

**IN THE COURT OF XC ADDL. CITY CIVIL AND SESSIONS
JUDGE, BENGALURU (CCH 91)**

Present

**Sri B. Jayantha Kumar, B.A.Law., LL.M.,
XC Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-91)
(Special Court exclusively to deal with criminal cases
related to elected MPs/ MLAs in the State of Karnataka)**

Dated this the 26th day of March, 2022

PCR No. 51 / 2013

COMPLAINANT: Sri Vasudeva Reddy
S/o P. Narayanappa
Aged about 60 years
No.401, Saptagiri Nilaya
Next to Vakil Gardenia Apartments
Outer Ring Road
Bellandur
Bangalore-560 103
**(Represented by Sri K.V.Dhananjay,
Advocate)**

V/s

ACCUSED 2. Sri B.S. Yediyurappa
Former Chief Minister of Karnataka
Residing at Dollars Colony
Bengaluru.

ORDER

This is a private complaint filed by Vasudeva Reddy under Sec.200 of Cr.P.C. against accused No.1 to 10 alleging offences punishable under Sec.120, 420, 406 of the Indian Penal Code ('IPC')

for short) and for the offences punishable under Sec.13(1)(d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988 ('P.C.Act.' for short).

2. After hearing the complainant, the 23rd Addl. City Civil and Special Judge for Prevention of Corruption Act, Bengaluru City, referred the complaint for investigation under Sec.156(3) of Cr.P.C. to Deputy Superintendent of Police, Karnataka Lokayukta, Bengaluru against accused No.1 R.V.Deshpande and accused No.2 Sri B.S.Yeddiyurappa. It is further directed to assign investigation to any one of the Dy.S.P., Police Wing, City Division, Bengaluru of Karnataka Lokayukta. The records of this case reveal that Sri M.G.Shankaranarayana, Dy.S.P., Karnataka Lokayukta, Bengaluru registered a case in Cr.No.11/2015 for the offence punishable under Sec. 13(1)(d) R/w 13(2) of P.C. Act.

2. As against the order referring the complaint for investigation, the accused No.1 had preferred a writ petition in W.P. No.8885/2015 (GM-RES) before the Hon'ble High Court of Karnataka. Hon'ble High Court of Karnataka was pleased to allow the said writ petition vide order dated 09.10.2015 and quashed the complaint registered against the accused No.1 Sri R.V.Deshpande

and the order dated 18.02.2015 passed by the court for referring the complaint for investigation against accused No.1 and said order has attained finality.

3. The present complainant had preferred a Criminal Revision Petition in CrI.R.P. No.733/2017 against the order dated 18.02.2015 passed by the 23rd Addl. City Civil and Special Judge, Bengaluru City, declining to refer the complaint for investigation against accused No.3 to 10. Said CrI.Rev.Petition came to be dismissed and said order has also attained finality.

4. It is pertinent to note that the present accused No.2 had preferred a writ petition in W.P.No.5043/2019 against the order dated 18.02.2015 for referring the complaint for investigation and sought to quash the private complaint filed in the present PCR and the FIR in Cr.No.11/2015 dated 21.02.2015 and all other further and consequential proceedings therein. Said writ petition came to be dismissed by Hon'ble High Court of Karnataka by order dated 22.12.2020. So, in the light of all these aspects, now the present complaint remains only against the accused No.2 Sri B.S.Yeddiyurappa, the then Deputy Chief Minister and Chief Minister of Karnataka.

5. On perusal of the complaint, it reveals that the complainant has made allegations against accused No.2 being the Deputy Chief Minister had illegally de-notified certain lands acquired for I.T. Corridor lying between Whitefield and Electronic City, Bengaluru for illegal gain under Government Notification dated 21.06.2006. It is pertinent to note that after investigation, Sri M.G. Shankaranarayana, Dy.S.P., Karnataka Lokayukta, Bengaluru filed 'B' Final Report against accused No.2 stating that no offences appear to have been committed by accused No.2 under Sec.13(1)(d) R/w 13(2) of P.C.Act.

