

(2013) 03 KAR CK 0099

In the Karnataka High Court

Case No : Writ Petition No. 42253 of 2011 (LA-KIADB)

Brightsword Technologies Private Limited

APPELLANT

Vs

The Karnataka Industrial Area Development Board and
Others

RESPONDENT

Date of Decision : 06-03-2013

Acts Referred:

Citation : (2013) 03 KAR CK 0099

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Judgement

Anand Byrareddy, J.—These petitions are heard and disposed of together having regard to the fact that the petitioners are one and the same and the issues are common. The brief facts of the case are as follows:

The petitioner in WP 42253/2011 is a private limited company incorporated under the Companies Act, 1956. The petitioner claims that it has significant expertise in software development and other information technology related activities. It is stated that a Global Investors Meet was organized by the Government of Karnataka to promote the development of software and information technology in the State of Karnataka. Pursuant to which, the petitioner had submitted a proposal to the Karnataka Udyog Mitra (Hereinafter referred to as the "KUM", for brevity), which is a nodal agency created under the Karnataka Industries (Facilitation) Act, 2002 (Hereinafter referred to as the "Facilitation Act", for brevity), to set up software development facilities. The total initial outlay envisaged was Rs. 43 Crore. The project proposal was placed before a State Level Single Window Agency (Hereinafter referred to as the "SLSWA", for brevity). The said agency approved the proposal and sanctioned the infrastructure assistance. Pursuant to which, the KUM informed the Special Land Acquisition Officer of the Karnataka Industrial Areas Development Board (Hereinafter referred to as the "KIADB" for brevity), to initiate necessary action with regard to acquisition of 8.5 acres of land of Kadubisanahalli and hand over

the same to the petitioner to establish its project. The KIADB, in turn, had called upon the petitioner to deposit a sum of Rs. 38.6 lakh being 40% of the tentative cost of the acquisition proceedings in order to issue acquisition notifications with the approval of the State Government. The petitioner is said to have deposited the said sum with the second respondent on 23.1.2004 and made a further payment of Rs. 1.91 Crore on 14.6.2004. The second respondent was therefore satisfied that the acquisition of the aforementioned land was needed for the purpose of setting up Information Technology Park and as such, had proceeded under the provisions of the KIAD Act to acquire and make available the land to the petitioner. A notification u/s 28(1) of the KIAD Act was duly published in the Karnataka Gazette on 9.3.2004. This was in addition to the notification declaring the lands covered under the various survey numbers as an industrial area, in terms of Section 3(1) of the KIAD Act and also made Section 1(3) applicable and the land owners were duly notified and further notifications under Sections 28(3) and 28(4) were also published in the Official Gazette as on 7.9.2004. The fifth respondent one Balakrishna Naidu had challenged the acquisition proceedings by filing a writ petition in WP 41447/2004. It was contested by the State as well as the Special Land Acquisition Officer justifying the acquisition. Respondent no. 5 also thought it fit to make an application to KUM, claiming that he himself wanted to set up an IT Park and that the land could be allotted in his favour and that the impugned order at Annexure-B was passed in favour of respondent no. 6, a proprietary concern of respondent no. 5. The petitioner claims that the petitioner was not served with any notice preceding the order and no opportunity of hearing was afforded to the petitioner. The petitioner is said to have filed a writ petition in WP 16105/2007 challenging the action of the respondents in seeking to allot the very lands, which were earmarked for the benefit of the petitioner, to respondents - 5 and 6. This writ petition was heard along with WP 41447/2004 filed by respondent no. 5 along with other writ petitions. WP 41447/2004 was disposed of remanding the matter to the KIADB, to consider the objections of the land owners by an order dated 3.11.2009 and while considering the petitioner's writ petition in WP 16105/2007, opined that the reliefs sought by the petitioner did not survive for consideration in view of the remand of the proceedings to the KIADB for consideration of the objections of the land owners. However, the petitioner was also permitted to present its case before the Land Acquisition Officer. Pursuant to the remand, respondent no. 5 is said to have made a claim statement before respondent no. 2 dated 2.12.2009, to the effect that the approval granted to respondent no. 6 would not enable the present petitioner to lay claim over the same and as there was no consent from the land owners for the acquisition in the first instance and in terms of the impugned order, the schedule property should be acquired in favour of respondent no. 6. The petitioner, in turn, pointed out that respondent no. 6 is not the true owner of the property and since the petitioner's project proposal was already sanctioned and the land earmarked for the purpose of the project was also sanctioned, allotting such land in favour of respondent no. 6 was not tenable and that the approval of the land owners being necessary, was a contention raised for the first

