



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 02ND DAY OF MARCH, 2021

PRESENT

THE HON'BLE MRS.JUSTICE B.V.NAGARATHNA

AND

THE HON'BLE MR.JUSTICE N.S.SANJAY GOWDA

WRIT APPEAL No.1451 OF 2018 (LA – KIADB)

BETWEEN:

SRI. ANANTHASWAMY,
S/O. LATE PATEL CHIKKAHANUMAIHAH,
AGED ABOUT 70 YEARS,
R/AT PATEL HOUSE,
AVALAHALLI,
BANGALORE – 560 026.
BENEFIT SENIOR CITIZEN NOT CLAIMED. ... APPELLANT

(BY SRI. B.V.RAMAN, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
DEPARTMENT OF INDUSTRIES AND COMMERCE,
BY ITS SECRETARY,
VIDHANA SOUDHA,
BANGALORE – 560 001.
2. THE KARNATAKA INDUSTRIAL
AREA DEVELOPMENT BOARD,
RASHTROTHANA BUILDING,
NRUPATHUNGA ROAD,
BANGALORE – 560 001.
REP. BY ITS EXECUTIVE MEMBER.
3. THE SPECIAL LAND ACQUISITION OFFICER,
KARNATAKA INDUSTRIAL AREA DEVELOPMENT
BOARD, (BMICP), NO.3/2, KHENY BUILDING,
1ST CROSS, GANDHINAGAR,
BANGALORE – 560 009.
4. M/S NANDI INFRASTRUCTURE CORRIDOR,

ENTERPRISE, REP. BY ITS MANAGING
DIRECTOR, OFFICE AT NO.1,
MIDFORD HOUSE, MIDFORD GARDEN
OFF. M.G. ROAD,
BANGALORE - 560 001. ... RESPONDENTS

(BY SMT. VANI.H., AGA FOR R-1;
SRI.P.V.CHANDRASHEKAR, ADVOCATE FOR R-1 & R-2;
SRI. R.V.S.NAIK, SENIOR COUNSEL FOR
SRI. T.SURYANARAYANA & SRI. NITIN PRASAD,
ADVOCATE FOR C/R-4)

THIS APPEAL IS FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER DATED 25/04/2018 IN WP 19348-349/2016 AND
23686-696 [LA-KIADB] PASSED BY THE LEARNED SINGLE
JUDGE OF THIS HON'BLE COURT AND CONSEQUENTLY ALLOW
THE SAID WRIT PETITION.

THIS APPEAL COMING ON FOR ORDERS THIS DAY,
NAGARATHNA, J., DELIVERED THE FOLLOWING:

JUDGMENT

The legality and correctness of the order dated
25.04.2018 passed in WP Nos.19348-349/2016 and
23686-696/2016 by the learned Single Judge is called in
question in this intra-Court appeal.

2. Briefly stated, the facts are,
appellant/petitioner had questioned the preliminary
notifications bearing No.CI 196 SPQ 98 dated
19.12.1998, 29.01.2003 issued under Section 28(1) of
the Karnataka Industrial Areas Development Act, 1966
(hereinafter referred to as the 'KIAD Act' for the sake of

convenience) at Annexures-A & B respectively and the declaration and final notifications bearing No.CI 196 SPQ 98 dated 08.04.2003 and 05.07.2003 issued under Section 28(4) of the KIAD Act at Annexures-C & D respectively to the writ petition. The petitioner sought for a declaration that the acquisition proceedings initiated under the KIAD Act had lapsed as per Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as the '2013 Act' for the sake of brevity) in respect of the following lands:

Sl. No.	Village	Sy. No.	Extent
1	Hosakerehalli	71/2	7A 6G
2	Pantharpalya	30	1A 23G
3	Pantharpalya	26	1A 08G
4	Pantharpalya	27	1A 02G
5	Pantharpalya	28	20 guntas
6	Pantharpalya	29	33 guntas
7	Pantharpalya	31	08 guntas
8	Pantharpalya	32	26 guntas
9	Pantharpalya	33	2A 1G
10	Pantharpalya	34	1A 31G
11	Pantharpalya	35	1A 08G
12	Pantharpalya	36	1A 10 G
13	Pantharpalya	45	2A 16G

3. According to the appellant/petitioner, the lands were acquired by late Patel Chikkahanumaiah under the respective inams abolition proceedings. Later, the lands were settled amongst the family members of the said Patel Chikkahanumaiah as per family settlement dated 26.12.1974. The aforesaid lands came to the share of the appellant herein, being one of the sons of late Patel Chikkahanumaiah. The aforesaid lands were notified under Sections 28(1) and 28(4) of the KIAD Act for the purpose of Bangalore - Mysore Infrastructure Corridor Project (hereinafter referred to as the 'BMICP' for the sake of convenience).

4. The appellant/petitioner contended that the acquisition process was not in accordance with law and therefore, the same was assailed in the said writ petition. He also contended that respondent No.4-project proponent has indulged in commercial exploitation of the lands acquired for the said purpose by selling them or entering into a Joint Development Agreement with third parties. Therefore, the aforesaid prayers were sought in the writ petition.

5. The learned Single Judge, after considering the prayers sought for in the writ petition, which are extracted from paragraph 2 of the order impugned and the statement of objections filed by respondent No.4 herein, held that the petitioner which was not entitled to any relief as per Section 24(2) of the 2013 Act, as the same was not applicable to any acquisition made under the provisions of the KIAD Act.

6. Learned Single Judge by referring to the judgment of the Hon'ble Supreme Court in the case of the ***State of Karnataka and Another vs. All India Manufacturers Organisation and Others, [(2006) 4 SCC 683]***, (*All India Manufacturers Organisation*), concerning the very same project, dismissed the writ petition. Being aggrieved, the appellant/petitioner has preferred this appeal.

7. We have heard Sri.B.V.Raman, learned counsel for the appellant, Sri.P.V.Chandrashekar, learned counsel for respondent Nos.2 & 3, and Sri.R.V.S Naik, learned Senior counsel for Sri.T. Suryanarayana and Sri.Nitin Prasad, learned counsel for caveator/respondent

No.4. and Smt. Vani H., learned Additional Government Advocate for respondent No.1 and perused the material on record.

8. Learned counsel for the appellant at the outset submitted, the impugned order was passed without hearing the learned counsel for the appellant as he was not present in Court on the day the case was disposed of. He further submitted that there are certain facts and contentions which have been adverted to in the writ petitions and those were not considered by the learned Single Judge. He submitted that the acquisition of the lands for the benefit of respondent No.4 is not in accordance with law and that the acquisition may be quashed insofar as the aforesaid extent of lands are concerned. The learned counsel for the appellant further submitted that there are certain additional documents which have to be considered in this appeal. If the same are considered, the impugned judgment would have to be then set aside.

