

KACN020013962023



**IN THE COURT OF SENIOR CIVIL JUDGE AND CJM., AT  
CHAMARAJANAGAR.**

Dated 12<sup>th</sup> day of February 2023

Present:-

**SRI. B. S. HONNASWAMY, B.A. LL.M.,**  
Senior Civil Judge and CJM.,  
Chamarajanagar.

**Misc/10/2023**

**Petitioner :- Madashetty**  
S/o Late. Rangashetty,  
Aged about 70 years  
R/at: Y.K.Mole Village,  
Yelandur Taluk,  
Chamarajanagar District.

[By Sri. H.N.L., Advocate]

**V/s**

**Respondent :- The Special Land Acquisition Officer**  
K.R.Project, MUDA Building,  
Ramakrishna Nagar,  
Mysore

[By learned ADGP]

### **ORDERS**

The petitioner filed miscellaneous application U/O 9 Rule 9 of CPC to set aside the dismissal order passed by this court dated 25.07.2011 in LAC 521/2002 and prays to restore the said LAC 521/2002.

#### 2. Brief facts of the petitioner's case:-

The petitioner submits that he was the owner of land bearing Sy.No. 432/1 an extent of 02 guntas which is situated at Ambale Village, Kasaba Hobli, Yelandur Taluk Chamarajanagar District which was acquired by the respondents for the purpose formation of channel. Further submits that he received award amount with protest and in spite of application filed by him the reference was referred to this honourable court for enhancement of market value of acquired land in L.A.C.No.521/2002. Further submits that on 25-07-2011 then he could not appear before this honourable court due to bona-fide reason that he was not aware of the hearing date for which this honourable court was pleased to dismiss the reference for non-prosecution in L.A.C.No.521/2002 dated 25-07-2011. Further submits that now the he has recently come to know about the said case was dismissed for non-prosecution and immediately he has approached the counsel and obtained all necessary documents and filed this petition for set-aside the dismissal

order. He further submits that his absence is not an intentional one but for the above said bonafide reasons, he could not attend this honourable court and he lost his land for public purpose and the acquired land is only the earning source of the petitioner and also entire family depending upon the source of the acquired land. Further submits that if the petition is not allowed, then he will be put to great hardship, injustice and inconvenience and no hardship or injustice will be, caused to the respondent if the petition is allowed. Hence prays to allow the application.

3. After issuing notice to the respondent, the respondent appeared through ADGP and orally objected to dismiss the said application.

4. Heard the arguments of counsel for the petitioner and ADGP and perused the materials on record.

5. The points that arise for my consideration;-

(1). Whether the application is deserves to be allowed?

(2). What order ?

6. To prove the above points, petitioner examined as PW-1 and marked Ex.P1. Respondent's side did not examine any witness nor marked any documents.

7. My finding on the above points as follows:-

Point No.1:- In the Affirmative

Point No.2:- As per the following order for the following;-

### **REASONS**

8. **Point No.1**:- It is admitted fact that LAC 521/2002 was filed by the petitioner before this court U/s.18 of the reference application of LAC Act for enhancement of compensation passed by the respondent. Petitioner filed affidavit as PW-1 by reiterating petition averments. On perusal of Ex.P1 certified copy of order sheet in LAC 521/2002, which shows that on 25.07.2011 petitioner absent, evidence not led, no grounds to adjourn the case. Hence petition is dismissed for non-prosecution. But from three dates of hearing, petitioner remained absent inspite of granting sufficient time by this court. But on perusal of PW-1, due to bonafide reasons the petitioner could not approach his advocate as he went to some other State for doing coolie work and could not meet his advocate. Hence, said case was dismissed. If this court gives an opportunity to the petitioner to lead evidence, no injury will be caused to the respondent because the petitioner has loosed his land by taking lessor amount from the respondent, the case has to be decided on merits. Hence, the reasons mentioned in the affidavit is bonafide and the application deserves to the allowed. **Hence I answer point No.1 in the affirmative.**

9. **Point No.2**:- for the reasons discussed in point No.1  
I proceed to pass the following:-

**ORDER**

Application filed by the petitioner U/O 9  
Rule 9 CPC is hereby allowed.

The order passed by this court in LAC  
521/2002 dated 25.07.2011 is hereby set  
aside. The said LAC 521/2002 is restored.

Office is directed to restore the LAC in its  
original position.

(Dictated to the Stenographer direct on computer and typed by him, revised corrected and then  
pronounced by me in the open court, on this the **12<sup>th</sup> day of February, 2023**)

**(B.S.HONNASWAMY)**

Senior Civil Judge & M.A.C.T,  
Chamarajanagar.

**ANNEXURE**

List of witnesses examined by the Petitioner:

PW1 : Mahadevashetty

List of documents exhibited by the Petitioners:

Ex.P1 : CC of order in LAC No.521/02

List of witnesses examined by the Respondent: NIL

List of documents exhibited by the Respondent: NIL

Senior Civil Judge and C.J.M.,  
Chamarajanagar.