IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

WRIT PETITION NO. 16604 OF 2022 (LA-RES)
C/W
WRIT PETITION NO. 21824 OF 2022 (GM-FOR)
WRIT PETITION NO. 21844 OF 2022 (LA-RES)
WRIT PETITION NO. 5000 OF 2023 (LA-RES)

IN W.P.No. 16604 OF 2022:

BETWEEN:

1 . PRATHAPKUMAR K R, S/O RAJU S
AGED 34 YEARS
R/AT GALIHALLI CROSS,
BACK SIDE OF SJM COLLEGE
TARIKERE TOWN AND TALUK
CHIKKAMAGALUR DISTRICT - 577 228

...PETITIONER

(BY SRI. VIVEK S.REDDY, SENIOR COUNSEL FOR
SRI. B.S.SACHIN, ADVOCATE)

Digitally signed by KIRAN KUMAR R
Location: HIGH COURT OF KARNATAKA

AND:

1 . SPECIAL LAND ACQUISITION OFFICER
AND COMPETENT AUTHORITY
NATIONAL HIGHWAY 206,
TUMKUR SHIMOGA CIRCLE
SHIVAMOGGA - 577 201.

2 . UNION OF INDIA
REP BY SECRETARY TO THE
DEPARTMENT OF ROAD TRANSPORT
AND HIGHWAYS, NEW DELHI - 110 001.

3 . PRINCIPAL CHIEF CONSERVATOR OF FOREST
HEAD OF FOREST FORCE,
ARANYA BHAVAN, 18TH CROSS
MALLESHWARAM, BANGALORE – 560003.

4. NATIONAL HIGHWAYS AUTHORITY OF INDIA,
PROJECT IMPLEMENTATION UNIT-TUMAKURU
HAVING OFFICE AT SRI.RAKSHE
80FT ROAD, MAHALAKSHMI NAGAR,
NEAR KRISHNA COLLEGE,
BATAWADI TUMAKURU-572 103.
REP. BY ITS PROJECT DIRECTOR.

5. KARNATAKA SOAPS AND DETERGENTS LTD.,
CHORD ROAD,
YESHWANTHPUR INDUSTRIAL SUBURB,
BENGALURU-560 086.
REPRESENTED BY ITS MANAGING DIRECTOR.

…RESPONDENTS

(BYSMT.SHILPA.G SHAH., ADVOCATE FOR R-1 AND 4;
SRI.S.RAJASHEKAR., ADVOCATE FOR R-2;
SRI.V.G.BHANU PRAKASH, ADDITIONAL ADVOCATE
GENERAL ALONGWITH SMT.V.HEMALATHA., AGA FOR R-3;
SRI.D.R.RAVISHANKAR., SENIOR COUNSEL FOR
SMT. RACHITHA.K.HIREMATH, ADVOCATE FOR R-5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED AWARD DATED 25.04.2022 IN No.SLAO/CA/NH-206/AWD/SANDALWOOD/2021-22 AND AWARD NOTICE DATED 27.06.2022 No.SLAO AND CA/SMG/NHAI-206/CR/SUP/2022-23 PASSED BY THE R-1 VIDE ANNEXURE-A AND B IN SO FAR AS SCHEDULE PROPERTY.

IN W.P.No. 21824 OF 2022:

BETWEEN:

1 . SMT SHANTHAMMA
AGED ABOUT 94 YEARS,

W/O LATE NARAYANASWAMY
R/AT JODIKOTHAPPANALLI VILLAGE,
NELAVANKI HOBLI, SRINIVASAPURA TALUK,
KOLAR DISTRICT, KOLAR 563135

NOTE: SENIOR CITIZEN BENEFIT NOT CLAIMED

…PETITIONER

(BY SRI. VIVEK S.REDDY., SENIOR COUNSEL FOR
SRI. B.S.SACHIN., ADVOCATE)

AND:

1 . STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
PUBLIC WORKS PORT AND INLAND WATER
TRANSPORT DEPARTMENT
3RD FLOOR, VIKASA SOUDHA
BANGALORE 560001.

2 . KARNATAKA STATE HIGHWAY IMPROVEMENT PROJECT
REPRESENTED BY ITS ASSISTANT COMMISSIONER
KOLAR SUB DIVISION, KOLAR DISTRICT,
KOLAR 563135.

3 . CHIEF PROJECT OFFICER
STATE HIGHWAY IMPROVEMENT PROJECT
PORT AND INLAND WATER TRANSPORT,
DEPARTMENT, GROUND FLOOR,
K R CIRCLE, BENGALURU 560048.

4 . DEPUTY CONSERVATOR OF FOREST
KOLAR REGIONAL DIVISION,
KOLAR, KOLAR DISTRICT 563135.

5 . TAHSILDAR
SRINIVASAPURA TALUK,
SRINIVASAPURA,
KOLAR DISTRICT 563135.

6 . PRINCIPAL CHIEF CONSERVATOR OF FOREST
CHIEF OF FOREST FORCE, ARANYA BHAVAN,
MALLESHWARAM,
BENGALURU 560003.

7 . SRI. SRINIVAS REDDY
S/O NARAYANA SWAMY,
R/AT JODI KOTTAPALLA GRAMA,
SRINIVASAPMA TALUK,
KOLAR DISTRICT – 563135

…RESPONDENTS

(BY SRI. V.G.BHANU PRAKASH, ADDITIONAL ADVOCATE GENERAL ALONGWITH SMT. V.HEMALATHA., AGA FOR R-1, 4, 5 & 6;
SRI. SHOBITH N.SHETTY, ADVOCATE FOR R-2 & 3;
SRI. D.R.RAVISHANKAR., SENIOR COUNSEL FOR SMT.RACHITHA.K.HIREMATH, ADVOCATE FOR R-8)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 OF THE CONSTITUTION OF INDIA, QUASH THE ORDER/OFFICIAL NOTED DATED 10.02.2022 IN No.APRAMUASUM (ASUMNI) B3. SALES CR-13/2019-20 ISSUED BY THE PRINCIPAL CHIEF CONSERVATOR OF FOREST, BENGALURU VIDE ANNEXURE-A, ETC.

IN W.P.No. 21844 OF 2022:

BETWEEN:

1 . SMT PALLAVI
W/O T N VISHNU KUMAR
AGED ABOUT 36 YEARS
R/AT THARIKERE TOWN
KODI LINGADA HALLI MAIN ROAD
TARIKERE TALUK
KASABA,
CHIKKAMGALURU DISTRICT -577228.

2 . SRI K N MADHUSUDHANA
S/O SUBHANA

AGED ABOUT 33 YEARS
R/AT LAKSHMICHANDRA NILAYA
2ND CROSS, KESARAKOPPA HALASUR
THARIKERE TALUK, CHICKMAGALURU -577144.

3 . SMT S P LEELAVATHY
W/O PRASHANTH KUMAR D
AGED ABOUT 42 YEARS
GALI HALLI CROSS, THARIKERE TALUK,
KASABA THARIKERE TOWN -577228.
PRESENTLY R/AT 212/H, 1ST CROSS
3RD PHASE, MANJUNATHANAGAR
RAJAJINAGAR, BENGALURU -560010.

4 . SRI S RAGHU
S/O LATE K SATYANARAYANA
AGED ABOUT 40 YEARS
R/AT ACHAR BEEDHI,
NEAR KALIKAMBA TEMPLE
TARIKERE TOWN AND TALUK
KASABA -577228.

5 . SRI S MANJUNATH, S/O LATE K SATYANARAYANA
AGED ABOUT 42 YEARS
R/AT ACHAR BEEDHI, NEAR KALIKAMBA TEMPLE
TARIKERE TOWN AND TALUK, KASABA -577228.

6 . SRI H M SANTHOSH
S/O MALLADEVI ACHAR, AGED ABOUT 35 YEARS
HALIGERE VILLAGE KADUR TALUK
CHIKKAMAGALURU DISTRICT -577138.

7 . SMT RAJESHWARI S M
W/O DEEPU T S, AGED ABOUT 41 YEARS
R/AT 2ND CROSS KHB COLONY
TARIKERE CHIKAMAGALURU -577228.

…PETITIONERS

(BY SRI. VIVEK S.REDDY, SENIOR COUNSEL FOR
SRI. B.S.SACHIN.,ADVOCATE)

AND:

1 . SPECIAL LAND ACQUISITION OFFICER AND
COMPETENT AUTHORITY
NATIONAL HIGHWAY 206
TUMKUR, SHIMOGA CIRCLE
SHIVAMOGGA -577201.

2 . UNION OF INDIA
REP BY SECRETARY TO THE
DEPARTMENT OF ROAD TRANSPORT
AND HIGHWAYS NEW DELHI-110001.

3 . PRINCIPAL CHIEF CONSERVATOR OF FOREST
CHIEF OF FOREST FORCE ARANYA BAVAN
MALLESWARAM, BENGALURU -560003.

4. NATIONAL HIGHWAY AUTHORITY OF INDIA,
PROJECT IMPLIMENTATION UNIT,
TUMKURU.
HAVING OFFICE AT 'SRI RAKSHA'
80FT ROAD, MAHALAKSHMI NAGAR,
NEAR KRISHNA COLLEGE,
BATAWADI, TUMKURU-572 103.
REPRESENTED BY ITS PROJECT DIRECTOR.

…RESPONDENTS

(BY SMT. SHILPA.G.SHAH., ADVOCATE FOR R-1 AND 4,
SRI.NAGENDRA.A., ADVOCATE FOR R-2;
SRI.V.G.BHANU PRAKASH, ADDITIONAL ADVOCATE
GENERAL ALONGWITH
SMT.V.HEMALATH., AGA FOR R-3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 OF THE CONSTITUTION OF INDIA, QUASH THE IMPUGNED AWARD DATED:25.04.2022 IN No.SLAO/CA/NH-206/AWD/SANDALWOOD/2021-22 AND AWARD NOTICE DATED 27.06.2022 No.SLAO AND CA/SMG/NHAI-206/CR/SUP/2022-23 PASSED BY THE R-1 AS PER ANNEXURE-A AND B TO B6 IN SO FAR AS SCHEDULE PROPERTY.

IN W.P.No. 5000 OF 2023:

BETWEEN:

1 . SRI.T.N. VISHU KUMAR
S/O T R NAGARAJ,
AGED ABOUT 43 YEARS,
R/AT THARIKERE TOWN,
KODI CAMP,LINGADA HALLI MAIN ROAD,
THARIKERE TALUK,KASABA,
CHIKKAMAGALURU DISTRICT-577228.

2 . SRI.B.M. THIPPESWAMY
S/O MALLAPPA, AGED ABOUT 48 YEARS,
R/AT BETTATHAVAREKERE VILLAGE,
AMRUTHAPURA HOBLI,THARIKERE TALUK,
CHIKKAMAGALURU DISTRICT-577228.

3 . SMT. VEENA
D/O T.R. NAGARAJ, AGED ABOUT 43 YEARS,
R/AT NO.32,36TH MAIN ROAD,
BTM 2ND STAGE,BENGALURU SOUTH,
RAJAJINAGAR,BENGALURU-560076.

4 . SRI H.M. MALLIKARJUN
S/O LATE K.M. MAHESWARAIAH,
AGED ABOUT 40 YEARS,
R/AT HALIGERE VILLAGE, KADUR TALUK,
CHIKKAMAGALURU DISTRICT-577138.

…PETITIONERS

(BY SRI. VINOD KUMAR FOR
SRI. BIPIN HEGDE, ADVOCATE)

AND:

1 . SPECIAL LAND ACQUISITION OFFICER AND
COMPETENT AUTHORITY
NATIONAL HIGHWAY 206,
TUMKUR, SHIMOGA CIRCLE,
SHIVAMOGGA-577201.

2 . UNION OF INDIA
REP BY SECRETARY TO THE
DEPARTMENT OF ROAD
TRANSPORT AND HIGHWAYS,
NEW DELHI-110001.

3 . PRINCIPAL CHIEF CONSERVATOR OF FOREST
CHIEF OF FOREST FRCE ARANYA BAVAN,
MALLESHWARAM,BENGALURU-56000..

4. NATIONAL HIGHWAYS AUTHORITY OF INDIA,
PROJECT IMPLEMENTATION UNIT
TUMAKURU.
HAVING OFFICE AT 'SRI RAKSHA'
80FT ROAD, MAHALAKSHMI NAGAR,
NEAR KRISHNA COLLEGE,
BATAWADI, TUMKURU-572 103.
REPRESENTED BY ITS PROJECT DIRECTOR.

