IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF FEBRUARY, 2025

R

BEFORE

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 37140 OF 2000 (LA-RES)

C/W

WRIT PETITION NO. 3884/1999 (LA-RES)

IN W.P.NO.37140/2000

BETWEEN:

JAMNALAL BAJAJ SEVA TRUST
VISHWA NEEDHAM FARM,
MAGADI ROAD, BANGALORE
REPRESENTED BY ITS TRUSTEES:

1. SRI RAHUL BAJAJ
   TRUSTEE/CHAIRMAN,
   C/O BAJAJ AUTO,
   AKRUDI,
   PUNE-411 035

2. SRI SEKHAR BAJAJ,

3. SRI D S MEHTA,

4. SRI MOHARIKAR

5. SMT. MEENAKSHI BAJAJ

6. SMT. KIRAN BAJAJ

7. SMT. VINOD NEVATIA

   PETITIONERS NO.2 TO 7 ARE
   R/A BAJAJ BHAVAN, II FLOOR, 226,
   JAMNALAL BAJA MARG,
   NARIHMAN POINT, BOMBAY - 400 021

…PETITIONERS

(BY SRI. UDAYA HOLLA, SENIOR COUNSEL A/W
SRI. P.N.RAJESHWAR, ADVOCATES)

AND:

1 . STATE OF KARNATAKA,
BY ITS SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, M S BUILDING,
BANGALORE – 560 001.

2 . THE DEPUTY COMMISSIONER,
BANGALORE DISTRICT,
KRISHI BHAVAN, BANGALORE.

3 . THE SPECIAL LAND ACQUISITION OFFICER,
VISWESWARAYYA CENTRE,
III FLOOR, PODIUM BLOCK,
DR. AMBEDKAR ROAD, BANGALORE – 560 001.

4 . AGRICULTURAL PRODUCE MARKET COMMITTEE,
YESHWANTHPURA, BENGALURU.

…RESPONDENTS

(BY SRI. KIRAN V RON, AAG A/W
SRI. RAJKUMAR, AGA FOR R1 TO R3 AND
SRI. K.G.RAGHAVAN, SENIOR COUNSEL A/W
SRI. NANDA KISHORE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, 1950 PRAYING TO QUASH THE IMPUGNED NOTIFICATION AT ANNEXURE-B DATED 13.04.1999 GAZETTED ON 16.04.1999 IN NO.LAQ(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.AQB-99 ISSUED BY THE FIRST RESPONDENT; IN SO FAR AS PETITIONER'S TRUST IS CONCERNED.

IN W.P.NO.3884/1999:

BETWEEN:

JAMNALAL BAJAJ SEVA TRUST,
BY ITS JOINT SECRETARY,
VISHWANEEDAM FARM,
MAGADI ROAD, BENGALURU

…PETITIONER

(BY SRI. UDAYA HOLLA, SENIOR COUNSEL A/W
SRI. P.N.RAJESHWAR, ADVOCATES)

AND:

1 . THE STATE OF KARNATAKA,
BY THE SECRETARY TO THE GOVERNMENT,
REVENUE DEPARTMENT,
M.S.BUILDING,
BENGALURU – 560 001.

2 . THE DEPUTY COMMISSIONER,
BANGALORE DISTRICT,
KRISHI BHAVAN,
BANGALORE

3 . THE SPECIAL LAND ACQUISITION OFFICER,
VISWESWARAYYA CENTRE,
III FLOOR, PODIUM BLOCK,
DR. AMBEDKAR ROAD,
BANGALORE – 560 001.

4 . AGRICULTURAL PRODUCE MARKET COMMITTEE,
BY ITS SECRETARY,
YESHWANTHPURA MARKET YARD,
YESHWANTHPURA, BENGALURU.

