
(2016) 03 KL CK 0155

In the High Court Of Kerala

Case No : W.P. (C) Nos. 11534, 15529 of 2010, 24437 of 2010, 18285 of 2011
and W.A. No. 1085 of 2010

Nelvayal Neerthada Samrakshana Samithi

APPELLANT

Vs

State of Kerala

RESPONDENT

Date of Decision : 28-03-2016

Acts Referred:

Land Acquisition Act, 1894 — Section 4, 6

Citation : (2016) 3 KHC 552 : (2016) 3 KLT 48

Hon'ble Judges : Ashok Bhushan, C.J. and P.R. Ramachandra Menon, J.

Bench : Division Bench

Advocate : Devan Ramachandran and T. Krishnan Unni, Senior Advocates, Sivan Madathil, Abdul Hak K, Kaleeswaram Raj, K.M. Aneesh, S.A. Saju and K. Santhosh Kumar (Kaliyanam), Advocates, for the Appellant; P.I. Davis, Sr. Government Pleader, G.S. Reghunath, Advocate,

Final Decision : Dismissed

Judgement

P.R. Ramachandra Menon, J.—Acquisition of large extent of properties at the instance of the Kerala Industrial Infrastructure Development Corporation (KINFRA) and the subsequent declaration of land as "industrial area," followed by exemption grant under Section 10 of the Kerala Conservation of Paddy Land and Wetland Act, 2008 (Act 28 of 2008)(in short Paddy Land Act) is the subject matter of challenge in these cases. W.P.(C)No. 24437 of 2010, W.P.(C) 18285 OF 2011 and W.A. No. 1085 OF 2010 are in respect of the grievances projected by some owners of the lands, whereas the other two petitions i.e. W.P. (C)No. 15529 of 2010 and W.P.(C) No. 11534 of 2010 are styled as Public Interest Litigations.

2. The petitioners/appellants in the individual writ petitions/writ appeal challenge the acquisition proceedings on various grounds referring to violation of the relevant provisions of the Land Acquisition Act, and the alleged absence of "public purpose", whereas the challenge involved in the other two cases is more

with regard to the absence/obscurity in the Scheme, violation of various provisions in the statute, in particular, the "Paddy Land Act". The petitioner in W.P.(C)No. 15529 of 2010 concedes that there is no challenge against the acquisition, but for the objection with regard to "conversion" of the land contrary to the mandate of Act 28 of 2008. Almost similar contentions are raised in the other writ petition, i.e. W.P.(C)No. 11534 of 2010 as well; wherein the constitutional validity of Section 10 of the Paddy Land Act is also sought to be challenged, besides the challenge against acquisition.

3. The case on the part of the petitioners was put forth by Mr. Kaleeswaram Raj, the learned counsel appearing for the petitioner in W.P.(C)No. 15529 of 2010, Mr. Sivan Madathil, the learned counsel appearing for the petitioners in W.P.(C)No. 11534 of 2010 and Mr. Devan Ramachandran, the learned Sr. Counsel appearing for the petitioners in W.P.(C)No. 24437 of 2011. No separate arguments were addressed by the appellants in W.A.No. 1085 of 2010; presumably for the reason that almost similar contentions are being projected and considered in the other cases. The factual and legal position on behalf of the respondent KINFRA, with minute particulars as to the scheme of the statute under the relevant provisions of law, were advanced by Mr. G.S. Reghunath; the learned Counsel for KINFRA. The version of the Government was placed before the Court by Mr. P.I. Davis, the learned Sr. Government Pleader. Parties and proceedings are referred to, as given in W.P. (C) 15529/2010, except where it is separately mentioned or dealt with.

4. Gist of the factual matrix is that, based on the resolution taken by the local authority by name Ramanattukara Grama Panchayath, to cause to set up a Knowledge Park in the area of the said Grama Panchayath, steps were taken by the KINFRA to identify suitable land. It is stated that, as many as three lands were subjected to inspection and scrutiny on feasibility and other relevant aspects and that a total extent of nearly 31.4763 hectares (77.7 Acres), which included mostly paddy lands and garden land, was identified in this regard. Further proceedings were taken, pursuant to which, Section 4(1) notification was issued under the Land Acquisition Act way back on 03.12.2007. It was published in various dailies and the last publication was effected at the site and the concerned village office on 29.02.2008. By virtue of the scheme of the statute ((Land Acquisition Act), declaration under Section 6 had to be published within "one year" and the same was stated as done as per Ext. P1 dated 26.02.2009. In furtherance to the above proceedings, a detailed enquiry was conducted. As many as 166 objections were received and about 160 land acquisition cases were registered. After evaluating all the plus and minus points, the market value of the property was fixed and awards were passed in respect of 20.57 acres on 10.06.2010. In respect of another extent of 20.42 acres, awards were passed on 17.06.2010 and in all the above cases, possession of the properties was taken over. In respect of the remaining about 37 acres also, awards were already passed, but possession was taken only after filing the concerned writ petitions. The so called public interest litigations, i.e. W.P.(C)Nos. 15529 of 2010 and

11534 of 2010 came to be filed much belatedly on 19.05.2010 and 31.03.2010 respectively, i.e. about 2-1/2 to 3 years after the first publication of Section 4 (1) Notification dated 03.12.2007.

5. Challenging the acquisition proceedings, the appellants in W.A. No. 1085 of 2010 had approached of this Court by filing Writ Petition No. 27479 of 2009, mainly contending that Section 6(1) declaration was made beyond the stipulated period of "one year" from the date of Section 4(1) notification; that the property in question was a "paddy land"; that by virtue of Act 28 of 2008, conversion of paddy field was prohibited and further that if the paddy lands were acquired, reclaimed and converted into industrial plots, it will adversely affect the water table of the area, resulting in drought and therefore interference of the Court was sought for. All the above contentions were negated with reference to the facts and figures and interference was declined; whereby the writ petition was dismissed by the learned Single Judge along with similar W.P.(C)No. 31231 of 2009, as per the common judgment dated 19.03.2010. The said verdict is sought to be challenged by the petitioners in W.P.(C)No. 27479 of 2009 by way of W.A. No. 1085 of 2010, who however have not chosen to challenge the verdict in W.P.(C)31231 OF 2009, thus letting the same to have had become final.

