Presented on: 3.8.2023
Registered on: 3.8.2023
Decided on : 3.5.2025
Duration: 1 year 9 months 0 days

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

-:PRESENT:-
Sri Mohan Prabhu
M.A. LL.M.
IV Additional District Judge, Belagavi
and having
C/C OF I ADDL. DIST. & SESSIONS JUDGE
and
THE LAR & RA, BELAGAVI

LAC No.404/2023

Dated: This the 3rd day of May, 2025

claimants

1. Gundu S/o Virupax Aparaj,
44 years, Agri.,
R/o: Ainapur town
Tq: Kagawad Dist: Belagavi.

2. Basavaraj S/o Virupax
38 years, Agri.,
R/o: Ainapur town
Tq: Kagawad Dist: Belagavi.

(By Sri P.V. Sambargi, Adv.)

Vs

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

JUDGMENT

This reference petition arising out of reference made by the The Special Land Acquisition Officer Malaprabha Project III, Sector No.60, Navanagar, Bagalkot (herein after referred as 'SLAO') U/s.64 of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (herein after referred as 'RFCTLARR Act, 2013') for enhancement of compensation amount in respect of claimants' acquired lands situated at Ainapur Village Tal: Kagawad, District: Belagavi which is acquired for the purpose of construction of Basaveshwar (Kempawad) Lift Irrigation acquired under the award No. **LAQ:SR-11/17-18 Dated 16.8.2022** by issuing Preliminary Notification U/s.11(1) which published in Govt. Gazette on 21.12.2017.

(2) The particulars of acquired land of the claimants are as under:

Sy.No.	Village	Measures Ac-Gn-An	Type of land(As per the Award)
395/1	Ainapur	00-06-00 00-01PK 00-05	Irrigated Land

(3) The award of SLAO is opposed on following grounds:-

The land bearing Sy. No. 395/1 measuring 5 guntas of land belongs to the claimants situated at Ainapur town Taluka Kagawad Dist: Belagavi acquired by the respondent No.1 for the benefit of respondent No.2 for the purpose of Basaveshwar (Kempawad) Lift Irrigation Project. The respondent No.1 awarded meager compensation amount of Rs.6,99,520/ - per acre which is very low compared with the market value. The claimants received the compensation amount under the protest. The SALO has not issued any notice before or after publication of preliminary notification , final notification and final award. The SLAO has not properly measured the acquired land . The acquired land measures more than 5 Acres. The land value of the acquired land is more than Rs.10,00,000/- per gunta. The SLAO treated acquired land as irrigated land but, the acquired land is having NA potentiality of non agricultural usage i.e., residential and commercial usage. The acquired land situated within the limits of Ainapur Town. Ainapur Town is having Pattan Panchayat . So the population of the Ainapur is more than 5,00,000/- to 6,00,000/-. Their Town consists of several national banks, Govt. Schools,, Colleges and their Town is well developed town in Kagwad/ Athani Tq. The acquired land is situated towards Western side of Ainapur town. In Sy. No. 269 of Ainapur, the State Govt laid the residential/ commercial plots as Indira Housing Colony in the year 1995 . Now the said housing colony is fully developed with all the civil amenities. The claimants could not cultivate the land as the adjacent lands are fully developed with commencial activities like lodges and hotels and many type of shops. The acquired land is having NA potentiality at the time of acquisition. The acquired land is adjacent to the Ainapur - Ugar State High Way Road . Next to the said road, KPTCL has laid its station. Opposite to the acquired land, the office of Karnataka Neeravari Nigam's Asst. Executive 's Office is located . Sri Siddeshwar Traders business is running near the acquired land. There is cement brick factories and small scale industries are located near the acquired land. The Sy. No. 237 of Ainapur Town is reserved as Gountana Area from several years in the said land already 100 to 150 residential houses are built which is situated adjacent to the acquired land. The lands of Athani Taluk having a capacity of growing grapes crop. The acquired land which is having irrigation facility through borewell and borewell having a capacity of growing grapes crop as main crop. At the time of construction of canal, the KNNL has damaged structure of grapes crop , pipeline of drip irrigation and pole stones . For the same, no compensation is awarded. The SLAO has failed to consider the market value of the grapes growing lands. The yield of the grape is more than 50 tonnes per acre. After deducting the cultivation charges net annual income is more than Rs.5 to 6 lakhs per acre. The SLAO has not followed the relevant provisions of RFCTLARR Act, 2013. The SLAO has not awarded the compensation to the standing trees and structures in the acquired land. The SLAO has not sent any intimation to the claimants regarding the award. The applicant filed the reference application well within time from the date of knowledge . Hence on these grounds, the claimants prayed to allow the reference petition.