…RESPONDENTS

(BY SMT. SHILPA G.SHAH., ADVOCATE FOR R-1 AND 4,
SRI.H.SHANTHI BHUSHAN, DSGI FOR R-2;
SRI.V.G.BHANUPRAKASH, ADDITIONAL ADVOCATE
GENERAL ALONGWITH SMT.V.HEMALATHA.AGA FOR R-3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED AWARD DATED:25.04.2022 IN No.SLAO/CA/NH-2002/AWD/SANDALWOOD/2021-22 AND AWARD NOTICE DATED 27.06.2022 No.SLAO ANND CA/SMG/NHAI-2006/CR/SUP/2022-23 PASSED BY THE R-1 AS PER ANNEXURE-A AND B, BQ, B2, AND B3 IN SO FAR AS SCHEDULE PROPERTY, ETC.

THESE PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 19.12.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:

CORAM: THE HON'BLE MR JUSTICE N S SANJAY GOWDA

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I. FACTS LEADING TO THE FILING OF THESE WRIT PETITIONS:

1. There are two sets of writ petitions amongst this batch of writ petitions, which relate to the valuation of sandalwood trees standing in the lands which are acquired under the provisions of the National Highways Act, 1956 ("**the NH Act**") and under the provisions of the Karnataka Highways Act, 1964 ("**the KH Act**").

2. The lands acquired under the NH Act are situated in Kadur and Tarikere Taluks of Chikkamagaluru District and the lands acquired under the KH Act are situated in Srinivasapura Taluk of Kolar District.

3. The facts in the writ petitions pertaining to the NH Act are that, on 27.07.2016, the Government of India issued a notification under Section 3A of the NH Act declaring its intention to acquire land for the formation of National Highway No. 206 in the stretch of land from Km 132.00 to Km 174.00 (Tumkur-Honnavara section) in the district of Chikkamagaluru.

4. After hearing the objectors and upon considering their objections, the competent authority disallowed the same and submitted a report to the Union Government. The Union Government, on receipt of the same, issued a declaration on 26.07.2017 under Section 3D(1) of the NH Act declaring that the land

specified therein should be acquired for the aforementioned purpose.

5. An extent of 90.7695 hectare was declared to be needed for said purpose under the declaration, which was situated in the villages of Nagadiyathkava of Kadur Taluk, Chokanahalli, Haliyur and Machenahalli of Tarikere Taluk in Chikkamagaluru District.

6. As a consequence of Section 3D(2) of the NH Act, these lands stood vested absolutely in the Central Government free from all encumbrances.

7. The lands involved in these writ petitions are narrated in the below table for the sake of convenience.

Sl. No.	Case No.	Land details
1	WP.16604/2022	Sy.No.28/9 in Tarikere Taluk, Chikkamagaluru District.
2	WP.21824/2022	Sy.No.72/166/7P111in Srinivasapura Taluk, Kolar District.

3	WP.21844/2022	Sy.No.28/33,Sy.No.28/13 Sy.No.28/33, Sy.No.28/11 Sy.No.28/10, Sy.No.28/12 Sy.No.28/14 in Tarikere Taluk, Chikkamagaluru.
4	WP.5000/2023	Sy.No.28/15,Sy.No.28/22,Sy.No.28/34 and Sy.No.28/17in Tarikere Taluk, Chikkamagaluru.

8. On 16.09.2017, the petitioner in W.P. No.16604/2022 submitted a claim to the competent authority to the effect that in his plot of 01.04 guntas in Sy. No. 28/9, he had raised 22 sandalwood trees after purchasing the land from one Mallikarjuna for Rs.12 lakhs. He stated that he had the expectation of earning at least one crore rupees from said sandalwood trees and he requested the authority to pay him a sum of Rs.1.10 crores as compensation.

9. It appears that on 16.08.2019, the competent authority addressed a letter to the Deputy Conservator of Forests stating that the sandalwood

trees in the lands bearing Sy.Nos.28/9 to 17, 28/5, 28/8 and 22 to 23, 24 and 31/4 to 10 of Haliyur village had not been valued and had requested him to evaluate the same and submit a report.

10. On 31.08.2019, the Project Director of the NHAI addressed a letter to the Deputy Conservator of Forests requesting evaluation of the sandalwood trees which were coming within the PROW of NH-206 in Sy. Nos.28/9 to 17, 28/5, 28/8 and 22 to 23, 24 and 31/4 to 10 of Haliyur village, as requested by the competent authority in its letter dated 16.08.2019. In this letter, it is also indicated that the Government-approved valuator had stated that evaluation of the sandalwood trees was required to be done by the Forest Department.

11. As the matter stood thus, as per the requirement under Section 3G of the NH Act, the competent authority, after considering the claims of the

interested persons, proceeded to determine the amount payable as compensation in accordance with the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ("**the 2013 Act**") by his award dated 27.09.2019. The competent authority held that a sum of Rs.6,32,076/- was to be paid as the market value of the land for the lands acquired in Haliyur village. He also held that a multiplicative factor of 1.5 would be applicable as Haliyur was within the 5 kms radius of Tarikere.

12. In respect of trees available on the land, the competent authority stated as follows:

"**(14) ತೋಟಗಾರಿಕೆ/ ಅರಣ್ಯ ಮರಗಳ ಮೌಲ್ಯ ನಿಗಧಿಪಡಿಸುವ ಬಗ್ಗೆ:**

ಈ ಜಮೀನುಗಳಲ್ಲಿ ಬರುವ ಭೂಸ್ವಾಧೀನಕ್ಕೆ ಒಳಪಡುವ ಜಮೀನುಗಳಲ್ಲಿ ಬರುವ ತೋಟಗಾರಿಕೆ ಬೆಳೆಗಳಾದ ತೆಂಗು, ಅಡಿಕೆ, ಮಾವು, ಸಪೋಟ, ಇತ್ಯಾದಿಗಳಿಗೆ ತೋಟಗಾರಿಕೆ ಮೌಲ್ಯ ಮಾಪನವನ್ನು ಮಾಡಿ ಸರ್ಕಾರಿ ನಿಯಾಮಾವಳಿಯಂತೆ ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ ಪ್ರಾಧಿಕಾರದವರು ನೇಮಿಸಿದ ಸರ್ಕಾರಿ ನೊಂದಾಯಿತ ಮೌಲ್ಯಮಾಪಕರು

ವರದಿ ನೀಡಿದ್ದು, ಮೌಲ್ಯಮಾಪನ ವರದಿಯನ್ನು ಯೋಜನಾ ನಿರ್ದೇಶಕರು ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ ಪ್ರಾಧಿಕಾರ ಶಿವಮೊಗ್ಗ(ತುಮಕೂರು)ರವರು ಮೇಲುಸಹಿ ಮಾಡಿದ್ದು ಅವಾರ್ಡ್‌ನಲ್ಲಿ ಸೇರಿಸಲಾಗಿದೆ.

ಹಳಿಯಾರು ಗ್ರಾಮದ ಮರ ತೋಟಗಾರಿಕ/ಅರಣ್ಯ ಮರಗಳ ಮೌಲ್ಯಮಾಪನದಲ್ಲಿ ಸ.ನಂ 42/9 ಕ್ಕೆ ಮರಗಳ ಮೌಲ್ಯಮಾಪನ ನೆಡೆದಿದ್ದು ಸದರಿ ಸ.ನಂ ರಾಷ್ಟ್ರೀಯ ಹೆದ್ದಾರಿ 206 ರ ರಸ್ತೆ ಅಗಲೀಕರಣಕ್ಕೆ ಭೂಸ್ವಾದೀನಗೊಂಡಿರುವುದಿಲ್ಲ ಮತ್ತು 42/9 ರ ಮೌಲ್ಯಮಾಪನದಲ್ಲಿ ಟಿ. ಎಮ್. ಅಶೋಕ್‌ಕುಮಾರ್ ಬಿನ್ ಮಣಿಚಂದ್ ನೆಹಾರ್ ಎಂದಿದ್ದು ಈ ಹೆಸರು 3ಡಿ ಅಧಿಸೂಚನೆಯಲ್ಲಿರುವ ಸ.ನಂ.42/1 ರಲ್ಲಿದ್ದು ಇದೇ ಗ್ರಾಮದ ಸ.ನಂ ಆಗಿರುವುದರಿಂದ ಸದರಿ ಗ್ರಾಮದ Schedule-1 ನಲ್ಲಿ Not identified ಎಂದು ನಮೂದಿಸಲಾಗಿದ್ದು ಪರಿಹಾರ ವಿತರಣೆ ಸಂದರ್ಭದಲ್ಲಿ ಪರಿಶೀಲಿಸಿ ಪರಿಹಾರ ವಿತರಿಸಲಾಗುವುದು."

13. As could be seen from the above, the competent authority did not award any sums separately for the sandalwood trees though he had requested the Forest Department for evaluation of trees.

14. The competent authority awarded — in all, for the tress available in the extent of 11.895 hectares — a sum of Rs.1,35,44,672/- as compensation.

15. On 08.11.2019, the Deputy Conservator of Forests responded to the request of the Project Director dated 31.08.2019 and addressed a letter to the Chief Conservator of Forests stating that there were 2523 sandalwood trees in the abovementioned survey numbers and that these trees were about 7 years old, with no official guidelines to value the same. He also referred to an agreement that had been entered into between Karnataka Soaps and Detergents Ltd. ("**KSDL**") and T.N. Vijaykumar in which also the girth of sandalwood that would be available at the time of felling had not been indicated.

16. On 30.11.2019, the Chief Conservator of Forests addressed a letter to the Deputy Conservator asking him to correspond with the KSDL, since T.N. Vijay

Kumar had entered into an agreement with it and determine the value at his level itself.

17. As a consequence, the Deputy Conservator addressed a letter dated 04.12.2019 to KSDL and requested them to evaluate the sandalwood trees existing on the aforementioned lands. He also enclosed a list containing the number of sandalwood trees that existed in said lands.

18. It appears that KSDL had addressed a letter dated 13.12.2019 to the Deputy Conservator of Forests stating that the valuation of the sandalwood tree, meeting the requirements stated in the said letter, would not be less than Rs.3,71,641/-and Rs.10,57,666/- after 30 years, as per the expert's opinion. This was, in turn, sent across to the Project Director, NHAI by a letter dated 17.12.2019.

19. The Project Director, in turn, addressed a letter dated 19.12.2019 to M/s. G.S. Angadi & Co. narrating the

correspondence with the Deputy Conservator and ending with the correspondence with the KSDL and asked them to verify on site and work out the valuation of 2523 sandalwood trees, which were 7 years old, and submit a valuation report. M/s.G.S. Angadi, however, replied on 06.03.2020 stating that the evaluation of sandalwood trees could be done only by the Forest Department of the MSIL.

20. It appears that on 10.06.2020, the Project Director, NHAI had given oral instructions to the competent authority and in pursuance of the same, he visited the spot and had found that there were 924 big plants and 981 small plants i.e., totally 1905 in Sy. No.28/8 and its hissas; and 663 big plants and 533 small plants i.e., totally 1196 in Sy.Nos.31/4 to 31/9. He, however, stated that the age of the trees could not be ascertained and enclosed the video made of the spot inspection. He also stated that the landloser had produced a bill for the year 2012 for having purchased

sandalwood saplings from KSDL. It was also stated that Vishnukumar had entered into agreements with landowners of 15 land owners of various hissas of Sy. No.28 wherein it was found that there were 1905 trees as per the counting made by the competent authority and 1489 as per the counting made by the Thasildar.

21. He also stated that Vishnukumar had purchased certain lands in Sy.Nos.31/4 to 31/9 and had commenced growing of sandalwood trees and there was also a civil litigation pending in respect of that land. He also stated that there were 1196 trees in these lands and as per the counting made by the SLAO, the number was 1196 and as per the counting of the Thasildar, it was 951.

22. The Project Director, thereafter, addressed a letter dated 25.06.2020 to the Director of Institute of Wood and Technology requesting them to value the

sandalwood trees so as to enable the payment of compensation. The Institute of Wood Science and Technology, in turn, replied on 24.07.2020 stating that the Institute was only engaged in research work and would be unable to assess the value of the sandalwood trees.

23. As the matter stood thus, KSDL addressed a letter to Vishnukumar on 15.10.2020 stating that the valuation made by its officer as per the letter dated 13.12.2019 was not valid and that it was withdrawing their letter dated 13.12.2019. Thus, the valuation arrived at by the KSDL –that the trees would have a value of not less than Rs.3.7 lakhs and Rs.10.57 lakhs in 2047 – was stated to be invalid.

24. During the pendency of this correspondence regarding the valuation of the sandalwood trees, Prathap Kumar K.R. had filed W.P.No.8691/2020 challenging the award dated 27.09.2019, insofar as it related to the

extent that it did not determine the compensation payable for the sandalwood trees existing in the lands. A co-ordinate Bench of this Court disposed of said writ petition by an order dated 20.10.2020 directing the respondents to consider Prathap Kumar's claim for compensation in respect of the sandalwood trees in terms of Annexures-L & M of that writ petition i.e., the valuation made by the KSDL.

