

NINGAPPA THOTAPPA ANGADI (DEAD) THROUGH LRS. A

v.

THE SPECIAL LAND ACQUISITION OFFICER AND
ANOTHER

(Civil Appeal No. 9415 of 2019) B

DECEMBER 13, 2019

[S. A. BOBDE, CJI, B. R. GAVAI AND SURYA KANT, JJ.]

Land Acquisition Act, 1894 – ss.4(1), 6(1), 17(1), (4) & 18 – Long delay in filing SLP – Grant of enhanced compensation as granted in the case of other land owners, under the same acquisition, who appealed against the impugned judgment expeditiously – If permissible – Land situated in Yellapur Village, Hubli Taluka acquired for construction of Hubli Ankola Broad Gauge Railway Line – Land Acquisition Officer fixed the market value at the rate of Rs.7,500/- per gunta – Aggrieved, the appellant(s) and other similarly placed persons sought reference –Reference Court by common order enhanced the compensation to Rs 25,000/- per gunta (Rs.10,00,000/- per acre) – High Court in appeals by the Land Acquisition Officer, modified the award passed by Reference Court and reduced the compensation to Rs.5,10,000/- per acre – Some of the affected land owners filed Special Leave Petition(s) and Supreme Court vide judgment dtd. 11.11.16 passed in Civil Appeal No.2927/2010 allowed their appeals restoring the compensation of Rs.10,00,000/- per acre in their case, as awarded by the Reference Court – Present appellant(s) who was/were also aggrieved by the impugned judgment of the High Court did not file the appeal along with other similarly situated land owners – Present appeal filed with delay of 2928 days – Held: Delay condoned – It is undeniable that Supreme Court vide judgment dtd. 11.11.16 passed in C.A. No.2927/2010 (Ningappa Thotappa Angadi v. Special Land Acquisition Officer & Anr.) set aside the order of the High Court and restored the compensation awarded by the Reference Court – Appellant(s) are also similarly placed claimants and thus, entitled to seek parity and claim the same amount of fair and just compensation as awarded to other land owners – However, the appellant(s) are not entitled to any interest on the enhanced compensation and statutory amount

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- A *for the period of delay of 2928 days in filing the appeal – Impugned order passed by the High Court, set aside – Award passed by the Reference Court, restored – Equity.*

Partly allowing the appeal, the Court

- B **HELD:** It is undeniable that Supreme Court vide judgment dtd. 11.11.16 passed in C.A. No.2927/2010 (Ningappa Thotappa Angadi v. Special Land Acquisition Officer & Anr.) has set aside the order of the High Court and restored the compensation awarded by the Reference Court. The appellant(s) are also similarly placed claimants. They are, thus, entitled to seek parity and claim the same amount of fair and just compensation as has been awarded to other land owners. The appellant(s) are, however, not entitled to seek interest for the period for which they did not approach this Court. The impugned order passed by the High Court dated 24.11.2008 in M.F.A. No. 3274/2007 is set aside and the award passed in favour of the appellant-claimant(s) by the Reference Court is restored. However, the appellant-claimant(s) shall not be entitled to any interest on the enhanced compensation and statutory amount for the period of delay of 2928 days in filing the appeal. [Paras 10-12][41-F; 42-B-D]

- E *Dhiraj Singh (Dead) through LRs. and Others v. State of Haryana and Others (2014) 14 SCC 127; Imrat Lal & Ors. v. Land Acquisition Collector & Ors. (2014) 14 SCC 133; Huchanagouda v. Assistant Commissioner and Land Acquisition Officer 2019 SCC Online SC 990 – relied on.*

F **Case Law Reference**

(2014) 14 SCC 127	relied on	Para 8
(2014) 14 SCC 133	relied on	Para 9

- G CIVIL APPELLATE JURISDICTION: Civil Appeal No. 9415 of 2019.

From the Judgment and Order dated 24.11.2008 of the High Court of Karnataka, Circuit Bench at Dharwad in M.F.A. No. 3274 of 2007.

S. N. Bhat, V. N. Raghupathy, Mahindarpal Gupta, Prakash Jadhav, Advs. for the appearing parties.

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The following Judgment of the Court was delivered :

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JUDGMENT

1. Delay condoned. Leave granted.
2. The instant appeal is directed against the order dated 24.11.2008 passed by High Court of Karnataka, Circuit Bench at Dharwad in M.F.A No. 3274 of 2007 whereby the appeal filed by Special Land Acquisition Officer, Hubli-Ankola against the award of the Reference Court was allowed and the compensation for acquiring appellant's land was reduced from Rs.10,00,000 per acre to Rs 5,10,000/- per acre.
3. The facts giving rise to the present controversy may be briefly noted. The Special Land Acquisition Officer, Hubli, Ankola issued Notification No. HB-LAW CR: 1/2002-2003 dated 18.4.2002 under Section 17(4) and 4(1) of Land Acquisition Act, 1894 for acquiring land situated in Yellapur Village, Hubli Taluka for the purpose of construction of Hubli Ankola Broad Gauge Railway Line with a further direction restraining the affected land owners from alienating or creating charge over the said land. A final notification under Section 17(1) and 6(1) of the Act was issued on 19.10.2002 for acquiring the said land. Subsequently, Land Acquisition Officer passed an award on 17.3.2003 with respect to the acquired land and fixed the market value at the rate of Rs.7,500/- per gunta. Aggrieved by the Land Acquisition Officer's award, the appellant(s) and other similarly placed persons sought reference under Section 18 of the 1894 Act seeking enhancement of compensation. The Reference Court-cum-Principal Civil Judge, Hubli passed a common order on 12.10.2006 and relying upon an earlier award of its own in LAC No.44/2004 in which compensation of Rs 25,000/- per gunta had been awarded, coupled with the fact that the acquired land in the present case and the land in LAC No. 44/2004 are located in adjoining villages and in close proximity of Hubli City, the Reference Court enhanced the compensation to Rs 25,000/- per gunta (Rs 10,00,000/- per acre).
4. Aggrieved by the afore-stated enhancement, the Land Acquisition Officer preferred appeals before the High Court of Karnataka contending that the acquired land was actually 'dry land' and that some other modes for determining its current market value should also have been applied. On the other hand, the claimants—affected land owners filed cross-objections seeking enhancement of compensation to Rs 26,000/- per gunta. The High Court of Karnataka vide impugned judgment dated 24.11.2008 allowed appeals filed by the Land Acquisition