(4) The respondent No.1 entered appearance through DGP, Belagavi. Respondent no.2 appeared through Sri. DB Thakkannavar, Advocate. They have filed

the objections separately. The objection filed by the respondent No.1 briefly stated as follows:

The contents of the reference application filed by the claimants are false, frivolous and vexatious and not tenable in the eye of law. While passing the award by the respondent No.1 SLAO has followed all the relevant procedure prescribed under the Land Acquisition Act. The SLAO has conducted a fair and proper enquiry and considering all the materials available with him along with survey of surrounding area and nature of land, Government Valuation of land and recent preceding 3 years sale deeds and average sale price of the similar land situated in the village and nearby villages at the time of Acquisition. Even he has considered standing crops, any structures, trees, livestock, water courses and beneficial interests which are available in the land and reflected in the RTC Extract to arrive at the proper and legal compensation on the basis of those documents and passed the award as per provisions of LA Act. Hence, there are no violations of the provisions of LA Act, while fixing the market value of the acquired property. Award passed by SLAO is legal and does not deserve any modification or alteration or enhancement. The respondent-1 denies the contents of application with regarding to the nature of soil, its fertility, category of land, growing of crops like irrigated, commercial crops and value of the land which is not properly valued etc. Before passing the award, SLAO has considered all the relevant factors as required under law and thereafter passed the award. While passing the award by the respondent, the SLAO has issued the proper notices to the owner of the lands U/s.4(1), 6, 9, 11 as required by the law. At that time they have not put forth their claim before the SLAO with legal documents. Therefore they have no locus-standi to file this application for enhancement of compensation on any ground. Further, the SLAO has awarded properly by considering the sale statistics in the same vicinity for the relevant period and determined the market value of the acquired land properly. After notice U/s.21 of Land Acquisition Act, the claimants does not file any objections with regards to the measurement, state of affairs of the land, compensation payable nor has produced documents entitling them for higher compensation. The acquired land is dry land and don't have any source of irrigation and depends purely on rains and they have no future prospects and is located in hillock area. The award price is properly fixed and compensation amount is received by the claimants and hence the respondent is not liable to pay interest. Hence, the claimants not entitled for enhanced compensation. The reference application is barred by period of limitation. Hence, on these grounds, the respondent No.1 prayed for dismissal of reference application.

(5) The objections filed by respondent no-2 is as under:-

The contents of Reference Application are all false and this Respondent denies the same in toto. The contents of the Reference Application that the award has been passed without giving any opportunity to the claimants to participate at any stage of the proceeding and the claimants have no opportunity to verify the correctness of the measurement of property to acquired or to furnish proper material for fixing the market value and the claimants are ignorant of any material on which compensation is determined and the claimants have no opportunity to put forward their claim and they submitted orally are all false. The contents of petition that, the acquired lands are consists of the valuable soil and the claimants are growing irrigated crops like sugarcane with the help of well, bore well, pipeline and the net agricultural income per acre and cost of cultivation is 50% and thereby getting income etc., are all false . The reference application filed U/sec. 64 (1) and (2) of the RFCTLARR Act, 2013, is wholly misconceived and not tenable in the eyes of law. The reference application is barred by period of limitation. The applicants have not filed the reference application before the SLAO within period of limitation. The respondent no.1 has issued notices to all the interested persons before passing the award. The SLAO after visiting the acquired land considered the fertility of the land by holding the local enquiry and also obtained the sales statistics of the surrounding land prior to passing the award. The SLAO compared the SR Guidance value and sales statistics and passed award in view of the provision U/sec. 26 of the RFCTLARR Act, 2013. The SLAO has correctly fixed the marekt value by following the provision U/sec. 26 of the RFCTLARR Act, 2013. hence, the award passed by the respondent No.1/ SLAO does not suffer from any irregularity or infirmity. The claimants have not produced any documents to substantiate their contention taken in the reference application . The compensation awarded by the SLAO being just and proper as such no interference is called for by this authority. Hence, on these grounds, the respondent No.2 prayed for rejection of reference petition.

(5) In order to prove the cases of the claimants, the claimant No.1 examined as PW1 and documents Ex.P1 to Ex.P23 are marked. PW1 fully cross-examined by DGP for Respondent No.1 and Sri DB Thakkannavar, Adv. for Respondent No.2. The respondents have not stepped into the witness box and not examined any witnesses. But, award and its statement are marked by consent on the side of respondent No.1 as Ex.R1.

(6) I have heard the arguments on the side of learned counsel for the claimants and learned DGP for Respondent No.1 and learned counsel for Respondent No.2 and perused the entire records. The Learned counsel for claimants as well as the learned counsel for the respondent No.2 have filed their respective written

arguments.

(7) Based on the claim made by the claimants and rival contentions of the parties, following Points would arise for my consideration.

