

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 27<sup>TH</sup> DAY OF FEBRUARY 2026**



**PRESENT**

**THE HON'BLE MR. JUSTICE D K SINGH**

**AND**

**THE HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**WRIT APPEAL NO. 2790 OF 2013 (LA-KIADB)**

**BETWEEN:**

1. SRI PATEL JETALAL RAMAJI  
**SINCE DECEASED BY HIS LRS**
- 1(a) SMT. SHANTA BEN J. PATEL  
W/O LATE SRI PATEL JETHALAL RAMJI,  
AGED ABOUT 79 YEARS,  
R/AT FLAT NO.116, 1<sup>ST</sup> FLOOR,  
MUNNEKOLALA, VARTHURU HOBLI,  
BANGALORE-560 032.
- 1(b) SRI PRAKASH J. PATEL  
S/O LATE SRI PATEL JETHALAL RAMJI,  
AGED ABOUT 62 YEARS,  
R/AT FLAT NO.116, 1<sup>ST</sup> FLOOR,  
MUNNEKOLALA, VARTHURU HOBLI,  
BANGALORE-560032.
- 1(c) SRI KISHORE J. PATEL  
S/O LATE SRI PATEL JETHALAL RAMJI,  
AGED ABOUT 55 YEARS,  
R/AT FLAT NO.116, 1<sup>ST</sup> FLOOR,  
MUNNEKOLALA, VARTHURU HOBLI,  
BANGALORE-560032.
- 1(d) SRI DINESH J. PATEL  
S/O LATE SRI PATEL JETHALAL RAMJI,  
AGED ABOUT 53 YEARS,  
R/AT FLAT NO.116, 1<sup>ST</sup> FLOOR,



MUNNEKOLALA,  
VARTHURU HOBLI,  
BANGALORE-560032.

**(Appellant Nos.1(a) to 1(d) are  
brought on record  
v/o dated 25.11.2025)**

2. SRI PATEL HIRALAL MURJI VARANI  
AGED ABOUT 45 YEARS  
S/O MURJI VARANI  
RESIDING AT BANASAWADI ROAD  
PAPAIHAH REDDY LAYOUT  
BANGALORE-560043

...APPELLANTS

(BY SRI M V VEDACHALA, ADVOCATE A/W  
SMT. AADHYA CHALA, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
REP. BY ITS PRINCIPAL SECRETARY  
DEPARTMENT OF COMMERCE & INDUSTRIES  
(INDUSTRIAL DEVELOPMENT)  
M S BUILDING, DR AMBEDKAR ROAD  
BANGALORE-560001.
2. THE KARNATAKA INDUSTRIAL AREA  
DEVELOPMENT BOARD  
REP. BY ITS CHIEF EXECUTIVE OFFICER  
AND EXECUTIVE MEMBER, II FLOOR,  
RASTROTHAN PARISHATH BUILDING  
NRUPATHUNGA ROAD  
BANGALORE-560001
3. ROYAL FRAGRANCES PRIVATE LIMITED  
A COMPANY INCORPORATED UNDER THE  
PROVISIONS OF INDIAN COMPANIES ACT, 1956  
PRESENTLY HAVING ITS HEAD OFFICE E-13/29  
HARSHA BHAWAN, GROUND FLOOR  
MIDDLE CIRCLE, CONNAUGHT PLACE  
NEW DELHI-110 001

BRANCH OFFICE AT  
NO.174, RAKSHITHA COMPLEX  
9TH CROSS, INIDRANAGAR I STAGE  
BANGALORE-38

AND HEREIN REPRESENTED BY ITS  
AUTHORISED SIGNATORY  
MR ASHOKA K R  
AGED ABOUT 50 YEARS  
S/O SHRI K T RAMASWAMY  
RESIDING AT NO.495/65  
4TH MAIN, 2ND STAGE  
A BLOCK, RAJAJINAGAR  
BANGALORE-560010

