

**WA No. 99 of 2013
C/W WA No. 95 of 2013
WA No. 97 of 2013
AND 1 OTHER**

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 10TH DAY OF APRIL 2026



PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO. 99 OF 2013 (LA-KIADB)

C/W

WRIT APPEAL NO. 95 OF 2013 (LA-KIADB),

WRIT APPEAL NO. 97 OF 2013 (LA-KIADB) &

WRIT APPEAL NO. 2103 OF 2013 (LA-KIADB)

IN WA NO. 99/2013

BETWEEN:

1. SRI KRISHNAREDDY
S/O LATE PAPAIAH REDDY
SINCE DECEASED BY LRS
- 1(A) SRI PAPAIAH REDDY
S/O LATE SRI KRISHNAREDDY
SINCE DEAD BY LRS
- 1(A)1 SMT. ANUSUYA
W/O LATE PAPAIAH REDDY
AGED ABOUT 56 YEARS
NO.76, 2ND CROSS
1ST MAIN ROAD
PAPAYYA REDDY LAYOUT
MANORAYANAPALYA
BANGALORE NORTH
BANGALORE-560032
- 1(A)2 ARCHANA
D/O LATE PAPAIAH REDDY



AGED ABOUT 38 YEARS
NO.76, 2ND CROSS
1ST MAIN ROAD
PAPAYYA REDDY LAYOUT
MANORAYANAPALYA
BANGALORE NORTH
BANGALORE-560032

1(A)3 P. JAISHREE
D/O LATE PAPAIAH REDDY
W/O D. SANTOSH
AGED ABOUT 39 YEARS
NO.352
OUTER RING ROAD JUNCTION
NEAR MARATHAHALLI BRIDGE
MARATHAHALLI EXTENSION
BANGALORE NORTH
BANGALORE-560037
(AMENDED V/O DT. 19.09.2022)

1(B) SRI CHANDRA REDDY
S/O LATE KRISHNAREDDY
SINCE DECEASED BY LRS

1(B)1 NIRMALA
W/O LATE CHANDRA REDDY
AGED ABOUT 54 YEARS
NO.2/1, 1ST FLOOR, 2ND CROSS
PAPAIAH REDDY LAYOUT
MUNNARAYANA PALYA
R.T. NAGAR POST
BANGALORE-560032

1(B)2 RAMYA
D/O LATE CHANDRA REDDY
W/O MAHESH T. REDDY
AGED ABOUT 36 YEARS
NO.844/A, 4TH CROSS
9TH MAIN, K.N. EXTENSION
YESHWANTHAPURA
BANGALORE-560022

- 1(B)3 SHAMANTHI C
D/O LATE CHANDRA REDDY
W/O VINOD M REDDY
AGED ABOUT 32 YEARS
NO.427, PALLOT NILAYA ROAD
CHELEKERE, KALYAN NAGAR
BANGALORE
(AMENDED V/O DT. 19.09.2022)
- 1(C) SRI MUNIREDDY
S/O LATE SRI KRISHNAREDDY
SINCE DECEASED BY LRS
- 1(C)1 SMT. PURNIMA
W/O LATE MUNI REDDY
AGED ABOUT 52 YEARS
NO.69/1, 2ND CROSS
PAPAIHAH REDDY LAYOUT
MUNNARAYANA PALYA
R.T. NAGAR POST
BANGALORE-560032
- 1(C)2 SMT. SHRUTHI
D/O LATE MUNIREDDY
W/O RAGHAVA REDDY
AGED ABOUT 30 YEARS
NO.G-1
K.A. ANANDA REDDY NAGAR
ANDRA BANK
KONAPPANA AGRAHARA
ELECTRONIC CITY
BANGALORE-560100
- 1(C)3 SWETHA
D/O LATE MUNI REDDY
AGED ABOUT 32 YEARS
NO.69/1, 2ND CROSS
PAPAIHAH REDDY LAYOUT
MUNNARAYANA PALYA
R.T. NAGAR POST
BANGALORE-560032
(AMENDED V/O DT. 19.09.2022)

- 1(D) SRI VENKATESHREDDY
S/O LATE SRI KRISHNAREDDY
AGED ABOUT 56 YEARS
NO.2/9, 2ND CROSS
PAPAIHAH REDDY LAYOUT
MUNNARAYANA PALYA
R.T. NAGAR POST
BANGALORE-560032
2. SRI UMESH
S/O LATE ABBAIAH REDDY
AGED ABOUT 43 YEARS
3. SRI RAVI KUMAR
S/O LATE IYAPPAIAH REDDY
AGED ABOUT 43 YEARS
4. SRI P VENKATASWAMY REDDY
S/O LATE PAPAIHAH REDDY
SINCE DECEASED BY LRS
- 4(A) SRI V. ANANDA REDDY
S/O LATE VENKATASWAMY REDDY
AGED ABOUT 56 YEARS
- 4(B) SRI V. LAKSHMI NARAYANA REDDY
S/O LATE VENKATASWAMY REDDY
AGED ABOUT 51 YEARS
- APPELLANT NO.4(A TO B)
ARE R/AT NO.9, 2ND CROSS
PAPAIHAH REDDY LAYOUT
MANORAYANAPALYA
R.T. NAGAR POST
BANGALORE NORTH
BANGALORE-560032
(AMENDED V/O DT. 19.09.2022)

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AND 1 OTHER**

5. MUNISWAMY REDDY
S/O PAPAIAH REDDY
AGED ABOUT 78 YEARS

ALL ARE RESIDENTS OF
PAPAIAH REDDY LAYOUT
MUNNARAYANA PALYA
R.T. NAGAR POST
BANGALORE-560032

...APPELLANTS

(BY SRI S.N. ASHWATHNARAYANA, SENIOR COUNSEL FOR
SRI NARASIMHA MURTHY L, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY
DEPARTMENT OF COMMERCE AND
INDUSTRIES
M.S. BUILDING
BANGALORE-560001
2. THE KARNATAKA INDUSTRIAL AREAS
DEVELOPMENT BOARD
BY ITS EXECUTIVE MEMBER
RASHTROTHANA PARISHATH BUILDING
NRUPATHUNGA ROAD
BANGALORE-560001
3. BANGALORE DEVELOPMENT AUTHORITY
REPRESENTED BY ITS SECRETARY
KUMARA PARK WEST
BANGALORE-560020
4. M/S LAKE VIEW TOURISM CORPORATION
REPRESENTED BY ITS DIRECTOR
SRI DAYANANDA PAI, NO.10/1
LAKSHMINARAYANA COMPLEX
GROUND FLOOR

**WA No. 99 of 2013
C/W WA No. 95 of 2013
WA No. 97 of 2013
AND 1 OTHER**

PALACE ROAD
BANGALORE-560052

...RESPONDENTS

(BY SRI MOHAMMAD JAFFAR SHAH, AGA FOR R-1;
SRI K. SHASHI KIRAN SHETTY, SENIOR COUNSEL
A/W SRI B.B. PATIL, ADVOCATE FOR R-2;
SRI K. KRISHNA, ADVOCATE FOR R-3;
SRI K.N. PHANINDRA, SENIOR COUNSEL A/W
SRI BADRI VISHAL, ADVOCATE FOR C/R-4)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED
IN WRIT PETITION NO.40661/2004 DATED 19.11.2012.

