IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 28TH DAY OF OCTOBER, 2024

BEFORE

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

MISCELLANEOUS FIRST APPEAL NO.103429 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:

1. THE STATE OF KARNATAKA,
REP. BY DEPUTY COMMISSIONER,
DIST. BAGALKOT-587101.

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

SRI VITHAL S/O. LAKKAPPA MAHAR @ KAMBALE,
DEAD BY HIS LRS,

3. SMT. SUBHADRAWWA
W/O. VITHAL KAMBALE @ MAHAR,
AGE. 64 YEARS, OCC. HOUSEHOLD WORK,
R/O. TAMADADDI, TQ. JAMAKHANDI,
PINCODE-597301.

4. SMT. GODAWWA @ GODABAI
W/O. ASHOK WAGAMURI @ WAGAMORE,
AGE. 45 YEARS, OCC. HOUSEHOLD WORK,
R/O. TAMADADDI, TQ. JAMAKHANDI,
PIN CODE-597301.

SAROJA HANGARAKI
Digitally signed by SAROJA HANGARAKI
Location: High Court of Karnataka, Dharwad Bench
Date: 2024.11.12 12:48:40 +0530

5. SMT. MAHADEVI W/O. NIRAPAD KAMBALE,
AGE. 44 YEARS, OCC. HOUSEHOLD WORK,
R/O. SHIVANUR, TQ. ATHANI,
PIN CODE-591304.

6. SRI BASAVARAJ
S/O. LAKKAPPA KAMBALE @ MAHAR,
AGE. 23 YEARS, OCC. STUDENT,
R/O. TAMADADDI, TQ. JAMAKHANDI,
PIN CODE-597301.

7. SMT. SAVITRI W/O. KALLAPPA KAMBALE,
AGE. 42 YEARS, OCC. HOUSEHOLD WORK,
R/O. NANDGAON, TQ. ATHANI,
PIN CODE-591304.

8. SMT. SOBAWWA @ SHOBHA
W/O. KESHAV KAMBALE,
AGE. 40 YEARS, OCC. HOUSEHOLD WORK,
R/O. MOLE, TQ. ATHANI,
PIN CODE-591304.

9. SMT. NETRA @ SANTAWWA
W/O. PANCHAKSHARI GOTADAKI,
AGE. 35 YEARS, OCC. HOUSEHOLD WORK,
R/O. MUTTUR, TQ. JAMAKHANDI,
PINCODE-597301.

…RESPONDENTS

(BY SMT. KIRTILATA R.PATIL, HCGP, FOR R1 AND R2;
SRI PRASHANT S.KADADEVAR, ADV., FOR R3 TO R9,

THIS MISCELLANEOUS FIRST APPEAL IS FILED UNDER SECTION 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 02/09/2022 MADE IN L.A.C. NO.690/2018 PASSED BY THE COURT OF I ADDITIONAL DISTRICT AND SESSIONS JUDGE, BAGALKOT, TO SIT AT JAMAKHANDI BY ALLOWING THIS APPEAL, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS MISCELLANEOUS FIRST APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

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

ORAL JUDGMENT

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

Learned HCGP takes notice for respondent Nos.1 and 2.

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 02.09.2022 passed by the Reference Court in LAC No.690/2018, 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 276 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.

8. In view of disposal of the appeal, pending interlocutory applications, if any, do not survive for consideration.

Sd/-
(C.M. POONACHA)
JUDGE

ND
List No.: 2 Sl No.: 20