6. Mr. Kaleeswaram Raj, the learned counsel appearing for the petitioner in W.P.(C)No. 15529 of 2010 submits that there is absolutely no clarity in the scheme for setting up a "Knowledge Park" and how the same is to be implemented after the acquisition is not known. It is stated that the said project is sought to be implemented as a joint venture with the intervention of a private party (INKEL-KINFRA) with an idea to acquire the property, then declare the same as an "industrial area" and thereafter to convert/reclaim it and allot to private entrepreneurs. Absence of clarity in the scheme is liable to be interdicted in view of the ruling rendered by the Supreme Court in (2012)3 SCC 727 (Bangalore City Cooperative Housing Society Limited v. State of Karnataka and others), submits the learned counsel. Three categories of public purpose based on priority/nature are enunciated by the Supreme Court in (2010) 7 SCC 129 (Bondu Ramaswamy and others v. Bangalore Development Authority and others) such as : (1) roads and bridges etc. (where the beneficiaries are directly the general public); (2) industries (where beneficiaries ultimately may be the public); and (3) residential, (where it is purely a private purpose). According to the petitioner, the proposed steps are in violation of Sections 3, 5 and 10 of the Paddy Land Act. Even if there is no prohibition for acquisition of paddy land, there cannot be any "conversion", according to the learned counsel, which otherwise will only frustrate the purpose and scheme of the statute, as discernible from the preamble and other relevant provisions. It is also contended that various procedures have to be completed for granting permission to fill up the paddy lands and detailed inspection of the plot is necessary by the concerned Committee constituted at different levels. If for any public purpose, the power of exemption conferred upon the Government is to be exercised, invoking Section 10 of the Paddy Land Act, it can only be subject to specific recommendations of the State Level Committee, based on the

recommendation of the Local Level Monitoring Committee to the effect that there is no other alternate land and further that such conversion will not adversely affect the neighbouring lands. It is the contention of the petitioner, that no such recommendation of the State Level Committee is available and that the Government has acted only in a mechanical manner, declaring the land as an "industrial area" as per Ext.R2(h) G.O. dated 03.07.2015 and granting exemption under Section 10 of the Paddy Land Act as per Ext.R2(i) order dated 15.07.2015. The fact that such notifications identifying the land as industrial area" and granting exemption came to be issued only in the year 2015 i.e. much after Section 4(1) notification and Section 6 declaration effected years back, itself is stated as a pointer as to the non-application of mind on the part of the Government. It is also pointed out that, Ext.R2(h) and Ext.R2(i) are only executive orders which cannot override the statutory provisions, particularly the provisions of the Act 28 of 2008, where filling of paddy land is prohibited. Reliance is sought to be placed, also on the decision rendered by the Supreme Court in 1991 KHC 1008 (SC)(Bangalore Medical Trust v. B.S. Muddappa and others).

7. Mr. G.S. Reghunath, the learned counsel appearing for the KINFRA submits that the idea and understanding of the petitioners/appellants is thoroughly wrong and misconceived and that the case has been projected without any regard to the "special statute "i.e The Kerala Industrial Infrastructure Development Act, 1993(in short the KINFRA Act) and the pivotal status of the KINFRA constituted by the Government in terms of the said statute, to bring about development of industry and infrastructure in the best interest of the general public and for welfare of the State. The maintainability of the writ petitions/appeal is attacked contending that the proceedings came to be filed years after publishing Section 4(1) notification; that too, without raising any objection before the acquisition authority and as such, there is no merit or bonafides in the contention taken by the petitioners in W.P.(C)15529 and 11534 of 2010, who are having no "locus standi" to file the said proceedings, being not the "persons interested" and whose properties have not been acquired. It is stated that all the procedures under the Land Acquisition Act and Act 28 of 2008 have been complied with and there is no violation of any provision of law in any manner. The writ petitions challenging the acquisition proceedings are much belated, having filed years after the publication of Section 4(1) notification, Sec.6 declaration and passing of the awards and under such circumstance, interference is liable to be declined in view of the decisions rendered by the Supreme Court in 1996(1) SCC 250 (State of T.N. and others v. L. Krishnan and others), (1996) 11 SCC 500 (R. Balakrishna Warriar v. Santha Varassiar and another), (2000)2 SCC 48 (Municipal Council, Ahmednagar v. Shah Hyder Beig and others) and (2005) 6 SCC 493 (Government of A.P. and others v. Kollutla Obi Reddy and others)

8. In response to the contentions of the petitioners that the Land Acquisition Act cannot be used to acquire paddy lands, it is pointed out that the Paddy Land Act came into force only with effect from 11.08.2008 and that there is no provision

in the Land Acquisition Act prohibiting acquisition of "agricultural land". It is also pointed out that the Paddy Land Act has not obtained the assent of the President, but for the assent of the Governor, and as such, the local law cannot override the provisions of the Central Act. With regard to the contentions raised by the petitioners that declaration of the land as "industrial area" comes only in the year 2015 [as per Ext.R2(h)] and the exemption grant is also in the year 2015 [as per Ext.R2 (i)], i.e. much after Section 4(1) notification/S.6 declaration/passing of the awards, it is stated that scheme of the statute (the KINFRA Act) is entirely different. In the normal course of acquisition under the Land Acquisition Act, the property will become vested with the Government once an award is passed, as per the mandate of Section 16 of the Act. In respect of the property sought to be acquired by the KINFRA, a declaration has to be made by the Government that the property is an "industrial area" as envisaged under Section 3 of the KINFRA Act. It is open for the KINFRA to get the land acquired by the Government invoking the provisions of the Land Acquisition Act. But by virtue of Section 25(2) of the KINFRA Act, the land shall vest in the Corporation only when amount of compensation awarded and all other charges incurred in the acquisition are satisfied by the Corporation and never before. It was in the said circumstance, that the application preferred by the KINFRA to declare the land as "industrial land" came to be rejected by the Government initially, intimating that it could be considered after paying the entire amount.

9. The learned Counsel for the KINFRA submits that a total sum of Rs. 23 crores has already been paid as compensation and that a sum of about Rs. 86 crores has been deposited in the pending cases (execution); thus parting with a total sum of Rs. 109 crores, as compensation for the land. It is also stated that it was after paying the compensation as above, that a fresh application was submitted before the Government for declaration of the area as "industrial area", which in turn was considered and declared by the Government, effecting the notification as borne by Ext.R2 (h). However, by virtue of the fact that the property happened to be a paddy land, for reclaiming the same, after declaring the land as "industrial area", exemption has to be obtained under Section 10 of the Paddy Land Act. On filing necessary proceedings in this regard, the matter was considered by the LLMC (Local Land Monitoring Committee) in terms of Section 5 of the Act 28 of 2008 and their recommendation was considered by the State Level Monitoring Committee under Section 8, ultimately leading to the exemption granted by the Government in terms of Section 10 of the said Act as borne by Ext R2(i). There is no violation of any provisions of law and the proceedings have been pursued and finalised, based on the clear public interest involved and the satisfaction recorded by the Government in this regard, who is the ultimate authority. The power vested with the Government in this regard to grant exemption under Section 10 is saved, also by virtue of a "non-obstante" clause in the said provision. Once the land is identified and recommendation is submitted by the KINFRA to the Government, there is a duty upon the Government to acquire and hand over the land in terms of Section 33 of the

KINFRA Act.

