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NC: 2025:KHC:50797-DB
WA No. 487 of 2025



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF DECEMBER, 2025

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE UMESH M ADIGA

WRIT APPEAL NO.487 OF 2025 (LA-KIADB)

BETWEEN:

1. JEMCY PONNAPPA C.P.,
AGED ABOUT 61 YEARS,
S/O. C.P. PONNAPPA,
RESIDENT OF 4TH BLOCK,
BYPASS ROAD,
KUSHALNAGAR,
SOMAWARPET TALUK,
KODAGU DISTRICT-571 231.

REPRESENTED BY HIS GPA HOLDER
MR.ARJUN
BALASUBRAMANYAM
AGED ABOUT 40 YEARS
S/O. K.N BALASUBRAMANYAM,
RESIDING AT NO.45,
11TH MAIN, 13TH CROSS,
MALLESHWARAM,
BENGALURU-560 003.

2. CASUBA INFRASTRUCTURE
AND DEVELOPMENT COMPANY
A REGISTERED PARTNERSHIP FIRM
HAVING ITS OFFICE AT NO.14,
"SRI NIKETAN" NANDI
DURGA ROAD,
BENSON TOWN,
BENGALURU- 560 046.





REPRESENTED BY ITS PARTNER
MR. ARJUN
BALASUBRAMANYAM.

...APPELLANTS

(BY SRI.K.G. RAGHAVAN, SENIOR COUNSEL FOR
SRI.SAMPATH A., ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY
DEPARTMENT OF COMMERCE
AND INDUSTRIES
M.S. BUILDING
BENGALURU-560 001.

2. THE KARNATAKA
INDUSTRIAL AREA
DEVELOPMENT BOARD
KHANIJA BHAVAN,
RACE COURSE ROAD
BENGALURU-560 001.

REPRESENTED BY ITS CHIEF
EXECUTIVE OFFICER.

3. THE SPECIAL LAND
ACQUISITION OFFICER
KIADB, REGIONAL OFFICE
BYKAMPADY INDUSTRIAL AREA,
NEW MANGALORE-575 011.

4. THE DEPUTY COMMISSIONER,
KIADB, REGIONAL OFFICE
BYKAMPADY INDUSTRIAL AREA,
NEW MANGALORE 575 011.

...RESPONDENTS

(BY SRI.MOHD.JAFFAR SHAH, AGA FOR R1,
SRI.B. B. PATIL., ADVOCATE FOR R2 TO R4)



THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO CALL FOR RECORDS IN WP NO.12603/2024 DISPOSED OF BY THE LEARNED SINGLE JUDGE OF THIS HONBLE COURT AND SET ASIDE THE ORDER DATED 12/11/2024 PASSED IN WP NO.12603/2024 BY THE LEARNED SINGLE JUDGE OF THIS HONBLE COURT AND ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE UMESH M ADIGA

ORAL JUDGMENT

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

1. This appeal has been filed challenging the impugned judgment and order dated 12.11.2024, passed by the learned Single Judge in Writ Petition No.12603/2024 (LA-KIADB).

2. The parties are referred to as per their ranking in the writ petition.

3. The petitioners' land was acquired by the Karnataka Industrial Areas Development Board, by issuing Final Notification under Section 28(4) of Karnataka



Industrial Areas Development Act, 1966 (for short, 'KIAD Act'), dated 15th December 2017. The compensation amount for the land of the petitioners acquired was assessed by the Special Land Acquisition Officer at Rs.197,28,34,758/-.

4. The petitioners had filed Writ Petition No.15168/2023, seeking a direction to the respondents to disburse the compensation amount of Rs.197,28,34,758/-. The beneficiaries i.e., Mangaluru Refinery and Petrochemicals Ltd., had filed Writ Petition No.22685/2023, challenging the Notifications dated 15th December 2017 and 25th November 2020, issued under Section 28(4) of KIAD Act. These two writ petitions were clubbed together and by the common order dated 22nd February 2024, the learned Single Judge dismissed the Writ Petition No.22685/2023 filed by the beneficiaries/Mangaluru Refinery and Petrochemicals Ltd., and the other Writ Petition No.15168/2023 filed by the petitioners was allowed in-part. The respondents-



authorities were directed to disburse the amount of Rs.55,69,76,660, in terms of the General Award dated 7th July 2023, by the Special Land Acquisition Officer.

