R

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 250 OF 2025 (LA-RES)

C/W

WRIT APPEAL NO. 260 OF 2025 (LA-RES)

IN WA No. 250/2025

BETWEEN:

JAMNALAL BAJAJ SEVA TRUST
13TH KM,MAGADI ROAD,
VISHWANEEDAM POST,
BENGALURU-560091
REPRESENTED BY ITS SPECIAL
POWER OF ATTORNEY HOLDER
COL. B K NAIR

…APPELLANT

(BY SRI. UDAYA HOLLA, SENIOR ADVOCATE A/W
SRI. RAJESWARA P N, ADVOCATE)

AND:

1. STATE OF KARNATAKA
BY ITS SECRETARY TO GOVERNMENT
REVENUE DEAPRTMENT
MS BUIDLING BENGALURU -560001

2. THE DEPUTY COMMISSIONER
BENGALURU DISTRICT

KRISHI BHAVAN
BENGALURU -560001

3. THE SPECIAL LAND ACQUISITION OFFICER
VISVESWARAYA CENTRE
III FLOOR PODIUM BLOCK,
DR AMBEDKAR ROAD,
BENGALURU -560001

4. AGRICULTURAL PRODUCE
MARKET COMMITTEE
YESHWANTHPURA
BENGALURU -560022

…RESPONDENTS

(BY SRI. KIRAN.V. RON, AAG A/W
SMT. NAMITHA MAHESH B.G., AGA FOR R1 TO R3
SRI. JAYAKUMAR S PATIL, SENIOR ADVOCATE A/W
SRI. NANDA KISHORE, MR. CHETAN RAMESH AND
MR. ARVIND RAMESH, ADVOCATES FOR C/R4)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 03/02/2025 IN WP NO.3884/1999, PASSED BY THE LEARNED SINGLE JUDGE AND ETC.

IN WA NO. 260/2025

BETWEEN:

JAMNALAL BAJAJ SEVA TRUST
13TH KM, MAGADI ROAD,
VISHWANEEDAM POST,
BENGALURU-560091
REPRESENTED BY ITS SPECIAL
POWER OF ATTORNEY HOLDER
COL B K NAIR

...APPELLANT

(BY SRI. UDAYA HOLLA, SENIOR ADVOCATE A/W
SRI. RAJESWARA P N, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   BY ITS SECRETARY TO GOVERNMENT
   REVENUE DEPARTMENT
   M S BUILDING, BENGALURU -560001

2. THE DEPUTY COMMISSIONER
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   BENGALURU-560001

4. AGRICULTURAL PRODUCE MARKET
   COMMITTEE,YESWANTHPURA
   BENGALURU 560022

...RESPONDENTS

(BY SRI. KIRAN.V.RON, AAG A/W
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SRI. NANDA KISHORE, MR. CHETAN RAMESH AND
MR. ARVIND RAMESH, ADVOCATES FOR C/R4)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED 03.02.2025 IN WP No. 37140/2000 (LA-RES), PASSED BY THE LEARNED SINGLE JUDGE AND ETC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE C.M. POONACHA)

1. The present appeals are filed by the writ petitioner impugning the common order dated 03.02.2025, whereunder the learned Single Judge has dismissed the writ petitions.

2. The facts in a nutshell leading to the present appeals are that the appellant - a Public Charitable Trust (**Trust**) was registered under the Bombay Public Trusts Act, 1950 and established in the year 1942 with the object of helping any person or institution for relieving distress, improving health and physical condition, promoting spiritual, intellectual and social welfare, imparting educational training in all or any of its branches, advancing moral welfare, general welfare of mankind, more particularly, women, children, villagers, illiterate backward classes and suppressed people of the world. The Trust claims to have been established based on the inspiration received from the preachings of Mahatma Gandhi and Vinoba Bhave.

Brief Facts

3. The Trust claimed to be the owner of various lands in Srigandada Kaval village and Herohalli village, Yeshwanthpura Hobli, Bengaluru North Taluk.

4. Pursuant to a requisition made by respondent No.4 - Agricultural Produce Market Committee, Bengaluru (**APMC**) established under the provisions of the Karnataka Agricultural Produce Marketing (Regulation and Development) Act, 1966 (**Act, 1966**) for the purpose of establishing a Mega Market, a preliminary notification dated 02.09.1994 (gazetted on 03.09.1994) was issued under Section 4(1) of the Land Acquisition Act, 1894 (**LA Act**) notifying a total extent of 172 acres 22 guntas in Survey Nos.12/1, 12/ 2, 13, 14, 16, 17, 18, 19, 42 and 43 of Srigandada Kaval village, Yeshwanthpura Hobli, Bengaluru North Taluk **(subject 'A' property)**. The preliminary notification was stated to have been published in the local Kannada newspaper on 17.09.1994 and affixed in the Village Chavadi on 11.10.1994. A final notification was issued on 10.10.1996 under Section 6 of the LA Act. The final notification was published in the English daily newspaper - Indian Express on 30.10.1996 and in Kannada daily newspaper - Samyuktha Karnataka on 31.10.1996 and in the Village Chavadi on 06.12.1996. The draft award was prepared on 12.08.1998 for a compensation of Rs.9,14,14,827/-.

5. The Trust filed Writ Petition No.3884/1999 challenging the acquisition made in respect of the subject 'A' property and sought for the following reliefs:

> (i) Declare that the entire acquisition proceedings commencing with the issue of a preliminary notification gazette on 3.9.1994 marked as Annexure-A in the writ petition have lapsed on account of the award not having been made within a period of two years in terms of Section 11A of the Land Acquisition Act.
>
> (ii) Issue a writ of certiorari or any other writ, order or direction to quash Annexure-A, the preliminary notification LAQ (2) SR/32/94-95 DATED 2.9.1994 PUBLISHE DIN TH Karnataka Gazette dated 3.9.1994 and Annexure the final notification No. RDD 21 LAQ 96 dated 10.10.1996 published in the Karnataka Gazette dated 31.10.1996.

6. A learned Single Judge of this Court vide interim order dated 8.2.1999 stayed dispossession of the writ petitioner from subject 'A' property.

7. During the pendency of the said writ petition (i.e., WP.No.3884/1999) a preliminary notification dated 13.04.1999 was issued under Section 4(1) read with Section 17(4) of the Karnataka Amendment Act 33/1991 to the LA Act notifying a total extent of 104 acres 5 guntas of land in Survey Nos.30, 31, 32, 41 to 49, 51

and 52 of Herohalli village, Yeshwanthpura Hobli, Bengaluru North Taluk. Enquiry under Section 5A of the LA Act was dispensed with. A final notification was issued under Section 6(1) of the LA Act read with Section 17(1) to 17(4) of the Karnataka Amendment Act 33/1991 to the LA Act, was issued on 26.10.1999 (gazetted on 18.11.1999) in respect of 100 acres 11 guntas of land (**subject 'B' property**) out of 104 acres 5 guntas of land, which was notified under the preliminary notification. Possession was directed to be taken as contemplated under Section 17 (1) of the LA Act within 15 days.

8. The Trust filed Writ Petition No.37140/2000 challenging the acquisition of subject 'B' property seeking for the following reliefs:

> (i) Issue a Writ of certiorari or any other writ or order, quashing the impugned notification at Annexure-B dated 13.04.1999 gazetted on 17.04.1999 in LAC(2) SR 2/99-2000 issued by the second respondent and also the notification at Annexure-C dated 26.10.1999 gazetted on 18.11.1999 in No. Kam. E.68.AQ8-99 issued by the first respondent.
>
> OR
>
> (ii) In the alternative direct the respondents to pay compensation to the petitioner in terms of the proceedings of the meeting dated 29.04.1999 Vide Annexure-D.

9. It is the contention of the APMC and the State that possession of 65 acres 19 guntas of land forming part of the subject 'B' property was taken over by the Land Acquisition Officer (LAO) and handed over to the APMC vide Official Memorandum of Possession dated 06.10.2000 and an award was passed by the Special Land Acquisition Officer (**SLAO**) on 26.03.2002 in respect of subject 'B' property and the award provided for payment of the compensation to the Trust after excluding 34 acres 14 guntas of acquired land by treating the same as phut kharab belonging to the government. In the award, a further extent of 35 acres was excluded, which was the subject matter of Writ Petition No.708/2000 filed by one Vishwaneedham Trust. A learned Single Judge of this Court had granted an interim order in Writ Petition No.708/2000 staying the dispossession of the writ petitioner. The Trust accepted the compensation under protest and also filed LAC No.1/2003 seeking for enhancement of the compensation.

