NC: 2024:KHC-D:1864
WP No. 104841 of 2023

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 25TH DAY OF JANUARY, 2024

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO. 104841 OF 2023 (LA-RES)

BETWEEN:

SMT. MAHESHWARI W/O BHIMANATH DANTI
AGE. 80 YEARS, OCC. HOUSEWIFE,
R/O . OPP. MORDERN HALL, TOLL NAKA,
DHARWAD-580001.

...PETITIONER

(BY SRI. SHUBHENDU A AKALWADI.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
R/BY ITS PRINCIPAL SECRETARY,
URBAN DEVELOPMENT DEPARTMENT,
5TH FLOOR, M.S. BUILDING,
AMBEDKAR VEEDHI,
BENGALURU-01

2. THE CHIEF ENGINEER,
KARNATAKA ROAD DEVELOPMENT
CORPORATION LTD.,
NO. 16 MILLAR TAN BED AREA, TIMMAYYA ROAD
CROSS,
BENGALURU-560002.

3. HUBLI-DHARWAD BRTS COMPANY LTD
R/BY ITS MANAGING DIRECTOR,
OFFICE OF BRTS, 1ST FLOOR,

SUJATA SUBHASH PAMMAR
Digitally signed by SUJATA SUBHASH PAMMAR
Date: 2024.01.29 03:16:18 -0800

KSFC BUILDING, RAYAPUR,
DHARWAD-580001.

4. THE SPECIAL LAND ACQUISITION OFFICER,
KARNATAKA ROAD DEVELOPMENT CORPORATION,
LTD. 1ST FLOOR,
KSFC BUILDING, RAYAPUR,
DHARWAD-580001.

5. THE COMMISSIONER
HUBBALLI-DHARWAD MUNICIPAL CORPORATION,
DHARWAD-580001

…RESPONDENTS

(BY SRI. MAHANTESH SHETTAR, AGA FOR R1;
SRI. C.V.ANGADI, ADVOCATE FOR R2 TO T4;
SRI. G.I. GACHCHINAMATH, ADVOCATE FOR R5)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO:

A) ISSUE THE WRIT IN THE NATURE OF CERTIORARI BY QUASHING THE ORDER PASSED BY RESPONDENT NO.4 BY ITS COMMON ORDER DATED 23/06/2015 VIDE NO.KRDCL/BHUSWA/AITIRPU/SARKARI/CR-07/2014-15 VIDE ANNEXURE-F.

B) ISSUE THE WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENTS TO PASS AN AWARD AND TO PAY COMPENSATION TO THE PETITIONERS FOR THE LANDS THAT HAVE BEEN ACQUIRED.

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

ORDER

The plot No.1 in Sy.No.63 measuring an extent of 4 guntas 10.75A was acquired for the purpose of road widening of State Highway No.73. However, the petitioner has been denied the compensation on the ground that the subject property was designated for widening of road in the master plan published by the Hubballi-Dharwad Urban Development Authority, and also at the time of development of the layout.

2. The issue involved in this petition was examined by this Court in WP.No.108208/2016 and connected petitions by which it was held that the owners of the lands which were designated for widening of road in the master plans are entitled for compensation and the same was affirmed by the Division Bench of the Court in WA No.100266/2022 and the connected appeals disposed of on 07.10.2023. Therefore, this petition also requires to be disposed of in the light of the decisions in the aforesaid cases. Accordingly, I proceed to pass the following:

ORDER

i) The petition is allowed.

ii) The impugned award dated 23.06.2015 passed by the respondent No.4 at Annexure-F insofar as it relates to denial of compensation in respect of the petitioner's land is hereby quashed.

iii) Respondent Nos.1 to 5 are directed to pass an award and pay compensation in accordance with law after

notifying the petitioner within a period of six months from the date of receipt of certified copy of this order.

iv) The Revenue Authorities concerned are hereby directed to delete the name of the Hubli-Dharwad Municipal Corporation from the revenue records in respect of portion of properties which are earmarked as road margin area in the respective approved layout plans, which are not acquired for the purpose of BRTS project.

iv) It is made clear that the Special Land Acquisition Officer, Karnataka Road Development Corporation Limited shall verify actual extent of properties acquired for BRTC project and thereafter pass an award.

Sd/-
JUDGE

BKM
CT:GSM
List No.: 1 Sl No.: 8