...RESPONDENTS

(BY SRI SHASHI KIRAN SHETTY, ADVOCATE GENERAL A/W  
SRI MOHAMMAD JAFFAR SHAH, AGA FOR R-1;  
SRI B.B. PATIL, ADVOCATE FOR R-2;  
SRI HAREESH NARASAPPA, SENIOR COUNSEL FOR  
SRI PRADEEP NAYAK, ADVOCATE FOR R-3)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE  
KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE  
ORDER DATED 06.03.2013 PASSED BY THE LEARNED SINGLE  
JUDGE IN WRIT PETITION NO.17211/2009 AND DISMISS THE  
WRIT PETITION BY ALLOWING THIS APPEAL.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR  
JUDGMENT ON 02.12.2025, COMING ON FOR  
PRONOUNCEMENT THIS DAY, **HON'BLE MR. JUSTICE**  
**D K SINGH** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH  
and  
HON'BLE MS. JUSTICE TARA VITASTA GANJU

**CAV JUDGMENT**

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

1. The present intra Court appeal has been filed impugning the judgment and award dated 06.03.2013 passed by the learned Single Judge in W.P.No.17211/2009 (LA-KIADB) filed by the 3<sup>rd</sup> respondent herein.
2. The parties are referred to as per their ranking before the writ Court, for the sake of convenience.
3. The 3<sup>rd</sup> respondent herein, who was the petitioner in the writ Court i.e., the Royal Fragrances Private Limited, the Company said to have been incorporated under the provisions of the Companies Act, 1956, having its Head Office at No.E-13/29, "Harsha Bhawan, Ground Floor, Middle Circle, Connaught Place, New Delhi - 110 001, challenged the decision of the Government dated 18.03.2009 and a direction issued to the Karnataka Industrial Area Development Board (for short **'the**

**KIADB'**) dated 23.05.2009 to denotify the land in Sy.No.10/2 measuring 23 guntas, Sy.No.10/3 measuring 13 guntas, totally measuring 36 guntas.

4. The other prayers made by the writ petitioner are extracted hereunder :-

*"(ii) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other Writ or Order or Direction in the nature of a Writ of Mandamus restraining the Respondents from denotifying any land covered under Survey Nos. 10/1 10/2 10/3 10/11, 10/12, 10/14, 10/15, 11/1, 11/2P, 11/3P, 54/1 to 54/6 54/7P & 54/8 of Devarabisanahalli, and Survey No 29/1, 29/2, 30/1, 30/2 and 32 of Kariyammana Agrahara Village, Varthur Hobli, Bangalore South Taluk, more particularly land Bearing Sy No 10/2 and 10/3, which have been acquired pursuant to final notification produced at Annexure-W.*

*(iii) Issue a direction to the Respondents more particularly the 2<sup>nd</sup> Respondent not to in any manner deal with or allot the lands covered under Survey Nos. 10/1 10/2 10/3 10/11, 10/12P ,,, 10/14, 10/15, 11/1, 11/2P, 11/3P, 54/1 to 54/6 54/7P & 54/8 of Devarabisanahalli, and Survey No 29/1 29/2 30/1, 30/2, and 32 of Kariyammana Agrahara Village, Varthur Hobli, Bangalore South Taluk, which have been notified, for the purpose of exclusive use by the Petitioner to set up their project as per Annexure W.*

*(iv) This Hon'ble Court may be pleased to issue a Writ of Mandamus or any other writ or order or direction in the nature of a writ of Mandamus*

*directing Respondents to continue and complete the acquisition proceedings in respect of lands covered under Survey Nos. 10/1, 10/2, 10/3 10/11, 10/12P, 10/14, 10/15, 11/1, 11/2P, 11/3P, 54/1 to 54/6, 54/7P & 54/8 of Devarabisanahalli, and Survey No 29/1, 29/2, 30/1, 30/2, and 32 of Kariyammana Agrahara Village, Varthur Hobli, Bangalore South Taluk, pursuant to the Gazette notification bearing No. CI:255:SPQ:2001 dated 10.12.2001 issued by 1<sup>st</sup> Respondent vide Annexure-T.*