10. As noted above, Writ Petition No.3884/1999 was with respect to the subject 'A' property (172 acres 22 guntas) and Writ Petition No.37140/2000 was with respect to subject 'B' property (100 acres 11 guntas).

11. The APMC filed IA.No.3/2008 seeking permission to put up a wall around 65 acres of land, which was allowed vide order dated 12.2.2009.

12. During the pendency of the aforementioned writ petitions, the Right to Fair Compensation and Transparency In Land Acquisition, Rehabilitation and Resettlement Act, 2013 (**RFCTLARR Act**) was enacted. In both the writ petitions, the Trust filed applications for amendment to declare that the acquisition proceedings are deemed to have lapsed in view of the provisions of the RFCTLARR Act, which amendments were granted.

13. It is also pertinent to note that the Land Reforms Tribunal passed an order dated 28.11.2017 in the proceedings under the Karnataka Land Revenue Act, 1964 (**KLR Act**) which was challenged by the Trust before this Court and remanded to the Tribunal on many occasions. Finally, the Tribunal by order dated 28.11.2017 declared that an extent of 354 acres 10 guntas of land owned by the Trust was excess land under the KLR Act, which was set aside by a learned Single Judge of this Court vide order dated 30.6.2021 passed in Writ Petition No.55344/2017. The order passed by the learned Single Judge was affirmed by the Division Bench vide order dated 22.6.2022 passed in Writ Appeal

No.1089/2021. The Special Leave Petition filed by the State (being SLP No.14524/2022) was dismissed by the Supreme Court vide order dated 29.8.2022.

14. The writ petitions filed by the Trust in respect of subject 'A' property and subject 'B' property (being WP.Nos.3884/1999 and 37140/2000) as well as Writ Petition No.708/2000 filed by Vishwaneedham Trust were heard together along with Writ Petition No.19579/2001, wherein the acquisition was challenged by the Trust in respect of an extent of 3 acres 34 guntas of land. The learned Single Judge framed the following points for consideration:

> a. Whether the disposal of these petitioners should deferred pending adjudication and determination by the Land Tribunal, Bangalore North Taluk of the excess holdings or otherwise under the provisions of the Karnataka Land Reforms Act, 1961 of the very lands which are the subject matter herein.
>
> b. Whether the possession of a portion of the lands in question having said to have been given to APMC can be said to be valid and in accordance with law.
>
> c. Whether the invocation of Section 17 of the LA Act in the acquisition of a portion of the lands for the same purpose was justified.
>
> d. Whether the acquiring authority could keeping abeyance the mandate to pay or deposit the compensation amount pending disposal of the

proceedings before the Land Tribunal in respect of the lands.

e. Whether the acquisition proceedings have lapsed by virtue of the 2013 Act.

15. The learned Single Judge vide order dated 24.06.2014 allowed the writ petitions and held that the acquisitions have lapsed under Section 24(2) of the RFCTLARR Act. The said order of the learned Single Judge was affirmed by a Coordinate Bench vide order dated 13.9.2017. Review petitions filed to review the order passed in writ appeals were also rejected by the Coordinate Bench vide order dated 28.06.2019. The orders passed by the Co-ordinate Bench in the writ appeals and the review petitions were the subject matter of challenge before the Supreme Court in Civil Appeal Nos.1345-46/2022. The Supreme Court, vide order dated 22.03.2022 set aside the finding that the acquisition had lapsed under Section 24(2) of the RFCTLARR Act and remanded the matters to the learned Single Judge to adjudicate upon all other contentions raised by the parties.

16. After remand, the learned Single Judge noticed the questions that were framed for consideration in the writ petitions at the first instance and held that questions (a) and (e) having already been adjudicated upon by the Supreme Court, only questions (b), (c) and

(d) would arise for consideration. The learned Single Judge, vide the impugned order has dismissed the writ petitions filed by the Trust. Being aggrieved, the present appeals are filed.

17. It is relevant to note here that in the first round of litigation four writ petitions (being W.P. No. 3884 of 1999, W.P. No. 37140 of 2000, W.P. No. 708 of 2000 and W.P. No. 19579 of 2001) were the subject matter of the order dated 24.06.2014 of the learned Single Judge. W.P. No. 3884 of 1999 and W.P. No. 37140 of 2000 have been filed by the Appellant - Trust. W.P. No. 708 of 2000 was filed by Vishwaneedam Trust who was stated to be the tenant of the Trust with respect to an extent of 35 acres. It is forthcoming from the record that the disputes between the said writ petitioner and the Trust were resolved and the said Writ Petition i.e., W.P. No. 708 of 2000 was disposed of as infructuous vide order dated 24.6.2014. W.P. No. 19579 of 2001 was filed by the Trust which is with respect to an extent of 3 acres 34 guntas of Herohalli village which was not challenged before the Supreme Court. Hence, after remand only W.P. No. 3884 of 1999 and W.P. No. 37140 of 2000 are the subject matter of the impugned order.

Contentions:

18. Learned Senior Counsel Sri Udaya Holla appearing for the appellant - Trust in both the appeals assailing the order of the learned Single Judge contends:

(i) that the Trust has continued in possession of the land and the possession has not been taken. The mahazar that is relied upon to contend that the possession has been taken has been assailed, *inter-alia*, contending that the same is in a printed format and does not adequately demonstrate that possession has been taken;

(ii) the acquisition process has not been completed within the timelines as contemplated under the LA Act.

(iii) that the appellant being a Trust which is formed with avowed objects, its land ought not to be acquired, *albeit*, for the purpose of establishing a market yard;

(iv) the APMC, which is the beneficiary of the acquisition has decided to establish the market yard at another place as is forthcoming from the say of APMC, made in collateral proceedings;

(v) There are no grounds to invoke the urgency provision while issuing the notification which is the subject matter of consideration in WP No.37140-146/2000;

(vi) That the compensation amounts received by the Trust were under protest and have been re-deposited with the Government;

(vii) The learned Single Judge has not adequately appreciated the contentions put forth by the Trust, which is the owner of the property while dismissing the writ petition and the order of the learned Single Judge is erroneous.

Hence, the learned counsel seeks for granting of the reliefs sought for in the writ petition.

19. Learned Senior Counsels Sri K.G.Raghavan and Sri Jayakumar S. Patil, appearing for the APMC, justifying the order of the learned Single Judge in dismissing the writ petition contend:

(i) All the requirements of the LA Act have been complied with and no fault can be found in the acquisition process;

(ii) The purpose of the acquisition is for setting up of a market yard by the APMC for marketing agricultural

products and the same being beneficial to the public, the acquisition process ought not to be interdicted;

(iii) The possession of the property has been taken as is forthcoming from the record and that the Trust has also accepted the compensation. Hence, it is not open to the Trust to challenge the acquisition;

(iv) Various meetings have taken place between the representatives of the Trust, State Authorities as well as representatives of the APMC for the purpose of determining the compensation payable. The Trust having acquiesced to the acquisition process, it is not open to it to subsequently challenge the said acquisition;

(v) The scope of judicial review *vis-à-vis* the reasons for invocation of the urgency clause are very limited and the reasons set out by the executive under normal circumstances ought not to be interfered with.

(vi) The learned Single Judge has adequately appreciated the relevant factual matrix of the matter as well as the legal position and rejected the writ petition which ought not to be interfered with in the present appeal.

Hence, the learned counsel seeks for dismissal of the above appeals.

20. Sri Kiran Ron, learned AAG appearing for the State supports the contentions put forth on behalf of the APMC and also contends that there is no fault in the acquisition process.

21. The learned counsels rely on various judgments in support of their respective contentions, which shall be referred to the extent that they are required to adjudicate the questions that arises for consideration.

Reasoning and Conclusion:

22. Before adverting to the contentions of the parties and the findings of the learned Single Judge, a slightly detailed appreciation of the factual matrix is required. A preliminary notification was issued on 02.09.1994 under Section 4(1) of the LA Act for acquisition of the subject 'A' property for "the purpose of public interest i.e., to construct market yard of the APMC, Bengaluru". The preliminary notification was published in the Kannada daily newspapers on 17.09.1994 and is stated to have been affixed in the Village Chavadi on 11.10.1994. On 10.10.1996 the final notification was issued under Section 6 of the LA Act in respect of subject 'A' property. The final notification was published in the

English daily newspaper 'Indian Express' on 31.10.1996 and in the Kannada daily newspaper 'Samyuktha Karnataka' on 30.10.1996. A copy of the same was also stated to have been affixed on the Village Chavadi on 06.12.1996. A draft award was prepared on 12.08.1998 for a compensation of Rs.9,14,14,837/-.

