

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE.**

**DATED: THIS THE 5<sup>TH</sup> DAY OF JUNE 2003.**

**:PRESENT:**

**THE HON'BLE MR. JUSTICE T.S. THAKUR**

**AND**

**THE HON'BLE MR. JUSTICE MOHAN SHANTANAGOUDAR**

**MISCELLANEOUS FIRST APPEAL NO. 1997 OF 1997**

**C/W**

**MISCELLANEOUS FIRST APPEAL NO. 2079 OF 1997**

**Between**

**The Assistant Commission cum the Land  
Acquisition Officer, Puttur, Dakshina Kannada.**

**...Appellant.  
(Common in both)**

**(By Sri H.M. Manjunath, HCGP)**

**And**

- 1. P. Shivarama (Since dead)  
Son of Laxmana, Chikkaputtur,  
Puttur Kasba, Puttur, Dakshina  
Kannada.**
- 2. Kamala, W/o Shivarama;**
- 3. Madhava, S/o Shivarama;**
- 4. 4. Shoba, W/o Santhappa**

**Appellants 2 to 4 are R/o Chikkaputtur,  
Post Puttur, D.K. Dist.**

- 5. Vishalakshi;**

6. Priya

7. Divakara

Appellants 5 to 7 are minors, rep. By  
Guardian mother Kamala and R/o  
Chikkaputtur,  
Post Puttur, D.K.Dist.

8. Vasantha, S/o C.H.Kumar,  
C/o Cahndravathi,  
Chikkaputtur,  
Post Puttur, D.K.Dist.

9. Madhava Shetty, S/o Chandu Shetty,  
"Nanda Sweets", Main Road,  
Puttur, D.K.,

10. Dr.P.V.Narayana, S/o Venkappa,  
Aged 55 years, Medical Officer,  
PHC Mulky, D.K.,

11. Lalitha, W/o Balakrishna, aged  
53 years, Chikka Puttur, D.K.,

12. Girija, D/o Venkappa, W/o R.Babu,  
Aged 51 years, Puttur, D.K.,

13. P.V.Vijaya Kumar, S/o Venkappa,  
Aged 60 years, Chikkaputtur, D.K.,

..Respondents  
in MFA 1997/97

(By Sri S.S.Sripathy for R2 to 9;  
Sri B.R.Srinivasa Gowda for R10 to 13)

1. Margarat Lobo W/oInas Binto dead by  
L.Rs.,

1) Smt.Lilly Pinto, D/o late Margarat Lobo,  
60 years, Samethadka, Puttur-574301, D.K.

2) Smt.Benny Pinto, D/o late Margarat Lobo,  
55 years, 'May Fair' D.No.89 in Metagalli,  
Mysore-570016.

3) Sri Dennis Pinto, S/o late Margarat Lobo,  
52 years, Nellikatto, Puttur-574201, D.K.

4) Wilfred Pinto, S/o late Margarat Lobo,  
48 years, 'Semalina' Sametadka,  
P.O.Darbe-574203, Puttur, D.K.,

2. Shivappa Salappa, S/o Bantu Sapalya,  
Kambladadda, Puttur Kasha, Puttur.
3. Nemu Sapalya, S/o Subba Sapalya,  
Near Mahalingeshwara Temple, Puttur.
4. Rama Sapalya, S/o Choma Sapalya,  
Near Sri Mahalingeshwara Temple,  
Puttur.
5. Vatsala Laxmi Devi, W/o Hanumantha  
Allaya, Puttur.
6. Lilly Pinto, aged 64 years, W/o late  
Camil Furtado, Bamabhadka, Puttur.
7. Benny Pinto, aged 55 years, W/o late  
Benjamin Pinto, D.No.89, Matsgalli,  
Mysore-16.
8. Denn's Pinto, s/o Ignatius Pinto,  
Aged 40 years, Nellikatte, Puttur, Kasha.
9. Wilfred Pinto, s/o late Ignatius Pinto,  
Aged 43 years, Samethadka, Semolina  
Post, Darbe-574 202.