…RESPONDENTS

(BY SRI. KIRAN V RON, AAG A/W
SRI. M.RAJKUMAR, AGA FOR R1 TO R3 AND
SRI. K.G.RAGHAVAN, SENIOR COUNSEL A/W
SRI. NANDA KISHORE.,ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, 1950 PRAYING TO DECLARE THAT THE ENTIRE ACQUISITION PROCEEDINGS COMMENCING WITH THE ISSUE OF A PRELIMINARY NOTIFICATION GAZETTED ON 03.09.1994 MARKED AS ANNEXURE-A, IN THE WRIT PETITION, HAVE LAPSED ON ACCOUNT OF THE AWARD NOT BEING MADE WITHIN A PERIOD OF TWO YEARS IN TERMS OF SECTION 11-A OF THE LAND ACQUISITION ACT AND ETC.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDER, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT

CAV ORDER

A PRELUDE TO THE PETITIONS:

1.1 These two petitions by the Public Charitable Trust call in question land acquisition proceedings. This Trust is said to have been established by Shri Jamnalal Bajaj at the instance of Acharya Vinobha Bhave (1895-1982) vide registered instrument dated 7.9.1942 *inter alia* with the object of providing relief to the poor and education to the masses regardless of caste, creed & the like. It runs an Ashram/Sarvodaya Centre to carry on philanthropic activities also. Subsequently, the Trust has been registered under the provisions of erstwhile The Bombay Public Trusts Act, 1950 vide Registration Certificate bearing No.1417 dated 23.8.1961.

1.2 The case in W.P.No.3884/1999 (LA-RES) involves Preliminary Notification dated 2.9.1994 gazetted on 3.9.1994; it is followed by Final Notification dated 10.10.1996 gazetted on 31.10.1996. These Notifications comprise of lands in all admeasuring 172 Acres & 22 Guntas in several survey numbers of Srigandhada Kaval Village. It is a case of acquisition in usual procedure. These lands are intended to be used for the establishment of Market Yard by the Agricultural Produce Marketing Committee, Bangalore (hereafter 'APMC').

1.3 The companion case in W.P.No.37140/2000 (LA-RES) calls in question the acquisition proceedings by invoking urgency clause. It comprising of 104 Acres & 5 Guntas of lands in several survey numbers in Herohalli Village, for the purpose of establishing Mega Market. Both these villages are in Bangalore North Taluk. Statement of Objections are filed resisting the petitions.

1.4 During the pendency of petitions, certain developments took place and accordingly, amendments with leave of the court have been effected to the pleadings. Added, applications are also filed for taking up additional pleas/contentions by both the sides, opposing each others stand.

2. FOUNDATIONAL FACTS OF THE CASE AS EMERGING FROM THE RECORD:

(a) The 4th respondent-AMPC in these petitions is established under the provisions of the Karnataka Agricultural Produce Marketing (Regulation and Development) Act, 1966. This Act seeks to protect and further the interest of agriculture & agriculturists in the State. APMC intended to establish a Mega Market that would benefit the agriculturists and therefore, it requires the following lands of the petitioner-Trust:

(i) 172 acres & 22 guntas in Srigandhakaval Village;
(ii) 104 acres & 05 guntas in Herohalli Village; and
(iii) 3 acres & 34 guntas in Herohalli Village.

The Preliminary Notification was issued u/s 4 of the 1894 Act on 11.10.1994 comprising the aforesaid Herohalli lands. It was published in the gazette on 3.9.1994. It was also published in the local Kannada newspapers namely Sanje Vani and Samyukta Karnataka on 17.9.1994; a copy was also affixed to the chaawdi (Village Administrative Office) on 11.10.1994. Final Notification u/s 6(1) came to be issued on 10.10.1996. It was published in an English daily i.e., Indian Express dated 30.10.1996 and a Kannada daily i.e., Samyukta Karnataka dated 31.10.1996; a copy of the same was affixed to the village chaawdi on 6.12.1996. The draft award was prepared on 12.8.1998 for a compensation of Rs.9,14,14,837/-.

(b) Petitioner's other lands in Herohalli Village admeasuring 104.5 Acres were also notified in the Preliminary Notification dated 13.4.1999. The Final Notification came to be issued on 26.10.1999 wherein an

extent of 100 Acres & 11 Guntas of land was comprised. Panel Counsel for APMC contended that 3 Acres & 34 Guntas of land was inadvertently left out and that was notified u/s 4 on 3/27.4.2001, although no Final Notification had followed. This acquisition is quashed in petitioner's W.P.No.19579/2001 vide order dated 12.03.2023. Urgency clause having been invoked in respect of an extent of 65 Acres & 19 Guntas of Herohalli land, the possession of land disputedly has been taken over on 6.10.2000. For this, a compensation of Rs.2,36,96,175/- was handed to the petitioner, admittedly.

