

IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH

DATED THIS THE 25TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.105222 OF 2025 (LA – KIADB)

C/W

WRIT PETITION No.105242 OF 2025 (LA – KIADB)

IN WRIT PETITION No.105222 OF 2025

BETWEEN:

- 1 . JYOTHI
W/O FAKIRAPPA CHAVAN
AGED ABOUT 65 YEARS,
OCC.:BUSINESS / HOUSEWIFE
R/O. H.NO. 32, 2ND CROSS,
DEENABHANDU COLONY
KARAWAR ROAD, HUBBALLI,
DISTRICT DHARWAD.
- 2 . ADITYA A/F. OF SHIVAJIRAO PAWAR
AGED ABOUT 31 YEARS,
OCC: BUSINESS / STUDENT
R/O. H.NO. 32, 2ND CROSS,
DEENABHANDU COLONY
KARAWAR ROAD, HUBBALLI,
DISTRICT DHARWAD.
- 3 . MANJUNATH @ AMOG
S/O. FAKIRAPPA CHAVAN

AGED ABOUT 39 YEARS, OCC. BUSINESS
R/O. H.NO. 32, 2ND CROSS,
DEENABHANDU COLONY
KARAWAR ROAD, HUBBALLI,
DISTRICT DHARWAD.

- 4 . DR. POOJA CHAVAN A/F. OF SHIVAJIRAO PAWAR
AFTER MARRIAGE W/O. KAPIL KUMAR SHISHODIA
AGED ABOUT 43 YEARS, OCC. DOCTOR / BUSINESS
NOW R/O. KULABA, NAVY NAGAR, MUMBAI.
- 5 . PAVITRA A/F. OF SHIVAJIRAO PAWAR
AGED ABOUT 40 YEARS,
OCC. DOCTOR / HOUSEWIFE
R/O. H.NO. 32, 2ND CROSS,
DEENABHANDU COLONY
KARWAWAR ROAD, HUBBALLI,
DISTRICT DHARWAD.

... PETITIONERS

(BY SMT.ARCHANA A.MAGADUM, ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
REPRESENTED BY ITS
UNDER SECRETARY
DEPARTMENT OF
COMMERCE AND INDUSTRIES
VIDHAN SOUDHA
BENGALURU.
- 2 . THE EXECUTIVE MEMBER
KIADB BANGALORE RASHTRASTOMA BUILDING
NRUPATUNGA ROAD,
BENGALURU.

3 . SPECIAL LAND ACQUISITION OFFICER/
MANAGING DIRECTOR
KARNATAKA INDUSTRIAL AREA DEVELOPMENT BOARD
DHARWAD.

... RESPONDENTS

(BY SRI RAMESH CHIGARI, AGA FOR R-1;
SRI BASAVARAJ SABARAD, SR.ADVOCATE A/W
SRI PAVAN B.DOAATTI, ADVOCATE FOR R-2 AND R-3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I) ISSUE A WRIT OF CERTIORARI QUASHING THE PRELIMINARY NOTIFICATION UNDER SECTION 28(1) OF THE KIADB ACT BEARING NO.CI 290 SPQ 2010, BANGALORE, DATED 28/05/2010 ISSUED BY RESPONDENT NO. 1 VIDE ANNEXURE-E IN SO FAR AS IT RELATES TO THE LANDS OF PETITIONERS; II) ISSUE A WRIT OF CERTIORARI QUASHING THE FINAL NOTIFICATION UNDER SECTION 28(4) OF THE KIADB ACT BEARING NO. CI 23 S.P.Q.2023 DATED. 29/02/2024 ISSUED BY RESPONDENT NO.3 VIDE ANNEXURE - F IN SO FAR AS IT RELATES TO THE LANDS OF PETITIONERS.

IN WRIT PETITION No.105242 OF 2025

BETWEEN:

JYOTHI W/O. FAKIRAPPA CHAVAN
AGED ABOUT 65 YEARS
OCC.: BUSINESS/HOUSEWIFE
R/O. H.NO.32, 2ND CROSS, DEENABHANDU COLONY
KARAWAR ROAD, HUBBALLI
DISTRICT DHARWAD.

... PETITIONER

(BY SMT.ARCHANA A.MAGADUM, ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
REPRESENTED BY ITS UNDER SECRETARY
DEPARTMENT OF COMMERCE AND IDUSTRICES
VIDHAN SOUDHA
BENGALURU – 560 001.
- 2 . THE EXECUTIVE MEMBER
KIADB BENGALORE RASHTRASTOMA BUILDING
NRUPATUNGA ROAD, BENGALURU.
- 3 . SPECIAL LAND ACQUISITION OFFICER /
MANAGING DIRECTOR
KARNATAKA INDUSTRIAL AREA DEVELOPMENT BOARD
DHARWAD – 580 004.