(By Sri. S. S. Sripathy, Adv., ..Respondents in  
for R2-R5, R8, R1 (3) & (4) MFA 2079/97

MFA 1927 of 1997 is filed under Section 54(1) of the L.A. Act  
against the judgment and award dt.22.2.1997 passed in LAC No.32 of  
1993 on the file of the Civil Judge, Puttur, D.K., partly allowing the  
reference for enhancement of compensation.

MFA 2079 of 1997 is filed under Section 54(1) of the L.A. Act  
against the judgment and award dt.25.2.1997 passed in LAC No.30 of  
1993 on the file of the Civil Judge, Puttur, D.K., partly allowing the  
reference for enhancement of compensation.

These appeals coming on for hearing this day, THAKUR, J delivered the following:

### JUDGMENT

These two appeals arise out of two different orders dt.22.2.1997 and 25.2.1997 passed in LAC No. 32 of 1993 and 30 of 1993 whereby learned Civil Judge at Puttur has allowed the said references in part and enhanced the compensation awarded in favour of the land owners from Rs.666/- per cent to Rs.2000/- per cent.

2. In terms of a notification issued under Section 4 of the Land Acquisition Act, on 16.4.1987 an area measuring 1.44 acres in Sy.No.123/2A1, 1.58 acres in Sy.No.113/8A1B and 7.66 acres in Sy.No.83/1B was notified for acquisition for the formation of what is known as Car Street and Shopping Complex attached to Shree Mahathobar Mahalingeshwara Temple at Puttur. The award made by the LAO determined the compensation payable to the land owners at Rs.666/- per cent with consequential statutory benefits. The land owners were not however satisfied with the said amount, who secured references to the Civil Court for determination of a just compensation payable to them. These references were registered as LAC No. 32 and 30 of 1993 both of which have been disposed of by two separate orders dt.22.2.1997 and 25.2.1997 respectively enhancing the compensation from Rs.666/- to Rs.2000/- per cent. The present appeals filed by the LAO assail the correctness of the said enhancement.

3. Learned Government Advocate appearing for the appellant made a solitary submission in support of the appeals. He urged that the reference Court had committed an error in placing reliance upon an earlier judgment delivered by it in LAC 85 of 1990 while enhancing the

compensation to Rs.2000/- per cent. He submitted that since the said acquisition was made for a different purpose and in terms of a different notification; the conclusion drawn in that case could not have been made a basis for any enhancement in the instant cases. There is, in our opinion, no merit in that contention. The material produced by the claimants suggested that the acquired land had non agricultural potential and that the value of the lands had increased manifold on account of all round development in Puttur Town. Decision rendered in LAC No.85 of 1990 related to a parcel of land measuring 0.83 acres situate in the neighbourhood of the land acquired in the instant cases. This land was owned by one Mary Baptist in whose favour the Special LAO has made an award determining compensation at the rate of Rs.800/- per cent. Upon reference to the Civil Court, the said amount was enhanced to Rs.5000/- per cent. The land owned by Mary Baptist, it is evident from the deposition of PW.1, was situate just across the road which separates the land acquired in the instant cases from the said land. The material on record further shows that in terms of non agricultural potential the land owned by the respondents in the instant cases was in no way inferior or less valuable than the land acquired in LAC 85 of 1990. The land in the instant cases is, it is evident from the record situate within a distance of 100 yards from Puttur Mahathobar Mahalingeshwara Temple, the Head Post Office, the bus Station, Railway Station and large number of Government offices. Since however, the land that was acquired in LAC 85 of 1990 was notified for acquisition in December, 1988 whereas the land which was acquired in the instant cases was notified in April, 1987, the reference Court instead of awarding compensation at the rate of rs.5,000/- thought it just and proper to enhance the compensation to Rs.2000/- per cent only. We do not see any error of fact or other irrationality in the said enhancement to warrant interference in these appeals. The lands acquired in these two cases were, in our opinion, comparable to those acquired in LAC No.85 of 1990 in their non

agricultural potential with the result the reference Court could draw support from its previous order in LAC No.85 of 1990. There is no merit in these appeals which fail but in the circumstances without any order as to costs.

Sd/-  
Judge

Ksj/-

Sd/-  
Judge