



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 20905 OF 2022 (LA-RES)

BETWEEN:

1. SPECIAL AGRICULTURAL PRODUCE
MARKET COMMITTEE FOR FRUITS,
FLOWERS AND VEGETABLES
AGRAHARA TANK BUND ROAD
BINNYPET
BENGALURU - 560 023
REPRESENTED BY ITS SECRETARY

... PETITIONER

(BY DR. NANDA KISHORE, ADVOCATE)

AND:

1. THE SPECIAL LAND ACQUISITION OFFICER-1
KIADB (METRO RAIL PLANNING)
NO.14/3, ARAVINDA BHAVAN
NURPATHUNGA ROAD
BENGALURU - 560 001
2. THE MANAGING DIRECTOR
BMRCL, 3RD FLOOR
BMTCL COMPLEX, K H ROAD
SHANTHINAGAR
BENGALURU - 560 027.
3. THE GENERAL MANAGER
(LAND ACQUISITION)

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by VIJAYA P
Location: High
Court of
Karnataka



BMRCL, 3RD FLOOR
BMTc COMPLEX
K H ROAD
SHANTHINGAR
BENGALURU - 560 027.

4. THE TAHSILDAR
AND SECRETARY
LAND COMPENSATION ASSESSMENT COMMITTEE
BMRCL, LAND SECTION
CHINNASWAMY CRICKET STADIUM
OPP. TO GATE NO.10
M G ROAD
BENGALURU - 560 001
5. THE DEPUTY COMMISSIONER
BENGALURU URBAN
KANDAYA BHAVAN
K G ROAD
BENGALURU - 560 009
6. KARNATAKA STATE INDUSTRIES &
COMMERCE DEPARTMENT
REPRESENTED BY ITS
PRINCIPAL SECRETARY TO THE GOVERNMENT
COMMERCE & INDUSTRIES DEPARTMENT
VIKAS SOUDHA,
AMBEDKAR VEEDHI,
BENGALURU - 560 001.

... RESPONDENTS

(BY SRI. P V CHANDRASHEKAR., ADVOCATE FOR R1;
SRI R. SRINIVASGOWDA, AGA FOR R5 & R6;
SRI K. KRISHNA, ADVOCATE FOR R2 TO R4)



THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ENDORSEMENT BEARING NOS.BMRCL/BHUSWA/HANTHA-2B/AIRPORT LINE-460/2019-20/5166 DTD 8.9.2021 AND NO.BMRCL/BHUSWA/HANTHA-2B/ARP-JKR-1/2019-20/5400 DTD 12.7.2022 VIDE ANNEXURES-Q AND T AND ETC.

THIS W.P. COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Petitioner has filed the present petition seeking for issuance of writ in the nature of certiorari to quash the endorsement at Annexures-Q and T and has sought for a direction to respondents 1 to 5 to consider the representation dated 25.08.2021 and make a reference in terms of Section 29(3) of the Karnataka Industrial Areas Development Act, 1966 (for short 'the Act') and for disposal of the reference on its merits.

2. The facts that are relevant for the purpose of disposal of writ petition are that an extent of 2147.03 sq. mt. and subsequently, further extent of 140 sq. mt. belonging to the petitioner - Authority came to be acquired for the benefit of Bangalore Metro Rail Corporation Limited



(hereinafter referred to as "BMRCL"). It is submitted by the petitioner that the only dispute at present is as regards the quantum of compensation.

3. It is noticed from the records that the Government Order was passed on 15.11.2016 whereby, it is provided that the land belonging to Government and other autonomous authorities if acquired, the rate that would be payable would be in terms of the Guideline Value under the Stamp and Registration Act as in force. It is submitted that after payment, the land as required for the Bangalore Metro Rail Project could be transferred. In terms of Government order above referred, it is stated that a meeting was held and proceedings were drawn on 09.11.2019 wherein for the aforementioned extent of land of 2147 sq. mt., price that was fixed was Rs.15,35,22,645/-. Petitioner however submits that such proceedings are not binding as there was no representative of the petitioner in such meeting.