5. Thereafter, the petitioners filed the present Writ Petition No.12603/2024 contending that the Land Acquisition Officer had already passed the award for an amount of Rs.197,28,34,758/- on 16th March 2023, and the subsequent award dated 7th July 2023 would be *non est*. The respondents be directed to give effect to the award dated 16th March 2023 and petitioners be paid the amount of Rs.197,28,34,758/-, instead of Rs.55,69,76,660/-.

6. The Writ Court has been of the view that, in view of the provisions of Sections 28, 29 and 30 of KIAD Act, and as per the Circular issued by the Government dated 25th January 2022, any award amount above Rs.5 crores is required to be approved by the State Government. In the present case, as the award dated 16th March 2023 for an



amount is Rs.197,28,34,758/- was not approved by the State Government, the State Government asked the Special Land Acquisition Officer to recalculate the amount to be paid to the petitioners. On re-calculation, the Land Acquisition Officer has assessed the award amount at Rs.55,69,76,660/-.

7. The learned Senior Counsel Mr.K.G.Raghavan has submitted that, as per Section 23 of the Right to Fair Compensation and Transparency of Land Acquisition, Rehabilitation and Resettlement Act, 2013, it is the Land Acquisition Officer who is empowered to determine the compensation and there is no requirement for any Government approval of the award. He would further submit that, there are no statutory rules which have been framed by the State Government, that would require the approval of the State Government for an award in respect of the land acquired and the award passed by the Land Acquisition Officer would be final and there is no question



of re-determining the award on the direction of the State Government.

8. Learned Senior Counsel for the petitioners has further submitted that as per Section 27 of the Right to Fair Compensation and Transparency of Land Acquisition, Rehabilitation and Resettlement Act, 2013, if the Collector has determined the market value of the land to be acquired, he is authorized to calculate the total amount of compensation to be paid to the land owner. The State Government has no role to play in determining the compensation and approving the award.

9. Mr.B.B.Patil, learned counsel appearing for respondent Nos.2 to 4 submitted that, Section 23-A of the Act, itself provides that the award would be subject to the Rules to be framed by the State Government. The State Government has framed the Rules viz., The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka) Rules, 2015.



Rule 29-A of the said Rules, which has been inserted by Notification dated 28th March 2022 would read as under :

"29-A. Award under section 23 and 23-A.-

(1) The matters to be included in the award of the Deputy commissioner shall be as specified in Form VIII.

(2) The consent award under section 23-A shall not be less than 5% or not more than 10% of the compensation which are calculated under sections 26, 27, 28, 29 and 30.

(3) In addition to the market value of the land provided under section 26 award an amount calculated at the rate of 12% per annum on such market value for the period commencing on and from the date of publication preliminary notification under section 11 till the date of consent award made by concerned officer or date of possession of land whichever is earlier.

(4) While making an award under section 23 and 23-A a lump sum amount shall be added in lieu of the provisions of Rehabilitation and Resettlement opportunities mentioned in Chapter II and III of the Principal Act.

"Provided that, lump sum amount given in lieu of the provisions of Rehabilitation and Resettlement opportunities shall be minimum



rupees fifty thousand or affected family (Joint / Nuclear family) holding the land in which percentage of land acquired such market value of the land specified under section 26, in whichever is highest but not exceeding rupees five lakhs.

(5) In general and consent award land value, trees, structures shall be calculated and applicable from date of preliminary notification.

(6) Any awarded person under section 23-A is not eligible to file application under sub-section(1) of section 64 and sub-section (1) of section-73. If an application is so filed, it shall be rejected.

(7) The Deputy Commissioner or Authorized officer shall declare the consent award under section 23-A with previous approval of the State Government.

(8) If the amount of General award compensation including lumpsum amount, to be paid is less than rupees two crore, then the Deputy Commissioner shall declare the award.

(9) If the amount of General award compensation including lump sum amount, to be paid is more than two crores or less than rupees five crores, then the Deputy Commissioner shall declare the award with the previous approval of the concerned Regional Commissioner.