23. Vide letter dated 04.02.1999 addressed by the APMC to the Director, Agricultural Marketing Department, Government of Karnataka, it was communicated that apart from the extent of 172 acres 22 guntas of land acquired in Srigandada Kaval village, having regard to the needs for 100 years in the Mega Market proposed to be established in the said land, which was to be constructed in a scientific manner, broad inner roads, path ways, water facility, electricity facility, public toilets, banks, post office, fire brigade, cold storage, warehouse, weighing balance, well equipped vehicle parking area, farmers stay facility, administrative office and various other basic amenities are included in the project and hence, in addition to the land that was acquired, the adjoining land belonging to the Trust of an extent of 95 acres 5 guntas in Herohalli village was required to be acquired. The said proposal was also discussed in the meeting held on 05.02.1999 and it was decided to

place the same before the Single Window Committee of the Government.

24. The Director, Agricultural Marketing Department, Government of Karnataka, vide letter dated 15.02.1999 addressed to the Principal Secretary, Government of Karnataka, requested for acquisition of 95 acres 5 guntas of land in Herohalli village, urgently under Section 17(1) of the LA Act. The Single Window Committee, under the chairmanship of the Principal Secretary, Government of Karnataka, Revenue Department, in its meeting held on 23.03.1999 discussed various proposals including the additional land sought for by the APMC at Herohalli village and in the said meeting approved the said project.

25. A preliminary notification dated 13.04.1999 was issued under Sections 4(1) and 7(4) of the LA Act for a total extent of 104.05 acres in Herohalli village for "the public purpose i.e., for construction of the mega market by the APMC". It is stated in the said notification that an order has been passed by the Government that the provisions of Section 5A, as per the emergency rules/powers of the Government of Karnataka endowed in Section 1(4) of the Karnataka Amendment dated 13.4.1999 has been issued. The final notification dated 26.10.1999 for a total extent of

100 acres 11 guntas (i.e., the subject 'B' property) has been issued under Section 17 read with Section 6 of the LA Act. It was notified that the possession of the lands as per the powers conferred under Section 17(1) and Sections 9 and 10 of the LA Act would be taken within fifteen (15) days of the publication.

26. The Trust**,** vide letter dated 26.03.1999 addressed to the SLAO regarding acquisition of the land at Herohalli village and Srigandada Kaval village, which letter was also marked as "Without Prejudice" stated as under:

> "Sir,
>
> The Government have issued notification under Section 6(1) of the Land Acquisition Act, 1894 for the establishment of Mega Market in Srigandadakavalu involving an extent of 172 acres, against which we have already obtained a stay from Hon'ble High Court. That Government intends to acquire another 98 acres of land in Herohalli which is adjecent to the lands already notified in Srigandadakavalu. Although we have obtained a stay for the just 172 acres, we may be agreeable for a consent award of the entire land acquisition for public purpose only if the following conditions are met:-
>
> 1. Market value is fixed after negotiation with the trust for the several Sy. Nos. of both Srigandadakavalu and Herohalli villages.

> 2. Márket value for the malkies should also be fixed by the competent authority.
>
> 3. Interest is to be paid on award from the date of taking possession.
>
> We request that the trust may please be intimated in this regard for taking further action in the matter."

27. In the meeting dated 24.9.1999 convened by the Principal Secretary of the Government, Revenue Department, for fixation of the land value in respect of the lands acquired in favour of the APMC for establishment of a mega market, it was agreed that the market value of the subject 'A' property be fixed at Rs.15.00 lakhs per acres and the subject 'B' property be fixed at Rs.9.5 lakhs per acre. The following guidelines were agreed upon in the said meeting:

> " (1) To fix the market value of the lands notified vide RD 21 AQB 96 dated 10.10.1996 for acquisition for establishing Kmega Market i.e. Survey number in Srigandada kaval village, Bangalore North Taluk at Rs.15 lakhs per acre which also include the value of all malkies like value of standing trees, building etc.,
>
> (2) To fix market value of the lands notified for acquisition for establishing a mega market by the agriculture producing

Marketing Committee i.e. Survey numbers of Herohalli Village, Bangalore North Taluk at Rs.9.5 lakhs per acre which is inclusive of all standing trees, building, whichever other malkies on it.

(3) that the value so fixed is subject to the outcome of all litigations pending before various courts of law.

(4) That the Khatedars will execute an agreement in Form D as required under Rule 10B of the Karnataka Land Acquisition Rules r/w. Sub-Section (2) of Section 11 of the Land Acquisition Act, 1894 as per Circular dated RD 136 AQW dated 7.8.1986.

(5) That the Khatedars will also execute an Indemnity Bond and the Special Land Acquisition Officer is authorised to sign the agreement and the Indemnity Bond.

(6)That they will hand over the possession of lands wherever there are no litigation immediately."

28. Vide letter dated 9.10.2000 addressed by the appellant - Trust to the SLAO, Bengaluru, while responding to the notice dated 12.4.2000 purported to have been issued under Sections 9 and 10 of the LA Act, it was stated as under:

"1. The lands situated at Sreegandhadakavalu village was proposed to be acquired by order No.LAQ(2)SR32/94-95 dated 2.9.1994 and the lands situate at Herehalli village was proposed to be acquired under notification No.LAQ(2)SR2/99-2000 published on

13.04.1999.

2. In that connection a meeting had been convened on 24.09.1999 of all the officers concerned with the Acquisition of the lands, officers of the APMC, for which the land was sought to be acquired and the representatives of the trust under the Chairmanship of Principal Revenue Secretary, Govt. of Karnataka, Bangalore the said meeting had been convened on the request of the APMC made to the Revenue Secretary Govt. of Karnataka, Bangalore.

3. In the said meeting after due consideration, deleberations and discussions the market value for each acre of land at Srigandhadakavalu village was agreed Rs.15.00 lakh and that of the each acre of land situated at Heronahalli village was agreed at Rs.9.5 lakhs.

4. In persuance to the said agreement which is at valid market value under Section 11(2) of the Land Acquisition Act, the Special Land Acquisition Officer by his letter No.LAQ(1)SR.1/99-2000 dated 11.10.1999 was pleased to fix the market value at Rs.9.5 lakhs for each acre of land situated at Herohalli village. The LAQ by his letter No. LAQ(3)SR4/94-95 dated 11.10.1999 was pleased to fix the market value of Rs.15 lakhs for each acres of lands situated at Srigandhadakavalu village. As already pointed out, the award has already been passed fixing the market value of Rs.9.5 lakhs for each acres of land at Herohalli village and the said

award was become final as per the provisions of the Land Acquisition Act.

5. The proposed enquiry under section 9 & 10 of the Land Acquisition Act would not arise as the market value of the lands is already fixed and the award has been passed.

6. In the circumstances further enquiry as notified in your notice dated 12.04.2000 would not arise and further enquiry may be droped.

7. Further, we draw the attention to our letter No. VISC/99-2000/608 dated 13.07.2000 in which we had sought for the payment of the amount as per the award which comes to Rs.951.045 lakhs to enable the Trust to handover the possession of the lands concerned Heronahalli village. A remainder was also sent by the Trust to the Special Land Acquisition Officer, Bangalore dated 10.08.2000.

8. We submit that if the payment is paid as per the award, we will make necessary arrangement to handover the possession of the lands situated at Heronahalli village.

We are expecting early action in the matter by this authority and further we may be communicated on the action taken by the office of the Special Land Acquisition officer in this regard.

29. The APMC has placed on record that it has deposited a total sum of Rs.6,02,99,784/- with respect of lands acquired in Herohalli village and that the land owners have withdrawn a sum of Rs.2,36,96,175/- and a sum Rs.3,66,03,609/- is in deposit. It is further placed on record that the APMC has deposited a sum of Rs.9,14,14,873/- with respect to the lands in Srigandada Kaval village. A sum of Rs.2,36,96,175/- was admittedly received by the Trust towards the value of the acquired land. It is pertinent to state here that the said sum of Rs.2,36,96,175/- was repaid vide three (3) Demand Drafts dated 18.10.2014 which was sent to the office of the SLAO, which was after dismissal of the writ petitions by the learned Single Judge in the first round of litigation. However, after dismissal of the Review Petitions by the Division Bench vide order dated 28.06.2019, the said Demand Drafts were validated and the Trust has placed material on record to demonstrate that the same has been liquidated thereafter.