Point No.1:	***Whether the reference is barred by limitation ?***
Point No.2:	***Whether the claimants are entitled for enhancement of compensation awarded by SLAO, MP*** *III, Bagalkot* ***?***
Point No.3:	***Whether award of the Respondent Authorities is arbitrary and calls for interference?***
Point No.4:	***Whether the claimants are entitled for the reliefs claimed?***
Point No.5:	***To what order or award?***

(8) My findings on above Points are as under:-

Point no.1:- In the negative,

Point no.2:- In the affirmative,

Point no.3:- In the affirmative,

Point no.4:- Partly in the affirmative,

Point no.5:- As per final order for the following

REASONS

(9) **Point No.1:-** In this petition, the Award passed by the respondent no.1/SLAO marked by consent on side of respondent no.1 as Ex.R1. The claimants being dissatisfied with the Award passed by the SLAO with respect to claimants' acquired lands situated at Ainapur Village of Kagawad Taluk filed this reference petition U/sec.64 of the RFCTLARR Act, 2013 praying for enhancement of the market value of the acquired land. The SLAO sent Annexure IV of along with award wherein the particulars such as issuing notice U/sec. 21, 37 (2) and serving of the notices , declaration of award , date of filing the reference application etc are mentioned.

(10) On perusal of the schedule under section 64(1) & (2) of the RFCTLARR Act, 2013 giving particulars of notice served from the office of SLAO, MP-III, Bagalkot, it would go to show that according to the SLAO the reference application filed within time. The particulars such as issuing the notice U/sec. 21 and 37 (2) of the RFCTLARR Act, 2013 and serving of

the notice left blank which indicates that the SLAO has not at all issued notices U/sec. 21 and 37 (2) of the RFCTLARR Act, 2013 to the claimants. The declaration of the award is mentioned as 16.8.2022. date of filing of the reference application is mentioned as 29.9.2022 which is within 6 weeks from the date of declaration of the award. Hence, this Authority of the opinion that the claimants filed the reference application within time soon after declaration of the Award as per the provision U/sec. 64 of the RFCTLARR Act, 2013.

(11) With regard to second objection of respondents is that the SLAO has not referred the reference application to the court within period of limitation is concerned, even though the claimants had filed the reference application before the SLAO on 29.9.2022, but SLAO has submitted the reference application to the Authority on 21.6.2023 which could be seen from the seal of the court put on covering letter of reference application and the seal put on reference application by the court. Merely because SLAO has not

referred the reference application to the Authority within 30 days from the date of receipt, it cannot be a ground to hold that the reference application itself is barred by period of limitation. The claimants had no control over the SLAO to direct him to send the reference application to the court/Authority. Only option available to the claimants are to move the court/Authority in order to direct the SLAO to send the reference application to the court. But, after lapse of 30 days, within a year, the SLAO suo moto sent reference application to the Authority. There was no chance to the claimants to move application to the Authority/court seeking direction to send the reference application.

(12) It is important to refer some of the judgments of Hon’ble High Court and Hon'ble Supreme Court. In the judgment of Hon'ble High Court of Karnataka reported in AIR 1988 Karnataka 11 between Assistant Commissioner V/s. Lakshmi Bai wherein it is held that the time limit prescribed for performance of a duty is rarely mandatory. In the

judgment of Hon'ble High Court of Karnataka reported in 1988 Kar LJ Page 97 between Subbaraya Thimappa Nayak V/s. State of Karnataka and others wherein delay is condoned. In the judgment of Hon'ble High Court of Karnataka reported in 1998 (5) Kar LJ 679 between SLAO Hidkal Dam V/s. Venktesh Annaji Kulkarni wherein held that the court cannot permit state to raise frivolous pleas just to deprive citizen of justice due to him. In the judgment of Hon'ble Supreme Court reported in 1996(7) Kar LJ 136(SC) between Addl SLAO Bangalore and others V/s. Thakore Das and others wherein the deputy commissioner failed to make reference U/s.18 of LA Act to the Civil court. Since reference application is made beyond 3 years, it is held as barred by the limitation. In the full bench decision of the Hon'ble High Court of Karnataka reported in 1999(1) Kar LJ 539 (FB) wherein it is held that 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. In the judgment of Hon'ble High Court of Karnataka reported in 2000 (6) Kar LJ 122 wherein it is held that order of reference court, held, is not sustainable in law, as making reference is statutory duty of Land Acquisition officer and such duty is not extinguished merely because officer has failed to perform same within period of limitation, justice cannot be denied to party on such technical grounds-reference court is competent to condone delay if valid reasons are shown. In the judgment of Hon'ble High Court of Karnataka reported in 2002 (3) KLR 427 between the SLAO Upper Krishna Project Almatti V/s. Lalasa Husensa Choudary wherein it is held that no limitation prescribed under Act for making application to Civil Court for issue of such direction where DC has failed to make reference within 90 days from date of receipt of application seeking reference- Article 137 of Limitation Act would apply and such application must be made within 3 years from the date of expiry of said 90 days given to DC to make reference-Court is competent to condone the delay if sufficient cause is shown by the applicant.