IN WA NO. 95/2013

BETWEEN:

1. SRI MUNIYAPPA
S/O LATE HEMANNA
AGED ABOUT 53 YEARS
R/AT HEBBALA GRAMA
KASABA HOBLI
BANGALORE NORTH TALUK-560024
2. SRI VENKATAPPA ALIAS
VENKATARAM
S/O LATE MUNIYELLAPPA
SINCE DECEASED BY HIS LRS
- 2(a) SRI V. MUNIRAJU
S/O LATE VENKATAPPA ALIAS
VENKATARAM
AGED ABOUT 65 YEARS
R/AT NO.563, 3RD MAIN, HEBBAL
BANGALORE-560024
(AMENDED V/O DT. 29.03.2023)
3. SRI MUNIYAPPA ALIAS
JOTHE MUNIYAPPA

**WA No. 99 of 2013
C/W WA No. 95 of 2013
WA No. 97 of 2013
AND 1 OTHER**

S/O LATE MUNIYELLAPPA
AGED ABOUT 78 YEARS
R/AT HEBBALA GRAMA
KASABA HOBLI
BANGALORE NORTH TALUK-560024

...APPELLANTS

(BY SRI N J RAMESH AND SRI P.H. VIRUPAKSHAIHAH,
ADVOCATES FOR APPELLANT NO.1;
SRI ASHOK HARANAHALLI, SENIOR COUNSEL A/W
SRI ABHIJIT HARANAHALLI, ADVOCATE FOR
APPELLANT NOS.2(a) & 3)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF COMMERCE &
INDUSTRIES, M S BUILDING
BANGALORE-560001
2. THE KARNATAKA INDUSTRIAL AREAS
DEVELOPMENT BOARD
REPRESENTED BY ITS
CHIEF EXECUTIVE OFFICER &
EXECUTIVE MEMBER
SITUATED AT NO.14/3, II FLOOR
RASHTROTHANA PARISHED BHAVAN
NRUPATHUNGA ROAD
BANGALORE-560002
3. THE SPECIAL LAND ACQUISITION OFFICER
KARNATAKA INDUSTRIAL AREAS
DEVELOPMENT BOARD, PLOT NO.488/B
14TH CROSS, KIADB COMPLEX
3RD BLOCK, 4TH PHASE
PEENYA INDUSTRIAL AREA, II STAGE
BANGALORE-560058
4. M/S LAKE VIEW TOURISM CORPORATION
REPRESENTED BY ITS DIRECTOR
NO.10/1, LAKSHMINARAYANA COMPLEX

**WA No. 99 of 2013
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WA No. 97 of 2013
AND 1 OTHER**

GROUND FLOOR, PALACE ROAD
BANGALORE-560052

...RESPONDENTS

(BY SRI MOHAMMAD JAFFAR SHAH, AGA FOR R-1;
SRI SHASHI KIRAN SHETTY, SENIOR COUNSEL A/W
SRI P.V. CHANDRASHEKAR, ADVOCATE FOR R-2 & R-3;
SRI K.N. PHANINDRA, SENIOR COUNSEL A/W
SRI BADRI VISHAL, ADVOCATE FOR C/R-4)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED
IN WRIT PETITION NO.7029/2007 DATED 19.11.2012.

IN WA NO. 97/2013

BETWEEN:

1. SMT. CHINNAMMA
WIFE OF VENKATAPPA ALIAS VENKATARAM
SINCE DECEASED BY HER LRS
- 1(a) VENKATAPPA ALIAS VENKATARAM
HUSBAND OF LATE CHINNAMMA
AGED ABOUT 90 YEARS
- 1(b) SRI V. MUNIRAJU
S/O LATE CHINNAMMA
AGED ABOUT 71 YEARS

BOTH ARE R/O HEBBAL VILLAGE
BENGALURU-560024
(AMENDED V/O DT. 19.09.2022)

...APPELLANTS

(BY SRI N.S. VIJAYANTH BABU, ADVOCATE FOR
APPELLANT NO.1(a);
BY SRI N.J. RAMESH AND SRI P.H. VIRUPAKSHAIHAH,
ADVOCATES FOR APPELLANT NO.1(b))

**WA No. 99 of 2013
C/W WA No. 95 of 2013
WA No. 97 of 2013
AND 1 OTHER**

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF COMMERCE &
INDUSTRIES, M.S.BUILDING
BENGALURU-560001

2. KARNATAKA INDUSTRIAL AREAS
DEVELOPMENT BOARD
14/3, II FLOOR
RASHTROTHANA PARISHAD BHAVAN
NRUPATHUNGA ROAD
BENGALURU-560002
REPRESENTED BY ITS CEO

3. SPECIAL LAND ACQUISITION OFFICER
KARNATAKA INDUSTRIAL AREA
DEVELOPMENT BOARD
PLOT NO.488/B, 14TH CROSS
KIADB COMPLEX
3RD BLOCK, 4TH PHASE
PEENYA INDUSTRIAL AREA, II STAGE
BENGALURU-560058

4. M/S LAKEVIEW TOURISM CORPORATION
NO.10/1, GROUND FLOOR
LAKSHMINARAYANA COMPLEX
PALACE ROAD, BENGALURU-560052
REPRESENTED BY ITS DIRECTOR

...RESPONDENTS

(BY SRI MOHAMMAD JAFFAR SHAH, AGA FOR R-1;
SRI SHASHI KIRAN SHETTY, SENIOR COUNSEL A/W
SRI P.V. CHANDRASHEKAR, ADVOCATE FOR R-2 & R-3;
SRI K.N. PHANINDRA, SENIOR COUNSEL A/W
SRI BADRI VISHAL, ADVOCATE FOR C/R-4)

**WA No. 99 of 2013
C/W WA No. 95 of 2013
WA No. 97 of 2013
AND 1 OTHER**

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED IN WRIT PETITION NO.7030/2007 DATED 19.11.2012.

IN WA NO. 2103/2013

BETWEEN:

1. SRI G GOPAL
AGED ABOUT 52 YEARS
S/O JAYANNA
RESIDING AT HEBBALA
BANGALORE-560024
REPRESENTED BY HIS
GPA HOLDER
SMT. INDIRAMMA
W/O SRI A S CHINNASWAMY RAJU
AGED ABOUT 72 YEARS
NO.294, UPPER PALACE ORCHARDS
16TH CROSS, SADASHIVANAGAR
BANGALORE-560080

...APPELLANT

(BY MS. LEKHA JAIN, ADVOCATE FOR
SRI SIDDHARTH SUMAN, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY
COMMERCE AND INDUSTRIES DEPARTMENT
(INDUSTRIES DEVELOPMENT)
M S BUILDING
DR. AMBEDKAR VEEDHI
BANGALORE-560001
2. THE KARNATAKA INDUSTRIAL AREAS
DEVELOPMENT BOARD
RASHTROTHANA BUILDINGS
N R ROAD, BANGALORE-560001

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REPRESENTED BY ITS
EXECUTIVE MEMBER

3. THE SPECIAL LAND ACQUISITION OFFICER
KARNATAKA INDUSTRIAL AREA
DEVELOPMENT BOARD
10A, 5TH FLOOR
CHANDRA KIRAN BUILDING
KASTURBA ROAD
BANGALORE-560001
4. BANGALORE DEVELOPMENT AUTHORITY
REPRESENTED BY ITS COMMISSIONER
CHOWDAIAH ROAD
KUMARA PARK WEST
BANGALORE-560020
5. M/S LAKE VIEW TOURISM CORPORATION
NO.10/1, LAKSHMINARAYANA COMPLEX
GROUND FLOOR, PALACE ROAD
BANGALORE-560052

...RESPONDENTS

(BY SRI MOHAMMAD JAFFAR SHAH, AGA FOR R-1;
SRI SHASHI KIRAN SHETTY, SENIOR COUNSEL
ALONG WITH SRI B.B. PATIL, ADVOCATE FOR R-2 & R-3;
SRI K. KRISHNA FOR R-4;
SRI K.N. PHANINDRA, SENIOR COUNSEL A/W
SRI BADRI VISHAL, ADVOCATE FOR C/R-5)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER
PASSED IN WRIT PETITION NO.45960/2004 DATED
19.11.2012.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 12.02.2026, COMING ON FOR
PRONOUNCEMENT THIS DAY, **HON'BLE MR. JUSTICE
D K SINGH** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

I BACKGROUND:-

1. The present batch of writ appeals are directed against the common judgment and order dated 19.11.2012 passed by the learned Single Judge in W.P.Nos.40661/2004, 7029/2007, 7030/2007 and 45960/2004 respectively, wherein the petitioners have challenged the land acquisition proceedings initiated by the State Government under the provisions of the Karnataka Industrial Areas Development Act, 1966 (hereinafter referred to as 'the KIAD Act') for an entity called M/s. Lakeview Tourism Corporation. The learned Single Judge, however, has dismissed the said writ petitions by the impugned judgment and order.

