IN THE HIGH COURT OF KARNATAKA

DHARWAD BENCH

DATED THIS THE 11TH DAY OF MARCH, 2025

PRESENT

THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO.100362 OF 2023 (LA-KIADB)

BETWEEN:

1. THE SPECIAL LAND ACQUISITION OFFICER,
KARNATAKA INDUSTRIAL AREAS
DEVELOPMENT BOARD,
LAKAMMANAHALLI INDUSTRIAL AREA,
DHARWAD-588004.

2. THE EXECUTIVE OFFICER,
KARNATAKA INDUSTRIAL AREAS
DEVELOPMENT BOARD,
NRUPATHUNGA ROAD, BENGALURU-560001.

...APPELLANTS

(BY SRI P.N.HATTI, ADVOCATE.)

AND:

Digitally signed by
MALLIKARJUN
RUDRAYYA KALMATH
Location: HIGH
COURT OF
KARNATAKA

1. BASAVARAJ SHIVARAYAPPA BADIGER,
AGE. 61 YEARS, OCC. EMPLOYEE,
R/O. H.NO.62, 2ND MAIN, 3RD CROSS,
SARVAMANGALA LAYOUT, 7TH CROSS,
BASAVANAHALLI,
NELAMANGALA, BENGALURU-560001.

2. STATE OF KARNATAKA,
DEPARTMENT OF COMMERCE AND
INDUSTRIES,
VIDHANA SOUDHA, BENGALURU-01.

3. THE EXECUTIVE MEMBER KIADB,
RASTHORATHANA BUILDING,
NRUPATHUNGA ROAD, BENGALURU-01.

4. UNION OF INDIA,
REPRESENTED BY PRINCIPAL SECRETARY
TO THE GOVT. OF INDIA,
DEPT. OF CIVIL AVIATION,
NEW DELHI-110001.

…RESPONDENTS

(BY SMT. ARCHANA A.MAGADUM, ADVOCATE FOR C/R1;
SRI V.S.KALASURMATH, ADDITIONAL GOVERNMENT ADVOCATE FOR R2.)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE IMPUGNED ORDER DATED 12.01.2023 PASSED IN W.P.NO.103582/2021 (LA-KIADB) AND PASS SUCH OTHER OR FURTHER ORDERS AS THIS COURT MAY DEEM FIT, IN THE CIRCUMSTANCE OF THE CASE AND IN THE INTERESTS OF JUSTICE AND EQUITY.

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

CORAM: THE HON'BLE MR. JUSTICE S G PANDIT
AND
THE HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: THE HON'BLE MR. JUSTICE C.M. POONACHA)

Learned Additional Government Advocate accepts notice for respondent No.2.

2. The present intra-Court appeal is filed by the KIADB under Section 4 of the Karnataka High Court Act, 1961, challenging the order dated 12.01.2023, passed by the learned single Judge in W.P.No.104582/2021 (LA-KIADB).

3. The learned single Judge, vide order dated 12.01.2023, allowed the writ petition filed by the 1st respondent/writ petitioner and directed the KIADB to pay damages @ 15% per annum as directed by the Hon'ble Supreme Court in the case of Suresh D. Bankapupr vs. State of Karnataka and others, arising out of the Writ Petition No.64214/2012. The damages were ordered to be paid @ 15% p.a. from 18.08.2008 to 29.12.2010 in favour of the petitioner on the amount of compensation already received by the petitioner.

4. The relevant facts leading to the present appeal are that pursuant to the preliminary notification dated 24.04.2007 and final notification dated 28.08.2008, the possession of the land of the petitioner was taken on 17.08.2008. However, no award was passed. Subsequently the petitioner entered into an agreement dated 29.12.2010, the petitioner received various amounts from KIADB towards compensation. Thereafter, vide representation dated 30.09.2010, the petitioner sought for payment of additional amounts by way of solatium and interest on the market

value. Since the said request was not considered, the petitioner preferred W.P.No.64215/2012. The adjacent land losers whose lands were acquired under the same notifications also preferred similar writ petitions and a total of 09 writ petitions i.e., W.P.Nos.64208/2012, 64209/2012, 64210/2012, 64211/2012, 64212/2012, 64213/2012, 64214/2012, 64216/2012 and 64217/2012, were clubbed together. It is relevant to note that except W.P.No.64215/2012 pertaining to the petitioner, all the remaining writ petitions arising out of the same notification including the case of Suresh D. Bankapur-W.P.No.64214/2012 were dismissed by the learned single Judge of this Court by separate identical order dated 09.07.2012. Being aggrieved by the said order dated 09.07.2012, the land owners/writ petitioners preferred appeals before the Division Bench. Some writ appeals preferred by the land owners were dismissed, whereas some writ appeals were allowed by the Division Bench awarding additional sums of money in favour of the land owner. The land losers and the authorities approached the Hon'ble Apex

Court in Civil Appeal No.2380-2383/2017 and other connected matters. The Hon'ble Supreme Court, vide order dated 30.01.2018, disposed of the said appeals directing the respondent authorities to grant damages at 15% p.a. on the amount of compensation from the date of taking possession till the date of payment.

