

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 28<sup>TH</sup> DAY OF JUNE, 2019

:PRESENT:

THE HON'BLE MR. JUSTICE L.NARAYANA SWAMY

AND

THE HON'BLE MR. JUSTICE R.DEVDAS

**WRIT APPEAL NO.3425 OF 2012 (LA-KIADB)**

**BETWEEN**

N. RAMACHANDRA REDDY,  
AGED ABOUT 46 YEARS,  
S/O LATE K.H.NARAYANA REDDY,  
R/AT NO.364, 10<sup>TH</sup> CROSS,  
29<sup>TH</sup> 'A' MAIN ROAD,  
H.S.R.LAYOUT,  
BANGALORE - 560 102.

... APPELLANT

(BY SRI. K.K. VASANTH, ADV.)

**AND**

1. THE KARNATAKA INDUSTRIAL  
AREA DEVELOPMENT BOARD,  
HEAD OFFICE, NO.14/3, 2<sup>ND</sup> FLOOR,  
RASHTROTHANA PARISHATH BUILDING,  
NRUPATHUNGA ROAD,  
BANGALORE-560 001.  
REPRESENTED BY ITS CHAIRMAN.
2. THE CHIEF EXECUTIVE OFFICER  
AND EXECUTIVE MEMBER,  
THE KARNATAKA INDUSTRIAL AREA  
DEVELOPMENT BOARD,  
HEAD OFFICE, NO.14/3, 2<sup>ND</sup> FLOOR,  
RASHTROTHANA PARISHATH BUILDING,  
NRUPATHUNGA ROAD,  
BANGALORE-560 001.
3. SMT. GOWRAMMA,  
AGED ABOUT 65 YEARS,  
W/O LATE HANUMANTHAPPA,

4. SRI K.H. RAVI KUMAR,  
SINCE DECEASED BY HIS LRs.
4. (a) SMT. SHANTHAMMA,  
AGED ABOUT 42 YEARS,  
W/O LATE K.H.RAVIKUMAR.
4. (b) KUM. MANJUSHREE K.R,  
AGED ABOUT 17 YEARS,  
D/O LATE K.H.RAVIKUMAR.
4. (c) KUM. DIVYASHREE K.R,  
AGED ABOUT 16 YEARS,  
D/O LATE K.H.RAVIKUMAR.
4. (d) SRI ROHIT KUMAR K.R,  
AGED ABOUT 14 YEARS,  
S/O LATE K.H.RAVIKUMAR.

THE LEGAL REPRESENTATIVES/  
PROPOSED RESPONDENTS  
4(b) TO (d) BEING MINORS  
REPRESENTED BY THEIR MOTHER  
AND NATURAL GUARDIAN,  
SMT. SHANTHAMMA,  
THE LR NO.4(a).

THE RESPONDENTS 4(a) TO 4(d) ARE  
R/AT KONAPPANA AGRAHARA,  
ELECTRONIC CITY,  
NEAR INFOSYS GATE NO.4,  
BANGALORE-560 100.

5. SRI K.H. KESHAHA MURTHY,  
AGED ABOUT 40 YEARS,  
S/O LATE HANUMANTHAPPA.
6. SRI K.H. NAGARAJ,  
AGED ABOUT 38 YEARS,  
S/O LATE HANUMANTHAPPA.

RESPONDENTS 3 TO 6 ARE  
R/AT KONAPPANA AGRAHARA,  
ELECTRONIC CITY,  
NEAR INFOSYS GATE NO.4,  
BANGALORE-560 100.

7. M/S. MANJUSHREE KRUPA COMPONENTS,  
NEAR INFOSYS GATE NO.4,  
KONAPPANA AGRAHARA,

ELECTRONIC CITY,  
BANGALORE-560 100.  
REPRESENTED BY ITS PROPRIETRIX,  
SMT. GOWRAMMA.

... RESPONDENTS

(BY SRI BASAVARAJ V. SABARAD, ADV. FOR R1;  
SRI G.L.VISHWANATH, ADV. FOR C/R3, R4(a) TO 4(d),  
R5 TO R7; R2 SERVED – UNREPRESENTED)

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA  
HIGH COURT ACT 1961 PRAYING TO SET ASIDE THE ORDER  
PASSED IN THE WRIT PETITION NO.27027/2009 (LA-KIADB)  
DATED 23/05/2012 AND ETC.

THIS WRIT APPEAL COMING ON FOR HEARING THIS DAY,  
**DEVDAAS J**, DELIVERED THE FOLLOWING:

### **JUDGMENT**

The appellant's land measuring 2 acres 23 guntas in Sy.No.6/1 of Konappana Agrahara, was acquired by the State Government, under the Karnataka Industrial Areas Development Act (hereinafter referred to as the 'KIAD Act' for short) for formation of Electronic City Industrial Area. However, an extent of 25 guntas was reconveyed in favour of respondent No.3 herein and another 10 guntas in favour of respondents No.3 to 6. It is not disputed that the appellant and respondents No.3 to 6 were part of undivided joint family and after partition, certain lands including the 25 guntas and 10 guntas which were reconveyed by Karnataka Industrial

Areas Development Board (for short KIADB), had in fact fallen to their respective shares. After the acquisition, the appellant herein, on 15.10.1999 sought for allotment of 7 guntas of land in Sy.No.6/1, on the premise that his ancestors were buried therein and tombs existed on the said property. The appellant followed up the said requisition once again on 14.02.2005, this time, on another premise that there was no access to the remaining property and the 7 guntas of land could be used as access for his property bearing Sy.No.2/1C, which was situated adjoining Sy.No.6/1. The KIADB issued a letter of allotment dated 13.02.2007, allotting 7 guntas of land in Sy.No.6/1, only for the purpose of providing approach road to the adjacent land of the appellant.

