

**(2008) 01 KAR CK 0006**  
**In the Karnataka High Court**  
**Case No : C.R.P. No. 58 of 2007**

The Special Land Acquisition Officer  
Vs  
Mallareddeppa Rabbanalli

APPELLANT  
RESPONDENT

**Date of Decision :** 21-01-2008

**Acts Referred:**

Karnataka Land Acquisition Act, 1961 — Section 18 (1), 18 (3) (b)

**Citation :** (2008) ILR (Kar) 1531 : (2008) 3 KarLJ 501

**Hon'ble Judges :** N.K. Patil, J

**Bench :** Single Bench

**Advocate :** Asha M. Kumbaragerimath, HCGP in C.R.P. No. 58 of 2007 and Veeresh B. Patil and Chaitanya Kumar, in C.R.P. No. 59 of 2007, for the Appellant; Veeresh B. Patil and Chaitanya Kumar, in C.R.P. Nos. 58 and 59 of 2007, for the Respondent

**Final Decision :** Allowed

## Judgement

N.K. Patil, J.—Though these matters are posted for orders, with the consent of the learned Counsel appearing for both parties, the matter is taken up for final hearing and is disposed of as follows:

2. The respondent in these two revision petitions have filed the application u/s 18(3)(b) of the Karnataka Land Acquisition Act, 1894 (hereinafter called the "Act") seeking a direction to the common petitioner in both the revision petitions- Special Land Acquisition officer, Indi Taluk, Bijapur to submit reference to the Land Acquisition Court in file No. LAQ. SR 42-44/2002-03 Part-III, UKP, Indi for determination of the market value in respect of the land bearing Survey No 68 measuring 08 acres 36 guntas (in LAC No. 5\\2006 & C.R.P No. 58/2007) and Sy. No. 19\\A, measuring 01 acre 20 guntas, both situate at Chinoholi Village, Shorapur Taluk, Gulbarga District. Along with the said lands, several other lands belonging to other persons were notified and acquired by the State Government for the purpose of formation of Indi Lift irrigation Branch Canal. The respondent in first revision petition has filed by application, contending that, the

land in question is irrigated land and there is a well; and so far as the respondent in second petition is concerned, she has contended that, the land in question is an irrigated land. It is the further case of respondents in both petitions that, immediately after receipt of the award notice issued u/s 12(2) of the Act, they have filed the application u/s 18(1) of the Land Acquisition Act seeking reference for enhancement of compensation on the ground that, the amount awarded by the Land Acquisition Officer was inadequate and they are entitled for enhancement by treating the lands in question as irrigated lands. In spite of filing the 18(1) reference application, immediately after receipt of award notice u/s 12(2) of the Land Acquisition Act, seeking enhancement of compensation, common petitioner herein failed to refer the said matter for adjudication before the jurisdictional Court. Therefore, respondent in these two petitions were constrained to file the application u/s 18(3)(b) of the Land Acquisition Act, seeking appropriate direction, as referred above. The Trial Court after hearing the counsel representing the respective parties, on the basis of the pleadings available on file, after considering the oral and documentary evidence and by framing necessary points for consideration has answered point No 1 in affirmative by assigning reasons at paragraphs 8, 9 and 10 of its order and by its final order, has allowed the applications filed by respondent herein and directed them to submit the reference in both the petitions in respect of the files referred above along with necessary documents for adjudication of the matter u/s 18(1) of the Land Acquisition Act. Being aggrieved by the impugned common order passed by the learned Civil Judge (Senior Division) at Shorapur, common petitioner herein felt necessitated to present the instant revision petitions.