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- A Officer. The High Court observed that the same Land Acquisition Officer had acquired some other land vide preliminary notification dated 13.05.2005 for the same public purpose and claimants/land owners in those proceedings entered into an agreement and a consent award was passed granting Rs 6,00,000/- per acre. Having noted the exemplar, the
 - B High Court held that lands of the present claimants which were acquired 3 years prior to 13.05.2005, could not be granted compensation of Rs 26,000 per guntas. Consequently, the High Court applied the principle of annual depreciation @ 15% and modified the award passed by Reference Court and reduced the compensation to Rs. 5,10,000/- per acre.
 - C 5. Some of the affected land owners filed Special Leave Petition(s) and this Court vide judgement dated 11.11.2016 passed in Civil Appeal No. 2927/2010 allowed their appeal and set aside the judgment of the High Court insofar as the appellant(s) in the said case were concerned and restored the compensation of Rs 10,00,000/- per acre as awarded by the Reference Court.
 - D 6. The present appellant(s) who was/were also aggrieved by the impugned judgment of Karnataka High Court did not file the appeal along with other similarly situated land owners. He has come to this Court after a considerable long period seeking parity with the other exappropriated land owners and craves for restoration of the
 - E compensation as was awarded by the Reference Court. The short question which, thus, falls for consideration is whether the appellant(s) whose predecessor-in-interest did not assail the High Court order in respect of the land which is subject matter of this appeal as expeditiously as the other land owners under the same acquisition, be allowed to get the same compensation despite a delay of 2928 days and if so, whether
 - F they are entitled to seek interest as well?
7. We have heard the learned counsel for the parties and perused the record.
8. We find that the issue raised in this appeal is no longer res-integra. This Court in ***Dhiraj Singh (Dead) through LRs. and Others v. State of Haryana and Others***¹ held that:
- “14. The appellants are identically situated and there is no reason to mete out a different treatment to them. We also note that, while in these cases, the High Court had refused to condone the delay
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- H ¹(2014) 14 SCC 127

and dismissed the LPAs of the appellants, other LPAs were allowed by the High Court itself by condoning the delay of the same magnitude in the same circumstances. A

15. Equities can be balanced by denying the appellants' interest for the period for which they did not approach the Court. The substantive rights of the appellants should not be allowed to be defeated on technical grounds by taking hypertechnical view of self-imposed limitations. In the matter of compensation for land acquisition, we are of the view that approach of the Court has to be pragmatic and not pedantic. B

[Emphasis applied] C

9. The afore-cited view has been consistently followed by this Court in a series of cases before and after the decision in *Dhiraj Singh's (dead)* case (supra). In *Imrat Lal & Ors. v. Land Acquisition Collector & Ors.*², it was observed that the delay in filing the Special Leave Petition cannot be the reason to deny just and fair compensation to the claimants. This Court observed that a liberal approach should be adopted in such like matters. In *Huchanagouda v. Assistant Commissioner and Land Acquisition Officer*³ also this Court condoned the delay and restored parity in the matter of grant of compensation though with a condition "that for the period of delay in filing and in refiling the Special Leave Petitions, the appellant-claimant(s) shall not be entitled to any interest on the enhanced compensation and statutory amount." E

10. It is undeniable that this Court vide judgment dated November 11, 2016 passed in C.A. No. 2927/2010 (*Ningappa Thotappa Angadi v. Special Land Acquisition Officer & Anr.*) has set aside the order of the High Court and restored the compensation as was awarded by the Reference Court. In the cited case, this Court held as follows:

"We have heard the learned counsel for the parties to some length and carefully perused the material on record. We are of the considered opinion that the impugned judgment and order of the High Court deserves to be set aside and judgment and order passed by the Reference Court restored. We say so because, this Court has in a similar appeal directed against the very same order set aside the impugned judgment and restored the enhancement G

² (2014) 14 SCC 133

³ (2019) SCC Online SC 990

- A granted by the Reference Court. We see no reason to take a different view in the present case. We, accordingly, allow this appeal and while setting aside the impugned judgment insofar as the same relates to the appellant, restore the judgment and order passed by the Reference Court. The parties shall, however, bear their own costs.”
- B 11. The appellant(s) are also similarly placed claimants. They are, thus, entitled to seek parity and claim the same amount of fair and just compensation as has been awarded to other land owners. The appellant(s) are, however, not entitled to seek interest for the period for which they did not approach this Court.
- C 12. For the reasons aforesated, the appeal is allowed in part, the impugned order passed by the High Court dated 24.11.2008 in M.F.A. No. 3274/2007 is set aside and the award passed in favour of the appellant-claimant(s) by the Reference Court is restored. However, the appellant-claimant(s) shall not be entitled to any interest on the enhanced compensation and statutory amount for the period of delay of 2928 days in filing the appeal. Ordered accordingly.
- D

Divya Pandey

Appeal partly allowed.