(13) Even though these cited decisions are with reference to the old Act, the principles of these cited decision can be made applicable to the present case. Failure on the part of SLAO to refer the reference application within 30 days from the date of receipt of reference application to the Authority cannot be ground to hold that the reference application itself is barred by period of limitation. The arguments of learned counsel for the respondent No.2 is that reference application is not maintainable as the SLAO sent the reference application to the Authority beyond the statutory period is not acceptable. Since, the SLAO referred the reference application to the court/Authority within 1 year, this Authority of the opinion that the reference application is maintainable.

(14) Award as per Ex.R1 passed on 16.8.2022. The claimants have filed reference application U/sec.64 of the

RFCTLARR Act, 2013 on 29.9.2022 which is within 6 weeks from the date of declaration of the Award. Merely because the SLAO has not sent the reference application within 30 days from its receipt it cannot be the ground to hold that the reference petition is not maintainable. In view of aforesaid judgments of Hon'ble Supreme Court of India and Hon'ble High Court of Karnataka, on the ground of non performing of statutory duty of the SLAO cannot be a ground to hold that the petition is not maintainable. The SLAO submitted the Reference application to this Authority within 1 year from the date of the receipt of the reference application. Hence, this Authority is of the opinion that the reference application filed by the claimants not barred by limitation. Hence, I answered Point No.1 in the Negative.

(15) **Point No.2 and 3:-** These Points are interconnected with each other, hence taken up together for discussion for the sake of convenience and to avoid repetition of discussion of evidence.

(16) It is the specific contention of the **claimants** are that their acquired land fetches more than Rs.10,00,000/- per gunta, but as per the Award, their acquired land assessed at the rate of Rs.6,99,520/- per acre by treating their acquired land as Irrigated Land. It is the contention of the claimants are that the acquired land was having NA Potentiality i.e., residential and commercial usage and their lands fetches more than Rs.10,00,000/- per gunta.

(17) P.W.1 in his examination-in-chief by reiterating the petition averments has deposed that their acquired land were having NA Potentiality . He states that the acquired land situated within the limits of Ainapur Pattan Panchayat. The Ainapur Pattan Panchayat have given the certificate that the acquired land is situated within the limits of Pattan Panchayat. He has deposed that the acquired land surrounded by schools such as Shanti Sagar, and other Primary , Higher Primary and High Schools . He has deposed that the Dy. Commissioner passed an order

to convert the 5 acres of land in order to run Padmavati Vidyavardhak Society at Ainapur which is running the school. He has deposed that in the land bearing Sy. No. 262 , 5 acres converted as NA as per the order of the Tahsildar and in that property , the colleges are running. All these educational institutions are abutting to the acquired land. He has deposed that the land bearing Sy. No. 269/1 of Ainapur measuring 15 guntas converted as non agricultural land wherein Indira Gandhi Housing Society's Members have constructed the houses. He has deposed that in Sy. No. 269/1, the land was also given to KPTCL . In 10 guntas of land, given to Adinatha Bhajana Mandali, Ainapur. He has deposed that Ugar Sugar Factory is situated very near to the acquired land. Their acquired land just abutting to Ugar- Ainapur Road. The land bearing Sy. No. 262 is situated near their acquired land wherein the English Medium School and High Schools are situated. He states that as per the order of Dy. Commissioner, as 5 acres converted as Non Agricultural land in Sy. No. 262, there exists the college. He states that as the educational institutions Siddeshwar Temple are all very near to their acquired land. Their acquired land is NA potential land. There are number of commercial establishments such as hotel, dhaba and other shops are near to the acquired land. The land bearing Sy. No. 264 measuring 5 acres converted as NA Land wherein APMC is constructed is also situated near the acquired land. PW1 has deposed that Ainapur village is having population of nearly 1,00,000. There are Govt. Hospitals and Pvt. Hospitals , the banks such as State of India, Kotak Mahindra, IDFC banks are situated in Ainapur. He states that the acquired land comes within the jurisdiction of Ainapur Patan Panchayat . Hence, acquired land fetches more than Rs.20,00,000/- per gunta. Hence, he prays to fix the market value at the rate of Rs.20,00,000/- per gunta by treating the acquired land as NA Potential land .

(18) In order to prove the case of the claimants, the documents Ex.P1 to Ex.P23 are marked through PW1. Ex.P1 is the Letter issued by the Pattana Panchayat Ainapur Dated 22.2.2024 wherein it is mentioned that the land bearing Sy. No. **395/1** comes within the limits of Ainapur Pattana Panchayat. Ex.P2 is the CC of Mutation in ME No.64 with respect to the land Sy. No.269/1 measuring 15 acres for having reserved the same for construction of the house to the beneficiaries which allotted to the Indira Gandhi Housing Society , Ainapur, Ex.P2(a) is typed copy of Ex.P2. Ex.P3 is the CC of Conversion Order issued by the Dy. Commissioner, Ainapur relating to Sy. No.**269/1 .** Ex.P4 is the CC of mutation in ME No.3644 with respect to the land bearing Sy. No.269/1 measuring 4 acres, Ex.P4(a) is its typed document, Ex.P5 is the CC of mutation in ME No.4239 with respect to the land bearing Sy. No.269/1A measuring 2 acres, Ex.P5(a) is its typed document, Ex.P6 is the CC of ME No.5401 with respect to the land bearing Sy. No.269/1, Ex.P6(a) is its typed document,