(c) The learned Single Judge vide order dated 24.6.2014 had held the acquisition as having lapsed u/s 24(2) of 2013 Act that came into force *pendente lite.* Petitioner vide three demand drafts all dated 18.10.2014 returned the said amount, by addressing a letter dated 18.10.2014 to the SLAO. All this is also not in dispute. This order was affirmed by the Division Bench in W.A.No.1732/2014 vide order dated 13.09.2017, affirming the statutory lapse of

acquisition. APMC/s R.P.No.539/2017 also came to be negatived by another Coordinate Bench vide order dated 28.06.2019.

(d) In the long last, the Apex Court in SLP (C) No.14524/2022 disposed off on 22.03.2022 has set aside the orders of Division Bench and learned Single Judge, remanding the petitions for consideration afresh, in a time bound manner. We apologetically say that for a host of reasons including adjournments taken up by the parties on several occasions, the time prescription could not be adhered to. This is unhappy part of this case.

3. Learned Senior Advocate Mr.Udaya Holla's arguments made on behalf of the petitioners are succinctly stated below:

3.1 Absolutely there is no justification whatsoever for invoking the urgency clause for acquisition; circumspection in its exercise is not exhibited. Even otherwise, conditions precedent for such invocation i.e., requirement of paying 80% of compensation, etc., having not been complied with, the invocation is vitiated.

3.2 APMC itself having shifted the project to some other place, it has abandoned the acquisition and the purpose of acquisition of subject lands has thus withered away; in fact, Mega Market in other place have already come up.

3.3 No reasons are assigned for dispensing with section 5A enquiry prescribed under 1894 Act; there is a thorough non-application of mind by the jurisdictional authorities to the material borne out by record; even otherwise, the whole exercise smacks of legal malice/malafide.

3.4 The gap between Preliminary Notifications and Final Notifications exceeds the statutory limitation period; similarly, gap between Final Notifications and passing of award transcending the statutory period, acquisition proceedings have lapsed u/s 11A of the Act.

3.5 Having called the meeting to discuss about the market value, subsequently the official respondents took up a contra stand to the prejudice of petitioner-Trust. Thus, the action is vitiated by legal malice and violation of applicable fairness standards.

3.6 Lands of petitioner-Trust of the kind cannot be casually notified for acquisition unlike in the case of lands of other private persons; the State ought to have explored the possibility of acquiring others lands in the vicinity which abundantly avail for acquisition. In making the

decision to acquire these lands, the objectives of the Trust and their fruition for decades have not been taken into consideration.

In support of his submissions, Mr.Holla pressed into service certain Rulings.

4. Learned Senior Advocate Mr.K.G.Raghavan and learned Senior Panel Counsel Mr.Nanda Kishore appearing for the APMC and learned Additional Advocate General Mr.Kiran V. Ron representing the State, vehemently resisted the petitions making submission in justification of acquisition in question. The gist of their submission is as under:

4.1 The adjudicatory scope of these petitions is restricted by the Remand Order of Apex Court; various contentions urged by the petitioners transcend the scope of remand.

4.2 Urgency clause has been invoked only after ascertaining the factuals; the decision to invoke urgency clause essentially belongs to the domain of Executive.

4.3 At no point of time, the APMC has given up the project in question; petitioner's contra contention is because of its wrong construing of some observations of

the court in some collateral proceedings; now APMC's application for clarification in that regard is pending.

4.4 Petitioner having participated in the proceedings held for determination of market value, has acquiesced in the acquisition and therefore, it is estopped from challenging the same, as has been consistently held in a catena of decisions, there being no contra circumstances.

4.5 The requirement of paying 80% of compensation for invoking urgency clause is substantially complied with by making deposit since ceiling proceedings u/s 66 of the Karnataka Land Reforms Act, 1961 were pending; petitioner having received a substantial part of compensation i.e., Rs,3,30,03,203/-, way back in February 2003 by executing an Indemnity Bond dated 11.2.2003. Subsequently i.e., after more than a decade, it returned the same after a learned Single Judge had held the acquisition as having lapsed.