6. After receipt of 'B' Final Report, this Court posted the case for filing objections to 'B' Final Report if any. On 23.02.2021, the learned counsel for the complainant filed protest petition against 'B' Final Report filed by the Dy.S.P., Karnataka Lokayukta, Bengaluru. After hearing the learned counsel for the complainant, my learned predecessor has rejected the 'B' Final Report and consequently directed the Deputy Superintendent of Police attached to Police Wing of Karnataka Lokayukta, Bengaluru to investigate the matter further in the light of the observation made in the order

passed under Sec.156(3) of Cr.P.C., and to file Final Report / Additional Final Report expeditiously as per law.

7. On 21.08.2021, Sri M.G.Shankaranarayana, Dy.S.P., Karnataka Lokayukta, Bengaluru appeared before the Court and filed Additional 'B' Final Report. On 17.09.2021, learned counsel for the complainant filed protest petition. On hearing the learned counsel for the complainant, this Court rejected the 'B' Final Report filed by Sri M.G. Shankaranarayana, Dy.S.P., Karnataka Lokayukta, Bengaluru and consequently, this Court has taken cognizance against accused No.2 Sri B.S.Yeddiyurappa, the then Deputy Chief Minister of Karnataka on the basis of the private complaint and protest petition filed by the complainant and the documents filed by the complainant as well as the documents produced by the Investigation Officer and this Court granted opportunity to the complainant to examine himself and his witnesses, if any, on oath under Sec.200 of Cr.P.C.

8. Further, this Court posted the case for recording sworn statement of the complainant and his witnesses. The complainant has stepped into the witness box and this Court recorded sworn

statement of the complainant and got marked 5 documents as Ex.C.1 to C5.

9. Heard the arguments of learned Counsel for the complainant. The learned counsel for the complainant has filed written arguments. Now the following points arise for my determination:

1) Whether the complainant has made out sufficient grounds to proceed against the accused for the offence punishable under Sec.13(1)(d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988?

2) What order?

10. After hearing the arguments of learned Counsel for the complainant and on considering the relevant materials on record, my findings on the above points are as hereunder:

Point No.1 : In the Affirmative

Point No.2 : As per final order
for the following:

REASONS

11. **Points No.1:** This is a private complaint filed by the complainant alleging the offences punishable under Sec.13(1)(d) r/w

Sec.13(2) of the Prevention of Corruption Act. The learned counsel for the complainant in his written argument contended that the allegations in the complaint against Sri B.S.Yeddiyurappa was not in the form of any personal knowledge or testimony of the complainant but solely based on documentary material obtained from the Government. He further contended that Sri B.S.Yeddiyurappa was the then Deputy Chief Minister from 3.2.2006 and 8.10.2007 and the allegations made against him concerns denotification of certain lands without any public interest or public purpose and denotification was illegal or a rank abuse of public office without any public interest and in either case, illegally transferred property of the Government to a private person, deprived the Government of the property of substantial value, burdened the Government with exorbitant cost on account of that denotification and unduly enriched private persons without any public interest. He further contended that in the year 2001, a preliminary notification was issued under Sec.28(1) of the Karnataka Industrial Area Development Act, 1966 ('KIAD Act' for short) with respect to lands measuring 434 acres of land spread over four contiguous areas of Bengaluru – Bellandur, Devarabeesanahalli, Kariyammana Agrahara

and Amanibellandur Khane and the purpose of the acquisition was to establish an infrastructure corridor to serve the city of Bengaluru and State of Karnataka and fulfill the Central Government's objectives and most of those lands were also subject to a final notification slightly later, but at different times and one such final notification was issued on 7.5.2004 in terms of Sec.28(4) of KIAD Act. It is further contended that the allegation of corruption against the accused Sri B.S.Yeddiyurappa concerns illegal and corrupt denotification of lands that were covered by the final notification dated 7.5.2004 and the illegal denotification favoured private persons without any public benefit and he ordered and secured denotification of 15 lands in favour of private persons through rank abuse of his office. It is further contended that this complaint rests on public documents that were originally filed as part of the complaint, which form part of the record before this Court and on the basis of those documents, there exists documentary material for this Court to summon the accused Sri B.S.Yeddiyurappa pursuant to the previous act of taking of cognizance by this Court. It is further contended that as a matter of law, a preliminary notification to acquire a private land itself imposes substantial disability upon the

ordinary use and enjoyment of that private land, therefore, a preliminary notification is issued only after a careful application of mind by a substantial number of public servants from different departments of the Government and after that a final notification is issued only after a scrupulous, honest and objective consideration of the public objections against the final notification and there is nothing in Constitution of India that says that Chief Minister or a Deputy Chief Minister or a Minister should assume to himself, the authority to decide upon or denotify lands that have become the subject of final notification and any such authority or power is assumed only by choice or desire and the different clauses of Sec.13(1)(d) readily address illegal and corrupt denotification of an already acquired and vested land in favour of private persons by abuse of such high office – without any public purpose and which results in improper enrichment of private persons or deprives the State of valuable resources.

