typed copy of Dairy No. 5361
Ex.P11-CC of order of Dy. Commissioner in respect of Sy. No.264
Ex.P12-CC of Dairy No.948
Ex.P12(a)-Typed copy of Dairy No.948
Ex.P13-Digital Copy of Sale Deed dated 28.1.2016
Ex.P14-Digital Copy of Sale Deed dated 21.4.2017
Ex.P15-Digital Copy of Sale Deed dated 13.4.2017
Ex.P16-Digital Copy of Sale Deed dated 3.7.2017
Ex.P17-Digital Copy of Sale Deed dated 15.9.2017
Ex.P18-Digital Copy of Sale Deed dated 8.2.2016 for Property No.998B/2
Ex.P19-Digital Copy of Sale Deed dated 8.2.2016 for Property No.998B
Ex.P20-Digital Copy of Sale Deed dated 8.2.2016 for Property No.998A
Ex.P21-Digital Copy of Sale Deed dated 27.11.2017
Ex.P22-Certificate issued U/sec. 65(B)
Ex.P23-Two Village Maps of Ainapur (Tikka 1 and Tikka 2)

Exhibits marked on behalf of the respondent/s:

Ex.R1-Final Award

(KUDAVAKKALIGER M G),
I ADDL. DIST. & SESSIONS JUDGE
AND
THE LAR & R AUTHORITY, BELAGAVI