Ex.P7 is the CC of Order passed by the Dy. Commissioner, regarding the conversion of remaining land in Sy. No.262 , Ex.P8 is the CC of the Mutation in ME No.5299 certified on 12.5.2000 regarding NA Order passed by Dy. Commissioner , with respect to the 5 acres of land in Sy. No.262. Ex.P8(a) is the typed document of Ex.P8. Ex.P9 is the CC of Order passed by the Dy. Commissioner, regarding the conversion of remaining land in Sy. No.262 , Ex.P10 is the CC of ME No.5361 , and Ex.P10(a) is its typed copy, Ex.P11 is the CC of conversion Order passed by the Dy. Commissioner, with respect to the land bearing Sy. No.264, Ex.P12 is the CC of ME No.948 , with respect to the land bearing Sy. No. 264, Ex.P12(a) is its typed document, Ex.P13 is the CC of Sale Deed dated 28.1.2016 with respect to the land bearing VPC No. 3827, measuring 111.48 feets of Ainapur , which sold for Rs.2,00,000/-, Ex.P14 is the CC of Sale Deed dated 21.4.2017 with respect to the land bearing VPC No. 2627/2 of Pattana Panchayat , Ainapur measuring EW 30 fts and NS 30 fts, which sold for Rs.1,22,000/-. Ex.P15 is the CC of Sale Deed dated 21.4.2017 with respect to the R.S. No.269/1B plot no.B9 measuring EW 18 Mtrs, NS 6 Mtrs, of the land bearing VPC No.1863/2 of Ainapur Pattana Panchayat which sold for Rs.1,50,000/-, Ex.P16 is the CC of Sale Deed dated 4.7.2017 with respect to the VPC No. 1909 measuring EW 9 Mtrs. NS 15 Mtrs which sold for Rs.1,85,000/-, Ex.P17 is the CC of Sale Deed dated 15.9.2017 with respect to the VPC No.2644, which sold for Rs.1,60,000/-, Ex.P18 is the CC of Sale Deed dated 9.2.2016 with respect to the land bearing VPC No. 998 B/2 of Pattana Panchayat , Ainapur, measuring EW 14 Ft. NS 18 Ft. which sold for Rs.1,50,000/-, Ex.P19 is the CC of Sale Deed dated 9.2.2016 with respect to the land bearing VPC No.998 B meg EW 7 Ft, NW 18 Ft, situated at Ainapur sold for Rs.85,000/- , Ex.P20 is the CC of Sale Deed dated 9.2.2016 with respect to the land bearing VPC No. 998 A meg EW 18 FT , NS 20 Ft situated at Ainapur sold for Rs.2,00,000/- , Ex.P21 is the CC of Sale Deed dated 27.11.2017 with respect to the land bearing VPC No.622 meg EW 33 Ft. NS 28 Ft. situated at Ainapur sold for Rs.4,50,000/- , Ex.P22 is the 65 B Certificate issued by one Sad S/o Shanur Nadaf certifying that the CC s are free from any technical errors U/sec. 65(B) , Ex.P23 are Two Village Maps of Ainapur (Tikka 1 and Tikka 2)

(19) During the course of cross-examination by the learned DGP for respondent No.1 , PW1 has admitted the suggestion that, Ainapur comes within the Pattana Panchayat. He has deposed that the Ainapur has been declared as Pattana Panchayat during the year 2015. Prior to that, it comes within the jurisdiction of Gram Panchayat. He has denied the suggestion that the acquired land is surrounded by the agricultural lands. He has denied the suggestion that based on the documents relied by him, the market value of the acquired land cannot be fixed.

(20) During the course of cross-examination by the learned counsel for the respondent No.2, PW1 has denied

the suggestion that their acquired land situated at the distance of 5 to 6 Kms from Ainapur Town. He has denied the suggestion that the SLAO rightly fixed the market value of the acquired land based on the sales statistics of the sale deeds executed between 2014 and 2017 . He has denied the suggestion that in order to get more compensation, he by filing the false documents, given false evidence.