2. The appellants are aggrieved by the declaration dated 11.05.2004 under Section 28(4) of the KIAD Act in

relation to the lands bearing Survey No.2/11A admeasuring 31 guntas and Survey No.2/16A admeasuring 6 guntas of Hebbal and Ammanikere Villages, Kasaba Hobli, Bangalore North Taluk and the order of the respondent No.2 under Section 3(1) of the KIAD Act declaring the area of the land to be an industrial area. It is the contention of the appellants that the respondent No.1 (Government) tried to acquire the land in question with the sole motive of benefiting the respondent No.4 by handing over valuable land for pittance.

3. The appellants have contended that the land was acquired based on the clearance given by the State High Level Committee in the year 2001 in pursuance of the Karnataka Industries (Facilitation) Act, 2002, which came into force only in the year 2003 and therefore, the whole acquisition proceedings were *non est* as being without authority of law.

4. Concededly, the promoters of the entity had approached the State Government during the year 2000

and the State Government placed the proposal before the State High Level Committee. The Committee, by its order dated 28.06.2000, recommended that 37 acres of land could be acquired and allotted under the provisions of the KIAD Act. This recommendation was accepted by the State Government by its order dated 10.07.2000. Thereafter, the Committee, by an order dated 14.08.2001, opined that entire extent of 70 acres of land be acquired by the State under the provisions of the KIAD Act. Thus, what was initially stated to be acquired was only 37 acres of land since 33 acres of land had already been sold to the entity by the villagers, however, within few months, the acquisition was stated to be 70 acres of land.

5. Thereafter, a Preliminary Notification was issued on 25.11.2002 proposing to acquire 46 acres 20 guntas of land in Hebbal village and 15 Acres 22 guntas in Hebbal Ammanikere village in all, admeasuring 62.02 acres. The Final Notification under Section 28(4) of the KIAD Act was issued on 11.05.2004 proposing to acquire 53 acres and

26 guntas being 40 acres and 12 guntas in Hebbal village and 13 acres and 14 guntas of Hebbal Ammanikere Village.

6. Another Notification was also issued under Section 17 of the Bangalore Development Authority Act, 1976 (hereinafter referred to as 'the BDA Act') dated 03.02.2003 proposing to acquire these very lands for formation of residential layout known as the 'Arkavathi Layout'. These proceedings were quashed by an order dated 20.05.2005 passed by the learned Single Judge of this Court on the ground of overlapping acquisition. (W.P.No.46785/2004 decided on 23.10.2010). The acquisition *qua* the remaining writ appeals was also similarly quashed or had lapsed.

7. Another contention of the appellants is that the acquisition proceedings initiated by the Karnataka Industrial Areas Development Board (KIADB) in the years 2002 and 2004 have been abandoned as the KIADB

neither passed an award nor took possession even after lapse of 22 years.

8. The learned Advocate General appearing on behalf of the State has referred to a similar judgment which has already been dismissed by the Division Bench in W.A.No.333/2013 dated 26.03.2014. However, the facts were distinguishable about other.

9. The learned Single Judge has found that the decision by the State Government to refer the proposal to the State High Level Committee and to acquire the land by recourse to the provisions of the KIAD Act is finally of the State Government. It was further held that the State Government had acted independently in arriving at its decision which was consistent with the opinion expressed by the Committee.

10. The fact remains that firstly it was contended that the acquisition was for 37 acres since 33 acres had already been purchased. Shortly thereafter, the application is modified to include entire 70 acres for the acquisition. The

State Authorities and the KIADB, in consonance with each other, very quickly accorded approval to this project. The project was never materialized and after a lapse of more than 22 years of the application, the entire project changes over from an industrial project to residential area. The learned Single Judge, however, lost sight of all these aspects in the matter.

II FACTS:-

11. The promoters of M/s. Lakeview Tourism Corporation, an entity which was yet to be incorporated, approached the State Government during the year 2000 intending to establish "Unicare Tourist Centre" comprising of a resort, a five-star hotel, an amusement park and other recreation facilities by stating that they had already negotiated with the landowners of Hebbal and Hebbal Ammanikere Villages for sale of 33 acres of land in their favour and they would require another 37 acres of land in the same area for their project. They requested the Government to acquire 37 acres of land as identified by

them for their benefit. It may be noted that though the promoters asserted that they had negotiated with the landowners of Hebbal and Hebbal Ammanikere Villages for sale of 33 acres of land, but no sale deed was executed by any of the landowners in their favour.

12. The application would disclose that the entity would be a **private-sector undertaking to be incorporated.**

The filling-in instructions/check list for making an application under Single Window Agency *inter alia* provide as under:

- (1) Application in prescribed form in 20 sets, duly filled in;
- (2) 3 copies of the Project Report/Project Profile;
- (3) 3 Copies of Memorandum and Articles of Association of the Company/Society/Partnership Deed/Trust Deed (as may be applicable);
- (4) A brief note on the present activities of the company/associate companies/subsidiaries, the present proposal, the bio-data of the promoters, etc., - 3 copies;

(5) 3 copies of the acknowledgment of Industrial Entrepreneurs Memorandum (IEM) filled with the Government of India/Letter of Intent obtained from the Government of India/100% Export Oriented Unit (EOU) letter of permission/FIPB/RBI approval etc.

13. The check list itself would disclose that the application could have been filed by an entity which was in existence and not by an entity which was non-existent and imaginary one inasmuch as the Memorandum and Articles of Association of the Company/Society/Partnership Deed/Trust Deed would be of an existent entity and not of an entity to be incorporated in future.

14. The details of the activities and other details as were required in the said application form are blank. The expected date of commencement of trial production or the activities was mentioned as 31.12.2001. However, the application was filed on 23.06.2000 and a promise was made that within a period of one and a half years, they would commence the activity. The total investment

proposed was of Rs. 2500 Million. This application was submitted by one P. Satish Pai before the Government to be placed before High Level Committee/State Level Single Window Agency.

15. Interestingly, the Project Report of the proposed development of a Tourism Complex in Bengaluru (India) by M/s. Lakeview Tourism Corporation contains the promoters' background. It would suggest that Dr. Ramdas Pai is involved in different walks of life including professional education, hospitals, medical and dental colleges, nursing and pharmacy colleges, applied sciences, hotel industry etc. Another promoter's name is given as Syed Mohammed Salahuddin. It is stated that Syed Mohammed Salahuddin runs a family business called ASCON, a civil contracting company in Dubai since 1973 and because of his visionary leadership, guidance and wisdom, ASCON had transformed itself into a multi-division conglomerate known as the ETA ASCON Group. The turnover of the Group was in excess of US \$850

million in the year of 1995 and he desired to step up investment since India was emerging as the fast growing economy. Other promoters' names are P. Dayananda Pai and of course, P Satish Pai who signed and submitted the application on behalf of the 'non-existent entity' to be incorporated in future.

16. Another interesting aspect of the matter is that the said non-existent entity also identified the survey numbers which should be acquired by the Government for making profit and developing the real estate to the benefit of this non-existent entity which was to be incorporated in future.

