



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF NOVEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE R. NATARAJ

WRIT PETITION NO. 30987 OF 2024 (GM-CPC)

BETWEEN:

BOMBAY RAYON FASHIONS LTD.,
REPRESENTED BY DIRECTOR
TRUVISORY INSOLVENCY
PROFESSIONALS PRIVATE LIMITED,
THE LIQUIDATOR
(APPOINTED UNDER INSOLVENCY AND
BANKRUPTCY CODE, 2016)
HAVING ADDRESS AT - 1501, TOWER NO. 4,
BUILDING NO.2, SPRING GROVE TOWERS CHS,
LOKHANDWALA TOWNSHIP, AKURLI ROAD,
KANDIVALI EAST, MUMBAI-400 101
MAHARASHTRA.
HAVING ITS REGISTERED OFFICE AT
OFFICE SPACE NO.06B123,
WEWORK RAHEJA PLATINUM,
SAG BAUG ROAD,
OFF ANDHERI KURLA ROAD,
ANDHERI EAST, MAROL NAKA,
MUMBAI-400059, MAHARASHTRA

...PETITIONER

(BY SRI. K.G.RAGHAVAN, SENIOR ADVOCATE FOR
SRI. ROHIT RAO N., ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER AND
COMPETENT AUTHORITY
NATIONAL HIGHWAY-275,
BANGALORE-MYSORE SECTION,
BASAVANAPURA, RAMANAGARA,
BENGALURU-562159
2. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,





REVENUE DEPARTMENT
BENGALURU-560001.

...RESPONDENTS

(BY SMT. RANSA VASANTHI D.L., HIGH COURT GOVERNMENT
PLEADER FOR RESPONDENT NO.2;

VIDE ORDER DATED 20.11.2024, NOTICE TO RESPONDENT NO.1 IS
DISPENSED WITH)

THIS WP IS FILED UNDER ARTICLE 227 OF THE
CONSTITUTION OF INDIA PRAYING TO SET ASIDE THE ORDER
DATED 09.02.2024 ON IA NOs.2 AND 3 (ANNEXURE -A) PASSED BY
THE LEARNED PRINCIPAL DISTRICT AND SESSIONS JUDGE,
BENGALURU RURAL IN MISC. APPLICATION NO. 43 OF 2020 AND
ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE R. NATARAJ

ORAL ORDER

The respondent No.1 in Misc. No.43/2020 on the file of
the Principal District and Sessions Judge, Bengaluru Rural
District, Bengaluru, (henceforth referred to as 'the District
Court') has filed this petition challenging an order dated
09.02.2024 by which its evidence was taken as "nil" and
another order dated 23.10.2024 passed by the District Court
rejecting I.A. Nos.II and III in Misc. No.43/2020.



2. The land belonging to the petitioner was purportedly acquired by the respondent No.1 for the purpose of formation of a National Highway under the National Highways Act, 1956 (for short, 'the Act, 1956'). The compensation determined by the Special Land Acquisition Officer was deposited before the District Court under Section 3H(4) of the Act, 1956 in Misc. No.43/2020. In the meanwhile, liquidation proceedings were initiated against the petitioner which culminated in passing of the order of appointment of liquidator by the National Company Law Tribunal, Mumbai Bench, on 09.11.2023. The proceedings before the District Court commenced for determining the person who is entitled to receive the compensation in respect of the acquisition of portion of land bearing Sy. No.277 (old Sy. No.122/13) situate at 12th Mile, Mysore Road, Kengeri, Bengaluru South Taluk.

3. When Misc. No.43/2020 was listed for evidence before the District Court on 09.02.2024, the District Court recorded that there was no representation for the petitioner herein and hence, the evidence of the petitioner herein was taken as "nil". Later, an application (I.A. No.I) was filed by the petitioner herein on 29.02.2024 to reopen the case, which was



dismissed by the District Court as not pressed on 23.10.2024. The petitioner filed an application (I.A No.II) on 23.10.2024 under Section 151 of the Code of Civil Procedure, 1908 to reopen the stage of evidence, which was rejected by the District Court as the petitioner herein was not ready to lead evidence on that day. Later, another application (I.A. No.III) was filed by the petitioner herein to recall the order dated 09.02.2024, which was also rejected by the District Court and the case was posted for final arguments.

4. Being aggrieved by the said orders dated 09.02.2024 and 23.10.2024 passed by the District Court, the petitioner is before this Court.

5. Learned senior counsel for the petitioner submitted that since the petitioner was under liquidation and a liquidator was appointed, due to some miscommunication and shortage of time to collect the documents, evidence could not be adduced before the District Court. He, therefore, contends that an opportunity be granted to the petitioner to adduce evidence before the District Court.



6. Learned High Court Government Pleader, on the other hand, submitted that despite granting sufficient opportunities, the petitioner did not lead evidence in Misc. No.43/2020 before the District Court and therefore, no indulgence can be shown to the petitioner in the present writ petition.

7. The proceedings before the District Court was for determining the person entitled to claim compensation. If the land belonging to the petitioner was acquired for the formation of a National Highway and if the petitioner is entitled to claim the compensation, no force on earth can stop it from doing so. Assuming that the petitioner was not diligent in adducing evidence before the District Court, yet having regard to the fact that the petitioner is liquidated and a liquidator is appointed, an opportunity deserves to be granted to the petitioner to lead evidence and substantiate its claim for compensation, so that the amount could be better utilized during the liquidation proceedings. Hence, the following:

ORDER

- i. This writ petition is ***allowed.***



- ii. The impugned order dated 23.10.2024 passed by the Principal District and Sessions Judge, Bengaluru Rural District, Bengaluru, on I.A. Nos.II and III in Misc. No.43/2020 is set aside. The applications (I.A. Nos.II and III) filed by the petitioner herein are allowed.
- iii. The order dated 09.02.2024 passed by the District Court in Misc. No.43/2020 in so far as it relates to taking the evidence of the petitioner herein as "nil" is recalled.
- iv. The petitioner is granted liberty to lead evidence tomorrow or on the next adjourned date.
- v. It is made clear that if the petitioner fails to avail this opportunity, the District Court shall be at liberty to proceed in accordance with law.

**Sd/-
(R. NATARAJ)
JUDGE**