12. It is further contended that the owners of the lands have made common representation to KIADB seeking denotification of their lands through a land owner named Sri H.Munireddy. It is further contended that Sri B.S.Yeddiyurappa, the then Deputy Chief

Minister, proceeded to direct the KIADB to examine the representation of Sri H.Munireddy and others and he also insisted on the opinion of the the Principal Secretary regarding it. It is further contended that the CEO of KIADB did not perceive merit in the aforesaid representation of the land owners and he seriously expressed his opinion as to how the proposed denotification of those lands would defeat the public interest and impose a substantial burden upon the public exchequer. It is further contended that Sri B.S.Yeddiyurappa proceeded to order denotification of those 15 parcels of land in favour of private persons on 16.6.2006 by assigning a range of dubious, dishonest and false explanations and his order is expressed in paragraphs 291 to 295 of KIADB proceedings and is signed by him.

13. It is further contended that as directed by Sri B.S.Yeddiyurappa, the Deputy Chief Minister, the Government proceeded to denotify the lands that were specified by him and in his order, he has cited a judgment of the Hon'ble High Court of Karnataka passed in W.P.No.9146/2001 deliberately to make his false narrative without even bothering to realize that judgment's significance and that judgment recognizes the significance of

Sec.28(5) of KIADA which says that “on the publication in the official Gazette of the declaration under sub-section (4), the land shall vest absolutely in the State Government free from all encumbrances.” It is further contended that the said judgment also recognizes that the land is the subject of a final notification under Sec.28(4) and therefore, becomes absolute property of the State Government in terms of Sec.28(5). Only in such rare circumstances, where the Government might not have taken possession and the Government’s very objective of acquisition could no longer be carried out, the Government could proceed to denotify the land.

14. It is further contended that Sri B.S.Yeddiyurappa de-notified 15 parcels of lands and the purpose of the acquisition was to develop it as ‘Information Technology Corridor’ and it was absolutely nobody’s case that the KIADB or the State Government could no longer effectuate the intended purpose of acquisition with respect to those 15 parcels of land and on the contrary, the KIADB, the expert body had itself objected to the proposed denotification on the ground that de-notifying those lands that adjoined the Ring Road would throttle infrastructure connection to other lands surrounding it and that cost of constructing alternative access routes to the other

acquired lands adjoining the de-notified land would be prohibitively expensive. Further, the KIADA itself includes provisions to allow the KIADB to lease land to deserving private persons to effectuate the purpose of acquisition while also ensuring that the leaseholders do not abuse or violate the terms of the lease.

15. It is further contended that Sri B.S.Yeddiyurappa deliberately created a false and a dishonest narrative without even recognizing that the judgment he has relied upon itself exposes that false and dishonest narrative.

16. It is further contended that Sri B.S.Yeddiyurappa proceeded to state in his order that those land owners had approached the High Court and that an interim stay had been granted against dispossessing them and this too is a dishonest pretext taken by him and a temporary stay by a single Judge Bench of the Hon'ble High Court is by itself no indicator of whether the Government did not possess a case on merits to eventually prevail therein and in fact the whole gamut of land acquisition witnesses substantial Court challenges and the same is factored in by the KIADB and the Government and the dishonest pretext taken by the

accused Sri B.S.Yeddiyurappa elevates his act to a case of corruption under Sec.13(1)(d) of the Prevention of Corruption Act.