... RESPONDENTS

(BY SRI RAMESH CHIGARI, AGA FOR R-1;
SRI BASAVARAJ SABARAD, SR.ADVOCATE A/W
SRI PAVAN B.DOATTI, ADVOCATE FOR R-2 AND R-3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO I) ISSUE A WRIT OF CERTIORARI QUASHING THE PRELIMINARY NOTIFICATION UNDER SECTION 28(1) OF THE KIADB ACT BEARING NO.CI 420 SPQ 2009, BANGALORE, DATED 07/11/2009 ISSUED BY RESPONDENT NO. 1 VIDE ANNEXURE-C IN SO FAR AS IT RELATES TO THE LANDS OF PETITIONERS; II) ISSUE A WRIT OF CERTIORARI QUASHING THE FINAL NOTIFICATION UNDER SECTION 28(4) OF THE KIADB ACT BEARING NO. CI 22 S.P.Q.2023 DATED. 17/02/2024 ISSUED BY RESPONDENT NO.3 VIDE ANNEXURE - D IN SO FAR AS IT RELATES TO THE LANDS OF PETITIONERS.

THESE WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

Both these petitions call in question preliminary and final notifications issued by the 1st respondent/State of Karnataka, under the Karnataka Industrial Areas Development Board Act, 1966 (hereinafter referred to as 'the Act' for short). The lands in both these cases are different, but concerning the same village acquired for setting up industries. Therefore, the matters are taken up together, heard and considered by this common order.

2. Facts in brief, in Writ Petition No.105242 of 2025:-

The petitioner claims to be the owner of agricultural land in R.S.No.81/4 measuring 02 acres situated at Shinganahalli Village, Dharwad Taluk and District. On an application filed by the petitioner, the Government permits conversion of land of the petitioner for non-agricultural purposes. On 07-07-2008, it appears

the petitioner gives a letter of consent for acquisition of the subject land along with several other lands. Preliminary notification then comes to be issued on 07-11-2009 under Section 28(1) of the Act seeking to acquire several packets of lands including the subject land of the petitioner for the purpose of establishment of industrial area. In furtherance of the said notification, Section 28(2) notice comes to be issued on 16-12-2009 concerning the land of the petitioner. The notice issued to the petitioner on 31-12-2021 is said to have reached the doors of the petitioner only on 11-01-2022. The petitioner replied to the notice issued under Section 28(2) contending that she was under the impression that the land was not required for the purpose of setting of an industrial area. On 17-02-2024, a final notification comes to be issued under Section 28(4) of the Act. The final notification took into its sweep the land of the petitioner as well. Aggrieved by the preliminary and final notification, the subject petition is preferred seeking their quashment.

3. Facts in brief, in Writ Petition No.105222 of 2025:-

The petitioners, who are five in number, call in question the preliminary notification issued by the 1st respondent/State under the Act on 28-05-2010 and the final notification issued on 29-02-2024 seeking to acquire lands of the petitioners in R.S.Nos.58/1, 58/2, 59/1 and 59/2 totally measuring 23 acres 13 guntas situated at Shinganahalli Village, Dharwad Taluk and District for the purpose of setting up industries. The petitioners claim to be owners of the said lands contending that they are all joint family properties and they are in possession of the said lands for close to decades. On 28-05-2010, a preliminary notification comes to be issued declaring certain lands including the subject lands for acquisition for the purpose of setting up industrial area. Pursuant to the preliminary notification, not even a notice under Section 28(2) of the Act was issued. Therefore, the petitioners applied for conversion of the subject lands from agriculture to non-agricultural/commercial purposes. Accordingly, they got the lands converted between 21-10-2021 and 14-11-2022 and entered into a lease agreement with Hindustan Petroleum Corporation Limited to

run a petroleum outlet. When things stood thus, on 10-01-2024 an enquiry hearing notice under Section 28(3) of the Act is issued to the petitioner. In the proceedings of enquiry, it was made known to the Karnataka Industrial Areas Development Board ('the Board' for short) that there was no notice issued under Section 28(2) of the Act and without issuing Section 28(2) notice, the proceedings under Section 28(3) could not have been initiated. Notwithstanding the same, final notification dated 29-02-2024 emerges. It is, therefore, the petitioners are before this Court seeking quashment of both preliminary and final notifications.

4. Heard in both the petitions Smt. Archana A. Magadum, learned counsel appearing for the petitioners, Sri Ramesh Chigari, learned Additional Government Advocate appearing for the 1st respondent and Sri Basavaraj Sabarad, learned senior counsel appearing for respondents 2 and 3.

5. Learned counsel appearing for the petitioners would vehemently contend that without issuing a notice under Section

28(2) of the Act, there could not have been an enquiry notice under Section 28(3) or a final notification under Section 28(4) of the Act. Therefore, the entire final notification seeking to acquire the subject lands is contrary to law. The final notification is issued after 14 years of issuance of preliminary notification which cannot be done in law is her submission. The learned counsel would further submit that Government has issued a circular on 03-03-2007 clearly indicating that where the lands are converted from agriculture to non-agricultural/commercial purposes, they must not become the subject matter of acquisition for the purpose of setting up of an industry. Admittedly, the petitioners have leased out land long ago for setting up of petroleum out-let and a Daba also exists in the said land. She would in all seek quashment of the entire acquisition proceedings.

