Gregory Patrao vs Mangalore Refinery And Petrochemicals ... on 11 July, 2022

Author: M.R. Shah

Bench: B.V. Nagarathna, M.R. Shah

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 4105-4107 OF 2022

Gregory Patrao and Ors. …Appellant(s)

Versus

Mangalore Refinery and
Petrochemicals Limited & Ors. …Respondent(s)

JUDGMENT

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court of Karnataka at Bengaluru in First Appeal No. 259 of 2021 and other allied first appeals, by which the High Court has set aside the judgment and award passed by the learned Reference Court and has remanded the matter to the Reference Court to decide the references afresh after affording an opportunity to all the parties including respondent No. 1 herein - M/s. Mangalore Refineries & Petrochemicals Ltd., Mangalore (MRPL), the original claimants / original landowners have preferred the present appeals.

2. The lands belonging to the original claimants/original landowners/appellants herein were acquired under Section 28(4) of the Karnataka Industrial Areas Development Act, 1966 (hereinafter referred to as “KIAD Act, 1966”) under three different notifications. The lands were sought to be acquired for the development of the Karnataka Industrial Areas Development Board (hereinafter referred to as “KIADB”) for establishment of industrial areas. The Land Acquisition Officer after affording an opportunity of hearing to the owners of the land passed an award on 06.10.2009. At the instance of the landowners, the references were made to the Reference Court. The Reference Court vide judgment dated 29.07.2020 enhanced the amount of compensation. 2.1 Feeling aggrieved and dissatisfied with the judgment and award passed by the Reference Court dated 29.07.2020,

enhancing the amount of compensation, respondent No.1 herein – MRPL, who was allotted the land as a lessee by the KIADB, preferred the present appeals before the High Court and prayed for leave to appeal. It was the case on behalf of the MRPL that as the MRPL is the beneficiary of the acquisition and under the agreement between the KIADB and MRPL, the latter has to pay the additional amount of compensation and, therefore, the burden to pay the additional compensation would be upon the MRPL, therefore, MRPL ought to have been heard by the Reference Court. It was the case on behalf of the MPRL that MRPL can be said to be a "person interested". Heavy reliance was placed upon the decisions of this Court in the case of Himalayan Tiles and Marble (P) Ltd. Vs. Francis Victor Countinho (Dead) By LRs', (1980) 3 SCC 223; UP Awas Evam Vikas Parishad Vs. Gyan Devi (Dead) by LRs. and Ors., (1995) 2 SCC 326; Neelagangabai & Another Vs. State of Karnataka & Others, (1990) 3 SCC 617; and Neyvely Lignite Corporation Ltd. Vs. Special Tahsildar (Land Acquisition) Neyvely and Others, (1995) 1 SCC 221.

2.2 On the other hand, it was the case on behalf of the original owners that the MRPL, being an allottee from the KIADB and the beneficiary of the land acquisition proceedings is the KIADB and not the MRPL and the amount awarded by the Land Acquisition Officer was deposited by the KIADB, MRPL cannot be said to be a 'person interested'. Relying upon the decision of this Court in the case of Peerappa Hanmantha Harijan Vs. State of Karnataka, (2015) 10 SCC 469, it was prayed to dismiss the appeals.

2.3 By the impugned common judgment and order and mainly relying upon the decision of this Court in the case of UP Awas Evam Vikas Parishad (supra), the High Court has granted the permission to MRPL to file the appeals challenging the judgment and award passed by the Reference Court and thereafter has quashed and set aside the judgment and award passed by the Reference Court by holding that the MRPL can be said to be a "person interested" and therefore, ought to have been heard before enhancing the amount of compensation. Thereafter, the High Court has remanded the matter back to the Reference Court for a decision afresh after affording an opportunity to all the parties to adduce evidence including MRPL.

2.4 Feeling aggrieved and dissatisfied with the impugned common judgment and order passed by the High Court, the original claimants/original landowners have preferred the present appeals.