17. It is further contended that Sri B.S.Yeddiyurappa has stated that the landowners of those 15 parcels of land had objected to acquisition from the very beginning and this point is another deliberate attempt to camouflage his intent. It is further contended that Sri B.S.Yeddiyurappa has cited that those landowners were not co-operating in determining the appropriate compensation for their lost land as a further ground to denotify those lands and it is common knowledge that after the land acquisition progresses or is completed, the law does not reward landowners if they refuse to co-operate in determining the compensation payable to them and nowhere does the law state that where the landowners refuse to participate in proceedings that determine the compensation payable to them, the Government should consider de-notifying their lands, such a determination by the Deputy Chief Minister Sri B.S.Yeddiyurappa is altogether corrupt and illegal and it exposes his dishonest intention and corrupt motive and denotes his act as one of blatant corruption.

18. It is further contended that there is a case of land acquisition under the KIADA where the final notification had already been issued and the lands so acquired become absolute property of the State Government and there existed no legal scope for the Government to denotify those lands on the ground of inability on the part of the Government to proceed with the acquisition and hence, prayed for issuance of summons against accused No.2.

19. The complainant has stepped into the witness box and examined himself as CW1 and gave sworn statement. In his sworn statement, he has narrated the incident and the act committed by the accused No.2 i.e., denotification of the land. He stated that the accused No.2 was Deputy Chief Minister of Karnataka from 3.2.2006 to 8.10.2007 and during the said period, he has issued denotification of certain lands without any public interest and public purpose and the denotification was illegal and rank abuse of public office without any public interest and in either case, illegally transferred property of the Government to a private person, deprived the Government of the property of substantial value. He further stated that he has filed this private complaint on the basis of

documents obtained from departments of the Government of Karnataka and his allegation is not in the form of any personal knowledge or testimony of the complainant but solely based on the documentary material obtained from the Government. He further stated that a preliminary notification was issued under Sec.28(1) of KIAD Act with respect to the lands measuring 434 acres spread over four contiguous areas of Bangalore- Bellandur, Devarabeesanahalli, Kariyammana Agrahara and Amanibellandur Khane, for the purpose of establishing infrastructure corridor (Information Technology Park). He further stated that a final notification was issued on 7.5.2004, however, accused No.2 Sri B.S.Yeddiyurappa issued denotification of lands in favour of private persons without any public benefit. He further stated that the accused No.2 B.S.Yeddiyurappa issued denotification of lands on the basis of representation given by some land owners to the KIADB seeking denotification through land owner Sri H.Munireddy. He further stated that the accused No.2 Sri B.S.Yeddiyurappa proceeded to direct the KIADB to examine Sri H.Munireddy and others representation and also insisted on the opinion of Principal Secretary, even though the CEO of KIADB did not perceive merit in

the aforesaid representation of the land owners and even though he seriously expressed concern about how the proposed denotification of those lands would defeat the public interest and impose a substantial burden upon the public exchequer. He further stated that the accused No.2 Sri B.S.Yeddiyurappa has made false narrative in the order by citing judgment of Hon'ble High Court of Karnataka passed in W.P.No.9146 of 2001 without even bothering to realize that judgment's significance. He further stated that the accused No.2 Sri B.S.Yeddiyurappa has made dishonest pretext by mentioning interim stay granted by the Hon'ble High Court of Karnataka. He further stated that the accused No.2 has made deliberate attempt to camouflage his intent by stating that the land owners of 15 parcels of the land had objected the acquisition from the very beginning. He stated that the accused No.2 Sri B.S.Yeddiyurappa escalates his false and dishonest narrative by saying in his order that even if the land acquisition proceedings should continue, the KIADB is in no position to acquire these lands and that the same is not easy. He further contended that the accused No.2 has abused his public office as a public servant and thereby he has committed the offence

punishable under Sec.13(1)(d) R/w 13(2) of the Prevention of Corruption Act, 1988.

20. In support of his case, he has produced a copy of preliminary notification dated dated 10.12.2001 issued by the Government of Karnataka for acquisition of certain lands, marked as Ex.C.1. He has also produced final notification dated 7.5.2004 issued by Government of Karnataka, marked as Ex.C.2. He has produced copy of the representation dated 12.4.2006 given by H.Munireddy and others to the CEO of KIADB, marked as Ex.C.3. He has produced copy of the letter of communication issued by the CEO addressed to Principal Secretary, Government of Karnataka, marked as Ex.C.4. He has produced copy of notification and comparative statement passed by the Government of Karnataka dated 21.6.2006 to denotify the lands as directed by Accused No.2 Sri B.S.Yeddiyurappa on 16.6.2006, marked as Ex.C.5.

