

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 17TH DAY OF JANUARY, 2023

BEFORE

THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT

WRIT PETITION NO.24580/2021(LA-RES)
C/W

WRIT PETITION NOS.22750/2021(LB-RES),
23022/2021(LB-RES),6905/2022(LA-RES)

IN W.P.NO.24580/2021:

BETWEEN:

1. K V SRINIVAS RAO,
S/O K G VASUDEVA RAO,
AGED ABOUT 46 YEARS,
R/O SORABA ROAD,
OPP SHANTHA LODGE,
SAGAR TALUK 577 401.
SHIVAMOGGA DISTRICT.
2. P NATARAJ,
S/O T M PUTTAPPA,
AGED ABOUT 53 YEARS,
R/O MARKET ROAD,
NEAR POST OFFICE,
SAGAR TALUK 577 401.
SHIVAMOGGA DISTRICT.
3. D G JAYADEVAPPA,
S/O DALAVAI GANGADHARAPPA,
AGED ABOUT 62 YEARS,
NO.123 SHIVAM NILAYA,
ARAMANE KERI MAIN ROAD,
RAHDAMANI LAYOUT,
SAGAR TALUK 577 401.
SHIVAMOGGA DISTRICT.

4. D G BASALINGAPPA SHETTY,
S/O DALVAI GANGADHARAPPA,
AGED ABOUT 60 YEARS,
NO.72-1 MARKET ROAD,
SAGAR TALUK - 577 401,
SHIVAMOGGA DISTRICT.

(PETITIONERS NO.3 AND 4 ARE NOT CLAIMING
SENIOR CITIZEN BENEFITS)

...PETITIONERS

(BY SMT.VIJAYA M N, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REP BY PRINCIPAL SECRETARY,
URBAN DEVELOPMENT DEPARTMENT,
M S BUILDING,
DR B R AMBEDKAR VEEDHI,
BENGALURU 560 001.
2. THE DEPUTY COMMISSIONER,
SHIVAMOGGA DISTRICT,
SHIVAMOGGA 577 401.
3. THE ASSISTANT COMMISSIONER,
SAGAR SUB DIVISION,
LAND ACQUISITION OFFICER,
SAGAR TALUK 577 401,
SHIVAMOGGA DISTRICT.
4. THE EXECUTIVE OFFICER,
PUBLIC WORKS DEPARTMENT,
SHIVAMOGGA DIVISION,
SHIVAMOGGA 577 201.
5. THE CITY MUNICIPAL COUNCIL,
SAGAR CITY, SAGAR 577 401.
BY ITS COMMISSIONER.

... RESPONDENTS

(BY SRI.R SRINIVASA GOWDA, AGA FOR R1 TO R4;
SRI.R VISHWASNATH HEGDE, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTICE ISSUED BY THE R-3, ASSISTANT COMMISSIONER, SAGAR, AND NOTICE TO P-1 VIDE ANNEX-E DTD. 08.11.2021 AND NOTICE TO P-2 VIDE ANNEX-F DTD. 08.11.2021 AND NOTICE TO P-3 AND 4 VIDE ANNEX-G DTD. 08.11.2021

IN W.P.NO.22750/2021:

BETWEEN:

1. U H KOTRESH,
S/O LATE U HALAPPA,
AGED ABOUT 78 YEARS,
R/O MARKET ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
2. U H NIRANJAN.
S/O LATE U HALAPPA,
AGED ABOUT 64 YEARS,
R/O MARKET ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
3. T R MANJUNATH
S/O LATE P N RAMAPPA,
AGED ABOUT 60 YEARS,
R/O MARKET ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
4. T R SATHYANARAYANA
S/O LATE P N RAMAPPA,
AGED ABOUT 60 YEARS,
R/O MARKET ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
5. K V SUBBARAYA @ K V SUBBAIAH
S/O LATE K VITTAL RAO,
AGED ABOUT 71 YEARS,
R/O NO 327, NEAR YALLAMMA TEMPLE,
SORABA ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.

6. K V LAKSHMANA,
S/O LATE K VITTAL RAO,
AGED ABOUT 65 YEARS,
R/O NO 327, NEAR YALLAMMA TEMPLE,
SORABA ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.

7. K V VASUDEV
S/O LATE K VITTAL RAO,
AGED ABOUT 60 YEARS,
R/O NO 327, NEAR YALLAMMA TEMPLE,
SORABA ROAD, SAGAR 577401,
SHIVAMOGGA DISTRICT.