25. The competent authority challenged the said order by filing an appeal in W.A.No.8621/2020. In this intra-court appeal, the Division Bench modified the order of the learned single judge and disposed of the appeal on 22.10.2021 in the following terms:

> "8.We have considered the submissions made by learned counsel for the parties and have perused the record. Admittedly, the appellant is the competent authority to assess the value of the trees and his jurisdiction to determine the value of the trees and his jurisdiction to determine the value of the trees cannot be fettered. Undoubtedly, respondent No.1 is entitled to compensation in

respect of the sandalwood trees. Therefore, in the facts and circumstances of the case, we direct that the appellant shall consider the claim of the respondent No.1 with regard to value of the sandalwood trees in accordance with law. It will be open to respondent No.1 to place the material before the appellant in support of his claim for compensation, which shall be duly considered by the appellant. It is clarified that this court has not expressed any opinion with regard to merits of the claim of the parties. The interim order granted on 10.07.2020 by learned Single Judge shall continue till claim of the respondent No.1 for compensation is adjudicated. The appellant shall make an endeavour to adjudicate the claim within a period of two months from the date of receipt of certified copy of the order passed today. To the aforesaid extent, the order passed by the learned Single Judge is modified"

26. It appears that this issue regarding the valuation of sandalwood trees was also the subject matter of consideration by the Government and ultimately, the Principal Chief Conservator of Forests on consideration of the matter proceeded to issue Official Memorandum (OM) on 10.02.2022 holding that for lands which were

acquired and which contained sandalwood trees, the compensation payable would be in the following terms:

"ಆದೇಶ

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿರುವಂತೆ, ವಿವಿಧ ಯೋಜನೆಗಳನ್ನು ಅನುಷ್ಠಾನಗೊಳಿಸುವಾಗ ಭೂ ಸ್ವಾಧೀನ ಮಾಡಿದ ಪ್ರಕರಣಗಳಲ್ಲಿ ಕಡಿಯಲ್ಪಟ್ಟ ಶ್ರೀಗಂಧ ಗಿಡಗಳಿಗೆ ಪರಿಹಾರ ಮೊತ್ತವನ್ನು ಈ ಕೆಳಕಂಡಂತೆ ನಿಗಧಿಪಡಿಸಿದೆ.

ಕ್ರ.ಸಂ. Sl.No.	ಶ್ರೀಗಂಧ ಗಿಡದ ವಯಸ್ಸು Age of the Sandal Plant	ಪ್ರತಿಯೊಂದು ಶ್ರೀಗಂಧ ಗಿಡಕ್ಕೆ ಪರಿಹಾರ ಮೋತ್ತ (ರೂ.ಗಳಲ್ಲಿ) Compensation amount per sandalwood plant (in Rs.)
1	1 ವರ್ಷ ಹಳೆಯದಾದ	420.00
2	2 ವರ್ಷ ಹಳೆಯದಾದ	513.00
3	3 ವರ್ಷ ಹಳೆಯದಾದ	596.00
4	4 ವರ್ಷ ಹಳೆಯದಾದ	676.00
5	5 ವರ್ಷ ಹಳೆಯದಾದ	762.00
6	6 ವರ್ಷ ಹಳೆಯದಾದ	845.00
7	7 ವರ್ಷ ಹಳೆಯದಾದ	928.00
8	8 ವರ್ಷ ಹಳೆಯದಾದ	1011.00
9	9 ವರ್ಷ ಹಳೆಯದಾದ	1094.00
10	10 ವರ್ಷ ಹಳೆಯದಾದ	1177.00

(ಈ ದರಗಳು ಪ್ರತಿ ಹೆಕ್ಟೇರ್‌ಗೆ ಗರಿಷ್ಟ 400 ಸಸಿಗಳಿಗೆ ಅನ್ವಯವಾಗುತ್ತದೆ)

ಮೇಲೆ ನೀಗಧಿಪಡಿಸಿದ ದರಗಳಲ್ಲದೇ, ಸದರಿ ಮರಗಳಿಂದ ತೆಗೆಯಲ್ಪಟ್ಟ ಶ್ರೀಗಂಧದ ಸಂಪೂರ್ಣ ಮೌಲ್ಯವನ್ನು ಸಹ ಸಂಬಂಧಪಟ್ಟ ರೈತರಿಗೆ ಪಾವತಿಸಲು ಅನುಮತಿಸಿದೆ.

ಮೇಲಿನಂತೆ ನಿಗಧಿಪಡಿಸಿದ ಶ್ರೀಗಂಧ ಗಿಡಗಳಿಗೆ ಪರಿಹಾರ ಮೊತ್ತವನ್ನು ಇಲಾಖೆಯ ಎಸ್.ಎಸ್.ಆರ್. ದರಗಳನ್ವಯ ಪ್ರತಿ ಶ್ರೀಗಂಧದ ಸಸಿಯನ್ನು ಬೆಳೆಸಲು ಮತ್ತು ನಿರ್ವಹಣೆಗೆ ತಗಲುವ ವೆಚ್ಚಗಳ ಆಧಾರದ ಮೇಲೆ ಮೊದಲನೇ ವರ್ಷದಿಂದ ಹತ್ತನೇ ವರ್ಷದವರೆಗೂ ಶ್ರೀಗಂಧ ಮರಗಳನ್ನು ಬೆಳೆಸಲು ಪ್ರತ್ಯೇಕವಾಗಿ ವರ್ಷವಾರು ದರವನ್ನು ನಿಗಧಿಪಡಿಸಲಾಗಿರುತ್ತದೆ. ಹಾಗೂ, ರೈತರು ತಮ್ಮ ಸ್ವಂತ ಜಮೀನಿನಲ್ಲಿ ಶ್ರೀಗಂಧ ಗಿಡಗಳನ್ನು ಕಾಯಲು ಅಗತ್ಯತೆಗನುಗುಣವಾಗಿ ಕಾಂಪೌಂಡ್ ನಿರ್ಮಾಣ, ತಂತಿ ಬೇಲಿ ನಿರ್ಮಾಣ, ಬೋರ್‌ವೆಲ್ ಹಾಕಿಸಲು ತಗಲುವ ವೆಚ್ಚ, ಹನಿ ನಿರಾವರಿ ಸಂಬಂಧ ಸಲಕರಣೆಗಳ ಖರೀದಿಸಲು ತಗಲುವ ವೆಚ್ಚಗಳನ್ನು ಹಾಗೂ ಇತರೆ ವೆಚ್ಚಗಳನ್ನು ಇದರಲ್ಲಿ ಸೇರಿರುವುದಿಲ್ಲ.

ಸಹಿ/–
ಪ್ರಧಾನ ಮುಖ್ಯ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ
(ಅರಣ್ಯ ಪಡೆ ಮುಖ್ಯಸ್ಥರು)"

27. The competent authority, on the basis of this order dated 10.02.2022, proceeded to pass an order determining the compensation payable to the sandalwood trees at Rs.845 per tree amounting to Rs.21,31,935/- and proceeded to award the solatium

at 100% and thus ordered the payment of a total sum of Rs.42,63,870/-.

28. The petitioners — being aggrieved by this order determining compensation (and also the individual awards for the sandalwood trees standing in their lands) as well as the order of the Principal Chief Conservator of Forests (on the basis of which the impugned award was passed) — have filed these writ petitions. They are also seeking determination of compensation strictly in accordance with Sections 28 & 29 of the 2013 Act.

29. The facts in the writ petition (WP.No.21824/2022) pertaining to the KH Act are that, the lands acquired in this writ petition is an extent of 20 guntas in Sy.No.72/166/7P111 of Jodikothappanalli Village, Srinivasapura Taluk in Kolar District.

30. The State Government issued a notification under Section 15 of the KH Act declaring that the above

mentioned land along with several other lands were required for developing State Highway No.82 from Chintamani to the border of Andhra Pradesh.

31. By virtue of this notification, in law, there was a conclusive declaration that the land was needed for the purposes of developing State Highway No.82. Pursuant to the declaration as required under Section 17 of the KH Act, notices were issued to the persons interested in the land who are entitled for making a claim for compensation to submit their claims. The petitioner was served with such a notice dated 30.06.2021.

32. On 09.11.2021, the Tahsildar addressed a letter to the Deputy Conservator of Forest requesting him to value the sandalwood trees that were available in Sy.No.72. In response, the Deputy Conservator of Forest addressed a communication dated 30.11.2021 in which he stated that there was no guideline value

fixed in respect of sandalwood trees and he was, however, enclosing the list containing the number of sandalwood trees and also list of other trees which were available in 20 guntas of land. The enclosure to this letter indicates that there were 109 sandalwood trees in the extent of 20 guntas which were 1 to 3.5 meters in height and had girth from 0.1 meters to 0.2 meters. The list also stated that there were, in all, 153 different kinds of trees and the weight of the timber was also stipulated. The age of the trees has been indicated as being 8 or 9 years.

33. The petitioner's son addressed a communication dated 16.12.2021 to the Deputy Conservator of Forest once again, requesting him to value the sandalwood trees available in 20 guntas of land.

34. The petitioner thereafter filed W.P.No.1096/2022 for issuance of a mandamus to restrain the respondents from cutting the existing sandalwood trees and other

trees. This Court by an order dated 28.03.2022 disposed of the writ petition directing the respondents therein to consider the representation made by the petitioner within a period of four weeks and until then, they were prohibited from cutting/removing the standing sandalwood trees. Thereafter, the petitioner was communicated *vide* letter dated 11.05.2022 at Annexure – T, in which the Tahsildar enclosed the list of sandalwood trees along with valuation in respect of each tree. This list contained a column indicating that the value was fixed as per the OM of the Principal Chief Conservator of Forests dated 10.02.2022.

35. The authorities had valued the sandalwood trees on the basis of the OM dated 10.02.2022, by which the value of the sandalwood trees had been determined depending on the age of the tree. On the basis of this OM, the Deputy Conservator of Forest had addressed a communication dated 28.04.2022 indicating the

valuation made by the Principal Chief Conservator of Forests.

36. It is on the basis of these two letters that the trees standing on the land of the petitioner had been valued. As a consequence, the petitioner has filed the present writ petition challenging the OM dated 10.02.2022 issued by the Principal Chief Conservator of Forest and also the consequential communication made to the Tahsildar about the OM and ultimately, the communication dated 18.06.2022 addressed to the petitioner, whereby the petitioner has been informed that the sandalwood trees existing on the land which has been acquired has been valued as per the OM dated 10.02.2022.

II. SUBMISSIONS OF THE PETITIONERS:

37. The learned Counsel appearing for the petitioners, Sri. B.S. Sachin, and Sri. Vinod led by Senior Counsel

Sri. Vivek Subba Reddy made the following submissions:

i. The petitioners had invested huge sums of money in planting and raising sandalwood trees with the hope and expectation that it would fetch them huge returns, and this was essentially because the Government had come out with a policy to permit raising sandalwood trees through which they were promised huge returns after the trees were 15-20 years old.

ii. The competent authority had totally ignored the potential that the sandalwood trees had over the long term and had blindly followed the order passed by the Principal Chief Conservator of Forests, who also did not consider the huge potential that the trees had.

iii. The competent authority ought to have accepted the determination of the value of the sandalwood

trees as had been made by the KSDL, more so when the said valuation had been accepted and had been paid as compensation for lands which had been acquired by KPTCL.

iv. The competent authority was bound to go by the returns estimated in the brochures published by the Forest Department and the KSDL to determine the value of the sandalwood trees, and reliance placed on the order of the Principal Chief Conservator was wholly illegal.

III. SUBMISSIONS OF THE RESPONDENTS:

38. Sri. Bhanuprakash—learned Additional Advocate General, Smt. Shilpa Shah for the NHAI, and Senior Counsel Sri. D.R. Ravishankar for KSDL made their submissions along the following lines:

i. The valuation made by the Principal Chief Conservator of Forest ought to be accepted since no heartwood is formed in sandalwood trees for

the first ten years and the heartwood, which gives the real value to a sandalwood tree, would be formed only after 15 years.

ii. The sandalwood tree, till it attains the age whereby heartwood becomes available, can only be valued as timber and the Principal Chief Conservator had therefore proceeded to estimate the cost of cultivation and had arrived at the rates in a scientific and rational manner.

iii. The claim of the petitioners that the sandalwood trees should be valued as per the estimation of KSDL cannot be accepted since KSDL itself had withdrawn its valuation.

iv. The claim of the petitioners that the sandalwood trees would fetch a great value in the future was only speculative and the probability of the trees surviving, including being felled by robbers, was a definite possibility and hence based on such

speculative claims, their arguments cannot be accepted.

v. Sri. D.R. Ravishankar candidly submitted that KSDL had no expertise in determining the value of a sandalwood tree and that it was only purchasing sandalwood at the prices determined by the Forest Department, even though they were promoting growth of sandalwood trees and had entered into agreements with prospective planters.

vi. Smt. Shilpa Shah put forth the arguments that the existence of the sandalwood plantations itself was unacceptable since the documents produced by the petitioners themselves proved that the lands in question were vacant when they were purchased by the petitioners and this purchase was just before the lands were notified. She submitted that the entire project was brought to a standstill only because of this issue and the

interim orders granted in the writ petition was causing NHAI huge financial repercussions.

