

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT APPEAL NO.1116 OF 2022 (LA-KHB)

BETWEEN:

1 . THE COMMISSIONER
KARNATAKA HOUSING BOARD (KHB)
KAVERI BHAVAN
BENGALURU-560 009

2 . THE LAND ACQUISITION OFFICER
KARNATAKA HOUSING BOARD
KAVERI BHAVAN, BENGALURU-560 009

...APPELLANTS

(BY SRI. H.L. PRADEEP KUMAR, ADVOCATE)

AND:

1 . SRI. NARASIMHAIAH @ KUNTANNA
S/O LATE NARASIMHAIAH
SINCE DECEASED, REP. BY LRS

1(a). SRI. N. SHIVANANJAPPA
S/O LATE NARASIMHAIAH @ KUNTANNA
AGED ABOUT 62 YEARS
R/AT No.255/1, 1ST D MAIN ROAD
7TH CROSS, VALAGERAHALLI
KENGARI SATELLITE TOWN
BENGALURU-560 060

1(b). SRI. N. NAGARAJU
S/O LATE NARASIMHAIAH @ KUNTANNA

AGED ABOUT 58 YEARS
R/AT No.1064, 1ST D MAIN ROAD
7TH 'A' CROSS, KENGERI SATELLITE TOWN
BENGALURU-560 060

1(c). SRI. N. GANGADHARAPPA
S/O LATE NARASIMHAIAH @ KUNTANNA
AGED ABOUT 55 YEARS

1(d). SRI. N. GIRISH
S/O LATE NARASIMHAIAH @ KUNTANNA
AGED ABOUT 45 YEARS

RESPONDENTS No.1(c) & 1(d) ARE
R/AT No. 265, 7TH CROSS
VALAGERAHALLI, KENGERI SATELLITE TOWN
BENGALURU-560 060

2 . SRI. MUNIKRISHNA
S/O LATE NARASIMHAIAH
AGED ABOUT 57 YEARS
R/AT. VALAGERAHALLI VILLAGE
KENGERI HOBLI, BENGALURU SOUTH TALUK
BENGALURU-560 060.

3 . STATE OF KARNATAKA
REVENUE DEPARTMENT
VIDHANA SOUDHA
BENGALURU-560 001
REP. BY UNDER SECRETARY

...RESPONDENTS

(BY SRI. N.S. SRIRAJ GOWDA, ADVOCATE FOR R1(a) TO R1(d)
AND C/R2, REP. BY GPA HOLDER;
SMT. MAMATHA SHETTY, AGA FOR R3)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT, 1961, PRAYING TO CALL FOR RECORDS AND
SET ASIDE THE IMPUGNED ORDER DATED 08.08.2022 PASSED
BY THE LEARNED SINGLE JUDGE IN W.P.No.63796/2016 (LA-
KHB).

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 15.12.2025 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This writ appeal is preferred by the respondents in Writ Petition No.63796/2016 (LA-KHB) challenging the order dated 08.08.2022 passed by the learned Single Judge.

2. We have heard Shri H.L. Pradeep Kumar, learned Counsel appearing for the appellants, Shri N.S.Sriraj Gowda, learned counsel appearing for respondents No.1[a to d] & caveator/respondent No.2 and Smt. Mamatha Shetty, learned Additional Government Advocate appearing for respondent No.3.

3. The brief facts of the case are as follows:-

The appellant - Board initiated acquisition proceedings for the purpose of development of residential sites and to construct housing facilities. The acquisition proceedings

commenced with an issuance of a Preliminary Notification under Section 4(1) of the Land Acquisition Act, 1894 ('1894 Act' for short) dated 23.06.1990, proposing acquisition of land measuring 1 acre 11 guntas in Sy.No.22/2B. At the relevant time, revenue records indicated that the notified extent fell entirely within Sy.No.22/2.