8. ANANTH M,
S/O R MADHUSUDHAN,
AGED ABOUT 34 YEARS,
R/O MARKET ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.

REPRESENTED BY HIS GENERAL
POWER OF ATTORNEY HOLDER
SMT R ADHIKA MADHUSUDHAN,
W/O R MADHUSUDHAN,
AGED ABOUT 54 YEARS,
R/O SRIRAMPURA EXTENSION,
SAGAR CITY 577 401,
SHIVAMOGGA DISTRICT.

9. T R GOVINDARAJU
S/O LATE T N RAMAPPA,
AGED ABOUT 75 YEARS,
R/O NO 327, NEAR YALLAMMA TEMPLE,
SORABA ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.

10. K G NAGARAJ
S/O LATE GUNDAPPA,
AGED ABOUT 75 YEARS,
R/O 2ND CROSS, AGRAHARA,
SAGAR 577 401,
SHIVAMOGGA DISTRICT.

11. DR. G VEERABHADRAPPAS SHETTY,
S/O LATE SANNA MALLESHAPPA,
AGED ABOUT 67 YEARS,
R/O SANJEEVINI HOSPITAL,
J C ROAD, CHAMARAJPET, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
12. MADHAV BHANDARKAR,
S/O LATE NAGESH BHANDARKAR,
AGED ABOUT 60 YEARS,
R/O MARKET ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
13. DR GURAPPA SHETTY GOJANUR,
S/O LATE G SANNAMELLESHAPPA,
AGED ABOUT 59 YEARS,
R/O NO 1202, 35 B CROSS,
28TH MAIN JAYANAGARA 4TH T BLOCK,
BENGALURU 560 041.
14. Y B SRINIVASMURTHY,
S/O LATE Y N BHARMAIAH,
AGED ABOUT 60 YEARS,
R/O SORABA ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
15. Y B GOPALKRISHNA,
S/O LATE Y N BHARMAIAH,
AGED ABOUT 55 YEARS,
R/O SORABA ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
16. ARUNDATHI H B
W/O LATE BHASKAR,
AGED ABOUT 59 YEARS,
R/O HANDIGODU, MALVE POST,
KASABA HOBLI, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
17. KRISHNAMURTHY H T
S/O LATE THIMMAPPA,
AGED ABOUT 64 YEARS,

R/O HANDIGODU, MALVE POST,
KASABA HOBLI, SAGAR 577401,
SHIVAMOGGA DISTRICT.

18. M GANAPATHI
S/O LATE MANJAPPA,
AGED ABOUT 61 YEARS,
R/O MASUR POST, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
19. ANVITHA RATTEHALLI,
D/O LATE R P UDAYKUMAR,
AGED ABOUT 37 YEARS,
R/O NO 27/9, OFF CUBBON ROAD,
BENGALURU 560 001.
20. ASHVITHA RATTEHALLI,
D/O LATE R P UDAYKUMAR,
AGED ABOUT 31 YEARS,
R/O NO 186, JNANABHARATHI LAYOUT,
4TH BLOCK, NAGADEVANAHALLI,
BENGALURU 560 056.
21. C G VISHWANATH
S/O LATE GANAPATHAPPA,
AGED ABOUT 65 YEARS,
R/O MARKET ROAD, SAGAR 577401,
SHIVAMOGGA DISTRICT
22. C G LAKSHMINARAYANA,
S/O LATE GANAPATHAPPA,
AGED ABOUT 63 YEARS,
R/O MARKET ROAD, SAGAR 577 401,
SHIVAMOGGA DISTRICT.
23. C G ASHWATHNARAYANA
S/O LATE GANAPATHAPPA,
AGED ABOUT 70 YEARS,
R/O MARKET ROAD, (SORABA ROAD)
SAGAR 577401, SHIVAMOGGA DISTRICT.