IV. QUESTION FOR CONSIDERATION IN THIS WRIT PETITION:

39. In light of the above, the singular determinative question in this petition is:

What would be the manner of valuing sandalwood trees for awarding compensation when lands are acquired?

V. LEGAL POSITION UNDER THE NH ACT AND THE 2013 ACT REGARDING DETERMINATION OF COMPENSATION, ESPECIALLY IN THE MATTER OF VALUING SANDALWOOD TREES EXISTING ON THE ACQUIRED LANDS:

40. Section 3G(1) of the NH Act provides for determination of compensation and stipulates that there shall be paid an amount which is to be

determined by an order passed by the competent authority. The competent authority is required to give a public notice inviting claims from interested persons and the notice should state particulars of the land and fix a date for appearance before him for all the persons interested. Section 3G(5) states that if the amount determined by the competent authority is unacceptable to either of the parties, the amount — on an application by either of the parties — is to be determined by an arbitrator who is to be appointed by the Central Government.

41. Section 3G(7), which would be relevant for this case, states as follows:

> "**3G. Determination of amount payable as compensation.—**
>
> (7) The competent authority or the arbitrator while determining the amount under sub-section (1) or sub-section (5), as the case may be, shall take into consideration—

> (a) the market value of the land on the date of publication of the notification under section 3A;
>
> (b) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the severing of such land from other land;
>
> (c) the damage, if any, sustained by the person interested at the time of taking possession of the land, by reason of the acquisition injuriously affecting his other immovable property in any manner, or his earnings;
>
> (d) if, in consequences of the acquisition of the land, the person interested is compelled to change his residence or place of business, the reasonable expenses, if any, incidental to such change."

42. As could be seen from the above, Section 3G(7)(c) is in two parts. It contemplates —*firstly*, damages sustained by the interested person by the reason of acquiring lands which affects his other immovable property and *secondly*, damages sustained by the acquisition which injuriously affects his earnings. Thus, the damages caused to the earnings of an

interested person when the lands are acquired under the NH Act will have to be mandatorily assessed by the competent authority.

43. Section 3J of the NH Act declares that nothing contained in the Land Acquisition Act, 1894 would apply to an acquisition under the NH Act. However, though Section 105(1) of the 2013 Act declared that the provisions of the 2013 Act would not apply to the enactments specified in the IV Schedule, it made this exclusion subject to the provisions of sub-section (3) of Section 105. The NH Act has been included in the IV Schedule and the provisions of the 2013 Act would thus be inapplicable to the lands acquired under the NH Act.

44. Section 105(3) of the 2013 Act enabled the Central Government, by issuance of a notification, to direct that the provisions relating to determination of compensation, rehabilitation and resettlement —

being beneficial to the affected families — should apply. Thus, even though Section 105(1) declared that the provisions of the 2013 Act would not be applicable to acquisitions under the NH Act, the Central Government by publishing a notification could make the provisions of the 2013 Act applicable in aspects relating to the determination of compensation.

45. Section 105 of the 2013 Act was sought to be amended by issuing Ordinance Nos. 9 of 2014, 4 of 2015 and 5 of 2015 (which was valid till 31.08.2015). By these ordinances, Sub-section (4) of Section 105 was omitted and Sub-section (3) was substituted, and this substituted provision declared that the provisions of the 2013 Act relating to the determination of compensation, rehabilitation and resettlement should apply to the enactments specified in the IV Schedule. Thus, these ordinances mandated that the provisions of the 2013 Act would apply for determination of

compensation even for lands acquired under the NH Act.

46. However, the Replacement Bill relating to this amendment was referred to the Joint Committee for consideration and since the 2nd Ordinance was to lapse on 31.08.2015, the Central Government issued an order titled "The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Removal of Difficulties) Order, 2015" which came into effect from 01.09.2015. Clause 2 of this order declared that the provisions of the 2013 Act, in relation to determination of compensation, would apply to all the enactments specified in the IV Schedule. Thus, even in respect of acquisitions under the NH Act, the provisions of the 2013 Act would apply in the matter of determination of compensation.

47. Section 26 of the 2013 Act lays down three criteria for determining the market value of the land. In this case,

the competent authority has determined the market value of the land and there is no dispute regarding the same.

48. Section 27 of the 2013 Act, thereafter, states that after the market value of the land is determined, the competent authority is to calculate the total amount of compensation to be paid to the owner by including the value of all assets attached to the land.

49. Section 28 of the 2013 Act lays down the parameters to be considered by the Collector in determination of the award. For the purposes of this case, only the 1st, 2nd, 4th and 7th parameters would be relevant.

50. The 1st parameter laid down is the market value as determined under Section 26 and to award the amount in accordance with the I and II Schedules. The 2nd parameter laid down is the damage sustained by the interested person by the removal of the

standing crops and trees which may be on the land at the time of taking possession of the land. The 4th parameter is the damage sustained by reason of the acquisition injuriously affecting the land-loser's other movable or immovable property or, in any other manner, his earnings. The 7th parameter laid down is any other ground that may be equitable, just and beneficial to the affected families.

51. Thus, apart from the market value of the land, the competent authority would also be required to take into consideration the value of the trees standing on the land and also the injury caused to the land-loser to his earnings by reason of the acquisition. The Collector is also required to take into consideration any other ground which is equitable, just and beneficial to the affected families.

52. It is therefore clear that the value of the trees standing on the crops, the loss in earnings of the land-

loser and any other ground which is equitable, just and beneficial will have to be considered while determining the amount payable as compensation.

53. Section 29 of the 2013 Act stipulates that while determining the value of the assets attached to the land, the competent authority may consider the use of a specialist and, in particular, for the purpose of determining the value of the trees attached to the land use the services of an experienced person in the field.

54. Thus, when it comes to determining the value of the trees, the competent authority is required to utilise the services of people experienced in that field.

55. Section 30 of the 2013 Act thereafter states that the competent authority should, after determining the total compensation payable as narrated above, impose a solatium equivalent to 100% of the compensation

amount. Individual awards are also required to be made detailing the particulars of the compensation payable as specified in the Ist Schedule.

VI. LEGAL POSITION UNDER THE KH ACT REGARDING DETERMINATION OF COMPENSATION, ESPECIALLY IN THE MATTER OF VALUING SANDALWOOD TREES EXISTING ON THE ACQUIRED LANDS:

56. The KH Act has been enacted for providing restriction of ribbon development of highways, for prevention and removal of encroachment and also for construction, maintenance and development of highways apart from levy of betterment charges and other incidental matters.

57. Chapter-II relates to declaration of highways, appointment of Highway authorities and their powers and functions.

58. Chapter-III relates to restriction of ribbon development. Sections 7 to 14 are relatable to ribbon development. Section 15 of the Act provides for acquisition of land or for acquisition of right or interest in the land. This provision basically states that if the State Government is satisfied that any land required for the purposes of a highway or any right or interest of any person in any land required for said purposes, it would be lawful for the State Government to publish a notification and on such a notification being published, the land is deemed to be needed for the said purpose and any right or interest in the said land would stand extinguished.

59. The notification would also mean that there was a declaration which is conclusive to the effect that the land was needed or that the right or interest was required to be extinguished. On the declaration being made, the highway authority is required to give a notice stating that the State Government intends to

take possession of the land and invite the claims for compensation all interest in the land. The notice is required to state the particulars of the land and also the right or interest in the land which is sought to be extinguished, and to call upon the persons interested to submit their claims.

60. Section 18 of the KH Act also empowers the highway authorities to call upon any person to make a statement indicating the name of every other person possessing the interest in the land and when such a requisition is made, that person is required to deliver a statement.

61. Section 19 of the KH Act thereafter states that at any time, after the declaration under Section 15 is issued, the State Government could direct that possession of lands specified in the notification be taken or the right or interest specified therein be extinguished from the date the direction is issued. Section 19 declares that

the land would vest absolutely in the State Government free from all encumbrances. Thus, essentially, on a declaration being made under Section 15, the Government could direct that possession of lands be taken over and on such a direction being issued under Section 19, the lands stand vested absolutely in the Government free from all encumbrances.

62. A conjoint reading of Sections 17 and 19 would indicate that determination or payment of compensation before taking possession of land is not necessary.

63. Chapter-V of the Act deals with compensation. Section 26 stipulates that minimum damage be caused by the authorities and compensation in the manner prescribed under the Act should be paid to any person who sustains damage in consequence of exercise of such powers.

64. In respect of this case, we are concerned with Section 26(e) which deals with acquisition of any land under Section 15 of the Act. Thus, whenever a notification under Section 15 is issued, there is an obligation on the State Government to pay the compensation.

65. Section 27 provides for determination of compensation by agreement, while Section 28 provides for determination of compensation in default of agreement. Section 28 states that if there was no agreement for payment of compensation, the highway authority or the officer authorised by the State Government should, after holding an enquiry, make an award determining the true area of the land acquired, the amount of compensation to be paid and also apportionment of compensation amongst all persons who are entitled to it.

66. Sub-section (2) of Section 28 reads as follows:

> "(2) In determining the amount of compensation, the matter specified in sections 23 and 24 of the Land Acquisition Act, 1894, as amended by the Schedule to this Act, shall be taken into consideration"

67. Thus, according to Section 28(2), in determining the compensation, the matter specified in Sections 23 and 24 of the Land Acquisition Act, 1894 as amended by the schedule to the Act should be taken into consideration.

68. At this stage, it is to be noticed that since the Land Acquisition Act, 1894 has been repealed, by virtue of Section 8 of the General Clauses Act, 1977, the determination of compensation will have to be in accordance with the Act which replaced it namely the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

69. It may be pertinent to state here that Sections 23 and 24 of the Land Acquisition Act, 1894 insofar as its application to KH Act stood amended as per the schedule to the KH Act. A perusal of the schedule would indicate that in essence, the provisions of 1894 Act and the amended provisions of Section 23 in the schedule are more or less identical substantively and only amendments that have been made are to indicate that it is in relation to KH Act. It may also be pertinent to state here that the fifth parameter under the amended schedule also stipulates that the damage sustained by the person interested at the time of taking possession either by reason of any injury affecting his immovable or immovable property or his earnings will have to be taken into consideration while determining the compensation. Thus, if the movable or immovable properties of interested person are affected that is one consideration and the second consideration is that if his earnings are affected by the

acquisition that is also required to be statutorily considered.

VII. PROCEDURE FOLLOWED BY THE COMPETENT AUTHORITY IN THIS CASE RELATING TO THE DETERMINATION OF THE VALUE OF THE SANDALWOOD TREES:

70. In this case, as already extracted above, the competent authority while passing the award applied the valuation made for the trees by the Government and did not make a separate valuation for the sandalwood trees. The petitioners, being aggrieved by the non-determination of the value of the sandalwood trees, approached this Court and, ultimately, a Division Bench of this Court held that the petitioners were entitled to compensation in respect of the sandalwood trees and directed the competent authority to assess and consider the claim of the land-loser with regard to the value of the sandalwood

trees. This Court also permitted the land-loser to place all the material that he desired in support of the claim before the competent authority.

71. The competent authority has thereafter proceeded to determine the value of the sandalwood trees on the basis of the valuation that had been made by the Principal Chief Conservator of Forests.

72. The order of the Principal Chief Conservator of Forests contains the following reasoning:

> "ಮುಂದುವರಿದು, ಅರ್ಜಿದಾರರ ಮನವಿ ದಿನಾಂಕ:26.08.2021ನ್ನು ಉಲ್ಲೇಖಿಸಿ, ಕರ್ನಾಟಕ ರಾಜ್ಯದಲ್ಲಿನ ಅರಣ್ಯ ಪ್ರದೇಶಗಳಲ್ಲಿ ಹಾಗೂ ರೈತರ ಜಮೀನಿನಲ್ಲಿ ಒಂದನೇ ವರ್ಷದಿಂದ ಇಪ್ಪತ್ತೈದು ವರ್ಷಗಳವರೆಗೆ ಬೆಳೆದ ಶ್ರೀಗಂಧ ಗಿಡಗಳಿಂದ ವರ್ಷವಾರು ಎಷ್ಟುಪ್ರಮಾಣದ Heart wood, Mixed wood & sap wood ಮತ್ತು ಅದರಿಂದ ಎಷ್ಟು ಆದಾಯ ದೊರೆಯಬಹುದೆಂಬುದರ ಕುರಿತು ಸಂಶೋಧನೆ ಘಟಕದ ವತಿಯಿಂದ ಮಾಹಿತಿಯನ್ನು ಸಲ್ಲಿಸಲು ಅಪರ ಪ್ರಧಾನ ಮುಖ್ಯ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ (ಸಂಶೋಧನೆ ಮತ್ತು ಬಳಕೆ)

ಬೆಂಗಳೂರು ಇವರಿಗೆ ಉಲ್ಲೇಖ(3)ರ ಈ ಕಛೇರಿ ಪತ್ರ ದಿನಾಂಕ 17.09.2021ರಲ್ಲಿ ತಿಳಿಸಲಾಯಿತು.