4.6 Once the acquisition is accomplished by taking possession of the subject lands, State's title cannot be impeached even if the proceedings are infected with legal infirmities; the only remedy in such a circumstance is to claim for additional/penal interest on the compensation amount.

4.7 Statutory timelines for issuing Final Notifications have to be computed from the date of affixture of notice to chaawdi; further, if the period of interim orders of court in these or other related proceedings is discounted, there is no violation of timelines; for the same reason, acquisition proceedings do not lapse u/s 11A of 1894 Act.

4.8 Law of acquisition broadly emanating from the doctrine of eminent domain does not differentiate between private lands owned by Public Trusts and those owned by others. No case is made out for any special treatment in favour of the petitioner-Trust.

In support of these contentions, they too relied upon certain Rulings.

5. Having heard the learned counsel for the parties and having perused the Petition Papers and also having adverted to relevant of the Rulings cited at the Bar, I decline indulgence in the matter for the following reasons:

5.1. AS TO APEX COURT'S REMAND ORDER AND ADJUDICATORY SCOPE OF PETITIONS:

(a) A checkered history of these cases need not be much ventured. Suffice it to say that the subject acquisition had been held by a Coordinate Bench as 'lapsed' u/s 24 of the

Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013; that decision came to be affirmed by the Division Bench in intra court appeals; APMC mounted further challenge to the same in Civil Appeal Nos.1345-1346 of 2022 successfully. Apex Court allowed the said appeals on 22.03.2022 holding that the acquisition has not lapsed; therefore, the petitions came to be remanded for consideration afresh. There is absolutely no dispute so far as these facts are concerned.

(b) The contention of respondents that going by the findings in the above Remand Order, more particularly the observations at paragraphs 3.2.1 to 3.11.3, the scope of adjudication has been restricted, is bit difficult to agree with. The very following observations of the Apex Court in the Remand Order lend credence to this view:

(i) At Paragraph 8.2:-

> *"Despite the fact that a number of issues/grounds were raised before the High Court on the legality and validity of the acquisition proceedings, the learned Single Judge decided only one issue, namely, whether the acquisition proceedings have lapsed by*

virtue of the 2013 Act. Whereas a number of issues/grounds were raised and as such the original reliefs sought (acquisition proceedings under Act 1894) were the main reliefs which were required to be dealt with and considered, unfortunately, the learned Single Judge did not give findings on the other issues/grounds and on the reliefs sought and as observed hereinabove, disposed of the writ petitions considering only one relief/ground, namely, whether the acquisition proceedings have lapsed by virtue of the 2013 Act. When a number of submissions were made on the other issues/grounds, we are of the opinion that the High Court ought to have considered the other issues and ought to have given the findings on other issues also. Because of not deciding the other issues and deciding the matter only on one issue and thereafter when the decision on such one issue, is held to be bad in law for the reasons stated hereinbelow, this Court has no other alternative but to remand the matters to the learned Single Judge for deciding the Writ Petitions afresh on all other issues."

(ii) At Paragraph 11:-

"…though a number of other issues were raised on the legality of the acquisition proceedings under the Act, 1894 and though other points for consideration were raised/framed by the High Court reproduced hereinabove, since none of the issues are adjudicated by the High Court on merits, we have no other alternative but to remand the matter to the learned Single Judge for deciding the writ petitions afresh and to adjudicate on all the other issues, other than the lapse of acquisitions under subsection (2) of section 24 of the Act, 2013. At the cost of repetition, we observe that the High Court ought to have adjudicated on all the issues

raised and ought not to have decided and disposed of the writ petitions, adjudicating only on one issue which has been found to be erroneous…"

(iii) At Paragraph 12:-

"…The matters are remitted back to the learned Single Judge to decide and dispose of the aforesaid writ petitions afresh and in accordance with law and on their own merits. The learned Single Judge to adjudicate all other issues which were framed reproduced hereinabove and pronounce the judgment on all the points framed for consideration… It is also made clear that on remand the learned Single Judge to adjudicate and pronounce the judgment on all other issues except the issue with respect to the lapse of the acquisition proceedings by virtue of the Act, 2013…"

(c) The above being said, still there is scope for arguing as to what all contentions need to be considered by this Court. As a first step in that direction, let me see the issues/points framed by the learned Coordinate Judge for consideration in these petitions. They are (as reproduced at paragraphs 3.13 & 8.2 of the Apex Court's order itself) as under:

"…a. Whether the disposal of these petitions should be 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."

