REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 353 OF 2017
(ARISING OUT OF SLP (C) NO. 12581 OF 2015)

THE SPECIAL LAND ACQUISITION OFFICER, KIADB, MYSORE & ANR. .....APPELLANT(S)

VERSUS

ANASUYA BAI (D) BY LRs. & ORS. .....RESPONDENT(S)

J U D G M E N T

A.K. SIKRI, J.

The question of law that has been raised in this appeal by the appellants, for consideration by this Court, is:

> Whether provisions of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 (for short, "New LA Act"), are applicable in the instant case when the land is acquired under the provisions of KIAD Act?

2) Factual narration that is required to be noted, giving rise to the aforesaid question of law, is stated hereinbelow:

Respondents is the owner of land bearing Sy. No. 123/1 measuring 4 acres 9 guntas and Sy. No. 123/2 measuring 1 acre situated at Anganahalli Village, Belagola Hobli, Srirangapatna Taluk, Madhya District, Karnataka.

3) The appellants issued a preliminary notification under Section 28(1) of the Karnataka Industrial Areas Development Act, 1966 (hereinafter referred to as "KIAD Act") as it wanted to acquire certain lands, including that of the respondents for the purpose of developing the said lands as an Industrial Area and the same was published in the Karnataka Gazette on 15th September, 2000.

4) After issuing the necessary notices and following the procedure prescribed under the KIAD Act, a final notification under Section 28(4) was issued on 15th June, 2005 in respect of total 153 acres 10 guntas of land.

5) Section 29 of the KIAD Act deals with compensation. Section 29(2) provides that where the compensation has been determined by agreement between the State Government and the person to be compensated, it shall be paid in accordance with such an agreement. In

case, where no agreement is arrived at, the State Government is to refer the case to the Deputy Commissioner for determination of the amount of compensation to be paid. This scheme of acquisition of land is contained in Sections 29 and 30 which are reproduced below:

> "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.

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. ”

6) Section 30 of the KIAD Act deals with application of Land Acquisition Act, 1894 (hereinafter referred to as the 'Old LA Act') and same is reproduced

below:

> "Section 30. application of Central Act 1 of 1894.—The provisions of the Land Acquisition Act, 1894 (Central Act 1 of 1894) shall *mutatis mutandis* apply in respect of the 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 this Chapter."

7) In view of the statutory obligations to pay compensation in accordance with the provisions of the KIAD Act, the Deputy Commissioner, Madhya came to be constituted as an authority to assess and fix the market value prevailing as on the date of notification under Section 28(1) of the KIAD Act in consultation with land owners. The Advisory Committee consisting of eight persons was constituted.

8) The appellants issued notice to all land owners for participating in the meeting of the Price Advisory Committee to fix the compensation with consent. The Advisory Committee headed by the Deputy Commissioner held its meetings with the land owners. The proceedings of the Advisory Committee under the Chairmanship of Deputy Commissioner was held on 9th September, 2005.

9) According to the appellants herein, the outcome of the meeting with the land owners was that the Advisory Committee could achieve a consensus and the market rate with consent was fixed at Rs. 6,50,000/-

per acre. It is also the case of the appellants that majority of land owners have accepted the said compensation. However, respondents have taken the position that they are not the parties to this agreement. This aspect shall be adverted to at a later stage with some more details. At this stage, it is suffice to mention that it has come on record that the respondents had sent letter dated 30th October, 2006 to the appellants in reply to letter dated 16th August, 2006 of the appellants, thereby requesting the appellants to provide reasonable and adequate compensation. However, before compensation could be disbursed to the respondents at the rates purportedly fixed, some disputes among family members of the respondents arose about the proportionment of the compensation amongst them. The children of respondent, namely, Parmesh, Lakshamma and Sunil appeared through their counsel and opposed payment of compensation to the respondents. In view of this dispute, the appellants deposited the entire compensation payable to the respondents, before the Civil Court, Srirangapatna, as per the provisions of Section 30 of the Old LA Act. Precisely a sum of Rs. 30,15,871/- was deposited before the Civil Court vide cheque dated 8th March, 2007. On that basis LAC No. 13 of 2007 was registered and the court sent notice dated 13th June, 2008 to the respondents. At this stage, the writ petition was filed by the respondents in the High Court of Karnataka praying for quashing of preliminary notification dated 15th September, 2000 and final

notification dated 15th February, 2005, inter alia, on the following grounds:

(a) That provisions of Section 11, 11A of the Old LA Act are made applicable to the proceedings under KAID Act by virtue of Section 30 of the KAID Act and the Deputy Commissioner has not passed any award as required under Section 11 of the Old LA Act;

(b) The entire proceedings initiated under Section 28 of the KAID Act have lapsed as no award has been passed within two years from the date of publication of final declaration.