(10) If the amount of General award compensation including lump sum amount, to be paid is more than five crores then the Deputy Commissioner shall declare the award with the previous approval of the State Government.

(11) Application pertaining to general award under sub-section (1) of section 73 shall be disposed as early as possible and such application shall be disposed within sixty days from the date of filing of application."

10. Thus, under the sub-rule (10) of Rule 29-A of the Rules, it is provided that, if the amount of General Award, including the lumpsum amount to be paid is more than Rs.5 crores, then the Deputy Commissioner shall declare the award with previous approval of the State Government.

11. The aforesaid Rules are not in challenge and since the award passed by the Land Acquisition Officer is for more than Rs.5 crores, only after the previous approval by the State Government and then it could have been declared. Therefore, the previous approval of the State



Government is mandatory in the present case as the award amount is more than Rs.5 crores.

12. The State Government having considered the facts and circumstances, remanded the matter for reconsideration of the award amount and on reconsideration, the Land Acquisition Officer has passed the award for an amount of Rs.55,69,76,660/-.

13. Having faced with the said position of the rules, Mr. K.G. Raghavan, learned Senior Counsel appearing for the appellants would submit that the KIAD Act is a complete code in itself. All the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Right to Fair Compensation Act') have not been incorporated by amendment brought in the KIAD Act. The submission is that only limited provisions of the Right to Fair Compensation Act have been incorporated by the Karnataka Industrial Areas Development (Amendment)



Act, 2022, which received the assent of the Governor on 04.04.2022. Section 30 of the KIAD Act has been amended by the said amendment, which reads as under:

"30. Application of Central Act 30 of 2013.- *The sections 23, 23A, 26, 27, 28, 29, 30, 64, 65, 69, 72, 73, 74, 75, 76, 77, 78, 79, 80, 96 and schedule-1 of the Right to fair compensation and transparency in Land Acquisition, rehabilitation and resettlement Act, 2013 (Central Act 30 of 2013) shall for that purpose be deemed to form part of this Act in the same manner as if they were re-enacted in the body thereof in respect of lands acquired under this Chapter."*

14. It is further submitted that Section 40 of the KIAD Act empowers the State Government to make rules to carry out the purposes of the Act and Section 41 empowers the KIAD Board to make regulations with the previous approval of the State Government. Section 109 of the Right to Fair Compensation Act empowers the appropriate Government (Central and State Governments) to make rules for carrying out the provisions of the said Act. However, the said provision i.e., Section 109 has not



been incorporated in Section 30 of the KIAD Act, which was amended with effect from 04.04.2022. The submission is that the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka) Rules, 2015 are the Rules referable to Section 109 of the Right to Fair Compensation Act. However, the said provision has not been incorporated and therefore, the aforesaid Rules would have no application in respect of the award of compensation etc.

15. In support of his submissions, learned Senior Counsel for the appellants has placed reliance on the Constitution Bench judgment in the case of **GIRNAR TRADERS (3) vs STATE OF MAHARASHTRA ([2011] 3 SCC 1)** particularly, paragraphs 87, 88 and 89.

16. On the other hand, Mr. B.B.Patil, learned counsel for the respondent Nos.2 to 4 would submit that the writ petition filed by the petitioners was barred by the principle



of *res judicata*. He submitted that the petitioners had already filed W.P.No.15168/2023 (LA-KIADB) with the following prayer:-

"a) Issue a writ in the nature of mandamus directing the respondent to disburse the compensation amount of Rs.197,28,34,758/- (Rupees One Hundred Ninety Seven Crores Twenty Eight Lakhs Thirty Four Thousand Seven Hundred Fifty Eight Only) to the petitioners as per the General Award dated 16.03.2023 bearing No.LAQ.S.R.3/2016-17/III vide Annexure-D."