17. The said non-existent entity was incorporated only on 04.01.2011 i.e., after 10 1/2 long years from the date of the application. The address of the said entity is Mantri House, 41, Vittal Malya Road, Bengaluru, a defunct real estate developer in the city of Bengaluru. The share capital of the said entity is Rs.5 crores divided into 50 lakhs equity shares of Rs.10/- each. The Memorandum of Association as on the date of incorporation would disclose

the promoters as Sushil Mantri and Snehal Mantri. None of the promoters whose background was given along with the application filed by the entity in the year 2000 are the promoters or shareholders of the Lakeview Development Corporation Private Limited which got incorporated on 04.01.2011. Neither Ramdas Pai nor Syed Mohammed Salahuddin nor Dayanand Pai nor P. Satish Pai are in any manner associated today or on the date of incorporation with the entity which got incorporated on 04.01.2011. The financial statement of the said entity for the financial year 01.04.2022 to 31.03.2023 filed in Form No.AOC-4 would suggest liability of Rs.3,46,017/- and assets of Rs.3,46,017/-. The share capital is shown only Rs.1 lakh and the income is shown as 'zero'. The Profit and Loss account as of Financial Year 2022-2023 would suggest minus income of Rs.-51,611/- and the net worth is in minus i.e., Rs. -8,60,686/-.

18. The acceptance of such an application which was totally incomplete and bereft of details was not only

entertained, but the High Level Committee, in its second meeting held on 28.06.2000, considered the proposal and decided to recommend to the Government to acquire the land as identified by the said entity. They believed that this entity had entered into contracts with private landowners for an extent of 33 acres of land and they would require 37 acres more for establishing the Unicare Tourist Centre giving rise to collusion between the so-called promoters of the non-existent entity and the Government Officers.

19. An alarming aspect as appearing from the facts as revealed from examination of the record is that an almost blank application was submitted by the non-existent entity on 23.06.2000 and the so-called High Level Committee held the meeting just 5 days after receiving the application to acquire the land of the choice of the non-existent entity. The high speed and alacrity with which the Government had acted to exercise its power of eminent domain to favour a non-existent entity for its business and private

gain was nothing but a gross abuse of the powers by the State machinery and fraud on statute and a colourable and arbitrary exercise of the powers to favour the non-existent entity by depriving the landowners of their property in violation of their constitutional right protected under Article 300A of the Constitution of India.

20. Immediately thereafter, as the Government was ever ready and more than willing to oblige the non-existent entity and as if acting on the dictates and directions of the said entity, had issued the Preliminary Notification dated 25.11.2002 under Section 28(1) of the KIAD Act proposing to acquire 63.33 acres of land in Hebbal and Hebbal Ammanikere Villages and called for objections by the landowners. Despite several objections by the landowners, the Final Notification under Section 28(4) of the KIAD Act was issued on 11.05.2004 to acquire 53 acres and 26 guntas of land.

21. The rate of compensation per acre of land of the choice of the non-existent entity was fixed

@Rs.15,00,000/- per acre. However, the so-called promoters of the non-existent entity said that they had entered into contracts with private landowners for an extent of 33 acres of land @Rs.1.50 crore per acre.

22. A non-existent entity which promised to commence its operation with effect from 31.12.2001 providing employment to 2,000 persons had net worth of Rs. - 8,60,686/- in the financial year 2022-23. The Director's Report for the financial year 2022-23 would also suggest **"the Company is still in the process of identifying viable business opportunities and start its principal business operations. The Company is hopeful for the growth of the Company in the coming years"**. The Cash and Bank balance as on 31.03.2022 was only Rs.45,963/- and by 31.03.2022, the profit was Rs. - 66,715/-.

23. The non-existent entity whose application was filed by one P. Satish Pai had submitted the application with the proposed investment of Rs. 2500/- crores in Hebbal Village

in the year 2000 and operation would commence within one and a half years.

24. Thus, it is evident that the application was a fraudulent exercise to acquire the valuable land from the landowners for pittance to benefit a non-existent entity. It is unclear as to on whose behalf the entire proceedings of land acquisition by exercising the power of eminent domain was carried out and who would have invested in this non-existent entity for diverting the land for real estate development and depriving the landowners of their land in violation of their constitutional right protected under Article 300A of the Constitution and the statute itself.

25. This aspect gets fully fortified by the fact that the Government has issued Order No.CI 82 SPI 2023, Bengaluru dated 23.03.2023 changing the land use for residential complex. The 138th State Level Single Window Clearance Committee in its meeting held on 07.03.2023 had considered the request of M/s. Lakeview Tourism

Corporation, Bengaluru and mentioned it as a partnership firm. Another fraud was played while treating this as a partnership firm in the year 2023 of M/s. Ashwitha Property Developers Private Limited and M/s. Shivashakti Estate and Investment Private Limited and it was stated that the partnership was executed as long back as on 22.04.2004 and in view of the partnership, M/s. Lakeview Tourism Corporation became a partnership firm. The fraud is on the face of the record inasmuch as M/s.Lakeview Tourism Corporation was incorporated as private limited company on 04.01.2011, but the so-called State Level Single Window Clearance Committee, in the year 2023, considered it to be a partnership firm of two real estate developers of the same promoters/directors.

26. The authorities have appeared to be ever ready and willing to oblige and accede to any demand/request, accepted the demand of the said entity for change of the land use allotted to M/s.Lakeview Tourism Corporation for construction of a Unicare Tourism Centre with a Resort

and Five Star Hotel, Amusement Park, Water Park, Health Club, Recreation Facility, Conference/Convention Centre with all ultra modern facilities, the Indian Arts and Crafts Exhibition, a Mini Theatre, Restaurants, Modern Shopping Complex and Service Apartments. Now the object is to develop "Integrated township with development of Commercial office spaces, Information Technology Park etc. The Government Order dated 23.03.2023 reads under:

"GOVERNMENT ORDER NO.CI 82 SPI 2023,
BENGALURU

DATED 23.03.2023

Government is pleased to accord approval for the following proposals of M/s Lakeview Tourism Corporation:

- Extension of time by 3 years, with a condition that further extension of time will not be considered.*
- Change of activity from establishment of "Unicare Tourist Centre with a Resort and Five Star*

**WA No. 99 of 2013
C/W WA No. 95 of 2013
WA No. 97 of 2013
AND 1 OTHER**

Hotel, Amusement Park, Water Park, Health Club, Recreation Facility, Conference/ Convention Centre with all ultra modern facilities, the Indian Arts and Crafts Exhibition, A mini Theatre, Restaurants, Modern Shopping Complex and service Apartments with transit flat facilities" to "Integrated township with development of Commercial office spaces, Information Technology Park, R&D Centre, Retail, Shopping Mall, Residential multi-storied apartment complex, Hospitals, Educational Institutions, School, Hotels, Convention Centre, Other Hospitality Usages like Service Apartments, Branded Apartments, Residential Apartments or establishing any other permissible usage under the law", subject to obtaining necessary clearances and submission of documents to concerned authorities.

- *Increase in investment from Rs.250 crore to Rs.440 crore*

All other terms and conditions indicated in the Government Order read at (2) above remains unaltered."

27. Mr. K.N. Phanindra, learned Senior Counsel appearing for the respondent-entity has vehemently argued that the land acquisition proceedings in favour of the Lakeview Tourism Corporation has attained finality by the decision of the Division Bench of this Court in W.A.No.333/2013 dated 26.03.2014 and the review petition bearing R.P.No.363/2015 filed against the said judgment came to be dismissed vide order dated 06.04.2018. He, therefore, submits that once this Court has already upheld the land acquisition in favour of the respondent- entity, the challenge to such acquisition proceedings in writ petitions filed by the appellants would not be maintainable and the appeals ought to be dismissed. It has been further submitted by him that under the KIAD Act, the land acquisition can be made in favour of a single entity as held in **MSPL LIMITED VS STATE OF KARNATAKA ([2002) 20 SCC 58]**.

III QUESTIONS:-

28. In view of the aforesaid facts, this Court is required to consider the following questions in the present writ appeals:-

(1) Whether the land acquisition in question for M/s. Lakeview Tourism Corporation, a non-existent entity, by the Government under the provisions of the KIAD Act was just, proper, legal, valid and as per the object and purpose of the Act?