6. The learned senior counsel Sri Basavaraj Sabarad representing the Board would vehemently contend that there is a delay in issuing final notification as the acquisition was for 2686.76 acres which took place under four different preliminary and final notifications which had to be integrated into one large industrial

park and resistance from the farmers delayed issuance of final notification within a reasonable time. The delay is bona fide, unintentional and beyond the control of the Special Land Acquisition Officer. The claim of non-service of Section 28(2) notice is not correct, as Section 28(3) hearing notice clearly indicates that notices are served on all the concerned. The notices were issued for fixation of ₹45/- lakhs for dry lands and ₹90/- lakhs for lands adjacent to national highways as compensation. Conversion, development or establishment of petroleum outlet and Daba after the preliminary notification is void and illegal. Therefore, the circular dated 03-03-2007 is not applicable to the facts obtaining in the case at hand. He would further contend that the delay in issuing final notification cannot be a ground to quash the preliminary notification or the final notification. The challenge to the acquisition is by minuscule number of land owners out of the vast extent of land. Therefore, it is not prudent to quash the entire acquisition process of vast extent of land. He would seek dismissal of the petitions.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

8. The afore-narrated facts, dates, link in the chain of events are not in dispute. Four dates and facts that assume significance would require reiteration. Government of Karnataka issues a circular on 03-03-2007. The circular is indicative of the fact that lands converted for non-agricultural purposes and lands with petroleum outlet may not be acquired, except on certain conditions that they should not affect the contiguity. The preliminary notification is issued under Section 28(1) of the Act on 07-11-2009 in W.P.No.105242 of 2025. Immediately thereon, it appears, notice under Section 28(2) is issued; there is no document produced by the Board to demonstrate that notice was ever served upon the petitioner or any other, but the issue is concerning the petitioner. Therefore, it can safely be concluded that there is no document produced to demonstrate that the petitioner was issued with any notice, as neither the petitioner has a copy of the notice nor the Board has produced any document to show that notice under

Section 28(2) dated 16-12-2009 or any other day thereafter was issued and served upon the petitioner. Then comes the final notification. The final notification takes within its sweep the land of the petitioner as well. Admittedly, there is no notice issued to the petitioner under Section 28(2) of the Act. No enquiry was conducted under Section 28(3) of the Act, but a final notification has emerged. The issuance of final notification *qua* the land of the petitioner is on the face of it contrary to law.

9. Insofar as the petition in Writ Petition No.105222 of 2025 is concerned, the preliminary notification is issued on 28-01-2010. The next document that is produced either by the petitioners or by the Board is an enquiry notice on 10-01-2024, 14 years after issuance of preliminary notification. The notice dated 10-01-2024 issued under Section 28(3) to these petitioners reads as follows:

“ಶ್ರೀ:ಕೆಐಎಡಿಬಿ/ಭೂಸ್ವಾ/ಧಾ/ಬಿಎಂಐಸಿ/1239/2023-24

ದಿನಾಂಕ2: 10-01-2024

-:ಕಲಂ28(3)ರಡಿ ವಿಚಾರಣೆ ನೋಟೀಸ್ :-

ವಿಷಯ : ಧಾರವಾಡ ಜಿಲ್ಲೆ ಧಾರವಾಡ ತಾಲೂಕಿನ 1) ಶಿಂಗನಹಳ್ಳಿ ಮತ್ತು
2)ಕುಮ್ಮನಾಯಕನಕೊಪ್ಪ, ಗ್ರಾಮಗಳಲ್ಲಿ “ಸುವರ್ಣ ಕರ್ನಾಟಕ
ಕೈಗಾರಿಕಾ ಕಾರಿಡಾರ್” ಯೋಜನೆಗಾಗಿ ಒಟ್ಟು 610-14-00 ಎಕರೆ,
ಖರಾಬು 4-35-00, ನಿವ್ವಳ 605-19-00 ಜಮೀನನ್ನು

ಸ್ವಾಧೀನಪಡಿಸಿಕೊಳ್ಳುವ ಜಮೀನುಗಳಿಗೆ ಕಲಂ 28(3)ರ ಕೆಳಗೆ
ಆಕ್ಷೇಪಣೆಗಳ ವಿಚಾರಣೆ ಕುರಿತು.

ಉಲ್ಲೇಖ: ಸರಕಾರದ ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆ ಕಲಂ 28(1)ರ ಸಂಖ್ಯೆ:ಸಿಐ:290/ಎಸ್
ಪಿಕ್ಯೂ 2010, ಬೆಂಗಳೂರು ದಿನಾಂಕ: 28-05-2010 ಕರ್ನಾಟಕ ರಾಜ್ಯ
ಪತ್ರದಲ್ಲಿ ಪ್ರಕಟಿತ ದಿನಾಂಕ:28-05-2010.