17. The learned Single Judge, vide judgment and order dated 22.02.2024 passed in the aforesaid W.P.No.15168/2023 (at paragraph 58), did not grant the aforesaid relief to the petitioners. However, the amount of Rs.55,69,76,660/- was ordered to be released in favour of the petitioners/appellants. The submission is that the subsequent writ petition i.e., W.P.No.12603/2024 filed by the petitioners claiming compensation of Rs.197,28,34,758/- was barred by the principle of *res judicata*/constructive *res judicata* and it ought to have



been dismissed with exemplary costs. In support of his submissions, the learned counsel has placed reliance on the judgment of the Supreme Court in the case of ***M. NAGABHUSHANA vs STATE OF KARNATAKA ([2011] 3 SCC 408)***.

18. We have considered the submissions advanced by the learned counsel for the parties.

19. 'Legislation by incorporation' means the later Act engraves the provisions of an earlier Act into itself. So, those provisions become part of the later Act as if written there, and therefore, remain frozen as on the date of incorporation. Subsequent amendments or repeals of the earlier Act do not affect the incorporated provisions. The legislation by incorporation contrasts with mere reference, where the later Act refers to the earlier Act and therefore, adopts the law as it stands when invoked. Later amendments/re-enactments of the earlier Act will normally



flow in, subject to Section 8(1) of the General Clauses Act, 1897 and clear contrary intent.

20. In the case of **GIRNAR TRADERS** (*supra*), at paragraphs 87 to 91, the contours of 'legislation by incorporation' and 'legislation by reference' have been comprehensively explained. It would be apt to take note of the aforesaid paragraphs, which read as under:-

"87. However, since this aspect was argued by the learned counsel appearing for the parties at great length, we will proceed to discuss the merit or otherwise of this contention without prejudice to the above findings and as an alternative plea. These principles have been applied by the courts for a considerable period now. When there is general reference in the Act in question to some earlier Act but there is no specific mention of the provisions of the former Act, then it is clearly considered as legislation by reference. In the case of legislation by reference, the amending laws of the former Act would normally become applicable to the later Act; but, when the provisions of an Act are specifically referred and incorporated in the later statute, then those provisions alone are applicable and the amending provisions of the former Act would not become part of the later Act. This principle is



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generally called legislation by incorporation. General reference, ordinarily, will imply exclusion of specific reference and this is precisely the fine line of distinction between these two doctrines. Both are referential legislations, one merely by way of reference and the other by incorporation. It, normally, will depend on the language used in the later law and other relevant considerations. While the principle of legislation by incorporation has well-defined exceptions, the law enunciated as of now provides for no exceptions to the principle of legislation by reference. Furthermore, despite strict application of doctrine of incorporation, it may still not operate in certain legislations and such legislation may fall within one of the stated exceptions.

88. In this regard, the judgment of this Court in M.V. Narasimhan can be usefully noticed where the Court after analyzing various judgments, summed up the exceptions to this rule as follows :

"(a) where the subsequent Act and the previous Act are supplemental to each other;
(b) where the two Acts are in pari materia;
(c) where the amendment in the previous Act, if not imported into the subsequent Act also, would render the subsequent Act wholly unworkable and ineffectual; and
(d) where the amendment of the previous Act, either expressly or by



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necessary intendment, applies the said provisions to the subsequent Act."

89. With the development of law, the legislature has adopted the common practice of referring to the provisions of the existing statute while enacting new laws. Reference to an earlier law in the later law could be a simple reference of provisions of earlier statute or a specific reference where the earlier law is made an integral part of the new law, i.e., by incorporation. In the case of legislation by reference, it is fictionally made a part of the later law. We have already noticed that all amendments to the former law, though made subsequent to the enactment of the later law, would ipso facto apply and one finds mention of this particular aspect in Section 8 of the General Clauses Act, 1897. In contrast to such simple reference, legal incidents of legislation by incorporation is that it becomes part of the existing law which implies bodily lifting provisions of one enactment and making them part of another and in such cases subsequent amendments in the incorporated Act could not be treated as part of the incorporating Act.

90. Ultimately, it is the expression and/or the language used in the new law with reference to the existing law that would determine as to under what class of referential legislation it falls. In some of the statutes, expressions like "shall for that purpose be deemed to form part of this Act in the same manner as if they were enacted in the body thereof" or "the provisions of



Section of the said Act (set out in the Schedule) shall apply as if they were herein re-enacted" are typical examples of legislation by incorporation. Another glaring example of incorporation one finds in the provision of Bombay Municipal Corporation Act, 1949 where Section 284-N uses the expression "the LA Act ... shall for that purpose be deemed to form part of this chapter in the same manner as if enacted in the body hereof".