(21) The learned counsel for the claimants argued that, the acquired land of the claimants are NA potential land which comes within the limits of Ainapur town Panchayat which fetches more than Rs.10,00,000/- per gunta. He argued that the SLAO without relying on the correct sale deeds wrongly fixed the market value of the acquired property and awarded the meager amount. He argued that the market value of the acquired property values more than Rs.2 Crores per acre. He relied on the judgment of the Hon'ble Supreme Court reported in (2012)

7 SCC 595 between Sabia Mohd Yusuf Abdul Ameed Mulla dead by Lrs V/s. SLAO and also relied on the judgment of the Hon’ble Supreme Court of India reported in (2010) 1 SCC 444 between Subhram and others V/s. State of Haryana and also relied the judgment of Hon’ble Supreme Court of India reported in 2022 Live Law (SC) 934 (Civil Appeal No.6821/2022) dated 9.11.2022, between Shankarayya represented by GPA Holder and others V/s. The Land Acquisition Officer and Revenue Divinal Officer, Peddapali Karimanagar Dist. And others . Hence, he prayed for the enhancement of the market value

(22) On the other hand, the learned DGP for respondent No.1 argued that the SLAO rightly followed the provisions contemplated U/sec.26 to 30 and by comparing with the sales statistics preceding 3 years of notification with SR value rightly fixed the market value. He argued that the oral evidence of PW1 and documents Ex.P1 to Ex.P23 are not sufficient to hold that the claimants are

entitled for enhancement of compensation amount. Hence, he prayed for dismissal of the petition and to confirm the award.

(23) The learned counsel for the respondent No.2 argued that the SLAO while determining the market value of the acquired land has adopted criteria as enumerated under Sec.26 to 30 of the RFCTLARR Act, 2013. He argued that based on the sale deeds relied by the claimants the compensation amount cannot be enhanced. He argued that the SLAO while assessing the market value relied on the sale statistics mentioned in Kostaka of the Award and by comparing the same with the SR Value rightly fixed the highest market value of the acquired property. He argued that the SLAO has followed the parameters set out under sec.26 to 30 of the RFCTLARR Act, 2013. He argued that the claimants have failed to prove that their acquired land is having NA Potential land. Hence, he prayed for dismissal of the reference application and confirm the award passed by

the SLAO.

(24) I have appreciated the rival contentions and perused the entire records.

(25) It is incumbent upon this Authority to decide whether the market value fixed by the SLAO is correct or not and whether the claimants are entitled for enhanced market value. It is the specific contention of the claimants are that their acquired land is having NA Potentiality. In order to substantiate the same the claimants relied on documents Ex.P1 to Ex.P12. On perusal of the documents Ex.P1 to Ex.P12 it would goes to show that the lands bearing Sy. No. 262, 264, 269/1, were all converted as Non Agriculture lands wherein the residential houses , the commercial establishments, educational institutions are situated. PW1 has deposed that their land is very near to Sy. No.s 262, 269/1 and 264 . He has produced document Ex.P1 certificate issued by the town Panchayat Ainapur, wherein it is clearly mentioned that Sy. No. 391/ 4 /B i.e.,

(acquired land) is situated within the jurisdiction of Ainapur Pattan Panchayat.

(26) During the course of cross-examination of PW1, nothing worth is elicited from his mouth to suggest that the acquired land is far away from the lands which are mentioned in Ex.P2 to Ex.p12 documents. The very award marked at Ex.R1 would goes to show that since the acquired land is situated within the limits of Ainapur Pattana Panchayat , the SLAO adopted multiplier factor as 1 . If at all the acquired land is situated more than 5 KMs away from the town, the SLAO would have adopted the multiplier factor as 2. The very multiplier adopted as 1 indicates that the acquired land situated within the area of Town Panchayat and having non agricultural potentiality.

(27) In the cross-examination of PW1, he has clearly deposed that Ainapur town Panchayat declared in the year 2015. In the present case, 11(1) notification issued on 21.12.2017. Much prior to 11(1) notification , Ainapur

Pattana Panchayat was formed . The oral evidence of PW1 which is supported by the documents Ex.P1 to 12 and Ex.R1 Award are sufficient to hold that the acquired land is having NA Potentiality. Hence, we can fix the market value of the acquired property based on Sq. Ft. basis.

(28) The learned counsel for the claimants produced the CC of judgment passed by this Authority in LAC No.408/2023, wherein this Authority already fixed the market value at the rate of Rs.175/- per Sq. Ft. considering the acquired property beg. Sy. No.385/6A Paiki as NA potential land. We cannot discriminate while calculating the market value with regard to the lands which acquired under the same notification.

(29) It is important to refer some of the judgments of Hon’ble High Court of Karnataka and Hon’ble Supreme Court of India. In the judgment of Hon'ble High Court of Karnataka Circuit Bench at Gulbarga which reported in ILR 2009 Karnataka 4417 wherein it is held that the State should

uniformly grant the compensation including solatium with interest thereon in accordance with law under the LA Act to all the persons whose properties are acquired without hostile discrimination. The fundamental right under Article 14 is inalienable and cannot be waived. In Judgment of Hon'ble High Court of Karnataka and Hon'ble Supreme Court reported in,

1. ILR 2003 Karnataka 2336
2. 2013(1) Karnataka LJ 106
3. (2010) 5 Supreme Court Cases 747 It is held that the uniform rates of compensation should be awarded.

(30) The Hon'ble Supreme Court in the judgment reported in AIR 2009 SC 3012 it is held that previous judgment of same court in determination of market value is admissible. In judgment reported in ILR 2004 2371 Kar SC it is held that previous judgment can be relied on.