30. It is to be noticed that the Trust filed a reference petition under Section 18 of the LA Act in LAC No.1/2003 in respect of 32 acres 05 guntas of land in Sy.Nos.30, 31, 32, 43, 49 and 52/2 of Herohalli village seeking for enhancement of the compensation. The Trust also executed indemnity bonds dated 23.09.2002 and

29.03.2003 while receiving the compensation of Rs.2,00,05,445/- and Rs.3,30,03,203/- with respect of the said extent of 32 acres 05 guntas of land.

31. Vide Official Memorandum dated 06.10.2000, the SLAO documented having taken possession of a total extent of 65 acres 19 guntas of land in Sy.Nos.30, 31 and other survey numbers in Herohalli village. Out of the said extent, 33 acres 14 guntas is phut kharab land. It is also forthcoming from the record that Mahazars dated 07.12.2017 were drawn with regard to the entire extents of land sought to be acquired at both Srigandada Kaval village as well as Herohalli village. It is the contention of the State that the awards could not be passed due to the interim order granted in various litigations.

32. With regard to the contention of the appellants that there was a delay in concluding the acquisition proceedings and hence, the same had lapsed by virtue of proviso (ii) to Section 6 and Section 11 of the LA Act, the relevant factual matrix is as under:

32.1 With regard to the acquisition of the subject 'A' property is as under:

- Notification under section 4(1) of the LA Act was published on 03.09.1994. The same was published in the newspaper on 17.09.1994 and pasted in the Village Chavadi on 11.10.1994;
- The acquisition proceedings were stayed in Writ Petition No.28988 of 1994 between 22.12.1994 and 23.12.1995;
- Final Notification under Section 6(1) of the LA Act was issued on 10.10.1996 and published in the Kannada daily newspaper on 27.10.1996 and the English daily newspaper on 30.10.1996. It was published in the gazette on 31.10.1996;
- Interim order of stay was granted vide order dt. 16.09.1997 in W.P.No.6880 of 1997, which petition was disposed of on 15.07.2014;
- Draft award dated 12.08.1998 was passed for a sum of Rs.9,14,14,837/-.
- Stay of dispossession was ordered vide interim order dt. 08.02.1999 in W.P.No. 3884 of 1998.

32.2 With regard to the subject 'B' property is as under:

- The preliminary notification under Section 4(1) of the LA Act (dispensing with Section 5 enquiry) was issued on 13.04.1999;
- Final notification under Section 6(1) of the LA Act was issued 26.10.1999 which was published in the gazette on 18.11.1999;
- Possession of 65 acres 19 guntas was taken on 06.10.2000;
- Vide interim order dt. 04.12.2000 passed in W.P.No. 37140 of 2000, status quo was ordered to be maintained.

33. Sections 4 and 6 of the LA Act read as under:

> 4. **Publication of preliminary notification and powers of officers thereupon**.-(1)Whenever it appears to the appropriate Government that land in any locality [is needed or] is likely to be needed for any public purpose [or for a company) a notification to that effect shall be published in the Official Gazette [and in two daily newspapers circulating in that locality of which at least one shall be in the regional language], and the Collector shall cause public notice of the substance of such notification to be given at convenient places in the said locality [(the last of the dates of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the notification).

(2) Thereupon it shall be lawful for any officer, either generally or specially authorised by such Government in this behalf, and for his servants and workmen,-

to enter upon and survey and take levels of any land in such locality; to dig or bore into the sub-soil;

to do all other acts necessary to ascertain whether the land is adapted for such purpose;

to set out the boundaries of the land proposed to be taken and the intended line of the work (if any) proposed to be made thereon;

to mark such levels, boundaries and line by placing marks and cutting trenches; and,

where otherwise the survey cannot be completed and the levels taken and the boundaries and line marked, to cut down and clear away any part of any standing crop, fence or jungle:

Provided that no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (unless with the consent of the occupier thereof) without previously giving such occupier at least seven days notice in writing of his intention to do so.

6. Declaration that land is required for a public purpose.-(1) Subject to the provisions of Part VII of this Act, when the appropriate Government is satisfied, after considering the report, if any, made under section 5A, sub-section (2), that any particular land is needed for a public

purpose, or for a Company, a declaration shall be made to that effect under the signature of a Secretary to such Government or of some officer duly authorised to certify its orders, and different declarations may be made from time to time in respect of different parcels of any land covered by the same notification under section 4, sub-section (1) irrespective of whether one report or different reports has or have been made (wherever required) under section 5A, sub-section (2):

Provided that no declaration in respect of any particular land covered by a notification under section 4, sub-section (1),-

(i) published after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 (1 of 1967), but before the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of three years from the date of the publication of the notification; or

(ii) published after the commencement of the Land Acquisition (Amendment) Act, 1984, shall be made after the expiry of one year from the date of the publication of the notification:

Provided further that no such declaration shall be made unless the compensation to be awarded for such property is to be paid by a Company, or wholly or partly out of public revenues or some fund controlled or managed by a local authority.

Explanation 1.-In computing any of the periods referred to in the first proviso, the period during which any action or proceeding to be taken in pursuance of the notification issued under section 4, sub-section (1), is stayed by an order of a Court shall be excluded.

Explanation 2. Where the compensation to be awarded for such property is to be paid out of the funds of a corporation owned or controlled by the State such compensation shall be deemed to be compensation paid out of public revenues.

(2) Every declaration shall be published in the Official Gazette, and in two daily newspapers circulating in the locality in which the land is situate of which at least one shall be in the regional language, and the Collector shall cause public notice of the substance of such declaration to be given at convenient places in the said locality (the last of the date of such publication and the giving of such public notice, being hereinafter referred to as the date of the publication of the declaration), and such declaration shall state the district or other territorial division in which the land is situate, the purpose for which it is needed, its approximate area, and, where a plan shall have been made of the land, the place where such plan may be inspected.

(3) The said declaration shall be conclusive evidence that the land is needed for a public purpose or for a Company, as the case may be; and, after making such declaration, the appropriate Government may acquire the land in manner hereinafter appearing.

34. The proviso (ii) to Section 6 of the LA Act stipulates that the final notification was required to be published within one year from the date of the publication of the preliminary notification. Admittedly, violation of Section 6 does not arise with regard to the subject B property and the said contention is required to be considered only with respect to the subject A property. Having regard to Section 4(1) of the LA Act, the last date of publication of the preliminary notification and the giving of such public notice is to be construed as the date of publication. In the facts of the present case, the preliminary notification, although issued on 02.09.1994 and published in the gazette on 03.09.1994, the same was published in the newspapers on 17.09.1994 and was published in the Village Chavadi on 11.10.1994.

35. The factum of the publication of the preliminary notification in the Village Chavadi on 11.10.1994 has been averred by the State in its statement of objections filed in the writ petition and a copy of the Village Chavadi was produced by the State in the writ proceedings vide memo dated 18.12.2024. No rejoinder is filed by the Petitioner in the writ petition disputing the publication made in the Village Chavadi. The final notification was published on 10.10.1996 after 730 days of the publication of the preliminary

notification in the Village Chavadi. However, during the period 22.12.1994 to 22.12.1995 (i.e., for a period of 365 days) the acquisition proceedings were stayed in Writ Petition No.28988 of 1994. Hence, if the said period is excluded (730 days less 365 days) the time period within which the final notification has been issued is 365 days from the date of publication of the preliminary notification in the Village Chavadi.

36. Although publication in the Village Chavadi has been vehemently disputed by the learned counsel for the Trust, having regard to the fact that the same (i.e., publication of the preliminary notification in the Village Chavadi on 11.10.1994) has been averred by the State in its statement of objections filed in the writ petition, which aspect of the matter has not been denied by the Trust by filing a rejoinder to the statement of objections and having regard to the fact that the State has filed a copy of the Village Chavadi vide its memo dated 18.12.2024, the date of publication of the preliminary notification in the Village Chavadi will have to be construed for the purpose of reckoning the time period in issuing the final notification.

37. The assertion on behalf of the Trust regarding violation of the time period as stipulated in the proviso to Section 6(1) of the LA Act

is only in respect of the subject 'A' property and & not the subject 'B' property.

