IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 28TH DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.101628 OF 2023 (LA-RES)

BETWEEN:

MANANTAPPA S/O. SANGAPPA TIMMAPUR
AGE: 40 YEARS, OCC: AGRICULTURE,
R/O. IDDALAGI VILLAGE-587112,
TQ: HUNAGUND, DIST: BAGALKOT.

...PETITIONER

(BY SRI PRASHANT S. KADADEVAR, ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER
   UPPER KRISHNA PROJECT,
   NAVANAGAR-587103, BAGALKOT.

2. THE COMMISSIONER
   THE LAND ACQUISITION AND REHABILITATION
   AND RECONSTRUCTION, UPPER KRISHNA PROJECT,
   NAVANAGAR-587103, BAGALKOT.

3. THE EXECUTIVE ENGINEER
   UPPER KRISHNA PROJECT
   REHABILITATION DIVISION NO.2
   ALAMATTI-586 201, TQ: BASAVAN BAGEWADI,
   AT PRESENT NIDAGUNDI-586 213.

...RESPONDENTS

(BY SRI PRASHANT V. MOGALI, HCGP)

Digitally signed by YASHAVANT NARAYANKAR
Location: High Court of Karnataka, Dharwad Bench

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING THIS COURT TO ISSUE WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENTS TO CONSIDER THE REPRESENTATIONS DATED 17.2.2018 ANNEXURE-C AND C1 RESPECTIVELY AND THE REPRESENTATION DATED 22.02.2018 IS PRODUCED HEREWITH AND

MARKED AS ANNEXURE-C2 IN THE INTEREST OF JUSTICE AND SUCH OTHER RELIEFS.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The captioned writ petition is filed by the petitioner seeking writ of mandamus directing the respondents to consider his representations.

2. The grievance of the petitioner is that respondent/authorities have paid compensation only in respect of land bearing Sy.No.78/1B measuring 23 guntas but however they have denied compensation in respect of residential house. The petitioner to prima facie demonstrate in regard to existence of residential house in Sy.No.78/1B has produced notification vide Annexure-A. The acquisition details pertaining to petitioner's land is reflected at column No.37 of Annexure-B. At column No.37 of Annexure-B, the existence of one residential house is also reflected.

3. The award is also placed on record vide Annexure-B by the petitioner. The final award also

indicates in existence of residential house at paragraph No.37. However, in the subsequent part of the award the authorities have come to the conclusion that the petitioner does not owned any residential house and trees as claimed by the petitioner.

4. At one breath, petitioner claims that the Authorities have awarded compensation in respect of residential house to the tune of Rs.2,19,234/- which is evident from Annexure-E and at second breath the petitioner claims that no compensation is paid. There is also ambiguity and confusion in the preliminary notification as well as in the final notification in regard to payment of compensation to the residential house owned by the petitioner. Preliminary notification vide Annexure-A, reveals that the petitioner has also lost one residential house on account of acquisition. In final notification two conflicting observations are there in regard to existence of the residential house.

5. Petitioner at one breath claims that the respondents have paid lesser compensation in respect of

residential house. If that is so, then his remedy is to seek enhancement before the Reference Court. If respondents have denied any compensation in respect of residential house, then proper recourse has to be adopted by the authorities having indicated in existence of residential house in preliminary notification vide Annexure-A.

6. Therefore, I am of the view that mandamus lies to the respondents. For the reasons stated supra, I pass the following;

ORDER

The writ petition is hereby allowed.

Respondents shall consider the representations and take appropriate action in accordance with law.

SD/-
JUDGE

EM
List No.: 1 Sl No.: 28