9. Per contra, learned Senior Counsel appearing for Respondent No.4 as well as learned counsel appearing

for the Karnataka Industrial Areas Development Board ('KIADB' for short) submitted that the learned Single Judge has rightly dismissed the writ petition for two main reasons: firstly, that the appellant herein suppressed the fact that he had earlier approached this Court in W.P.Nos.43358-59/2003 assailing the very same acquisition process. Those writ petitions were partly allowed by order dated 18.12.2003, inasmuch as, 40% of the acquisition was quashed, whereas 60% of the acquisition was sustained against the appellant herein. The appellant as well as respondent No.4 had preferred their respective appeals. W.A.No.1558/2005 was filed by the appellant herein and that the said appeal was allowed on 29.06.2005, following the judgment and order passed in W.A.No.72/2004 and connected writ appeals disposed of on 28.02.2005. The entire acquisition was upheld by a co-ordinate Bench of this Court. That this very appellant had approached the Hon'ble Supreme Court in Special Leave Petition (C) Nos.1562-1563/2006 which was converted into C.A.Nos.3492-94/2005 connected with C.A.No.2141/2006, (which was filed by the appellant herein). The Hon'ble Supreme Court affirmed the

judgment of the co-ordinate Bench of this Court and the said civil appeals were dismissed on 20.04.2006. The petitioner has not disclosed any of these facts in the writ petition. Therefore, the writ petition ought to have been dismissed on the ground of suppression of material facts.

10. Secondly, the judgment of the Hon'ble Supreme Court in the case of ***Special Land Acquisition Officer, KIADB, Mysore and Another vs. Anasuya Bai (Dead) by Legal Representatives and Others, [(2017) 3 SCC 313]*** (*Anasuya Bai*), would squarely apply in the instant case, wherein it was categorically held that Section 24(2) of the 2013 Act does not apply to the acquisition proceedings initiated under KIAD Act. Therefore, the learned Single Judge was justified in dismissing the writ petition. There is no merit in this appeal and hence, the same may be dismissed.

11. Learned Additional Government Advocate also endorsed the submissions of the learned Senior Counsel appearing for respondent No.4 and learned counsel appearing for respondent Nos.2 & 3.

12. We have considered the submissions made at the Bar in light of the impugned order and the judgment of the Hon'ble Supreme Court in the case of *Anasuya Bai* and also the fact that the appellant herein had earlier approached this Court seeking quashing of the very same acquisition proceedings.

For a better understanding of the matter, it would be useful to extract the prayers sought by the appellant in the writ petition as under:

"Wherefore, the Petitioners pray for:

- i) "Issue writ of certiorari quashing the preliminary notifications bearing No.CI 196 SPQ 98 dated:19.12.1998, 29.01.2003 issued u/s 28(1) of the KIAD Act 1966, produced and marked as **ANNEXURE-A and B** respectively in so far as the Petitioners lands are concerned.
- ii) Issue a Writ in the nature of Certiorari there by quashing the declaration notifications issued u/s 28(4) of the KIAD Act 1966 bearing No.CI 196 SPQ 98 dated 08.04.2003, 05.07.2003 produced and marked as **ANNEXURE-**

C and D respectively in so far as the Petitioner's lands are concerned.

- iii) Declare that the Proceedings initiated under the KIAD Act 1996 in so far as the Petitioner's lands are concerned are lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.
- iv) Issue any appropriate writ, order or directions as this Hon'ble Court deems fit to grant in the circumstances of the case, in the ends of justice and equity."

13. On perusal of the same, it would clearly indicate that in the writ petition, petitioner had sought a two-fold prayer: one, seeking quashing of the acquisition notifications and the second, seeking a declaration that the acquisition of the lands in question had lapsed under Section 24(2) of the 2013 Act.

14. As far as first prayer is concerned, the filing of the writ petition seeking relief of quashing of acquisition notifications cannot be reconsidered and the writ petition has been rightly dismissed on the principles

of *res judicata* as well as constructive *res judicata*. In this regard, it would be useful to note that this very appellant/petitioner had approached this Court in WP.Nos.43358-59/2003. The said writ petition was partly allowed by the learned Single Judge of this Court by order dated 18.12.2003, inasmuch as 40% of the acquired lands i.e. the acquisition of the lands for township, construction of conventional centre are concerned was quashed. Insofar as 60% of the lands sought to be acquired for the formation of peripheral road, link road, service road and ramps are concerned were upheld.

15. Being aggrieved by the order of the learned Single Judge, Writ Appeal No.1558/2005 was filed by the appellant herein. That writ appeal along with connected matters were disposed of by judgment dated 29.06.2005 following the judgment in Writ Appeal No.72/2004 and connected writ appeals, which were disposed of on 28.02.2005.

16. As against the judgment of the Co-ordinate Bench of this Court, the appellant herein had preferred

the Special Leave Petition (C) Nos.1562-63/2006 before the Hon'ble Supreme Court, which was converted to C.A.No.2141/2006, and which was connected with C.A.Nos.3492-94/2005 and other Civil Appeals. The said Civil Appeals were also dismissed on 20.04.2006 and the said judgment is reported as ***State of Karnataka and Another vs. All India Manufacturers Organisation and Others, (2006) 4 SCC 683*** (*All India Manufacturers Organisation*). Paragraph 79 of the said judgment reads as under:

"79. The learned Single Judge erred in assuming that the lands acquired from places away from the main alignment of the road were not a part of the Project and that is the reason he was persuaded to hold that only 60% of the land acquisition was justified because it pertained to the land acquired for the main alignment of the highway. This, in the view of the Division Bench, and in our view, was entirely erroneous. The Division Bench was right in taking the view that the Project was an integrated project intended for public purpose and, irrespective of where the land was situated, so long as it arose from the terms of the FWA, there was no question of characterising it as unconnected with a public

purpose. We are, therefore, in agreement with the finding of the High Court on this issue."

17. Therefore, the appellant herein could not have assailed the acquisition for the second time by filing the writ petition. Hence, the writ petition was liable to be dismissed on the ground of *res judicata*. Even if the learned counsel for the appellant now contends that the appellant had certain other documents to be produced, we think that the same cannot be permitted to be furnished as the principles of constructive *res judicata* would also apply.