3. Shri Shailesh Madiyal, learned counsel appearing on behalf of the appellants – original claimants has vehemently contended that in the facts and circumstances of the case, the High Court has erred in quashing and setting aside the judgment and award/order passed by the Reference Court in the appeals preferred by MRPL by holding that MRPL can be said to be a "person interested" and therefore, MRPL ought to have been heard by the Reference Court before enhancing the amount of compensation.

3.1 Shri Madiyal, learned counsel appearing on behalf of the appellants has submitted that in the present case the real issue is as to whether in an acquisition under KIAD Act, 1966, a post-acquisition allottee of a parcel of land is a necessary party in the proceedings for the determination of the compensation.

3.2 It is urged that in terms of Section 28(1) of the KIAD Act, 1966, the acquisition is carried out by the State Government "for the purpose of development by the Board, or for any other purpose, in furtherance of the objects of the said Act". That in the present case, the acquisition was carried out by the State Government for the purposes of "establishment of industry and to develop it" through the KIADB. It is submitted that even the preliminary/final notifications do not mention that the acquisition was for the MRPL. It is further urged that in terms of Section 28(8) of the KIAD Act, 1966, the State Government, after it has taken possession of the land, transfers the land to the KIADB and, thereafter in terms of Section 32(2) of the KIAD Act, 1966, the KIADB is empowered to deal with the land so transferred in accordance with the regulations made and the directions given by the State Government in this behalf. It is submitted that therefore, the company to which a land is allotted under the KIAD Act, 1966 cannot be said to be the beneficiary of the acquisition. It is submitted that as such the beneficiary is in fact the KIADB which in turn allots the acquired land to companies such as MRPL.

3.3 It is submitted that as such the issue involved in the present appeals is not res integra in view of the direct decision of this Court in the case of Peerappa Hanmantha Harijan (supra). That this Court, in the above case dealing with an acquisition under the KIAD Act, 1966 itself, repelled the claim of the post-acquisition allottee company that it has a right to participate in the award proceedings for determination of the market value of the land. It is submitted that this Court, after considering, inter alia, the scheme of the KIAD Act, 1966 held that the allottee company is not a beneficiary of the acquired land under the KIAD Act, 1966. That in the said decision, it is further observed and held that Section 54 of the Land Acquisition Act, which provides a right to appeal is only available to the landowners, State Government and the beneficiary of the acquired land and not the allottee company. It is submitted that in the present case, KIADB can be said to be a beneficiary of the acquired land and not the allottee company - MRPL. It is submitted that therefore, the appeals filed by the respondent No.1 – MRPL before the High Court were not at all maintainable and the High Court ought to have dismissed the said appeals in view of the law laid down in the case of Peerappa Hanmantha Harijan (supra). 3.4 Now, so far as, reliance placed by the High Court on the judgments of this Court in UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) while passing the impugned common judgment and order, it is vehemently submitted by learned counsel appearing on behalf of the appellants – original landowners that the High Court has committed a grave error in relying upon the aforesaid decisions. That both the aforesaid decisions, which have been heavily relied upon by the High Court while passing the impugned common judgment and order are not applicable at all with respect to an acquisition under the KIAD Act, 1966.

3.5 Hence, the aforesaid decisions do not apply to the facts and circumstances of the present case, since the said judgments pertain to the acquisition under Part VII of the Land Acquisition Act r/w Section 50 of the Land Acquisition Act, which provides for direct acquisition for a company/local authority. It is submitted that the conclusion of this Court at para 24 of UP Awas Evam Vikas Parishad (supra) clearly states that a company or local authority for whom a land is being acquired has a right to participate before the Reference Court. But in the present case, the land has been acquired for the KIADB, which is neither a company nor a local authority.

3.6 It is submitted that as such the decisions of this Court in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) have been considered and distinguished by this Court in the case of Peerappa Hanmantha Harijan (supra) (at paras 61 and 62).

3.7 It is further submitted that even in the subsequent decision, this Court in the case of Satish Kumar Gupta Vs. State of Haryana, (2017) 4 SCC 760 relying upon the case of Peerappa Hanmantha Harijan (supra) has distinguished the judgments in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra), and has held and taken a view that a post-acquisition allottee of land is neither a necessary or proper party nor has any locus to be heard in the matter of determination of compensation under the scheme of the Land Acquisition Act.