(d) The Issue No.(a) now would pale into insignificance because of consensual stand at the Bar that a Coordinate Bench of this Court in W.P.No.55344/2017 (LR-RES) C/w W.P.No.3848/2021 (KLR-CON), has set aside Land Tribunal's order dated 28.11.2017 *inter alia* holding the subject land to be not 'agricultural lands' within the meaning of section 2(18) of the 1961 Act. The same has been upheld by the Division Bench in State's W.A.No.1089/2021 (LR) vide order dated 22.6.2022 and further that State's SLP (C) No.14524/2022 filed against

the same came to be dismissed on 29.08.2022. Issue No.(e) as to lapse of subject acquisition proceedings u/s 24(2) of 2013 Act stands foreclosed by the Remand Order and therefore, now it cannot be re-agitated. As a consequence, only Issue Nos.(b), (c) & (d) above and those relevant to the said issues would remain for consideration, as rightly submitted by Mr.Holla.

5.2 AS TO ACQUISITION BY INVOKING URGENCY CLAUSE AND CONVENTIONAL CLAUSE:

(a) The first contention of the petitioner-Trust that there is absolutely no justification for acquiring the subject lands, more particularly, by invoking the urgency clause enacted in Section 17(3A) of the 1894 Act, is bit difficult to countenance. Power of eminent domain is recognized as an attribute of State Sovereignty, since more than a century in all civilized jurisdictions. Ramanatha Aiyar, a great jurist of yester decades who later embraced samnyaasa, defined[1] "eminent domain":

> *"The right of the State or the sovereign to its or his own property is absolute while that of the subject or citizen to his property is only*

[1] The Law Lexicon Reprint Edn. 1987, p.385,

> *paramount. The citizen holds his property subject always to the right of the sovereign to take it for a public purpose. This right is called 'eminent domain."*

This juristic opinion is reiterated by the Apex Court in ***JILUBHAI NANBHAI KHACHAR vs. STATE OF GUJARAT***[2]. In Wesley Newcomb Hohfeld's terminology[3], the word 'authority' instead of 'right' would be appropriate since in exercise of such authority, the property right of private entity is diminished, its jural correlative namely sufficient elements of duty, in the circumstances lacking.

(b) The above view is more true because, constitutional guarantee to Fundamental Right to Property u/a 19(1)(f), is no longer on the statute book although its diminished version has been enacted in Article 300A vide 44th Constitutional Amendment w.e.f. 10.06.1979. State can take private property for public purpose normally on payment of compensation, as discussed in ***K.T.PLANTATION PRIVATE LIMITED vs. STATE OF***

---

[2] (1995) Supp(1) SCC 596

[3] FUNDAMENTAL LEGAL CONCEPTIONS AS APPLIED IN JUDICIAL REASONING

KARNATAKA[4] cannot be disputed. Of course, it is a discretionary power of great implications and as any discretion, it too can be exercised only in accordance with the rules of reason & justice as observed by Lord Halsbury in ***SUSANNAH SHARP vs. WAKEFIELD***[5]. I hasten to add that Mr.Holla's contention as to unjustifiability of the decision to dispense with Section 5A enquiry cannot be sustained because of what has been enacted in sub-section (4) of section 17 w.e.f. 16.04.1999. The very purpose of invoking urgency clause is to accomplish a task on a fast track, if not on war-footing. The authority need not assign a cart load of reasons for that. At times, the reasons for invoking the urgency clause partake the character of reasons for dispensing with the summary enquiry u/s 5A, as has happened in this case. Years have lapsed in the litigation process, would not be a point in adjudging validity of invocation, *actus curiae neminem gravabit* literally meaning that an act of the court shall prejudice

---

[4] (2011) 9 SCC 1

[5] (1891) A.C. 173, 179

none; an act of court includes pendency of the proceedings vide *A.R.ANTULAY vs. R.S.NAIK*[6]