ಈ ಮೂಲಕ ನಿಮಗೆ ತಿಳಿಯಪಡಿಸುವುದೇನೆಂದರೆ, ಧಾರವಾಡ ಜಿಲ್ಲೆ ಧಾರವಾಡ ತಾಲ್ಲೂಕಿನ
1)ಶಿಂಗನಹಳ್ಳಿ ಮತ್ತು 2)ಕುಮ್ಮನಾಯಕನಕೊಪ್ಪ, ಗ್ರಾಮಗಳಲ್ಲಿ “ಸುವರ್ಣ ಕರ್ನಾಟಕ ಕೈಗಾರಿಕಾ
ಕಾರಿಡಾರ್” ಯೋಜನೆಗಾಗಿ ಒಟ್ಟು 610-14-00 ಎಕರೆ, ಖರಾಬ 4-35-00, ನಿವ್ವಳ 605-19-00 ಎಕರೆ
ಜಮೀನು ಸ್ವಾಧೀನಪಡಿಸಿಕೊಳ್ಳುವ ಪ್ರದೇಶದ ಜಮೀನನ್ನು ಉಲ್ಲೇಖಿತ (1) ಸರಕಾರದ ಪ್ರಾಥಮಿಕ
ಅಧಿಸೂಚನೆಯಡಿ ಭೂಸ್ವಾಧೀನಪಡಿಸಿಕೊಳ್ಳುತ್ತಿರುವ ಪ್ರಕರಣದಲ್ಲಿ ಈ ಕಚೇರಿಯಿಂದ ನೀಡಿದ ಕಲಂ
28(2)ರಡಿ ನೋಟೀಸಿಗೆ ನೀವು ಸಲ್ಲಿಸಿದ ಆಕ್ಷೇಪಣೆಗೆ ಅನುಗುಣವಾಗಿ ಈ ಕೆಳಗೆ ಕಾಣಿಸಿದ ನಿಮ್ಮ ಜಮೀನು
ಭೂಸ್ವಾಧೀನ ಕುರಿತು ಹೆಚ್ಚುವರಿಯಾಗಿ ಆಕ್ಷೇಪಣೆಗಳು ಹಾಗೂ ದಾಖಲೆಗಳನ್ನು ಸಲ್ಲಿಸಲು ಇಚ್ಛಿಸುವುದಾದರೆ,
ವಿಚಾರಣೆಯನ್ನು ದಿನಾಂಕ:19-01-2024 ರಂದು ಬೆಳಿಗ್ಗೆ 11-00 ಗಂಟೆಗೆ "ಶ್ರೀ. ಗುರು ರಾಚಯ್ಯ ಸ್ವಾಮಿ
ಮಠ, ಶಿಂಗನಹಳ್ಳಿ" ಗ್ರಾಮದಲ್ಲಿ ಜರುಗಿಸಲಾಗುವುದು.

ಸದರಿ ದಿನದಂದು ಖುದ್ದಾಗಿ ಹಾಜರಾಗಿ ನಿಮ್ಮ ಹೆಚ್ಚಿನ ಆಕ್ಷೇಪಣೆಗಳೇನಾದರೂ ಇದ್ದಲ್ಲಿ, ಜಮೀನಿನ
ಸ್ವಾಧೀನ ಕುರಿತಾಗಲಿ, ಹೆಸರುಗಳು ತಪ್ಪಾಗಿ ನಮೂದಿಸಿರುವ ಬಗ್ಗೆ ಅಗಲಿ ಆಕ್ಷೇಪಣೆಗಳು ಇದ್ದಲ್ಲಿ ಲಿಖಿತ
ಮೂಲಕ ಖುದ್ದಾಗಿ ಯಾ ನಿಮ್ಮ ಪರ ಪ್ರತಿನಿಧಿ ಮುಖಾಂತರ ತಪ್ಪದೇ ಸಲ್ಲಿಸತಕ್ಕದ್ದು. ತಪ್ಪಿದಲ್ಲಿ ನಿಮ್ಮ
ಆಕ್ಷೇಪಣೆಗಳು ಇಲ್ಲವಾಗಿ ಪರಿಗಣಿಸಿ ನಿಯಮಾನುಸಾರ ಏಕ ಪಕ್ಷೀಯ ಕ್ರಮ ಜರುಗಿಸಲಾಗುವುದು ಎಂದು
ತಿಳಿಯುವುದು.

ಜಮೀನಿನ ವಿವರ.

ಅ. ನಂ.	ಗ್ರಾಮ	ರಿ.ಸ.ನಂ	ಕ್ಷೇ
1	ಶಿಂಗನಹಳ್ಳಿ	58	14-26-08 0-05-002 ಖ 14-21-08

ಸಹಿ/-

ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿ,

ಕರ್ನಾಟಕ ಕೈಗಾರಿಕಾ ಪ್ರದೇಶಾಭಿವೃದ್ಧಿ ಮಂಡಳಿ,
ಧಾರವಾಡ"

The notice no where indicates that Section 28(2) notice was issued and served upon the petitioners.

10. Few admitted facts in the cases at hand are that in Writ Petition No.105242 of 2025 a notice under Section 28(3) was never served upon the petitioner. In Writ Petition No.105222 of 2025 a notice under Section 28(2) was never served upon the petitioners. This is the specific contention taken by the petitioners while causing the legal notice upon the Board when for the first time Section 28(3) proceeding was sought to be conducted. The final notification is issued after a lapse of 14 years, without any plausible explanation for delay from the date of issuance of preliminary notification under Section 28(1) of the Act. In the light of the final notification being issued without compliance with sub-sections (2) and (3) of Section 28 in both these cases, it is on the face of it illegal. The law in this regard is laid down by the Division Bench of this Court. The Division Bench in **THE KARNATAKA INDUSTRIAL**

AREA DEVELOPMENT BOARD v. SRI CHETAN TAYAL¹, has held as follows:

"....

6. Having considered the contentions advanced, we notice that the preliminary Notification issued on 18.03.2006 in respect of the property of the respondents herein, had not culminated in the issuance of a final Notification, even in the year 2016 or on 21.12.2020 when the learned Single Judge had taken up the writ petition for consideration.

