NC: 2024:KHC-D:14538
MFA No. 103423 of 2023

IN THE HIGH COURT OF KARNATAKA,

DHARWAD BENCH

DATED THIS THE 27TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

MISCELLANEOUS FIRST APPEAL NO. 103423 OF 2023

BETWEEN:

THE EXECUTIVE ENGINEER,
KNNL, REHABILITATION AND RESETTLEMENT DIVISION,
HIPPARAGI DAM PROJECT,
HIPPARAGI, TQ. JAMAKHANDI,
DIST. BAGALKOT-587 301.

...APPELLANT

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

AND:

1. THE STATE OF KARNATAKA,
REP. BY DEPUTY COMMISSIONER,
DIST. BAGALKOT, BAGALKOT,
PINCODE- 587 101.

2. THE SPL. LAND ACQUISITION OFFICER,
HIPPARAGI DAM PROJECT,
ATHANI-591 304.

3. SRI. TUKARAM S/O. ARJUN MAHAR @ KAMBALE,
AGE. 58 YEARS, OCC. AGRICULTURE,
R/O. TAMADADDI, TQ. JAMAKHANDI,
BAGALKOT-587 301.

...RESPONDENTS

(BY SRI. GANGADHAR J.M, AAG FOR
SMT. GIRIJA S. HIREMATH, HCGP FOR R1 AND R2
SRI. PRASHANT S. KADADEVAR, ADVOCATE 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

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

ASIDE THE JUDGMENT AND AWARD DATED 03/09/2022 MADE IN L.A.C. NO.707/2018 PASSED BY THE COURT OF I ADDITIONAL DISTRICT AND SESSIONS JUDGE, BAGALKOT, TO SIT AT JAMAKHANDI AND THE LAND ACQUISITION, REHABILITATION AND RESETTLEMENT AUTHORITY, JAMAKHANDI.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, THE COURT DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ORAL JUDGMENT

This appeal is filed under Section 74(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 laying a challenge to the Judgment & Award dated 03.09.2022 passed by the Reference Court in LAC No.707/2018 whereunder 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 240 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 my 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 recent Division Bench judgment dated 23.09.2024 rendered in M.F.A.No.102543/2022 between **THE EXECUTIVE ENGINEER VS. SPECIAL LAND**

ACQUISITION OFFICER, Division Bench declined the request for referring the 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. I 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 therefore, cannot be considered.

4. In the above circumstances, the application seeking condonation of delay is rejected, as not being maintainable and as a consequence, the appeal is also dismissed, costs having been made easy. As consequence, pending application, if any, does not survive for consideration.

5. It is made clear that Court has not examined on merits, the sustainability of re-determination of market value and consequent enhancement of compensation awarded by the reference Court. The dismissal of this appeal is subject to decision in SLP Nos.215 -2016 of 2023 (M/s S.V Global Mill Limited) pending before the Hon'ble Apex Court.

6. In view of dismissal of this appeal, the Registry to transmit the amount in deposit to the Reference Court

immediately for being released in favour of claimants in accordance with law.

Sd/-
(SHIVASHANKAR AMARANNAVAR)
JUDGE

DSP
List No.: 2 Sl No.: 338