*(v) Pleased to issue a Writ of Mandamus or any other writ of order or direction in the nature of a writ of Mandamus directing 1<sup>st</sup> and 2nd Respondents to handover possession of lands which are in the custody of the 2nd Respondent pursuant to the Gazette notification bearing No. CI:255:SPQ:2001 Dated 23.02.2004 issued by 1<sup>st</sup> Respondent vide Annexure-W."*

5. The learned Single Judge vide impugned judgment dated 06.03.2013 has allowed the writ petition without taking note of the submissions and no discussion finds place in respect of the respective case of the petitioner and the respondents in the impugned judgment.

6. This is a peculiar case of gross misuse of the power of eminent domain of the State in conferring the most valuable natural resource i.e., the land in favour of persons for consideration other than public interest, legally

valid, justified and based on constitutional morality. The three companies viz., M/s. Vikas Telecom Limited, M/s., Supreme Build-cap Private Limited and M/s. Royal Fragrances Private Limited i.e, respondent No.3, have managed to get allotment of about 154 acres of very precious and valuable lands in Bengaluru city. All the three concerns belong to the same set of Directors represented by Mr. Mithilesh Kumar Tripathi and Mr. Santhosh Garg. These three concerns have been sanctioned the following lands:

- (a) 100 acres at Devarabisanahalli from KIADB in 85<sup>th</sup> High Level Committee meeting held on 14.08.2001,
- (b) 35 acres at Devarabisanahalli in 86<sup>th</sup> High level Committee meeting held on 22.10.2001; and
- (c) 12 acres in Devarabisanahalli and Kariyammana Agrahara on 212<sup>th</sup> Meeting of the Committee held on 18.09.2001.

7. These Companies have the common Directors and Management and the Offices are allotted such a large

extent of lands for alleged purposes of integrated infrastructural facilities for IT, Hospitality, Education, Housing and for integrated project for IT park with multiplex theatres along with Super Deluxe Hotels, Shopping Complex and third for IT park. An extent of 150 acres of lands have been allotted in favour of private Companies owned and controlled by a few individuals belonging to same family.

8. The question is whether the State can exercise its eminent domain to favour the private entities/individuals and whether such blatant favouritism for reasons unknown in law can be said to be in public interest.

9. Before dealing further with the question of eminent domain of the State in the Land acquisition proceedings, it would be apt to take note of the relevant facts.

10. The State Government vide Government Orders dated 16.10.1990, 18.05.1991 and 07.04.1997 constituted the State Level Single Window Agency (for brevity '**the SLSWA**') under the Department of Commerce and

Industry to consider and to provide assistance to industrial projects in their implementation.

11. The appellant No.1 had purchased 18 guntas of land in Survey No.10/2. The appellant No.2 had purchased 5 guntas in Survey No.10/2 and 13 guntas in Survey No. 10/3 on 31.01.2000 in Devarabisanahalli Village, Varthur Hobli, Bengaluru.

12. The Karnataka Udyogmitra, a body under the Department of Commerce and Industries was created by the said Notification dated 06.08.2001, and it was designated as the nodal agency to address all grievances and obtain approvals for the industries.

13. The Royal Fragrances Private Limited i.e., respondent No. 3 herein, who was the petitioner in the writ petition made an application, whose main object is manufacture and production of gutka, a cancer causing substance, as per the memorandum of association. An application made to the SLSWA was for seeking approval for its project to set up a software park, public IT park in

Kariyammanna Agrahara and Devarabisanahali Villages, Bengaluru South.

14. The said Royal Fragrance Private Limited did not even have an iota of experience in IT industry or related activity and they filed the application intending to promote IT and Software etc.