18. The relevant judgments on this appeal of the matter are as under:

(a) The decision of the Apex Court in ***M.Nagabhushana vs. State of Karnataka, [2011 (3) SCC 408]***, (*M.Nagabhushana*) in respect of acquisition for the very same project under consideration on the principles of constructive *res judicata* and principles of analogous to the same can also be usefully cited as follows:

"In view of such authoritative pronouncement of the Constitution Bench

of this Court, there can be no doubt that the principles of constructive res judicata, as explained in Explanation IV to Section 11 CPC, are also applicable to writ petitions."

(b) The Apex Court, in ***Shankar Co-op Housing Society Ltd., vs. M.Prabhakar & Others, [2011 AIR SCW 3033]***, (*M.Prabhakar*) held that a second writ petition on the same cause of action cannot be filed and an issue which had attained finality cannot be entertained. In the said case, the Apex Court held that the High Courts ought not to entertain and grant relief to a writ petitioner, when there is inordinate delay and unexplained delay in approaching the Court and that subsequent writ petition is not maintainable in respect of an issue concluded between the parties in the earlier writ petitions.

(c) In fact, the Apex Court has also held that decisions rendered in a public interest litigation has a binding effect vide *All India Manufacturers Organisation (supra)* as long as the litigant acts *bona fide*, as a judgment in such a case binds the public at large and bars any member of the public from coming all the way

to the Court and raising any connected issue or an issue which has been raised should have been raised on an earlier occasion by way of public interest litigation.

(d) In ***Forward Construction Co. and Others vs. Municipal Corporation of Greater Bombay and Others, [AIR 1986 SC 391]***, (*Forward Construction Co.*) the Apex court found fault with the High Court in holding that the earlier judgment would not operate as *res judicata* as one of the grounds taken in the subsequent petition was conspicuous by its absence in the earlier petition. Explanation IV to Section 11 CPC was relied upon to observe that any matter which might and ought to have been made a ground of defence or attack in such suits shall be deemed to be a matter directly or substantially issue in such suit. According to the Apex Court an adjudication is conclusive and final not only as to the actual matter determined but as to every other matter which the parties might and ought to have litigated and have it decided as incidental to or essentially connected with the subject matter of the litigation and every matter coming within the legitimate purview of the original action both in respect of the matters of claim or

defence. According to the Apex Court, the principle underlying Explanation IV is that there the parties have had an opportunity of controverting a matter that should be taken to be the same thing as if the matter had been actually controverted and decided. It is true that where a matter has been constructively in issue it cannot be said to have been actually heard and decided. It could only be deemed to have been heard and decided. It was further held that Section 11 of the CPC applies to the public interest litigation as well but it must be proved that the previous litigation was the public interest litigation, not by way of a private grievance, which was bonafide which is common and is agitated in common with others.

(e) In fact, in ***Manipur Vasant Kini vs. Union of India & Others, [1998 (3) KLJ 121]***, (*Manipur Vasant Kini*), a Division Bench of this Court has held that principle of *res judicata* applies even to public interest litigation initiated under Article 226 of the Constitution of India, even though such proceedings are not governed by the Code of civil procedure. A decision given on merits in respect of a public right claimed by the petitioners in common with others, would bind not only the petitioners,

but also all other persons interested in such right and would operate as *res judicata* barring subsequent petition in respect of same matters.

(f) ***Nagaraj (Dead) by LRs And Others vs. B.R. Vasudeva Murthy And Others, [2010 (3) SCC 353]***, (*Nagaraj (Dead) by LRs*) is also a case pertaining to the constructive *res judicata*. The Apex Court held that if a ground of attack had not been taken in any earlier proceedings, the same cannot be raised in a subsequent proceeding because of the principle of constructive *res judicata* under explanation 4 to Section 11 of the Code which is applicable to writ petitions.

19. Further, the non-disclosure of the aforesaid facts regarding earlier proceedings before this Court as well as the Apex Court in the writ petition filed by the appellant herein is a serious matter. In fact, on the ground of suppression of material and vital facts also the writ petition is liable to be dismissed as no discretion under Article 226 of the Constitution of India could be exercised in favour of a petitioner who has withheld vital facts from this Court which exercises extraordinary

original jurisdiction under Article 226 of the Constitution of India. We have closely perused the memorandum of the writ petition filed by the appellant herein. Paragraph 10 thereof reads as under:

"10. The Petitioner has not filed any other Writ Petition with regard to the subject matter pertaining to the above Writ Petitions."

The aforesaid pleading is false and this is a clear case of *Suppressio veri, Suggestio falsi*.

20. In this regard, we refer to the judgment of the Hon'ble Supreme Court in the case of ***K.D.Sharma vs. Steel Authority of India limited and others, [2008 (12) SCC 481]***, (*K.D.Sharma*), wherein it has been held that the jurisdiction of the High Court under Article 226 of the Constitution of India is extraordinary, equitable and discretionary and it is imperative that the petitioner approaching the writ Court must come with clean hands and put forward all the facts before the Court without concealing or suppressing anything and seek an appropriate relief. Where there is no candid disclosure of relevant and material facts or the petitioner is guilty of misleading the Court, the petition may be dismissed at

the threshold without considering the merits of the claim. The same rule was re-iterated in the case of ***G.Jayashree and others vs. Bhagwandas S.Patel and others, [2009 (3) SCC 141]***, (*G.Jayashree*) and also in ***Dalip Singh vs. State of Uttar Pradesh and others, [(2010) 2 SCC 114]*** (*Dalip Singh*).

21. That apart, it is also noted that the appellant has sought to raise a new ground under Section 24(2) of the 2013 Act by contending that even if the earlier round of litigation did not lead any fruitful result and although the acquisition was upheld, nevertheless on the basis of Section 24(2) of the 2013 Act, the acquisition of land in question must be deemed to have lapsed. In that regard, it is not necessary for us to dwell into the matter afresh, inasmuch as the Hon'ble Supreme Court has already decided the issue in the case of *Anasuya Bai*. That judgment has been followed by this Court in the case of the ***D.Sharanappa and Others vs. State of Karnataka, Department of Commerce and Industries, represented by its Secretary and Others, [ILR 2018 KAR 3250]***, (*D.Sharanappa*) (*Judgment authored by one of us, Nagarathna.J.*),

wherein it has been categorically held that Section 24 (2) of 2013 Act is not applicable to an acquisition proceeding initiated under the provisions of the KIAD Act.

