



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 14TH DAY OF JULY 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 791 OF 2025 (LA-RES)

BETWEEN:

1. SRI V SREENIVASAIAH
S/O LATE VENKATAPPA
AGED ABOUT 63 YEARS
R/AT HOSAHALLI VILLAGE
BENGALURU SOUTH TALUK
BENGALURU-560 109

...APPELLANT

(BY SMT. MAHALAKSHMI PAVANI, SENIOR ADVOCATE
AND SMT. ANITHA SHENOY, SENIOR ADVOCATE FOR
SRI SRIKANTH M, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP BY CHIEF SECRETARY
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BENGALURU-560 001
2. THE PRINCIPAL SECRETARY
REVENUE SECRETARIAT
GOVERNMENT OF KARNATAKA
5TH FLOOR, M S BUILDING
DR. AMBEDKAR VEEDHI
BENGALURU-560 001



3. THE SPECIAL DEPUTY COMMISSIONER
BENGALURU DISTRICT
KANDAYA BHAVANA
K G ROAD
BENGALURU-560 009
4. THE SPECIAL LAND ACQUISITION OFFICER
BENGALURU SOUTH SUB-DIVISION
3RD FLOOR, PODIUM BLOCK
VISVESWARAIAH TOWER
DR. AMBEDKAR VEEDHI
BENGALURU-560 001
5. THE PRESIDENT
EX-SERVICEMEN HOUSE BUILDING
CO-OPERATIVE SOCIETY LTD.,
NO.652/B, 2ND FLOOR
DR. RAJKUMAR ROAD, 2ND STAGE
RAJAJINAGAR
BENGALURU-560 010
6. SRI B R LAKSHMIKANTH
S/O RANGASHETTY
AGED MAJOR
REAL ESTATE AGENT
M/S BANGALORE ENGINEERING
CONTRACTOR
C/O DOSHI INDUSTRIES
NO.17, VISWA GANDHI COMPLEX
GUNDOPANTH STREET
BENGALURU-560 002
7. THE REGISTRAR OF CO-OPERATIVE
SOCIETIES IN KARNATAKA
GOVERNMENT OF KARNATAKA
NO.1, ALI ASKAR ROAD
BENGALURU-560 052
8. THE COMMISSIONER
BENGALURU DEVELOPMENT AUTHORITY
KUMARA PARK WEST
BENGALURU-560 020

9. THE INSPECTOR GENERAL
OF REGISTRATION AND
COMMISSIONER OF STAMPS
GOVERNMENT OF KARNATAKA
CAUVERY BHAVAN
BENGALURU-560 009

10. THE TAHSILDAR
BENGALURU SOUTH TALUK
KANDAYA BHAVANA
K G ROAD
BENGALURU-560 009

...RESPONDENTS

(BY SRI M N SUDEV HEGDE, AGA FOR R-1 TO 4, R-7, R-9
AND R10;
SRI S S NAGANAND, SENIOR ADVOCATE FOR
SRI K R KRISHNA MURTHY, ADVOCATE FOR R-5;
SRI MURUGESH V CHARATI, ADVOCATE FOR R-8)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER DATED
25.02.2025 PASSED BY THE LEARNED SINGLE JUDGE IN W.P.
NO.2228/2022 AND CONSEQUENTLY ALLOW THE WRIT
PETITION.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 04.06.2026, COMING ON FOR
PRONOUNCEMENT THIS DAY, **HON'BLE MR. JUSTICE
D K SINGH** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE D K SINGH)

PREFACE:-

1. The present intra Court appeal has been filed impugning the judgment and order dated 25.02.2025 passed by the writ Court in W.P.No.2228/2022 (LA-RES) filed by the appellant. The appellant has challenged the land acquisition proceedings in respect of the land measuring 5 acres 30 guntas in Sy.No.1/1A and land measuring 4 acres 31 guntas in Sy. No.1/3 both situated at Hosahalli Village, Uttarahalli Hobli, Bengaluru South Taluk.

2. The learned Single Judge vide impugned order has dismissed the writ petition with cost of Rs.1,50,000/- payable to the High Court Legal Services Committee as in the opinion of the learned Single Judge, the writ petition filed by the petitioner was on superfluous and vexatious grounds.