(c) India is predominantly an agricultural country. It can be said that agriculture is national culture. In *M.C.MEHTA (STUBBLE BURNING AND AIR QUALITY) vs. UNION OF INDIA*[7], at para 9, the Apex Court observed:

> *"…Agriculture is the backbone of the economy of this country. Its interest cannot be overlooked… the State has the obligation towards the agriculture… They cannot ignore the interest of the small and marginal farmers. It is the bounden duty of the Central as well as the State Government to ensure the interest of these class of farmers is catered and they have the facilities of farming and harvesting by modern machines…"*

Any step aimed at agrarian reforms, the term being construed in its wide amplitude, has the constitutional support. It cannot be disputed that the contemplated Mega Market of the kind would enure to the benefit of farmers immediately and agriculture mediately. Therefore, it cannot be gainfully contended that the same is not a public purpose. Nor there is any warrant for the contention that

---

[6] AIR 1988 SC 1531

[7] 2019 SCC OnLine SC 1733

while invoking urgency clause, the State should exercise circumspection, merely because the lands belong to a public trust of the kind. Ideally speaking, if it figures as a factor, that would be appreciable in a Welfare State. No Ruling nor any juristic opinion in support of the contra is cited.

(d) It is relevant to mention what experts in the domain have opined in this regard. V.G.Ramachandran[8] an acclaimed jurist of yester decades states as under:

> *"…It is for the appropriate Government, to apply its mind to the facts of the case and satisfy itself that there is an urgency in the land acquisition and that the urgency is so great that the normal procedure of calling upon aggrieved persons to file objections should be dispensed with and that the declaration and further proceedings should take place with great expedition… It is well settled that the question of urgency is a matter for the subjective satisfaction of the appropriate Government and it is not open to the courts to examine the propriety or correctness of the satisfaction on an objective consideration of facts. The opinion of the appropriate Government can only be challenged in a court of law if it can be shown that the Government never applied its mind to the matter or that the action of Government is mala fide..."*

[8] 'Law of Land Acquisition and Compensation', Eastern Book Company, 8th Edition, Pg.457

In ***UOI v. PRAVEEN GUPTHA***[9], the Apex Court has observed that there is no need for the Government to pass any reasoned order to reach the conclusion that there is urgency so as to dispense with the enquiry u/s. 5A of the 1894 Act.

5.3 The vehement submission of Mr.Holla that the invocation of urgency clause for acquisition and initiation of normal acquisition are tainted by non-application of mind and smack of legal malice & arbitrariness, is difficult to countenance and reasons for this are not far to seek:

(a) The decision to notify acquisition is essentially of the Executive, be it by way of urgency or in usual course. Ordinarily, Writ Courts do not undertake a deeper examination of such decisions, that are made on the basis of a host of factors which by their very nature are not judicially assessable. Courts as of necessity have to show due deference to such decisions of the Coordinate Branch of the State, subject to all just exceptions. Despite

[9] (1997) 9 SCC 78

vociferous submissions, no such exceptional case is demonstrated before me. In ***CHAMELI SINGH v. STATE OF UP***[10]***,*** it is observed that the opinion of urgency formed by the appropriate Government is a subjective conclusion drawn based on the material before it and therefore, the same is entitled to a great weight. In ***FIRST LAND ACQUISITION COLLECTOR vs. NORODHI PRAKASH***[11]***,*** it is said that the question of urgency is a matter of subjective satisfaction of the Government and ordinarily, it is not open to the courts to undertake a deeper scrutiny of the propriety of that satisfaction on an objective appraisal of facts.

(b) The APMC by Resolution dated 18.1.1999 vide Agenda No.3, had stated about the requirement of lands for the above purpose. A proposal was sent to the Director, Department of Agricultural Produce, Government of Karnataka, to take steps in that direction through Single Window Agency of the State. The decision was finalized at

---

[10] (1996) 2 SCC 549

[11] (2002) 4 SCC 160

the level of the government in the meeting held in the year 1999. Several other meetings followed under the Chairmanship of Additional Director, Department of Agricultural Produce; the APMC letters dated 21.1.1999, 4.2.1999, 15.2.1999, 17.2.1999, 26.2.1999 concerning the subject speak all about this. These letters are not in dispute. Thus, it is not that the decision to invoke the urgency clause of acquisition was taken overnight and at the spur of the moment. Several meetings and deliberations were held with the participation of the high functionaries of the government as is reflected from the original records exhibited to the court. A lot of deliberation animated the decision making process. Therefore, there is no merit in the contention that the invocation of urgency clause is vitiated either by non-application of mind or by legal malice.