3.8 It is further submitted by learned counsel appearing on behalf of the appellants that as such the High Court has committed a grave error in not following a binding precedent of this Court rendered in the case of Peerappa Hanmantha Harijan (supra). That the aforesaid judgment of this Court was binding upon the High Court but the High Court has not followed the same and has observed on the basis of an erroneous reasoning that the decision of this Court in UP Awas Evam Vikas Parishad (supra), being a decision of Three Judge Bench as compared to a decision of Two Judge Bench in Peerappa Hanmantha Harijan (supra) binds the High Court. It is submitted that the High Court has not properly appreciated and considered the fact that the decision of this Court in the case of UP Awas Evam Vikas Parishad (supra) was subsequently considered and distinguished by this Court in the case of Peerappa Hanmantha Harijan (supra). Therefore, the High Court was bound by the decision of this Court in the case of Peerappa Hanmantha Harijan (supra) even on the doctrine of stare decisis as embodied in Article 141 of the Constitution and reliance is placed on the following decisions of this Court:-

"Director of Settlements, A.P. Vs. M.R. Apparao, (2002)

4 SCC 638 (para 7); Rashmi Metaliks Ltd. Vs. Kolkata Metropolitan Development Authority, (2013) 10 SCC 95 (para 7) and Bir Singh Vs. Mukesh Kumar, (2019) 4 SCC 197 (para 30).

3.9 Making the above submissions, it is prayed to allow the present appeals.

4. Present appeals are vehemently opposed by Ms. Shalini Sati Prasad, learned counsel appearing on behalf of the respondent No.1 – MRPL.

4.1 It is submitted by learned counsel appearing on behalf of the respondent No.1 – MRPL that the present appeals raise the question as to whether respondent No.1 – MRPL can be said to be a "person interested" for the purpose of Section 18(1) of the Land Acquisition Act, 1894 and consequently, whether the respondent No. 1 was a proper party in the proceedings before the Learned Reference Court. It is submitted that as such there is no infirmity in the impugned judgment and order passed by the High Court as the High Court has relied upon the direct judgments of this Court in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra). 4.2 Learned counsel appearing on behalf of the MRPL has vehemently submitted that the MRPL can be said to be a "person interested" for the purpose of Sections 18 and

20 of the Land Acquisition Act and Section 29(4) of the KIAD Act, 1966 and therefore was a proper party in the proceedings before the Reference Court.

4.3 It is submitted that there is no requirement under Section 28(1) or Section 28(4) of the KIAD Act, 1966 to make a statement in the notification as to the specific company for which the land is intended to be acquired. It is submitted that even otherwise in the agreement between KIADB and the MRPL, liability to pay the enhanced amount of compensation would be upon the MRPL and therefore, before enhancing the amount of compensation, the Reference Court ought to have heard the MRPL. That the MRPL cannot be made liable to bear the financial burden of the enhanced awarded amount without a fair chance of contesting the enhancement by the Reference Court. Therefore, the High Court has rightly remanded the matter to the Reference Court to provide the MRPL, who is a "person interested", an opportunity to be heard before awarding the enhanced amount of compensation to the landowners.

4.4 It is further submitted by the learned counsel appearing on behalf of respondent No.1 – MRPL that as per Section 2(11) of the KIAD Act, 1966, the expression "person interested" has the same meaning assigned to it in Section 3 of the Land Acquisition Act. That as per Section 3(b) of the Land Acquisition Act, the expression "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of the land under the said Act; and a person shall be deemed to be interested in land if he is interested in an easement affecting the land.