38. With regard to the contention that the award has not been passed within a period of two years as contemplated under Section 11A of the LA Act, it is relevant to notice Section 11A of the LA Act which reads as under:

> **11-A. Period within which an award shall be made**.- (1) The Collector shall make an award under Section 11 within a period of two years from the date of the publication of the declaration and if no award is made within that period, the entire proceedings for the acquisition of the land shall lapse:
>
> Provided that in a case where the said declaration has been published before the commencement of the Land Acquisition (Amendment) Act, 1984, the award shall be made within a period of two years from such commencement.
>
> **Explanation**.- In computing the period of two years referred to in this section, the period during which any action or proceeding to be taken in pursuance of the said declaration is stayed by an order of a Court shall be excluded.

39. With regard to the subject 'A' property, the final notification was issued on 11.10.1996. It is sought to be contended by the Trust that despite the expiry of a period of two years, no award is

passed. In justification of the said contention, the Trust relies on the endorsement dated 09.11.1998 issued by the SLAO to Vishwaneedam (which was a tenant of the Trust) stating that the draft award has been prepared and has been sent to the State Government for approval.

40. With respect to the subject 'B' property, the final notification was issued on 26.10.1999 and published in the official gazette on 18.11.1999. The appellant had participated in the meetings with regard to the fixing of the compensation amount and the award was passed on 26.03.2002. It is also to be noticed that Writ Petition No.37140/2000 was filed challenging the acquisition in respect of the subject 'B' property and the learned Single Judge vide interim order dated 04.12.2000 had directed both the parties to maintain status quo.

41. It is clear from the aforementioned that pursuant to the final notifications, various interim orders were passed [interim order dated 16.09.1997 passed in Writ Petition No.6880/1997; interim order dated 08.02.1999 passed in Writ Petition No.3884/1998 (pertaining to subject 'A' property); and interim order dated 04.12.2000 passed in Writ Petition No.37140/2000 (pertaining to subject 'B' property)]. The interim orders dated 08.02.1999 and

04.12.2000 in the subject writ petitions are subsisting as on date. Hence, it is clear that having regard to the interim orders, further steps in the acquisition process could not be taken.

42. The learned Single Judge, considering the aspect of delay in completing the acquisition proceedings, held as under:

> 5.6 ..... Let me reproduce the relevant statistical data: Section 4(1) notification was published on 3.9.1994 and gazette on the same day. A copy of the same was published in Kannada daily namely Sanje Vani and Samyukta Karnataka on 17.09.1994. It was also pasted in the village chaawdi on 11.10.1994. The acquisition proceedings were stayed during the period between 22.12.1994 and 22.12.1995 by the order made in W.P.No.28988/1994 filed by Rajajinagar Housing Cooperative Society Limited. There was further stay in W.P.No.6880/1997 filed by the very same Society. Final Notification u/s 6(1) is dated 10.10.1996; it was printed in Samyukta Karnataka dated 27.10.1996 and Indian Express dated 30.10.1996 and it was gazetted on 31.10.1996. If the stay period is excluded while computing the prescribed limitation period, the argument of delay and consequent lapse of proceedings would fall to the ground. This would apply as to the argument of passing of award inasmuch as W.P.No.6880/1997 came to be disposed off only on 15.07.2014. Learned AAG is right in placing reliance on a Division Bench decision of this court in V.T.KRISHNAMOORTHY vs. STATE OF KARNATAKA13 in

support of this. There is absolutely no scope for invoking section 11A of the 1894 Act, either.

43. At this juncture, it is relevant to notice the judgment of the Supreme Court in the case of ***Municipal Corporation of Delhi v. Lichho Devi & Ors., : (1997) 7 SCC 430,*** wherein it has been held as under:

> **"3.** The attention of the High Court had been drawn to the stay order dated 25-4-1985, whereby during the pendency of the writ petition, the dispossession of the petitioners had been stayed by the High Court to urge that the period during which the stay order was in operation had to be excluded for computing the prescribed period under Section 11-A of the Act. According to the High Court, however the order dated 25-4-1985 concerned only the stay of dispossession of the writ petitioners and it could not, in any way be interpreted to imply stay of acquisition proceedings. The approach of the High Court is erroneous. This question is no longer res integra. In *Govt. of T.N.* v. *Vasantha Bai* [1995 Supp (2) SCC 423] a Bench of this Court has held that the stay order of the type that was granted in the instant case, tantamounts to stay of further proceedings being taken and therefore the entire period during which the stay order was in operation was to be excluded while computing the period of two years prescribed for making an Award under Section 11-A of the Act. The view taken by the High Court, is, therefore, not sustainable."
>
> (emphasis supplied)

44. Keeping in mind the aforementioned, no fault could be found with the finding recorded by the learned Single Judge on the said aspect of the matter.

45. With regard to the contention of the appellant that there is no material to invoke urgency clause, it is pertinent to notice the relevant statutory provisions of the LA Act:

45.1 Section 5A of the LA Act reads as under:

> **5**A. **Hearing of objections.-** (1) Any person interested in any land which has been notified under section 4, sub-section (1), as being needed or likely to be needed for a public purpose or for a company may, within thirty days from the date of the publication of the notification object to the acquisition of the land or of any land in the locality, as the case may be.
>
> (2) very objection under sub-section (1) shall be made to the Collector in writing, and the Collector shall give the objector an opportunity of being heard in person or by any person authorised by him in this behalf or by pleader and shall, after hearing all such objections and after making such further inquiry, if any, as he thinks necessary, either make a report in respect of the land which has been notified under section 4, sub-section (1), or make different reports in respect of different parcels of such land, to the appropriate Government, containing his recommendations on the objections, together with the record of the proceedings held

by him, for the decision of that Government. The decision of the appropriate Government on the objections shall be final.

(3) For the purposes of this section, a person shall be deemed to be interested in land who would be entitled to claim an interest in compensation if the land were acquired under this Act.

45.1.1. The Karnataka Amendment to Sec 5A of the LA Act is as under:

(1) In section 5A, in sub-section (1), for the words "within thirty days after the issue of the notification", substitute the words, brackets and figure "on or before the date specified in the notification under sub-section (1) of section 4 in this behalf".

(2) In sub-section (2).-

(a) after the words "in writing", insert the words, "setting out the grounds thereof";

(b) after the words "the appropriate Government" occurring in the first sentence, insert the words, brackets and figures "before the expiry of six weeks from the last date for filing objections or before the expiry of two weeks from the date on which he receives the report under sub-section (4) of section 4, whichever is later";

(c) for the words "and a report containing his recommendations on the objections", substitute the words "and a report containing his recommendations on the objections, and the fact of having submitted

the report shall be communicated to the objectors: Provided that the appropriate Government may, if it is satisfied that there was sufficient cause for the delay, condone any delay in the submission of the report by a period not exceeding one year".

(3) for the word "Collector", wherever occurring, substitute the words "Deputy Commissioner".

[Vide Mysore Act 17 of 1961, secs. 9 and 4 (w.e.f. 24-8-1961)].

45.2. Section 17 of the LA Act reads as under:

17. Special powers in cases of urgency.-(1) In cases of urgency, whenever the appropriate Government, so directs, the Collector, though no such award has been made, may, on the expiration of fifteen days from the publication of the notice mentioned in section 9, sub-section (1), take possession of any land needed for a public purpose. Such land shall thereupon vest absolutely in the Government, free from all encumbrances.

(2) Whenever, owing to any sudden change in the channel of any navigable river or other unforeseen emergency, it becomes necessary for any Railway Administration to acquire the immediate possession of any land for the maintenance of their traffic or for the purpose of making thereon a river-side or ghat station, or of providing convenient connection with or access to any such station, or the appropriate Government considers it necessary to acquire the immediate possession of any land for the purpose of maintaining any structure or system pertaining to

irrigation, water supply, drainage, road communication or electricity, the Collector may, immediately after the publication of the notice mentioned in sub-section (1) and with the previous sanction of the appropriate Government, enter upon and take possession of such land, which shall thereupon vest absolutely in the Government free from all encumbrances:

Provided that the Collector shall not take possession of any building or part of a building under this sub-section without giving to the occupier thereof at least forty-eight hours' notice of his intention so to do, or such longer notice as may be reasonably sufficient to enable such occupier to remove his movable property from such building without unnecessary inconvenience.

(3) In every case under either of the preceding sub-sections the Collector shall at the time of taking possession offer to the persons interested compensation for the standing crops and trees (if any) on such land and for any other damage sustained by them caused by such sudden dispossession and not excepted in section 24; and, in case such offer is not accepted, the value of such crops and trees and the amount of such other damage shall be allowed for in awarding compensation for the land under the provisions herein contained.