time, which was not a condition precedent for acquisition. It was pointed out that respondent no. 5 had not obtained valid title to the property. The property belonged to one Muniyerrappa @ Annaiah, Son of Chinnappa, who had bequeathed the property in favour of his grand children and had passed away on 21.9.1991. Ramaiah and Kamalamma, who were the natural guardian of the grandchildren, in whose favour the property was bequeathed, alienated the same in favour of one Damegunta Rajeshwaramma under a sale deed dated 8.12.1999, which was registered only as on 15.1.2002. During the pendency of these transactions, Narayanaswamy, as a General Power of Attorney holder of the grand children as well as their parents, alienated the property to one P.M. Nagaraju under a sale deed dated 9.11.2001. This lead to Rajeshwaramma filing a civil suit in O.S. No. 1009/2003 and had obtained an order of status-quo. When matter stood thus, Nagaraju had alienated the property in favour of respondent no 5. Therefore, he had not acquired title and cannot claim to be the owner of the property. However, respondent no. 2, without considering any of the objections had passed the impugned order dated 24.7.2010. The petitioner however, remained unaware of the same and it is only when the petitioner approached respondents 1 and 2 and since there was something amiss, had made an application under the Right to Information Act, 2005 on 3.9.2011 and it is only thereafter that the impugned order came to light and to the knowledge of the petitioner on 6.9.2011. It is in this background that the writ petition is filed.

2. The connected petition in WP 45347/2011 is filed in the background that after the notifications were issued for acquisition of lands belonging to the fifth and sixth respondents, they had filed writ petitions in WP 46827/2004 and WP 45316/2004, respectively, challenging the acquisition proceedings on various grounds and those matters were again remanded for reconsideration by the Land Acquisition Officer, KIADB. Respondents 5 and 6 had also raised a contention that there was no prior approval of the land owners in respect of the land sought to be acquired and notwithstanding the petitioner having pointed out that there was no such requirement, respondent no. 2 having held in favour of respondents 5 and 6 and having sought to delete the lands of respondents 5 and 6 from the acquisition proceedings, that the connected writ petition in WP 45347/2011 is filed.

3. Shri K.G. Raghavan, Senior Advocate, appearing for the counsel for the petitioner would contend - That in terms of the Karnataka Industries (Facilitation) Act, 2002, any project that is to be set up in the State can be approved by the Committees constituted under the said Act. The object of the Act and the setting up of a SLSWA is to simplify the regulatory frame work and to remove procedural impediments at the entry and implementation levels and also to reduce maintenance and submission of repetitive documentation during the operational level. All decisions of the State High Level Clearance Committee are binding on all departments of the State. It is hence contended that when once the KUM had cleared the project, it is incumbent on the KIADB to ensure that the project proceeds accordingly.

It is further contended that under the scheme of the Facilitation Act, it would be impermissible to permit two projects in the same parcels of land. When the preliminary and final notifications were issued, there was no application pending for any approval in respect of any project of Respondents 5 and 6. Such application is seen to have been made only in the year 2007. It is pursuant to this that instructions were issued by the government to KUM, on the basis of which approval was granted. This is clearly contrary to the provisions of the Facilitation Act, as the State Level Single Window Clearance Committee (Hereinafter referred to as the "SLSWCC", for brevity) had to take a decision on the basis of the facts and the project proposal. To act on the instructions of any individual would tantamount to abandoning a statutory function and hence illegal.