(2) Whether the entire exercise of acquiring a large extent of land on behest of a non-existent entity was a fraud on statute by the applicant in active collusion with the Government authorities in divesting the land holders of their valuable land for the purposes of putting the valuable lands at throwaway price in the hands of the real estate developers and therefore, it vitiates the entire exercise and the land acquisition proceedings are liable to be quashed?

(3) Whether the Government can exercise the power of eminent domain to acquire the land from the farmers/landowners to achieve the objective of creating wealth in the hands of private individuals and whether such an exercise would justify the purpose and object of the KIAD Act?

IV RELEVANT PROVISIONS OF THE STATUTE:-

29. Before averting to the aforesaid questions, it would be apt to take note of the relevant provisions of the KIAD Act.

30. The statements of objects and reasons of the KIAD Act read as under:-

"It is considered necessary to make provision for the orderly establishment and development of Industries in suitable areas in the State. To achieve this object, it is proposed to specify suitable areas for Industrial Development and establish a Board to develop such areas and make available lands therein for establishment of Industries."

31. Thus, the object of the KIAD Act is for the orderly establishment and development of industries in suitable areas in the State and for such purpose, to make available lands therein for establishment of industries. The suitable area has to be identified by the State/KIADB and not the private/non-Government persons/agencies.

32. The object of the KIAD Act is to acquire the land for the purpose of setting up the industrial areas and not for acquiring the land for an individual/non-existent entity. After setting up an industrial area, the Government may allot the land to an applicant for setting up the industries in the industrial area. The Government cannot acquire the land for an individual entity that too, a non-existent entity of its choice for creating the wealth at the hands of its promoters at the expense and cost of the landowners. The object of the Act is public purpose in creating industrial areas for development of the industries and industrialisation of the State and not for the purpose of creating wealth and income in the hands of individual

entities/persons. The Government cannot acquire the land for an individual person/entity of its choice by exercising the power of eminent domain.

33. The functions and powers of the Board, as provided under Section 13 of the KIAD Act, are to promote and assist in the rapid and orderly establishment, growth and development of industries and to provide industrial infrastructural facilities and amenities in industrial areas. Therefore, the Government may acquire the land to set up the industrial area and the Board would then have to provide industrial infrastructural facilities and amenities for the rapid and orderly establishment, growth and development of industries in the said area. The Act does not contemplate for acquiring the land for making profit/wealth by an individual entity and such a purpose cannot be said to be a public purpose. Setting up an industrial area is a public purpose and not putting the land after exercising the power of eminent domain in the hands of unknown parties, real estate developers and such other

persons would not be in the line of the objects of the KIAD Act, and it is nothing but a fraud on statute committed by the authorities to divest the landowners from their land holdings for a pittance. This kind of exercise is a statutory and constitutional fraud by the State Authorities and a criminal act.

34. The acquisition and disposal of land is provided in Chapter VII of the KIAD Act. Sections 28 and 29, which are relevant, are extracted hereunder:-

"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.

29. Compensation.- *(1) Where any land is acquired by the State Government under this Chapter, the State Government shall pay for such acquisition compensation in accordance with the provisions of this Act.*

(2) Where the amount of compensation has been determined by agreement between the State Government and the person to be compensated, it shall be paid in accordance with such agreement.

(3) Where no such agreement can be reached, the State Government shall refer the case to the Deputy Commissioner for determination of the amount of compensation to be paid for such acquisition as also the person or persons to whom such compensation shall be paid.

(4) On receipt of a reference under sub-section (3), the Deputy Commissioner shall serve notice on the owner or occupier of such land and on all persons known or believed to be interested herein to appear before him and state their respective interests in the said land."

35. Section 28 provides a complete machinery in respect of the method and manner in which the land can be acquired by the State Government, non-compliance of any of the provisions would render the acquisition invalid, illegal and fraud on statute. Sub-section (1) of Section 28 also specifically provides that the State Government may acquire the land for the purpose of development by the Board or for any other purpose in furtherance of the objects of the Act. If the land is not acquired either for the purpose of development by the Board or for any other purpose in furtherance of the objects of the Act, such acquisition is nothing but a *mala fide* and illegal exercise of power and a fraud on statute and Constitution in exercising the eminent domain by the State.

36. Sub-section (2) of Section 28 provides an opportunity for filing objections by the landowners or other interested persons and sub-section (3) provides for considering the objections and affording an opportunity of hearing to them. After the aforesaid exercise is undertaken, then only the final notification is to be issued under sub-section (4) of Section 28 of the Act. Under sub-section (5), it is provided that on publication of the final notification under sub-section (4), the land vests absolutely in the State Government free from all encumbrances, but sub-section (6) requires the Government Authorities to serve a notice in writing and order any person who is in possession of the land to surrender or deliver the possession thereof to the State Government within thirty days of the service of the notice and Section (7) provides that if such person refuses or fails to comply with the order made under sub-section (5), the State Government may take possession of the land by using the force as may be necessary.

37. Under Section 29 of the KIAD Act, the Government is under a statutory and constitutional obligation to pay adequate compensation in accordance with the provisions of the Act for the land acquired and if the landowner is not satisfied with the compensation, the reference has to be made to the Deputy Commissioner for determination of the amount of compensation to be paid for such acquisition. Before deciding the reference, the Deputy Commissioner is required to serve a notice on the owner and on all such persons who are interested in the land, to appear before him and to state their respective interests in the land so acquired.

38. Thus, Sections 28 and 29 provide a complete mechanism for acquiring the land under the provisions of the KIAD Act i.e., issuing the notification under Section 28(1), filing the objections, considering the objections, providing opportunity of hearing, issuing the final notification under Section 28(4), issuing notice to surrender or deliver possession of the land to the State

Government and thereafter, for payment of compensation. All steps are to be taken in the manner as provided for in the statute and if time has not been granted for filing the objections or the objectors have not been heard or no notice has been issued for surrendering possession or no compensation has been paid, then the land acquisition proceedings cannot be said to be complete and susceptible to be declared illegal and *ultra vires* the statute and the Constitution of India being in violation of Articles 14, 19 and 21 of the Constitution.

V RIGHT TO PROPERTY:-

39. Article 300A of the Constitution of India provides that "no person shall be deprived of his property except by authority of law". The right of property is not only a constitutional or statutory right but also a human right. Though it is not a basic feature of the Constitution or fundamental rights, the human rights are considered to be in the realm of individual rights such as, the right to

health, right to livelihood, right to shelter and employment etc.

40. The Supreme Court, in the case of **TUKARAM KANA JOSHI AND OTHERS THROUGH POWER OF ATTORNEY HOLDER vs M.I.D.C. AND OTHERS (AIR 2013 SC 565)**, has held that now human rights are gaining even greater multifaceted dimension. The right to property is considered very much to be part of such new dimension. The expression 'property' in Article 300A is not confined to land alone. It includes intangibles like copyright and other intellectual properties and embraces every possible interest recognized by law.

41. A Constitution Bench, in the case of **K.T. PLANTATION PRIVATE LIMITED AND ANOTHER vs STATE OF KARNATAKA ([2011] 9 SCC 1)**, has held that the right to compensation is inbuilt in Article 300A. Just, fair and reasonable compensation is inbuilt in right to property and is also a requirement of Articles 14, 19(1)(g), 21, 26(b), 30(1-A) of the Constitution. No

person can be deprived of his property merely by an executive fiat, without any specific legal authority or without support of law. Deprivation of property even under the provisions of the statute within the meaning of Article 300A must take place for public purpose or public interest. It has been held that any law which deprives a person of his private property for private interest will be unlawful and unfair and undermines the rule of law and can be subjected to judicial review.

42. Paragraphs 180, 181, 182, 183, 189 and 190 to 193 of the judgment in ***K.T. PLANTATION*** (*supra*) are extracted hereunder:

"Public purpose

180. *Deprivation of property within the meaning of Article 300A, generally speaking, must take place for public purpose or public interest. The concept of eminent domain which applies when a person is deprived of his property postulates that the purpose must be primarily public and not primarily of private interest and merely incidentally beneficial to the public. Any law,*

which deprives a person of his private property for private interest, will be unlawful and unfair and undermines the rule of law and can be subjected to judicial review. But the question as to whether the purpose is primarily public or private, has to be decided by the legislature, which of course should be made known.