10. Yet another aspect pointed out by the learned Counsel for the KINFRA is that the plea raised by the petitioners that there is no scheme or that there is no clarity to the scheme and hence that there is no public purpose, is having no merit. It is true that the Apex Court set aside the acquisition proceedings for want of clarity of the scheme in (2012)3 SCC 727 (cited supra), but there, the acquisition was for a co-operative society and if acquisition is for the purpose of a co-operative society, by virtue of the specific provisions in the statute I.e, (Section 3(f) (vi) of the Land Acquisition Act, there has to be a proper scheme formulated by the society and the same should stand approved by the Government, prior to Section 4(1) notification, which requirement was not satisfied in the case considered by the Supreme Court. Coming to the "public purpose" involved in the case of KINFRA, it stands on a different footing, as Section 3(f) of the Land Acquisition Act is quite categoric to the effect that, if the acquisition is for Statutory Corporation, it is to be reckoned as for "public purpose". According to the learned Counsel for the KINFRA, even a scheme is not necessary in such case, as made clear by the Supreme Court in State of T.N. and others v. L. Krishnan and others [(1996) 7 SCC 450]. Still, in the instant case, a scheme with clarity has already been formulated as borne by Ext.P4, based on the resolution taken by the concerned local authority/Grama Panchayath and as such, the attack on the alleged lack of "public purpose" does not hold any water at all. Under exactly similar circumstances, involving, acquisition of Agricultural Land for the Andhra Pradesh Industrial Infrastructure Corporation Ltd. (APIIC), position of law has been made clear by the Apex Court, as per the decision reported in (2008) 9 SCC 552 (Sooraram Pratap Reddy v. District Collector, Ranga Reddy District), which is stated as a complete answer to all the contentions/questions raised/mooted from the part of the petitioners/appellants and the same stands against them.

11. With regard to individual writ petitions filed by the owners of the land, challenging the acquisition proceedings, the learned Counsel for the KINFRA submits that the petitioners in the writ petition No. 18285 of 2011 have already filed an affidavit before the Land Acquisition Officer to the effect that they are only desirous of getting proper compensation for their lands and are not interested in pursuing the matter filed before this Court (as W.P.(C) 18285 of 2011). Similar proceedings have already been filed by the petitioners in Writ Petition No.24437 of 2010 as well. By virtue of the above proceedings, the challenge raised before this Court against the acquisition has lost sanctity and the said petitions are liable to be summarily rejected, as no grievance remains to be considered; more so when the said proceedings have not been filed as Public Interest Litigations, and no public interest is involved.

12. In the case of W.A. No. 1085 of 2010, as pointed out already, the challenge was raised by the petitioners in W.P.(C) No. 27479 and 31231 of 2009 seeking to spare their lands, raising various grounds and the said writ petitions were filed

purely in individual capacities and not as a public interest litigation. Interference was declined in both the above writ petitions, as per common judgment dated 19.03.2010, but appeal has been preferred only by the petitioners in W.P.(C)No. 27479 of 2009, who have not chosen to challenge the verdict passed in the connected case, despite its being a common judgment. Thus, the verdict passed by the learned single Judge in the connected matter, i.e., in W.P.(C)No. 31231 of 2009, holding that there is no merit in the challenge raised against the acquisition, stands in tact and as such, the appeal proceedings are barred by principles of "constructive res judicata", submits the learned counsel. If so, the challenge stands confined to the case projected in the so called public interest litigations (W.P.(C)Nos. 15525 and 11534 of 2010). But in view of the particular nature of constitution of the KINFRA and the various provisions of the KINFRA Act enabling promotion and setting up of industrial developments, causing acquisition of the property, also by way of joint venture with the involvement of a private company/partner, and the decision" rendered by the Supreme Court in Sooraram Pratap Reddy v. District Collector, Ranga Reddy District [(2008)9 SCC 552], the petitioners can't sustain their case and hence the said writ petitions should fail.

13. Coming to the scheme of the KINFRA ACT, the learned Counsel submits that, by virtue of the power vested and functions of the Corporation under Sections 9 and 10 of Chapter IV of the KINFRA Act, formation of a Special Purpose Vehicle to carry out the obligations is permissible. It was accordingly, that the KINFRA joined hands with INKEL, which, as such is not a private company, since the KINFRA is having share in the said company and Chairman of the said Company is none other than the Minister of Industries, Government of Kerala. It is stated that, by virtue of Section 13 of the said Act, money cannot be raised by the Government and that KINFRA is effecting the entire deposit for the acquisition, for which private participation is very much permissible. Reference is also made to Section 10(I) of the KINFRA Act, which stipulates that KINFRA can seek for exemption from any provision of local law for the time being in force. In view of the said provision, the purpose and object of the Act, the public purpose involved, and the mandate of Section 10 of the Act 28 of 2008, the declaration made by the Government as "industrial area" under Section 3 of the KINFRA Act and the exemption given under Section 10 of the Paddy Land Act are perfectly within the four walls of law. Section 33 of the KINFRA Act, enables the Government to issue directions to the local authorities, on being satisfied that the setting up of an "industrial area" is impeded by a local authorities" refusal to grant necessary sanction and such power is having overriding effect, which however can be given effect to, only after affording an opportunity of hearing to the local authority. Section 49 of the KINFRA Act deals with the power of the Government to formulate rules to give effect to the provisions of the Act; while Section 50 enables the KINFRA to formulate Regulations, by notification in the Gazette, for giving effect to the provisions of the Act.

14. In exercise of such power, the KINFRA has framed Regulations (the Kerala

Industrial Infrastructure Development Corporation, Disposal of Land Regulations, 1995). By virtue of Clause 2(U) of the Regulations, a "subsidiary company" means a subsidiary formed by the Corporation to develop industrial infrastructure invoking the power vested with the Corporation as per clause 10(m) in the Act. Various powers are vested with the Corporation KINFRA in fixing the lease premium, revision of premium, zoning of plot etc. as given under Regulation No. 8. The KINFRA reserves the right under Clause 23 of the Regulations, to utilise the vacant plots of the allotted plots at any time for the purposes mentioned therein without paying any compensation to the allottee for such use. The provision to reservation or revocation of the plots is dealt with under Regulation No. 24 and the powers to resume the plots are dealt with under Regulation No. 26. The power to cancel an allotment is separately dealt with under Regulation No.27, if it is found that the allotment was grossly inequitable or was under a mistake of fact or owing to misrepresentation of facts and the KINFRA is always having the right to enter and inspect the plot at any time to review the progress of the project, as mentioned under Regulation No. 35. By virtue of the scheme of the statute, the Regulations are to form part of the KINFRA Act and as such, the apprehension expressed by the petitioners that the properties are being acquired, only to allot the same to private entrepreneurs, after declaration as "industrial area", is absolutely without any merit or bonafides .

15. It has been specifically contended by the KINFRA in their counter affidavit that "industrial/knowledge park" is intended to be set up with world class facilities. The duty to identify the property is vested with KINFRA as per Section of the 9(c) of the KINFRA Act and it was after considering the plus and minus points of the different properties situated in the locality (Ramanattukara Panchayat), that the properties involved herein were identified, leading to Section 4(1)/Section 6 notification/declaration. In response to the submission made by the learned counsel for the petitioners that there is some inconsistency with regard to survey number, extent and such other particulars between Section 4(1) notification and Section 6 declaration, the learned Counsel for KINFRA submits that the requisite properties have been clearly mentioned in the Section 6 declaration, where there is no mistake and these properties are very much included in the Section 4(1) notification. It is also stated that the property was lying uncultivated by paddy or any other crop for quite long and because of the nature of land involved and the adverse circumstances, paddy cultivation is quite impossible. The factual position in this regard has been conceded by some of the petitioners as well; who had submitted applications for exempting their lands, so as to enable them to construct dwelling houses or commercial buildings. This being the position, the concerned petitioners whose properties were sought to be acquired can never turn round and say that the acquisition is bad and that the provisions of the Paddy Land Act are violated. It is also discernible from the counter affidavit that various measures have been taken by the KINFRA for protection of the water table, by ear-marking 20% of the properties under acquisition. The clearance given by the Government while granting exemption

under Section 10 of the Paddy Land Act as per Ext. R2(i) itself is subject to various riders, and the KINFRA has undertaken that all such riders will be scrupulously followed by letter and spirit.