24. C P JAYALEELA
W/O LATE PANDURANGA,
S/O LATE GANAPATHAPPA,
AGED ABOUT 80 YEARS,
R/O MARKET ROAD, (SORABA),
SAGAR 577 401, SHIVAMOGGA DISTIRCT.
25. VINAYAK BHANDARKAR
S/O LATE GANAPATHAPPA,
AGED ABOUT 47 YEARS,
R/O (SORABA ROAD) MARKET ROAD,
SAGAR 577401, SHIVAMOGGA DISTIRCT.
26. RAMANATH RAO SHENOY,
S/O LATE K UPENDRA RAO,
AGED ABOUT 58 YEARS,
R/O MARKET ROAD, SAGAR 577 401,
SHIVAMOGGA DISTIRCT.
27. BALAKRISHNA RAO SHENOY
S/O LATE RAMANATH RAO SHENOY,
S/O LATE K UPENDRA RAO,
AGED ABOUT 62 YEARS,
R/O MARKET ROAD, SAGAR 577 401,
SHIVAMOGGA DISTIRCT.
- (PETITIONES NO 1 TO 7 AND 9,10,11,12 AND 14,
17,18,21,22,23,28,24 SENIOR CITIZEN BENEFIT NOT
CLAIMED)

...PETITIONERS

(BY SRI.S.V.PRAKASH, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
URBAN DEVELOPMENT DEPARTMENT,
M S BUILDING, DR B R AMBEDKAR VEEDHI,
BENGALURU 560 001.
2. THE DEPUTY COMMISSIONER
SHIVAMOGGA DISTRICT,
SHIVAMOGGA 577 201.

3. THE ASSISTANT COMMISSIONER
AND LAND AQUICITION,
SAGAR SUB DIVISION,
SAGAR - 577 401,
SHIVAMOGGA DISTRICT.

4. THE EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT,
SHIVAMOGGA DIVISION,
SHIVAMOGGA 577 201.

5. THE CITY MUNICIPAL COUNCIL
SAGAR CITY SAGAR 577401,
SHIVAMOGGA DISTRICT.
BY ITS COMMISSIONER.

... RESPONDENTS

(BY SRI.R SRINIVASA GOWDA, AGA FOR R1 TO R4;
SRI.R.VISHWANATH HEGDE, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTICE DTD.5.8.2021 ISSUED BY THE R-5 CITY MUNICIPAL COUNCIL SAGAR SERVED ON P-3 AND 4 PRODUCED AS PER ANNEXURE-X NOTICE DTD.5.8.2021 ISSUED BY THE R-5 CITY MUNICIPAL COUNCIL SAGAR SERVED ON P-11 PRODUCED AS PER ANNEXURE-X1 AND NOTICE DTD.5.8.2021 ISSUED BY THE R-5 CITY MUNICIPAL COUNCIL SAGAR SERVED ON PETITIONER NO.11 PRODUCED AS PER ANNEXURE-X2 TO THE W.P. AND ISSUE AN APPROPRIATE WRIT TO QUASH THE NOTICE DTD.8.11.2021 ISSUED BY THE R-3 ASSISTANT COMMISSIONER SERVED ON P-1 AND 2 ISSUED BY THE R-3 ASSISTANT COMMISSIONER SERVED ON P3 AND P4 PRODUCED AS PER ANNEXURE-Z1 NOTICE DTD.8.11.2021 ISSUED BY THE R-3 ASSISTANT COMMISSIONER SERVED ON P-5 TO 7 PRODUCED AS PER ANNEXURE-Z2 NOTICE DTD.8.11.2021 ISSUED BY THE R-3 SERVED ON PETITIONER NO.8 PRODUCED AS PER ANNEXURE-Z3 AND ETC.,

IN W.P.NO.23022/2021:**BETWEEN:**

1. GAJANANA KAMATH,
S/O SATYANARAYANA KAMATH,
AGED ABOUT 65 YEARS,
R/O SORABA ROAD,
SAGAR TALUK 577 401,
SHIMOGA DISTRICT.
2. ASHOK KAMATH
S/O RAMANATH KAMATH,
AGED ABOUT 72 YEARS,
R/O SORABA ROAD,
SAGAR TALUK 577 401,
SHIMOGA DISTRICT.
3. SMT SUMA ASHIK KAMATH
W/O ASHOK KAMATH,
AGED ABOUT 59 YEARS,
R/O SORABA ROAD,
SAGAR TALUK 577 401,
SHIMOGA DISTRICT.
4. S R AFROZ AHAMMED
S/O ABDUL RASHEED,
AGED ABOUT 52 YEARS,
R/O SORABA ROAD,
SAGAR TALUK 577401,
SHIMOGA DISTRICT.
5. SMT R N MANJULA
W/O LATE R NAGARAJ,
AGED ABOUT 65 YEARS,
R/O SORABA ROAD,
SAGAR TALUK 577 401,
SHIMOGA DISTRICT.
6. R L SUBRAMANYA,
S/O R S LAXMINARAYANA,
AGED ABOUT 67 YEARS,

R/O SORABA ROAD,
SAGAR TALUK 577 401,
SHIMOGA DISTRICT.