181. *The concept of public purpose has been given fairly expansive meaning which has to be justified upon the purpose and object of the statute and the policy of the legislation. Public purpose is, therefore, a condition precedent, for invoking Article 300A.*

Compensation

182. *We have found that the requirement of public purpose is invariably the rule for depriving a person of his property, violation of which is amenable to judicial review. Let us now examine whether the requirement of payment of compensation is the rule after the deletion of [Article 31\(2\)](#).*

183. *Payment of compensation amount is a constitutional requirement under [Article 30\(1-A\)](#) and under the second proviso to [Article 31-A\(1\)](#), unlike [Article 300-A](#). After the [Forty-fourth Amendment Act, 1978](#), the constitutional*

obligation to pay compensation to a person who is deprived of his property primarily depends upon the terms of the statute and the legislative policy. [Article 300A](#), however, does not prohibit the payment of just compensation when a person is deprived of his property, but the question is whether a person is entitled to get compensation, as a matter of right, in the absence of any stipulation in the statute, depriving him of his property.

189. *Requirement of public purpose, for deprivation of a person of his property under [Article 300-A](#), is a precondition, but no compensation or nil compensation or its illusiveness has to be justified by the State on judicially justiciable standards. Measures designed to achieve greater social justice, may call for lesser compensation and such a limitation by itself will not make legislation invalid or unconstitutional or confiscatory. In other words, the right to claim compensation or the obligation to pay, though not expressly included in [Article 300-A](#), it can be inferred in that article and it is for the State to justify its stand on justifiable grounds which may depend upon the legislative policy, object and purpose*

of the statute and host of other factors.

190. *[Article 300-A](#) would be equally violated if the provisions of law authorizing deprivation of property have not been complied with. While enacting [Article 300-A](#) Parliament has only borrowed [Article 31\(1\)](#) (the "Rule of law" doctrine) and not [Article 31\(2\)](#) (which had embodied the doctrine of eminent domain). [Article 300-A](#) enables the State to put restrictions on the right to property by law. That law has to be reasonable. It must comply with other provisions of the Constitution. The limitation or restriction should not be arbitrary or excessive or what is beyond what is required in public interest. The limitation or restriction must not be disproportionate to the situation or excessive.*

191. *The legislation providing for deprivation of property under [Article 300-A](#) must be "just, fair and reasonable" as understood in terms of [Articles 14, 19\(1\)\(g\), 26\(b\), 301](#), etc. Thus in each case, courts will have to examine the scheme of the impugned Act, its object, purpose as also the question whether payment of nil compensation or nominal compensation would make the impugned law unjust, unfair or unreasonable in terms of other*

provisions of the Constitution as indicated above.

192. *At this stage, we may clarify that there is a difference between "no" compensation and "nil" compensation. A law seeking to acquire private property for public purpose cannot say that "no compensation shall be paid". However, there could be a law awarding "nil" compensation in cases where the State undertakes to discharge the liabilities charged on the property under acquisition and onus is on the Government to establish validity of such law. In the latter case, the court in exercise of judicial review will test such a law keeping in mind the above parameters.*

193. *Right to property no more remains an overarching guarantee in our Constitution, then is it the law, that such a legislation enacted under the authority of law as provided in [Article 300-A](#) is immune from challenge before a constitutional court for violation of [Articles 14, 21](#) or the overarching principle of the rule of law, a basic feature of our Constitution, especially when such a right is not specifically incorporated in [Article 300-A](#), unlike [Article 30\(1-A\)](#) and the second proviso to [Article 31-A\(1\)](#)"*

43. Thus, depriving the landowners of their land for private interest and merely incidentally beneficial to the public is against the foundational principle of the Constitution i.e., the rule of law and it is against the constitutional mandate as provided under Article 300A.

44. The aforesaid principles have been reiterated by the Supreme Court in the case of **KOLKATA MUNICIPAL CORPORATION AND ANOTHER vs BIMAL KUMAR SHAH AND OTHERS ([2024] 10 SCC 533)** and further explained. It has been held that the right to property has to be given broader and meaningful interpretation. The right to property has seven sub-rights and it does not limit to twin components of public purpose and compensation. The seven sub-rights or strands of the swadeshi constitutional fabric constituting the right to property, which are non-exhaustive, have been enumerated as under:-

"(i) The duty of the State to inform the person that it intends to acquire his property - the right to notice,

(ii) The duty of the State to hear objections to the acquisition - the right to be heard,

(iii) The duty of the State to inform the person of its decision to acquire - the right to a reasoned decision,

(iv) The duty of the State to demonstrate that the acquisition is for public purpose - the duty to acquire only for public purpose,

(v) The duty of the State to retribute and rehabilitate - the right of restitution or fair compensation,

(vi) The duty of the State to conduct the process of acquisition efficiently and within prescribed timelines of the proceedings - the right to an efficient and expeditious process, and

(vii) The final conclusion of the proceedings leading to vesting - the right of conclusion."

45. These seven rights though are procedures, but they do constitute real content of the right to property under Article 300A and non-compliance of these will amount to violation of the right to property being without the

authority of law. It has been specifically held in paragraph 33.4 that it is the duty of the State to acquire the property only for public purpose, and it is an important fetter on the discretion of the authorities to acquire the property. The acquisition of the property must be for larger constitutional goals of a welfare State and distributive justice.

VI POWER OF THE EMINENT DOMAIN OF THE STATE IN ACQUIRING THE PROPERTY OF A PRIVATE PERSON:-

46. The State can exercise the eminent domain power for a private entity, but only when there is a genuine public purpose and cost of acquisition (including compensation) is borne by the State instrumentality or the public fund so that the transaction remains by the State for public purpose.

47. The Supreme Court, in **SOORARAM PRATAP REDDY AND OTHERS vs DISTRICT COLLECTOR, RANGA REDDY DISTRICT AND OTHERS ([2008] 9 SCC 552)**, has held that if the power of eminent domain has been exercised *mala fide* or for collateral purposes or

the purported action is de hors the Act, irrational or otherwise unreasonable or the so-called purpose is "no public purpose" at all and fraud on statute is apparent, the writ Court would have the jurisdiction to interfere with such acquisition and exercise of the power of eminent domain by the State. Paragraphs 128 and 133, which are relevant, are extracted hereunder:-

***"128.** Applying the aforesaid principles to the case on hand, in our considered opinion, it cannot be said that the proceedings initiated by the State for acquisition of land under the Land Acquisition Act, 1894 are illegal, unlawful, unwarranted, mala fide, fraud on statute or have been taken in colourable exercise of power.*

***133.** The entire amount of compensation is to be paid by State agency (APIIC) which also works as nodal agency for execution of the project. It is primarily for the State to decide whether there exists public purpose or not. Undoubtedly, the decision of the State is not beyond judicial scrutiny. In appropriate cases, where such power is exercised mala fide or for collateral purposes or the purported action is de hors the Act, irrational or*

otherwise unreasonable or the so-called purpose is "no public purpose" at all and fraud on statute is apparent, a writ court can undoubtedly interfere. But except in such cases, the declaration of the Government is not subject to judicial review. In other words, a writ court, while exercising powers under Articles 32, 226 or 136 of the Constitution, cannot substitute its own judgment for the judgment of the Government as to what constitutes "public purpose".

48. The acquisition of land or the property of individuals in exercise of the powers of eminent domain must not be conveyable exercise or fraud on statute or merely a device to transfer land to private hands. When an act is done by the State under the colour of authority of law, it must be for lawful purpose envisaged under the statute. If the purpose namely, public purpose as envisaged under a statute under which the property is acquired is not subserved, then the exercise of the power of use of eminent domain must be held to be colourable exercise of power and fraud on the statute.