7. Though, no time frame is specifically provided under Section 28 of the KIADB Act, we are of the opinion that the contention that the final Notification can be issued at any time after the preliminary Notification has been issued in 2006 cannot be accepted. In the above view of the matter, we are of the opinion that there is no scope for interference with the findings of the learned Single Judge in the judgment under appeal. The writ appeal therefore fails, the same is accordingly **dismissed**."

(Emphasis supplied)

The Division Bench in the aforesaid judgments holds that the final notification under Section 28(4) of the Act must be issued within a reasonable time.

11. Prior to the said judgment, a coordinate Bench of this Court quashed similar proceedings on these very grounds in

¹ **W.A.No.509 of 2021 decided on 19-12-2024**

SRI NARAYAN v. THE STATE OF KARNATAKA². The coordinate

Bench has held as follows:

"....

24. After carefully considering the arguments of the learned counsel for the parties, the key points that arise for deliberation in these petitions are as follows:

1. **Whether there was compliance with the mandatory provision contained in Section 28(3) before issuing the final notification under Section 28(4)?**
2. **In the absence of a prescribed limitation, can the KIADB issue a final notification after the expiry of a period of 27 years from the date of the preliminary notification?**
3. Whether the respondents can acquire land for the sole purpose of establishing an educational institution as an amenity or for a different purpose than the one notified under Section 28(1) of the KIAD Act?
4. Whether the instant writ petitions are plagued with delay and laches, and if so, whether it can be condoned?
5. Whether the acquisition proceedings are vitiated on the grounds that it is a case of colorable exercise of power by the concerned authorities?

25. Before addressing the points raised for deliberation, it is necessary to divulge the facts of the case that led to the filing of these petitions.

26. **Point No.1.** In this instance, the preliminary notification was issued on 10th February 1981, and the final notification was published on 12th February 1982. However, this final notification was quashed by this Court in WP No. 6448/1982 and a connected petition via an order dated 26th

² **W.P. No.71377 of 2012 & connected matter decided on 26-07-2024**

April 1984 due to non-compliance with the mandatory provision contained in Section 28(3) of the Act, 1966. Following the order of remand passed by this Court, a notice dated 21st November 1984/27th November 1984 was issued, to which the petitioner in WP No. 71377/2012 filed objections, requesting the acquisition proceedings to be dropped. Despite these objections, the Special Land Acquisition Officer recommended acquisition via an order dated 26th January 1986. The KIADB subsequently sent a proposal to the State Government to issue and publish the final notification, followed by subsequent reminders.

27. The State Government did not approve the proposal sent by the KIADB. Consequently, the Board, in its 143rd General Body Meeting dated 11.7.1989, resolved to withdraw from the acquisition of land in Sy.No.127, among other lands. Respondent No. 5(c) submitted a representation dated 30th May 2006 to the KIADB to delete the name of the KIADB from the record of rights and to enter his and his brother's names instead.

28. Given these circumstances, respondent No.4 requested the KIADB, stating that the legal heirs of the deceased S.B. Kademani were agreeable to hand over possession of the land through the concerned acquisition. The legal representatives of the deceased S.B. Kademani, suppressing the pendency of the suit in OS No. 61/2005 and the temporary injunction granted on 22nd December 2005, which restrained the parties from alienating the subject land, submitted a consent letter on 16th January 2007, asserting ownership and consenting to acquisition. The Special Land Acquisition Officer submitted a report to the Special District Commissioner, KIADB, on 2nd March 2007 regarding the consent and pendency of the suit but did not mention the interim order that was in effect or the resolution passed by the Board in its 143rd General Body Meeting to withdraw from the acquisition of the subject land. The KIADB then decided to continue from the stage of Section 28(3), following the preliminary notification dated 10th February 1981.

29. The SLAO, KIADB, claims to have issued a notice dated 21st September 2007 to the petitioners to show cause as to why the land should not be acquired. On this notice, the Village Accountant, Attikola, made an endorsement dated 3rd

October 2007, stating that when he attempted to serve the notice to Narayana Bhim Rao Kademani, the petitioner in WP No. 71377/2012 at Malmaddi, Dharwad, he was informed that the address provided was insufficient. Thus, the service of notice could only be effected if a sufficient address was furnished. The Tahsildar, Dharwad, endorsed the notice on 15th October 2007, informing the Special Land Acquisition Officer, KIADB, that the concerned person was not residing at the address provided. The notice was received by the office of SLAO on 24th October 2007.

30. The order sheet dated 4th October 2007, which pertains to the enquiry under Section 28(3), indicated that Ranganath Srinivasrao Kademani, respondent No. 5(c), appeared before the SLAO, stating he was ready to give the land on acquisition to the KIADB. Therefore, the petitioner in WP No. 71377/2012, Narayan s/o Bhimappa Kademani, who was the petitioner in WP No. 6489/1982, and the father of the petitioner in WP No. 60868/2011, Thimmappa Bhimrao Kademani, who was plaintiff No. 2 in OS No. 61/2005, were not issued notices to file objections and were not provided with an opportunity for a personal hearing as mandated under Section 28(3), despite the direction issued by this Court in WP Nos. 6448 & 6449 of 1982. Based on the consent given by Ranganath Srinivasrao Kademani, the SLAO passed an order dated 6th October 2007, stating that there was no objection to the acquisition of land for the benefit of respondent No. 4. This order preceded the endorsement made by the Tahsildar on 15th October 2007 on the notice issued by the SLAO, stating that the concerned individual was not residing at the provided address.