21. In this case, KIADB had issued a preliminary notification on 10.12.2001 for acquisition of lands situated in Bellandur, Devarabeesanahalli, Kariyammana Agrahara and Amanibellandur Khane. The preliminary notification was issued for acquisition of 434 acres of land for the purpose of formation of

Infrastructure Corridor (I.T.Park) and final notification was issued on 07.05.2004. The main allegations made against accused No.2 is that he has illegally and corruptly denotified 15 parcels of land by receiving representation from the land owners without any basis and against law and therefore, the accused No.2 has committed an offence punishable under Sec.13(1)(d) r/w 13(2) of the Prevention of Corruption Act, 1988.

22. At this juncture, it would be necessary to refer to Sec.13(1)(d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988.

“13. Criminal misconduct by a public servant.—

(1) A public servant is said to commit the offence of criminal misconduct,—

(a) xxxx; or

(b) xxxx; or

(c) xxxx; or

(d) if he,—

(i) by corrupt or illegal means, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(ii) by abusing his position as a public servant, obtains for himself or for any other person any valuable thing or pecuniary advantage; or

(iii) while holding office as a public servant, obtains for any person any valuable thing or pecuniary advantage without any public interest; or

(e) xxxx.

Explanation.—xxxx

(2) Any public servant who commits criminal misconduct shall be punishable with imprisonment for a term which shall be not less than one year but which may extend to seven years and shall also be liable to fine.”

23. In case of a charge for the offence punishable under Sec.13(1)(d) of the Prevention of Corruption Act, 1988, it would be necessary to prove that (1) the accused was a public servant (2) that he used corrupt or illegal means or otherwise abused his position and (3) that he obtained for himself or for any other person valuable thing or pecuniary advantage. For constituting an offence under this Section, it is enough, if he by abusing his position as a public servant, he obtains for himself any pecuniary advantage entirely irrespective of motive or for favour or disfavour. Obtaining the pecuniary advantage or valuable thing which is common to all the

three clauses of Sec.13(1)(d) of the Prevention of Corruption Act, 1988. It is an essential element to realize on the basis of materials for framing of charge. So, Sec.13(1)(d) of the Prevention of Corruption Act, 1988 attracts if the accused used any corrupt or illegal means or otherwise abused his position and that he obtained for himself or for any other person any valuable thing or pecuniary advantage.

24. At this juncture, it would be necessary to refer to Section 28 of the Karnataka Industrial Areas Development Act, 1966, which reads as follows:

28. Acquisition of land.- (1) If at any time, in the opinion of the State Government, any land is required for the purpose of development by the Board, or for any other purpose in furtherance of the objects of this Act, the State Government may by notification, give notice of its intention to acquire such land.

(2) On publication of a notification under sub-section (1), the State Government shall serve notice upon the owner or where the owner is not the occupier, on the occupier of the land and on all such persons known or believed to be interested therein to show cause, within thirty days from the date of service of the notice, why the land should not be acquired.

(3) After considering the cause, if any, shown by the owner of the land and by any other person interested therein, and after giving such owner and person an opportunity of being heard, the State Government may pass such orders as it deems fit.

(4) After orders are passed under sub-section (3), where the State Government is satisfied that any land should be acquired for the purpose specified in the notification issued under sub-section (1), a declaration shall, by notification in the official Gazette, be made to that effect.

(5) On the publication in the official Gazette of the declaration under sub-section (4), the land shall vest absolutely in the State Government free from all encumbrances.

(6) Where any land is vested in the State Government under sub-section (5), the State Government may, by notice in writing, order any person who may be in possession of the land to surrender or deliver possession thereof to the State Government or any person duly authorised by it in this behalf within thirty days of the service of the notice.

(7) If any person refuses or fails to comply with an order made under sub-section (5), the State Government or any officer authorised by the State Government in this behalf may take possession of the land and may for that purpose use such force as may be necessary.

(8) Where the land has been acquired for the Board, the State Government, after it has taken possession of the land, may transfer the land to the Board for the purpose for which the land has been acquired.

25. On perusal of this provision, it is clear that as per Section 28(5) of the Karnataka Industrial Areas Development Act, 1966, on publication in the official Gazette of the declaration under sub-section (4), the land shall vest absolutely in the State Government free from all encumbrances.