Further, without first withdrawing the sanction granted in favour of the Petitioner for establishment of its project over the identified land, the action of the respondents to permit another project on the very land is clearly a deprivation of legitimate expectation.

The impugned action of the respondents is in violation of principles of natural justice in as much as the petitioner was never placed on notice of any such maneuver and was never afforded an opportunity of hearing. This is further compounded in the objections of the petitioner not being taken note of and addressed by the Special Land Acquisition Officer after the matter was remanded by this court at the instance of respondents 5 and 6 to consider objections to the acquisition process, as well as the objections that this petitioner had to any such reconsideration.

It is pointed out that there is no requirement of obtaining the consent of the land owners in proceeding to earmark the lands on which the project of the petitioner was to be implemented. Therefore the insistence of the respondents that such consent was not forthcoming is advanced only to justify the illegal action of the respondents.

It is contended that the petitioner having pursued the project for over 10 years as on date and after having incurred expenses far exceeding Rs. 2 crore, towards cost of acquisition alone, apart from other necessary expenses, the petitioner being shown the door is clearly unjust and denies his legitimate expectation.

It is pointed out that it was the specific stand of the KIADB, as disclosed from the statement of objection filed to the petition by the fifth respondent in WP 41447/2004, that the said respondent's intention to set up an industry of his own, in the land sought to be acquired, was not a ground available to negate the acquisition proceedings - having acted contrary to the stated position would definitely establish that the acquisition has been scuttled at the dictate of an individual in power, to favour respondent no. 5.

It is also pointed out that respondent no. 5 is not even in a position to establish title to the property as the same is embroiled in a civil suit with rival claims being set up.

In so far as the connected petition in WP 45347/2011 is concerned, while pointing out that the impugned order therein suffers from the same vice as in the above petition.

The learned Senior Advocate places reliance on several authorities in support of the petition and seeks that the same be allowed.

4. The learned counsel appearing for the KIADB contends that the petition is liable to be rejected on the sole ground that the petitioner has no vested right to lay claim to the lands in question. It is stated that pursuant to the preliminary and final notifications dated 9.3.2004 and 7.9.2004, respectively, it was proposed to allot 7.39 acres of land bearing various survey numbers of Kadubeesanahalli in favour of the petitioner. However the owners having filed writ petitions questioning the acquisition proceedings, in WP 46827/2004 and WP 41447/2004, this court had by an order dated 3-11-2009, set aside the notifications and permitted the land owners to file objections before the Special Land Acquisition Officer, who was directed to reconsider the proceedings from that stage. The petitioner was a party to those proceedings. The Land Acquisition Officer, had held a fresh enquiry at which the respondents 5 and 6 demonstrated that the proposal to establish an industry of his own by respondent no. 5, in the name of Shravanti Shelters, had been approved and sanctioned by the SLSWCC and since he had expressed that he has no objection to the acquisition if the land is allowed for such development, the Land Acquisition Officer had passed an order recommending the acquisition. A notification issued thereafter by the State refers to the said events and the proposed project of the fifth respondent.

It is hence contended that the petitioner did not acquire any vested right to seek allotment of the land in question. The petitioner had not participated at the enquiry conducted afresh after the remand of the matter to the Land Acquisition Officer. The inordinate delay in filing the petition much after the impugned order was passed is also not explained. The allegation that the petitioner was kept in the dark is only an excuse to circumvent the fatality to the proceedings on account of the delay.

It is also stated that in addition to the above said writ petitions filed by the land owners, there were several other petitions filed by other land owners, namely, WP 45316/2004, WP 42232/2004 and WP 9040-9043/2005. The petitioner was a party to all those petitions. Those petitions were also allowed, quashing the final notification issued in respect of the other items of land concerned, by order dated 3-11-2009 and 4-11-2009. The petitioner has failed to mention the same.