22. Before considering this point, it would be relevant to extract Section 24(2) of 2013 Act. Section 24 of 2013 Act reads as under:

“24. Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases: (1) Notwithstanding anything contained in this Act, in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894-

(a) where no award under section 11 of the said Land Acquisition Act has been made, then, all provisions of this Act relating to the determination of compensation shall apply; or

(b) where an award under said section 11 has been made, then such proceedings shall continue under the provisions of the said Land Acquisition Act, as if the said Act has not been repealed.

(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the

commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.”

23. The title or preamble to Section 24 reads as “Land acquisition process under Act No.1 of 1894” shall be deemed to have lapsed in certain cases. It is explicit, restricted in its scope and not expansive in nature. It is only where the acquisition process has been initiated under LA Act, 1894 that the acquisition would lapse, on the existence of conditions as stated in sub-Section (2) of Section 24. Same is the case with regard to Clauses (a) and (b) of sub-Section (1) of Section 24.

24. The said Section has been interpreted by the Hon'ble Supreme Court in the case of ***Delhi Development Authority vs. Sukhbir Singh and others, [(2016) 16 SCC 258]*** (*Sukhbir Singh*). In said case the acquisition was under the provisions of LA Act, 1894 and not under any other Central or State enactment. Further, it has been held as under:

"11. Section 24(1) begins with a non-obstante clause and covers situations where either no award has been made under the Land Acquisition Act, in which case the more beneficial provisions of the 2013 Act relating to determination of compensation shall apply, or where an award has been made under Section 11, land acquisition proceedings shall continue under the provisions of the Land Acquisition Act as if the said Act had not been repealed.

12. To Section 24(1)(b) an important exception is carved out by Section 24(2). The necessary ingredients of Section 24(2) are as follows:

- (a) Section 24(2) begins with a *non-obstante* clause keeping sub-section (1) out of harm's way;
- (b) For it to apply, land acquisition proceedings should have been initiated under the Land Acquisition Act:

- (c) Also, an award under Section 11 should have been made 5 years or more prior to the commencement of the 2013 Act;
- (d) Physical possession of the land, if not taken, or compensation, if not paid, are fatal to the land acquisition proceeding that had been initiated under the Land Acquisition Act;
- (e) The fatality is pronounced by stating that the said proceedings shall be deemed to have lapsed, and the appropriate Government, if it so chooses, shall, in this game of snakes and ladders, start all over again."

(underlining by us)

25. The Hon'ble Supreme Court in *Anasuya Bai* while setting aside the judgment passed by the Division Bench of this Court has held as under:

"28. The Division Bench of the High Court by the impugned judgment however, has quashed the acquisition proceedings itself holding that they have lapsed. For this purpose, the High Court has taken aid of Section 24 of the new LA Act in the following manner: (*Anasuya Bai* case, SCC OnLine Kar. paras 13-14)

'13. It is also noted that the acquisition proceedings including preliminary and final declaration have been passed under the provisions of the KIAD Act. But there is no provision under the KIAD Act to pass an award and award has to be passed only under the provisions of the LA Act, 1894. If the award has to be passed under the LA

Act, whether the new Act can be pressed into service to hold the acquisition proceedings are lapsed on account of non-passing of award within a period of 5 years under Section 11. If the award is passed under the LA Act, the enquiry has to be conducted by the Deputy Commissioner or Collector before passing the award. Section 11A contemplates that if the award is not passed within 2 years from the date of publication of the final declaration, the entire proceedings for acquisition of the land shall automatically stand lapsed. It is no doubt true that the Hon'ble Supreme Court in *M. Nagabhushana v. State of Karnataka* has held that Section 11-A of the Act is no application in respect of the land acquired under the provisions of the Karnataka Industrial Areas Development Act. We have to consider in this appeal as to whether Section 24(2) of the new Act is applicable in order to hold that the acquisition proceedings deemed to be lapsed due to non-payment of compensation and non-passing of the award within a period of five years from the date of declaration and with effect from non-payment of compensation to the landowners.

14. The new Act does not say whether the Act is applicable to the land acquired under the provisions of the Karnataka Land Acquisition Act, 1894. What Section 24 says that if the award is not passed under Section 11 of the Act and the compensation is not paid within 5 years or more prior to new Act, if the physical possession of the land is taken or not especially the compensation is not paid or deposited in Court such proceedings deemed to have been lapsed. In the instant case, it is not the case of the respondent that award is not required to be passed under the provisions of the LA Act. When the award is required to be passed under the LA Act, the respondents cannot contend that the

provisions of the new Act cannot be made applicable on account of nonpayment of compensation within a period of five years.'

29. This approach of the High Court, we find, to be totally erroneous. In the first instance, the matter is not properly appreciated by ignoring the important aspects mentioned in para 28 above. Secondly, effect of non-applicability of Section 11-A of the old LA Act is not rightly understood. The High Court was not oblivious of the judgment of this Court in **M. Nagabhushana case** which is referred by it in the aforesaid discussion itself. This judgment categorically holds that once the proceedings are initiated under the KIAD Act, Section 11-A of the old LA Act would not be applicable. Such an opinion of the Court is based on the following rationale: (**M. Nagabhushana case**, SCC pp. 420-22, paras 29-36)

"29. The appellant has not challenged the validity of the aforesaid provisions. Therefore, on a combined reading of the provisions of Sections 28(4) and 28(5) of the KIAD Act, it is clear that on the publication of the Notification under Section 28(4) of the KIAD Act i.e. from 30-3-2004, the land in question vested in the State free from all encumbrances by operation of Section 28(5) of the KIAD Act, whereas the land acquired under the said Act vests only under Section 16 thereof, which runs as under:

'16.Power to take possession.-

When the Collector has made an award under Section 11, he may take possession of the land, which shall thereupon vest absolutely in the

Government, free from all encumbrances.'

30. On a comparison of the aforesaid provisions, namely, Section 28(4) and 28(5) of the KIAD Act with Section 16 of the said Act, it is clear that the land which is subject to acquisition proceeding under the said Act gets vested with the Government only when the Collector makes an award under Section 11, and the Government takes possession. Under Section 28(4) and 28(5) of the KIAD Act, such vesting takes place by operation of law and it has nothing to do with the making of any award. This is where Sections 28(4) and 28(5) of the KIAD Act are vitally different from Sections 4 and 6 of the said Act.