ಅದರಂತೆ ಅಪರ ಪ್ರಧಾನ ಮುಖ್ಯ ಅರಣ್ಯ ಸಂರಕ್ಷಣಾಧಿಕಾರಿ (ಸಂಶೋಧನೆ ಮತ್ತು ಬಳಕೆ) ಬೆಂಗಳೂರು ಇವರು ಪತ್ರ ಸಂಖ್ಯೆ : ಅಪ್ರಮುಅಸಂ(ಸಂಬ)ಪಿಎ–ಶ್ರೀಗಂಧ–ಸಿಆರ್–12/2019–20 ದಿನಾಂಕ 28.09.2021ರ ಪತ್ರದೊಂದಿಗೆ ಸಂಶೋಧನೆ ಮತ್ತು ಬಳಕೆ ಘಟಕದ ವತಿಯಿಂದ ಶ್ರೀಗಂಧದ ಬೆಳೆ ಆರ್ಥಿಕತೆಯ ಬಗ್ಗೆ ಹೊರ ತಂದಿರುವ ಕಿರು ಹೊತ್ತಿಗೆಯನ್ನು ಲಗತ್ತಿಸಿ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸದರಿ ವರದಿಯನ್ನು ಅವಲೋಕಿಸಲಾಗಿ, ಅದರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಪ್ರಮುಖ ಅಂಶಗಳನ್ನು ಈ ಕೆಳಕಂಡಂತೆ ನಮೂದಿಸಿದೆ.

"ಶ್ರೀಗಂಧದ ಮರದ ವಯಸ್ಸು ಕಳೆದಂತೆ ಅದರ ಬೆಳವಣಿಗೆ ಹಾಗೂ ಒಳತಿರುಳಿನ (Heart wood) ನಿರ್ಮಾಣದ ಬಗೆಗಿನ ನಿಖರವಾದ ಮಾಹಿತಿ ಬಹುತೇಕ ಲಭ್ಯವಿರುವುದಿಲ್ಲ. ಅರಣ್ಯ ಇಲಾಖೆ ವತಿಯಿಂದ ಬೆಳೆಸಲಾದ ಯಶಸ್ವಿ ನೆಡುತೋಪುಗಳು ಸಹ ಬಹಳ ಕಡಿಮೆ ಇರುತ್ತದೆ. ಸಮರ್ಪಕವಾಗಿ ನಿರ್ವಹಣೆ ಮಾಡಿದ ಶ್ರೀಗಂಧದ ನೆಡುತೋಪಿನಲ್ಲಿ (ಪ್ರಾಥಮಿಕ 6–7) ವರ್ಷ ಹಾಗೂ ಬರಗಾಲದ ಅವಧಿಯಲ್ಲಿ ನೀರಾವರಿ ವ್ಯವಸ್ಥೆ ಮಾಡಿದ) ಮರದ ಗಾತ್ರದ ಬೆಳವಣಿಗೆ ಪ್ರತಿ ವರ್ಷ ಸರಾಸರಿ ಹೆಚ್ಚಳ 2.5 ಸೆ.ಮೀ. ನಿಂದ 3 ಸೆ.ಮೀ ರವರೆಗೆ ಇರುವುದು ಗಮನಿಸಲಾಗಿರುತ್ತದೆ. ಆದರೆ, ಈ ರೀತಿಯ ಬೆಳವಣಿಗೆ ನೆಡುತೋಪಿನಾದ್ಯಂತ ಒಂದೇ ತರನಾಗಿ ಇರುವುದಿಲ್ಲ (ಇತರೆ ನೆಡುತೋಪು ಬೆಳಗೆ ಹೋಲಿಸಿದಲ್ಲಿ), ಆದ್ದರಿಂದ, 15 ವರ್ಷಗಳ ನಂತರ ನೆಡುತೋಪಿನಲ್ಲಿನ ಶೇಖಡ 10–15 ರಷ್ಟು ಮರಗಳು 5–8 ಕೆ.ಜಿ. ಪ್ರತಿ ಮರಕ್ಕೆ ಒಳತಿರುಳು (Heard wood) (ಬೇರಿನ ಭಗವೂ ಒಳಗೊಂಡಂತೆ) ಹೊಂದಬಹುದೆಂದು ನಿರೀಕ್ಷಿಸಬಹುದಾಗಿರುತ್ತದೆ. ಈ ಪ್ರಮಾಣವು ನೆಡುತೋಪಿನ ಉತ್ತಮ ನಿರ್ಮಹಣೆಯ ಮೇಲೆ ಅವಲಂಬಿಸಿರುತ್ತದೆ."

ಹತ್ತು ವರ್ಷ ಹಳೆಯದಾದ ಶ್ರೀಗಂಧ ಮರಗಳ ಮೌಲ್ಯ ನಿರ್ಧರಿಸುವ ವಿಚಾರದಲ್ಲಿ ಹಾರ್ಟ್ ವುಡ್‌ಇಂತಿಷ್ಟು ಪ್ರಮಾಣ ಅಭಿವೃದ್ಧಿಗೊಂಡಿರುತ್ತದೆ ಎಂಬುದನ್ನು ಖಚಿತವಾಗಿ ನಿರ್ಣಯಿಸಲು ಸಾಧ್ಯವಿರುವುದಿಲ್ಲ ಹಾಗೂ ರೈತರು ತೋಟಗಾರಿಕೆ ಬೆಳೆಗಳನ್ನು ಬೆಳೆಸುವುದರಲ್ಲಿ ಅನುಸರಿಸುವ ಕ್ರಮಗಳು ಹಾಗೂ ಶ್ರೀಗಂಧ ಮರಗಳನ್ನು ಬೆಳೆಸುವುದರಲ್ಲಿ ಅನುಸರಿಸುವ ಕ್ರಮಗಳು ವಿಭಿನ್ನವಾಗಿರುತ್ತದೆ ಎಂದು ಅಭಿಪ್ರಾಯ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಮುಂದುವರಿದು, ಕರ್ನಾಟಕ ರಾಜ್ಯದಲ್ಲಿ ಕೃಷಿ ಅರಣ್ಯದಲ್ಲಿ ಶ್ರೀಗಂಧ ಗಿಡಗಳ ಮೌಲ್ಯಮಾಪನ ಕುರಿತು ಸಂಶೋಧನಾ ಅಧ್ಯಯನವನ್ನು ಸಿದ್ದಪಡಿಸಿ ಸಲ್ಲಿಸಲು ನಿರ್ದೇಶಕರು ಮರ ವಿಜ್ಞಾನ ಮತ್ತು ತಾಂತ್ರಿಕ ಸಂಸ್ಥೆ, ಬೆಂಗಳೂರು ಇವರಿಗೆ ಉಲ್ಲೇಖ(3)ರ ಈ ಕಛೇರಿ ಪತ್ರ ದಿನಾಂಕ 13.12.2021ರಲ್ಲಿ ಕೋರಲಾಗಿದ್ದು, ವರದಿ ಈ ಕಛೇರಿಯಲ್ಲಿ ಈವರೆಗೂ ಸ್ವೀಕೃತವಾಗಿರುವುದಿಲ್ಲ. ನಿರ್ದೇಶಕರು, ಮರ ವಿಜ್ಞಾನ ಮತ್ತು ತಾಂತ್ರಿಕ ಸಂಸ್ಥೆ ಬೆಂಗಳೂರು ಇವರಿಂದ ಸಂಶೋಧನಾ ವರದಿ ಸ್ವೀಕೃತಿಯಾದ ನಂತರ ಪರಿಗಣಿಸಬಹುದಾಗಿರುತ್ತದೆ.

ಈ ವಿಷಯವನ್ನು ಸರ್ಕಾರದ ಹಂತದಲ್ಲಿ ದನಾಂಕ 21.11.2021 ಹಾಗೂ ಸನ್ಮಾನ್ಯ ಅರಣ್ಯ ಹಾಗೂ ಆಹಾರ ನಾಗರಿಕ ಸರಬರಾಜು ಮತ್ತು ಗ್ರಾಹಕರ ವ್ಯವಹಾರಗಳ ಸಚಿವರು ನಡಿಸಿದ ಸಭೆ ದಿನಾಂಕ 21.12.2021 ರಂದು ಮತ್ತು 20.01.2022 ರಂದು ಸಹ ಚರ್ಚೆ ಆಗಿರುತ್ತದೆ.

ಪ್ರಸ್ತುತ, ಉಲ್ಲೇಖ(5)ರ ಸರ್ಕಾರದ ಪತ್ರ ದಿನಾಂಕ 02.02.2022ರಲ್ಲಿ ಈ ಕಛೇರಿ ಪ್ರಸ್ತಾವನೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿ, ಈ

ಕೆಳಕಂಡಂತೆ ಅನುಮತಿ ನೀಡಲಾಗಿದೆ. ಶ್ರೀಗಂಧ ಗಿಡಗಳಿಗೆ ಪರಿಹಾರ ಮೊತ್ತವನ್ನು ನಿಗಧಿಪಡಿಸಲು ರಚಿತವಾದ ಅಧಿಕಾರಿಗಳ ತಂಡವು ಚರ್ಚಿಸಿ, ವಿವಿಧ ಯೋಜನೆಗಳನ್ನು ಅನುಷ್ಠಾನಗೊಳಿಸುವಾಗ ಭೂಸ್ವಾಧೀನ ಮಾಡಿದ ಪ್ರಕರಣಗಳಲ್ಲಿ ಕಡಿಯಲ್ಪಟ್ಟ ಪ್ರತಿ ಶ್ರೀಗಂಧದ ಸಸಿಗೆ ಮೊದಲನೇ ವರ್ಷದಿಂದ ಹತ್ತನೇ ವರ್ಷದವರೆಗೂ ಪ್ರತ್ಯೇಕವಾಗಿ ವರ್ಷವಾರು ಪ್ರಸ್ತಾಪಿಸಿರುವ ಈ ಕೆಳಕಂಡ ದರಗಳನ್ನು ನಿಗಧಿಪಡಿಸಿದೆ.

Sl.No	**Age of the Sandal plant**	**Compensation amount per sandalwood plant (in Rs.)**
1	1 year old	420.00
2	2 year old	513.00
3	3 year old	596.00
4	4 year old	679.00
5	5 year old	762.00
6	6 year old	845.00
7	7 year old	928.00
8	8 year old	1011.00
9	9 year old	1094.00
10	10 year old	1177.00

(ಈ ದರಗಳು ಪ್ರತಿ ಹೆಕ್ಟೇರ್‌ಗೆ ಗರಿಷ್ಟ 400 ಸಸಿಗಳಿಗೆ ಅನ್ವಯವಾಗುತ್ತದೆ)

ಮೇಲೆ ನಿಗಧಿಪಡಿಸಿದ ದರಗಳಲ್ಲದೇ, ಸದರಿ ಮರಗಳಿಂದ ತೆಗೆಯಲ್ಪಟ್ಟ ಶ್ರೀಗಂಧದ ಸಂಪೂರ್ಣ ಮೌಲ್ಯವನ್ನು ಸಹ ಸಂಬಂಧಪಟ್ಟ ರೈತರಿಗೆ ಪಾವತಿಸಲು ಸರ್ಕಾರದ ಅನುಮತಿ ನೀಡಲಾಗಿದೆ ಎಂದು ಹಾಗೂ ಮಾನ್ಯ ಅರಣ್ಯ ಹಾಗೂ ಆಹಾರ, ನಾಗರೀಕ ಸರಬರಾಜು ಮತ್ತು ಗ್ರಾಹಕರ ವ್ಯವಹಾರಗಳ ಸಚಿವರಿಂದ ಅನುಮೋದಿತ ಎಂದು ಸಹ ತಿಳಿಸಲಾಗಿದೆ. ಅದರಂತೆ, ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶ ಹೊರಡಿಸಲಾಗಿದೆ.”

73. As could be seen from the above, the Chief Conservator of Forests notices the opinion of the Additional Chief Conservator of Forests (Research and Growth) that there was no definite material regarding the extent of heartwood in a sandalwood tree as they age every year and it was observed in the plantations raised by the Forest Department, the girth of a 6-7 year old sandalwood tree would increase by 2.5 to 3 cms and that the growth would not be uniform, and about 10-15% of 15 year old trees would have 5-8 kgs of heartwood.