(c) In the absence of consent award under Section 29(2) of the KIAD Act, the Deputy Commissioner is duty bound to pass regular award under Section 11A of the Old LA Act within two years from the date of publication of final notification.

(d) That the respondent herein had not given any consent for the so-called consent award as she had not appeared before the Deputy Commissioner and did not participate in the said proceeding.

10) The appellants contested the said writ petition by filing their statement of objection. As per the appellants, all the statutory notices had been sent at the correct address of the respondent and necessary procedure for fixation of compensation had been followed by them. It was also submitted that provisions of Section 11A of the Old LA Act were not

applicable to the acquisition proceedings under KIAD Act. The Single Judge of the High Court vide judgment and order dated 9th November, 2012 allowed writ petition in part holding that the respondents were not the parties to the Consent Award. However, the Single Judge permitted the appellants to proceed with the fixing of the market value as on the date of final notification dated 15th June, 2005 after repelling the plea of the respondents that the acquisition proceedings had lapsed. Aggrieved by this judgment, the respondents preferred writ appeal before the Division Bench of the High Court wherein following stance was taken by them:

(a) That mandatory notice required under Section 28(2) of the KIAD Act was not served upon the appellants.

(b) That Section 30 of the KIAD Act applies the provision of Old LA Act in respect of enquiry and award by the Deputy Commissioner and, therefore, Section 11A is applicable and in this case, the award is not passed under Section 11A within two years, therefore, the acquisition has lapsed.

c) That proceeding of the Advisory Committee conducted on 9th September, 2005 is only a consultation with some of the land owners and cannot be said to be a consent award, which is required to be passed in writing under Rule 10(b) of the Land Acquisition Rules, 1965 in form No. D.

11) During the pendency of the matter, the New LA Act came into force on 1st January, 2014 whereby Old LA Act stood repealed. The respondents filed application under Order VI Rule 17 of the Code of Civil Procedure, 1908 alleging that since the New LA Act had come into force, as per Section 24 of the said Act, acquisition of the land had lapsed since no award has been passed under Section 11 of the Old LA Act.

12) The Division Bench of the High Court of Karanataka by its judgment and order dated 14th January, 2015, allowed the writ appeal and quashed the proceeding initiated by the appellants by way of preliminary and final notification on the following grounds:

(a) When the award was required to be passed under the Old LA Act, it cannot be said that provisions of the New LA Act would not apply to acquisition under KIAD Act and, therefore, Section 24 of the New LA Act will apply.

(b) Even though this Court has held that Section 11A of the Old LA Act has no application in respect of the land acquired under the provisions of KIAD Act, the New LA Act is applicable and that the acquisition proceedings would be deemed to have lapsed due to non-payment, compensation and non-passing of the award within a period of two years.

(c) That the New LA Act does not say whether it is applicable to the lands

acquired under the provisions of Karnataka Land Acquisition Act but what Section 24 says is that once the award is not passed under Section 11A of Old LA Act or the compensation is not paid within five years, such proceeding would be lapse.

13) It could be gathered from the above that the Division Bench has held that the New LA Act would be applicable to the present proceedings though they were initiated under the provisions of the KIAD Act read with the Old LA Act. It has further held that since there was no consent on fixation of the compensation given by the respondents, the case would be governed by Section 24(1) of the New LA Act. However, since there is no provision for passing the award under the KIAD Act, which had to be passed only under the Old LA Act, and since no award had been passed after the final declaration on 15th June, 2005, acquisition proceedings are deemed to have been lapsed.

JUDGMENT

14) Learned counsel for the appellants submitted that after issuance of the preliminary notification, requisite notices were issued and procedure prescribed under the KIAD Act was followed, which culminated in fixing the compensation at Rs.6,58,000/- per acre with consent of the land owners. Not only this, thereafter, even the compensation pertaining to the land of the respondents was deposited by the appellants before the City Civil Court, Srirangapatna. She stated that this compensation could

not be disbursed or withdrawn by the respondents in view of the dispute that had arisen between the claimants about the apportionment of the said amount and for this reason, reference was made under Section 30 of the Old LA Act. The Civil Court had even issued notice to the parties for adjudication of the dispute. She, thus, submitted that once the Advisory Committee had taken a decision and fixed the compensation with the consent of the parties, no award under the provisions of the LA Act was required in the instant case. Proceeding further in this line of argument, she contended that in such circumstances, provisions of Section 24(2) of the New LA Act were not applicable and, if at all, it is sub-section (1) of Section 24 which would be applicable in the given circumstances. Referring to sub-section (1) of Section 24, she argued that the situation would be akin to what has been contemplated under clause (b) thereof and, therefore, there was no question of deemed lapse of acquisition proceedings which situation is provided under sub-section (2) of Section 24 and is not attracted in the instant case.