15. The application was placed on record before the writ Court as Annexure R2 by the appellants. According to them, they stated that they were coffee planters and had sufficient interest in the State of Karnataka and had decided to diversify their activities and were intending to set up a software park. They had identified 12 acres of land for their requirement for setting up the software and IT parks in Survey Nos.10/1, 10/2, 10/3, 11/1, 11/2, 11/3 of Devarabisanahalli Village and Survey Nos.27, 28, 29/1, 29/2, 30/1 of Kariyammanna Agrahara, Varthur Hobli, Bangalore South Taluk. This letter was addressed to the Minister for Large and Medium Industries, Government of Karnataka on 29.08.2001 requesting the Minister to

organise acquisition of the aforesaid lands under single unit complex scheme by the KIADB.

16. The total estimated project cost was to be around Rs.48.00 crores. They also said they had identified few clients at US and were negotiating with them and they were very confident of establishing the industry and achieving good business strategy.

17. The application submitted before the High Level Committee/SLSWA would disclose the company as Royal Fragrances Private Limited, as the name of the promoter is Royal Fragrances Private Limited, having its Head Office at E-13/29, Harsha Bhawan, Ground Floor, Middle Circle, Connaught Place, New Delhi.

18. A perusal of the application would suggest that except for the column in respect of the requirement of land, the investment on fixed assets - Rs.25 million, building cost - 450 million and proposed employment of persons around 1500, all the other columns are vacant. So far as the part of the application, which requires to

disclose the promoter's background is completely blank and in the application the Director's name is Santhosh Garg and Mithilesh Kumar Tripathi.

19. The manner in which application has been filed would suggest that the land acquisition for such a company was only a stage-managed and a pre-determined affair. Such an application ought to have been thrown in the dustbin. But the said application was acted upon.

20. On the said application, the entire State machinery was put into high speed motion to acquire the land for such an applicant. The real purpose of the land acquisition for the said company was not the industrial development in the State, but to put the valuable assets for meagre amount in their hands to develop the real estate for residential and commercial purposes.

21. In the writ petition, respondent No 3 had stated that it had retained the services of Jones Lang Lasalle and C. B. Richard Ellis, two of the foremost leaders in property

management as its consultants, that would indicate the real intention and purpose of the land.

22. The Chief Executive Officer of the KIADB himself had submitted a report dated 05.10.2004 to the State Government on the allegation that the land mafias was involved in grabbing the land of the farmers, and requested the State Government to enquire into the background of the companies and assess their requirements before granting any lands in their favour.

23. In the said report submitted by the Chief Executive Officer to the Principal Secretary to the State Government, Department of Commerce and Industries the names of (1) Vikas Telecom Limited; (2) Royal Fragrances Pvt. Ltd.; (3) Premel Project Pvt. Ltd.; (4) Supreme Build Cap Pvt. Ltd.; (5) Adarsha Prime Project Pvt. Ltd., it is clearly stated that none of the above firms had earlier experience in the software production field or computer related any other production field, and there is no evidence that they are running such industries. It was also stated that because of the fact that the land being acquired for unknown entities closely held up by private people i.e., those who do not have any

experience or any activity in respect of software, computer etc., the villagers and land owners have been protesting for the last two years. Because of this reason that the land was being sought to be acquired for unknown non-existent entities, the land for the companies like Infosys, well-known in the field, could not be acquired for their purpose and use.

24. The report also highlighted that the activities of these entities could not be identified and no definite information is available and excessive area was sought to be acquired on behalf of the companies under the SLSWA, even though the farmers and the land losers are raising questions for handing over the lands to these entities.

25. The report castigated the KIADB that the land had been acquired with bad motive in order to help the land mafias and the farmers' valuable lands were acquired in respect of which, the questions in the assembly were raised and reports published in the newspapers. The three entities held by the common Director having one office with little shareholding and paid-up capital namely, (1) Vikas Telecom Ltd. (2) Supreme Build Cap Pvt. Ltd. and (3) Royal Fragrances Pvt. Ltd. had been allotted valuable

lands to the extent of 100 acres, 25 acres and 29 acres 5 guntas respectively. The report also states that the KIADB had acted to help several private persons and land mafias to further their interest without proper enquiry about the entities. It was further stated that before proceeding further, the background eligibility and extent of land required should be examined once again and thereafter, the necessary decision should be taken for allotment of the land. The name of the promoters of these three companies as available in the files of the Karnataka Udyoga Mitra are;