(3A) Before taking possession of any land under sub-section (1) or sub-section (2), the Collector shall, without prejudice to the provisions of sub-section (3),-

(a) tender payment of eighty per centum of the compensation for such land as estimated by him to the persons interested entitled thereto, and

(b) pay it to them, unless prevented by some one or more of the contingencies mentioned in section 31, sub-section (2),

and where the Collector is so prevented, the provisions of section 31, sub-section (2) (except the second proviso thereto), shall apply as they apply to the payment of compensation under that section.

(3B) The amount paid or deposited under sub-section (3A), shall be taken into account for determining the amount of compensation required to be tendered under section 31, and where the amount so paid or deposited exceeds the compensation awarded by the Collector under section 11, the excess may, unless refunded within three months from the date of Collector's award, be recovered as an arrear of land revenue.

(4) In the case of any land to which, in the opinion of the appropriate Government, the provisions of sub-section (1) or sub-section (2) are applicable, the appropriate Government may direct that the provisions of section 5A shall not apply, and, if it does so direct, a declaration may be made under section 6 in respect of the land at any time after the date of the publication of the notification under section 4, sub-section (1).

45.2.1. The Karnataka Amendment to Section 17 of the LA Act reads as under:

In Section 17,-

(1) In sub-section (1), add the following *Explanation,* namely:-

Explanation .- This sub-section shall apply to any waste or arable land, notwithstanding the existence thereon of scattered trees or temporary structures, such as huts, pandals or sheds.";

(2) in sub-section (2), in the first paragraph, after the portion beginning with the words "whenever" and ending with the words "access to any such station", add the following words, namely:-

"or whenever owning to a like emergency or owing to breaches or other unforeseen events causing damage to roads, channels or tanks, it becomes necessary for the State government to acquire the immediate possession of any land for the purpose of maintaining road communication or irrigation or water-supply service, as the case may be:"

[vide Mysore Act 17 of 1961, sec.19 (w.e.f. 24-8-1961)]

(3) for the word "Collector", wherever it occurs, substitute the words "Deputy Commissioner".

[vide Mysore Act 17 of 1961, sec. 4 (w.e.f. 24-8-1961)]

46. As noticed herein above, the APMC had in its meeting dated 04.02.1999 sent a proposal to the government seeking for additional land. The same was adequately considered in the meeting dated 05.02.1999 as also in the meeting of the Single Window Committee held on 23.03.1999. It is clear from the same that adequate consideration was given to the request made by the APMC for grant of additional land. It is also pertinent to note that acquisition proceedings with regard to the subject 'A' property had already been initiated and the subject 'B' property was sought to be acquired subsequently for the same purpose as that of the subject 'A' property.

47. The scope of adjudication as to whether adequate consideration of the relevant facts so as to invoke the urgency clause fell for consideration of the Supreme Court in the case of ***First Land Acquisition Collector v. Nirodhi Prakash Gangoli : (2002) 4 SCC 160,*** wherein it was held as under:

> **5.** The question of urgency of an acquisition under Sections 17(1) and (4) of the Act is a matter of subjective satisfaction of the Government and ordinarily it is not open to the court to make a scrutiny of the propriety of that satisfaction on an objective appraisal of facts. In this view of the matter when the Government takes a decision, taking all relevant considerations into account and is satisfied that there exists

emergency for invoking powers under Sections 17(1) and (4) of the Act, and issues notification accordingly, the same should not be interfered with by the court unless the court comes to the conclusion that the appropriate authority had not applied its mind to the relevant factors or that the decision has been taken by the appropriate authority mala fide. Whether in a given situation there existed urgency or not is left to the discretion and decision of the authorities concerned. If an order invoking power under Section 17(4) is assailed, the courts may enquire whether the appropriate authority had all the relevant materials before it or whether the order has been passed by non-application of mind. Any post-notification delay subsequent to the decision of the State Government dispensing with an enquiry under Section 5-A by invoking powers under Section 17(1) of the Act would not invalidate the decision itself specially when no mala fides on the part of the Government or its officers are alleged. Opinion of the State Government can be challenged in a court of law if it could be shown that the State Government never applied its mind to the matter or that action of the State Government is mala fide. Though the satisfaction under Section 17(4) is a subjective one and is not open to challenge before a court of law, except for the grounds already indicated, but the said satisfaction must be of the appropriate government and that the satisfaction must be, as to the existence of an urgency. The conclusion of the Government that there was urgency, even though cannot be conclusive, but is entitled to great weight, as has been held by this Court in *Jage Ram* v. *State of Haryana* [(1971) 1 SCC 671 : AIR 1971 SC 1033] . Even a mere allegation that power was exercised mala fide would not be enough and in

> support of such allegation specific materials should be placed before the court. The burden of establishing mala fides is very heavy on the person who alleges it. Bearing in mind the aforesaid principles, if the circumstances of the case in hand are examined it would appear that the premises in question were required for the students of National Medical College, Calcutta and the notification issued in December 1982 had been quashed by the Court and the subsequent notification issued on 25-2-1994 also had been quashed by the Court. It is only thereafter the notification was issued under Sections 4(1) and 17(4) of the Act on 29-11-1994, which came up for consideration before the High Court. Apart from the fact that there had already been considerable delay in acquiring the premises in question on account of the intervention by courts, the premises were badly needed for the occupation by the students of National Medical College, Calcutta. Thus, existence of urgency was writ large on the facts of the case and therefore, the said exercise of power in the case in hand, cannot be interfered with by a court of law on a conclusion that there did not exist any emergency. .....
>
> *(emphasis supplied)*

48. The learned Single Judge, while considering the said contention, upon noticing the relevant factual matrix, *inter alia*, the letters written by the APMC as well as the meetings and deliberations held with regard to the request of the APMC has, recorded a finding that the acquisition undertaken by invoking the

urgency clause cannot be said to have been vitiated due to non-application of mind. We find no reason to interfere with the said finding of the learned Single Judge.

49. With regard to the contention regarding deposit of 80% of the consideration, which is the condition under Section 17(3A) of the LA Act while invoking urgency clause, it has been noticed by the learned Single Judge that the APMC (beneficiary of the acquisition) had deposited a sum of Rs.14.00 crores with the State Government. It was also noticed that the SLAO had paid a sum of Rs.2,36,96,175/- to the Trust.

50. It is pertinent to note here that it was the contention of the State that having regard to the proceedings initiated under Section 66 of the Karnataka Land Reforms Act, 1961 (**Land Reforms Act**) wherein it was alleged by the State that the Trust was holding excess land and the Land Tribunal had, vide its order dated 28.11.2017 held as such, the State was not required to pay any further amount as compensation. The order of the Land Tribunal was the subject matter of consideration in a writ petition, wherein a learned Single Judge of this Court vide order dated 30.06.2021 set aside the order of the Land Tribunal. The same was affirmed by the Division Bench in Writ Appeal No.1089/2021 vide order dated

22.06.2022. The challenge made by the State Government before the Supreme Court in SLP No.14524/2022 was dismissed on 29.08.2022. Hence, it is clear that the proceedings initiated under Section 66 of the Land Reforms Act attained finality only on 29.08.2022, by which time the subject writ petitions were filed.

51. The learned Single Judge considering the said aspect of the matter held as under:

> 5.4..... Let me examine whether the requirement of payment of 80% was duly complied with. Records reveal that the APMC which happens to be the beneficiary of acquisition, deposited a sum of Rs.14 crore with the State Government. The SLAO paid a sum of Rs.2,36,96,175/- to the petitioner-Trust vide three vouchers all dated 29.03.2003. It is noteworthy that the Trust executed an indemnity bond while taking the said amount. There is plausible explanation offered for not handing rest of the amount huge in size to the petitionerTrust which was battling against the land ceiling prescribed u/s 66 of the 1961 Act, having filed the declaration way back on 31.12.1974 before the Land Tribunal. There were multiple orders of the Tribunal that came to be remanded for consideration afresh multiply. First case was W.P.No.46841/2001 disposed off on 25.10.2005. The second Writ Petition was W.P.No.4311/2010 disposed off on 23.4.2014. The third Writ Petition was W.P.No.14866/2015 disposed off on 2.5.2019. The fourth Writ Petition was W.P.No.55344/2017 disposed off on 30.06.2021. Matter was taken in appeal by the State in

W.A.No.1089/2021 that was decided only on 22.06.2022. At long last, this order is affirmed in SLP(C) No.14524/2022 dismissed on 29.08.2022. That being the position, no complaint as to non-payment of entire 80%, a considerable part thereof having been admittedly paid, cannot come to the aid of petitioner.