FACTS:

3. It would be apt to note the brief facts relevant for the purpose of decision in this appeal. The Government had issued

Preliminary Notification dated 23.09.1988 under Section 4 (1) of the Land Acquisition Act, 1894 (hereinafter referred to as 'the LA Act', for brevity) to acquire 41 acres 7 guntas of land in the said village, including the lands in Sy.No.1/1A measuring 5 acres 30 guntas and Sy.No.1/3 measuring 4 acres 31 guntas of the appellant's father for allotment of sites to the members of the Ex-serviceman House Building Co-operative Society, Bengauluru (hereinafter referred to as 'the Society'). The Final Notification under Section 6(1) of the LA Act was issued on 11.10.1989 in respect of the said lands.

4. The appellant's father Sri. Venkatappa passed away on 05.03.1989 due to old age ailments and the appellant was at Mysuru, K.R.pet on service and the appellant was away from Bengaluru. According to the appellant neither he nor his father or brother were aware of the land acquisition proceedings and passing of the draft award dated 26.03.1990. As soon as the appellant came to know about the land acquisition proceedings in respect of the aforesaid land, the appellant along with his brother Sri V.Mohan Kumar challenged the land acquisition proceedings by filing the writ petition Nos.35685-35686/1995. The said writ petitions came to be dismissed by this Court vide

order dated 28/31.01.1997 on the ground of inordinate delay and laches.

5. During the pendency of the W.P.Nos.35685-35686/1995, the Assistant Commissioner has initiated *suo moto* proceedings under the provisions of the Karnataka Scheduled Castes and Scheduled Tribes (Prohibition of Transfer of Certain Lands) Act, 1978 (hereinafter referred to as 'the PTCL Act')/Land Reforms Act, 1961 in case No.6/96-97 in respect of the land in question for violation of the provisions of the PTCL Act. The Assistant Commissioner dismissed the case. On appeal, the case was remanded back to the Assistant Commissioner, however, once again the Assistant Commissioner dropped the proceedings and the appeal preferred before the Deputy Commissioner by the appellant came to be dismissed. The order passed by the Deputy Commissioner was challenged before this Court in W.P.No.27298/2004 declaring the transactions of land between the respondent No.5-Society and respondent No.6-Real Estate agent as void under the provisions of the PTCL Act. However, the said petition came to be dismissed on 01.12.2008 and subsequently W.A.No.369/2009 was also dismissed. The SLP(Civil) No.10641/2011 filed against the order passed in the writ appeal was also dismissed by the order dated 25.04.2011.

These *suo motu* proceedings, the writ petitions, writ appeals and SLP were in respect of the proceedings pertaining to the provisions of the PTCL Act and Land Reforms Act and in those proceedings, the land acquisition proceedings were not the subject matter.

6. The petitioner thereafter filed another writ petition in W.P.No.36564/2012 seeking a direction to consider his representations and not to proceed further in any manner in terms of the acquisition proceedings. The said writ petition came to be dismissed by the order dated 20.05.2014 on the ground of *res judicata*. Against this, appeal was preferred in W.A.No.1517/2014, which also came to be dismissed on 17.02.2020 on the ground of *res judicata* with cost of Rs.1,00,000/-. It may be noted that no counter/response was filed by the State Government and the respondent No.4-Special Land Acquisition Officer (SLAO) in the aforesaid proceedings. The orders passed by the writ Court and the Division Bench were challenged before the Supreme Court in SLP No.8792/2020, which also came to be dismissed in *limine* vide order dated 26.10.2020. A review petition in R.P.No.297/2020 seeking review of the order passed in W.A.No.1517/2014 was also dismissed.

7. The petitioner thereafter had filed W.P. No.2228/2022 on the ground that in view of the provisions of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Act 2013') the Land acquisition proceedings in respect of the land in question had lapsed, in view of the law laid down by the Supreme Court in **INDORE DEVELOPMENT AUTHORITY vs. MOHANLAL AND OTHERS [(2020) 8 SCC 129]**. The said writ petition has been dismissed as stated above with cost of Rs.1,50,000/-.