7. SRINIVAS K S,
S/O K SUBBARAYAPPA,
AGED ABOUT 72 YEARS,
R/O SORABA ROAD, SAGAR TALUK 577 401,
SHIMOGA DISTRICT.
8. N NANJARAJ GUPTA,
S/O NARASIMHA SETTY,
AGED ABOUT 84 YEARS,
R/O SORABA ROAD, SAGAR TALUK 577 401,
SHIMOGA DISTRICT.
9. A S NAGENDRA
S/O SATYANARAYANA SHETTY,
AGED ABOUT 60 YEARS,
R/O SORABA ROAD, SAGAR TALUK 577 401,
SHIMOGA DISTRICT.
10. M H RAMACHANDRAPPA,
S/O HANUMANTHAPPA,
AGED ABOUT 80 YEARS,
R/O SORABA ROAD,
SAGAR TALUK 577 401,
SHIMOGA DISTRICT.
11. MAHESHWARAI AH HIREMATH
S/O GANGADHARAPPA HIREMATH,
AGED ABOUT 75 YEARS,
R/O SORABA ROAD,
SAGAR TALUK 577 401,
SHIMOGA DISTRICT.
12. G SHARATHCHANDRA
S/O GOOJANUR MALLESHAPPA,
AGED ABOUT 70 YEARS,
R/O SORABA ROAD,
SAGAR TALUK 577401,
SHIMOGA DISTRICT.

13. S R FAIROZ AHMED,
S/O ABDUL RASHEED,
AGED ABOUT 50 YEARS,
R/O SORABA ROAD,
SAGAR TALUK 577 401,
SHIMOGA DISTRICT.

(PETITIONERS NO 1,2,5 TO 12 ARE
NOT CLAIMING SENIOR CITIZEN BENEFITS)

...PETITIONERS

(BY SMT. VIJAYA M N, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REP BY ITS PRINCIPAL SECRETARY
URBAN DEVELOPMENT DEPARTMENT,
M S BUILDING,
DR.B.R. AMBEDKAR VEEDHI,
BENGALURU-560 001.

2. THE DEPUTY COMMISSIONER,
SHIVAMOGGA DISTRICT,
SHIVAMOGGA- 577 401.

3. THE ASSISTANT COMMISSIONER,
SAGAR SUB DIVISION,
LAND ACQUISITION OFFICER,
SAGAR-577 401.
SHIVAMOGGA DISTRICT.

4. THE EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT,
SHIVAMOGGA DIVISION,
SHIVAMOGGA-577 201.

5. THE CITY MUNICIPAL COUNCIL,
SAGAR CITY, SAGAR -577 401,
SHIVAMOGGA DISTRICT,
BY ITS COMMISSIONER.

... RESPONDENTS

(BY SRI.R SRINIVASA GOWDA, AGA FOR R1 TO R4;
SRI.R VISHWANATH HEGDE, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTICE ISSUED BY R-5 AND ALL NOTICES DTD.8.11.2021 TO P1 VIDE ANNEXURE-P, PETITIONER NO.2 VIDE ANNEXURE-P1, PETITIONER NO.3 ANNEXURE-P2, PETITIONER NO.4 AND 13 VIDE ANNEXURE-P3, PETITIONER NO.4 VIDE ANNEXURE-P4, PETITIONER NO.5 VIDE ANNEXURE-P5, PETITIONER NO.6 VIDE ANNEXURE-P6, PETITIONER NO.7 VIDE ANNEXURE-P7, PETITIONER NO.8 VIDE ANNEXURE-P8, PETITIONER NO.9 VIDE ANNEXURE-P9 PETITIONER NO.10 VIDE ANNEXURE-P10, PETITIONER NO.11 VIDE ANNEXURE-P11, PETITIONER NO.12 VIDE ANNEXURE-P12 AND ETC.,

IN W.P.NO.6905/2022:

BETWEEN:

1. GAJANANA GOVINDA PAI
S/O GOVINDA NAGAPPA PAI
AGED ABOUT 63 YEARS,
R/O MARKET ROAD,
SAGAR TOWN-577 401.
SHIMOGA DISTRICT.
(SENIOR CITIZEN BENEFITS ARE NOT CLAIMED)
2. SURENDRA N PAI
S/O NAGAPPA GOVINDA PAI
AGED ABOUT 56 YEARS,
R/O VASLEN ENCLAVE,
FALNIR MANGALORE-574 173.
DAKSHINA KANNADA.
3. NAGENDRA N PAI,
S/O NAGAPPA GOVINDA PAI,
AGED ABOUT 54 YEARS,
R/O MARKET ROAD,
SAGAR TOWN -577 401.
SHIMOGA DISTRICT.