5.5 After all, it is public money which the State has to pay for the lands acquired and therefore, it has to be extra cautious in handing it to a private party when 'snake and ladder' like proceedings were taking place in respect of ceiling limit of land holding u/s 66 of the 1961 Act as is reflected from the original records in general and the Coordinate Bench judgment in W.A.No.1089/2021 disposed off on 22.06.2022. It gives full details of these proceedings. A learned Coordinate Judge of this court vide order dated 4.12.2000 had said as under:

> "4. The learned Government Pleader submitted that 80% payment could not be tendered because the assistant commissioner has addressed a letter to the special Land Acquisition Officer on 26/5/1999 stating that dispute under the Karnataka Land Reforms Act, 1961 is pending in regard to the lands and therefore, 80% of the estimated compensation could not be disbursed till disposal of the disputes."

In fact, the SLAO in the Statement of Objections has specifically stated the reasons for not disbursing the said amount to the petitioner-Trust. The right to compensation is always subject to claimant vouching a cloudless title, be the acquisition under urgency clause or normal clause. Mr.Holla's contention that the petitioner has returned the

> money received would not advance his case inasmuch as that was done after a Coordinate Judge had wrongly held the proceedings as having lapsed u/s 24 of the 2013 Act, which of course came to be reversed by the Apex Court as already mentioned above. What one has to take note of is the fact that the deposit made by the beneficiary of acquisition still continues.

52. It is clear that having regard to the contention of the State regarding the Trust holding excess land, the State was justified in not paying the compensation. As has been noticed by the learned Single Judge, the beneficiary (APMC) has already deposited the compensation. We find no ground to interfere with the said finding of the learned Single Judge.

53. With regard to possession, a Constitution Bench of the Supreme Court in the case of **Indore Development Authority vs Manoharlal & Others : (2020) 8 SCC 129** held as under:

> **269.** In *Ram Singh* v. *Jammu Development Authority* [*Ram Singh* v. *Jammu Development Authority*, (2017) 13 SCC 474 : (2017) 5 SCC (Civ) 676] , this Court stated that the mode of taking possession is by drawing a *panchnama*. Concerning the mode of taking possession in any other land, law to a similar effect has been laid down in *NAL Layout Residents Assn.* v. *BDA* [*NAL Layout Residents Assn.* v. *BDA*, (2018) 12 SCC 400 : (2018) 5 SCC (Civ) 368] . Certain decisions were cited with respect to other statutes regarding coalfields,

etc. and how the possession is taken and vesting is to what extent. Those have to be seen in the context of the particular Act. Possession comprises of various rights, thus it has to be couched in a particular statute for which we have a plethora of decisions of this Court. Hence, we need not fall back on the decisions in other cases. The decision in *Burrakur Coal Co. Ltd.* [*Burrakur Coal Co. Ltd.* v. *Union of India*, (1962) 1 SCR 44 : AIR 1961 SC 954] held that a person can be said to be in possession of minerals contained in a well-defined mining area even though his actual physical possession is confined to a small portion. Possession in part extends to the whole of the area. The decision does not help the cause of the petitioner. Once possession has been taken by drawing a *panchnama*, the State is deemed to be in possession of the entire area and not for a part. There is absolute vesting in Government with possession and control free from all encumbrances as specifically provided in Section 16 of the 1894 Act.

273. In the decision in *Raghbir Singh Sehrawat* v. *State of Haryana* [*Raghbir Singh Sehrawat* v. *State of Haryana*, (2012) 1 SCC 792 : (2012) 1 SCC (Civ) 402] , the observation made was that it is not possible to take the possession of entire land in a day on which the award was declared, cannot be accepted as laying down the law correctly and the same is contrary to a large number of precedents. The decision in *State of M.P.* v. *Narmada Bachao Andolan* [*State of M.P.* v. *Narmada Bachao Andolan*, (2011) 7 SCC 639, paras 78-85 : (2011) 3 SCC (Civ) 875] , is confined to particular facts of the case. The Commissioner was appointed to find out possession on the spot. DVDs and CDs were seen to hold that the landowners were in

> possession. The District Judge, Indore, recorded the statements of the tenure-holder. We do not approve the method of determining the possession by appointment of Commissioner or by DVDs and CDs as an acceptable mode of proving taking of possession. The drawing of *panchnama* contemporaneously is sufficient and it is not open to a Court Commissioner to determine the factum of possession within the purview of Order 27 Rule 9 CPC. Whether possession has been taken, or not, is not a matter that a court appointed Commissioner cannot opine. However, drawing of *panchnama* by itself is enough and is a proof of the fact that possession has been taken.
>
> *(emphasis supplied)*

54. As noticed above, the draft award dated 12.08.1998 has been passed for a sum of Rs.9,14,14,837/- Mahazars dated 07.12.2017 have also been placed on record for having taken possession of land in Srigandada Kaval village and Herohalli villages. A memorandum dated 16.10.2000 is also on record indicating handing over of 65 acres 19 guntas to respondent No.4**.** It is the contention of the official respondents that further steps in the acquisition process could not be proceeded with due to interim order passed in various litigations. Having regard to the said factual matrix the contention that the acquisition proceedings have not taken place in accordance with the provisions of the LA Act cannot

be accepted. There is no reason to interfere with the finding of the learned Single Judge on the said aspect of the matter also.

55. It was sought to be contended by the appellants that the APMC had decided to drop the acquisition proceedings having regard to the averment made by the APMC in the statement of objections filed by it in Writ Petition No.7389-7658/2013. The learned Single Judge has rejected the said contention of the Trust by noticing that the Trust was not a party to the said proceedings. In any event, there is no finding of any Court that the APMC has abandoned the acquisition proceedings, nor has any other material been placed on record apart from the statement of objections filed by the APMC. Hence, the said contention put forth on behalf of the Trust is also liable to be rejected.

56. The Trust has placed considerable reliance on the judgment of the Supreme Court in the case of ***Delhi Airtech Services Private Ltd. v. State of Uttar Pradesh : 2022 SCC OnLine 1408.*** However, the said judgment will not aid the case of the Trust inasmuch as the Supreme Court had laid down two requirements for lapsing i.e., (a) non compliance of Section 17(3A) of the LA Act regarding non deposit of 80% of the compensation; and (b) not passing an award within two years from the date of final notification

i.e., lapsing under Section 11A of the LA Act. In the facts of the present case, the said two aspects have been considered and the contention put forth by the Trust regarding the same have been rejected.

57. Reliance is sought to be placed on the judgment of the Supreme Court in the case of ***Kolkata Municipal Corporation and Anr. vs. Bimalkumar Shah : 2024 SCC Online SC 968*** The factual matrix in the said case pertains to action of the State authorities in utilizing a property without acquiring the same. The same is wholly inapplicable to the facts of the present case.

58. It is sought to be contended by the appellant that the subject lands are within the residential zone and that the acquisition process had been proceeded with disregarding the Comprehensive Development Plan. However, in response to the same, the respondents contend that such a contention was not urged before the learned Single Judge. Further, the respondents relied on Section 71 of the Karnataka Town and Country Planning Act, 1961, whereby the State is entitled to divert the use of the land by issuing notifications under the LA Act. We do not propose to adjudicate upon the said contention since the impugned order does not reflect that said contention was urged before the learned Single Judge.

59. The learned Single Judge has elaborately considered the "power of eminent domain" of the State to acquire property as well as the purpose for which the acquisition proceedings have been initiated, that is, for setting up of the market yard. The learned Single Judge having elaborately considered the factual matrix and the legal position in this regard, we do not deem it expedient to, in detail notice/appreciate the same since we are of the considered opinion that the said aspect of the matter does not warrant any interference in the present appeal.

60. The contention put forth on behalf of the Trust that it is created with avowed objects and its lands ought not be acquired does not merit consideration having regard to the right of the State to acquire lands for public purposes subject to the same being in compliance with the provision of the applicable statute (in the present case, the LA Act).