4.5 It is submitted that in the present case, KIADB constituted under the KIAD Act, 1966 had executed an agreement with the MRPL dated 08.12.1994. Accordingly, in view of the said agreement with the KIADB, the land was acquired pursuant to the three different notifications issued by the State under Section 28(4) of the KIAD Act, 1966. That the land was granted to respondent No. 1 - MRPL by the State Level Single Window Clearance Committee whose approvals are binding on all departments and authorities in terms of Section 8 of the Karnataka Industries Facilitation Act 2002. It is submitted that therefore, MRPL can be said to be a "person interested" in the acquired land. 4.6 On the submission that the MRPL can be said to be a "person interested" under the relevant provisions of the Land Acquisition Act and/or KIAD Act, 1966 and therefore a proper party before the proceedings, the learned counsel appearing on behalf of the respondent No.1 has heavily relied upon the judgments of this Court in the case of UP Awas Evam Vikas Parishad (supra); Himalayan Tiles and Marble (P) Ltd. (supra) as well as another decision of this Court in the case of Delhi Development Authority Vs. Bhola Nath Sharma (Dead) by L.Rs. and Ors., 2011 (2) SCC 54.

4.7 It is further submitted that as such and being well aware that the land had been acquired for the MRPL, the appellants herein in fact had impleaded MRPL as a party respondent in their petition challenging the acquisition before the High Court. Therefore, thereafter in the references made for enhancement of compensation, the landowners ought to have impleaded the MPRL, being an affected and proper party. 4.8 Learned counsel appearing on behalf of the MRPL has further submitted that MRPL cannot be made liable to bear the financial burden of the enhanced amount of compensation without being given a fair chance of contesting the enhancement of the amount of compensation. Reliance is placed upon paras 22 and 41 of the case of UP Awas Evam Vikas Parishad (supra). It is submitted that the ratio of this Court in the case of UP Awas Evam Vikas Parishad

(supra) in paras 22 and 41 has not been considered and distinguished by this Court in the case of Peerappa Hanmantha Harijan (supra). It is submitted that therefore, even if it is presumed that the respondent No. 1 - MRPL does not have any right to be impleaded in the proceedings before the learned Reference Court, the principles of natural justice and the doctrine of legitimate expectation would be attracted so as to ensure that the respondent No. 1 – MRPL is not rendered remediless while being burdened with the financial implications of the orders passed by the learned Reference Court in the absence of any opposition to the enhancement.

4.9 Making above submissions and relying upon the above decisions, it is prayed to dismiss the present appeals.

5. Heard the learned counsel for the respective parties at length.

6. The short question, which is posed for the consideration of this Court is, whether, respondent No.1 – MRPL, who is simply an allottee of the land by the KIAD Board, after the acquisition of the lands under Section 28 of the KIAD Act, 1966, which was for the benefit of Karnataka Industrial Areas Development Board (KIADB) can be said to be a "person interested" under the provisions of KIAD Act, 1966 and therefore, was a proper party in the reference proceedings initiated at the instance of the original landowners?

7. While answering the aforesaid issue/question, it is required to be noted that in the present case, the land has been acquired under the provisions of the KIAD Act, 1966 and the notification has been issued under Section 28(1) of the KIAD Act, 1966. The land has been acquired by the State Government for KIADB under three different notifications. After the lands were acquired, respondent No.1 – MRPL has been allotted the lands acquired as per the agreements between the KIADB and the MRPL. The present is not an acquisition under the provisions of the Land Acquisition Act and therefore, as such, neither Section 50 of the Land Acquisition Act, 1894 nor any other provisions of the Land Acquisition Act, 1894 shall be applicable with respect to the lands acquired under the provisions of the KIAD Act, 1966. Taking into consideration, the aforesaid factual aspects, the impugned judgment and order passed by the High Court in which it has heavily relied upon the decisions of this Court in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) are required to be considered.

7.1 At the outset, it is required to be noted that as such, the issue involved in the present appeal in respect of the acquisitions under the KIAD Act, 1966 and the right of the subsequent allottee to participate in the reference proceedings and whether the subsequent allottee can be said to be a "person interested" under the provisions of the KIAD Act, 1966 is no longer res integra. While deciding the acquisition under the very KIAD Act, 1966 and the right of the subsequent allottee, who has been allotted the land by the KIADB in the case of Peerappa Hanmantha Harijan (supra) after distinguishing the decision of this Court in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra), it is specifically observed and held by this Court that an allottee company cannot be said to be a beneficiary or a "person interested" entitled for hearing before determination of compensation. By observing and holding so, this Court had an occasion to consider the entire scheme of acquisition under the KIAD Act, 1966 and has distinguished the