5. The learned Counsel for respondents 5 and 6 would contend that it is true that the land to an extent of 1 acre and 1? guntas has been acquired in favour of respondents 5 and 6 as stated by the petitioner and has been allotted in accordance with law. Therefore, any clearance granted in favour of the petitioner has ceased to exist in view of the SLSWCC having approved the project of respondent - 6 in terms of Annexure-B to the writ petition, dated 18.8.2007. The

learned Counsel would dispute the claim of the petitioner of having any expertise in software development and other related Information Technology activities. No acceptable material is produced in this regard. However, it is stated that to the knowledge of respondents 5 and 6, the director of the company one Bhaktavatsala has expertise in the agricultural sector. On the other hand, respondent no. 6, which is a partnership firm formed in the year 1996, with capital as on date at Rs. 3.65 Crore and one of its partners being a qualified engineer, has to its credit the development of a Tech Park by name Shravanti Blue Chip at Bangalore in their own land and the learned Counsel places reliance on Annexures-R-VI(1) and R-VI(2) furnishing the details of the completed projects. It is further claimed that the fifth respondent had purchased the lands in several survey numbers from one P.M. Nagaraju, under a sale deed dated 7.10.2003 and had obtained conversion of the land from the competent authority as on 24.5.2004. A notification u/s 28(1) of the KIAD Act, issued by the KIADB, showed the name of the erstwhile owner, P.M. Nagaraju in respect of the extent of 7.39 acres comprised in lands bearing several survey numbers of Kadubisanahalli. The petitioner's name was significantly absent in the notification. It is further contended that in all cases of acquisition for Single Unit Projects, the consent of the land owners is mandatory and no such consent was obtained before issuance of the notification. In this regard, the learned Counsel places reliance on a letter of the State Government dated 16.8.2004 to the Special Deputy Commissioner, KIADB, to ascertain whether the consent of the land owners was obtained for acquisition. That on 23.8.2004, the KIADB has written to the petitioner to clarify whether the consent of land owners had been obtained by them. The petitioner, by its communication dated 25.8.2004, had agreed to obtain consent of land owners. These documents are produced at Annexes-R-VI(4), R-VI(5) and R-VI(6). Notwithstanding the fact that no such consent was obtained, the State Government had issued a final notification, which was challenged by respondents 5 and 6 before this court in a writ petition in WP 41447/2004. In addition, there were other writ petitions filed by other land owners, all of which were allowed by orders dated 3.11.2009 and 4.11.2009 and the final notification was quashed. The writ petition of respondent no. 5 was allowed and he was permitted to file his objections before the Land Acquisition Officer. It is contended that the declaration of an industrial area under the provisions of the KAID Act is a general declaration and the benefit thereof is not restricted to any one party like the petitioner. It is also claimed that construction had come up on the lands even before the notification u/s 28(1) was issued. Therefore, there was no basis for the State Government to form an opinion that the lands were available for being developed into an industrial area when there was already substantial development. The claim of the petitioner that the survey report at Annexure-H does not disclose any constructions is factually incorrect. The survey obviously relates to the area identified for acquisition with reference to survey numbers and the extent. The question of indicating the constructions in the report would not arise. On the other hand, the respondent has produced a sketch showing the details of the developmental activities in the land as per

Annexure-R-VI(7). The photographs of the area were also produced as annexures to the statement of objections. Therefore, it is sought to be argued that there is no land available for the petitioner to accommodate his facility there.