91. Another feature of legislation by incorporation is that the language is explicit and positive. This demonstrates the desire of the legislature for legislation by incorporation. Self-contained enactment should be clearly distinguished from supplemental law. When the later law depends on the former law for procedural/ substantive provisions or is to draw its strength from the provisions of the former Act, the later Act is termed as the supplemental to the former law. The statement of object and reasons of both the Acts, i.e. the MRTP Act and the Land Acquisition Act as well as the scheme of these Acts, we have already discussed at length. They are Acts which operate in different fields. One is a Central Act while the other is a State Act. They derive their source from different entries in the constitutional lists."

21. Thus, it is for the Courts to decide whether the legislation meant incorporation or mere reference. The



legislative language and the statutory scheme are to be examined for the aforesaid purpose. In the present case, the amendment in Section 30 of the KIAD Act has come into force on 04.04.2022 whereby, Sections 23, 23A, 26, 27, 28, 29, 30, 64, 65, 69, 72, 73, 74, 75, 76, 77, 78, 79, 80, 96 and Schedule-1 of the Right to Fair Compensation Act have been incorporated. It is true that Section 109 of the Right to Fair Compensation Act does not find a mention in the amended Section 30 of the KIAD Act. The question is whether the State government does not have the power to frame the 2015 Rules in absence of incorporation of Section 109 of the Right to Fair Compensation Act?

22. At first blush, the submissions advanced by Mr.K.G.Raghavan, learned Senior Counsel for the appellants appear to be attractive, however, a deeper scrutiny of the issue would reveal the hollowness of the submissions advanced by him. The Right to Fair Compensation and Transparency in Land Acquisition,



Rehabilitation and Resettlement (Karnataka) Rules, 2015 were enacted prior to the amendment in Section 30 of the KIAD Act in 2022 with effect from 04.04.2022, wherein certain provisions were incorporated.

23. It may also be relevant to take note of the provisions of Section 103 of the Right to Fair Compensation Act, which specifically provides that the provisions of the Right to Fair Compensation Act shall be in addition to and not in derogation of, any other law for the time being in force. The notification issued on 28.03.2022 bringing amendment in the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement (Karnataka) Rules, 2015 would reveal that the State Government has brought in and amended those Rules in exercise of powers conferred by Section 23A, 30A, 31A, 112 and 109 of the Right to Fair Compensation Act. These rules are made applicable to all land acquisition proceedings commenced after the commencement of the said rules. Therefore, even if Section 109 has not been



specifically incorporated in Section 30 of the KIAD Act by amendment, which was brought into force on 04.04.2022, the State Government was not dissuaded of its power to make the rules inasmuch as the provisions of the Right to Fair Compensation Act are in addition to and not in derogation of any other law for the time being in force, which would obviously include the KIAD Act and the Rules made thereunder. The purpose and intent of the Right to Fair Compensation Act is to ensure and provide just and fair compensation to the affected families whose lands have been acquired or affected by such acquisition and to make adequate provisions for such affected persons for their rehabilitation and settlement. The Rules of 2015 make specific reference to Section 109 of the Right to Fair Compensation Act. It is specifically said that in exercise of powers under Section 109 of the Right to Fair Compensation Act, the State Government hereby makes the rules.



24. The Amendment Rules of 2020 incorporating rule 29-A were published on 28.03.2022 prior to the amendment in Section 30 of the KIAD Act which came into force with effect from 04.04.2022. Thus, the amendment Rules of 2020 are prior to and independent of the amendment in Section 30 of the KIAD Act, whereby certain provisions of the Right to Fair Compensation Act got specifically incorporated. Therefore, we do not find any substance in the submission of the learned Senior Counsel for the appellants and we reject the same. Further, rules are not under challenge, and therefore, in absence of challenge to the rules, we cannot even otherwise consider the submission regarding the validity of the rules which is sought to be contended before us.