74. The Chief Conservator, however, thereafter proceeded to hold that it would be appropriate to accept the proposals received and determined the value of the trees ranging from 1 to 10 years. The Chief Conservator does not state as to how this value is arrived at and whether it is based on the cost of cultivation or the potential yield. It may be pertinent to state here that this order was passed

notwithstanding the fact that he was yet to receive a report from the Director, Institute of Wood Science and Technology who had, in fact, stated earlier that they were not equipped to assess the value of the sandalwood trees. Thus, essentially, there is no reasoning laid out by the Chief Conservator of Forests for the valuation arrived at by him for the sandalwood trees and the competent authority has comply accepted this valuation.

75. It is rather sad that Karnataka, which is referred to as the "Sandalwood land" ("ಶ್ರೀಗಂಧದ ನಾಡು") does not have any scientifically determined method of valuing sandalwood trees.

VIII. RE: THE EXISTENCE OF AN ALTERNATIVE REMEDY OF APPROACHING THE ARBITRATOR UNDER THE ACT:

76. Learned Additional Advocate General as well as the other learned Counsel submitted that this issue

regarding valuation of sandalwood trees had come up for consideration for the first time before this Court and there were no precedents in this regard, and that it would therefore be appropriate for this Court to examine the issue threadbare and determine the manner in which sandalwood trees are to be valued.

77. Learned Counsel for the petitioners also pointed out that as per the impugned order of the Chief Conservator of Forest itself, there were no guidelines available for determination of the value of a sandalwood tree which is less than 15 years old and it would therefore be a futile exercise to remand the matter for a fresh consideration or to relegate the petitioner to approach the arbitrator. In fact, it was contended that the Deputy Commissioner, being the arbitrator, would be bound by the order of the Principal Conservator which had been approved by the Government and, hence, relegating the petitioners to

the remedy of arbitration provided under the Act would only be an exercise in futility.

78. In light of these submissions and also the fact that this issue would also crop up for consideration, given the fact that sandalwood trees are being raised by several farmers whose lands could be acquired, I am of the view that this issue would have to be dealt with and accordingly, I am embarking on this exercise.

IX. THE MANNER OF VALUING A SANDALWOOD TREE WHICH IS LESS THAN 15 YEARS AND IN WHICH THE HEARTWOOD IS YET TO BE FORMED:

79. It is no doubt true that the value of sandalwood is determined by the Forest Department but this determination of the value of sandalwood is on the basis of the heartwood available in sandalwood trees which have been felled after they are more than 15-20 years old. But the value of a sandalwood tree, which is

yet to possess heartwood — the true intrinsic value of a sandalwood tree — is incapable of determination by the experts in the field.

80. Sandalwood is an evergreen tree which attains a height of 4 to 20 meters and a girth of 1 to 2.4 meters and may live for more than 100 years. It is a parasitic plant whose roots intertwine with the roots of other species without harming them. The intrinsic value of a sandalwood tree is the heartwood, which is yellowish to brown in colour, strongly scented, and is considered as the finest material for carvings and fragrance of its oil which are in huge demand. The sandalwood trees take a minimum of 15-20 years and require a girth of 50-50 cms to enable its felling and harvesting of its heartwood. It is, however, not known from which year the heartwood is formed in a sandalwood tree.

81. As per the brochures of the Forest Department and the KSDL, which are produced by the petitioners,

under which the State actively encouraged the planting and raising of sandalwood trees. In these brochures, the number of sandalwood trees that can be grown vary from 277 per hectare to approximately 500 sandalwood trees per acre. It is stated that between the sandalwood trees, agricultural crops can be grown, and other trees should be interspersed as the sandalwood trees are parasitic plants and need the roots of other trees to survive.

82. In fact, the brochure issued by the Forest Department in the year 2017 states as follows:

> "ಆರ್ಥಿಕತೆಯನ್ನು ಪರಾಮರ್ಶೆಮಾಡಿದಂತೆ ಶ್ರೀಗಂಧದ ಬೆಳೆಗೆ ತಗಲುವ ವೆಚ್ಚ ಮತ್ತು ಆದಾಯ ಮಾದರಿವಾರು ವಿವರಗಳು ಈ ಕೆಳಗಿನಂತಿವೆ.
>
> a) ಮಳೆ ಆಶ್ರಯದಲ್ಲಿ ಶ್ರೀಗಂಧದ ಮರದ ಜೊತೆ ಕೃಷಿ ಬೆಳೆ:
>
> ಶ್ರೀಗಂಧದ ಸಸಿಗಳನ್ನು ಮರದಿಂದ ಮರಕ್ಕೆ ಹಾಗು ಸಾಲಿನಿಂದ ಸಾಲಿಗೆ 6ಮೀ ಅಂತರದಲ್ಲಿ (0.6ಮೀ)' ಗುಂಡಿಗಳನ್ನು ತೆಗೆದು ಹೆಕ್ಟೆರ್ ಒಂದಕ್ಕೆ 277 ಸಸಿಗಳನ್ನು ನೆಡುವುದು ಮತ್ತು ಸಸಿಗಳ ಮಧ್ಯದಲ್ಲಿ ಖಾಲಿ ಇರುವ ಜಮೀನಿನಲ್ಲಿ ಪ್ರಾರಂಭಿಕ ಸುಮಾರು ಐದು ವರ್ಷಗಳವರೆಗೆ ತೊಗರಿ, ರಾಗಿ, ಜೋಳ, ಕಡಲೆ

ಇತ್ಯಾದಿ ಕೃಷಿ ಬೆಳೆಗಳನ್ನು ಬೆಳೆಸುವುದು, ಸುಮಾರು 5ನೇ ವರ್ಷದಿಂದ ಶ್ರೀಗಂಧದ ಬೀಜಗಳನ್ನು ಸಂಗ್ರಹಿಸಬಹುದು. 16ನೇ ವರ್ಷದಿಂದ ಪ್ರತಿ 2 ವರ್ಷಕೊಮ್ಮೆ ಪ್ರತಿಶತ 10ರಷ್ಟು ಚೆನ್ನಾಗಿ ಬೆಳೆದ ಮರಗಳ ಕಟಾವಣೆ ಮಾಡಿ 25ನೇ ವರ್ಷ ಉಳಿದ ಎಲ್ಲಾ ಶ್ರೀಗಂಧದ ಮರಗಳನ್ನು ಕಟಾವಣೆ ಮಾಡಬಹುದಾಗಿದೆ. ಈ ಮಾದರಿಯಲ್ಲಿ 25 ವರ್ಷಗಳ ನಿರ್ವಹಣೆಗೆ ಅಂದಾಜು ರೂ.50,75,000 ವೆಚ್ಚ ತಗಲುತ್ತಿದ್ದು, 5 ವರ್ಷಗಳ ಕೃಷಿ ಬೆಳೆಯಿಂದ ರೂ.1,79,000 ಹಾಗು ಶ್ರೀಗಂಧದ ಬೀಜಗಳು ಮತ್ತು ಒಳತಿರುಳು (Heard wood) ಬೇರುಗಳು ಸೇರಿದಂತೆ ಒಟ್ಟು ರೂ.1,27,34,000 ಗಳ ಆದಾಯ ಬರುತ್ತಿದ್ದು 25 ವರ್ಷಗಳ ನಿರ್ವಹಣೆ ಖರ್ಚು ಕಳೆದು ಹೆಕ್ಟೇರ್ ಒಂದಕ್ಕೆ ರೂ. 78,38,000 ಗಳ ನಿವ್ವಳ ಲಾಭ ದೋರೆಯುತ್ತದೆ.

b) ನೀರಾವರಿ ಆಶ್ರಯದಲ್ಲಿ ಶ್ರೀಗಂಧದ ಮರದ ಜೊತೆ ಕೃಷಿ ಬೆಳೆ:

ಗುಂಡಿ ತೆಗೆದು ಶ್ರೀಗಂಧದ ಸಸಿ ನೆಡುವ ಹಾಗು ಕೃಷಿ ಬೆಳೆ ಬೆಳೆಯುವ ವಿಧಾನವು ಮಾದರಿ a) ರಂತೆ ಇದ್ದು ಹನಿ ನೀರಾವರಿ ಅಥವಾ ಸ್ಪ್ರಿಂಕ್ಲರ್ ಮೂಲಕ ಕೃಷಿ ಹಾಗು ಶ್ರೀಗಂಧದ ಬೆಳೆಗೆ ನೀರುಣಿಸುವುದು ಮಾತ್ರ ಹೆಚ್ಚುವರಿ ಕೆಲಸವಾಗಿರುತ್ತದೆ. ಕೃಷಿ ಬೆಳೆ ಹಾಗು 25ನೇ ವರ್ಷದ ವರೆಗೆ ಶ್ರೀಗಂಧದ ಬೆಳೆಯ ನಿರ್ವಹಣೆಗೆ ತಗಲುವ ಒಟ್ಟು ವೆಚ್ಚ ರೂ.51,00,000 ಆಗಿದ್ದು ಮೊದಲ 5 ವರ್ಷಗಳ ಕೃಷಿ ಬೆಳೆಯಿಂದ ರೂ.4,07,150 ಹಾಗು ಶ್ರೀಗಂಧದ ಬೀಜಗಳು ಮತ್ತು ಒಳತಿರುಳು(Heard wood) ಬೇರುಗಳು ಸೇರಿದಂತೆ ಒಟ್ಟು ರೂ.1,77,34,000ಗಳ ಆದಾಯ ಬರುತ್ತಿದ್ದು 25

ವರ್ಷಗಳ ನಿರ್ವಹಣೆ ಖರ್ಚು ಕಳೆದು ಹೆಕ್ಟೇರ್ ಒಂದಕ್ಕೆ ರೂ.1,30,41,150 ಗಳ ನಿವ್ವಳ ಲಾಭ ದೊರೆಯುತ್ತದೆ.

c) ಮಳೆ ಆಶ್ರಯದಲ್ಲಿ ಶ್ರೀಗಂಧದ ಜೊತೆ ಇತರೆ ಅರಣ್ಯ ಮರ ಬೆಳೆ:

ಜಮೀನು ಹಸನುಗೊಳಿಸಿ 3ಮೀX3ಮೀ ಅಂತರದಲ್ಲಿ (0.6ಮೀ) ಅಳತೆಯ ಒಟ್ಟು 1111 ಗುಂಡಿಗಳನ್ನು ತೋಡಿ ಅದರಲ್ಲಿ ಗಿಡದಿಂದ ಗಿಡಕ್ಕೆ ಹಾಗು ಸಾಲಿನಿಂದ ಸಾಲಿಗೆ 6 ಮೀ ಅಂತರದಲ್ಲಿ ಒಟ್ಟು 277 ಶ್ರೀಗಂಧದ ಸಸಿಗಳನ್ನು ಹಾಗು ಇನ್ನುಳಿದ ಗುಂಡಿಗಳಲ್ಲಿ ಒಟ್ಟು 834 ಇತರೆ ಅರಣ್ಯ ಜಾತಿಯ ಮರಗಳನ್ನು ನೆಡುವುದು. ಈ ಮಾದರಿಯಲ್ಲಿ ಮೊದಲ 5 ವರ್ಷಗಳವರೆಗೆ ಯಾವುದೇ ಆದಾಯ ಬರುವುದಿಲ್ಲ. 5ನೇ ವರ್ಷದಿಂದ ಶ್ರೀಗಂಧ ಬೀಜಗಳನ್ನು ಸಂಗ್ರಹಿಸಬಹುದು. 8ನೇ ವರ್ಷದಲ್ಲಿ ಪ್ರತಿಶತ 50% ರಷ್ಟು ಹಾಗು 13ನೇ ವರ್ಷದಲ್ಲಿ ಇನ್ನುಳಿದ 50% ಅರಣ್ಯ ಜಾತಿಯ ಮರಗಳನ್ನು ಕಟಾವಣೆ ಮಾಡಬಹುದಾಗಿದೆ. 16ನೇ ವರ್ಷದಿಂದ ಪ್ರತಿ 2 ವರ್ಷಕ್ಕೊಮ್ಮೆ ಚೆನ್ನಾಗಿ ಬೆಳೆದ ಪ್ರತಿಶತ 10 ರಷ್ಟು ಶ್ರೀಗಂಧದ ಮರಗಳ ಕಟಾವಣೆ ಮಾಡಿ, 25ನೇ ವರ್ಷದಲ್ಲಿ ಇನ್ನುಳಿದ ಎಲ್ಲಾ ಶ್ರೀಗಂಧದ ಮರಗಳ ಕಟಾವಣೆ ಮಾಡಬಹುದಾಗಿದೆ. ಈ ಮಾದರಿಯಲ್ಲಿ ಶ್ರೀಗಂಧ ಹಾಗು ಅರಣ್ಯ ಜಾತಿಯ ಮರಗಳನ್ನು ಬೆಳೆಯಲು ತಗಲುವ ಒಟ್ಟು ವೆಚ್ಚ ರೂ.50,50,000 ಆಗಿದ್ದು ಶ್ರೀಗಂಧದ ಬೀಜಗಳು, ಅರಣ್ಯ ಜಾತಿಯ ಮರಗಳ ಮತ್ತು ಒಳತಿರುಳಿನಿಂದ (Heard wood) ಬೇರುಗಳು ಸೇರಿದಂತೆ ಒಟ್ಟು ರೂ.1,56,77,400 ಗಳ ಆದಾಯ ಬರುತ್ತಿದ್ದು ಖರ್ಚು ಕಳೆದು ಹೆಕ್ಟೇರ್ ಒಂದಕ್ಕೆ 25 ವರ್ಷಗಳಲ್ಲಿ ರೂ.1,06,27,400ಗಳ ನಿವ್ವಳ ಲಾಭವನ್ನು ನಿರೀಕ್ಷಿಸಬಹುದಾಗಿದೆ.