SALIENT FEATURES:

8. One Lakshmikanth S/o B. Rangashetty, proprietor of M/s Bengaluru Engineering Contractor was the promoter of the Society. He gave an undertaking before the SLAO that he had got the agreements for the purchase of the lands which were the subject matter of acquisition proceedings including the appellant's land. It was further stated that in pursuance to the agreements to the landlords and GPA handed over in respect of the land's subject matter of the acquisition proceedings, he assured the SLAO, Bangalore Sub-Division to protect the land handed over to the Society. This undertaking was given by said B. R. Lakshmikanth on 23.02.1991. The said Lakshmikanth is

absconding even today. The whole land acquisition proceedings were initiated on behest of the said Lakshmikanth for the respondent No.5-Society. The said Lakshmikanth has withdrawn the award amount in respect of the lands in question and no compensation has been paid to the appellant in respect of the lands of the appellant. It is evident from the intimation letter dated 09.02.2023 (Annexure-Y2) of the SLAO that there is no record available indicating that the land owner had consented to the land compensation amount in respect of the lands in Sy No.1/1A and 1/3 of Hosahalli Village, Uttarahalli Hobli, Bengaluru South. It is specifically stated that there is no information available on the files regarding the consent given by the landowners to receive the land compensation by B.R.Lakshmikanth or respondent no. 6 or the payment made to the landowners or deposit made in the Court.

9. As per the affidavit filed by the SLAO dated 29.01.2025 in W.P.No.2228/2022 (LA), it is stated that the land in question is a gated area covered with sheet scaffolding around the entire extent on its periphery and no layout, housing sites have been formed thereon nor any development has been made by the Ex-Servicemen's Housing Building Cooperative Society. It has been further stated that the appellant/landowners have

constructed a few houses in one portion of the lands and they are in occupation and physical possession of the said lands. The lands have not been utilized for the purpose for which same was required i.e., for the benefit of the society for formation of the house sites. In the remaining vacant area, trees and plants have grown on the said lands.

10. Thus, the physical possession of the land in question has always been with the appellant and the physical possession has not been taken from the appellant. But another interesting feature is that the compensation so determined in the alleged consent award was not paid by the State Exchequer but by the Society itself and the promoter of the society had withdrawn the said compensation from the society itself i.e., the Society has paid compensation to itself inasmuch as the award amount has been withdrawn by its promoter himself on the basis of the alleged non-existent power of attorney or consent letter which is evident from the letter of intimation dated 09.02.2023.

11. The G. V. K. Rao Committee was constituted by the Government for the purposes of examining the genuineness of the housing societies who have applied for allotment of the lands and the legality of the allotment made in favour of such

societies. In respect of respondent No.5- Society, the important findings of the committee were:-

a. The Society was registered in the year 1973 which has a total membership of 1,823. The ex-servicemen in this society are not more than 50.

b. The Society has admitted large number of persons residing outside the jurisdiction of the Society. Even the members of the Committee of Management are not from the jurisdiction of the Society.

c. The society had entered into an agreement in the year 1983 with Sri. B R Lakshmikanth for acquiring about 106 acres of land situated at Harohalli Village at the rate of Rs.44.50 per square yard of the sital area. The Society had already paid about Rs.39.5 lakhs to the agent. Though the Notification under Section 4(1) was not yet issued in respect of any land, the Society had paid full consideration for 30 acres allegedly to the landlords and obtained General Power of Attorney on the names of the different directors of the Society. The Society had already collected 2 installments of Rs.14,000/- each for a site of 50x80 from the persons applied for allotment of the site even before initiation of acquisition proceedings. The land proposed to be acquired by the Society was situated

outside the jurisdiction and the acquisition would be in violation of the law and Society cannot acquire the land and form the layout. This would be a violation of the byelaws.

12. The Special District Officer (Revenue), Bangalore District, Bangalore vide letter dated 07.01.2008 informed the Principal Secretary, Revenue Department, Government of Karnataka in respect of the land in question that no sites were formed, currently the trees and plants had grown in the barren land and the land owners were cultivating crops on some part. The society has not utilized the land for the intended purpose of acquisition and was selling plots to non-ex-servicemen for higher prices.

13. Again vide letter dated 07.08.2021 (Annexure-J) the SLAO had stated that the lands in Sy No.1/1A measuring 5 acres 30 guntas and in Sy No. 1/3 measuring 4 acres 31 guntas in Hosahalli Village, Uttarahalli, Bangalore South Taluk, were in possession of the appellant-V. Sreenivasaiah and crops have been grown in many parts of the land and there are plants and trees which have come upon the said land and there is house and sheds of labours to the East of Sy No.1/1A which are constructed by the appellant and the land owner had developed

3 acres of the said land. It was further stated that the Ex-Servicemen House Building Cooperative Society had not done any developmental work nor formed any site on the said land of the petitioner.