31. Upon receiving and accepting the proposal sent by the KIADB, the State Government published the final notification under Section 28(4) on 6th February 2008. It is pertinent to note that the final notification was issued after a lapse of 28 years from the date of the issuance of the preliminary notification.

32. The KIADB has produced vouchers for the payment of compensation made under Section 29(2) of the KIAD Act to respondents No. 5(a) to 5(c) and cheques for sums of Rs.28,61,086/- and Rs.14,30,542/-, respectively, as shown in Annexures-R7 and R8. An agreement was entered into between the State Government and respondents No. 5(a) to 5(c), but not

with the petitioner in WP No. 71377/2012, who was issued a notice to participate in the enquiry under Section 28(3) but was not served with the notice. Therefore, in the absence of an agreement with all the owners, the compensation paid and received by respondents No. 5(a) to 5(c) is not binding on the petitioners, and the acquisition cannot be said to be by consent.

33. In light of the above facts, the key points raised for deliberation must be considered with reference to the relevant provisions of the KIAD Act and the legal principles established by the Apex Court and this Court regarding those provisions.

34. The objective of the Act, 1966, is to make necessary provisions for the orderly establishment and development of industries in suitable areas within the State. Chapter VII of the Act deals with the acquisition and disposal of land. Section 28 of the Act addresses land acquisition, and its provisions are as follows:

Sub-Section (1) states that if, at any time, the State Government deems land necessary for development by the Board or for any other purpose in furtherance of the Act's objectives, it may issue a notification announcing its intention to acquire such land.

Sub-Section (2) requires the service of a notice to the landowner to show cause within 30 days why the land should not be acquired.

Sub-Section (3) mandates that an opportunity be given to the landowners to be heard. The State Government must consider any objections raised by the landowners and may then pass such orders as it deems appropriate.

Sub-Section (4) stipulates that after passing an order under Sub-Section (3) and if the State Government is satisfied that the land is required for the purpose specified in the notification issued under Section 1, a declaration shall be made by notification in the official gazette.

35. After issuing the preliminary notification, the only requirements are to serve a notice on the landowner to show cause why the land should not be acquired, conduct an enquiry to consider any objections submitted by the landowners, provide an opportunity for a personal hearing, and, after considering the objections, publish the final notification.

36. In the case of Poojari Peddanna v. State and Others 2009(5) Kar L J 556, the coordinate Bench of this Court examined whether service of notice under Section 28(2) of the Act on all interested parties is mandatory or directory. Referring to the decisions of the Hon'ble Supreme Court in Ahuja Industries Limited v. State of Karnataka (AIR 2003 SC 3519) and Devinder Singh v. State of Punjab (AIR 2008 SC 261), it was ruled that non-service of notice on the legal representatives of the original grantee, despite the respondent's awareness of the pending proceedings, constitutes absolute non-compliance with the mandatory provisions contained in Section 28(2) of the Act.

37. In the present case, the father of the petitioner in WP No.60868/2011 was plaintiff No. 2 in OS No.61/2005. The pendency of the partition suit concerning the subject land was well within the knowledge of the respondent KIADB. Despite this knowledge, the KIADB did not issue a notice under Section 28(2) or provide a personal hearing as required by Section 28(3). Similarly, the petitioner in WP No.71377/2012 was not issued a notice under Section 28(2) nor provided a personal hearing as required by Section 28(3), as evidenced by the endorsements made by the Tahsildar and the Village Accountant on the notice issued by the Special Land Acquisition Officer. Therefore, the non compliance with the mandatory provisions of Section 28(2) and (3) of the KIAD Act, 1966, vitiates the acquisition proceedings. Accordingly, Point No. 1 is answered in the negative and in favor of the petitioner.

38. Point No. 2. The preliminary notification was issued on October 30, 1981. The final notification dated February 12, 1982, was subsequently quashed by this Court on July 26,

1984. Upon remand, the KIADB, during its 143rd General Body Meeting dated 11.7.1989, resolved to withdraw from the acquisition of the subject land. However, on November 6, 2006, respondent No. 4 requested the KIADB to proceed with the acquisition of the subject land. In response, the Special Deputy Commissioner of KIADB directed the Special Land Acquisition Officer to verify the status of the acquisition and check for any pending cases.

39. Following this, based on a consent letter from the legal representatives of the deceased S.B. Kademani, an enquiry was conducted under Sections 28(2) and (3) of the Act. Notably, notices were not issued during this enquiry, which ultimately led to the publication of the final notification on February 6, 2008. This final notification was issued after an inordinate delay of 27 years.

40. A review of the provisions contained in Section 28 of the Act indicates that while there is no specific time limit prescribed for issuing the final notification from the date of the preliminary notification issued under Sub-Section (1), it is implicit that the final notification should be published within a "reasonable time" if no specific time frame is established by law.

41. The concept of what constitutes reasonable time can be subjective and is determined on the facts and circumstances of the case including the purpose of the acquisition, the procedures involved and impact on the land owners. The market value of the lands is often pegged to the date of preliminary notification. Meaning, the compensation to the landowner is calculated based on the value of land as it was on the date of the preliminary notification rather than its value at the time of the final notification.