49. In **ROYAL ORCHID HOTELS LIMITED AND ANOTHER VS G. JAYARAM REDDY AND OTHERS ([2011] 10 SCC 608)**, the Court was confronted with transfer of land required for public purpose (Golf-cum-Hotel Resort) to private transferees and it was held that such acquisition was fraud on the power where the land acquired ostensibly for public use got diverted to private beneficiaries. It has been held that in exercise of the power of eminent domain, the State can compulsorily acquire land of private persons, but this proposition cannot be overstressed to legitimize a patently illegal and fraudulent exercise undertaken for depriving the landowners of their constitutional right to property with a view to favour private persons. Paragraphs 36 to 39 of the said judgment are extracted hereunder:-

"36. The next question which merits examination is whether the High Court was justified in directing restoration of land to Respondent 1. In Behroze Ramyar Batha v. Land Acquisition Officer [Behroze Ramyar Batha v. Land Acquisition Officer,

(1992) 1 Kant LJ 589 : ILR 1991 Kant 3556] , the Division Bench of the High Court categorically held that the exercise undertaken for the acquisition of land was vitiated due to fraud. The Division Bench was also of the view that the acquisition cannot be valid in part and invalid in other parts, but did not nullify all the transfers on the premise that other writ petitions and a writ appeal involving challenge to the acquisition proceedings were pending. In Annaiah v. State of Karnataka [Annaiah v. State of Karnataka, WPs (C) Nos. 19812-16 of 1990 order dated 18-9-1991 (Kant)] the same Division Bench specifically adverted to the issue of diversification of purpose and held that where the landowners are deprived of their land under the cover of public purpose and there is diversification of land for a private purpose, it amounts to fraudulent exercise of the power of eminent domain.

37. The pleadings and documents filed by the parties in these cases clearly show that the Corporation had made a false projection to the State Government that land was needed for execution of tourism-related projects. In the meeting of officers held on 13-1-1987 i.e. after almost four years of the issue of declaration under Section 6, the Managing Director of the Corporation candidly admitted that the Corporation did not have the

requisite finances to pay for the acquisition of land and that Dayananda Pai, who had already entered into agreements with some of the landowners for purchase of land, was prepared to provide funds subject to certain conditions including transfer of 12 acres 34 guntas land to him for house building project. After 8 months, the Corporation passed a resolution for transfer of over 12 acres land to Dayananda Pai. The Corporation also transferred two other parcels of land in favour of Bangalore International Centre and M/s Universal Resorts Limited. These transactions reveal the true design of the officers of the Corporation, who first succeeded in persuading the State Government to acquire a huge chunk of land for a public purpose and then transferred a major portion of the acquired land to a private individual and corporate entities by citing poor financial health of the Corporation as the cause for doing so.

38. The courts have repeatedly held that in exercise of its power of eminent domain, the State can compulsorily acquire land of the private persons but this proposition cannot be overstretched to legitimise a patently illegal and fraudulent exercise undertaken for depriving the landowners of their constitutional right to property with a view to favour private persons. It needs no emphasis that if land is to be acquired for a

*company, the State Government and the company is bound to comply with the mandate of the provisions contained in Part VII of the Act. Therefore, the Corporation did not have the jurisdiction to transfer the land acquired for a public purpose to the companies and thereby allow them to bypass the provisions of Part VII. The diversification of the purpose for which land was acquired under Section 4(1) read with Section 6 clearly amounted to a fraud on the power of eminent domain. This is precisely what the High Court has held in the judgment under appeal and we do not find any valid ground to interfere with the same more so because in *Annaiah v. State of Karnataka* [*Annaiah v. State of Karnataka*, WPs (C) Nos. 19812-16 of 1990 order dated 18-9-1991 (Kant)] the High Court had quashed the notifications issued under Sections 4(1) and 6 in their entirety and that judgment has become final.*

*39. The judgment in *Om Parkash v. Union of India* [(2010) 4 SCC 17 : (2010) 2 SCC (Civ) 1] on which reliance has been placed by Shri Naganand is clearly distinguishable. What has been held in that case is that quashing of the acquisition proceedings would enure to the benefit of only those who had approached the Court within reasonable time and not to those who remained silent. In this case,*

Respondent 1 independently questioned the acquisition proceedings and transfer of the acquired land to M/s Universal Resorts Ltd. In other words, he approached the High Court for vindication of his right and succeeded in convincing the Division Bench that the action taken by the Corporation to transfer his land to M/s Universal Resorts Limited was wholly illegal, arbitrary and unjustified."

VII FRAUD VITIATES EVERY DECISION OF THE COMPETENT AUTHORITY AND EVEN THE JUDGMENT AND ORDER OF THE COMPETENT COURT:-

50. It is no longer *res integra* that if the fraud is the basis for the decision of the authority and even the matter had attained finality by the decision of the Competent Court, if the fraud is detected later, such a decision of the Government authority is to be declared as void because fraud vitiates every judicial act and finality of litigation cannot be invoked to permit ongoing or irrevocable wrongful consequences. The core principle is that the fraud defeats the validity of judicial acts and once fraud is

established, the decision can be recalled or set aside notwithstanding prior finality.

51. In **S.P.CHENGALVARAYA NAIDU vs JAGANNATH ([1994] 1 SCC 1)**, it has been held that "fraud avoids all judicial acts" and a judgment obtained by fraud is a nullity that can be challenged in any appropriate proceedings. Paragraph 5 of the said judgment is extracted hereunder:

"5. The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that "there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence". The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons from all walks of

life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation."

52. The Courts and Tribunals have inherent power to recall their own orders or judgments if those orders were obtained by fraud, even when statutory review is not available or has been exhausted (**MEGHMALA vs NARASIMHA REDDY ([2010] 8 SCC 383); HAMZA HAJI vs STATE OF KERALA ([2006] 7 SCC 416); INDIAN BANK vs SATYAM FIBRES (INDIA) PRIVATE LIMITED ([1996] 5 SCC 550).**

53. The relevant paragraphs of the decision in **MEGHMALA** (*supra*) have been extracted hereunder:-

"28. It is settled proposition of law that where an applicant gets an order/office by making misrepresentation or playing fraud upon the competent authority, such order cannot be sustained in the eye of the law. "Fraud avoids all judicial acts, ecclesiastical or temporal." (Vide S.P. Chengalvaraya Naidu v. Jagannath [(1994) 1 SCC 1 : AIR 1994 SC 853] .) In Lazarus Estates Ltd. v. Beasley

[(1956) 1 QB 702 : (1956) 2 WLR 502 : (1956) 1 All ER 341 (CA)] the Court observed without equivocation that : (QB p. 712) "No judgment of a court, no order of a Minister, can be allowed to stand if it has been obtained by fraud. Fraud unravels everything."

32. The ratio laid down by this Court in various cases is that dishonesty should not be permitted to bear the fruit and benefit to the persons who played fraud or made misrepresentation and in such circumstances the Court should not perpetuate the fraud. (See Vizianagaram Social Welfare Residential School Society v. M. Tripura Sundari Devi [(1990) 3 SCC 655 : 1990 SCC (L&S) 520 : (1990) 14 ATC 766] , Union of India v. M. Bhaskaran [1995 Supp (4) SCC 100 : 1996 SCC (L&S) 162 : (1996) 32 ATC 94] , Kendriya Vidyalaya Sangathan v. Girdharilal Yadav [(2004) 6 SCC 325 : 2005 SCC (L&S) 785] , State of Maharashtra v. Ravi Prakash Babulalsing Parmar [(2007) 1 SCC 80 : (2007) 1 SCC (L&S) 5] , Himadri Chemicals Industries Ltd. v. Coal Tar Refining Co. [(2007) 8 SCC 110 : AIR 2007 SC 2798] and Mohd. Ibrahim v. State of Bihar [(2009) 8 SCC 751 : (2009) 3 SCC (Cri) 929] .)