A Durasti Phodi carried out in the year 1989 resulted in bifurcation of Sy.No.22/2. Consequent to this bifurcation, the acquired extent of 1 acre 11 guntas of land came to fall within the newly assigned Sy.No.22/2B. Upon this being brought to the notice of the authorities, the Final Notification dated 30.05.1993 under Section 6(1) of the 1894 Act was issued specifically in respect of Sy.No.22/2B.

A Possession Certificate dated 11.11.1993 was thereafter issued under Section 16(2) of the 1894 Act, and the appellants were deemed to have taken possession of the acquired portion of land in Sy.No.22/2B as of that date. Owing to subsisting disputes regarding title over Sy.No.22/2B, the compensation amount relating to that survey number was deposited before the City Civil Court,

Bangalore under Section 30(1) of the 1894 Act and the same was communicated to the Assistant Registrar, City Civil Court, Bengaluru, by letter dated 30.08.1996.

After a lapse of nearly 24 years from passing of the Final Notification, the respondents approached this Court by filing a Writ Petition in W.P.No.63796/2016, the same was allowed by Order dated 08.08.2022. The learned Single Judge proceeded to quash and declare the lapse of acquisition proceedings insofar as the respondents' property was concerned. Aggrieved by the impugned order, the appellants have approached this Court.

4. The learned counsel appearing for the appellants contended that the respondents suppressed the material facts and that the writ petition was filed with mala fide intention to defraud the appellants. It is further contended that due to severe ill-health of the learned counsel on record, the appellants were ineffectively represented in the writ proceedings before the learned Single Judge. As a result, they were unable to file objections to the writ petition and they could not effectively defend their case.

5. It is further contended that the 1 Acre 11 guntas of the acquired portion in Sy.No.22/2B was notified under the Final Notification issued under Section 6(1) of the 1894 Act and was reflected in the Record of Rights, Tenancy, and Crops of that date. However, this was not considered by the learned Single Judge. Further, the finding of a lapse under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act' for short), is in contravention to the two fold test laid down by the Apex Court in Indore Development Authority v. Manoharlal reported in (2020) 8 SCC 129, as Award amount of Rs.2,91,690/- was deposited before the City Civil Court on 30.08.1996 and possession of land was taken over on 24.09.1993 and a declaration under Section 16(2) of the 1894 Act was also published on 11.11.1993. Therefore, Section 24(2) of the 2013 Act is not attracted to land in Sy.No.22/2B. It is also contended that possession could not be taken due to pending litigation and subsisting judicial orders maintaining *status quo*. The period during which

acquisition proceedings were stalled by Court orders ought to have been excluded by the learned Single Judge.

6. The learned counsel appearing for the appellants places reliance on the judgment of the Apex Court in the case of ***Indore Development Authority v. Manoharlal and Ors***, reported in ***(2020) 8 SCC 129***.

7. The learned counsel appearing for respondents No.1 and 2 contended that pursuant to Durasti Phodi conducted in 1989, Sy.No.22/2 stood bifurcated and renumbered as Sy.No.22/2B, measuring 1 acre 11 guntas. However, the Preliminary Notification dated 23.06.1990 reflects only 24 guntas, and the appellants' claim that they acquired 1 acre 11 guntas under the Preliminary Notification is stated to be false and contrary to the record. It is further contended that several residential and commercial units were constructed on the land long ago and that the respondents No.1 and 2 are in actual physical possession.

8. It is further contended that although both the Preliminary and the Final Notifications were issued for

Sy.No.22/2B, no award was passed and no possession was ever taken by the appellants. Reliance is placed on Annexure-F, wherein the appellants themselves admitted the existence of several residential units and further failed to dispute the pleadings or documents produced by the respondents before the learned Single Judge.

9. It is further contended that the appelleants' claim of possession is false and there is no mahazar evidencing taking of possession has been produced. It is also contended that mere reliance on paper possession or possession certificates under Section 16(2) of the 1894 Act is insufficient without proof of actual physical possession. It is also contended that the appellants were never in possession of the lands in question and the learned Single Judge rightly appreciated the evidence on record.