1. M/s. Vikas Telecom Ltd;
  - (i) Mr. Mithilesh Kumar Tripathi
  - (ii) Mr. Santhosh Garg
  - (iii) Mr. DeviDass Garg
  - (iv) Mr. Rakesh Kumar Garg
  - (v) Mr. S.R. Rangan
  - (vi) Mr. S.N. Pathikonda
  
2. M/s. Supreme Build Cap Pvt. Ltd;
  - (i) Mr. Mithilesh Kumar Tripathi
  - (ii) Mr. Santhosh Garg

(iii) Smt. Archana Garg

(iv) Mr. Purushotham Garg

3. M/s. Royal Fragrances Pvt. Ltd;

(i) Mr. Mithilesh Kumar Tripathi

(ii) Mr. Santhosh Garg

(iii) Mrs. Kusum Lata Garg

26. The preliminary notification for acquisition of land under Section 28(1) of the KIADB Act was issued on 10.12.2001 and the final notification under Section 28(4) of the KIADB Act was issued on 23.02.2004. The Government decided to denotify 36 guntas of lands of the appellants/respondents in Sy.Nos.10/2 measuring 23 guntas and Sy.No.10/3 measuring 13 guntas situated at Devarabisanahalli Village vide orders dated 18.03.2009 and 23.05.2009. The petitioner has filed W.P.No.17211/2009 challenging the above two notifications of denotification of the petitioner's land. This writ petition was connected with other writ petitions challenging the acquisition proceedings and by one line observation in the impugned judgment, W.P.No.17211/2009 came to be allowed.

27. KIADB's benevolence towards the respondent-company can be measured from the fact that though the petitioner had demanded only 12 acres of land, but KIADB, vide letter dated 24.11.2011, informed the petitioner that they would be allotted 29 acres and 7 1/2 guntas for which the petitioner was asked to deposit Rs.84,26,250/- and allotted the land to an extent of 29 acres 7 1/2 guntas against their proposal for 12 acres. Thereafter, an agreement was entered between the petitioner and the KIADB.

28. It would be important to take note of the procedure prescribed under the KIADB Act for land acquisition and the procedure followed in the petitioner's case with respect to the lands acquired for it. It is thus:

| <b>Procedure prescribed under KIADB Act for Land acquisition</b>   | <b>Procedure followed in petitioner's Case</b>   |
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| <p>1. The object of the KIADB Act is to provide for the orderly establishment and development of industries in suitable areas in the state and to achieve the said object, the Board was established.</p> <p>2. Under Section 3 and Section 28 of the Act, the State Government has the power to declare any area in the State as an industrial area and acquire the lands for the purpose of the Act.</p> | <p>1. On 30-8-2001 Royal Fragrance Pvt. Ltd., (RFPL) submitted application to High Level Committee introducing themselves as coffee planters.</p> <p>2. RFPL have identified Sy. 10/1, 10/2, 10/3, 11/1, 11/2, 11/3 Devarabisanahalli and Survey No. 27,28, 29/1, 29/2, 30/1, 30/2 and 32 of Kariyammana Agrahara Village, Varthur Hobli, Bangalore South Taluk.</p> |