16. The learned Counsel for the KINFRA also submits that the description of the properties in the revenue records is not a conclusive proof as to the actual position, which has to be ascertained with reference to the physical nature of the property, in view of the law declared by a Division Bench of this Court in *Praveen v. Land Revenue Commissioner* (2010 (2) KLT 617). In the instant case, Section 4(1) notification was issued initially in the year 2007 and further proceedings were followed strictly in terms of KINFRA Act and other relevant statutes. There is also a contention that the petitioners in W.P.(C) No. 15529 and 11534 of 2010 are strangers, who are actually not interested in the land; that they have no right in the properties and hence have no "locus standi" to file the cases. Placing reliance on 1995 (1) KLJ 25 (*Kerala Vyapari Vyavasaya Ekopana Samathy v. Velloor Panchayath*), it is contended that only persons interested, i.e., who are entitled to get compensation can pursue the proceedings. This Court finds it difficult to agree with the said proposition, at least in the case of the petitioners in W.P.(C). 15529 of 2010 and 11534 of 2010, which have been filed as public interest litigations. The submission made by the learned Counsel for the 4th respondent KINFRA that public interest litigation has to be pursued in the manner as provided under Order 1, Rule 8 CPC, also does not impress us in any manner; firstly for the reason that rules of the CPC are not applicable to the proceedings in a writ petition (Section 141 of the CPC and the decision rendered by the Supreme Court in *AIR 2010 SC 2613 (Public Service Commission, Uttaranchal v. Mamta Bisht and others)* paragraph 7) and secondly, for the reason that the context envisaged under Order 1, Rule 8 C.P.C stands entirely on a different footing. It is settled law that, a public interest litigation, if public interest is genuine and established, can be set in motion by anybody who is having no private interest in the cause of action. Under exceptional circumstances, even a letter sent by a public spirited citizen can be taken to be acted upon, if public interest is writ large and if any inaction on the part of the court, despite projection of the cause, would turn detrimental to the rights and interests of the general public. It is equally true that, by virtue of settled law, a public interest litigation, if it is genuine, cannot be permitted to be withdrawn even by the party who sought to move the matter, at his sweet will as held by the Apex Court in *S.P. Anand, Indore v. H.D. Deve Gowda and others*. (1996)6 SCC 734).

17. Incidentally, it is brought to the notice of this Court that another property had already been identified in Ankamaly in Ernakulam district and when steps were being pursued, the same came to be challenged by filing W.P.(C) 25107/2010 before this Court. In the course of further proceedings, it was revealed that, due to various adverse circumstances, the said property would not be feasible or suitable for setting up the industries and infrastructure. Under such circumstances, the position was brought to the notice of this Court and as per

the judgment dated 10.12.2015 (to which one of us was also a member), the position was recorded and the writ petition was closed.

18. As mentioned already, W.P(C)No. 18285 of 2011, where Mr. Devan Ramachandran is appearing, has been preferred by the concerned land owners whose lands were sought to be acquired. Since it is brought on record that the said writ petitioners, who approached this Court in the individual capacity challenging the acquisition proceedings are no more interested in pursuing the matter before this Court (by filing necessary affidavit/proceedings before the Land Acquisition Officer), nothing remains to be considered in the said case which could be dismissed accordingly.

19. But Mr. Devan Ramachandran addressed the Court with reference to some legal issues involved, as to the nature of acquisition proceedings being proceeded with, the nature and constitution of KINFRA, INKEL and the Special Purpose Vehicle, adding that KINFRA is having only nominal share in INKEL and that the project is going to be run by the Special Purpose Vehicle, which is a private body. It is not the KINFRA, who is going to utilise the lands by themselves and ultimately, the property will come to the hands of private persons/Bodies, which is not the object or scheme of the statute. Since acquisition for setting up of the alleged "knowledge park"/industry/infrastructure involves construction of commercial buildings, such acquisition can only come under Part VII and not Part II of the Constitution. In view of such submission, since the challenge raised in W.P. (C)Nos. 11534 and 15529 of 2010, (public interest litigations) is being considered in detail, we thought it appropriate to hear the learned Sr. Counsel as above, so as to have effective and proper adjudication of the issue, considering the same in the larger perspective and we heard all concerned. We have also gone through the written statement/argument notes furnished by Mr. Kaleeswaram Raj, the learned Counsel for the petitioners in W.P (C)No. 15529/2010 and the written statement/argument notes submitted by Mr. G.S. Raghunath, the learned Counsel for the KINFRA as well .

20. With regard to the submission made by the learned Counsel for the petitioners that the acquisition has to be treated as coming under Part VII of the Land Acquisition Act, it is to be noted that the said part applies to acquisition for private companies. The question is whether KINFRA is a private company or not, and even if it is a joint venture project, could it be treated as coming under Part VII of the Land Acquisition Act. A reference to Section 3(cc) of the Land Acquisition Act (as per 1984 amendment) is relevant and hence extracted below:

"(cc) the expression "corporation owned or controlled by the State" means any body corporate established by or under a Central, Provincial or State Act, and includes a Government company as defined in Section 617 of the Companies Act, 1956, a society registered under the Societies Registration Act, 1860, or under any corresponding law for the time being in force in a State, being a society established or administered by Government and a co-operative society within the meaning of any law relating to co-operative societies for the time being in force

in any State, being a co-operative society in which not less than fifty-one per centum of the paid up share capital is held by the Central Government, or by any State Government or Governments or partly by the Central Government and partly by one or more State Governments.

On a reading of the said provision it can be seen that KINFRA which is a statutory corporation belonging to the State very much comes within the purview of the said provision. In respect of the acquisition for such institutions, by virtue of the mandate under Section 3(f)(iv) of the Land Acquisition Act, "public purpose" is embodied in the said provision itself; which reads as follows:

"3. Definitions:

xxxxxxx

(f) the expression "public purpose" includes:-

xx xx

(iv) the provision of land for a corporation owned or controlled by the State.

Xx xx xx".

As such, nothing else is required to decipher "public interest" behind the project.

21. There is a specific provision under the KINFRA Act, (Section 25) enabling acquisition for the Corporation. If there is any impediment, the Government is vested with overriding powers to issue necessary directions to the local authority to facilitate such acquisition, by virtue of power conferred under Section 33 of the very same enactment. KINFRA is not a Company, but a Statutory Corporation, whose powers are specified under Section 9 of the KINFRA Act. By virtue of Section 10(l), it is open for the KINFRA to seek for exemption from the operation of any provision of the laws for the time being in force in the State and by virtue of Section 10(m), it is for them to establish "subsidiary companies" as may be required to develop industrial infrastructure and subscribe to their share capital. The said provisions are extracted below for easy reference.:

"10. Powers of the Corporation: Subject to the provisions of this Act, the Corporation shall have powers:

xx xx xx

(l) to seek exemptions from the operation of any of the provisions of the laws for the time being in force;

(m) to establish subsidiary companies as may be required to develop industrial infrastructure and subscribe to their share capital;

xx xx".....