4. The BMRCL has taken a stand that the compensation arrived at, is in terms of the proceedings dated 09.11.2019 and accordingly, the BMRCL is not entitled to bear any further compensation.

5. It is to be noticed that the petitioner is an entity which is State for the purpose of Article 12 of the Constitution of India. The dispute is between the petitioner and BMRCL. The BMRCL also for all practical purposes can be construed to be an Entity for the purpose of Article 12 of the Constitution of India in light of the control by the Union and the State Government. The Special Land Acquisition Officer, KIADB and the Karnataka State Industries and Commerce Department are respondents herein. Wherever disputes have arisen between the State and its entities, the Apex Court in the case of **Chief Conservator of Forests, Government of A.P. vs. Collector and others¹ (Chief Conservator of Forests)** has observed as follows:

¹ 2003(3) SCC 472



"14. Under the scheme of the Constitution, Article 131 confers original jurisdiction on the Supreme Court in regard to a dispute between two States of the Union of India or between one or more States and the Union of India. It was not contemplated by the framers of the Constitution or CPC that two departments of a State or the Union of India will fight a litigation in a court of law. It is neither appropriate nor permissible for two departments of a State or the Union of India to fight litigation in a court of law. Indeed, such a course cannot but be detrimental to the public interest as it also entails avoidable wastage of public money and time. Various departments of the Government are its limbs and, therefore, they must act in coordination and not in confrontation. Filing of a writ petition by one department against the other by invoking the extraordinary jurisdiction of the High Court is not only against the propriety and polity as it smacks of indiscipline but is also contrary to the basic concept of law which requires that for suing or being sued, there must be either a natural or a juristic person. The States/Union of India must evolve a mechanism to set at rest all interdepartmental controversies at the level of the Government and such matters should not be carried to a court of law for resolution of the controversy. In the case of disputes between public sector undertakings and



the Union of India, this Court in Oil and Natural Gas Commission v. CCE [1992 Supp (2) SCC 432] called upon the Cabinet Secretary to handle such matters. In Oil and Natural Gas Commission v. CCE [1995 Supp (4) SCC 541] this Court directed the Central Government to set up a committee consisting of representatives from the Ministry of Industry, the Bureau of Public Enterprises and the Ministry of Law, to monitor disputes between Ministry and Ministry of the Government of India, Ministry and public sector undertakings of the Government of India and public sector undertakings in between themselves, to ensure that no litigation comes to court or to a tribunal without the matter having been first examined by the Committee and its clearance for litigation. The Government may include a representative of the Ministry concerned in a specific case and one from the Ministry of Finance in the Committee. Senior officers only should be nominated so that the Committee would function with status, control and discipline.

(emphasis supplied)

6. This position has been noticed by the Division Bench of this Court in W.P.No.28040/2009. In Paragraph No.17 of the said case, it is observed that where there is



an interdepartmental dispute, the same must be resolved in terms of the observations of the Apex Court in the case of ***Chief Conservator of Forests (Supra)***.

7. It must also be noted that the State of Karnataka has adopted and formulated the "Karnataka State Dispute Resolution Policy - 2021²" (2021 Policy) in supersession of the "Karnataka State Litigation 2011" (2011 Policy), to combat the rise in pendency of cases where the State Government/ Instrumentalities is a party in the litigation.

The 2021 Policy at Chapter I point No.6 highlights the "Impact of the Karnataka State Litigation Policy 2011" which is extracted herein below:

"6.1 The Karnataka State Litigation Policy was first framed in 2011 and has since been in force. The 2011 Policy aimed to transform the government into an "efficient" and "responsible" litigant. It set out that the government would minimize litigation and

² N0. LAW-LAM/158/2020



eschew the "let-the-court-decide" approach. It desired to identify bottlenecks, remove unnecessary government cases and achieve prioritization in litigation."