It is also pointed out that the writ petition filed by the petitioner in WP 16105/2007 was also disposed of along with a batch of writ petitions as not surviving for consideration on 3.11.2009. The application filed by respondent no. 5 before respondent no. 4, to allot the land in his favour and the order at Annexure-B to the writ petition having been granted in favour of respondent no. 6, without the petitioner having an opportunity of hearing, is a misconception. The clearance of the project of respondents 5 and 6 in their own land would not require the consent or concurrence of the petitioner. There is no vested right in the petitioner on clearance of their project in certain lands and the decision, if any, taken earlier, would stand modified or cancelled to the extent of clearance granted in favour of respondent no. 6. The allegation that respondent no. 6 had filed belated objections before the Land Acquisition Officer, on remand of the matter, is denied and it is pointed out that the project of the respondents had been approved by the SLSWCC well before the inquiry was taken up and hence, there is no substance in the contention. Insofar as the dispute regarding title of respondents 5 and 6 in the lands in question is irrelevant. The claim of the petitioner that in terms of the Facilitation Act, the approval of the project by respondent no. 4 would bind all the parties and departments, including the KIADB, is an incorrect interpretation. There is no such provision as far as acquisition is concerned, as the process of acquisition is independent and the notifications would also indicate that the acquisitions are for the benefit of the KIADB and not for any particular individual beneficiary. It is also pointed out that though the entire final notification is quashed, the petitioners are questioning the allotment of land in favour of the present petitioners alone and not in respect of any other land covered under the notification.

It is also pointed out that insofar as two other land owners in the connected petition are concerned, the State Government has thought it fit to withdraw from the acquisition proceeding in respect of their lands, vide notification dated 24.7.2010, a copy of which is produced at Annexure-R-VI(18). It is also pointed out that insofar as the area of land allotted in favour of respondent no. 6 is about 1 acre and the requirement of the petitioner is 8 acres of land. Therefore, unless the petitioner is able to obtain relief in respect of the entire extent required, the parcel of 1 acre of land, in respect of which, respondent no. 6 is already implementing its project, would be unavailable insofar as the petitioner is concerned.

In the connected writ petition, respondent no. 5, one of the land owners, has also filed objections and it is contended by the learned counsel appearing for the said respondent that the petitioner has no vested right to question the order, whereby the land belonging to respondent no. 5 has been dropped from the acquisition proceedings. The mere fact that certain lands had been identified by

the petitioner in its project proposal and the same has been approved by the SLSWCC, would not confer any right on the petitioner. The said notification having been quashed by this court, any such claim over the lands was set at naught. The inquiry held by the Land Acquisition Officer was on the basis of the objections that were considered afresh. The learned Counsel would seriously dispute the survey report that has been filed along with the petition. On the other hand, the Special Deputy Commissioner has taken note of the fact that the land was developed and that an industry was being run on the said land. The land had been converted for commercial purposes by the competent authority way back in 2002 and though there was a report placed before the Special Land Acquisition Officer, KIADB in the first instance, that the land consisted of several factory premises, this was overlooked by the Land Acquisition Officer, which lead to respondent no. 5 filing a writ petition, which was allowed and the notifications were quashed. Upon remand, the Land Acquisition Officer has now taken note of the actual facts and circumstances and had recommended for dropping the land from the acquisition proceedings, which is in accordance with law and therefore, the petition is not maintainable.

Respondent no. 6 has filed statement of objections in the connected petition in WP 45347/2011. The learned Counsel appearing for the respondent would also contend that obtaining consent of the land owners was a prior requirement before the lands could be acquired. The State Government had addressed the petitioner in this regard and the petitioner had even agreed to obtain such consent, if it was necessary. Therefore, there is no doubt either in the mind of the petitioner or the State Government that without such prior consent by the land owners, the same could not be acquired, which is one of the reasons held in favour of the respondent in withdrawing from the acquisition proceedings insofar as the respondent's land is concerned. The second reason was that on a spot inspection and survey conducted, it was seen that the property adjoining the subject property, had been substantially developed and there was no scope for implementation of the proposed project of the petitioner on the subject property, as the area available and the land required by the petitioner was not feasible to implement its project. Therefore, the land of respondent no. 6 having been dropped from the proceedings, cannot be said to be by virtue of any mala fides and therefore, there is no illegality, on the basis of which, the claim of the petitioner can be sustained.