31. A somewhat similar question came up for consideration before a three-Judge Bench of this Court in *Pratap v. State of Rajasthan*. In that case the acquisition proceedings commenced under Section 52(2) of the Rajasthan Urban Improvement Act, 1959 and the same contentions were raised, namely, that the acquisition notification gets invalidated for not making an award within a period of two years from the date of notification. Repelling the said contention, the learned Judges held that once the land is vested in the Government, the provisions of Section 11-A are not attracted and the acquisition proceedings will not lapse. (*Pratap case*, SCC p. 8, para 12).

32. In *Munithimmaiah v. State of Karnataka*, this Court held that the provisions of Sections 6 and 11-A of the said Act do not apply to the provisions of the Bangalore Development Authority Act, 1976 (the BDA Act). In SCC para 15 at p.335 of the Report this Court made a distinction between the purposes of the two enactments and held that all the provisions of the said Act do not apply to the BDA Act. Subsequently, the Constitution Bench of this Court in *Offshore Holdings (P) Ltd. v. Bangalore Development Authority*, held that Section 11-A of the said Act does not apply to acquisition under the BDA Act.

33. The same principle is attracted to the present case also. Here also on a comparison between the provisions of the said Act and the KIAD Act, we find that those two Acts were enacted to achieve substantially different purposes. Insofar as the KIAD Act is concerned, from its Statement of Objects and Reasons, it is clear that the same was enacted to achieve the following purposes:

'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.'

34. The KIAD Act is of course a self-contained code. The said Act is primarily a law regulating

acquisition of land for public purpose and for payment of compensation. Acquisition of land under the said Act is not concerned solely with the purpose of planned development of any city. It has to cater to different situations which come within the expanded horizon of public purpose. Recently, the Constitution Bench of this Court in *Girnar Traders (3) v. State of Maharashtra* held that Section 11-A of the said Act does not apply to acquisition under the provisions of the Maharashtra Regional and Town Planning Act, 1966.

35. The learned counsel for the appellant has relied on the judgment of this Court in *Mariyappa v. State of Karnataka*. The said decision was cited for the purpose of contending that Section 11-A is applicable to an acquisition under the KIAD Act. In *Mariyappa* before coming to hold that provision of Section 11-A of the Central Act applies to the Karnataka Acquisition of Land for Grant of House Sites Act, 1972 (hereinafter "the 1972 Act"), this Court held that the 1972 Act is not a self-contained code. The Court also held that the 1972 Act and the Central Act are supplemental to each other to the extent that unless the Central Act supplements the Karnataka Act, the latter cannot function. The Court farther held that both the Acts, namely, the 1972 Act and the Central Act deal with the same subject. But in the instant case, the KIAD Act is a self-contained code and the Central Act is not

supplemental to it. Therefore, the ratio in *Mariyappa* is not attracted to the facts of the present case.

36. *Following the aforesaid well-settled principles, this Court is of the opinion that there is no substance in the contention of the appellant that acquisition under the KIAD Act lapsed for alleged non-compliance with the provisions of Section 11-A of the said Act. For the reasons aforesaid, all the contentions of the appellant, being without any substance, fail and the appeal is dismissed."*

26. In fact, even in the case of *Anasuya Bai*, the Hon'ble Supreme Court has placed reliance on its decisions in ***Munithimmaiah v. State of Karnataka [(2002) 4 SCC 326]*** (*Munithimmaiah*), ***Offshore Holdings (P) Ltd. v. Bangalore Development Authority [(2011) 3 SCC 139]*** (*Offshore Holdings*), (arising under the Bangalore Development Authority Act, 1976 ('BDA Act' for short)) and ***Girnar Traders (3) v. State of Maharashtra [(2011) 3 SCC 1]*** (*Girnar Traders (3)*), to hold that the provisions of the LA Act, 1894 and the BDA Act, 1976 being distinct, Section 24(2) of 2013 Act, is not applicable to an acquisition under the BDA Act and also in so far as acquisition under the KIAD Act is concerned. Therefore, the aforesaid dictum is

conclusive and is squarely applicable to the case on hand. Section 24 of 2013 Act does not apply to acquisition initiated under provisions of KIAD Act. Therefore, point No. 3 could be accordingly answered.

Thus, from the aforesaid dicta of the Hon'ble Supreme Court, the applicability of Section 24 of 2013 Act to acquisition of land under KIAD Act is excluded.

27. Moreover, the scheme and object of KIAD Act is different from LA Act, 1894. The KIAD Act has been enacted by Karnataka Legislature to make special provisions for securing the establishment of industrial areas in the State of Karnataka and generally to promote the establishment and orderly development of industries therein, and for that purpose to establish an Industrial Areas Development Board and for purposes connected with the matters aforesaid. Under Section 3(1), the State Government may, by notification, declare any area in the State to be an industrial area for the purposes of this Act along with the limits of the area to which it relates. Section 4 of the Act deals with alteration of industrial area by exclusion of any area from an industrial area or including additional area as may be specified by issuance

of a notification. Chapter III of the Act deals with establishment and constitution of the board. While the functions and powers of the Board are delineated in Chapter IV, Chapter V deals with finance, accounts and audit. Chapter VI deals with application of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 and non-application of the Karnataka Rent Control Act, 1961, to Board premises. Chapter VII deals with acquisition and disposal of land. The provisions of Chapter VII apply to such areas from such dates as have been notified by the State Government under sub-Section (3) of Section 1. The procedure for acquisition of land is enunciated under Section 28 of the Act, which reads as under:

"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."

28. Section 29 deals with payment of compensation, which is extracted as under:

"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.”

29. Section 30 of KIAD Act states that the provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894) shall *mutatis mutandis* apply in respect of an enquiry and award by the Deputy Commissioner, the reference to Court, the apportionment of compensation and the payment of compensation, in respect of lands acquired under Chapter VII.

30. Thus, the main object of KIAD Act is establishment of industrial areas in the State and to promote orderly development of industrial areas and acquisition of land is incidental to the aforesaid object. Lands could be acquired only if the State Government is of the opinion that lands are required for the purpose of

development by the Board, or for any other purpose in furtherance of the objects of the Act and not otherwise. Thus, the main object of the KIAD Act is not acquisition of land.

31. By contrast, the scheme of the LA Act, 1894, which is since repealed by 2013 Act, was an expropriatory legislation to provide for acquisition of land for public purposes and for companies. Section 4 of the said Act dealt with publication of Preliminary Notification while Section 5-A provided for hearing objections with regard to the proposed acquisitions. Section 6 dealt with the issuance of a declaration and Final Notification that the land was required for a public purpose. The said declaration was conclusive evidence that the land was needed for a public purpose or for a Company, as the case may be. After making such a declaration, the appropriate government could acquire the land in accordance with the Act. In fact, Part II of the LA Act, 1894, dealt with acquisition which contemplated procedure for the passing of an award; notifying persons interested and taking possession of the land. Part II of the said Act, dealt with the provisions dealing with

enhancement of compensation by the reference Court by the land owner seeking a reference for a higher compensation. Part IV dealt with apportionment of compensation, while Part V of the said Act concerned with payment. Acquisition of land for companies was dealt with in Part VII of the said Act and a special procedure was prescribed. Part VIII pertained to miscellaneous provisions.