This being the position, the scheme of the KINFRA Act is totally different and so is the process of acquisition as well. The development of industrial infrastructure

and bringing about more industries providing all supporting measures, is a matter of policy of the Government, which cannot be tinkered with by the Courts.

22. The only question to be considered is whether the identity of the property concerned, declaration of the land as an "industrial area", permission granted to proceed with the project and exemption given from the operation of Act 28 of 2008, are in terms of the relevant provisions of law or whether the same has been brought out just as a mechanical exercise without proper application of mind or by infringing the relevant provisions of law. Considering the sequence of events and pleadings and proceedings forming part of the materials on record, it can only be said that the proceedings were being pursued by the local authority/ KINFRA/Government, strictly in conformity with the relevant provisions of different statutes, which govern the field and no specific instance of any violation is pointed out.

23. Act 28 of 2008, as discernible from the preamble, is a statute to regulate the uncontrolled and en masse filling up of the paddy lands, which of course permits filling up of paddy lands to the extent as permissible and in the manner as provided therein. Based on the report of the State Level committee, pursuant to recommendation made by the Local Level Monitoring Committee, it is open for the Government to grant exemption from the operation of the provisions of the said Act, if a "public purpose" is involved as envisaged under Section 10 of the Act. Satisfaction of the Government in this regard is of paramount importance, which cannot be substituted by the Courts. It is not for the petitioners or even for this Court, to say which land is to be identified or treated as suitable or not suitable for the project and the power in this regard is vested with none other than the KINFRA, under the KINFRA Act. In so far as the proceedings were initiated, pursued and finalised strictly in terms of the statutory provisions, the same cannot be held as defective in any manner or interfered with, more so when, none of the provisions of the KINFRA Act is under challenge.

24. As evident from Ext. R2(i) dated 15.07.2015 (in W.P. (C)No. 15529 of 2010), exemption has been given under Section 10 of the Paddy Land Act. Obviously, it is with reference to the application dated 23.09.2013 submitted along with the recommendation of the Local Level Monitoring Committee; which was considered by the State Level Committee. The application submitted earlier was rejected, since the land acquisition proceedings were not complete and cost of the acquisition was not completely satisfied by the KINFRA. It was accordingly, that a subsequent application was submitted after satisfying the entire compensation to the tune of Rs. 109 crores (23 acres-already paid and Rs. 86 crores ? already deposited in execution proceedings.). It was in terms of section 25(2) of the KINFRA Act, stipulating that the land will stand vested with the Corporation only after full payment, that the matter was considered and declaration was made by the Government vide Ext.R2(h) dated 03.07.2015. Only on vesting of the property, did the KINFRA acquire the right to seek for exemption from the provisions of the Paddy Land Act, by virtue of the enabling provisions under

Section 10(l) of the KINFRA Act. This application dated "23.09.2013" was considered and sanction was given vide Ext.R2(i) dated 15.07.2015. Even in Ext.R2(i), the Government has stipulated that, exemption given is with reference to the approved plan attached therewith, which specifically deals with the area for which approval is "given" and the area for which approval is "not given". This by itself is an indicator as to the conscious application of mind by the Government and the way in which interest of all concerned is intended to be protected. Copies of the proceedings of the Local Level Monitoring Committee/ State Level Monitoring Committee were made available by the learned Government Pleader and we have perused the same. It is seen that the recommendation of the Local Level Monitoring Committee with the rider therein, was considered by the State Level Monitoring Committee in the meeting held on 23.05.2015, along with other similar recommendations from other parts of the State as well. It was after meticulous analysis of the facts and figures, that exemption was granted in the instant case, subject to the riders incorporated, and the proceedings were signed by the Land Development Commissioner, Deputy Secretary to the Government, the Minister for Agriculture and finally by the Chief Minister. We find that there is nothing illegal or mala fide on the part of the concerned committee or the Government in considering and finalising the matter, declaring the land as "industrial area" vide Ext. R2(h) and granting exemption from the purview of the Act 28 of 2008 vide Ext. R2(i). All the contentions raised to the contrary are rejected as devoid of any merit.

25. Coming to the case law cited across the Bar; in 1999 (3) KLT SN.44 (Case No. 45)(Delhi Administration v. Gurdip Singh), the Apex Court, following the judgment in JT 1997 (5) SC 354 (Abhey Ram v. Union of India), held that in respect of persons who have not filed any objections under Section 5A enquiry, it must be accepted that they had no objection to Section 4(1) notification operating in respect of their property and such persons cannot be allowed to contend that Section 5A inquiry was bad and that Section 6 declaration must be struck down.

26. In (1996) 7 SCC 394 (State of Haryana and others v. Dewan Singh and others), the Apex Court observed that the notification under Section 4(1) of the Land Acquisition was challenged about 13 months after passing the award; on the ground that dispensing with enquiry under Section 5A was bad in law. The Apex Court observed that, after passing the award, it was quite improper for the High Court to have interfered with, quashing the notification issued under Section 4(1) and the declaration issued under Section 6 of the L.A. Act, for dispensing with the enquiry under Section 5A. Thus it was held that the delay in challenging the proceedings then and there will be fatal to the parties. In (2005)6 SCC 493 (Govt. of A.P. and others v. Kollutla Obi Reddy and others) almost similar view was taken and it was held that belated challenge to notifications under Sections 4 and 6 of the Land Acquisition Act should not be entertained by the High Court.

27. In (2000) 2 SCC 48 (Municipal Council, Ahmednagar and another v. Shah Hyder Beig and others), the Apex Court dealt with the maintainability of the writ petitions challenging the acquisition proceedings under the Land Acquisition Act and explained when the proceedings will not be maintainable due to laches or delay. As held by the Apex Court in paragraph 17 of the verdict, after passing the award, no writ petition can be filed challenging the acquisition notice or any proceedings thereunder, which was cited as the consistent view being taken by the Supreme Court.

28. In (1996) 11 SCC 501 (Municipal Corporation of Greater Bombay v. Industrial Development Investment Co. Pvt. Ltd and others), the Apex Court held that "persons interested" should be vigilant enough to seek judicial review under Article 226 challenging the original notification and vesting of the land in the State free from all encumbrances; and that after completion of the proceedings, such challenge cannot be entertained. It was also observed therein, that the land acquired for a public purpose may be used for another public purpose, subject to the riders mentioned therein. Entertaining the matters by the High Court despite the clear laches, much after passing the award, has been deprecated in the said decision.

29. A Division Bench of this Court has dealt with eligibility of the persons concerned to challenge the acquisition proceedings with reference to Section 3(b) of the Land Acquisition Act, as reported in 1995(1) KLJ 25 (Kerala Vyapari Vyavasaya Ekopana Samathy v. Velloor Panchayath). It has been held that only a "person interested" can object to the acquisition proceedings and that "person interested" means a person who must have interest in the compensation awarded on account of acquisition of land. In other words, a person who has no claim in the compensation likely to be awarded, as a result of the acquisition proceedings, cannot obviously challenge the proceedings. Explaining the scope of Section 4 of the Land Acquisition Act, another Division Bench of this Court made it clear, as per the decision reported in 2006(4) KLT 657 (Sundaram v. Palakkad Municipality), that when the Government requires land, all schemes made by the local authorities would come to an end. In the said case, the land was earmarked by the local body for "residential" purpose. But considering the scheme of the statute, it was held that, even if the land had actually been utilized for residential purposes, if the same was required for a public purpose, the State Government could acquire the same for such public purpose and the only right of the citizen was to receive compensation. The said finding was rendered by relying on the decisions of the Apex Court in (1996) 1 SCC 9 (Jai Narain and others v. Union of India and others) and (1999) 2 SCC 384 (Bhagat Singh v. State of U.P. and others).