(c) Mr.K.G.Raghavan and Prof.Nanda Kishore appearing for the APMC are right in contending that in what cases, urgency clause needs to be invoked, is again a matter of Executive decision, and a Writ Court cannot undertake a

deeper examination of such decisions, conventional constraints of writ jurisdiction being what they are. It is on the basis of High Power Committee deliberation, the subject acquisition process has been undertaken and therefore, such a process cannot be said to have been vitiated by the non-application of mind to the material borne out by record. Which part of the relevant material is lost sight of, is not demonstrated. I hasten to add that, a plea of non-application of mind avails as a ground of attack to the statutory proceedings when application would have brought about a different end product, and not otherwise.

5.4 The next contention of petitioner that for invoking the urgency clause of acquisition, the pre-condition of paying 80% of compensation is a must, cannot be disputed, section 17(3A) of 1894 Act being as clear as gangetic waters. Such a view gains support from Mr.Holla's citation in ***DELHI AIRTECH SERVICES PVT. LTD vs. STATE OF U.P***[12]*.* Let me examine whether the

[12] 2022 SCC OnLine SC 1408

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 petitioner-Trust 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.

5.6 AS TO LAPSE OF ACQUISITION PROCEEDINGS BECAUSE OF JUMPING OF TIMELINES:

(a) The vehement submission of Mr.Holla that the gap between Preliminary Notification and Final Notification being in excess of the statutorily prescribed limit, the

acquisition proceedings have lapsed, appears attractive at the first blush. However, a deeper examination of the attending circumstances emanating from the record would dispel the contention. 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 KARNATAKA***[13] in support of this. There is absolutely no scope for invoking section 11A of the 1894 Act, either.

5.7 AS TO ACQUIESCENCE IN ACQUISITION PROCEEDINGS:

(a) Learned AAG Mr.Kiran V.Ron is right in contending that the petitioner-Trust having acquiesced in acquisition proceedings by virtue of evincing interest and further participating in the meetings held for fixation of market value of the lands in question. The representatives of the petitioner namely Sri.Halbe and Sri.S.B.Pande, CEO of the Trust, participated in the meeting held on 24.09.1999 chaired by none other than the Principal Secretary to Government, Department of Revenue, for the fixation of land value. The representatives insisted that an amount of

[13] ILR 1991 KAR 1183

Rs.17.50 lakh per acre of land in Srigandhadakaval. After negotiation, the proceedings sheet was drawn as agreed by the parties. The operative portion of the same reads as under:

> "(4) *That the Khatedars will executive an agreement in Form 'D' a required under Rule 108 of the Karnataka Land Acquisition Rules c/w Sub-section (2) of Section 11 of the Land Acquisition Act, 1894 as per Circular dt. RD 136 AQW 86 dt. 7.8.1986.*
>
> *(5) That the khatedars will also execute an Indemnity Bond and the Special Land Acquisition Officer is authorized to sign the agreement and the Indemnity Bond.*
>
> *(6) That they will hand over the possession of lands wherever there are no litigation immediately."*

(b) The LAO vide letter dated 11.10.1999 informed the CEO of the petitioner that in terms of the proceedings drawn in the above meeting, petitioner would be paid compensation at the rate of Rs.15 lakh in respect of 172 acres 04 guntas of Srigandhadakaval land. Petitioner-Trust vide letter dated 9.10.2000 at paragraphs 7 & 8 had said as under:

> "*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 at 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."*

(c) Learned AAG is right in pressing into service *Krishnamoorthy supra* wherein, paragraph 14 reads as under:

> *"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 6th November 1989) as follows:*
>
> *"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."*

A Coordinate Bench of this court in ***ROY RODRIGUES vs. GOVERNMENT OF KARNATAKA***[14] repelled the challenge to acquisition on the ground that the land owner himself