acquisition under the Land Acquisition Act, 1894. Before this Court also, the High Court remanded the matter at the instance of the allottee company in the writ petition filed by the allottee company to the Reference Court. This Court set aside the same while holding that the allottee company, who has been allotted the land under the provisions of the KIAD Act, 1966, can neither be said to be a beneficiary nor a "party interested" entitled for hearing before determination of compensation. This Court in the case of Peerappa Hanmantha Harijan (supra) considered in detail the allotment/lease agreement in favour of the allottee/lessee and also the relevant provisions of the KIAD Act, 1966 and has observed in paragraphs 50 to 54 as under:-

> "50. On a careful examination of the aforesaid clauses of the lease agreement executed between the parties in respect of the land of the appellants, it becomes manifestly clear that the said agreement is executed by KIADB in favour of the Company after allotment of land was made in favour of the Company as provided under Regulations 10(a) and (c) of the KIADB Regulations respectively by following the procedure of inviting applications and submission of the applications by the interested parties along with the required deposits towards the cost of the land. Further, Clauses 5(a) and (b) of the lease agreement referred to supra, would clearly state that the premium indicated in Clause 1 of the lease agreement represents the tentative cost of the land and in the event of the lessor incurring payment of amounts to the landowners over and above the awards made by the acquiring authority by virtue of the award passed by the competent court of law or in view of the provisions of the LA Act in respect of demised premises or any part thereof, the same shall be met by the lessee within one month from the date of receipt of the communication signed by the Executive Member or any other officer authorised by the lessor. Clause 5(b) also makes similar provision to that effect between the lessor and the lessee.
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> 51. From a careful reading of the aforesaid clauses of the lease agreement along with the provisions of Section 32(2) of the KIAD Act and Regulations 4, 7, 10(b), (c) and (d) of the KIADB Regulations, it is clear that the Company is only the lessee by way of allotment of the land as the same has been allotted by KIADB in its favour and has executed the lease deed in its favour in respect of the allotted land.
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> 52. In view of the aforesaid documents, namely, the notifications issued under Sections 28(1) and 28(4) of the KIAD Act by the State Government, it can be safely concluded by us that the acquisition of the land involved in these proceedings is for the purpose of industrial development by KIADB in Sedam Taluk.

Therefore, the beneficiary of the acquired land is only KIADB but not the Company as claimed by it. A reading of Section 28(5) of the KIAD Act makes it clear that the land which is acquired by the State Government statutorily vests absolutely with it. After following the procedure provided under Sections 28(6) and (7) of the KIAD Act, the State Government takes possession of the acquired land from the owners/person/persons who are in possession of the land and transfers the same in favour of KIADB for its development and disposal of the same in accordance with Regulation 10(a) of the KIADB Regulations, referred to supra.

53. In the instant case, a perusal of the provisions of the lease agreement executed between the parties referred to supra and Regulation 10 clauses (a), (c),

(d) and (e) of the KIADB Regulations make it abundantly clear that the Company is only the allottee/lessee of the acquired land and as per Clauses 5(a) and (b) of the lease agreement referred to supra, the premium indicated in the lease agreement in respect of the allotted land in its favour represents the tentative cost of the land. It has been further specified in the lease agreement that in the event of the lessor incurring the payment of amounts to the landowners over and above the awards made by the acquiring authority by virtue of awards passed by the competent court of law in view of the provisions of the Land Acquisition (Amendment) Act, 1984 in respect of demised premises or any part thereof, the same shall be met by the lessee within one month from the date of receipt of communication signed by the Executive Member or any other officer authorised by the lessor. In view of the above conditions of the lease agreement, neither KIADB nor the Company can contend that the acquisition of the land involved in these proceedings is in favour of the lessee Company. Therefore, the Company is neither a beneficiary nor an interested person as claimed by them in terms of Section 2(11) of the KIAD Act or under Section 3(b) of the LA Act as per which, "person interested" includes all persons claiming an interest in compensation to be made on account of the acquisition of land under the KIAD Act and that a person shall be deemed to be interested in the land if he is interested in an easement affecting the land. It is necessary to examine Section 3(b) read with Section 9 of the LA Act, which deals with notice to persons interested and Section 11, which deals with enquiry and award to be passed by the Deputy Commissioner/Land Acquisition Officer.