In AIR 1988 SC P 62 (Chimanlal Hargovinddas Vs. SLAO, Poona, and another) wherein their Lordships held as under:

> *"The following factors must be etched on the mental screen:*
>
> *(1) A reference under section 18 of the Land*

Acquisition Act is not an appeal against the award and the Court cannot take into account the material relied upon by the Land Acquisition officer in his Award unless the same material is produced and proved before the Court.

(2) So also the Award of the Land Acquisition officer is not to be treated as a judgment of the trial Court open or exposed to challenge before the Court hearing the Reference. It is merely an offer made by the Land Acquisition officer and the material utilised by him for making his valuation cannot be utilised by the Court unless produced and proved before it. It is not the function of the Court to suit in appeal against the Award, approve or disapprove its reasoning, or correct its error or affirm, modify or reverse the conclusion reached by the Land Acquisition officer, as if it were an appellate court.

(3) The Court has to treat the reference as an original proceeding before it and determine the market value afresh on the basis of the material produced before it.

(4) The claimants are in the position of a plaintiff who has to show that the price offered for his land in the award is inadequate on the basis of the materials produced in the Court. Of course the materials placed and proved by the other side can also be taken into account for this purpose."

In the decision reported in ILR 2003 SUPREME COURT 4382, his lordship has held :

"(A) Land Acquisition Act (1 OF 1894), Section 2 –Compensation determination of, on basis of earlier judgments – plea that High Court erred in not taking sale instances into account while fixing compensation – compensation already fixed by High

Court in earlier proceedings and Supreme Court in one such proceedings has already approved rate fixed – Best method would be to look at the earlier judgments and awards and not sale instances – High Court cannot be faulted for having fixed compensation on the basis of earlier judgments"

In the decision reported in ILR 2004 Karnataka 2371 (Spl. Land Acquisition Officer V/s. FAKIRAPPA MOOGABASAVAPPA AND OTHERS), wherein the lordships held :

"In the matters relating to land acquisition the judgment of a court in regard to similar lands or properties would be a relevant piece of evidence. It is to be noted that, an element of guesswork is inherent in most of the cases involving determination of the market value of the acquired land. The previous awards in respect of similarly situated lands is a safe guide for determination of compensation."

In the decision reported in 2005 (4) KCCR SN 264, his lordship has held:

"Land Acquisition Act, 1894 – Section 18 – Market value – the best method for determining market value of acquired land is the amount which a willing purchaser of the land would pay to the owner of the land as may be evidenced by deeds of sale – in the absence of any direct evidence on the said point, the court may take recourse to other methods, viz., judgments and awards passed in respect of acquisitions of lands made in same village and/or neighboring villages – The reference court has to apply the comparable sales method and also the situation of the land, which is to be appreciated

> *upon considering the question as to whether acquired land is similar to any land sold in the vicinity.”*

In the decision reported in *ILR 2003 Kar. 2336 (State of Karnataka by SLAO and others Vs. Mallappa and others),* wherein it is held that uniform rate of compensation for all the acquired lands which are similarly situated to the adjoining villages cannot be faulted and on the basis of judgment and award made by the Court in similar other cases, the enhancement of compensation has to be made.

The Hon'ble Supreme Court in the case of **Viluben Jhalejar Contractor (deceased) through LR's v/s State of Gujrat reported AIR 2005 SC 2214,** 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	iv) Lower level requiring area 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 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 rely 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.

(31) The relevant statutory provision of RFCTLARR Act 2013 to determine the market value is section 69 and sec.26 to Sec. 30 of the RFCTLARR Act, 2013. This Authority

has to verify whether the SLAO has followed the parameters set out U/sec.26 to 30 of RFCTLARR Act, 2013. The provision U/sec.26 of RFCTLARR Act, 2013 is very clear that the market value can be fixed based on the registered documents such as sale deeds, agreement of sale or guidance value. The market value can be fixed based on the land situated in same area where the acquisition were made or situated near village or nearest vicinity area.

(32) In this petition, the claimants claimed that the market value of their acquired land is more than Rs.10,00,000/- per gunta. I have already noted down the deposition of P.W.1 and documents Ex.P1 to Ex.P23. In this petition, the claimants have relied on the registered sale deeds of Ainapur Village which are marked at Ex.P13 to Ex.P21. Ex.P13 is the CC of Sale Deed dated 28.1.2016, Ex.P14 is the CC of Sale Deed dated 21.4.2017, Ex.P15 is the CC of Sale Deed dated 13.4.2017, Ex.P16 is the CC of Sale Deed dated 3.7.2017, Ex.P17 is the CC of Sale Deed dated 15.9.2017,