10. We have considered the contentions advanced. We had already considered the contentions of the parties and had passed an order dated 28.01.2025 as follows:-

"We have heard the learned counsel appearing for the appellants-Housing Board and learned Senior

Counsel appearing for the respondents No.1 & 2 in this appeal.

2. *Considerable argument has been placed on record by the learned counsel for the appellants on the basis of the brief synopsis that has been filed by the appellants. It is submitted that the writ petition was filed in respect of three items of property. It is submitted that in respect of third item of property i.e., 23 guntas in Sy.No.22/4 of Valagerahalli Village, Kengeri Hobli, Bengaluru South Taluk, the said property was not subject to any notification at all and that it was subject to direct purchase by the Karnataka Housing Board by document dated 06.08.1988 which was produced along with I.A.No.2/2022 of the writ appeal. It is contended that the property had been directly purchased by the Housing Board for valuable consideration and that the contentions with regard to applicability of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, (for short, 'the 2013 Act') have no application in respect of the said property.*

3. *Further, it is submitted that in respect of 29 guntas of property in Sy.No.22/3 of Valagerahalli Village, Kengeri Hobli, Bengaluru South Taluk, the preliminary notification and final notification were issued on 23.06.1990 and 30.05.1992, respectively. However, a Civil Suit was filed owing to an inter se title dispute between the parties and an order of status quo was passed in RFA No.1368/2009, which*

is still in force. It is submitted that due to the orders passed by the Civil Court, further action would not be taken by the Housing Board in the matter.

4. *It is contended that in respect of 1 acre and 11 guntas in Sy.No.22/2B of Valagerahalli Village, Kengeri Hobli, Bengaluru South Taluk, preliminary notification was issued on 23.06.1990, final notification was issued on 30.05.1992, award was passed on 23.08.1993, possession was taken on 11.11.1993 and compensation was paid on 04.09.1995.*

5. *Learned Senior Counsel appearing for the respondents No.1 & 2 would submit that in respect of 29 guntas in Sy.No.22/3 and 23 guntas in Sy.No.22/4, the contentions of the Housing Board are not seriously disputed and that serious contentions are not being raised in respect of those two properties.*

6. *The said submission is recorded.*

7. *However, with regard to 1 acre and 11 guntas of property in Sy.No.22/2B, it is contended by the learned Senior Counsel for respondents No.1 & 2 that durasth phodi was conducted as early as on 20.06.1989 even according to the Housing Board and that property in question was assigned a new sub-division number as 22/2B. It is submitted that it is thereafter that the notification was issued on 23.06.1990 but the preliminary notification showed 1 acre and 35 guntas of property in Sy.No.22/2 and not in sub-division Sy.No.22/2B. It is further submitted*

that the property had actually not been taken possession of and that there were residential houses in the property and the property had been put to use for construction of houses even after the alleged notification under Section 16 of the Land Acquisition Act, 1894, issued on 11.11.1993.

8. *It is submitted that in the light of the specific provision and language of Section 24(2) of the 2013 Act, it is clear that physical possession of the property was not taken even after the award was passed in 1993 and therefore the acquisition had lapsed. It is further contended that it was for the appellants to have raised the contentions appropriately before the learned Single Judge and in view of the fact that the writ petition was filed in 2016 and the matter was pending till 2022, without any objections having been placed on record, the appellants have lost their right to raise these factual contentions before this Court in appeal. It is further contended that there are several residential houses in 1 acre 11 guntas of the property in Sy.No.22/2B and that no steps whatsoever have been taken by the Housing Board pursuant to the notifications dated 23.06.1990 and 30.05.1992, respectively even after allegedly passing the award in 1993 for taking physical possession, forming of any layout or for construction of residential houses in the property.*

9. *Having considered the contentions advanced, we are of the opinion that the question with regard to lapsing of the notification in respect of 1 acre 11 guntas of property in Sy.No.22/2B requires*

a consideration. We make it clear that in respect of other two extents of property, the appeal requires to be allowed and the submissions made by the learned Senior Counsel appearing for respondents No.1 & 2 shall stand recorded and the directions of the learned Single Judge with regard to those two properties shall stand vacated.