54. A careful reading of the aforesaid provisions of the LA Act, the KIAD Act and the KIADB Regulations would clearly go to show that the Company is neither a beneficiary, nor an interested person in the land as on the date of acquisition of the land, as the land was acquired by the State Government in favour of KIADB who is the beneficiary and it has allotted in favour of the Company after the acquired land was transferred in its favour by the State Government and executed the lease agreement referred to supra." 7.2 Thereafter, this Court distinguished the nature of acquisition under the Land Acquisition Act from the acquisition under the KIAD Act, 1966 by observing as under in paragraphs 57, 58 and 60 to 65:-

> "57. For the acquisition of land under the provisions of the LA Act in favour of a company the mandatory procedure as provided under Part VII of the LA Act and Rules must be adhered to, that is not the case in the acquisition of land involved in these proceedings as the acquisition of land is under the provisions of the KIAD Act and therefore the reliance placed upon the provision of Section 3(f)(viii) of Karnataka LA Amended Act 17 of 1961 is not applicable to the facts of the case on hand and therefore, the said provision cannot be made applicable to the case on hand.
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> 58. The definition of "public purpose" under the LA Act cannot be imported to the acquisition of land by the State Government for the industrial development under the provision of the KIAD Act as the words "development", "industrial area" and "industrial estate" have been clearly defined under sub-sections (5), (6) and (7) of

Section 2 of the KIAD Act which reads thus:

"2. (5) 'Development' with its grammatical variations means the carrying out of levelling, digging, building, engineering, quarrying or other operations in, on, over or under land, or the making of any material change in any building or land, and includes redevelopment; and 'to develop' shall be construed accordingly;

(6) 'Industrial area' means any area declared to be an industrial area by the State Government by notification which is to be developed and where industries are to be accommodated; and industrial infrastructural facilities and amenities are to be provided and includes, an industrial estate;

(7) 'Industrial estate' means any site selected by the State Government where factories and other buildings are built for use by any industries or class of industries."
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60. The reliance placed upon the provisions of Sections 50(1) and (2) of the LA Act, also are not applicable to the case on hand for the reason that Section 50 of the LA Act applies to the acquisition of land in favour of a company by the State Government by following the mandatory procedure contemplated under Part VII of the LA Act and relevant rules framed for that purpose. Therefore, the claim made by the Company that it has got every right to participate in the proceedings for determination and redetermination of the market value of the acquired land and award of compensation passed by the Land Acquisition Officer or Deputy Commissioner or before the Reference Court or the appellate court is wholly untenable in law and therefore, the submissions made on behalf of the Company cannot be accepted and the same is rejected.

61. Further, both the learned Senior Counsel on behalf of KIADB and the Company have placed reliance on various decisions rendered by this Court in support of their above respective legal submissions that the Company is an interested person and, therefore, it has got right to participate in the proceedings before the Reference Court for determination of compensation before passing the award either by the Land Acquisition Officer or the Deputy Commissioner or the Reference Court at the instance of the owner or any other interested person. These include judgments rendered by this Court in U.P. Awas Evam Vikas Parishad v. Gyan Devi [(1995) 2 SCC 326] , Himalayan Tiles and Marble (P) Ltd. v. Francis Victor Coutinho [(1980) 3 SCC 223] and P. Narayanappa v. State of Karnataka [(2006) 7 SCC 578] and other decisions which are not required to be mentioned in this judgment as they are all reiteration of the law laid down in the above cases.