[14] 2009 SC OnLine Kar 290

had sought for payment of compensation. Another Coordinate Bench in ***SRI.M.GAJENDRA vs. STATE OF KARNATAKA***[15] negatived the challenge to acquisition on the ground that the land owner vide communication dated 3.5.2013 had sought for payment of compensation and that amounted to consenting to the acquisition. The vehement submission of Mr.Holla that the authorities have gone back on their assurance of making the payment and further, petitioner's participation in the price fixation meeting was after reserving right to challenge the acquisition, does not make much difference: Firstly, the ceiling u/s 66 of 1961 Act that touch divestation of petitioner's title to the lands were pending at large. Secondly, pursuant to price fixation, petitioner accepted a huge sum of money in crores and had retained the same for a decade and a half and presumably earned interest on that. Therefore, petitioner cannot be permitted to approbate & reprobate, to say the least. One who expects fairness should also reciprocate the same.

5.8 Lastly, Mr.Holla contended that the authorities having established the Mega Market of the kind elsewhere in the city have given up the very acquisition. In support of that, he drew my attention to the observations allegedly made

[15] 2015 SCC OnLine Kar 5679, para 9

by a Coordinate Judge of this court in the order dated 27.02.2013 whereby, W.P.Nos.7389-7658/2013 (APMC) has been disposed off to the effect that the very project in question having been shifted to other place, the substratum for acquisition has withered away. Para 4 in the order reads as under:

> "*The third respondent has filed statement of objections interalia contending that on account of certain litigations in the matter of acquiring the land, they have dropped the proposal to establishing sub market yard at Sriganda Kaval. As early as 07.10.2009, they issued a notification under Section 6 (2) of the Act to establish Dasanapura market yard in an area of 67.25 acres. Further by spending more than 100 crores rupees, the land is acquired and as many as 240 godowns are constructed at Dasanapura market yard…*"

The above observations cannot be construed as the finding of the court, as rightly contended by learned Senior Advocate Sri.K.G.Raghavan appearing for the respondent-APMC. His contention is supported by further observation in the very same paragraph "*… It is further contended that the procedure under sections 3 and 4 of the Act is required to be followed only in the case of establishing new market yards… On these grounds, the respondents opposed the*

claim of the petitioners." That was only a contention taken up by the APMC to resist the writ petition filed by the farmers for quashing the notification dated 24.1.2013 and for a direction to consider their representation dated 30.01.2012. Under the said notification, the APMC had invited applications for allotment of shops on leave cum license basis in the newly constructed market yard at Dasanapura. Therefore, such a contention cannot be construed as being on pervasive to defeat the resistance of the APMC to the challenge to acquisition. After all, pleadings of the parties have to be construed in the light of dominant nature of the *lis*. In any rate, there is no finding recorded by a Coordinate Judge as to dropping of the Mega Market project in question. It is told at the Bar that belatedly some clarification is sought for at the hands of another Coordinate Judge by moving an application in the disposed off writ petition. This the APMC has done after contention was taken up as to dropping of the project itself. This apart the petitioner was not a party to the said writ petition and therefore, that would not res judicate

contention of the said respondent. Pendency of said application pales into insignificance in disposing off this matter.

In the above circumstances, these petitions are disposed off with the following directions:

[i] The challenge to acquisition in both the petitions fails and the acquisition is held to be valid & effective.

[ii] The petitioners shall be paid the compensation for the subject lands at the rates agreed to in the Meeting held on 24.09.1999, forthwith by formally accomplishing the acquisition proceedings in accordance with law.

[iii] Keeping in view a spate of litigations and the long time spent in prosecuting them and also the skyrocketing of real estate prices, I direct the official respondents to pay to the petitioner interest at the rate of 12 % per annum in addition to what is payable under the provisions of 1894 Act, from the date of the award, within three months.

[iv] If delay is brooked in making the payment, petitioner shall be entitled to 1% additional interest per *mensem* and on payment, the same may be recovered

from the officials responsible for causing delay, and in accordance with law.

I shall be failing in my duty if I do not say that hearing of these petitions was a great learning experience for me.

Costs made easy.

Sd/-
(KRISHNA S DIXIT)
JUDGE

Snb/cbc