10. However, with regard to 1 acre 11 guntas in Sy.No.22/2B, the appellants shall place further instructions on record showing whether the notices have been issued pursuant to preliminary notification dated 23.06.1990. The mahazar for having taken possession of the property pursuant to the notification under Section 16 of the Land Acquisition Act dated 11.11.1993 shall also be placed on record.

11. List this matter on 10.02.2025 for necessary material to be placed on record. Further the instructions as to what has occurred in respect of the properties which have been notified and acquired pursuant to the notification dated 23.06.1990 shall also be placed on record.

Interim order granted earlier shall remain in force till the next date of hearing."

11. Therefore, though the prayer in the Writ Petition is in respect to an extent of 1 acre 11 guntas along with 1 gunta of kharab land in Sy.No.22/2B; land measuring 29

guntas along with 4 guntas of kharab land in Sy.No.22/3 and also land measuring 23 guntas in Sy.No.22/4 of Valagerahalli village, Kengeri Hobli, Bengaluru South Taluk, the appeal survives for consideration only in respect of 1 acre 11 guntas of property in Sy.No.22/2B.

12. Thereafter, on 12.03.2025, a memo was placed on record producing a copy of the Preliminary Notification dated 23.06.1990 along with endorsements made by the khatedars of having received the notice as well as the copy of the Notification. Further, the copy of the Final Notification dated 30.05.1992 with endorsements of the khatedars in respect of the property in question are also produced. It is clearly seen from the said documents that notice has been received by the legal representatives of the khatedars in respect of 1 acre 11 guntas of property in Sy.No.22/2. In the Final Notification, the properties specifically shown as 1 acre 11 guntas with 1 gunta of kharab land and the survey number is correctly recorded as 22/2B. Here also, the endorsements of the legal representatives of the khatedars are shown. Further, a mahazar dated 24.09.1993, which is

also placed on record by the appellants would show that the possession of the property including 1 acre 11 guntas of land in Sy.No.22/2B has been duly taken.

13. It is clear that the Preliminary Notification issued in respect of the property was dated 23.06.1990 and the Final Notification was dated 30.05.1992. Though, it is contended by the learned counsel for the respondents that an award was not passed in respect of 1 acres and 11 guntas of property in Sy.No.22/2B, it is asserted by the appellants that award was passed on 11.03.1994 granting compensation of Rs.2,91,690/-. It is stated that owing to disputes regarding title over the property in question, the compensation was deposited before the City Civil Court and the same was communicated to the Assistant Registrar, City Civil Court, Bengaluru, by letter dated 30.08.1996

14. It is further contended that after possession was taken over, the fact was reflected in the record of rights. The Apex Court in **Indore Development Authority's** case (supra), has clearly held that once possession is taken of the acquired property under Sections 16 and 17 of the 1894 Act,

the vesting is complete. It is specifically held in paragraph 258 of the said decision, which reads as follows:-

"258. Thus, it is apparent that vesting is with possession and the statute has provided under Sections 16 and 17 of the 1894 Act that once possession is taken, absolute vesting occurred. It is an indefeasible right and vesting is with possession thereafter. The vesting specified under Section 16, takes place after various steps, such as, notification under Section 4, declaration under Section 6, notice under Section 9, award under Section 11 and then possession. The statutory provision of vesting of property absolutely free from all encumbrances has to be accorded full effect. Not only the possession vests in the State but all other encumbrances are also removed forthwith. The title of the landholder ceases and the State becomes the absolute owner and in possession of the property. Thereafter there is no control of the landowner over the property. He cannot have any animus to take the property and to control it. Even if he has retained the possession or otherwise trespassed upon it after possession has been taken by the State, he is a trespasser and such possession of trespasser enures for his benefit and on behalf of the owner."