34. An act of fraud on court is always viewed seriously. A collusion or conspiracy with a view to deprive the rights of the others in relation to a property would render the transaction void ab initio. Fraud and deception are synonymous. Although in a given case a deception may not amount to fraud, fraud is anathema to all equitable

principles and any affair tainted with fraud cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. Fraud is proved when it is shown that a false representation has been made (i) knowingly, or (ii) without belief in its truth, or (iii) recklessly, careless whether it be true or false. Suppression of a material document would also amount to a fraud on the court. (Vide S.P. Chengalvaraya Naidu [(1994) 1 SCC 1 : AIR 1994 SC 853] , Gowrishankar v. Joshi Amba Shankar Family Trust [(1996) 3 SCC 310 : AIR 1996 SC 2202] , Ram Chandra Singh v. Savitri Devi [(2003) 8 SCC 319] , Roshan Deen v. Preeti Lal [(2002) 1 SCC 100 : 2002 SCC (L&S) 97 : AIR 2002 SC 33] , Ram Preeti Yadav v. U.P. Board of High School & Intermediate Education [(2003) 8 SCC 311 : AIR 2003 SC 4268] and Ashok Leyland Ltd. v. State of T.N. [(2004) 3 SCC 1 : AIR 2004 SC 2836])"

54. The relevant paragraphs of the decision in **HAMZA HAJI** (*supra*) have been extracted hereunder:-

"10. It is true, as observed by De Grey, C.J., in R. v. Duchess of Kingston [2 Smith LC 687] that:

" 'Fraud' is an extrinsic, collateral act, which vitiates the most solemn proceedings of courts of justice. Lord Coke says it avoids all judicial acts, ecclesiastical and temporal."

20. *It is not necessary to multiply authorities on this question since the matter has come up for consideration before this Court on earlier occasions. In S.P. Chengalvaraya Naidu v. Jagannath [(1994) 1 SCC 1 : 1993 Supp (3) SCR 422] this Court stated that: (SCC p. 2, para 1)*

"It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eye of the law. Such a judgment/decree—by the first court or by the highest court—has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings."

The Court went on to observe that the High Court in that case was totally in error when it stated that there was no legal duty cast upon the plaintiff to come to the court with a true case and prove it by true evidence. Their Lordships stated: (SCC p. 5, para 5)

"The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank loan-dodgers and other unscrupulous persons from all walks of life find the court process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, whose case is based on falsehood, has no right to approach

the court. He can be summarily thrown out at any stage of the litigation."

*26. The High Court, as a court of record, has exercised its jurisdiction to set at naught the order of the Forest Tribunal thus procured by the appellant by finding that the same is vitiated by fraud. There cannot be any doubt that the Court in exercise of its jurisdiction under Article 215 of the Constitution of India has the power to undo a decision that has been obtained by playing a fraud on the Court. The appellant has invoked our jurisdiction under Article 136 of the Constitution of India. When we find in agreement with the High Court that the order secured by him is vitiated by fraud, it is obvious that this Court should decline to come to his aid by refusing the exercise of its discretionary jurisdiction under Article 136 of the Constitution of India. We do not think that it is necessary to refer to any authority in support of this position except to notice the decision in *Ashok Nagar Welfare Assn. v. R.K. Sharma* [(2002) 1 SCC 749 : 2001 Supp (5) SCR 662]."*

55. The finality does not immunize fraud. Even where a Competent Court has rendered a final decision, fraud discovered later can invalidate that decision and permit recall or correction. The finality of judicial proceedings cannot

cure fraud and the fraud, if discovered later, is a ground to reopen or declare a final decision as void.

56. A Government decision or the decision of a statutory body can be allowed to be recalled or set aside where fraud or suppression of material facts tainted the proceedings, even after lapse of long standing of the orders obtained by fraud and challenge having been failed to such an order. A fraudulently earned Governmental or judicial advantage cannot be insulated from correction. The remedy often lies in recalling or quashing the offending order as held in **HAMZA HAJI** (*supra*).

57. In the present case, as we have noted the facts, the aforesaid fraud was not discovered in the earlier proceedings under which the land acquisition was carried out in favour of the respondent i.e., M/s. Lakeview Tourism Corporation. After going through all the records, we have noted the facts which would clearly indicate a monumental fraud having been committed by the State Authorities in collusion, collaboration and criminal conspiracy with the private individuals. Therefore, we are of the considered view that the earlier judgments would not come in the

way of declaring the land acquisition proceedings as null and void as they are vitiated from the very inception on the ground of fraud and misrepresentation.

VIII ANALYSIS AND CONCLUSION:

58. Thus, public purpose is central and indispensable prerequisite for land acquisition under the Indian law. The acquisition of land and property of private individuals in exercise of the eminent domain by the State can justify when it is done for public good. If the Court, on scrutiny, finds that the exercise of the power by the State is a colourable exercise or with *mala fide* motive, such acquisition will be held to be illegal and unconstitutional and against the rule of law. The public purpose requirement is the touchstone for validity of the land acquisition proceedings and the Court would not hesitate in interfering with such acquisition if it is found that the acquisition was a colourable exercise and for not genuine public purpose.

59. The public purpose doctrine survives constitutional amendments and remains a test even after 44th Amendment, while Article 300A requires that in order to become "authority of law" and in order to become a cause for deprivation of property, public purpose continues to frame the legitimate scope of acquisition and the manner of compensating owners. If the acquisition is challenged, it would be the obligation of the State to prove the public purpose and adhere to the statutory procedures as prescribed under the statute. In any acquisition of the land or the property, public purpose is a constitutional precondition besides compensation.

60. In **K.T. PLANTATION** (*supra*), it has been held that public purpose may be scrutinized in the light of developmental goals, economic sovereignty and broader welfare considerations as was held in **SOORARAM PRATAP REDDY** (*supra*). It would be a colourable exercise of power of eminent domain if the project is framed for public purpose, but it is, in substance, for

private gain. When the acquisition is not for genuine public purpose, but it is masked for private gain, this would be a colourable exercise of the power and fraud on the statute and Constitution and against Articles 14, 19 and 21 of the Constitution of India.

61. Looking at the facts of this case, we are of the view that the entire exercise of acquiring the land for a non-existent entity was nothing but a monumental fraud committed by the authorities in criminal conspiracy with the applicant and the Directors of Lakeview Development Corporation Private Limited, which was incorporated only in the year 2011. This was a fraud on statute to deprive the landowners of their valuable property for pittance on behest of a non-existent entity. As the State instrumentality itself was involved in criminal conspiracy with the private individuals, we need to get this matter investigated by an independent agency for the crime committed by the persons including the State Government officials and the private individuals.

62. The decision for acquiring the land for the respondent-entity was taken by an Authority in the State. We cannot expect an impartial and independent investigation at the hands of the State agencies when the State instrumentally itself was involved in committing the monumental fraud as pointed out above. Therefore, it is required that the matter should be investigated by an independent agency for proper, impartial and unbiased investigation. Hence, we deem it appropriate to entrust the investigation to the Central Bureau of Investigation.

63. We, therefore, direct registration of a criminal case by the Central Bureau of Investigation for investigation of the offence(s) bringing to the book the persons of the Government machinery as well as the private individuals who were involved in this statutory and constitutional fraud.

64. In view of the aforesaid discussion, we quash the entire acquisition made by the State Government for a non-existent entity with costs of Rs.10 lakhs to be paid by

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the respondent No.4 i.e., M/s. Lakeview Tourism Corporation in the Army Battle Casualties Welfare Fund within a period of four weeks from today.

65. Accordingly, the writ appeals stand allowed.

66. In view of disposal of the writ appeals, pending IAs, if any, do not survive for consideration and accordingly, they stand disposed of.

67. Let a copy of this judgment be forwarded to the Director, Central Bureau of Investigation, for necessary compliance.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

CT-SN
BKV