NC: 2024:KHC-D:17930
MFA No. 103424 of 2023

**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**

DATED THIS THE 6TH DAY OF DECEMBER, 2024

**BEFORE
THE HON'BLE MR. JUSTICE C.M. POONACHA**

MISCELLANEOUS FIRST APPEAL NO.103424 OF 2023 (LAC)

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. SIDRAM S/O. ARJUN @ MAHAR @ KAMBALE,
   AGE: 60 YEARS, OCC: AGRICULTURE,
   R/O: TAMADADDI, TQ: JAMAKHANDI,
   BAGALKOT – 587 301.

…RESPONDENTS

(BY SRI RAMESH CHIGARI, AGA FOR R1)

Digitally signed by CHANDRASHEKAR LAXMAN KATTIMANI
Location: High Court of Karnataka

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 03/09/2022 MADE IN L.A.C. NO.706/2018 PASSED BY THE COURT OF I ADDITIONAL DISTRICT AND SESSIONS JUDGE, BAGALKOT, TO SIT AT JAMAKHANDI AND THE LAND ACQUISITION, REHABILITATION AND

RESETTLEMENT AUTHORITY, JAMKHANDI BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.,

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: THE HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE C.M. POONACHA)

Learned AGA takes notice for respondent No.1-State. Notice is not issued to respondent Nos.2 and 3, since the appeal is disposed off on a question of law.

2. This appeal is filed under Section 74(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013[1] laying a challenge to the Judgment & Award dated 03.09.2022 passed by the Reference Court in LAC No.706/2018 whereunder enhancement of compensation has been accorded. The above appeal is filed beyond the prescribed period of 60 + 60 = 120 days and there is a delay of 240 days in filing the appeal. An application is filed seeking condonation of delay.

[1] Hereinafter referred as "the 2013 Act"

3. Section 74(1) along with the Proviso thereto (sub-section (2) not being relevant) of the 2013 Act is noticed for ready reference:

> "***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."*

4. The language of Sub-section (1) of Section 74 and the proviso thereof of the 2013 Act is clear. Further, a Division Bench of this Court in the case of **THE DEPUTY COMMISSIONER AND SPECIAL LAND ACQUISITION OFFICER, BENGALURU VS. M/S. S.V. GLOBAL MILL LIMITED, CHENNAI[2],** has examined the matter in great detail and held that Section 74 of the 2013 Act is mandatory in nature and an application for condonation of delay beyond the statutorily permissible time limit is not

[2] ILR 2020 KAR 1897

liable to be favourably considered. Further, a Division Bench of this Court in the case of **THE EXECUTIVE ENGINEER VS. SPECIAL LAND ACQUISITION OFFICER**[3] has declined the request for referring the matter for reconsideration to a larger Bench.

5. In view of the aforementioned, the application seeking condonation of delay is dismissed. Consequently, the appeal is also dismissed.

6. It is made clear that this Court has not examined the matter on merits with regard to 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 the decision in SLP Nos.215 -2016 of 2023 *(M/s S.V Global Mill Limited)* pending before the Hon'ble Apex Court.

7. In view of dismissal of this appeal, the Registry to transmit the amount in deposit, if any, to the Reference

[3] Order dated 23.09.2024 passed in MFA No.102543/2022

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

Sd/-
(C.M. POONACHA)
JUDGE

PMP/CT-ASC
List No.: 1 Sl No.: 5