25. Another aspect which requires consideration is whether the subsequent writ petition i.e., W.P.No.12603/2024, wherein the impugned judgment and order dated 12.11.2024 has been passed, was barred by the principle of *res judicata*/constructive *res judicata*, and



it was an abuse of the process of Court, we have taken note of the prayer made in the W.P.No.15168/2023. The award dated 07.07.2023 determining the compensation of Rs.55,69,76,660/- was available to the petitioners. However, the petitioners chose not to amend the writ petition and the learned Single Judge, vide judgment and order dated 22.02.2024, has directed for payment of compensation of Rs.55,69,76,660/-. It would be apt to take note of paragraphs 56 to 58 of the said judgment, which read as under:

"56. Necessary also to refer that an application in I.A.No.3/2023 was filed by the land owners seeking direction to release the amount. Learned counsel for KIADB had sought time to seek instructions from the respondent-KIADB if the amount determined in the award dated 07.07.2023 could be released to the land owners, matter was accordingly adjourned on two occasions. On 23.09.2023 learned counsel appearing for KIADB submitted that KIADB was not in a position to release the amount as the MRPL for whose benefit the land was acquired was not willing to take possession of the land. However, a submission was made that given a month's time KIADB



would release the amount of compensation determined under the award dated 07.07.2023. The said stance of the respondent-KIADB was opposed by the counsel for the land owners. This Court by its order dated 23.09.2023 taking into consideration of the submission made by the respondent-KIADB that award amount determined under award dated 07.07.2023 would be released and also taking into consideration the contents of statement of objections that if land owners were not satisfied they could seek for enhancement of compensation before appropriate forum, and keeping open the question with regard to enhancement of compensation in appropriate proceedings before competent authority, this Court had permitted the respondent-KIADB to deposit Rs.55,69,76,660/- as per Annexure-R-1 within four weeks before this Court. Accordingly, KIADB has deposited the said amount on 12.10.2023 by way of a Demand Draft bearing No.902071 of Union Bank of India, Race Course Road, Bengaluru and the same is directed to be deposited in any Nationalised Bank in an interest accruing account. MRPL has filed application in I.A.No.2/2023 seeking to implead itself as a party respondent in the said writ petition.

57. Learned counsel for the land owners had vehemently submitted that when once an award is passed 16.03.2023 determining the compensation payable at Rs.197,28,34,758/- the SLAO would become functus officio and cannot alter



the said award. Therefore it was contended that the subsequent award dated 07.07.2023 is nonest in the eye of law. It is also contended the said award dated 07.07.2023 has not taken into consideration the interest component and also requirement of provisions of Act, 2013 of paying the award amount within 60 days.

58. As already noted in the statement of objections filed by respondent-KIADB there is neither denial of passing of the General Award dated 16.03.2023 produced as Annexure-D nor any admission thereon. However, the respondent-KIADB has furnished the award dated 07.07.2023 produced at Annexure-R-1 wherein compensation has been determined at Rs.55,69,76,660/-. The said conduct of the respondent authorities requires much to be answered by them. In the normal circumstances in the absence of any denial to the passing the award at Annexure-D, the same had to be given effect to, considering the checkered history of this matter. However, considering the huge difference between the amounts determined at Annexure-D General Award dated 16.03.2023 and Annexure-R-1 award dated 07.07.2023 which is Rs.197,28,34,758/- and Rs.55,69,76,660/- respectively and also in view of there being no challenge by the land owners to said award dated 07.07.2023, this Court is of the considered view that liberty be reserved to the land owners to challenge the subsequent award dated 07.07.2023 or to seek



appropriate remedy as provided under the relevant provisions of law before a competent authority. However, since pursuant to the order dated 23.09.2023 passed by this Court, amount of Rs.55,69,76,660/- has been deposited by respondent-KIADB, the said amount be released in favour of the land owners."

26. Once the petitioners did not choose to amend the writ petition, the subsequent challenge to the award dated 07.07.2023 and direction for payment of Rs.197,28,34,758/- is clearly barred by the principle of *res judicata*. The second writ petition i.e., W.P.No.12603/2024, therefore, was not maintainable by the petitioners.