3. Learned Government Pleader appearing for common petitioner, at the outset submitted that, the respondents in these two petitions have, in fact, not filed any application u/s 18(1) of the Act before the petitioner and therefore, the application filed u/s 18(3)(b) of the Act filed by respondent in both petitions are not maintainable either in law or on facts of the case. In order to substantiate the said stand, she vehemently submitted that, petitioner-Special Land Acquisition Officer has passed the consent award and therefore, as per the judgment of this Court reported in Siddaramappa Murgappa Kudagi and others Vs. State of Karnataka and another, the land owners have no right to file the reference application against the consent award passed by the competent authority. Therefore, she submitted that, the impugned common order passed by the Trial Court is erroneous in law and without any jurisdiction and the same is liable to be set aside at the threshold itself. Further, she strenuously submitted that, learned Civil Judge has failed to consider provisions of Section 18(3)(b) of the Act, resulting in miscarriage of justice. Therefore, the impugned common order passed by learned Civil Judge is liable to be set aside.

4. Per contra, learned Counsel appearing for respondent in both the revision petitions, inter alia, contended and substantiated that, the impugned common order passed by the Court below is passed strictly in accordance with law and the relevant provisions of the Land Acquisition Act. Further, he submitted that,

immediately after receipt of the award notice, Section 18(1) Reference application was filed before the petitioner and the petitioner has failed to refer the matter to the jurisdictional Court within the reasonable time. Therefore, the respondent in these petitions were constrained to file 18(3)(b) application seeking appropriate direction before the Trial Court and the Trial Court in turn, after hearing both sides, has rightly allowed the applications filed by respondents and issued appropriate direction by assigning cogent reasons at paragraphs 9 and 10 of its order. Therefore, he submitted that, the revision petitions filed by common petitioner is liable to be dismissed on the ground that, the said authority has not made out any good grounds for interference in the well considered order passed by the Trial Court.

5. After hearing learned Government Pleader appearing for common petitioner in these two revision petitions, learned Counsel appearing for respondent in both petitions and after careful evaluation of the original records available on file including the original file maintained by petitioner herein and made available by learned Government Pleader, threadbare, and after microscopic evaluation of the entire original records available before the Court,, it is manifest on the face of the relevant records available on file that the Trial Court has travelled beyond the relevant records available on file and proceeded to pass the impugned common order on the basis of assumption and presumption without reference to the records that were very much available on its file. It is significant to note here itself that, at the time of issuing 4(1) Notification itself, the relevant record of rights celled for from the jurisdictional competent authority discloses that, the lands in question are "dry lands"; the nature of crops grown by these respondents-claimants are tur, green gram and sajje. The said relevant record of rights are very much available in the original records at page No. 335. In the said record of rights, it is unambiguously stated in respect of Sy. No. 68 measuring 27 acres 22 guntas, at relevant column No. 13 that, the nature of crops grown by respondents as tur, green gram and sajje; further the extents of land grown in respect of each crop is also clearly mentioned stating that, "tur" crop is grow in 07 acres; "green gram" is grown in 10 acres 22 guntas and "sajje" is grown in 02 acres. The relevant column No. 5-the nature of soil is shown as "Marimaddi. It is the case of these respondents-claimants that, the lands in question are irrigated through well, but there is no reference or record or proof in the relevant column in column No. 12(8) to believe their statements. On the other hand, the relevant column 12(8) for the type of land, it is shown as "khushki" and the lands in question are not recorded as "irrigated lands". Further, after careful verification of the entire records available on file, it can be seen that, there is not even a single (sic) notice issued to respondents-claimants either in the records made available by learned Government Pleader appearing for petitioners or in the records forwarded by the Trial Court to this Court, in the records forwarded by the Trial Court to this Court, in the instant case. However, it is the specific case of common petitioner herein that, consent award has been passed in these two cases and in order to substantiate the said stand, she has produced the