6. In the light of the above and from the material available on record, it would be seen that the petitioner in its application form for approval of its project, made to the SLSWA, at Annexure-B to the petition, had identified land in Survey No. 18 (part), 19 and 20 of Kadubeesanahalli, to locate its project. The land requirement was at 34400 square metres and was to be assisted in acquiring the same through the KIADB. The SLSWA, in turn, while approving the project has permitted the company to locate its project in about 8.5 acres of land in the very area identified by it and has recommended to the KIADB to acquire the land as a "Single Unit Complex". This is at the meeting of the Committee on 20-10-2003, a

copy of the proceedings is at Annexure-D, to the petition.

The KIADB has informed the petitioner that its Special Land Acquisition Officer had carried out an inspection of the land in question and before it embarked on the process of initiating the process of acquisition of the land through the State government, it called upon the petitioner to deposit 40% of the cost of the land and service charges at Rs. 38.06 lakh, as per its communication dated 11-12-2003. The said amount having been deposited by the petitioner - the acquisition proceedings had been set in motion and it is apparent that the land owners had resisted the acquisition - which lead to their challenging the acquisition proceedings soon after the issuance of the notification u/s 28(4) of the KIADB Act, dated 7-9-2004, by recourse to writ proceedings before this court.

Inexplicably, by a letter dated 23-8-2004, the Special Deputy Commissioner and Land Acquisition Officer, has posed a seemingly innocuous and innocent query to the petitioner, as to whether it has obtained the consent of the land owners in identifying the extent of 7 acres and 39 guntas of land for purposes of its project. While profusely thanking the authority for the "timely action" (sic), the petitioner has equally innocently replied by its letter dated 25-8-2004 that it has not obtained consent as on that date, but that it would like to obtain their consent, "if they are willing, after the sic is as per source.

On 3-9-2009 and 4-9-2009, the writ petitions filed by the land owners namely, Smt. K. Sairani and Shri P. Krishna Reddy, in relation to the following items of land in Survey No. 20/4 measuring 12 guntas and 36 guntas, respectively, were disposed of, setting at naught the notification u/s 28(4) of the KIADB Act, which related to a total extent of 7.39 acres was set aside and the matter remanded to the Special Land Acquisition Officer to reconsider the objections of the land owners. Consequently, the petitioner's petition was also disposed of as not surviving for consideration.

It is further apparent that at the fresh hearing before the Land Acquisition Officer, the petitioner was made aware that without the prior consent of the land owners, the acquisition, proceedings could not be completed. The petitioner has protested that there was no such indication of the requirement of prior consent of the land owners, when the project proposal was approved.

And to fill the cup of woe of the petitioner, the lands claimed by respondent no. 5 in the first of these petitions is earmarked by the SLSWA for the project envisaged by respondents 5 and 6 and has recommended for acquisition of the same by their consent as at Annexure-B and consequently the notification at Annexure-A to the writ petition is issued. In so far as the second of these writ petitions is concerned the lands have been recommended for deletion from the acquisition proceedings.

It is evident that the petitioner had unilaterally identified the particular lands as being suitable for locating its project, and had specified the same in its application before the KUM. There is no material on record to indicate the SLSWA

had in turn verified the suitability or the availability of the land for the purpose. Nor is there any indication that the petitioner or any entrepreneur was required to obtain the prior consent of the land owner in case of applications in respect of "Single Unit Complexes". Therefore, the process upto that stage appears to be totally illogical - in that land of third parties is casually bandied about as if it was available for the taking and all that was required was for the State Government to issue the formal notifications under the KIAD Act. And it does appear that this was indeed what followed. The Special Land Acquisition Officer claimed to have inspected the land and had recommended the issuance of the notification u/s 28(4) of the KIAD Act. But it is also on record, which both the petitioner and the KIADB had not referred to or brought to the attention of the court, that there was exchange of correspondence on the aspect of prior consent of the land owners. The Land Acquisition Officer did seek clarification whether the prior consent of the land owners was obtained, it is not clear as to what had prompted this. But he was informed by the petitioner that no such consent was obtained. It is also on record that the Land Acquisition Officer was made aware of the land being utilized by several individuals in running certain industries and the same being built up. But the authority had brushed aside the same and recommended the acquisition, which however, was set at naught as aforesaid.

