IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 23RD DAY OF SEPTEMBER, 2024

PRESENT

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

MISCELLANEOUS FIRST APPEAL NO.103325 OF 2023 (LAC)

BETWEEN

THE EXECUTIVE ENGINEER,
KNNL, REHABILITATION AND RESETTLEMENT DIVISION,
HIPPARAGI DAM PROJECT, HIPPARAGI,
TQ. JAMAKHANDI, DIST. BAGALKOT-587301.

...APPELLANT

(BY SRI. S. M. KALWAD, ADVOCATE)

AND

Digitally signed by VISHAL NINGAPPA PATTIHAL
Location: HIGH COURT OF KARNATAKA

1. THE STATE OF KARNATAKA,
   REPRESENTED BY DEPUTY COMMISSIONER,
   DIST. BAGALKOT, BAGALKOT, PINCODE 587101.

2. THE SPECIAL LAND ACQUISITION OFFICER
   HIPPARAGI DAM PROJECT, ATHANI-591304.

3. SRI SANJEEV S/O. BALASAB PATIL,
   AGE. 46 YEARS OCC. AGRICULTURE,
   R/O. TAMADADDI, TQ. JAMAKHANDI,
   DIST. BAGALKOT-413201.

...RESPONDENTS

(BY SRI. GANGADHAR J. M, AAG FOR
SRI. V. S. KALASURMATH, HCGP FOR R1 & R2;
SRI. PRASHANT S. KADADEVAR, ADV. FOR R3)

THIS MFA IS FILED U/SEC.74 (1) OF RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013, PRAYING TO, SET ASIDE THE JUDGMENT AND AWARD DATED 01/09/2022 MADE IN L.A.C. NO.684/2018 PASSED BY THE COURT OF I ADDL. DISTRICT AND SESSIONS JUDGE, BAGALKOT, TO SIT AT JAMAKHANDI AND THE LAND ACQUISITION, REHABILITATION AND RESETTLEMENT AUTHORITY, JAMAKHANDI BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS APPEAL HAVING BEEN RESERVED FOR JUDGMENT ON 04.09.2024 COMING ON FOR PRONOUNCEMENT, THIS DAY, **KRISHNA S.DIXIT J.,** DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

CAV JUDGMENT
(PER: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT)

This appeal is filed under Section 74(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 for laying a challenge to the Judgment & Award dated 01.09.2022 entered by the Reference Court in land losers LAC No.684/2018 whereby a huge enhancement of compensation has been accorded. Apparently, appeal is filed beyond the prescribed period of 60 + 60 = 120 days. There is an admitted delay of 242 days in filing the appeal and an application seeking its condonation accompanies it.

2. Section 74(1) along with the Proviso thereto (sub-section (2) not being relevant) of the 2013 Act has the following text:

"***74. Appeal to High Court.***

> *(1) The Requiring Body or any person aggrieved by the Award passed by an Authority under section 69 may file an appeal to the High Court within sixty days from the date of Award:*
>
> *Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."*

The language of this provision being as clear as Gangetic waters, in our view, does not admit any interpretation. A Coordinate Bench of this Court in **THE DEPUTY COMMISSIONER AND SPECIAL LAND ACQUISITION OFFICER, BENGALURU VS. M/S. S.V. GLOBAL MILL LIMITED, CHENNAI, ILR 2020 Kar 1897,** having deeply examined all aspects of the said provision, has held that the same is mandatory and therefore, an application for condonation of delay beyond the statutory limit of sixty days, is impermissible. In our today's judgment rendered in M.F.A.No.102543/2022 between **THE EXECUTIVE ENGINEER VS. SPECIAL LAND ACQUISITION OFFICER**, we have declined the request for referring this matter for consideration at the hands of a Larger Bench of this Court u/s 7 of the Karnataka High Court Act, 1961,

having respectfully agreed with the ratio laid down in the said decision.

3. We reiterate that the limitation for filing appeal of the kind, as prescribed under Section 74(1) of the Act is 60 days; the condonable limit of delay as specified in the Proviso to sub-section (1) of this section is 60 days, as a maxima. Thus, in all, 120 days do avail for preferring the appeal, and after the expiry of this period, application for condonation of delay cannot be entertained. As a consequence, the appeal filed beyond 120 days also cannot be entertained. Concomitant of this is: the award passed by the Reference Court under the provisions of 2013 Act would become final once for all, consistent with the Parliamentary Policy enacted in the subject Proviso to sub-section (1) of section 74. Therefore, the application seeking condonation of delay which is admittedly beyond 60 days, regardless of arguably plausible explanation offered therefor, cannot be considered.

In the above circumstances, the application seeking condonation of delay is rejected, as not being maintainable

and as a consequence, the appeal is also rejected, costs having been made easy.

Sd/-
(KRISHNA S.DIXIT)
JUDGE

Sd/-
(VIJAYKUMAR A.PATIL)
JUDGE

VNP & KMS