30. The law declared by the Apex Court in (1996) 1 SCC 9 (cited supra) was that, Court cannot interfere with satisfaction of the Government, unless reasons given are wholly irrelevant. Dispensation of enquiry under Section 5A, by invoking the emergency clause under Section 17 was upheld, after holding that

the expression "likely to be needed" in the notification under Section 4(1) suggested absence of urgency, was not correct or sustainable and satisfaction of the Government was supreme. It was also observed that the land, although was shown in the Master Plan and Zonal Development Plan as "agricultural green", acquisition of such land for "public purpose" of setting up Sewage Treatment Plants for planned development of Delhi, was quite valid.

31. The delay in challenging the notification issued under the Land Acquisition Act was held as a bar to entertain the challenge raised against the same, in (1996)¹ SCC 250 (State of T.N. and others v. L. Krishnan and others). It was also pointed out that, framing and publishing a scheme under the Housing Board Act was not a pre-condition for issuance of notification under Section 4(1) of the Land Acquisition Act. The scope of "public purpose" in the matter of acquisition had come up for consideration before the Apex court on many an occasion including in the decision reported in (2000)⁷ SCC 296 (Delhi Administration v. Gurdip Singh Uban and others). The Apex Court held that a declaration that the land is required for a "public purpose" is enough, for being included in the notification and that no reasons or other facts need be mentioned on the face of the declaration. If the proceedings come to be challenged in the Court, satisfaction can be justified on the basis of the records upon which the Government had acted and that the declaration referring to the satisfaction of the Government need not refer to every piece of "particular land", which has been notified. This was approved by a Larger Bench of the Apex Court as per the decision reported in (1996)⁷ SCC 450 (State of T.N. and others v. L. Krishnan and others).

32. Much emphasis is placed by the learned Counsel for the KINFRA upon the decision rendered by the Apex Court in (2008)⁹ SCC 552 (Sooraram Pratap Reddy v. District Collector, Ranga Reddy District), pointing out that it was an acquisition involving exactly similar circumstances and the nature of challenge raised was also almost the same. The Government of Andhra Pradesh sought to acquire large extent of lands referring to "public purpose", for the purported development of "Financial District and allied projects". This, however, was cited as an instance of colourable exercise of power and the same was challenged by aggrieved parties referring to violation of provisions of the Land Acquisition Act and other similar statutes, apart from the mala fide intention and oblique motive to transfer valuable land of small farmers to a foreign company and few selected persons with vested interest. Interference was declined by the learned single Judge of the High Court, which was confirmed in appeal, thus leading to the challenge before the Apex Court. It was contended that, even if some public purpose was involved, since the beneficiary was a private company, the proceedings should be under Part VII of the Land Acquisition Act and not under Part II providing for acquisition of land required by State authorities.

33. The contentions raised by the respondent/Government was that, by virtue of the industrial policy of the State Government, a decision was taken to construct

an "Information Technology Park" (as in the instant case) and that the concerned authority-Andhra Pradesh Industrial Infrastructure Corporation Ltd. (APIIC - just like KINFRA in the instant case) was an instrumentality of the State, which was to pay the entire amount of compensation and hence that such action could not be said illegal or contrary to law, thus seeking for dismissal of the appeals. The "APIIC" was identified as a nodal agency to implement the project by the Government, who had inducted a private body (Emaar Properties, Dubai) and as per the agreement executed, APIIC was to have only 26% of shares, while the latter was to have 74% of the share capital in the joint venture. After analysing the statutory provisions and the factual matrix, the Apex Court referred to the power and authority of the Government to exercise the power of eminent domain (i.e. Acquisition of land belonging to a person for public purpose, contrary to his will, but effecting compensation for the same) and held that the proceedings were well based on the public purpose involved. The entire case laws on the subject were discussed in detail, also with reference to the meaning of the term "public purpose" as defined under Section 3(f) of the Land Acquisition Act, which has been held as an inclusive term (illustrative) and not an exhaustive one (paragraph 67). In paragraph 79, it was observed that, "public purpose" is thus wider than "public necessity" and the purpose is more pervasive, than urgency.

34. The industrial policy of the State was discussed in paragraphs 83 and 84 of the said judgment and it was noted in paragraph 85 of the verdict that it was pursuant to the above policy, that the Andhra Pradesh Infrastructure Development Enabling Act, 2001 (Act 36 of 2001) was enacted. Referring to the Memorandum of Understanding (MoU) executed between the APIIC and Emaar Properties and the provisions for acquisition for a company, it was observed in paragraph 95 of the judgment that, it was open for the appropriate Government to acquire land, if such land was needed for any public purpose or "for a company", holding that under such circumstance, the acquisition will be governed by Part II of the Land Acquisition Act and that the procedure laid down in the said Part has to be followed. Part VII deals with acquisition of land for companies and the contention raised by the appellants that the acquisition was for "private company" and hence it was to be governed by Part VII of the Act, was also referred to. The stand of the State/respondents that the entire funds were being provided by the APIIC and that acquisition was pursuant to the industrial policy of the State, were adverted to in paragraph 96. After a threadbare analysis of the facts and figures and the relevant provisions of law, the Apex Court, held that, in deciding whether the acquisition was for "public purpose" or not, *prima facie*, the Government would be the best judge and normally, in such matters, a Writ Court will not interfere by substituting its judgment, for the judgment of the Government. Applying the legal principles, it was concluded by the Apex Court in paragraph 128, that the proceedings initiated by the State for acquisition of land under the Land Acquisition Act, 1894 cannot be said to be illegal, unlawful, unwarranted, *mala fide* or bad by virtue of colourable exercise of power. Paragraphs 128 to 134 of the said verdict are

relevant and hence are extracted below:-

"Conclusions

128. Applying the aforesaid principles to the case on hand, in our considered opinion, it cannot be said that the proceedings initiated by the State for acquisition of land under the Land Acquisition Act, 1894 are illegal, unlawful, unwarranted, mala fide, fraud on statute or have been taken in colourable exercise of power.

129. As already adverted to earlier, the State of Andhra Pradesh in the background of "World Tourism Organisation Report" and "Vision 2020 Document" took a policy decision for the development of the city of Hyderabad. For the said purpose, it decided to establish an integrated project which would make Hyderabad a major business-cum-leisure tourism infrastructure centre for the State. The project is both structurally as well as financially integrated. It is to be implemented through Andhra Pradesh Infrastructure and Investment Corporation (APIIC) which has taken all steps to make Hyderabad a world class business destination.

