IN THE HIGH COURT OF KARNATAKA,

KALABURAGI BENCH

DATED THIS THE 28TH DAY OF OCTOBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 200735 OF 2023 (GM-KIADB)

BETWEEN:

ARIF AHMED KHAN
S/O LATE ZAHOOR AHMED KHAN
AGE. 66 YEARS,
OCC. AGRICULTURE AND BUSINESS,
R/O. H.NO. 5-957/A,
PASHAPURA,
ROZA KHURD,
KALABURAGI-585104.

...PETITIONER

(BY SRI. A M BIRADAR,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   REPRESENTED BY THE PRINCIPAL SECRETARY,
   COMMERCE AND INDUSTRIES DEPARTMENT,
   VIKAS SOUDHA,
   BENGALURU-560001.

2. THE CHIEF EXECUTIVE OFFICER
   AND EXECUTIVE MEMBER,
   KIADB, KHANIJA BHAVAN,
   4TH FLOOR, NO. 49, RACE COURSE ROAD,
   BENGALURU-560001.

3. THE SPECIAL DEPUTY COMMISSIONER
   KIADB, KHANIJA BHAVAN, 5TH FLOOR,
   NO. 49, RACE COURSE ROAD,
   BENGALURU-560001.

4. THE DEPUTY COMMISSIONER

Digitally signed by SHWETHA RAGHAVENDRA
Location: HIGH COURT OF KARNATAKA

KALABURAGI DISTRICT,
KALABURAGI-585102.

5. THE SPECIAL LAND ACQUISITION OFFICER
KIADB, KAPNOOR INDUSTRIAL AREA,
PHASE-I, HUMNABAD ROAD,
KALABURAGI-585101.

…RESPONDENTS

(BY SMT. T.P. LATHA, HCGP FOR R1 & R4;
SRI. A.M. NAGARAJ.,ADVOCATE FOR R2 & R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO PAY COMPENSATION TO THE PETITIONER IN RESPECT PETITIONER LAND IN ACCORDANCE WITH THE PROVISIONS OF RIGHT TO FAIR COMPENSATION AND TRANSPASRENCY IN LAND ACQUISITION, REHABILITTION AND RESETTLEMLENT ACT, 2013 VIDE ANNEXURE-F DATED 18.10.2019, FILE NO.CI/96/SPQ/2002 IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS WRIT PETITION, COMING ON FOR FINAL HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

(PER: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ)

1. The petitioner is before this Court seeking for the following reliefs:

a. Issue a writ of mandamus directing the respondents to pay compensation to the petitioner in respect of petitioner land in accordance with the provisions of Right to Fair compensation and Transparency in land Acquisition Rehabilitation and

Resettlement Act, 2013 vide Annexure-F dated 18.10.2019, File No.CI/96/SPQ/2002;

b. Issue such other writ, order or direction as this Hon'ble Court deems fit to grant in the circumstances of the case, in the interest of justice.

2. The petitioner claims to be the owner of land in Sy.No.575/3 measuring 3 acres 20 guntas situated at Srinivas Saradagi village, Kalaburagi taluk and district. The property was earlier belonging to his father Zahoor Ahmed Khan, whose name was reflected in the RTCs. Subsequent to his death on 21.12.1993, the petitioner became the owner of the land. Respondent No.1 issued a notification under Subsection (1) of Section 28 of the Karnataka Industrial Areas Development Act, 1966 ['KIAD Act' for short] intending to acquire the aforesaid land for formation of Airport, Kalaburagi. Same having been published on 28.02.2002, a final notification soon thereafter was issued on 4.07.2002 under Subsection (4) of Section 28 of KIAD Act, possession of the property was taken over by respondent No.5. The

Advisory Committee under the Chairmanship of Deputy Commissioner fixed the market value at Rs.1,25,000/- per acre and award came to be passed on 15.12.2004 in respect of the aforesaid notification.

3. Despite the award having been passed, no payments having been made, the petitioner constantly followed up the same with respondent authorities. Considering that the airport has already been established and functioning, a representation was submitted on 18.10.2019 categorically stating that insofar as the petitioner is concerned, he has not participated in the proceedings, no consent of the petitioner was sought for and obtained in respect of the aforesaid amount fixed as compensation.

4. The petitioner is before this Court contending that the representation of the petitioner has not been considered, compensation has not been awarded to the petitioner and as such there being no consent on part of the petitioner in respect of the consent

award, compensation would have to be paid in terms of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

5. Sri.A.M.Nagaral, learned counsel appearing for KIADB had submitted that compensation amount had been paid and on several occasions had sought for time to verify from the records and make his submission. When no submissions were made and no documents were produced to establish the payment of compensation to the petitioner, the SLAO, Kalaburagi was also directed to be kept present, who was so present on 18.09.2024, who once again indicated that he would go through the documents and verify the same and produce documents evidencing payment of compensation to the petitioner.

6. Today also, learned counsel for respondent-KIADB has not placed any record indicating that payment of compensation has been made to the petitioner.

Enough and more opportunities having been granted to the KIADB to place any document evidencing payment of compensation, the said indulgence not having been acted upon by the KIADB, there being no document placed on record evidencing payment of compensation, the acquisition having occurred in the year 2002, there is no document evidencing consent on part of the petitioner in respect of said acquisition, there is no award which is said to have been passed in respect of the land of the petitioner.

7. In that view of the matter, I pass the following:

ORDER

i. The writ petition is allowed.

ii. A mandamus is issued directing respondent No.1 to pass necessary award and make payment of compensation in respect of the land in Sy.No.575/3 measuring 3 acres 20 guntas situated at Srinivas Saradagi village, Kalaburagi taluk and district under The Right to Fair Compensation and Transparency in Land

Acquisition, Rehabilitation and Resettlement Act, 2013, within a period of six months from the date of receipt of copy of this order.

Sd/-
(SURAJ GOVINDARAJ)
JUDGE

LN
List No.: 19 Sl No.: 3