15. It is further held that Section 24(2) of the 2013 Act, where the award has been passed and the proceedings are pending, but where physical possession of the land has not been taken or compensation has not been paid, the

proceedings will lapse. The Apex Court clearly held that even if one condition is satisfied, there is no lapse. Therefore, in a case where an award is passed and compensation is deposited, even the contention that physical possession is not taken cannot lead to a lapse of the proceedings. In this regard, it is apposite to extract the findings of the Apex Court in paragraph No.102 of **Indore Development Authority's** case (supra):-

"102. In Ranchhoddas Atmaram v. Union of India, a Constitution Bench of this Court observed that if there are two negative conditions, the expression "or" has to be read as conjunctive and conditions of both the clauses must be fulfilled. It was observed: (AIR p. 938, paras 13-15)

"13. It is clear that if the words form an affirmative sentence, then the condition of one of the clauses only need be fulfilled. In such a case, "or" really means "either" "or". In Shorter Oxford Dictionary, one of the meanings of the word "or" is given as 'A particle co-ordinating two (or more) words, phrases or clauses between which there is an alternative'. It is also there stated, 'The alternative expressed by "or" is emphasised by prefixing the first member or adding after the last, the associated adv. EITHER'. So, even without "either", "or" alone creates an alternative. If, therefore, the sentence before us is an affirmative one, then we get two alternatives, any one of which may be chosen without the other being considered at all. In such a case it must be held that a penalty exceeding Rs 1000 can be imposed.

14. *If, however, the sentence is a negative one, then the position becomes different. The word "or" between the two clauses would then spread the negative influence over the clause following it. This rule of grammar is not in dispute. In such a case, the conditions of both the clauses must be fulfilled and the result would be that the penalty that can be imposed can never exceed Rs 1000.*

15. *The question then really comes to this: Is the sentence before us a negative or an affirmative one? It seems to us that the sentence is an affirmative sentence. The substance of the sentence is that a certain person shall be liable to a penalty. That is a positive concept. The sentence is therefore not negative in its import."*

*Thus, for lapse of acquisition proceedings initiated under the old law, under Section 24(2) if both steps have not been taken i.e. neither physical possession is taken, nor compensation is paid, the land acquisition proceedings lapse. Several decisions were cited at the Bar to say that "or" has been treated as "and" and vice versa. Much depends upon the context. In *Yashpal v. State of Chhattisgarh*, the expression "established or incorporated" was read as "established and incorporated". In *RMDC*, to give effect to the clear intention of the legislature, the word "or" was read as "and"."*

This position is reiterated by the Apex Court in its decisions including ***Delhi Development Authority v. Anita Singh and others*** reported in **(2023) 6 SCC 113** among others.

16. In the instant case, the appellants had produced the specific material and records, which clearly demonstrate that an award has been passed in respect of the writ petition schedule property and the compensation amount is deposited before the City Civil Court. There is also clear material produced to indicate that possession had been taken by drawing up a mahazar. The contention that the land acquisition proceedings were legally unsustainable also cannot be considered in the light of the specific materials placed on record by the appellants. In the said circumstances, we are of the opinion that, the contention that the land owner remained in possession of the property cannot make a difference to the situation. We further find that the writ petition had been filed after an inordinately long delay of 26 years from the date of the Preliminary Notification, without any satisfactory reason having been shown for the delay.

17. In the above factual situation, we are of the opinion that the appeal is liable to succeed. Accordingly:-

- (i) The writ appeal is **allowed**.

- (ii) The order dated 08.08.2022 passed by the learned Single Judge in Writ Petition No.63796/2016, is hereby set aside.
- (iii) The Writ Petition No.63796/2016 is *dismissed*.

Pending Interlocutory Applications shall stand *disposed of*.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

cp*