27. The Supreme Court, in the case of **M. NAGABHUSHANA** (*supra*), while explaining the principle of *res judicata* and the principle of finality of litigation, has held that these principles would seek to promote honesty and a fair administration of justice and to prevent abuse in the matter of accessing the Court for agitating on issues which have become final between the



parties. In paragraphs 12, 13 and 14 of the said judgment, the principle of *res judicata* and the principle of finality of litigation have been explained, which would read as follows:

"12. The principles of res judicata are of universal application as they are based on two age-old principles, namely, interest reipublicae ut sit finis litium which means that it is in the interest of the State that there should be an end to litigation and the other principle is nemo debet bis vexari, si constat curiae quod sit pro una et eadem causa meaning thereby that no one ought to be vexed twice in a litigation if it appears to the court that it is for one and the same cause. This doctrine of res judicata is common to all civilised system of jurisprudence to the extent that a judgment after a proper trial by a court of competent jurisdiction should be regarded as final and conclusive determination of the questions litigated and should forever set the controversy at rest.

13. That principle of finality of litigation is based on high principle of public policy. In the absence of such a principle great oppression might result under the colour and pretence of law inasmuch as there



will be no end of litigation and a rich and malicious litigant will succeed in infinitely vexing his opponent by repetitive suits and actions. This may compel the weaker party to relinquish his right. The doctrine of res judicata has been evolved to prevent such an anarchy. That is why it is perceived that the plea of res judicata is not a technical doctrine but a fundamental principle which sustains the rule of law in ensuring finality in litigation. This principle seeks to promote honesty and a fair administration of justice and to prevent abuse in the matter of accessing court for agitating on issues which have become final between the parties.

14. Tek Chand, J. delivering the unanimous Full Bench decision in Lachhmi v. Bhulli traced the history of this doctrine both in Hindu and Mohammedan jurisprudence as follows: (ILR pp. 391-92)

"In the Mitakshra (Book II, Chapter I, Section V, verse 5) one of the four kinds of effective answers to a suit is 'a plea by former judgment' and in verse 10, Katyayana is quoted as laying down that 'one against whom a judgment had formerly been given, if he brings forward the matter again, must be answered by a plea of purva nyaya or former judgment' (Macnaughten and



Colebrooke's translation, p. 22). The doctrine, however, seems to have been recognised much earlier in Hindu jurisprudence, judging from the fact that both the Smriti Chandrika (Mysore Edn., pp. 97-98) and Virmitrodaya (Vidya-Sagar Edn., p.77) base the defence of prang nyaya (former decision) on the following text of the ancient law-giver Harita, who is believed by some Orientalists to have flourished in the 9th century BC and whose Smriti is now extant only in fragments-

'The plaintiff should be non-suited if the defendant avers: "in this very affair, there was litigation between him and myself previously", and it is found that the plaintiff had lost his case.'

There are texts of Prasara (Bengal Asiatic Society Edn., p.56) and of Mayukha (Kane's Edn., p. 15) to the same effect.

Among Muhammadan law-givers similar effect was given to the plea of "Niza-i-munfasla" or "Amar Mania taqrir mukhalif." Under Roman Law, as administered by the Proetors' courts, a defendant could repel the plaintiff's claim by means of exceptio rei judicatae or plea of former judgment. The subject received considerable attention at the hands



of Roman jurists and as stated in Roby's Roman Private Law (Vol. II, p. 338) the general principle recognised was that 'one suit and one decision was enough for any single dispute' and that 'a matter once brought to trial should not be tried except, of course, by way of appeal.'

28. The petitioners/appellants knew the award dated 07.07.2023, however, they did not choose to amend their writ petition being W.P.No.15168/2023. We are, therefore, of the view that the subsequent writ petition i.e., W.P.No.12603/2024 was nothing but an abuse of the process of Court and therefore, we dismiss this writ appeal on both grounds i.e., without the previous approval of the Government, the award of Rs.197,28,34,758/- could not have been passed and second, W.P.No.12603/2024 was barred by the principle of *res judicata*.



29. In view of dismissal of the writ appeal, pending IAs, if any, do not survive for consideration and accordingly, they stand disposed of.

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

**Sd/-
(UMESH M ADIGA)
JUDGE**

bk/bkv:List No.: 1 Sl No.: 1