32. Revisiting the words of Section 24 of the 2013 Act, what is significant to note is the fact that the said Section expressly refers to land acquisition proceedings initiated under the LA Act, 1894. The said Section-does not incorporate the words **"or proceedings initiated under any other enactment"**. Therefore, the expression "land acquisition proceedings initiated under the LA Act, 1894" are significant and must be given its natural and plain meaning and the said expression cannot be given an expansive interpretation by adding words to the provision, in the absence of the provision itself giving rise to any such implication. In this regard, the rules of interpretation of a statute would become relevant and reliance could be placed on guiding principles of

interpretation of statute. One such principle is that the Court is not entitled to read words into a provision of an Act or Rule for, the meaning is to be found within the four corners of the provision of an act or rule, as in the instant case. Therefore, while it is not permissible to add words or to fill in a gap or lacuna, on the other hand, effort should be made to give meaning to each and every word used by the legislature. Thus, the golden rule of construction is that the words of a provision of a statute, or rule must be first understood in the natural, ordinary or popular sense. Phrases and sentences must be construed according to their grammatical meaning, unless that leads to some absurdity or unless there is something in the context, or in the object of the statute to suggest the contrary. In other words, the golden rule is that the words of a statute prima facie be given an ordinary meaning. Natural and ordinary meaning of words should not be departed from "unless it can be shown that the legal context in which the words are used requires a different meaning". Such a meaning cannot be departed from by the judges "in light of their own views as to policy" unless it is shown to adopt a purposive

interpretation of the statute, which does not arise in the instant case.

33. In this context, ***Harbhajan Singh v. Press Council of India, [AIR 2002 SC 1351]***, (*Harbhajan Singh*) could be relied upon wherein, Cross on "Statutory Interpretation" (Third Edition, 1995) has been relied upon as follows:

"Thus, an 'ordinary meaning' or 'grammatical meaning' does not imply that the Judge attributes a meaning to the words of a statute independently of their context or of the purpose of the statute, but rather that he adopts a meaning which is appropriate in relation to the immediately obvious and unresearched context and purpose in and for which they are used."

34. The aforesaid principles being squarely applicable to Section 24 of the 2013 Act, the same must be interpreted having regard to the intention of the Parliament. In this regard, one cannot lose sight of the fact that 2013 Act repeals only LA Act, 1894, and not any other Central or State enactment dealing with acquisition. Therefore, what are sought to be saved under Section 24 of the 2013 Act, are those acquisitions initiated only

under LA Act, 1894 and not any acquisition initiated under any other Central or State enactment. Therefore, the words "*acquisition proceedings initiated under any other enactment*" cannot be added or supplemented by the Court after the expression "*in any case of land acquisition proceedings initiated under the Land Acquisition Act, 1894*" under both sub-sections 1 and 2 of Section 24 of 2013 Act. Further, the short title of Section 24 of 2013 Act reads as "*Land acquisition process under Act No. 1 of 1894 shall be deemed to have lapsed in certain cases.*" This is another indication that Section 24 applies only to those acquisition "**initiated**" under the provisions of LA Act, 1894.

35. Further, Section 24 creates a new right in favour of land owners in as much as they are entitled to relief under certain circumstances as stipulated in Section 24 of the Act. One such relief is under subsection (2) of Section 24 of the Act, dealing with lapse of acquisition by a fiction. It is a deeming provision, provided the stipulations therein are complied with or the conditions mentioned therein exist. One overbearing condition is that the acquisition must have been initiated under the

provisions of LA Act, 1894. Thus, if acquisition is initiated under any other Central or State enactment, Section 24 does not apply.

36. The reasons as to why Parliament has incorporated Section 24 in the 2013 Act are evident and not far to see. The said section creates a new right in favour of land owners whose lands have been acquired under the provisions of LA Act, 1894, which has been repealed and substituted by 2013 Act. The 2013 Act is not a substitution for other Central enactments pertaining to acquisition of land or for that matter any other State enactment. Therefore, Section 24 uses the expression that the acquisition must have been initiated under the provisions of LA Act, 1894. But while creating a new right in favour of land owners under Section 24, Parliament at the same time has intended two further aspects: first, saving acquisition under LA Act, 1894 and second, not encroaching upon other Central or State enactments. As far as State enactments dealing with acquisitions are concerned, Parliament intentionally has not touched upon any State enactment.

37. The State enactment, such as KIAD Act in question, may have referred to certain provisions of LA Act, 1894, particularly with regard to determination of compensation and such other matters. Reference to LA Act, 1894 in the State enactments for certain purposes does not imply that the acquisition is initiated under LA Act, 1894. What is of prime importance for Section 24 of 2013 Act to apply is that acquisition proceedings must have been initiated under LA Act, 1894 and not any other law. Losing sight of this aspect would create confusion in the applicability of Section 24 of 2013 Act. This is so, although, the State enactments may refer to the provisions of LA Act, 1894 for certain purposes.

38. Thus, 2013 Act has not only repealed the LA Act, 1894, but has substituted the said Act. The 2013 Act is a totally distinct enactment and a complete code by itself. Hence, for the aforesaid reasons, initiation of acquisition under State enactments such as KIAD Act is not the same as initiation of acquisition under LA Act, 1894.

39. Further, it is noted that 2013 Act has, by virtue of Section 114 thereof, repealed LA Act, 1894.

Section 114 reads as under:

"114. Repeal and Saving: (1) The Land Acquisition Act, 1894 (1 of 1894) is hereby repealed.

(2) Save as otherwise provided in this Act the repeal under sub-section (1) shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897) with regard to the effect of repeals."