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| <p>3. Under Section 13 of the Act, the Board has been vested with the power to develop industries and make them available to industrial undertakings.</p> <p>4. The manner in which the lands so acquired by KIADB is to be disposed of is governed by the Karnataka Industrial Area Development Board Regulations 1979. (Regulation for short)</p> <p>5. Under Regulation 7, the Board shall notify the availability of land, the manner of disposal, the last date for submission of applications and such other particulars as may be necessary in each case by giving wide publicity through news papers having circulation inside and outside Karnataka State and invite applications from industries or persons intending to start industries.</p> <p>6. Under Regulation 9, the Board is empowered to register applications on deposit of prescribed fee as in Regulation 8 in the Forms prescribed in Regulation 4.</p> <p>7. Under Regulation 10 the Board on being satisfied that the persons, firm or company who is in need and is likely to start production with a reasonable period make an allotment in his/their favour.</p> <p>8. Regulation 13 even makes a provision to make allotment of plots in special cases in consultation with the State Government.</p> <p>9. Thus the State Government acquires land for the purpose of industrial development as a whole and thereafter the Board develops and allots the land to various industries or companies on its satisfaction.</p> <p>10. The State Government by G.O. dt. 6-08-2001 has constituted District/State Level Single Window Agency and the High Level Committee for consideration and approval of industrial projects.</p> | <p>3. Significant to note that application is Blank- No details filled up.</p> <p>4.</p> <p>(i) On 18-9-2001 on such application, the State Level Single Window Agency approved the acquisition of the above mentioned lands through KIADB.</p> <p>(ii) In the 212th State Level Single Window Agency meeting held on Tuesday 18th September 2001.</p> <p>ITEM 6 on Agenda- stated that</p> <p>(iii) Promoters sought acquisition through KIADB for providing 12 Acres of land in Sy.No. 10/1, 10/2, 10/3, 11/1, 11/2, 11/3, of Devarabisanahalli and Survey No. 27, 28, 29/1, 29/2, 30/1, of Kariyammana Agrahara Village, Varthur Hobli Bangalore South Taluk- State Level Single Window Agency approved the principle, the request of the promoters.</p> <p>(iv) State Level Single Window Agency has approved Acquisition of land pointed out by the promoter.</p> <p>(v) Without authority of law- State Level Single Window Agency not empowered under any Act, Rule or Regulation to authorise-acquisition of land.</p> <p>(vi) Approval granted on the basis of blank application- whether approval can be given in blank application when statutorily required details are not filled by the promoters</p> <p>(vii) Not available from record on what basis approval granted.</p> <p>(viii) Committee failed to see that the primary and main object of the company</p> |
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11. The above agencies have been created to simplify the procedures with regard to seeking the approval from different authorities and agencies, maintenance of registers; filing of returns and also inspection, Government has approved certain proposals for simplified procedure.

a) Designating Karnataka Udyoga Mitra at the State Level and the DICs at the District Level as the Nodal Agency to obtain all clearances and approvals on behalf of the industry;

b) To introduce a common application form for obtaining various clearances and approvals from different agencies and authorities;

c) To categorise industries into two groups one, dangerous/hazardous and Highly polluting industries. These industries will be subjected to the normal approval/inspection procedures as required by law. Two, non-polluting non-hazardous industries. These industrial proposals will be put under a fast track clearance under the simplified procedure with a self certification on compliance of applicable Rules and Regulations;

d) Maintenance of combined registers and records as required under various Acts/Rules;

e) Furnishing of combined monthly, quarterly and yearly returns/reports under various Acts/Rules;

f) Approval of the factory building/layouts to be undertaken by the Inspector of Factories and Boilers by following the requirements under the Factories Act as also the building bylaws and other requirements of Village & Gram Panchayats and the KIADB;

g) To undertake a combined joint annual inspection by Inspector of Factories and Boilers, Karnataka State Pollution Control

was;

(a) manufacture of perfumery compounds, sada gutka, masala gutka, gutka of every kind whether plain or tobacco, pan masala mouth fresheners, khaini, stuff khaini, flavours, fragrances, aromatic compounds and mint etc.,

(b) manufacture etc. of deodorisers, depilators, toilet preparations, bath preparations, perfumed bath salts, odiferous preparations, agarbattis, scents, flavours and sprays.

(c) To act as distributors etc., of essential oil, perfumery compounds, flavours, fragrances, and aromatic.