130. APIIC is an instrumentality of State and works as "nodal agency" developing the project which would facilitate socio-economic progress of the State by generating revenues, weeding out unemployment and bringing in new avenues and opportunities for public at large. Development of infrastructure is legal and legitimate "public purpose" for exercising power of eminent domain. Simply because a company has been chosen for fulfilment of such public purpose does not mean that the larger public interest has been sacrificed, ignored or disregarded. It will also not make exercise of power bad, mala fide or for collateral purpose vitiating the proceedings.

131. In our judgment, the respondents are right in submitting that in case of integrated and indivisible project, the project has to be taken as a whole and must be judged whether it is in the larger public interest. It cannot be split into different components and to consider whether each and every component will serve public good. A holistic approach has to be adopted in such matters. If the project taken as a whole is an attempt in the direction of bringing foreign exchange, generating employment opportunities and securing economic benefits to the State and the public at large, it will serve public purpose.

132. It is clearly established in this case that the infrastructure development project conceived by the State and executed under the auspices of its instrumentality (APIIC) is one covered by the Act. The joint venture mechanism for implementing the policy, executing the project and achieving lawful public purpose for realising the goal of larger public good would neither destroy the object nor vitiate the exercise of power of public purpose for development of infrastructure. The concept of joint venture to tap resources of private sector for infrastructural development for fulfilment of public purpose has been recognised in foreign countries as also in India in several decisions of this Court.

133. The entire amount of compensation is to be paid by State agency (APIIC) which also works as nodal agency for execution of the project. It is primarily for the State to decide whether there exists public purpose or not. Undoubtedly, the decision of the State is not beyond judicial scrutiny. In appropriate cases, where such power is exercised mala fide or for collateral purposes or the purported action is dehors the Act, irrational or otherwise unreasonable or the so-called purpose is "no public purpose" at all and fraud on statute is apparent, a writ court can undoubtedly interfere. But except in such cases, the declaration of the Government is not subject to judicial review. In other words, a writ court, while exercising powers under Articles 32, 226 or 136 of the Constitution, cannot substitute its own judgment for the judgment of the Government as to what constitutes "public purpose".

134. Taking the facts in their entirety, we are of the view that the action of the State in initiating acquisition proceedings for establishing and developing infrastructure project cannot be held contrary to law or objectionable. The High Court was, therefore, right in dismissing the writ petitions as also the writ appeals and we find no infirmity therein. All the appeals, therefore, are liable to be dismissed and are accordingly dismissed, however, leaving the parties to bear their own costs."

35. The sum and substance of the above discussion is that the individual writ petitioners have approached this Court challenging the acquisition proceedings in respect of their properties much belatedly after issuance of section 4(1) notification, Section 6 declaration and passing of the awards. Going by the law declared by the Apex Court on the point with reference to delay/laches/callous inaction in challenging the proceedings, that too, without raising proper objections then and there, they cannot be heard to say that the acquisition is bad in any manner, rigor of which may be different when it comes to genuine public interest litigations. That apart, but for the appellants in W.A.No. 1085 of 2010, the other writ petitioners, who are owners of the property concerned have filed necessary proceedings before the concerned authority that they are interested only in getting compensation for their lands acquired and that they are no more interested in proceeding with the writ petitions filed before this Court, challenging the acquisition proceedings. This being the position, the said petitions no more require to be considered in any manner and they are only to be dismissed accordingly.

36. With regard to the case projected by the appellant in Writ Appeal No. 1085 of 2015, the ground of challenge with reference to the alleged violation of Paddy Land Act has already been dealt with while dealing with similar contentions in W.P.(C) Nos. 11534 and 15529 of 2010 filed as Public Interest Litigations. The remaining two grounds are in respect of "limitation" and regarding the damage likely to be caused to the remaining land/neighbouring lands, once acquisition is permitted to be proceeded with. With regard to the contention on limitation, as rightly observed by the learned single Judge, Section 4(1) notification was

initially issued on 03.12.2007 (in the gazette), then published in the newspapers on 01.01.2008 and 04.01.2008 and was lastly published in the locality and the concerned village office on 29.02.2008. By virtue of the mandate under Section 4 (i) of the Land Acquisition Act, the last date of such publication is to be reckoned as the date of Section 4(1) notification except for fixation of market value under Section 23 of the Act, where it has to be with reference to the first publication of the notification as held by the Supreme Court in (2011)9 SCC 207 (Kolkata Metropolitan Development Authority v. Gobinda Chandra Makal and another). This being the position, Section 6 declaration published on 26.02.2009 is well within the period of "one year" as envisaged in the Statute and hence the plea of limitation fails. It is rejected accordingly.

37. With regard to the sole surviving ground i.e. the adverse consequence which may be resulted to the water table in the remaining/adjoining area, the matter has been considered by all the competent authorities including the Local Level Monitoring Committee, the State Level Monitoring Committee and by the State Government and it was based on the recommendations of the said committees, that the Government finally granted exemption under Section 10 of the Paddy Land Act with necessary riders/conditions. Ext.R2(i) sanction granted in this regard clearly stipulates that, it is subject to the specific conditions incorporated therein. It is also borne out from the records/pleadings including the counter affidavit filed by the KINFRA, that 20% of the land acquired will be earmarked for providing a water table and such other measures. This being the position, the apprehension expressed by the appellant in the writ appeal with regard to the adverse circumstances is devoid of any merit.

38. The crux of the contentions raised by the petitioners in the Public Interest Litigations leading to the challenge, is mainly against the conversion of land in question and not against acquisition. As mentioned already, there is no provision under the Land Acquisition Act which prevents or prohibits acquisition of paddy lands. Similarly, there is no total prohibition of acquisition of paddy lands or filling up the same under the Paddy Land Act as well and such a course is a "permissible activity", subject to the safeguard/parameters prescribed therein, conferring exclusive power with the Government for granting exemption under Section 10 of the Paddy Land Act, which contains a non-obstante clause in relation to the prohibition under Section 3 of the Act.

39. No evidence has been adduced by the public interest litigants to the effect that the land in question was being cultivated by anybody in the reasonable past. On the other hand, it is borne out by the pleadings and proceedings that the land was left uncultivated for quite long and that the same is not suitable for cultivation because of the lie and nature of the property and other adverse circumstances. The land has been identified by the KINFRA as the most suitable and feasible one, after inspection and scrutiny of other lands as well. The proceedings pursued by the KINFRA were in tune with the relevant provisions of the KINFRA Act and it was thereafter, that recommendations were made to the

Government in this regard seeking for acquisition of the property concerned, whereupon, the matter was considered by the Government and administrative sanction was issued, followed by Section 4(1) notification issued under the Land Acquisition Act in the year 2007. It is also a matter to be noted that, though the Government continues to be the same, it was being ruled by the Left Democratic Government at that point of time. It was thereafter that the entire cost for acquisition was satisfied by the KINFRA, (set forth as a precondition for acquisition and vesting of the land on KINFRA in terms of the KINFRA Act), which led to the application for declaration of the property as an "industrial area" under Section 3 of the KINFRA Act, followed by such declaration made as borne by Ext.R2(h) dated 03.07.2015.