15) Learned counsel for the respondents countered the aforesaid submission by emphasising that the Single Bench as well as the Division Bench of the High Court rightly arrived at a finding of fact that the respondents had not given any consent for fixation of compensation at Rs.6,50,000/- and, therefore, the decision of the Advisory Committee

dated 9th September, 2005 in this behalf was not binding on the respondents. On this basis, it was submitted that as the exercise contemplated under Section 29 of the KIAD Act was not fructified, it was like 'No Consent Award' passed by the Advisory Committee and provisions of sub-section (2) of Section 24 of New LA Act shall squarely apply.

16) From the narration of events described above as well as the arguments of both the sides, it becomes clear that the first question which needs determination is as to whether fixation of compensation at the rate of Rs.6,50,000/- per acre by the Advisory Committee is with the consent of the respondents or not.

17) Before adverting to the aforesaid aspect, we may clarify certain legal aspects. In the State of Karnataka, land can be acquired under the KIAD Act as well, for the purpose of developing the acquired land as an industrial area. Section 28(1) of the KIAD Act provides for issuance of preliminary notification for the aforesaid purpose. Other sub-sections of Section 28 provide for a particular procedure to be followed by issuing necessary notices and once that is undertaken, final notification for acquisition of the land can be issued under sub-section (4) of Section 28 of the KIAD Act. Section 29 of the KIAD Act deals with the payment of compensation. The provision which is made under this Section calls for

determination of compensation by agreement between the State Government on the one hand and the land owner, who is to be compensated for the land acquired, on the other hand. In case, no such agreement is arrived at, the State Government is supposed to refer the case to the Deputy Commissioner for determination of the amount of compensation, who is required to determine the compensation as per Section 30 of the KIAD Act. Section 30 of the KIAD Act provides that for fixing the compensation, the Deputy Commissioner is supposed to follow the same procedure as prescribed under the Old LA Act. Obviously, in that event, after following the procedure in the Old LA Act, the Deputy Commissioner is required to pass an award (which is contemplated under Section 9 of the Old LA Act). What follows from the above is that the first attempt is to arrive at a consensus between the State Government and the person who is the land loser. This task is to be undertaken by the Advisory Committee. If it is accomplished then compensation is payable as per the said agreement. If such an agreement does not fructify, the Deputy Commissioner is to determine the compensation after following the procedure contained in the Old LA Act and pass necessary award in this behalf. Obviously, when there is an agreement no such award is required. Conversely, when there is no agreement on compensation between the parties, passing of the award under Section 30 of the KIAD Act becomes imperative to bring the

acquisition proceedings to a logical conclusion. In the instant case, admittedly there is no award passed by the Deputy Commissioner. According to the appellants, it is because of the reason that, by consent, market rate of the land in question was fixed at Rs.6,58,000/- by the Advisory Committee under the Chairmanship of the Deputy Commissioner on 9th September, 2005. Respondents contend otherwise submitting that there is no such consent and their plea is accepted by the Courts below. It becomes necessary to answer this question.

18) The undisputed facts which emerge on record, are the following:

On 15th September, 2000, a preliminary notification under Section 28(1) of the KIAD Act was published. It was followed by final notification dated 15th June, 2005 under Section 28(4) of the KIAD Act. With the issuance of notification under Section 28(4) of the KIAD Act, the land stood vested absolutely in the State Government, free from all encumbrances (See Section 28(5) of the KIAD Act). Next step was to take the possession of the land as per the procedure stated in sub-sections (6) and (7) of Section 28 of the KIAD Act and to pay the compensation as provided under Section 29 of the KIAD Act. The State Government had constituted the Advisory Committee consisting of 8 persons which deliberated with the land owners in order to arrive at

consensual figure of the compensation. Notice dated 23rd August, 2005 was issued in this behalf fixing the date of meeting as 9th September, 2005 with request to the land owners to attend the said meeting. Appellants have placed on record proceedings of the said meeting held on 9th September, 2005 as per which consent agreement was arrived at whereby compensation was fixed at Rs.6,50,000/- per acre. It appears that thereafter letter dated 16th August, 2006 was sent by the Office of the Special Land Acquisition Officer, KIADB, Mysore though it is not placed on record. However, respondent Anasuya Bai responded to that letter vide her communication dated 30th October, 2006 stating that she was ready to take reasonable and adequate compensation as per the rate prevailing in the market. Thereafter, she wrote letter dated 7th February, 2008 requesting the appellants to furnish copies of preliminary notification dated 13th May, 2005 and final notification issued under Section 28(4) dated 15th June, 2005. Another letter dated 26th May, 2008 was written vide which she asked for the certified copies of the following documents:

(i) Agreement, if any, reached between her and the Government as per the provisions of Section 29(2) of KIAD Act.

