NC: 2024:KHC:31693
MSA No. 35 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF AUGUST, 2024

BEFORE

THE HON'BLE MR JUSTICE V SRISHANANDA

MISCELLANEOUS SECOND APPEAL NO. 35 OF 2023 (LA)

BETWEEN:

SRI K RAJANNA,
S/O KIDIYAPPA,
AGED ABOUT 45 YEARS,
R/AT AMBARAPURA VILLAGE,
KADABA HOBLI, GUBBI TALUK,
TUMAKURU DISTRICT-577 223.

...APPELLANT

(BY SRI V B SIDDARAMAIAH, ADVOCATE [PH])

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER,
   HEMAVATHI CANAL ZONE,
   TUMAKURU-572 104.

2. THE CHIEF ENGINEER,
   HEMAVATHI CANAL ZONE,
   KUNIGAL ROAD,
   TUMAKURU-572 104.

...RESPONDENTS

(BY SRI T.P MALIPATIL, AGA FOR R-1 [PH];
SRI K.S BHEEMAIAH, ADVOCATE FOR R-2 [PH])

THIS MSA IS FILED UNDER SECTION 54(2) OF THE LAND ACQUISITION ACT -1894, AGAINST THE JUDGMENT AND DECREE DATED 28.11.2016 PASSED IN RA NO.135/2015 ON THE FILE OF THE I ADDITIONAL DISTRICT AND SESSIONS JUDGE, TUMAKURU. PARTLY ALLOWING THE APPEAL AND SETTING ASIDE THE JUDGMENT AND DECREE DATED

Digitally signed by NANDINI R
Location: High Court of Karnataka

17.10.2015 PASSED IN LAC NO.50/2009 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC, GUBBI. PARTLY ALLOWING THE PETITION FILED UNDER SECTION 18(1) OF THE KARNATAKA LAND ACQUISITION ACT FOR ENHANCEMENT COMPENSATION.

THIS APPEAL COMING ON FOR ADMISSION THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE V SRISHANANDA

ORAL JUDGMENT

Heard Sri.V.B.Siddaramaiah, learned counsel for the appellant, Sri.T.P.Malipatil, learned Additional Government Advocate for respondent No.1 and Sri.K.S.Bheemaiah, learned counsel for respondent No.2/beneficiary.

2. Appeal by the claimant in respect of 5 mango trees alone. Admittedly, land of the claimant got acquired for the purpose Hemavathi Canal of Ambarapura Village. Determination of the compensation by the Land Acquisition Officer, Reference Court and First Appellate Court are being questioned only with regard to the 5 mango trees by the claimant.

3. In a similar matter, where it reached this Court in MSA.No.94/2016, the Co-ordinate Bench of this Court

has awarded compensation in a sum of Rs.1,01,055/- per mango tree by order dated 03.07.2023. Same is not further challenged by respondents and said order has reached finality.

4. In the case on hand, existence of mango trees is not in dispute. But Sri.K.S.Bheemaiah, learned counsel contends that the Reference Court itself has noted that they were small mango trees. But no contra evidence is placed on record to show whether the mango trees were fruit bearing mango trees or not.

5. Under such circumstances, the claimant is entitled to enhanced compensation in respect of 5 mango trees at the rate of Rs.1,01,055/- per mango tree with all consequential reliefs. Appeal needs to be allowed to that extent.

6. Accordingly, the following:

ORDER

(i) The appeal is allowed in part.

(ii) The claimant/appellant is entitled to compensation at the rate of Rs.1,01,055/- per mango tree in respect of five mango trees with all consequential benefits, less the payment of interest for the delayed period of 1480 days in filing the appeal.

(iii) Office to pass modified award.

Sd/-
(V SRISHANANDA)
JUDGE

NR/-
List No.: 1 Sl No.: 32