5. Subsequent to the disposal of the matter by the Hon'ble Supreme Court, W.P.No.64215/2012 came up for consideration before this Court and this Court by taking into consideration the order dated 30.01.2018 passed in Suresh D. Bankapur's case, disposed of the writ petition directing the respondents to consider the representation of the petitioner in terms of the Judgment of the Hon'ble Apex Court. Consequent to the same, the petitioners submitted another representation dated 27.01.2021. Since the grievance of the petitioner was not addressed, the writ petition was filed. The respondents opposed the writ petition contending inter-alia that the orders passed by the Hon'ble Supreme Court in Suresh D. Bankapur's case was by invoking the inherent powers exercised under Article 142 of

the Constitution of India. The learned single Judge considering the said contention has held that damages are payable to the petitioner in terms of the judgment of the Hon'ble Apex Court in Suresh D. Bankapur's case and has assigned detailed reasons for the same, inter-alia that when the land owners had entered into agreements during the period from 27.10.2010 to 29.12.2010, prior to the same, possession had already been taken on 17.08.2008; that the Hon'ble Supreme Court took note of the fact that compensation pursuant to the agreement entered into by the respective lands owners was paid by the respondent authorities only subsequently after possession had been taken earlier itself. Hence, the learned single Judge noticing the rational/basis of the reasoning of the Apex Court held that the KIADB is required to pay damages to the present writ petitioner also as directed by the Hon'ble Apex Court.

6. The contention urged by the appellants/ respondents in the writ petition is that the order passed by the Hon'ble Apex Court was rendered under Article 142 of the Constitution of India. The said contention was specifically

considered by the learned single Judge and it was held that by invoking the doctrine of parity and having regard to the fact that the Hon'ble Apex Court had ordered for payment of interest to mitigate the hardship caused to the land losers who have been deprived of the land for said period, held that the writ petitioner who is in identical circumstances would also be entitled to the same benefit that was given to the adjacent land owners by the Hon'ble Supreme Court.

7. Learned counsel for the appellant Sri P.N.Hatti, vehemently urges the same contention that was put forth before the learned single Judge that the appellant/KIADB is not bound by the judgment of the Hon'ble Apex Court in Suresh D. Bankapur's case. However, the appellant has failed to demonstrate that the detailed reasons assigned by the learned single Judge are erroneous and liable to be interfered with. The learned single Judge has noticed the basis on which the Apex Court has ordered payment of interest and accordingly awarded interest in the present case also.

8. The appellants have failed to demonstrate the basis and to why they are not bound by the judgment passed in Suresh D. Bankapur's case insofar as the petitioners are concerned, more particularly having regard to the fact that the lands of the petitioner are also acquired under the same notification and are adjacent to the lands of the other land losers.

9. It is relevant to note that the earlier writ petition filed by the petitioner in W.P.No.64215/2012 was disposed of vide order dated 26.11.2019 by the learned single Judge of this Court, wherein after noticing the judgment of the Hon'ble Supreme Court in the case of Suresh D. Bankapur and others vs. State of Karnataka and others, directed the KIADB to consider the representation of the petitioner by taking into consideration the judgment of the Hon'ble Supreme Court. Thereafter, the petitioners submitted one more representation dated 27.01.2021 calling upon the KIADB to pay additional amount as directed in Suresh D. Bankapur's case. The KIADB issued endorsement rejecting the claim of the petitioner which is impugned in the writ

petition. Subsequently the learned single Judge, after detail consideration of the relevant aspects of the matter, allowed the writ petition and directed payment of the amounts as noticed above, which is the subject matter of challenge in the present appeals. Hence it is relevant to note that the appellant KIADB is repeatedly agitating the same question requiring this Court to repeatedly consider the same. In view of the same, this Writ Appeal is dismissed with costs of Rs.1,00,000/- (One Lakh Rupees Only) payable to the 1st respondent/writ petitioner.

Sd/-
(S G PANDIT)
JUDGE

Sd/-
(C.M. POONACHA)
JUDGE

MRK
CT: UMD.
List No.: 1 Sl No.: 0