40. Therefore, what is saved under Section 114 of 2013 Act are only those acts and actions initiated under the provisions of the LA Act, 1894, which ought to be saved having regard to the provisions of Section 6 of the General Clauses Act, 1897. Section 6 of the General Clauses Act, 1897, reads as under:

"6. Effect of repeal.- Where this Act, or any Central Act or Regulation made after the commencement of this Act, repeals any enactment hitherto made or hereafter to be made, then, unless a different intention appears, the repeal shall not.-

(a) revive anything not in force or existing at the time at which the repeal takes effect; or

(b) affect the previous operation of any enactment so repealed or anything duly done or suffered thereunder; or

(c) affect any right, privilege, obligation or liability acquired accrued or incurred under any enactment so repealed; or

(d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against any enactment so repealed; or

(e) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid;

and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and any such penalty, forfeiture or punishment may be imposed as if the repealing Act or Regulation had not been passed."

However, Section 6 of the General Clauses Act would apply only when a saving clause as per subsection 2 of Section 14 is not expressly provided under 2013 Act. Section 24 of the 2013 Act, which is in the nature of a saving clause has created new rights in favour of land owners whose lands had been acquired under LA Act, 1894. Sub-section (1), lays down the conditions when the

land acquisition proceedings initiated under the LA Act, 1894, would be amenable to the provisions of 2013 Act or, continued under the provisions of the LA Act, 1894, on certain conditions or circumstances prevailing. Under sub-section (2) of Section 24, the Parliament has, by a deeming provision, intended that if certain conditions are satisfied, the acquisition proceedings initiated under the LA Act, 1894, shall be deemed to have lapsed.

41. Therefore, for a declaration of lapse of acquisition, the pre-conditions or conditions precedent mentioned under sub-section (2) of Section 24 of the 2013 Act must apply. Most importantly the said conditions must prevail in an acquisition initiated under the provisions of the LA Act, 1894, and not with regard to acquisition initiated under any other enactment be it Central or State enactment. Therefore, before land owners could seek relief under sub-section (2) of Section 24 of 2013 Act, which is a right created in their favour, the basic postulate that must be borne in mind is to ascertain, in the first instance, as to under which law, acquisition has been initiated; whether under the provisions of the LA Act, 1894 or any other law. If it is

under any other law, then in my view Section 24 would not be applicable to such acquisitions. As already noted, KIAD Act, being distinct having a different object and scope and acquisition of lands being only incidental to the main object and scope under the said Act, the acquisition proceedings initiated under the said Act cannot be considered on par, so as to hold that land acquisition proceedings initiated under the provisions of the KIAD Act are "land acquisition proceedings initiated under the provisions of the LA Act, 1894".

42. As already observed, Section 24 of the 2013 Act creates a new right in the land owners. For the exercise of said right, certain conditions have to exist, the most significant of them being, the initiation of proceedings for acquisition under the provisions of the LA Act, 1894. Therefore, the said words must be given a natural interpretation and not an expansive or wide interpretation, so as to extend the right under Section 24 even in respect of and owners whose lands are subjected to acquisition under any State enactment, such as the KIAD Act or BDA Act or Karnataka Urban Development Act, 1987 (KUDA Act). In fact, the Parliament

itself has been conscious of the fact that 2013 Act repeals and substitutes only LA Act, 1894, and not any other Central enactment or for that matter any other State enactment dealing with acquisition of lands. This is evident from Section 105 of the 2013 Act, which reads as under:

“105. Provisions of this Act not to apply in certain cases or to apply with certain modifications: (1) Subject to sub-section (3), the provisions of this Act shall not apply to the enactments relating to land acquisition specified in the Fourth Schedule.

(2) Subject to sub-section (2) of Section 106, the Central Government may, by notification, omit or add to any of the enactments specified in the Fourth Schedule.

(3) The Central Government shall, by notification, within one year from the date of commencement of this Act, direct that any of the provisions of this Act relating to the determination of compensation in accordance with the First Schedule and rehabilitation and resettlement specified in the Second and Third Schedules, being beneficial to the affected families, shall apply to the cases of land acquisition under the enactments specified in the Fourth Schedule or shall apply with such exceptions or modifications

that do not reduce the compensation or dilute the provisions of this Act relating to compensation or rehabilitation and resettlement as may be specified in the notification, as the case may be.

(4) A copy of every notification proposed to be issued under sub-section (3), shall be laid in draft before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in disapproving the issue of the notification or both Houses agree in making any modification in the notification, the notification shall not be issued or, as the case may be, shall be issued only in such modified form as may be agreed upon by both the Houses of Parliament."

43. The enactments relating to land acquisition specified in the Fourth Schedule referred to in sub-section (1) of Section 105 consists of the following thirteen Parliamentary enactments, namely:

"THE FOURTH SCHEDULE

[See section 105]

LIST OF ENACTMENTS REGULATING LAND
ACQUISITION AND REHABILITATION AND
RESETTLEMENT

1. The Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958).

2. The Atomic Energy Act, 1962 (33 of 1962).
3. The Damodar Valley Corporation Act, 1948 (14 of 1948).
4. The Indian Tramways Act, 1886 (11 of 1886).
5. The Land Acquisition (Mines) Act, 1885 (18 of 1885).
6. The Metro Railways (Construction of Works) Act, 1978 (33 of 1978).
7. The National Highways Act, 1956 (48 of 1956).
8. The Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962).
9. The Requisitioning and Acquisition of Immovable Property Act, 1952 (30 of 1952).
10. The Resettlement of Displaced Persons (Land Acquisition) Act, 1948 (60 of 1948).
11. The Coal Bearing Areas Acquisition and Development Act, 1957 (20 of 1957).
12. The Electricity Act, 2003 (36 of 2003).
13. The Railways Act, 1989 (24 of 1989)."

44. Therefore, Parliament itself has listed the Central enactments to which 2013 Act does not apply. This is because Parliament was conscious of the fact that LA Act, 1894 was substituted by the 2013 Act, which is distinct and different from the other Central enactments

enumerated in the Fourth Schedule to the 2013 Act or State enactments.

45. In the circumstances, it is concluded and held that Section 24 does not take within its scope nor does it apply to, acquisitions which have been initiated under the provisions of any other enactment particularly, State enactment, such as, KIAD Act, BDA Act or KUDA Act. The said Section is restricted to only those acquisitions which have been initiated under the provisions of the LA Act, 1894 only. Subject to compliance of the conditions mentioned under sub-section (2) of Section 24, the land owner would be entitled to the deeming provision regarding lapse of acquisition and not otherwise.

46. We also wish to refer to ***Mrs.Premakala Prabhakara Reddy and another vs. State of Karnataka and others, [2019 (3) AKR 657]***, wherein one of us (*Nagarathna J.*) has held in paragraph Nos.43 and 44 as under:

"43. Therefore, the acquisition in these writ petitions having been initiated under the provisions of the KIAD Act, it cannot be held that the said acquisition has been initiated

under the provisions of the LA Act, 1894. More significantly, the dictum of the Hon'ble Supreme Court in *Anasuya Bai's case* is directly on the point of inapplicability of sub-section (2) of Section 24 of 2013 Act to an acquisition initiated under the provisions of the Act in question, which has been ignored in *J.Venkatesh Reddy* while expressing a contra opinion.