The policy has envisaged the establishment of a dispute resolution board in each department. Chapter III point 3 recommends the constitution of an empowered committee headed by the Chief Secretary to monitor the implementation of the policy and evaluate the performance of stakeholders internally.

Chapter VII mandates the use of Alternative Dispute Resolution (ADR) by the Government in dispute prevention and dispute resolution. It directs the establishment of Dispute Resolution Boards in each department to authorize representation of Law Officers and approve settlement terms. The Chapter also provides for the formation of a Working Group led by the Advocate General, to assist each State Department in formulating an ADR strategy to identify suitable disputes for ADR and participate in it



effectively. Chapter VII, Point 1.2.3, which are of relevance is extracted below:

"1.2.3. In order to resolve inter-departmental disputes, i.e., disputes arising between two or more State Departments, there shall be Inter-Departmental Dispute Redressal Committee, headed by the Chief Secretary or Additional Chief Secretary. The Committee shall use suitable ADR mechanisms to address the conflict and resolve disputes, as far as practicable without resort to litigation. The Committee shall also recommend suitable ways of resolving disputes without resort to litigation."

8. It is also pertinent to note that the Apex Court in ***Gurgaon Gramin Bank v. Khazani***³ has disapproved the practice by Government instrumentalities coming before the courts to litigate on trivial and frivolous matters without there being any serious question of law. The relevant observations are as follows:

³ (2012) 8 SCC 781



"2. The number of litigations in our country is on the rise, for small and trivial matters, people and sometimes the Central and the State Governments and their instrumentalities like banks, nationalised or private, come to courts may be due to ego clash or to save the officers' skin. The judicial system is overburdened which naturally causes delay in adjudication of disputes. Mediation Centres opened in various parts of our country have, to some extent, eased the burden of the courts but we are still in the tunnel and the light is far away. On more than one occasion, this Court has reminded the Central Government, the State Governments and other instrumentalities as well as to the various banking institutions to take earnest efforts to resolve the disputes at their end. At times, some give and take attitude should be adopted or both will sink. Unless serious questions of law of general importance arise for consideration or a question which affects a large number of persons or the stakes are very high, the courts' jurisdiction cannot be invoked for resolution of small and trivial matters"



9. Accordingly, it would be appropriate to refer the subject matter of present dispute to a Committee consisting of the following:

- (a) The Chief Secretary, Government of Karnataka;
- (b) Special Agricultural Produce Market Committee for Fruits, Flowers and Vegetables, represented by its Secretary (Petitioner herein);
- (c) BMRCL represented by its Managing Director or representative;
- (d) The Karnataka Industrial Areas Development Board represented by its Chief Executive Officer;
- (e) The Principal Secretary to Government, Commerce and Industries;
- (f) The Special Land Acquisition Officer, KIADB.

10. The said Committee would be headed by the Chief Secretary, Government of Karnataka and the other entities referred to above would be the participants. The Chief Secretary is at liberty to enlarge the constitution of the Committee if found necessary. The said Committee to



be constituted to endeavour to settle the dispute amicably taking note of the constituent entities all being State Authorities. Needless to state that if the Chief Secretary, Government of Karnataka, is of the opinion that the matter cannot be resolved due to any legal impediment and is a matter to be decided by the Court, the matter may be referred back to the Court.

11. All contentions of the parties are kept open. It is clarified that all disputes and contentions of the petitioner and respondents which is the subject matter of present proceedings, stand referred to the Committee referred to above. The Chief Secretary, Government of Karnataka to endeavour to resolve the dispute within a period of 3 months from the date of receipt of copy of this order.

12. The above approach is not only the mandate of the law, but would go a long way towards avoiding disputes between State and its entities contributing to increased work load. Further, differences between State



and its entities ought to be resolved in a separate platform and cannot land up for adjudication before the Courts which even otherwise are over burdened. The State and its entities are to contribute to lowering matters that end up before Courts for adjudication in a meaningful manner.

13. Reserving liberty as mentioned above, the present petition is ***disposed off***.

Sd/-
JUDGE

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