d) ನೀರಾವರಿ ಆಶ್ರಯದಲ್ಲಿ ಶ್ರೀಗಂಧದ ಜೊತೆ ಇತರೆ ಅರಣ್ಯ ಮರ ಬೆಳೆ:

ಗುಂಡಿ ತೆಗೆದು ಶ್ರೀಗಂಧದ ಸಸಿ ನೆಡುವ ಹಾಗು ಇತರೆ ಅರಣ್ಯ ಬೆಳೆ ಬೆಳೆಯುವ ವಿಧಾನವು ಮಾದರಿ c) ರಂತೆ ಆಗಿದ್ದು ಹನಿ ನೀರಾವರಿ ಮೂಲಕ ಶ್ರೀಗಂಧ ಹಾಗು ಇತರೆ ಅರಣ್ಯ ಮರಗಳ ಬೆಳೆಗೆ ನೀರು ಒದಗಿಸಬೇಕಾಗುತ್ತದೆ. ಈ ಮಾದರಿಯಲ್ಲಿ 25ನೇ ವರ್ಷದ ವರೆಗೆ ಶ್ರೀಗಂಧದ ಹಾಗು ಇತರೆ ಅರಣ್ಯ ಮರಗಳ ಬೆಳೆಯ ನಿರ್ವಹಣೆಗೆ ತಗಲುವ ಒಟ್ಟು ವೆಚ್ಚ ರೂ.52,50,000 ಅಗಿದ್ದು, ಇತರೆ ಅರಣ್ಯ ಮರಗಳು, ಶ್ರೀಗಂಧದ ಬೀಜಗಳು ಮತ್ತು ಒಳತಿರುಳು(Heard wood) ಬೇರುಗಳು ಸೇರಿದಂತೆ ಒಟ್ಟು ರೂ.2,12,94,900 ಗಳ ಆದಾಯ ಬರುತ್ತಿದ್ದು 25 ವರ್ಷಗಳ ನಿರ್ವಹಣೆ ಖರ್ಚು ಕಳೆದು ಹೆಕ್ಟೇರ್ ಒಂದಕ್ಕೆ ರೂ.1,60,44,900ಗಳ ನಿವ್ವಳ ಲಾಭ ದೊರೆಯುತ್ತದೆ."

83. As could be seen from the above, the Forest Department stated that about 277 sandalwood trees can be raised in a hectare of land and in between them, either crop could be raised, or 834 other kinds of trees can be grown. It is ultimately stated that after 25 years, the sandalwood trees so raised would fetch a yield ranging from Rs. 78.38 lakhs to about Rs. 1.60 crores.

84. The petitioners have also produced brochures issued by the KSDL in which it is stated 500 trees can be raised in a hectare and this would yield a sum of Rs. 1.37 crores as profit.

85. In fact, the petitioners have produced a covering letter dated 05.09.2018 along with a detailed report on sandalwood farming which was sent by the Principal Chief Conservator of Forests to the Additional Commissioner of the Ministry of Agriculture and Farmers Welfare, in which it is stated as follows:

> "**VII. Financial viability of sandal plantations**:
>
> Common measures used to assess the financial viability of a project are Benefit Cost Ratio (B/C Ratio), Net Present Value (NPV) and Internal Rate of Return (IRR). Viswanath et al (2010)[2] estimated B/C ratio of 3.3; IRR of 33% and NPV of Rs. 12.5 lakh for sandal plantations using the following specifications:
>
> 1. Planting density: 4 X 4 mt (or 625 trees per ha)
> 2. Age at harvest: 15 years.

3. Cost of cultivation and protection: Rs. 21 lakhs per ha. Of this, more than 50% has to be spent on protection after the trees cross about 35 cm girth

4. Average yield per tree: 3 kg of heartwood, 10 kg of mixed wood and 21 kg of sapwood

5. Sale price: Heart wood @ Rs. 3500/kg; Mixed wood @ Rs. 1363 per kg and sapwood @ Rs. 43 per kg of (price fetched in the sale of Mysore in 2007).

6. Discount rate adopted: 15%.

7. Survival rate expected: 90%.

Corresponding figures for 20 years of rotation age is B/C ratio of 1.9, IRR to 21.62% and NPV of Rs. 4.95 lakh because the protection costs are likely to increase steeply during the last five years. Obviously, sandal cultivation is financially viable. Density of planting and yield has significant impact on the financial viability.

In a highly optimistic study (2015)[3], KSDL estimated that sandal planted at 4 X 5 mt spacement on farm land can yield up to 20 kg of sandal heartwood at 25 years of age under conditions of good care and protection. Total per ha investment including the price of land at Rs. 10 lakh: irrigation cost of Rs. 2 lakh and protection cost of Rs. 9 lakhs, inflation and/or interest @ 12% per annum, total cultivation cost was estimated at Rs. 27.5 lakh/ha. Assuming 90% survival and an average price of Rs. 4000 per

kg of heartwood, the income from sandal heartwood alone is estimated at Rs. 360 lakh/ha. Including mixed/white wood and income from agricultural crop, total income was estimated at Rs.371 lakhs/ha. This study indicates that sandal cultivation is viable even if all costs are imputed.

In a more recent publication (2017)[4], the Research Wing of Karnataka Forest Department estimated the cost and returns for four different models of sandal cultivation using 6X6 mt spacement (or 277 sandal trees per hectare) viz., sandal inter-cultivation with rain fed and irrigated agricultural crops; and sandal inter- cultivation with other fast growing agro-forestry tree species under rain fed as well as irrigated conditions. Under dry conditions, sandal is expected to put up an annual girth increment of 2-2.5 cm per year. Under irrigated conditions, the girth increment my go up to 2.5-3 cm per year. Height varies depending upon the site conditions, and overhead cover/host plant. However, high variability in the growth rate is anticipated as a consequence of which all sandal trees can't be harvested in one go. They have to be harvested over a period of 10 years. Yield is expected to be available from 16th year onwards. Heart wood yield estimated is as under:

Sl no	Age of harvest (years)	No of trees/ha that can be harvested	Heart wood yield (kgs)	
			Rain fed	Irrigated
1	16	25	3	5
2	18	22	4	6
3	20	20	4	6
4	22	18	5	7
5	25	165	6	8
Total		**250**	**1323**	**1823**

Costs and returns per hectare from the respective main crops as well as sandal at current prices were included in the calculations and the economics were worked out. Details of expenditure and income at current prices are as follows:

(RS. Lakh)

Sl no	Type of sandal cultivation	Rain fed or irrigated	Total expenditure	Total revenue	Net income
1	Inter planted with agricultural crops	Rain fed	49.96	127.34	77.38
2	Inter planted with agricultural crops	Irrigated	50.08	177.34	127.26
3	Inter planted with agro forestry tree species	Rain fed	50.50	156.77	106.27
4	Inter planted with agro forestry tree species	Irrigated	52.50	212.95	160.45

Risk of theft of sandal trees is very high. A provision of about 10% of the trees being lost to theft has been included in the calculations. In spite of this,

expected income from all the models is quite high and can't be matched by the usual agricultural crops. This is what has been driving many farmers to take up sandal cultivation in the state. None of the models include oil from sandal seed. Kernel contains more than 30% of oil. This oil is found to have high therapeutic values. Seed can be harvested for oil purpose from 10th year onwards. One kilogram of seed fetches Rs. 300. It can fetch decent annual revenues to the sandal cultivators from about 7th year onwards if there are sufficient number of trees. Some planters have been raising seedlings from the wildlings found under the sandal trees during the monsoon season and earning revenue by selling them, though it is not desirable. If these benefits are also included, the financial viability will still be better. This is the potential. However, no one can be sure of harvesting the full potential unless we have gone through at least one full cycle of planting and harvesting."

[2]Viswanath. S, Dhanya, B, Purushothaman.S and Rathore. T. S. (2010). Financial Viability of Sandal (*Santalum album*) based agro forestry practices in Southern India, Indian Journal of Agro forestry, Vol. 12, no. 2, P. 14-22.

[3]Ananymous (2015). Srigandha Belesi Sirivantharagi (Grow Sandal and Be Wealthy). Published by Managing Director, Karnataka Soaps and Detergents Ltd. A Govt of Karnataka Enterprise, Sri Gandha Nagar, Bangalore.

[4]APCCF (Research& Utilisation), Dorasanipalya, Bangalore, November, 2017. Financial Viability of Sandal. Kannada version published by Karnataka Forest Department.

86. As could be seen from the above, the Research Wing of the Forest Department had itself estimated the costs and returns for four different models of sandalwood cultivation at 277 sandalwood trees per hectare and the net yield ranged from Rs. 77.38 lakhs to 1.06 crores.

87. Thus, the potential of having an earning from raising sandalwood trees has been calculated and estimated by the Department itself, which is the domain expert in relation to the valuation of trees, especially Sandalwood trees, and it cannot therefore be denied that a sandalwood tree has definite potential to earn a lucrative earning for the person who raises it.

88. In other words, a sandalwood tree cannot be equated to any other tree (including a fruit-bearing tree) and in valuing a sandalwood tree, its potential yield will have to be taken into consideration. It is to be kept in mind that a farmer, by planting sandalwood trees in

his land, embarks upon the task of raising them and protecting them for 16 years with the fond hope of earning a handsome sum and this hard work and labour invested over a long period of time cannot be ignored. He cannot therefore be asked to be satisfied with just the cost of raising the trees.

89. However, the problem in this case is that the trees existing on the acquired lands in Tarikere Taluk of Chikkamagalur District and Srinivasapura Taluk of Kolar Taluk are stated to be aged between 6 and 9 years and cannot therefore be harvested for its heartwood and, consequently, there is a problem in assessing its potential value.

90. The Forest Department has proceeded to take into consideration only the cost of cultivation as could be seen from the minutes of the meeting dated 21.01.2020 (Annexure R-1 to the SO of the State) and has arrived at the sum of Rs.282.095/- per tree. The

Department has, thereafter, in the subsequent proceedings, held on 06.03.2021 (Annexure R-2 to the SO of the State) has decided to add 100% to the base cost and has arrived at figures which are ultimately reflected in the order of the Principal Conservator of Forests dated 10.02.2022. In neither of these proceedings has the potential earning — that a farmer would get after 15 years — even been considered.

91. As already noticed above, the fourth parameter laid down in Section 28 of the 2013 Act for determining the value is the earnings of the person interested, which has been injuriously affected by the acquisition. In light of the fact that the petitioners had raised sandalwood trees for 6 to 9 long years, it is but natural that their expected earnings for their investment and labour cannot be denied to them.

92. In relation to sandalwood trees, taking into consideration that it has a long gestation period for

assessing its yield, the potentiality of its value will thus have to be determined.

93. To draw an analogy: when lands are acquired, for the purposes of its valuation — the potential use of the land for forming plots, its proximity to developed areas or towns are the criteria consistently being followed by the Courts from a very long time (***see: AIR 1967 SC 465***) and the same are taken into consideration for evaluating the compensation payable. Thus, it would be necessary to assess the potential value that a sandalwood tree may yield.

94. As already noticed above, the proposal submitted by the Forest Department to the Union Government for supporting sandalwood cultivation in Karnataka contains a chapter specifically dealing with the financial viability of sandalwood cultivation and in this, the estimation of KSDL, and a publication of the Research Wing of the Forest Department is also

referred to. It has been held that revenue ranging from Rs.77.38 lakhs to Rs.106.27 lakhs per hectare, on the basis of the sandalwood prices prevailing as on 2017,has been assessed.

