

IN THE HIGH COURT OF KARNATAKA
CIRCUIT BENCH AT DHARWAD

DATED THIS THE 28TH DAY OF FEBRUARY 2013

BEFORE

THE HON'BLE MR.JUSTICE A.N.VENUGOPALA GOWDA

MISCELLANEOUS FIRST APPEAL NO.23643/2012 (LAC)

BETWEEN:

1. GANGAPPA S/O ROGANNAVAR,
AGED ABOUT: 60 YEARS, OCC: AGRICULTURE,
R/O: HOLINAGALAPUR, TQ: BAILHONGAL,
DIST: BELGAUM.
2. NAGAPPA S/O RAYAPPA ROGANNAVAR,
AGED ABOUT: 58 YEARS, OCC: AGRICULTURE,
R/O: HOLINAGALAPUR, TQ: BAILHONGAL,
DIST: BELGAUM. ...APPELLANTS

[BY SHRI K.ANAND KUMAR, ADV.]

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER,
MALAPRABHA NO. III, DHARWAD.
DIST: DHARWAD.
2. THE EXECUTIVE ENGINEER,
M.L.B.C.C.DIVISION NO. 2,
KARNATAKA NIRAVARI NIGAM LTD.,
NAVILUTHEERTH, TQ: SAVADATTI,
DIST: BELGAUM. ...RESPONDENTS

THIS MISCELLANEOUS FIRST APPEAL IS FILED
UNDER SECTION 54(1) OF THE LA ACT AGAINST THE
JUDGMENT AND AWARD DATED 28-10-2011
LAC.NO.722/2010 ON THE FILE OF SENIOR CIVIL JUDGE,

BAILHONGAL, PARTLY ALLOWING THE REFERENCE PETITION FOR COMPENSATION AND SEEKING ENAHANCEMET OF COMPENSATION.

THIS MISCELLANEOUS FIRST APPEAL COMING ON FOR ORDERS, THIS DAY, THE COURT DELIVERED THE FOLLOWING: -

JUDGMENT

Heard Shri K. Anand Kumar, learned advocate for the appellants and perused the appeal memorandum.

2. This appeal was filed on 10.08.2012 with defects, by paying nominal Court fee of Rs.15/- as against Rs.3,604/-, in terms of the valuation slip annexed to the appeal memorandum. DCF of Rs.3,604/- was paid on 18.02.2013. The appellant has sought enhancement of compensation at the rate of Rs.3,00,000/- per acre along with all statutory benefits. The land acquired was 0.42 guntas. Reference Court has awarded Rs.2,64,000/- per acre. Enhancement sought in this appeal is Rs.36,000/- per acre i.e., over and above the one awarded by the Reference Court. *The total enhancement of compensation claimed by the*

appellant in this appeal is Rs.58,051/- only, as is clear from the valuation slip.

3. In the circumstances, the value of subject matter of the appeal being Rs.58,051/- only, there is wrong presentation of this appeal in this Court. Learned counsel placed reliance on a judgment in the case of **Indian Council of Agricultural Research vs. Varija, 2011 AIR Kar R-2-73** and submitted that the appeal is maintainable in this Court.

4. Having regard to the facts noticed supra, in my opinion, the said decision has no application, since the value of the subject matter of the appeal is, the one shown in the valuation slip and the actual amount of compensation claimed in the appeal memo. The claim having now been restricted by the appellant in this appeal, to Rs.581,051/- only, this the appeal ought to have been filed in the District Court at Belgaum. For want of pecuniary jurisdiction the appeal in this Court is not maintainable.

Consequently, Registry is directed to return the appeal memorandum to the learned advocate for the appellants on or before 23.03.2013, to present the same before the District Court at Belgaum, within a period of one week from the date of obtaining of the return of the appeal memorandum. The District Court is directed to decide the appeal expeditiously, when presented, on its merit.

Ordered accordingly.

**SD/-
JUDGE**

Rsh