40. As rightly pointed out by the learned counsel for the petitioners in the public interest litigations and as fairly conceded by the learned counsel for the KINFRA, it cannot be said that, merely for the reason that the land can be acquired with reference to the provisions of the KINFRA Act, it need not satisfy any other requirements in relation to the provisions of Paddy Land Act. Of course, Section 10 of the Paddy Land Act very much reserves the right of the Government for granting exemption to land from the operation/provisions of the said Act, in the manner as specified therein; notwithstanding the bar of prohibition under Section 3 of the Act. There is a contention for the public interest litigants that such application came to be filed only much later, i.e. after filing the writ petitions and sanction/exemption came to be granted only in the year 2015, which is only an afterthought to save the situation. This has been satisfactorily explained by the KINFRA pointing out that, before making an application for exemption under Section 10 of the Paddy Land Act, the KINFRA has to satisfy various requirements in terms of the KINFRA Act., by identifying the land in question, getting administrative sanction, satisfaction of the entire cost for acquisition, etc., which alone would make the property to be vested upon the KINFRA. Only after such vesting of the property on KINFRA, could the KINFRA proceed with further steps by submitting an application to the Government for declaration of the land as an "industrial area" in terms of Section 3 of the KINFRA Act. All these procedural formalities have been completed by the KINFRA and it was accordingly, that a fresh application was submitted (earlier application having been rejected stating that application can be made only after satisfaction of the entire cost for acquisition) and this application was later considered, leading to the sanction as per Ext.R2(h) dated 03.07.2015. This being the position, there is nothing illegal, irregular or improper with regard to the course and proceedings and the contentions raised by the public interest litigants to the contrary stand rejected.

41. As mentioned hereinbefore, there was inspection by the concerned authorities at different levels, at different points of time. The recommendation submitted by the Local Level Monitoring Committee in relation to the Paddy Land Act was placed before the State Level Committee, who considered the same as revealed from Ext.R2(i) and this, along with the application submitted by the

KINFRA for exemption under Section 10 of the Paddy Land Act was considered by the Government. It was on satisfying the requirements under the Statute (which very much includes all the relevant aspects as to the nature, lie and location of land, the physical condition and non-cultivation for long period, un-utility of the premises for cultivation etc.) that sanction was given for conversion in respect of the specified area as given in the plan (consciously denying such permission in respect of the left over portion separately marked in the plan) and subject to the riders therein, which is obviously to the effect that it shall not adversely affect the neighbouring properties in any manner. Thus, there is a conscious exercise of power with proper application of mind on the part of the Government and there is substantial compliance with the mandatory requirements under the statute in all respects. It was accordingly, that exemption was given under Section 10 of the Paddy Land Act as borne by Ext.R2(i). This being the position, the challenge raised is held as not correct or sustainable.

42. It has to be borne in mind, as alerted by the Apex Court on many an occasion, that the jurisdiction of the Court is confined to the procedural irregularities/illegalities/malafides, if any. The scrutiny made by this Court, with reference to the pleadings and proceedings has not revealed any such instance and there is overall/substantial compliance in all respects. But there is a contention for the petitioners/public interest litigants with reference to the judgment passed by the Apex Court in (2012) 3 SCC 727 (Bangalore City Coop. Housing Society Ltd. v. State of Karnataka) that, if there is no public purpose or if the public purpose is not genuine, there is no question of granting any exemption under Section 10 of the Paddy Land Act. It is also pointed out that, if no genuine public purpose is there, satisfaction of compensation for acquisition cannot be considered as a relevant factor to facilitate reclamation of paddy land. It is further stated with reference to the verdict of the Supreme Court in (2012)2 SCC 327 (Darshan Lal Nagpal v. Govt.(NCT of Delhi) that, though the right over the land in question cannot be treated as a fundamental right, it still remains as a constitutional right with reference to Article 300A or a human right/legal right (as put forth by the learned counsel). It is further stated with reference to the decision in Bondu Ramaswamy v. Bangalore Development Authority (2010) 7 SCC 129 (para 148) that there is a distinction between the "public purpose" envisaged under the Land Acquisition Act and the one envisaged under the "Paddy Land Act" and hence that vagueness of the project is relevant in the said context.

43. With regard to the challenge raised against Ext.R2(i) granting exemption under Section 10 of the Paddy Land Act, it is stated that no recommendation has been there by the concerned Committees to the effect that no alternate land is available and that exemption, if granted, will adversely affect the neighbouring lands. The idea and understanding of the petitioners does not appear to be correct, as different course and procedures at different levels, under different statutes, have been pursued in the instant case; firstly to identify the land by the KINFRA under the "KINFRA Act"; after considering and inspecting different lands

available in the concerned local authority and thereafter seeking to have it acquired for full-filling the object under the KINFRA Act. It was after completing the procedures under the said Act, that the land value was remitted, got the property acquired and vested with the KINFRA, followed by getting declaration as an "industrial area" in terms of Section 3 of the KINFRA Act. It was thereafter, that further steps were pursued with reference to Section 10 of the Paddy Land Act ; whereupon the matter was considered by the Government in the light of the recommendations given by the Local Level Monitoring Committee and the State Committee. It cannot be said that the Government was examining the matter in a water-tight compartment, without any regard to the proceedings initiated and pursued right from the being in the year 2007 seeking administrative sanction by the KINFRA to implement the project after identifying the site and satisfaction of the various procedural formalities. All the facts and figures borne out from the records are to be taken together and it was accordingly, that the matter was considered by the Government leading to declaration of the land as an "industrial area" in terms of Section 3 of the KINFRA Act as per Ext.R2(h) dated 03.07.2015; followed by exemption granted under Section 10 of the Paddy Land Act as per Ext.R2(i) dated 15.07.2015. We find that the "public purpose" is genuine and established and there is absolutely no infringement of any statutory requirements, whether it be under the KINFRA Act, the Land Acquisition Act or the Paddy Land Act. It is also relevant to note that the subject matter was being considered by the Government, (which was ruled by both the "LDF" and "UDF" at different/relevant points of time, and the proceedings have been finalised accordingly. No "malafides" in any manner is specifically pleaded or established. There is no lapse or violation with regard to procedural aspects as well. This Court finds that the petitioners/appellants have failed to establish any tenable ground to call for interference.

44. Incidentally, it is to be noted that there was a prayer in writ petition No. 27279 of 2009 (from which arises the Writ Appeal No. 1085 of 2010)challenging the vires of the Section 10 of the Paddy Land Act. But for the prayer raised at Serial No."4" of the writ petition, absolutely no ground or circumstance is specifically pleaded or established as to in what manner, has it resulted in violation of any constitutional provisions. The power and jurisdiction of the Government of Kerala to have brought about the statute is not under challenge and on the other hand, the petitioners seek to rely on the other provisions of the very same statute. Since the purpose of the statute, as given in the preamble, and its objects were to control the large scale and uncontrolled filling of paddy lands and since the enactment was brought about as a "regulatory measure" conferring power upon the different Committees/authorities at different levels and with liberty to the Government to consider the matter and grant exemption wherever it is necessary, notwithstanding the ban under Section 3 of the Act, in what manner the same stands offensive is not made out. The prayer raised in this regard remains to be a bald one and has no legs to stand, which stands rejected accordingly.

45. In the said circumstance, we find that the Writ Petitions/Writ Appeal are devoid of any merit and none of the grounds raised in support thereof does serve its purpose. Interference is declined and the Writ Appeal as well as the writ Petitions stand dismissed.