4. RAVINDRA N PAI
S/O NAGAPPA GOVINDA PAI
AGED ABOUT 44 YEARS,
R/O MARKET ROAD,
SAGAR TOWN 577 401.
SHIMOGA DISTRICT.
5. GEETHA NAYAK
W/O NAGESH NAYAK
AGED ABOUT 50 YEARS,
R/O 2-7-422/1, SHRINIKETHANA,
9TH CROSS BIJOI KUPIKAD,
MANGALORE-574 142,
DAKSHINA KANNADA.
PETITIONER 2 TO 5 ARE REP BY
PETITIONER 1 AS GPA HOLDER

...PETITIONERS

(BY SMT. VIJAYA M N, ADVOCATE)

AND:

1. STATE OF KARNATAKA,
REP BY ITS PRINCIPAL SECRETARY
URBAN DEVELOPMENT DEPARTMENT,
M S BUILDING,
DR.B.R. AMBEDKAR VEEDHI,
BENGALURU-560 001.
2. THE DEPUTY COMMISSIONER,
SHIVAMOGGA DISTRICT,
SHIVAMOGGA-577 401.
3. ASSISTANT COMMISSIONER,
SAGAR SUB DIVISION,
LAND ACQUISITION OFFICER,
SAGAR-577 401.
SHIVAMOGGA DISTRICT.
4. EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT,
SHIVAMOGG DIVISION,
SHIVAMOGGA-577 201.

5. THE CITY MUNICIPAL COUNCIL,
SAGAR CITY, SAGAR -577 401,
SHIVAMOGGA DISTRICT,
BY ITS COMMISSIONER.

... RESPONDENTS

(BY SRI.R SRINIVASA GOWDA, AGA FOR R1 TO R4;
SRI.R VISHWANATH HEGDE, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTICE ISSUED BY THE RESPONDENT NO.3, ASSISTANT COMMISSIONER SAGAR, NOTICE DATED 8.11.2021. AND DIRECTING THE RESPONDENTS NOT TO DEMOLISH OR TAKE OVER THE PROPERTIES OF THE PETITIONERS WITHOUT FOLLOWING THE PROCEDURES ESTABLISHED BY LAW.

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The short grievance of the Petitioners regardless of the lengthy pleadings & prayer is as to land forcibly being taken away by the Authorities for the expansion of the road in question even when they are not agreeable thereto.

2. Learned counsel for the Petitioners argues that the Right to Property though not a Fundamental Right is constitutionally guaranteed under Article 300A; his clients cannot be compelled to give up their property except in accordance with law; his clients are not agreeable for relinquishing their property and therefore, if at all the State wants these properties, the acquisition process under 2013 Act is the only course open. He argues that his clients' ownership & possession should be protected from interference of the Respondents save with the authority of law.

3. Learned AGA appearing for the State and the learned Panel Counsel appearing for the Respondent – Authority together submit that some of land owners have agreed and accordingly given up their lands by executing Relinquishment Deeds and therefore, this course is open to the Petitioners as well wherein the compensation payable would be three times the Guideline value keeping in view the provisions of Right to Fair

Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. So contending, they both seek dismissal of these Writ Petitions.

4. Having heard the learned counsel for the parties and having perused the Petition Papers, this Court is broadly in agreement with the submission made on behalf of the Petitioners that their lands cannot be touched by the State and the authorities, save by acquisition in accordance with law the Right to Property having been constitutionally guaranteed. If others have given up their land, that cannot be a legal ground to compel the Petitioners to give up their land too, since constitutionally guaranteed avails to the property of individuals and not necessarily the collection of individuals. An argument to the contrary would undermine the sanctity & efficacy of Article 300A and therefore, cannot be countenanced.

In the above circumstances, these Writ Petitions succeed in part; the Respondents are restrained from interfering with the properties of the Petitioners till after the same are acquired in accordance with law, namely 2013 Act.

Ordered accordingly.

No costs.

**Sd/-
JUDGE**

Bsv