44. Having regard to the aforesaid discussion, it is held that the petitioners are not entitled to any declaration on the premise that the award has not been passed within the period of two years as stipulated under Section 11A of L.A. Act, 1894 and therefore, the acquisition has lapsed. Also, no declaration of lapse of acquisition under Section 6 of LA Act, 1894 can be given to the petitioners in the instant case. Further, no declaration under sub-section (2) of Section 24 of 2013 Act, on the premise that the award of compensation not having been made and physical possession not having been taken, there is deemed lapse of acquisition cannot also be granted in the instant case."

47. In view of the above catena of judgments of the Hon'ble Supreme Court in *Offshore Holdings (P) Limited, Bangalore Development Authority* and in *Girnar Traders (3)*, reliance cannot be placed on the judgment of

the Division Bench of this Court in *H.N.Shivanna* to hold that in the absence of any time limit fixed under the provisions of KIAD Act for passing of an award, it would have to be made within a reasonable time, which is two years and if the award has not been passed within the said time, it would lead to grant of declaration that the acquisition has lapsed. More pertinently, having regard to the judgments of the Hon'ble Supreme Court in the case of *M.Nagabhushana* and *Anasuya Bai*, which are directly under the provisions of KIAD Act, the judgment in *Ram Chand's case*, which is concerning a situation prior to the insertion of Section 11-A to 1894 Act would also not apply. Consequently, the judgment of this Court in *H.N.Shivanna* cannot be held to be good law so as to have a binding effect. As already noted, *H.N.Shivanna* has ignored the dictum of the Hon'ble Supreme Court in *M.Nagabhushana*. Further, *Anasuya Bai* has also relied upon, *inter alia*, *M.Nagabhushana* to set aside the judgment of the Division Bench of this Court. Further, this Court in *Ashwathanarayana*, did not refer to the judgments of the Hon'ble Supreme Court in *Offshore Holdings (P) Limited* and *Girnar (3)*, but, reliance was

placed on *H.N.Shivanna* to grant relief to the petitioners therein. But in view of the judgment of the Hon'ble Supreme Court in Bangalore Development Authority, which arose from the judgment of this Court in *Ashwathanarayana*, it could be observed that *H.N.Shivanna* is no longer good law. Therefore, the petitioners herein cannot be granted relief on the basis of the dictum of the Division Bench in *H.N.Shivanna* and reliance placed on the said judgment by learned counsel for the petitioners is of no assistance to them. This is because the judgments of the Hon'ble Supreme Court in the case of *M.Nagabhushana* and *Anasuya Bai* rendered under the provisions of the KIAD Act hold the field. Similarly, the judgments of the Hon'ble Supreme Court in the case of *Offshore Holdings (P) Limited* and *Bangalore Development Authority* which are rendered under the provisions of the BDA Act, 1976 are binding on this Court.

48. With reference to the judgment of a co-ordinate Bench of this Court in ***H.N.Shivanna and others vs. State of Karnataka, Department of Industries and Commerce, Bengaluru and another [2013 KCCR 2793 DB]***, having regard to the

observations of the Hon'ble Supreme Court in ***Bangalore Development Authority and another vs. State of Karnataka and another, [(2018) 9 SCC 122 : AIR Online 2018 SC 876]***, the same is impliedly over-ruled even though the said observations were made by the Hon'ble Supreme Court in the context of an acquisition made under the provisions of BDA Act. Moreover, *Anasuya Bai*, which is a judgment of the Hon'ble Supreme Court under KIAD Act holds the field and is binding on this Court.

49. We may also place reliance on the following paragraphs of the Hon'ble Supreme Court in the case of ***Indore Development Authority vs. Manoharlal [AIR 2020 SC 1496]*** (*Indore Development Authority*), wherein it has been held that where an acquisition is initiated only under the provision of the Land Acquisition Act, 1894 the benefit of Section 24(2) of 2013 Act would apply:

"95. Section 24(1)(a) of the Act of 2013 read with the *non-obstante* clause provides that in case of proceedings initiated under the Act of 1894 the award had not been made under Section 11, then the provisions of the Act of

2013, relating to the determination of compensation would apply. However, the proceedings held earlier do not lapse. In terms of Section 24(1)(b), where award under Section 11 is made, then such proceedings shall continue under the provisions of the Act of 1894. It contemplates that such pending proceedings, as on the date on which the Act of 2013 came into force shall continue, and taken to their logical end. However, the exception to Section 24(1)(b) is provided in Section 24(2) in case of pending proceedings; in case where the award has been passed five years or more prior to the commencement of the Act of 2013, the physical possession of the land has not been taken, or the compensation has not been paid, the proceedings shall be deemed to have lapsed, and such proceedings cannot continue as per the provisions of Section 24(1)(b) of the Act of 2013.

x x x

151. The Section 24(2) of the Act of 2013 is to be interpreted consistent with the legislative intent, particularly when it has provided for the lapse of the proceedings. It has to be interpreted in the light of provisions made in Sections 24 and 114 of the Act of 2013 and Section 6 of the General Clauses Act, what it protects and to what extent it takes away the rights of the parties. Undoubtedly, Section

24(2) has retroactive operation with respect to the acquisitions initiated under the Act of 1894 and which are not completed by taking possession nor compensation has been paid in spite of lapse of 5 years and proceedings are kept pending due to lethargy of the officials. The drastic consequences follow by the provisions contained in Section 24(2) in such cases.

x x x

172. A reading of section 24(2) shows that in case possession has been taken even if the compensation has not been paid, the proceedings shall not lapse. In case payment has not been made nor deposited with respect to the majority of the holdings in the accounts of the beneficiaries, then all the beneficiaries specified in the notification under Section 4 of the Act of 1894 shall get the enhanced compensation under the provisions of the Act of 2013."

(underlining by us)

50. In the circumstances, we find that the learned Single Judge was right in holding that the provisions of Section 24(2) of the 2013 Act, is not applicable to an acquisition proceeding initiated under the provisions of the KIAD Act. Hence, we find no merit in the appeal.

51. The appeal is hence ***dismissed***.

However, we refrain from imposing costs on the appellant.

In view of the dismissal of the appeal, all pending applications stand dismissed.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

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