(ii) Agreement, if any, entered into between her and KIAD Board as per the provisions of Section 11(2) of KIAD Act.

(iii) Award, if any, passed as per Section 11(2) of Old LA Act based on

principles of valuation of acquired land by adopting known method of valuation.

19) Aforesaid facts are not in dispute. However, it appears that thereafter some litigation started in connection with the title of the property in question resulting into dispute as to who was to receive the compensation and how it had to be apportioned. Respondent Anasuya Bai had filed some petition in this behalf before the Principle Civil Judge (Sr. Division) and JMFC. Summons dated 13th June, 2008 were issued by the said Principal Civil Judge to the appellants to appear on 3rd May, 2008. Having regard to this dispute, the appellants deposited the compensation in the Civil Court at the rate of Rs.6,50,000/- per acre as per the decision of the Advisory Committee. When the matter rested at that stage, the respondents filed writ petition in the High Court seeking quashing of preliminary notification as well as final declaration. Prayer was also made to the effect that acquisition of their land under Section 28(1) of the KIAD Act be declared as lapsed. The aforesaid prayers were made on the ground that no award was passed by the Land Acquisition Collector within the time stipulated under Section 11A of the Old LA Act.

20) Appellants herein filed the statement of objections to the said writ

petition contending that by agreement the compensation of Rs.6,50,000/- per acre was fixed and, therefore, there was no need to pass the award. It was also stated that insofar as appellants are concerned, it had deposited the amount of compensation in the Civil Court in view of the dispute between the respondents *inter se.*

21) From the issuance of notice alone to the respondents under Section 29 of KIAD Act, it cannot be said that respondents had agreed to the compensation. It may be noted that large chunk of land was acquired and there were other land owners as well, despite the respondents. No doubt, proceedings dated 9th September, 2005 indicate that consent agreement is arrived at fixing the compensation at Rs.6,50,000/- per acre. However, the moot question is as to whether respondents are also consenting parties. The learned Single Judge of the High Court returned a categorical finding that respondents never gave any such consent. For this purpose, reference was made to Rule 10(b) of the Karnataka Land Acquisition Rules, 1965 which states the format in which the said mutual agreement is to be arrived at i.e. Form D. Rule 10(b) states the form of agreement to be executed under sub-section (2) of Section 11 shall be in Form D. No such document is produced by the appellants. Moreover, the appellants also could not show that notice dated 23rd August, 2005 was, in fact, served on the respondents. Therefore, the respondents had

not consented to the amount of compensation that was determined in the minutes dated 9th September, 2005. This finding is upheld by the Division Bench in the impugned judgment as well. There is no reason to disagree with this finding.

22) Having said so, it also needs to be kept in mind that a large chunk of land was acquired by the appellants and a minuscule part thereof belonged to the respondents herein. Further, insofar as respondents are concerned, it even undertook the exercise of fixing the compensation for the acquired land, as per the provisions of the KIAD Act. Advisory Committee was constituted for this purpose. Notices were also sent to all concerned, including the respondents herein. It further transpired that the land owners (except the respondents) participated in the meeting and as per the minutes of the meeting dated 9th September, 2005, consent agreement was arrived at whereby compensation at the rate of Rs.6,50,000/- per acre was fixed. With these minutes, the Advisory Committee remained under the impression that it had accomplished its task by reaching a consensus on the quantum of compensation. Not only this, further steps were taken to pay the compensation at the aforesaid rate to the land owners, whose land was acquired. Insofar as respondents are concerned, due to the disputes *inter se* between them, the compensation as per the minutes dated 9th September, 2005 was

even deposited with the Civil Court. The Civil Court issued notice and the respondents participated in the proceedings before the Civil Court. At that stage, respondents chose to file a writ petition for quashing of the acquisition proceedings coming out with the plea that they were not consenting parties and had not participated in the meeting dated 9th September, 2005 as even the notice was not received by them. Aforesaid facts disclose that the entire move on the part of the appellants was bonafide one, though there was an accidental slip on their part that insofar as respondents are concerned, no consent to the amount of compensation fixed was given by them. It appears that the appellants-authorities did not proceed further to determine the compensation in respect of respondents' land as they nurtured a bonafide belief that with the fixation of compensation as per the Minutes dated 9th September, 2005 all the land owners, including the respondents, had agreed with the same and, therefore, no further exercise was required. Had the appellants-authorities been more careful, they would have noticed that insofar as respondents herein are concerned, they are not the consenting parties. In that event, they could have brought them on board with other land owners by taking their specific consent as well or proceeded further under Section 29(3) of the KIAD Act.