61. The Supreme Court in the case of **Indore Development Authority (supra)** considering the aspect of non payment of compensation has held as under:-

> **116.** It is apparent from a plain reading of Section 16 (of the 1894 Act) that the land vests in the Government absolutely when possession is taken after the award is

passed. Clearly, there can be lapse of proceedings under the 1894 Act only when possession is not taken. The provisions in Section 11-A of the 1894 Act states that the Collector shall make an award within a period of two years from the date of the publication of the declaration under Section 6 and if no award is made within two years, the entire proceedings for acquisition of the land shall lapse. The period of two years excludes any period during which interim order granted by the court was in operation. Once an award is made and possession is taken, by virtue of Section 16, land vests absolutely in the State, free from all encumbrances. Vesting of land is automatic on the happening of the two exigencies of passing award and taking possession, as provided in Section 16. Once possession is taken under Section 16 of the 1894 Act, the owner of the land loses title to it, and the Government becomes the absolute owner of the land.

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119. Section 34 deals with a situation where any of the obligations under Section 31 is not fulfilled i.e. when the amount of compensation is not paid or deposited on or before taking possession of the land, the Collector shall pay the amount awarded with interest thereon @ 9% p.a. from the time of so taking possession until it shall have been so paid or deposited; and after one year from the date on which possession is taken, interest payable shall be @ 15% p.a. The scheme of the 1894 Act clearly makes it out that when the award is passed under Section 11, thereafter possession is taken as provided under Section 16, land vests in the State Government. Under Section 12(2), a notice of the award has to be issued by the Collector. Taking possession is not dependent upon payment. Payment has to be

tendered under Section 31 unless the Collector is “prevented from making payment”, as provided under Section 31(2). In case of failure under Section 31(1) or 31(3), also Collector is not precluded from making payment, but it carries interest under Section 34 @ 9% for the first year from the date it ought to have been paid or deposited and thereafter @ 15%. Thus, once land has been vested in the State under Section 16, in case of failure to pay the compensation under Section 31(1) to deposit under Section 31(2), compensation has to be paid along with interest, and due to non-compliance of Section 31, there is no lapse of acquisition. The same spirit has been carried forward in the 2013 Act by providing in Section 24(2). Once possession has been taken though the payment has not been made, the compensation has to be paid along with interest as envisaged under Section 34, and in a case, payment has been made, possession has not been taken, there is no lapse under Section 24(2). In a case where possession has been taken under the 1894 Act as provided by Section 16 or 17(1) the land vests absolutely in the State, free from all encumbrances, if compensation is not paid, there is no divesting there will be no lapse as compensation carries interest @ 9% or @ 15% as envisaged under Section 34 of the 1894 Act. The proviso to Section 24(2) makes some wholesome provision in case the amount has not been deposited with respect to majority of landholdings, in such an event, not only those persons but all the beneficiaries, though for minority of holding compensation has been paid, shall be entitled to higher compensation in accordance with the provisions of the 2013 Act. The expression used is “all beneficiaries specified in the notification for acquisition under Section 4 of the said Land

> Acquisition Act" i.e. the 1894 Act, means that the persons who are to be paid higher compensation are those who have been recorded as beneficiaries as on the date of notification under Section 4. The proviso gives effect to, and furthers the principle that under the 1894 Act, the purchases made after issuance of notification under Section 4 are void. As such, the benefit of higher compensation under the proviso to Section 24(2) is intended to be given to the beneficiaries mentioned in the notification under Section 4 of the 1894 Act.
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> **120.** It is apparent from the 1894 Act that the payment of compensation is dealt with in Part V, whereas acquisition is dealt with in Part II. Payment of compensation is not made precondition for taking possession under Section 16 or under Section 31 read with Section 34. Possession can be taken before tendering the amount except in the case of urgency, and deposit (of the amount) has to follow in case the Collector is prevented from making payment in exigencies as provided in Section 31(3). What follows is that in the event of not fulfilling the obligation to pay or to deposit under Sections 31(1) and 31(2), the 1894 Act did not provide for lapse of land acquisition proceedings, and only increased interest follows with payment of compensation.

62. With regard to the contention of the respondents that the Trust had acquiesced to the acquisition proceedings, reliance has been placed on the meeting dated 24.09.1999, whereunder the Trust had agreed to accept the compensation of Rs.15.00 lakhs per acre with respect to the subject 'A' property and Rs.9.5 lakhs per

acre with respect to the subject ‘B’ property. It is also pertinent to note that the Trust vide its letter dated 09.10.2000 had written to the SLAO regarding the compensation amount agreed by the parties. The learned Single Judge while noticing the said aspect of the matter, after appreciating the fact that the representatives of the Trust had participated in the meeting held on 24.09.1999 as well as after noticing the letter dated 09.10.2000 written by the Trust in response to the letter of the SLAO dated 11.10.1999, held that the Trust had agreed to the compensation and had also received large sums of money pursuant to the said agreement and has retained the said money for more than a decade and a half. Hence, the learned Single Judge held that the Trust cannot be permitted to approbate and reprobate.

63. Although it is contended on behalf of the appellant that the letter dated 26.03.1999 was prefixed with the words "without prejudice", it is to be noticed that the said letter was written before the acquisition proceedings were initiated with respect to the subject B property. Thereafter, consequent to issuance of the preliminary notification and final notification with respect to the subject B property, joint meetings dated 24.09.1999 and 09.10.2000 wherein the representatives of the appellant - Trust

participated, and the compensation amounts were agreed upon. The Trust also received a sum of Rs.2,36,96,175/- as compensation. The Trust did not record its reservation in the meetings dated 24.09.1999 and 09.10.2000 while participating in the deliberations for quantification of the compensation payable. It is also pertinent to note that the compensation amount of Rs.2,36,96,175/- was refunded by the Trust to the Government only on 18.10.2014 i.e., after disposal of the writ petitions in the first round of litigation, which was encashed after dismissal of the review petitions by the Division Bench. The Trust retained the compensation amount during the said period. The learned Single Judge has rightly held that the Trust cannot be permitted to approbate and reprobate.

64. A Coordinate Bench of this Court in the case of ***V.T.Krishnamoorthy v. State of Karnataka : 1991 SCC OnLine Kar 147*** held as under:

> **14.** There is one other aspect which has a bearing. Admittedly, the petitioners filed the claim statement on 31-3-1983 and the Writ Petition was filed on 19-12-1983. We have held in Writ Appeal No. 781/89 (disposed of on 8th November 1989) [*Javali Mahantappa* v. *State*.] as follows:
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> > "This is clearly a case in which Writ Petition itself is not maintainable because admittedly he had filed an

> application claiming compensation for the land in question. It is well settled law that where a person asked for compensation he cannot maintain a Writ Petition under Article 226 of the Constitution of India, vide 70 Calcutta Weekly Notes, page 1100. Therefore, we agree with the view taken by the learned single Judge and dismiss the Writ Appeal."
>
> Therefore, the Writ Petition itself is not maintainable. However, what is cited is (1978) 3 SCC 113 : AIR 1978 SC 1244. [*Central Excise Superintendent* v. *Pratap Rai*.] This case merely deals with the meaning of the phrase 'without prejudice'. But having regard to our categoric decision, one cannot approbate and reprobate.
>
> Finally we hold that Explanation to Section 11A of the Act squarely applies to the facts of this case. Accordingly, we reject point No. 2 also.

65. On behalf of the appellant reliance is placed on the judgment of the Supreme Court in the case of **Nutakki Sesharatanam v. Sub-Collector, Land Acquisition : 1992 (1) SCC 114** to contend that mere intimation of willingness to receive an amount as compensation would not disentitle a person from challenging the acquisition. The said judgment would not aid the case of the appellant inasmuch as in the facts of the said case, the land owner had intimated that he is willing to accept the acquisition provided a lumpsum compensation was awarded and it was noticed that the

said offer was never accepted by the Land Acquisition Officer. However, in the present case, the parties had deliberations and had agreed upon the quantum of compensation amount to be paid for the acquired lands, pursuant to which substantial amount of compensation was also deposited by the beneficiary and a portion of the same was released in favour of the Trust. The balance compensation was not paid to the Trust in view of the State contending that the lands held by the Trust were excess lands as contemplated under the Land Reforms Act.

66. In view of the aforementioned, the appellants have failed in demonstrating that the order of the learned Single Judge is in any manner erroneous and liable to be interfered with by this Court in the present appeals. Accordingly, the above appeals are dismissed as being devoid of merit.

67. Pending IAs., if any, stand disposed of.

SD/-
(VIBHU BAKHRU)
CHIEF JUSTICE

SD/-
(C.M. POONACHA)
JUDGE

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