IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 31ST DAY OF MARCH, 2023

BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

WRIT PETITION NO. 200854 OF 2023 (GM-CPC)

BETWEEN:

1. AMIRBANU W/O MURTUZSAHEB
@ MURTUZPATEL PATEL @ PATIL,
SINCE DECEASED BY HIS LR'S,

1A. KURESHABEGUM W/O RIYAZAHMED KOLHAR,
AGE: 42 YEARS, OCC: HOUSEHOLD WORK,

1B. RESHMA W/O ASHFAK KOLHAR,
AGE: 40 YEARS, OCC: HOUSEHOLD WORK,

1C. ASIFA W/O JIYAMUDDIN ROJINDAR,
AGE: 38 YEARS, OCC: HOUSEHOLD WORK,

1D. ARIFA D/O MURTUJPATEL PATIL,
AGE: 36 YEARS, OCC: HOUSEHOLD WORK,

R/O ALL ARE DUDIHAL TQ. BABALESHWAR,
DIST. VIJAYAPURA – 586 113.

...PETITIONERS

(BY SRI.KOUJALAGI CHANDRAKANT LAXMAN., ADVOCATE)

Digitally signed by THEJASKUMAR N
Location: HIGH COURT OF KARNATAKA

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER,
UKP ALAMATTI – 586 201.

2. THE GENERAL MANAGER,
LAQ UKP NAVANAGAR,
BAGALKOT – 587 101.

...RESPONDENTS

(BY SRI.VEERANAGOUDA MALIPATIL., HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

"TOGETHER, WE CAN REDUCE AND OVERCOME COVID-19; FIGHT COVID-19 TOGETHER".

Sri.Koujalagi Chandrakant Laxman., learned counsel for the petitioners and Sri.Veeranagouda Malipatil., learned HCGP for the respondents have appeared in person.

2. The captioned Writ Petition is filed seeking Writ of Certiorari to quash the orders dated 20.09.2022 and 19.11.2022 passed by the Court of I Additional District and Sessions Judge, Vijayapura in LAC No.1800/2019 vide Annexure-C and D respectively.

3. Learned counsel for the petitioners and the respondents have urged several contentions.

Sri.Koujalagi Chandrakant Laxman., learned counsel for the petitioners in presenting his argument contended that the claimant is a poor agriculturist and illiterate person. Due to the COVID-19 pandemic, she was unable to attend the Court

regularly. Hence, there is a delay in leading evidence and cooperating with the Court in concluding the proceedings. However, the Trial Judge has lost sight of the fact and erroneously without assigning any reasons has held that the claimant is not entitled to interest from the date of the evidence till the disposal of the petition. Hence, he submits that the orders may be set aside.

In reply, Sri.Veeranagouda Malipatil., learned HCGP for the respondents submitted that the Claimant is not diligent in leading the evidence. He argued by saying that this is a case of payment of compensation and if the claimant/s protracts the proceedings and in case the claimant/s succeeds in the case, the State exchequer will be burdened for payment of compensation amount with interest. Hence, he sought to justify the order passed by the Trial Judge.

4. Heard, the contentions urged on behalf of the respective parties and perused the Writ papers and also the Annexures with utmost care.

5. The following short and simple point would arise for my consideration:

Is the Trial Judge justified in concluding that the claimant is not entitled to interest from the date of evidence till the disposal of the petition and for the delay period?

The present case invited the focus on the COVID-19 pandemic.

This is an interesting case to answer the query about the non-cooperation of a litigant in the proceedings and the financial burden and loss to the State exchequer. Before I answer the point let me quickly glance at COVID-19 Pandemic. A quick glance is essential in the present case since the proceedings before the Trial court commenced and continued amidst COVID-19 Pandemic.

We all know that COVID-19 is a global pandemic. The COVID-19 pandemic has led to a dramatic loss of human life worldwide and presents an unprecedented challenge to public health, food systems, and the world of work. The COVID-19 pandemic continues to impact almost every aspect of daily life for the global population. It significantly impacted normal life. The citizens were required to take personal measures. Public

health measures like quarantine, isolation, physical distancing, and contact tracing were given importance. The Nation witnessed lockdowns and social distancing.