In the present situation, this court is required to decide whether the petitioner is entitled for the relief claimed in these writ petitions. The petitioner cannot claim any right over the lands in question. Neither did the State or its authorities have any right to assure the allotment of the lands in favour of the petitioner in approving the project of the petitioner, while recommending the lands, specified by the petitioner, for acquisition. However, KIADB was the agency which was assigned the task of coordinating the acquisition proceedings by the State. It was on its assurance that the lands could be acquired, and the preliminary steps are being initiated, that the petitioner had deposited 40% of the cost of land and other service charges, as demanded by KIADB - from that point on it was expected of KIADB and the State Government to proceed in accordance with law in acquiring the land in question, even if it was feasible. It is plain that the concerned have proceeded in a cavalier and negligent fashion mindless of the interest and concern of the land owners. And had made a mockery of the enquiry at which the objections of the land owners was to be considered. In any event, that has been mercifully set at naught by this court as already narrated hereinabove.

The claim of the petitioner seeking to place reliance on the doctrine of promissory estoppel or legitimate expectation in the above circumstances can hardly be applied, in that, though the State Government having approved the project and held out an assurance of assisting the petitioner in securing the land that may be required for the project, would be obliged to provide the land, though it cannot be said that the very land which was specified by the petitioner should in the absence of any agreement in that regard or an obligation cast on the State and assuming that the land owners were willing parties to such an

arrangement that may have been possible, if for whatever reason, the State has not been able to complete the acquisition proceedings and even if the lands were notified for the benefit of the petitioner u/s 28(4) on the earlier occasion, creating a belief in the petitioner that the lands were certainly meant for the benefit of the petitioner and even if by deeming fiction, by virtue of such notification the lands had even vested with the State it is only thereafter that the State Government proceeds to take possession of the land and therefore, the acquisition would not be complete till after the State Government takes possession of the land. Hence, for the petitioner to claim a vested interest when the land had not even been taken over by the State is hardly tenable. In that view of the matter, the State Government and its authorities proceeding further at the behest of respondent no. 5 in the first of these petitions, to have approved a project, envisaged by the said respondent in respect of his land, which was the subject matter of acquisition and having recommended the acquisition of the land, for the said purpose, while ignoring the plight of the petitioner, is a further demonstration of its established "bull in a China shop" attitude and that has been displayed through out. To that extent, the State Government and the KIADB are answerable to the petitioner. Though the relief prayed for by the petitioner cannot be considered, as there is material placed on record, to indicate that the petitioner's project cannot be conveniently implemented in the area that was identified and earmarked in the project proposal, not only because the land owners in these two petitions have been able to recover their land and which is no longer available for acquisition unless the further actions of the State Government are reversed, which again, may not be proper. It would be in the ends of justice if the State Government and the KIADB are directed to accommodate the petitioner in other alternative land that may be available or which may have to be acquired. Alternatively, it would be for the petitioner to elect either to proceed with the project after the State Government and the KIADB are in a position to accommodate the petitioner in any alternative site, and seek recovery of damages for such losses that he may have suffered or forego the entire exercise and seek a larger quantum of damages for such losses and injury that the petitioner may have suffered. While this court has prima facie found that the State Government and KIADB and other authorities concerned were principally responsible for the ugly situation that has been created insofar as the petitioner's predicament is concerned. This would not take away such defenses as may be available to the concerned in any proceeding for recovery of damages that may be instituted by the petitioner before an appropriate forum.

With the above observations, the petitions are disposed of while directing the respondents to provide alternative land to the petitioner, if the petitioner so desires even at this point of time in the manner known to law. While the petitioner is given the option to seek recovery of damages from the State Government and its instrumentalities that are involved in this dispute. This court has refrained from awarding any amount of damages, which was a possibility as this would necessarily entail an inquiry into the particulars and has arrived at

findings of fact. It is best that the petitioner seeks such a remedy before an appropriate forum which could adjudicate such a claim.