documentary evidence to show that, these respondents claimants have participated in the consent award passed and are also the signatories to the same. The said consent awards executed by these respondents-claimants are respectively available at ink page No. 251 (in respect of respondent in first petition) and Page No. 265 (in respect of respondent in second petition) in Form - D under Rule 10-B of the original records maintained by common petitioner herein. Therefore, in view of the consent awards passed by the Land Acquisition Officer in these two cases, there was no occasion for the respondents to file 18(1) application seeking enhancement of compensation. Except making omnibus statements by way of filing affidavits and applications, the respondents have not produced any vital or authenticated documentary evidence either before the Land Acquisition Officer or before the Trial Court or at least before this Court to substantiate that they have in fact, filed the 18(1) application seeking enhancement of compensation requesting the Land Acquisition Officer to refer the matter to the jurisdictional Court. It is pertinent to note that, the Trial Court has observed at paragraph 10 by referring that, in spite of the respondents-claimants filing 18(1) application, petitioner has not referred the matter for adjudication seeking enhancement of compensation. Here, It can be seen that, the Trial Court has conveniently stated that, the respondents-claimants have filed the protest application before the Land Acquisition Officer, Indi Taluk, after service of 12(2) notice and in order to maintain the petition u/s 18(3)(b) of the Act, the respondents-claimants within 90 days from the date of receipt of application u/s 18 of the Land Acquisition Act and the present application filed by respondents u/s 10(3)(b) of the Act is in time. The Court below has, intentionally and deliberately, not referred as to on what date, the respondents claimants have filed the 18(1) application seeking enhancement of compensation and proceeded purely on assumption and presumption and by accepting the statements made by the respondents claimants in their application and affidavit without any substantive and proceeded to pass the impugned common order, directing the petitioner herein to submit reference in respect of the aforementioned files. If it was the case of respondents claimants that, they received the award amount after protest, and opened the Accounts in the Bank for depositing the same in the Bank, it is significant to note after microscopic evaluation of the original records that, notice under Sections 9 and 10 of the Land Acquisition Act are issued and the same has been duly served to the respondents, but they have not chosen to file the petitions claiming-compensation. If they were so conscious of their legal rights, at that stage, they were supposed to file their claim application seeking-compensation. In the instant case, nothing is coming forth regarding the redressal of their grievances seeking-compensation. In fact, it emerges from the original records that, respondents-claimants themselves have executed the consent award as provided under the relevant Rules and as well referred in the preceding paragraph. The Trial Court has failed to look into these aspects of the matter and also apply its mind in proper perspective. Therefore, the manner in which the Trial Court has dealt with the matter and proceeded to allow the applications filed can neither be

appreciated nor sustained. The Trial Court has not considered the case of respondents claimants with reference to the relevant records available on its file. Even the respondents-claimants have not disclosed in the 18(3)(b) application also as to, on what date they had filed the 18(1) application, if at all filed by them. Therefore, as referred in the preceding paragraphs, the Trial Court has travelled beyond the scope and jurisdiction in passing the impugned common order and allowing the Applications filed by respondents, by applying its mind mechanically and therefore, the same can neither be sustained nor appreciated. Further, on going through the order passed by the Trial Court, it can be seen that, the Trial Court has not made any sincere efforts to go through the entire record and give its finding on the documentary evidence available on file. Therefore, I am of the considered view that, at any stretch of imagination, the impugned common order passed by the Court below cannot be sustained and hence, the same is liable to be set aside.

6. Having regard to the facts and circumstances of the case, as stated above, the revision petitions filed by common petitioner-Special Land Acquisition Officer, Indi Taluk, Bijapur are allowed.

7. The impugned common order passed by Trial Court dated 11th October 2006 passed in Misc. LAC No. 5/2006 and 6/2006 are hereby set aside and the matter stands remitted back to Trial Court to reconsider the matter afresh and to take appropriate decision in accordance with law and in strict compliance of the relevant provisions of the Land Acquisition Act and Rules and with reference to the relevant records available on file and dispose of the same, as expeditiously as possible, after affording opportunity to the common petitioner as well as respondents-claimants herein.

8. Office is directed to return the original records to the Trial Court forthwith.