With this background, let me see what facts I have here. The claimants are the owners of the irrigated land bearing R.S.No.39/3 measuring 03 Acres 07 Guntas situated at Dudhihal Village limits of Taluka and District Vijayapura. The land in question has been acquired for the construction of the Upper Krishna Project Mulwad Lift Irrigation Malaghan West Main Canal 17.402 to 20.080 Kms.

Suffice it to note that the claimants filed an application under Section 18(1) of the Land Acquisition Act and application under Section 64(1) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The claimant filed a petition on 19.01.2019. The State being the opponent filed objections on 31.03.2021. Thereafter, the Trial Court posted the case for evidence on 15.04.2021. The case was adjourned from time to time. It is said that when the case was posted on 20.09.2022, the counsel appearing on behalf of the claimant prayed time to

lead evidence. The Trial Judge taking note of the order sheet concluded that the claimant is not entitled to interest from the date of evidence till the disposal of the petition and accordingly, posted the case for evidence on 19.11.2022.

The original claimant Smt.Amirbanu died during the pendency of the petition. Hence, applications were filed in I.A.No.I under Order 22 Rule 3 of CPC to bring the legal representatives of the deceased claimant on record, I.A.No.II under Order 22 Rule 9 of CPC to set aside abatement and I.A.No.III under Section 5 of the Limitation Act to condone the delay. It is pivotal to note that applications were allowed. However, the Trial Judge held that the claimants are not entitled to interest for the delay period.

I have perused the order passed by the Trial Judge with utmost care. The same is produced at Annexures-C & D. It is dated 20.09.2022 and 19.11.2022. A perusal of the same would depict that the Trial Judge except for saying that he has perused the order sheet and considered the aspects, no cogent reasons are assigned. The Judge has simply concluded that the claimants are not entitled to interest from the date of evidence

till the disposal of the petition and also for the delayed period since the legal representatives did not come on record in time. Hence, in my opinion, the order holding that the claimants are not entitled to interest from the date of evidence till the disposal of the petition and for the delayed period is untenable.

Furthermore, the Judge should have viewed the situation in a different angle. The reason is obvious and as already noted above, the proceedings were commenced and continued amidst the COVID-19 pandemic. The Government took massive measures to create awareness among the General public by displaying slogans like 'keep calm and stay at home', 'save lives', 'Covid-19 don't travel' and so on and so forth. Hence, in my view, the delay is due to the unavoidable situation. Since the entire globe witnessed COVID-19 pandemic, I must say that the learned Judge should have viewed the situation in a different perspective. Therefore, the order of the Trial Court is liable to be quashed.

As a last resort, learned HCGP in presenting his argument strenuously urged that the claimant is not cooperating with the Trial Court to proceed further in the matter. The delay is

causing a burden and a loss of the State exchequer. Hence, he submits that appropriate order may be passed.

The submission made on behalf of the State is noted with utmost care. Taking note of the submission made on behalf of the Government about the delay and burden, this Court deems it proper to direct the claimants to cooperate with the Trial Court in concluding the proceedings at the earliest.

Counsel Sri.Koujalagi Chandrakant Laxman., undertakes that the claimants shall cooperate with the Trial Court in concluding the proceedings at the earliest.

The oral submission made on behalf of the learned counsel for the claimants is placed on record.

The result is that the Writ Petition will be allowed. This Court orders a Writ of Certiorari. The orders dated 20.09.2022 and 19.11.2022 passed by the I Additional District and Sessions Judge, Vijayapura in LAC No.1800/2019 holding that the petitioners are not entitled to interest from the date of evidence till the disposal of the petition and for the delay period, are set aside.

Learned counsel jointly submits that the matter is posted on 15.04.2023 before the Trial Court and the parties to the *lis* shall cooperate with the Court for an early disposal.

The oral submission made on behalf of the respective parties is placed on record.

Since the matter is posted on 15.04.2023, the parties to the *lis* are directed to appear before the Trial Court and shall cooperate with the Court to conclude the proceedings at the earliest.

This is a peculiar case. Liberty is reserved for the Trial Judge to impose costs if the parties to the *lis* do not cooperate with the disposal of the case.

With the above observations, the Writ Petition is ***allowed***.

Sd/-
JUDGE

NB/TKN
List No.: 1 Sl No.: 49.1