23) Taking these factors into consideration, the learned Single Judge vide his judgment dated 9th November, 2012 permitted the appellants to proceed on the basis of the Gazette notification dated 15th June, 2005 acquiring the land and determine the compensation by making an award in this behalf. By this process, appellants were allowed to proceed afresh to determine the compensation under Section 29(2) of the KIAD Act by reaching an agreement with the respondents, and failing which to refer the case to the Deputy Commissioner under Section 29(2) for determination of the amount of compensation. The learned Single Judge, by adopting this course of action, specifically rejected the contention of the respondents herein to quash the proceedings.

24) 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:

> "13. It is also noted that the acquisition proceedings including preliminary and final declaration have been passed under the provisions of the KIADB Act. But there is no provisions under the KIADB 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 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 U/s 11. If the award is passed under LA Act, the enquiry has to be conducted by the Deputy Commissioner or Collector before passing the award.

> Section 11A contemplates 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 stands lapsed. It is no doubt true the Hon'ble Supreme Court in the case of M. Nagabhushana Vs. State of Karnataka and Others, (2011) 3 SCC 408 has held that Section 11-A of the Act is no applicatin 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 land owners.
>
> 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 U/s 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 deem to have been lapsed. In th instant case, it is not case of the respondent that award is not required to be passed under the provisions of LA Act. When the award is required to be passed under LA Act, the respondents cannot contend that the provisions of New Act cannot be made applicable on account of non payment of compensation within a period of five years."

25) This approach of the High Court, we find, to be totally erroneous. In the first instance, matter is not properly appreciated by ignoring the important aspects mentioned in para 24 above. Secondly, effect of non-applicability of Section 11A of the Old LA Act is not rightly understood. The High Court was not oblivious of the judgment of this Court in ***M. Nagabhushana's*** 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 11A of the Old LA Act would not be applicable. Such an opinion of the Court is based on the following rationale:

> "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, Sections 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 Sections 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* [(1996) 3 SCC 1] . 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*[(1996) 3 SCC 1] , SCC para 12 at p. 8 of the Report.)

32. In *Munithimmaiah* v. *State of Karnataka* [(2002) 4 SCC 326] 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* [(2011) 3 SCC 139 : (2011) 1 SCC (Civ) 662 : (2011) 1 Scale 533] , 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* [(2011) 3 SCC 1 : (2011) 1 SCC (Civ) 578 : (2011) 1 Scale 223] 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* [(1998) 3 SCC 276] . 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* [(1998) 3 SCC 276] 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 further 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* [(1998) 3 SCC 276] 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) Having regard to the aforesaid *raison d'etre* for non-application of the Old LA Act, on the parity of reasoning, provision of Section 24(2) of the New LA Act making Section 11A of the Old LA Act would, obviously, be not applicable. We would like to refer to the judgment in the case of

State of M.P. v. ***M.V. Narasimhan***[1] in this behalf where following proposition is laid down:

> "Where a subsequent Act incorporates provisions of a previous Act, then the borrowed provisions become an integral and independent part of the subsequent Act and are totally unaffected by any repeal or amendment in the previous Act. This principle, however, will not apply in the following cases:
>
> (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 necessary intendment, applies the said provisions to the subsequent Act."

27) We are, therefore, of the opinion that the view taken by the learned Single Judge was correct in law which should not have been interfered with by the Division Bench in the impugned judgment. It is significant to state that insofar as direction of the Single Judge is concerned that was accepted by the appellants herein, as the appellants did not challenge the same. It is the respondents which had filed the intra court appeal. Thus, appellants by their aforesaid conduct, are satisfied with the order of the learned Single Judge in directing them to determine the compensation.

---

[1] (1975) 2 SCC 377

28) We, thus, allow this appeal by setting aside the judgment of the Division Bench and restore the direction passed by the Single Judge with a direction to the appellants authorities to fix the compensation in accordance with the provisions of Section 29 of the KIAD Act. The said exercise shall be done as expeditiously as possible.

No order as to cost.

.....J.
(A.K. SIKRI)

.....J.
(R.K. AGRAWAL)

NEW DELHI;
JANUARY 25, 2017.

SUPREME COURT OF INDIA
यतो धर्मस्ततो जयः
JUDGMENT