62. The reliance placed on the various decisions of this Court by both the learned Senior Counsel on behalf of KIADB and the Company, is misplaced as none of the said judgments relied upon are applicable to the fact situation in the present case for

the reason that those cases dealt with reference to the acquisition of land under the provisions of the LA Act, either in favour of the company or development authorities, whereas in the case on hand, the acquisition proceedings have been initiated under the KIAD Act for industrial development by KIADB. Further, the original acquisition record in respect of the acquired land involved in the proceedings by the learned Standing Counsel on behalf of the State of Karnataka as per our directions issued vide our orders dated 17-11-2014 [Peerappa Hanmantha Harijan v. State of Karnataka, 2014 SCC OnLine SC 1678, wherein it was directed: "Issue notice to the State Government. The learned counsel for the petitioners to take out notice to the learned Standing Counsel appearing for the State Government. Dasti, in addition, is also permitted. Mr V.N. Raghupathy, learned counsel accepts notice for the State of Karnataka and Mr Nishanth Patil, learned counsel accepts notice for Karnataka Industrial Area Development Board (for short 'KIADB'). The learned counsel appearing for the State Government and the learned counsel appearing for KIADB are directed to produce the relevant records in respect of the proceedings relating to land acquisition involved in these matters. There shall be stay of the effect and operation of the impugned order during the pendency of these petitions. List the matters after four weeks. In the meanwhile, all the respondents are at liberty to file written statements, if any."] and 24-3-2015 [Peerappa Hanmantha Harijan v. State of Karnataka, 2015 SCC OnLine SC 1707, wherein it was directed: "Heard Ms Kiran Suri, learned Senior Counsel for the petitioners in SLPs (C) Nos. 31624-

25 of 2014 in part. List all the matters as part for further hearing. Vide order dated 17-11-2014, learned counsel for the State as well as the learned counsel for KIADB were directed to produce the relevant records in respect of the proceedings relating to land acquisition involved in these matters, record as well as the records relating to allotment of land. However, as per office records, nothing has been produced so far. In this view of the matter, the learned counsel for the State as well as the learned counsel for KIADB are directed to comply with the order dated 17-11- 2014 and produce the relevant records in respect of the proceedings relating to land acquisition and the allotment of land involved in these matters before the next date of hearing. List the matters on 15-4-2015."], do not disclose the fact that the acquisition of lands covered in the acquisition notifications are in favour of the Company. Thus, the acquisition of land in favour of KIADB is abundantly clear from the preliminary and final notifications issued by the State Government and thereafter following the procedure under sub-sections (6) and (7) of Section 28 of the KIAD Act, it took possession of the acquired land from the owners who were in possession of the same and was transferred in favour of KIADB for its disposal for the purpose for which lands were acquired as provided under Section 32(2) of the KIAD Act read with the Regulations referred to supra framed by KIADB under Section 41(2)(b) of the KIAD Act. Therefore, the reliance placed upon the judgments of this Court by the learned Senior Counsel on behalf of the Company and KIADB, are wholly inapplicable to the fact situation and do not support the case of the Company.

63. In view of the foregoing reasons recorded by us on the basis of the acquisition notifications issued by the State Government under the statutory provisions of the KIAD Act and therefore, we have to answer Points (i), (ii) and (iii) in favour of the landowners holding that the Company is

neither the beneficiary nor interested person of the acquired land, hence, it has no right to participate in the award proceedings for determination of the market value and award the compensation amount of the acquired land of the appellants. Hence, the writ petition filed by the Company questioning the correctness of the award passed by the Reference Court which is affirmed by the High Court is not at all maintainable in law. On this ground itself, the writ petition filed by the Company should have been rejected by the High Court, instead it has allowed and remanded the case to the Reference Court for reconsideration of the claims after affording opportunity to the Company, which order suffers from error in law and therefore, the same is liable to be set aside.

64. Further, the learned Judge of the High Court has erroneously held that the allottee Company is a beneficiary of the acquired land of the appellants, which finding of the learned Judge is not correct both on facts and in law. The findings and reasons recorded by the High Court in the impugned judgment in allowing the writ petition and quashing the award of the Reference Court and remanding it back to the Reference Court and allowing the Company to participate in the proceedings for redetermination of compensation for the acquired land is wholly impermissible in law and the same are in contravention of the provisions of the KIAD Act, the LA Act, the KIADB Regulations and the lease agreement, which has been executed by KIADB in favour of the Company and therefore, the impugned judgment and order [State of Karnataka v. Peerappa Hanmantha Harijan, Review Petition No. 2537 of 2013 in MFA No. 32157 of 2012, order dated 22-9-2014 (KAR)] is liable to be set aside by allowing the appeals of the owners.