2. In the meanwhile, respondents No.3 to 6 had made an application seeking allotment of the very same 7 guntas of land from KIADB. Since the said land was not allotted, respondents No.3 to 6 approached this Court in W.P.No.6943/2007, praying for consideration of their application for allotment of the said land in their

favour. During the course of the proceedings in W.P.No.6943/2007, it was brought to the notice of the Court that the 7 guntas of land were allotted in favour of the appellant herein. Respondents No.3 to 6, who were the petitioners in the said writ petition, withdrew the petition on 11.09.2008, with liberty to redress their grievance before the competent legal forum, keeping all contentions open. Since the KIADB did not respond positively to the request of respondents No.3 to 6 and did not cancel the allotment made in favour of the appellant herein, they once again filed W.P.No.12653/2008. Even as the said petition was pending consideration, the KIADB cancelled the allotment made in favour of the appellant herein, by order dated 14.08.2009.

3. It is in this background that the instant writ petition was filed by the appellant herein and the learned Single Judge, by order dated 23.05.2012 dismissed the petition. Consequently, being aggrieved the writ petitioner is before this Court calling in question the order dated 23.05.2012 passed in

W.P.No.27027/2009 and the order of cancellation dated 14.08.2009, passed by the respondent-KIADB.

4. Learned Counsel for the appellant submits that the KIADB could not have cancelled the allotment, having considered the request of the appellant and making the allotment in his favour, since the ancestors of the appellant were buried in the said land and tombs were constructed therein and the appellant and his family members were offering prayers and performing religious activities in the said land. It is also submitted that the appellant had paid market value to the property in question. The learned Counsel further submits that the impugned order of cancellation is not in compliance with Section 14(f)(ii) of the KIAD Act, 1966.

5. Per contra, the learned Counsel for the respondent-KIADB submits that during the course of the writ proceedings, the learned Single Judge directed the respondent-KIADB to visit the spot in question and find out as to whether there was an approach road available to the appellant herein. The Chief Executive Officer and Executive Member of the KIADB submitted a

report dated 12.04.2012 along with a rough sketch stating that in addition to the access created by allotment of 7 guntas of land, there was an alternative approach road of 27 ft. width to Sy.No.2/1C from the main road.

6. The learned Counsel for KIADB, therefore submits that the learned Single Judge took note of the factual aspects and rightly held that the allotment sought by the appellant on the premise that he had no access to his land in Sy.No.2/1C in view of the land in Sy.No.6/1 belonging to the appellant having been acquired by KIADB was proved to be factually incorrect and therefore justified in dismissing the writ petition.

7. Heard Sri K.K.Vasanth, learned Counsel for the appellant, Sri Basavaraj V.Sabarad, learned Counsel for KIADB and Sri G.L.Vishwanath, learned Counsel for respondents No.3 to 7 and perused the writ appeal papers.

8. The learned counsel for the appellant has failed to convince this Court as to how and under which provision of KIAD Act, 1966, was the land in question

allotted to the appellant herein. It is not seriously disputed that KIADB may allot industrial sites, formed in the industrial area/layout under the provisions of the Act or allot larger extents of lands for industrial purposes. Admittedly, the land in question was sought by the appellant for creating an access to his lands bearing Sy.No.2/1C, on the premise that since his lands in Sy.No.6/1, which was adjacent to Sy.No.2/1C, was acquired by KIADB and he had no access to the remaining portion of his land. In that event, the question that arises is whether KIADB could allot an industrial site or a portion of the industrial area for purposes other than establishment of an industry. Be that as it may, respondents No.3 to 7, who were the erstwhile owners of the land in question, had sought for allotment of the said land for establishing an industry. When there were two claimants or applicants, the KIADB should have heard both the applicants and decided the issue in accordance with law.

9. It is also on record that though the letter of allotment was issued on 13.02.2007, immediately



thereafter, the KIADB informed the appellant vide a letter dated 23.04.2007, that the allotment is kept in abeyance until further orders. Consequent to the directions issued by the learned single Judge vide a order dated 28.05.2009, in W.P.No.12653/2008, the Chief Executive Officer and Executive Member of KIADB heard the rival claimants and passed the impugned order canceling the allotment made in favour of the appellant and directed refund of the entire amount paid by the appellant herein. It was also ordered that since the 7 guntas of land in Sy.No.6/1, earlier belonged to Smt.Gowramma and her children, i.e. respondents No.3 to 7 herein, the said land was allotted to them in the name of 'Manjushree Krupa Components' for establishing manufacturing units of electronic components.

10. Consequent to the allotment in favour of respondents No.3 to 7 herein, they have entered into lease-cum-sale agreement with KIADB as far back as August, 2009, industrial shed has been constructed and electricity connection is also provided to the unit.

Taking the totality of the facts and circumstances of the case, the learned Single Judge dismissed the petition holding that the impugned order of cancellation, subsequent order of allotment made in favour of respondents No.3 to 7 are in accordance with law and the prayer made by the appellant herein, if granted, would be highly inequitable.

11. For the reasons stated above, we do not find any infirmity in the order of the learned Single Judge. Therefore, the writ appeal stands ***dismissed***.

SD/-  
JUDGE

SD/-  
JUDGE

JT/DL