26. Now the short question involved in this case is whether there are sufficient grounds to proceed against the accused for the offence of criminal misconduct punishable under Sec.13(1)(d) R/w Sec.13(2) of the Prevention of Corruption Act.

27. It is the allegation made against accused No.2 that he has not appreciated the judgment of the Hon'ble High Court of Karnataka rendered in W.P.No.9146/2001. Therefore, it is just and proper to look in to the facts of the said case. In the said writ petition, the petitioner was owner of about 10 Acres of land in Sy.No.58/1 of Kalavar Village, Mangalore Taluk, out of which certain extent of land was acquired by the State Government in the year 1992 for the benefit of the Karnataka Industrial Areas

Development Board ('KIADB' for short) and KIADB also acquired additional extent of 4 acres 38 cents of lands of the petitioner in the same survey number for the similar purpose and notification was issued under Sec.28(2) of KIADB Act and notice was issued to the petitioner /land owner under Sec.28(2) of the Act and the petitioner /land owner filed objections to the said notice objecting to the acquisition of the said land. The objections were over-ruled and a declaration was issued as per Sec.28(4) of the Act in the official Gazette and thereafter, the landlord requested the payment of compensation in respect of the said land and the KIADB issued an endorsement stating that the compensation will be paid in due course. It is the allegation in the said case that though the acquisition proceedings started in the year 1997, compensation has not been paid and the landlord was deprived of enjoyment of the property and he was prevented from making any improvement in the land. At that stage, KIADB had decided to drop the acquisition proceedings and to regrant the land to the landlord and the landlord has challenged the said action of the KIADB and the KIADB had filed objections stating that after issuance of declaration, they have not taken possession of the land in question. The landlord continues to be in

possession of the said land. The Hon'ble High Court of Karnataka has passed the following order:

24. Now the question is whether the State Government should be compelled to take possession of the land vested in it when it is no longer possible for the Government to effectuate the intended purpose of acquisition. In *Special Land Acquisition Officer, Bombay and Ors. Vs. Godrej and Boyce* the Apex Court has held that the State Government cannot be compelled to go ahead with the acquisition with the land when it has become unsuitable for its purpose. It has been held as follows:-

"If the Government is reluctant to go ahead with the acquisition in view of these genuine difficulties, it can hardly be blamed. We see no justification to direct the Government to acquire the land and embark on such a venture. We are also of the opinion that the fact that the Government exercised the power of withdrawal after the writ petition was filed does not spell mala fides, once the existence of circumstances, which, in our opinion, justified the Government's decision to withdraw is acknowledged".

25. Having regard to the facts and circumstances of the case, I am of the view that though the land gets vested when the declaration was issued, the petitioner is entitled for compensation only after acquisition of the land is complete under Section 29 of the Act. The State Government cannot be compelled to acquire the land after

its vesting when it was no longer possible to effectuate the intended purpose of acquisition. Till possession is not taken, the land owner is not entitled for compensation in respect of the notified lands.”

28. The Hon'ble High Court of Karnataka was of the view that though the land gets vested when the declaration was issued, the petitioner is entitled for compensation only after acquisition of the land is complete under Sec.29 of the Act and the State Government cannot be compelled to acquire the land after its vesting when it was no longer possible to effectuate the intended purpose of acquisition.

29. In the present case, the complainant has contended that the ratio laid down in the said case cannot be applied to the present case, because, it is not the case of KIADB that it is not possible to effectuate the intended purpose of the acquisition. It is just and proper to go through the excerpts of the proceedings recorded by the KIADB during denotification of the aforesaid KIADB lands. Paragraphs 281 to 285 are very much relevant. Additional Secretary (Mines), gave report on the request of the accused No.2 and this proceedings goes to show that the present accused No.2, the then Deputy Chief Minister stated that there is no need to implement the orders of the previous Minister at paras 239 to 242 and he has asked