Ex.P18 is the CC of Sale Deed dated 8.2.2016 for Property No.998B/2, Ex.P19 is the CC of Sale Deed dated 8.2.2016 for Property No.998B, Ex.P20 is the CC of Sale Deed dated 8.2.2016 for Property No.998A, Ex.P21 is the CC of Sale Deed dated 27.11.2017 . This authority is of the opinion that we can rely sale deeds marked at Ex.P13 to Ex.P21 which are all of the sale deeds of the plots / vacant site which are situated within the limits of Ainapur Town Panchayat. Since all the sale deeds under the documents Ex.P13 to Ex.P21 are of the sale deeds of residential plots are the good guiding factors in order to calculate the market value of the acquired land which are as follows:

<u>List of registered sale deeds of Residential Plots taken place in Ainapur</u>

Sl. No.	VPC No.	Date of registration	Sale consideration to Rs.	Extent in Sq.Fts	Ex.Ps
1	3827	28.1.2016	2,00,000/-	1199.9	Ex.P13
2	2627	21.4.2017	1,22,000/-	900	Ex.P14
3	1909	13.4.2017	1,85,000/-	1453	Ex.P15

4	2644	3.7.2017	1,60,000/-	1200	Ex.P16
5	998 B/2	15.9.2017	1,50,000/-	252	Ex.P17
6	998B	8.2.2016	85,000/-	126	Ex.P18
7	998A	8.2.2016	2,00,000/-	360	Ex.P19
8	622	8.2.2016	4,50,000/-	924	Ex.P20

(33) The provision U/sec. 26 Explanation 2 is very clear that one ½ of total number of sale deeds which are of the highest sale price to be considered while fixing the market value. Hence, we can calculate the market value based on Ex.P13, 15, 19, 20 sale deeds which are as follows:

The highest four sale deeds calculates as follows:

Sl. No.	Sy. No.	Date of Registration	Sale consideration to Rs.	Extent in Sq.Fts	Ex.Ps
1	3827	28.1.2016	2,00,000/-	1199.9	Ex.P13
3	1909	13.4.2017	1,85,000/-	1453	Ex.P15
7	998A	8.2.2016	2,00,000/-	360	Ex.P19
8	622	8.2.2016	4,50,000/-	924	Ex.P20

Total: 10,35,000/- for 3,936 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, 15, 19, 20 are having converted 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.

(34) The market value fixed by the SLAO to the acquired land at the rate of Rs.6,99,520/- per acre is inadequate and unreasonable. It should be of Rs.175/- per Sq. Ft. Hence, based on the documents Ex.P13, 15, 19, 20, the market value of the acquired property calculated at the rate of Rs.175/- per Sq Ft. Hence, the claimants are entitled for enhanced market value at the rate of Rs.175/- per Sq. Ft. with all statutory benefits to the acquired land which acquired under the preliminary notification dated 21.12.2017. Hence, I answer Point No.2 and 3 in the Affirmative.

(35) **POINT NO.4**: 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 claimants are

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 claimants situated in the urban area and hence, he is entitled for 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 claimants are 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 Partly in the Affirmative.

(36) **Point NO.5**: In view of my above discussions and the reasons stated therein and my answer to Point No.1 to 4, I proceed to pass the following:

ORDER

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

The claimants are awarded market value of Rs.175/- (Rupees One Hundred Seventy Five Only) per Sq. Ft. for the acquired land having NA Potentiality bearing Sy.No.395/1 measuring 5 guntas 00 annas of Ainapur Village, Kagawad Tq., Belagavi Dist. with statutory benefits instead of Rs.6,99,520/- per acre.

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

The claimants are also entitled for interest on enhanced compensation as per Sec. 72 and 80 of The RFCTLARR Act, 2013.

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

The respondents are given three months' time to deposit the remaining compensation amount.

Advocate's fee is fixed at Rs.1,000/-.

Draw award accordingly.

[Dictated to the stenographer directly on monitor, typed by her and same is corrected by me and pronounced in the open court on this the 3rd day of May, 2025)

MOHAN PRABHU
IV Addl District & Sessions Judge and The LAR and R Authority, Belagavi
and having
C/C of I Addl. Dist. & Sessions Judge and
The LAR & RA, BELAGAVI.

ANNEXURE

List of witnesses examined for the petitioner/s:-

PW1- Gundu S/o Virupax Aparaj,

List of documents marked for the petitioner/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-CC of Sale Deed dated 28.1.2016

Ex.P14-CC of Sale Deed dated 21.4.2017

Ex.P15-CC of Sale Deed dated 13.4.2017

Ex.P16-CC of Sale Deed dated 3.7.2017

Ex.P17-CC of Sale Deed dated 15.9.2017

Ex.P18-CC of Sale Deed dated 8.2.2016 for Property No.998B/2

Ex.P19-CC of Sale Deed dated 8.2.2016 for Property No.998B

Ex.P20-CC of Sale Deed dated 8.2.2016 for Property No.998A

Ex.P21-CC 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)

List of witnesses examined for the respondent/s:- Nil

List of documents marked for the respondent/s:-

Ex.R1-Award

IV Addl District & Sessions Judge and The LAR and R Authority, Belagavi and having C/C of I Addl. Dist. & Sessions Judge and The LAR & RA, BELAGAVI