42. The Division Bench of this Court in Shimoga Urban Development Authority by its Commissioner and Another v. State of Karnataka by its Secretary (ILR 2002 KAR 2078), referencing the Apex Court's decision in Ramchand and Others v. Union of India and Others (1994) 1 SCC 44, ruled that when a statute does not prescribe a time limit for exercising a power, it must be

exercised within a time frame that can be deemed reasonable. The Division Bench further observed that, according to the Supreme Court, when compensation is pegged to the date of the preliminary notification and there is an inordinate delay, the market value as of the preliminary notification becomes a fraction of the market rate prevailing at the time of passing the award and taking possession, which is unjust to the landowners.

43. In **H.N. Shivanna and Ors v State of Karnataka and Ors**, WA 3189/2010 : AIR 2013 KAR 163 , the Division Bench, referring to the Shimoga Urban Development Authority by its Commissioner and Another v. State of Karnataka by its Secretary (ILR 2002 KAR 2078) case and a series of Apex Court decisions, held that even if no period is prescribed under the Act for issuing the final declaration or passing the award, it does not imply that limitation is not a bar. A period of two years was considered reasonable for issuing a final declaration, provided there are no legal or procedural obstacles. If the final declaration is not issued within this period, the land acquisition proceedings lapse, regardless of the absence of a specific provision in the Act. Although the decision in Shivanna's case was challenged before the Apex Court, which dismissed the special leave petition while keeping the position of law open, the decision of the Division Bench in Shimoga Urban Development Authority remains final.

44. Regarding the abandonment of acquisition proceedings due to delay and inaction by the KIADB, the Division Bench in **Special Land Acquisition Officer and Others v. Sri Venugopal V. and Others** (WA No. 6820/2017, dated September 28, 2020) dismissed the writ appeal and affirmed the co-ordinate bench's order, stating that a delay of nearly seven years in passing the award for land acquisition under the Act, 1966 leads to the lapse of the acquisition proceedings. The co-ordinate bench in WP No. 34313-317/2016 (dated August 17, 2017), referring to **Tukaram Kana Joshi & Others v. M.I.D.C.** (AIR 2013 SC 565), **Ram Chand and Others v. Union of India** (1994 1 SCC 44), and **H.N. Shivanna and Ors v. State of Karnataka and Ors** WA 3189/2010 AIR

2013 KAR 163, noted that there is a legal obligation on the competent authority to conclude acquisition proceedings within a reasonable time.

45. Similarly, this Court in Special Land Acquisition Officer v. Sri K.B. Lingaraju (WA No. 6819/2017, dated September 28, 2020) upheld the decision of the co-ordinate bench in WP No. 34318/2016 (dated August 17, 2017), ruling that a delay of nearly seven years in passing the award for land acquisition under the Act, 1966 results in the lapse of the acquisition proceedings.

46. In this case, no order of restraint was in place against the KIADB acquiring the land. The final notification pertained only to the subject land, and there were no impediments to commencing the acquisition proceedings. Unlike cases involving large extents of land, where the State Government delayed action from the date of the proposal sent by the KIADB, the proceedings here were inordinately delayed due to extraneous considerations and a lack of reasonable explanation. Consequently, the entire acquisition proceedings have lapsed due to the failure to issue the final notification within a reasonable time. Therefore, Point No. 2 is answered in the negative and in favor of the petitioners."

.....

59. Point No. 4. In State of A.P. v. Surya Chandra Rao (2005 (6) SCC 149), the Apex Court elaborated on the concept of fraud, stating that in public or administrative law, fraud arises from a deception that involves the disclosure of incorrect facts, knowingly and deliberately, to exercise jurisdiction that would otherwise not have been exercised. The misrepresentation must relate to conditions outlined in a section, concerning the existence or non-existence of which power can be exercised. Hence, if the exercise of power involves exceeding the jurisdiction conferred by the legislature or defeating statutory provisions through subterfuge or for irrelevant considerations, it constitutes a fraud in law and amounts to a colorable exercise of power.

60. Citing earlier decisions in **Narayana Reddy v. State of Karnataka (ILR 1991 KAR 2248**, decided on January 1, 1991) and **HMT House Building Cooperative Society v. Syed Khader & Ors (AIR 1995 SC 2244)**, where the Court had annulled mala fide acquisition proceedings as a colorable exercise of power—because members who were neither employees of HMT nor residing within the society's jurisdiction were admitted, and land was acquired under the Land Acquisition Act, 1894 for extraneous considerations—the Supreme Court in **Vyalikaval House Building Co-operative Society v. Chandrappa (2007 (9) SCC 304)** upheld the decision to allow a writ petition in a Letters Patent Appeal filed after a delay of fourteen years. The challenge was based on the finding that the acquisition was mala fide and fraudulent. The Court also concluded that money paid for settlement in such cases was at the risk of the petitioner society.

61. In State of **Punjab v. Gurdial Singh (1980 2 SCC 471)**, the Supreme Court had observed that where land was notified for industrial development under the Land Acquisition Act, 1894, and was later allocated to private builders for residential apartments—contrary to the intended use—the acquisition was deemed a colorable exercise of power. The Court affirmed that fraud on power voids the order if it is not exercised bona fide for the intended purpose.

62. In **Greater Noida Industrial Development Authority v. Devendra Kumar (2011 12 SCC 375)**, the Court noted that when land acquired for industrial development was instead allotted for residential purposes within weeks of the notification, it constituted a colorable exercise of power. The State Government's evasive responses about land usage further supported the finding of fraud.

