NC: 2024:KHC:14116
WP No. 2159 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR JUSTICE R DEVDAS

WRIT PETITION NO. 2159 OF 2023 (KLR-LG)

BETWEEN:

CHIKKIRE GOWDA
S/O LATE. NANJE GOWDA,
AGED ABOUT 91 YEARS,
R/O GINNANA MANE VILLAGE,
BICCODU HOBLI, BELUR TALUK,
HASSAN DISTRICT – 573 215.

...PETITIONER

(BY SRI. M. J. ALVA, ADVOCATE AND
SRI. H. M. GIRISHA, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF REVENUE
M.S. BUILDING,
BENGALURU – 560 001.

2. THE DEPUTY COMMISSIONER
HASSAN DISTRICT,
HASSAN – 573 201.

3. THE SPECIAL LAND ACQUISITION OFFICER
HEMAVATHI RESERVOIR PROJECT
DC OFFICE BUILDING,
HASSAN – 573 201.

4. THE ASSISTANT COMMISSIONER
SAKALESHPURA SUB-DIVISION,
SAKALESHPURA,
HASSAN DISTRICT – 573 134.

5. THE TAHSILDAR
SAKALESHPUR TALUK,

Digitally signed by JUANITA THEJESWINI
Location: HIGH COURT OF KARNATAKA

SAKALESHPUR,
HASSAN DISTRICT – 573 218.

6. THE ASSISTANT DIRECTOR OF LAND RECORDS
HASSAN DISTRICT,
HASSAN – 573 201.

7. THE DEPUTY CONSERVATOR OF FOREST
HASSAN DIVISION,
HASSAN – 573 201.

8. THE INSPECTOR OF POLICE
CEN CRIME POLICE, DCRB DIVISION
HASSAN – 573 201.

…RESPONDENTS

(BY SRI. KEMPANNA, AAG A/W
SRI. SESHU V., HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO-QUASHING THE IMPUGNED ORDER NO. LND/Y.L.G(D) 279/2017-18 DATED 30/04/2022 PASSED BY THE SPECIAL LAND ACQUISITION OFFICER, HEMAVATHI RESERVOIR PROJECT, HASANA/R-3 CANCELLING THE GRANT OF THE SCHEDULE PROPERTY MADE IN FAVOUR OF THE PETITIONER WHICH IS PRODUCED AT ANNEXURE-A.

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

ORDER

R.DEVDAS J., (ORAL):

The petitioner is aggrieved of the impugned order dated 30.04.2022 passed by the Special Land Acquisition Officer, Hemavathi Reservoir Project, Hassan, in case No.L.N.D/Y.L.G(D)279/2017-18.

2. The petitioner claims to be a person who lost his lands due to submergence of his lands under water on the construction of Hemavati/Yagachi/Vatehole Reservoir Project. In terms of the scheme proposed by the State Government, a person who lost land on account of submergence for the project, would not only be entitled for compensation but also entitled for grant of alternative lands to ensure that the livelihood of such agriculturists are not lost. Accordingly, 4 acres of land in Block No.24 of Sy.No.103, Agani Village, Hanabalu Hobli, Sakleshpura Taluk was granted. However, several irregularities were found in the matter of allotment of alternative lands. Action was directed by the State Government having regard to such irregularities. The Special Land Acquisition Officer (for short 'SLAO') has passed the impugned order in respect of the petitioner cancelling the grant.

3. Having regard to the ground on which the impugned order has been passed, it is clear that the SLAO has cancelled the grant on one of the following grounds :

a) Grant was made to a person who had not lost any land in submergence;

b) Bogus grant order has been created, although no such grant order was passed;

c) Dual grant orders have been passed on the basis of one award passed by the SLAO;

d) Such dual grant orders and fictitious grant orders have been passed during the tenure of Sri V.Srinivas Gowda or Sri B.A.Jagadeesh who were the then Special Land Acquisition Officers;

e) Land granted is a forest land and not revenue lands and therefore it could not have been granted.

4. The factual information and the ground on which the impugned order of cancellation has been passed by the SLAO is identifiable as one of the grounds noticed hereinabove. Therefore, all other observations made in the impugned order are hereby set aside as not specifically applicable to the petitioner. It is also a fact that the impugned order of cancellation was passed without

hearing the grantee and therefore, on the ground of denial of principles of natural justice alone, the impugned order of cancellation is required to be set aside.

5. Consequently, this Court proceeds to pass the following:

ORDER

i) Writ petition is ***allowed in part***.

ii) The impugned order dated 30.04.2022 in case No.LND/Y.L.G.(D) 279/2017-18 passed by the Special Land Acquisition Officer, Hemavathi Reservoir Project, Hassan, at Annexure 'A', is hereby quashed and set aside.

iii) The matter stands remanded back to the SLAO to reconsider the matter afresh after affording an opportunity of hearing to the petitioner. The petitioner is permitted to submit any material to defend the order of grant.

iv) Insofar as the cancellation orders passed on the ground that the land in question is a forest land and not revenue land and therefore, it could not have been granted,

the SLAO is required to reconsider the matter after securing the opinion from the forest department as well as the Revenue department. If ultimately it is found that the land is a forest land, then alternative lands shall be granted to the petitioner.

v) Consequent to the restoration of the grant in favour of the petitioner, the revenue entries shall also be restored in the RTC.

Sd/-
JUDGE

JT/-
CT:PH