95. In my view, this assessment of the Research Wing of the Forest Department merits acceptance since it is based on a scientific study and has taken into consideration different modes of cultivating the sandalwood trees. It is also to be started here that the calculations have been made on the assumption there would be 277 sandalwood trees per hectare. If this calculation is taken into consideration, the value per tree could be calculated by dividing the calculated yield by 277 i.e., the number of trees. Thus, the value of each tree would be:

    i. **If interplanted with agricultural crops and rain fed:** 77.38 lakhs ÷ 277 trees = Rs. 27,935 per tree;

ii. **If interplanted with agricultural crops and irrigated:** 127.26 lakhs ÷ 277 trees = Rs. 45,942/- per tree; and

iii. **If interplanted with agro forestry tree species and rainfed:** 106.27 lakhs ÷ 277 trees = Rs. 38,364.62 per tree.

96. However, in this case, there is a further dispute regarding the number of trees that can be planted in a hectare or an acre of land to raise a sandalwood plantation. As per the above method, it is 277 trees per hectare. However, in the very same report, as per the study of KSDL conducted in 2015, it is found that a hectare of land in which sandalwood is raised would yield about Rs.3.71 crores per hectare. In this study, the trees are planted at a distance of 4x5 mts as against 6x6 mts in the former method. This would mean that as per the KSDL's study, the number of trees planted in a hectare would be 494 trees. Consequently, the value of each sandalwood tree

would be Rs.360 lakhs ÷ 494, which would be Rs.72,874/-.

97. There are thus two values which can be attached to a sandalwood tree, one ranging from Rs.27,935/- per tree to Rs.45,942/- per tree, as per the study by the Forest Department and another value at Rs.72,874/- per tree, as per the study of KSDL. In light of the varying values, for the purpose of valuation of a sandalwood tree, it would be safer and rational to take the average of all the values, which would be Rs.46,278/- per tree.

98. It may be pertinent to state here that since the preliminary notification in these cases is of the year 2016, the calculations made on the basis of sandalwood prices prevailing in 2015 and 2017 can be safely accepted.

99. However, the value as determined above would be for a 15 year old tree and this cannot be adopted in the present case, since the age of the trees is admittedly between 6 and 9 years.

100. Since, in the detailed report referred to above, the survival rate is stated to be 90%, it can also be safely assumed that the survival rate of a sandalwood tree is high. Given the fact that the trees, in these cases, have been reared for a period ranging from 6-9 years, it can also be assumed that these trees would survive for 15 years and could be harnessed for its heartwood. However, that process would entail the petitioners rearing the trees and incurring costs and time, and the petitioners cannot obviously be compensated for the expenditure and work that they are yet to expend. In my view, therefore, it would be appropriate to come to the conclusion that the petitioners would not be entitled to the above-mentioned value, but they would be entitled to a percentage of the said value.

101. As already stated above, a sandalwood tree would yield Rs.46,278/- (per tree) after they reach the age of 15 years. However, as opined by experts, there would be a failure rate of 10% in their survival and the possibility of the tree being plundered and stolen is also a definite possibility. It would therefore be appropriate to take these factors into account and discount the above value by 30%, and the resultant value per sandalwood tree would be Rs.32,394/. But this value cannot be awarded to trees aged between 6 and 9 years, and it would be necessary to determine the value of these trees based on this sum.

102. If the sum of Rs.32,394/- i.e., the value of a tree that would fetch after 15 years is taken, the value per tree as per its age wise can be assessed by dividing said value by a factor of 15 and consequently, the value of the tree, age wise, would be Rs.2,159/- per year.

103. However, in respect of a tree which is just 1-2 years old, this amount cannot be taken as it is quite possible that 1 year old sandalwood saplings could be planted just before the lands are proposed for acquisition (which would be generally known beforehand in the area) to claim compensation. This value adopted can be applied to sandalwood trees which are at least 3 years old as on the date of the preliminary notification.

104. In respect of trees which are 1-2 years old, the cost of cultivation as determined in the impugned orders issued by the Principal Conservator can be applied.

105. As the trees in this case are aged between 6 and 9 years, even according to the Forest Department, the value of each tree would be:

    i. For a tree aged 6 years: Rs.2,159/- x 6 = *Rs.12,954/-*;

ii. For a tree aged 7 years: Rs.2,159/- x 7 = *Rs.15,113/-*;

iii. For a tree aged 8 years: Rs.2,159/- x 8 = *Rs.17,272/-*; and

iv. For a tree aged 9 years: Rs.2,159 x 9 = *Rs.19,431/*.

106. It is noticed that all the trees in these cases are not 9 years old and there are trees which are aged between 6 and 9 years as per the reports of the Forest Department. Thus, for a tree exceeding 3 years, the amount payable would be Rs.2,159 x the age of the tree i.e., 2,159x6, 2,159x7, 2,159x8, 2,159x9 and so on and so forth.

107. However, for a sandalwood tree to survive, it is necessary to plant only a certain number of trees per hectare. According to the calculation made by the Research Wing of the Forest Department, 277 trees are to be planted in a hectare along with 845 other

trees, while the KSDL study proceeds on the footing that 494 trees can be planted in a hectare.

108. Since there were wide variations in the number of sandalwood trees that can be planted in a hectare of land, the Forest Department was directed to file an affidavit specifying its stand in this regard and, accordingly, the Deputy Conservator of Forests has filed an affidavit stating that the prescribed ideal number of seedlings to be planted in one hectare would be 400. In my view, in light of the varying figures in the brochures and the detailed report, it would be safer to accept this figure of 400 sandalwood trees per hectare i.e., 161 trees per acre or 4 trees per gunta.

109. Consequently, for a plot of land measuring 1 acre in which sandalwood trees are raised as a plantation, the compensation payable for 161 sandalwood trees — say, for trees that are 6 years old as on the date of

the Section 3A notification, would be Rs.12,954x 161 i.e., Rs.20,85,594/- per acre. This method of calculation would have to be adopted considering the value of the trees vis-à-vis their age as calculated above (for 7 years) i.e., Rs.15,113 x 161 i.e., Rs. 24,33,193/- per acre and son on and so forth.

110. Since 161 trees can be grown in an acre, only 4 trees can be grown in a gunta of land, which would mean that for a plot of land measuring 1 guntas, if there are 6 year old trees available, a compensation of Rs.12,954/- x 4 i.e., Rs.51,816 per gunta can be paid on the premise that only 4 trees can be grown in a gunta of land. If the land contains a 7 year or a 8 year or a 9 year old sandalwood trees, the value of the tree as detailed above shall be applied to determine the compensation payable for 1 gunta of land in which sandalwood trees are grown.

111. If there are trees in excess of this number of 161 per acre or 4 trees per gunta, they would only be entitled for a sum of Rs.845/- per every 6 year old tree or a sum as determined for each tree depending on their age, as determined by the Principal Conservator of Forests which is calculated on the basis of the cost incurred in cultivating them.

112. In respect of the lands acquired in Srinivaspura Taluk under the KH Act, the authorities have recorded that there are 109 sandalwood trees which were aged 9 years in the 20 guntas of land that were acquired. In light of the above discussion, compensation can only be paid on the premise that only 80 trees could be successfully raised in 20 guntas of land and for the remaining 29 sandalwood trees, petitioner would only be entitled for the cost of cultivation as prescribed by the Principal Conservator of Forests. In other words, the petitioner would be entitled to 80 x Rs.19431/- i.e., Rs. 15,54,480/- and a further sum of Rs.1109/- x

29 i.e., Rs. 32,161/- i.e., a total sum of Rs.15,86,641/-.

113. The competent authority is directed to pass awards in these terms within a period of two months from the date of receipt of this order.

114. It is also to be stated here that in these cases, the prices of sandalwood as prevailing in 2015 and 2017 have been accepted since the preliminary notification is of the year 2016. However, in respect of valuation of sandalwood trees which may crop up under future notifications, the process will have to be reworked by taking into consideration the sandalwood prices as are prevalent on the date of the preliminary notification.

115. The Principal Conservator is directed to prepare detailed guidelines in terms of this judgment and also notify the prices of sandalwood prevailing every year

so to enable the competent authorities or the SLAOs to pass an award.

X. OTHER SUBMISSIONS ADVANCED BY THE LEARNED COUNSEL:

116. Arguments were advanced on behalf of the petitioners that the price of a sandalwood tree as on the date of the notification cannot be the criteria since the price of sandalwood would be exponentially higher 10 years thereafter and, hence, a higher price for sandalwood tree is to be considered. In my view, this argument cannot be accepted because the petitioners would be getting the value of the trees 10 years before their yield can be assessed and they cannot thus demand the inflated value of sandalwood. The price of a sandalwood tree as on the date of its acquisition would therefore be the ideal parameter for determining the value of a sandalwood tree which is yet to mature for its felling.

117. Arguments were also advanced by the learned counsel Smt.Shipa Shah that the trees were not in existence as on the date of the notification and this stood established from the sale deeds of the petitioners. In my view, this argument would be unavailable to the NHAI in light of the above noted correspondence of the NHAI itself calling upon the Deputy Conservator of Forests and its own valuer to assess the value of 2535 sandalwood trees standing on the acquired lands and which were stated to be 6 years old.

118. The other argument — that one of the agreements entered into with KSDL produced, itself indicated that it was printed on a stamp paper which had been purchased much later, establishing that it was a concocted document — also cannot be accepted since the question as to whether there were existing sandalwood trees in the acquired lands has not been questioned by the NHAI at any point in time. They have, in fact, acknowledged the existence of 6 year

old sandalwood trees numbering about 2353 and had asked its valuer to assess their value.

119. She also sought to argue that the petitioners had purchased the lands just before the publications of the notifications and, hence, no regard should be given for their contentions that they had raised sandalwood trees.

120. In order to ascertain whether the trees were planted just before the issuance of the notifications so as to claim compensation, the learned AAG was directed to ensure that a spot inspection was done by the Forest officials and a report be submitted. Learned AAG filed a memo dated 26.11.2024 enclosing photographs captured through Google Maps indicating the existence of a sandalwood plantation over a large extent of land in which the lands in question were involved.

121. He also filed a memo dated 12.12.2024 enclosing a communication of the Deputy Conservator of Forests, in which it has been stated that in the extent of 7 acres 38 guntas which was a 'L' shaped land, the petitioners had sub-divided the land into plots of 30 x 40 feet and the sandalwood saplings had been grown these plots since 2016 after the issuance of the notification. It is also stated that there are a total of 3966 sandalwood saplings and 884 different kinds of trees in this extent of 7 acres 32 guntas. Photographs captured through Google Maps are also enclosed to this memo which also shows that there is a plantation in the L-shaped land which measured 7 acres 32 guntas. It is therefore clear from this communication that there is a full-fledged sandalwood plantation in existence and the petitioners did not plant the saplings only because of the notifications.

122. It has also been stated in this communication that the petitioners could have only planted 1194 saplings in

this extent of 7 acres 32 guntas (i.e., 2.9866 hectares) but they had raised 3966 sandalwood trees and 884 other trees. Since the compensation payable in respect of sandalwood trees in an acre of land is held to be payable by taking into consideration the value of only 161 trees per acre, the raising of a higher number of trees would be of no significance for calculating the compensation payable.

123. In other words, irrespective of the number of sandalwood trees planted in an acre of land, for the purposes of computing compensation, the value of only 161 trees per acre will be taken into consideration as detailed above and for the remaining trees, only the cost of cultivation would be taken as aforesaid.

124. Along with the memo, a sketch and Google Maps photographs are enclosed indicating that a sandalwood plantation has been raised over a larger

extent of 7 acres 32 guntas, which is an L-shaped land, and the photographs as well as the sketch also demarcate the area that is acquired for the formation of the proposed NH-206, and these photographs and sketch clearly establish that a full-fledged sandalwood plantation has been raised and it is not an attempt by the petitioner to plant the saplings only in the portions of the lands that are sought to be acquired. Thus, the argument of Smt.Shilpa Shah in this regard cannot be accepted.

125. The Writ Petitions are accordingly disposed of.

Sd/-
(N S SANJAY GOWDA)
JUDGE

PKS
List No.: 1 Sl No.: 84

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

[PRATHAPKUMAR K R VS. SPECIAL LAND ACQUISITION OFFICER AND OTHERS]

04.03.2025
(VIDEO CONFERENCING / PHYSICAL HEARING)

CORAM: HON'BLE MR JUSTICE N S SANJAY GOWDA

ORAL ORDER ON 'FOR BEING SPOKEN TO'

1. After the order was delivered, it was reported that the lands involved in W.P.No.21824/2022 were actually denotified by the Government and, hence, the determination of compensation in respect of sandalwood trees grown on the lands involved in W.P.No.21824/2022 would not be proper.

2. It is not disputed by the petitioner that his land, which is the subject matter of W.P.No.21824/2022 has been denotified. Hence, the order passed on 29.01.2025 shall be confined only to the other writ petitions and W.P.No.21824/2022 shall stand ***dismissed.***

3. If the petitioner has any other grievance against the State, it is needless to state that he can file an appropriate writ petition or initiate another proceeding in that regard.

Sd/-
(N S SANJAY GOWDA)
JUDGE

GSR
List No.: 1 Sl No.: 1