

IN THE HIGH COURT OF KARNATAKA
DHARWAD BENCH

DATED THIS THE 2ND DAY OF JANUARY, 2015

BEFORE

THE HON'BLE MR.JUSTICE ARAVIND KUMAR

CIVIL REVISION PETITION NO.1105/2012

BETWEEN

BASAPPA S/O KARIBASAPPA SHIVANNANAVAR,
AGE: 41 YEARS, OCC: AGRICULTURE,
R/O: HIREMORAB, TQ: HIREKERUR,
DIST: HAVERI.

..... PETITIONER

(BY SRI AVINASH BANAKAR, ADV.)

AND

1. ASSISTANT EXECUTIVE ENGINEER,
NO.7, UPPER TUNGA PROJECT,
SHIMOGA, SUB-DIVISION RATTIHALLI,
TQ: HIREKERUR, DIST: HAVERI.
2. THE ASSISTANT EXECUTIVE ENGINEER,
UPPER TUNGA PROJECT,
IRRIGATION DEPARTMENT, RATTIHALLI,
TQ: HIREKERUR, DIST: HAVERI.
3. THE SPECIAL LAND ACQUISITION OFFICER &
THE ASSISTANT COMMISSIONER, HAVERI,
SUB-DIVISION, HAVERI.
4. THE DEPUTY COMMISSIONER,
HAVERI.

..... RESPONDENTS

(BY SRI RAMESH N.MISALE, ADV. FOR R1 AND R2,

SRI RAVI V.HOSAMANI, GA FOR R3 AND R4)

THIS CIVIL REVISION PETITION FILED UNDER SECTION 115 OF CIVIL PROCEDURE CODE, AGAINST THE JUDGMENT AND ORDER DATED 25.06.2012 IN R.P.NO.4/2011 ON THE FILE OF THE SENIOR CIVIL JUDGE AND JMFC., HIREKERUR, DISMISSING THE REVIEW PETITION IS FILED UNDER SECTION 47 RULE 1 OF CIVIL PROCEDURE CODE.

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

ORDER

This is a claimant's revision petition calling in question correctness and legality of the order passed by the Senior Judge and JMFC., in R.P.No.4/2011 dated 25.06.2012 whereunder petition filed under Order XLVII Rule 1 of the CPC seeking review of the order passed in L.A.C.No.6/2002 dated 18.03.2011 came to be dismissed.

2. I have heard the arguments of Sri Avinash Banakar, learned counsel appearing for the petitioner and Sri Vinay Loli, appearing on behalf of Sri Ramesh N. Misale learned counsel for respondent Nos.1 and 2, and

Sri Ravi V. Hosamani, learned counsel appearing for respondent Nos.3 and 4.

3. It is the contention of Mr.Avinash Banakar, learned counsel appearing for the revision petitioner that documents produced before the Reference Court namely Ex.P.1 to Ex.P.10 would clearly indicate that lands belonging to the claimant which came to be acquired were irrigated lands and as such, Reference Court could not have awarded a sum of Rs.1,32,000/- per acre based on the market value fixed in L.A.C.No.202/2007 which related to non-irrigated lands. Hence, he contends that there was an error apparent on the face of the record and as such, review petition was filed before the Reference Court seeking review of the judgment and award passed in L.A.C.No.6/2002 dated 18.03.2011 and the Reference Court has erroneously dismissed the same and hence, he prays for allowing the revision petition.

4. Per contra, learned Advocates appearing for the respondents would support the order passed by the Reference Court.

5. It is not in dispute that Reference Court has passed a common judgment and award in L.A.C.Nos.4, 5 and 6/2002 and other cases by relying upon the market value fixed in L.A.C.No.202/2007 whereunder a sum of Rs.1,32,000/- per acre had been fixed as the market value with consequential benefits. Review petitioner contended that though Ex.P.1 to Ex.P.10 produced before the Reference Court same had not been considered in proper perspective. Reference Court has held that the claimant would be entitled to challenge the said judgment and award, if not satisfied with the quantum of compensation awarded by the Reference Court. As rightly observed by the Reference Court, if the claimant is not satisfied with the compensation awarded by Reference Court, the recourse left open to

the claimant is to file appeal challenging the said judgment and award and as such, the Reference Court by observing that claimant would be at liberty to challenge the said award has dismissed review petition as one being without merit. Erroneous consideration of material evidence would not give rise to filing of a review petition. Said order does not suffer from any irregularity or illegality calling for interference at the hands of this Court in exercise of revisional jurisdiction. Hence, this court is of the view that review petition is liable to be dismissed.

6. However, it is made clear that dismissal of this revision petition would not come in the way of the claimant challenging the judgment and award passed in L.A.C.No.6/2002 dated 18.03.2011 by filing appeal and in the event of such an appeal being filed within three months from today, the time spent by revision petitioner/review petitioner/claimant before this Court in

prosecuting the present revision petition i.e., from 18.09.2012 till 06.04.2015 shall stand excluded for purposes of limitation.

With these observations, revision petition stands dismissed.

**SD/-
JUDGE**

Jm/-