to examine the representation of Sri H.Munireddy and others and get a report from KIADB and submit a report with the opinion of Principal Secretary. These proceedings further go to show that on 06.10.2004, Sri Harish Gowda, the then CEO, KIADB sent a report to the Government that all the 35-00 Acres of land deleted should be again notified under Sec.28(4) and distributed to various I.T. giant companies like M/s.Honey Well Ltd., M/s.Huwai Technologies Ltd., etc. At paragraph 287, it is stated that the report received from CEO, KIADB regarding of 11-11 Acres of land in the villages of Bellandur and Devarabeesanahalli. In the said report, he stated that the lands proposed for deletion are adjoining the BDA Ring Road, if these lands are deleted from acquisition proceedings there will be no connectivity to the remaining lands and even if it is tried to give connectivity from any corner of the Ring Road, the extent of remaining lands will be very less and the cost of developing will be very exorbitant and hence, he has opined that it would not be appropriate to delete the lands from acquisition as requested by Sri H.Munireddy. At para-288, it is stated that the Law Department, Advocate General and Sri B.V.Sabarad, Advocate of KIADB have all said that after the publication of final notification under

Sec.28(4), there is no provision for deleting or excluding the lands from acquisition and finally it is stated that having regard to the wholesome principles in the matter of vesting, laid down by the Hon'ble Apex Court and the provisions of Section 28(5) of KIADB Act, it is not possible to withdraw the lands from acquisition, even if possession is not taken and award is not passed in cases of acquisition under KIADB Act, 1966. The complainant is very much relying on the report of the CEO, KIADB, Law Department, Advocate General and Sri B.V.Sabarad, Advocate of KIADB and opinion of Additional Secretary (Mines).

30. The Dy.S.P., Karnataka Lokayukta filed Closure Report, when this Court referred the complaint for investigation under Sec.156(3) of Cr.P.C., and in the said closure report, the Investigation Officer has opined that none of the witnesses of whom they recorded statements stated that they have paid amount to accused No.2 for denotification of lands and therefore, there is no material or evidence to file charge sheet against accused No.2.

31. The short question involved in this case whether the payment of gratification is necessary to attract Sec.13(1)(d) of the Prevention of Corruption Act. This Court while passing order for

taking of cognizance observed that Section 13(1)(d) does't say that there must be illegal gratification or payment of money. This Court observed that the I.O. has not conducted investigation in right perspective manner and not analysed the provisions of law and hence, this Court rejected the 'B' Final Report filed by the Investigation Officer.

32. Keeping in view of the law as discussed above and keeping in view the opinion expressed by the CEO, KIADB, Law Department, Advocate General and Sri B.V.Sabarad, Advocate of KIADB and Additional Secretary (Mines) for not to issue denotification of lands, I am of the opinion that prima facie it cannot be said that de-notification has been ordered by the accused No.2 in exercise of the lawful powers vested in him. This Court took cognizance of the offence against accused No.2 for the offence punishable under Sec.13(1)(d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988 by discussing various aspects including the order passed by the Hon'ble High Court of Karnataka and Hon'ble Apex Court on the basis of private complaint filed by the complainant and protest petition filed by him and the documents produced by him as well as the documents produced by the

I.O.,PCR_51-2013_order_March 2022 This Court gave liberty to the complainant to examine himself and his witnesses, if any, on oath under Sec.200 of Cr.P.C., I am of the considered opinion that there are sufficient material to proceed against the accused by registering Special Criminal Case and summoning the accused No.2 for his attendance and give an opportunity to the complainant to establish his allegations against the accused No.2. I am of the considered opinion that there is nothing on record to disbelieve the case of the complainant at this stage. He has made out a prima facie case against the accused for the offence punishable under Sec.13(1)(d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988. With these observations, I answer point No.1 in Affirmative.

33. **Point No.2:** In view of my findings on point No.1, I proceed to pass the following:

ORDER

Register a Special Criminal Case against the accused No.2 Sri B.S.Yediyurappa for the offence punishable under Sec.13(1)(d) R/w Sec.13(2) of the Prevention of Corruption Act, 1988. Issue summons to accused No.2 for his attendance only after filing of list

of witnesses as required under Sec.204(2) Cr.P.C., and
process fee is paid.

*(Dictated to the Judgment writer, transcribed him, revised and corrected by
me and then pronounced in the Open Court on this the 26th day of March, 2022)*

(B. Jayantha Kumar)
XC Addl. City Civil & Sessions Judge,
Bengaluru City (CCH-91)
**(Special Court exclusively to deal with criminal cases
related to elected MPs/ MLAs in the State of Karnataka)**