65. Further, the learned Single Judge of the High Court has further committed an error in law in not appreciating Section 54 of the LA Act, which provision provides the right to appeal to the landowners, or State Government and beneficiaries of the acquired land but not to the company which is the lessee. When the company does not have the right to file an appeal against the award it also has no right to file a writ petition. KIADB has filed the belated appeal after disposal of the appeal filed by the appellants by the High Court and against which award it has filed the present appeal questioning the correctness of the same and prayed for enhancement of compensation and the said appeal is being disposed of by this common judgment after adverting to the rival legal contentions urged on behalf of the parties. The High Court has rightly dismissed the belated appeal filed by KIADB." 7.3 This Court thereafter had considered the decisions in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) and has distinguished the same and has observed and held that the decisions in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) shall not be appliable with respect to the acquisition under the KIAD Act, 1966. Once, this Court in the subsequent decision in the case of Peerappa Hanmantha Harijan (supra) dealt with and considered the earlier decisions in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) and distinguished the same and observed and held with respect to the acquisition under the KIAD Act, 1966 that the allottee company can neither be said to be a "person interested" nor entitled for hearing before determination of compensation, the said ratio was binding upon the High Court. Thus, it was not open for the High Court to not follow the binding decision of this Court in the case of Peerappa Hanmantha Harijan (supra) by observing that in the subsequent decision in the case of Peerappa Hanmantha Harijan (supra), the earlier decisions in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) have not been considered. The

High Court has not noted that as such while deciding the case of Peerappa Hanmantha Harijan (supra), this Court did consider the earlier decisions in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) and had clearly distinguished the same. Not following the binding precedents of this Court by the High Court is contrary to Article 141 of the Constitution of India. Being a subsequent decision, in which the earlier decisions were considered and distinguished by this Court, the subsequent decision of this Court was binding upon the High Court and not the earlier decisions, which were distinguished by this Court.

7.4 Under the circumstances, the High Court has committed a grave/serious error in passing the impugned judgment and order by relying upon the judgments of this Court in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) and by not following the subsequent decision of this Court in the case of Peerappa Hanmantha Harijan (supra).

7.5 Now, so far as the reliance placed upon the decisions of this Court in the case of UP Awas Evam Vikas Parishad (supra) and Himalayan Tiles and Marble (P) Ltd. (supra) relied upon by the respondent No.1 – MRPL and even relied upon by the High Court is concerned, at the outset, it is required to be noted that the said decisions were with respect to the acquisition under the Land Acquisition Act, 1894 and the provisions of Land Acquisition Act, 1894, more particularly, Section 50 of the Land Acquisition Act fell for consideration before this Court. As observed and held by this Court in the subsequent decision in the case of Peerappa Hanmantha Harijan (supra), the acquisition under the Land Acquisition Act, 1894 and the acquisition under the KIAD Act, 1966 are both distinct and the provisions under both the Acts are distinguishable.

7.6 We see no reason to take a different view than the view taken by this Court in the case of Peerappa Hanmantha Harijan (supra) that the MRPL being a subsequent allottee after the land was acquired by KIADB, can neither be said to be a beneficiary nor a “person interested” for the purpose of determination of compensation. Under the circumstances, the impugned judgment and order passed by the High Court taking a contrary view is unsustainable and the same deserves to be quashed and set aside.

8. In view of the above and for the reasons stated above, present appeals succeed. The impugned common judgment and order passed by the High Court setting aside the judgment and award/order passed by the Reference Court and remanding the matter to the Reference Court is hereby quashed and set aside. The judgment and order passed by the Reference Court Is hereby restored.

Present appeals are allowed accordingly. However, in the facts and circumstances of the case, there shall be no order as to costs.

…….J.
[M.R. SHAH]

NEW DELHI; .....J.
JULY 11, 2022. [B.V. NAGARATHNA]