63. In **Tukaram Kana Joshi & Ors. v. M.I.D.C. & Ors. (AIR 2013 SC 565)**, where State functionaries had taken possession of land in 1964 without compensating the owners, the Court referenced that deprivation without legal sanction does not equate to valid acquisition. It observed that delay in challenging unlawful dispossession should not bar the claim if substantial justice was violated, even if acquisition proceedings had lapsed due to inaction by authorities.

64. Additionally, in **Union of India v. N. Murugesan (2022 2 SCC 25)**, the Supreme Court emphasized that delay and laches are matters of fact and prejudice, and may not apply if fraud is proven. The Court noted that condonation of delay involves examining the length of delay and the nature of actions taken during that period, and it may be unreasonable to challenge settled schemes based on technical delay.

65. In **B. Mahadevappa v. The Deputy Commissioner (W.P. 43155/2011 : DD 11.06.2024)**, this Court ruled that the State Government cannot dispossess individuals of their constitutionally protected property rights without following due process, even if the writ petition is delayed. The Court stated that unjust enrichment by the State Government and unlawful possession do not confer any right to the State Government.

66. Given that the final notification was published after 28 years from the date of issuance of preliminary notification, and the writ petitions were filed on February 1, 2011, and October 18, 2012, respectively, it is improper and unacceptable for the KIADB to argue that the petitions should be dismissed on the grounds of delay and laches. The principle of equity prevents a party from benefiting from wrongful conduct and protects the enjoyment of rights that have become permanent due to the passage of time. The KIADB's conduct signifies a waiver of the right to the land proposed for acquisition. Moreover, fraud on power renders limitations on remedies ineffective. Therefore, the KIADB's claim that the writ petitions are barred by delay and laches is without merit and is hereby rejected. Accordingly, Point No. 4 is answered in favor of the Petitioners."

(Emphasis supplied)

The coordinate Bench in the aforesaid judgment holds that non-compliance with the mandatory provisions under Sections 28(2) and 28(3) of the Act vitiates the acquisition proceedings. Further,

the acquisition proceedings would lapse if the final notification under Section 28(4) is not issued within a reasonable time.

12. A Division Bench in Writ Appeal No.100558 of 2024 and connected cases decided on 27-02-2025 rejects the appeal filed by the Board against the aforesaid order of the learned single Judge who had allowed the petitions and quashed the acquisition proceedings. The order of the Division Bench reads as follows:

"....

ORDER

- [a] **The writ Appeals in No. 100558/2024 and 100566/2024 are rejected.**
- [b] The contempt proceedings in CCC 100349/2024 are closed directing the respondents in such proceedings to implement the writ Court's direction within 8 [eight] weeks from the date of receipt of a certified copy of this order reserving liberty to the petitioners to file a certified copy of this order within [4] four weeks from the date of receipt thereof.
- [c] It is needless to observe that the petitioners will be at liberty to seek revival of this complaint CCC No. 100349/2024 if there is any failure to comply with the direction."

(Emphasis supplied)

The submissions that are now projected before this Court that mere delay will not vitiate the notifications are all considered by the Division Bench and the learned single Judge. Delay therein was 17 years. Delay herein is 14 years. The delay that is sought to be justified therein was on the score that several thousands of acres of land were made subject matter of acquisition. The same swan song is sung by the Board in the case at hand as well.

13. The learned senior counsel appearing for the Board has placed reliance upon several judgments to buttress his submission that when public interest is involved, delay should not come in the way of setting up industries and quashment of notification should not arise. All those judgments are considered by the judgments rendered by the learned single Judge or by the Division Bench noted hereinabove. In that light the submissions of the learned senior counsel for the Board would tumble down, as they have all been rejected by the Division Bench and the coordinate Bench. The illegality that shrouds the acquisition in the case at hand is that there is no notice under Section 28(2) in one of the proceedings and there is no proceeding under Section 28(3) in another petition.

These are admitted facts, as not a speck of paper is produced by the Board to demonstrate in one of the cases that Section 28(2) notice was issued and in the other case Section 28(3) proceedings was ever undertaken. These are illegalities that would cut at the root of the acquisition, *albeit qua* the petitioners.

14. It is not that the entire notifications – preliminary and final – would stand obliterated, but the lands of the petitioners which are subject matter of acquisition stand obliterated. The possession admittedly is with the petitioners even today and after the final notification there is an interim order operating in favour of the petitioners in these cases. In that light the petitions deserve to succeed.

15. For the aforesaid reasons, the following:

ORDER

- (i) Writ Petitions are ***allowed***.

- (ii) Preliminary Notification No.CI 290 SPQ 2010 dated 28-05-2010 issued by the 1st respondent and final notification No.CI 23 SPQ 2023 dated 29-02-2024 issued by the 3rd respondent stand quashed *qua* the lands of the petitioners in Writ Petition No.105222 of 2025.

- (iii) Preliminary Notification No.CI 420 SPQ 2009 dated 07-11-2009 issued by the 1st respondent and final notification No.CI 22 SPQ 2023 dated 17-02-2024 issued by the 3rd respondent stand quashed *qua* the land of the petitioner in Writ Petition No.105242 of 2025.

SD/-
(M.NAGAPRASANNA)
JUDGE

bkp
CT:MJ