(d) To carry on house, land and estate agents, builders and developers etc.,

And 1st of the other objects is to carry on the business and purchasers of daily farms, garden produce and all kinds in particular milk, cream, butter, ghee, cheese, poultry, eggs, fruit, vegetable oils, vegetable gee, porkpies, sausages, prawns, potted meat, table delicacies and purchase, acquire, keep, maintain, etc., sell or otherwise dispose of all kinds of cattle, cows, buffaloes, pigs, poultry and live or dead stock of description etc.,

And several other objects such as to carry on business of slaughtering cattle, pigs, frogs, sheep, lamb and other animals for food purposes ...and innumerable objects.

Except development of software or anything to do with computers.

(ix) The company has only two shareholders.

(x) The total capital of the company itself

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| <p>Board and Labour Department based on random sample generated out of computerized data base;</p> <p>h) To make the functioning of the District/State Level Single Window Agency as also the High Level Committee more effective by introducing a scheme of systematic appraisal and clearance of projects in consultation with the concerned departments.</p> <p>12. There is nothing in the Government Order which authorise the committee to identify land and propose the same for acquisition.</p> <p>13. The Agency had no jurisdiction to suggest/direct, approve acquisition of land by KIADB.</p> | <p>is about 10 lakhs.</p> <p>(xi) The company has no previous experience in IT, computer technology, software, hardware or anything related to it.</p> <p>(xii) It is not examined whether the directors have educational qualification to commence on IT industry</p> <p>(xiii) It is not examined when and why the company was started and its background not enquired into.</p> |
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29. It may also be noted that the speed and electricity with which the KIADB and the State machinery had acted to acquire the lands against the prescribed procedure for the petitioner would throw light on *mala fide*, arbitrariness and illegality in acquiring the valuable lands and divesting the farmers from their land holdings for land mafias.

30. The application was filed by the petitioner before the Karnataka Udyog Mitra on 30.08.2001 and within 18 days, the High Level Committee approved the application. As mentioned above, most of the columns were vacant and even the Director's

background was not mentioned. The preliminary notification came to be issued on 10.12.2001 and the final notification was issued on 23.02.2004. Everything appears to be stage-managed to help and create land bank for the real estate development for private benefit at the cost of the poor farmers and public interest.

31. The State Government, after taking into consideration the various aspects, has denotified the lands. The petitioner in whose favour the exercise was undertaken by the State to allot the valuable lands in an illegal, *mala fide* and arbitrary manner cannot have any objection.

32. The concept of 'eminent domain' is the State's sovereign power to compulsorily take the private property for public use and public purposes. However, this power has to be exercised only for the public purpose subject to the constitutional limits. The State cannot acquire the property of the private people to create the wealth in an illegal, arbitrary and *mala fide* manner in favour of the private individuals without there being any public purpose. A deprivation of the property must be by an authority of law and the acquisition must have a public purpose. If a land is being allotted to an entity unknown and which has no expertise

or experience in the software or the computer related activities, obviously, the purpose for which the land was acquired was extraneous purpose and not for the public purpose. The Court would not be expected to uphold the State action in taking the private properties for private purposes. Acquiring the land of the farmers and putting it in the hands of real estate developers, by no means, can be said to be a public purpose.

33. The acquisition of the lands in favour of the petitioner is nothing but a colourable exercise of the power, *mala fide*, arbitrary and in violation of the mandatory procedure inasmuch as the application filed by the petitioner-company itself was incomplete and should have been thrown away. The high speed with which the land was acquired for the petitioner is a complete *mala fide* exercise of power and such acquisition cannot be upheld. It was a day light dacoity on the lands of the poor farmers by the State authorities in favour of land sharks. No person can be deprived of his property without due process of law and that too, the property can be acquired only for the public purpose. Therefore, we are of the considered view that the impugned judgment and order passed by the learned Single Judge insofar as allowing the writ petition filed by the petitioner is liable to be set aside.

34. Accordingly, we set aside the impugned judgment and order dated 06.03.2013 passed by the learned Single Judge in W.P.No.17211/2009 and allow this writ appeal.

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

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

**Sd/-  
(TARA VITASTA GANJU)  
JUDGE**

NG/BKV