14. A FIR came to be registered on 23.11.2023 on the complaint of the appellant alleging that the office-bearers of the respondent No.5-Society, by falsely projecting it as an Ex-Servicemen Housing Society, procured acquisition of his lands without issuing notice or conducting any enquiry, fabricated a consent award, and failed to pay or deposit compensation in accordance with law. He further alleged that he continued to remain in possession of the property, which was confirmed during the spot inspection conducted on 04.08.2021, and that the report dated 09.02.2023 disclosed that no compensation had been paid, thereby seeking criminal action against the office-bearers of the Society for fraud and fabrication of records.

15. Another FIR dated 06.08.2024 came to be registered on the complaint of Mr. Sanjeevarayappa T., Police Inspector, STF & Vigilance, Bangalore Development Authority, alleging that the respondent No.5-Society had fraudulently obtained acquisition

of approximately 41 acres 07 guntas of land by falsely representing itself as an Ex-servicemen House Building Co-operative Society, though only a negligible number of its members were ex-servicemen. It was further alleged that the Society formed and allotted sites without obtaining the requisite layout approval or work order from the Bangalore Development Authority, violated the directions of the Registrar of Co-operative Societies, fabricated documents, allotted sites to ineligible persons and non-members, and thereby caused substantial loss to the State exchequer, warranting criminal action against the office-bearers of the respondent No.5-Society.

FINDINGS OF THE LEARNED SINGLE JUDGE:

16. The learned Single Judge, upon considering the submissions and the material placed on record, held that the acquisition proceedings had attained finality long ago and, therefore, could not be reopened by invoking Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (hereinafter referred to as 'the Right to Fair Compensation Act'). Placing reliance upon paragraph 366.9 of the Constitution Bench judgment in Indore Development Authority v. Manoharlal

(*supra*), it was held that Section 24(2) does not confer a fresh cause of action to reopen concluded acquisition proceedings or revive stale and time-barred claims.

17. The learned Single Judge further held that the appellant and his predecessor-in-interest had unsuccessfully challenged the acquisition in several earlier proceedings before this Court as well as the Hon'ble Supreme Court. It was accordingly held that the validity of the acquisition had already attained finality and the appellant was precluded from reopening the same by placing reliance upon Section 24(2) of the Right to Fair Compensation Act.

18. The learned Single Judge took note of the endorsement dated 09.02.2023 issued by the SLAO stating that the records pertaining to the consent award, payment of compensation and deposit of compensation before the jurisdictional Court were not available. The learned Single Judge also took note of the affidavit filed by the SLAO pursuant to the order dated 13.12.2024, wherein it was stated that no layout had been formed on the acquired land; that the lands continued to remain enclosed by a compound wall; and that the appellant

and certain other landowners had put up residential constructions over portions of the acquired land.

19. The learned Single Judge held that the affidavit filed by the SLAO was inconsistent with the stand taken by the State in the earlier rounds of litigation and was contrary to the official records relied upon during those proceedings. Taking serious note of the contradictory stand adopted by the concerned officer, the learned Single Judge directed the Chief Secretary to the Government of Karnataka to initiate a departmental enquiry against the officer concerned.

20. However, notwithstanding the aforesaid observations, the learned Single Judge held that the subsequent developments could not dilute the effect of the earlier judicial pronouncements upholding the acquisition. Consequently, the writ petition came to be dismissed with costs of ₹1,50,000/- payable to the Karnataka High Court Legal Services Committee.

SUBMISSIONS ON BEHALF OF THE APPELLANT:

21. The learned Senior Counsel appearing for the appellant assailed the impugned judgment and order passed by the learned Single Judge contending that the writ petition has been dismissed by treating the appellant's claim as one founded

exclusively under Section 24(2) of the Right to Fair Compensation Act, without appreciating the true nature of the challenge. It was submitted that the foundation of the writ petition was not merely the plea of lapse under Section 24(2) of the Right to Fair Compensation Act, but the subsequent material which has come to light and which, according to the appellant, casts serious doubt on the very legitimacy of the acquisition proceedings.

22. The learned Senior Counsel submitted that the appellant has not sought to reopen the acquisition merely because considerable time has elapsed, but on the grounds of subsequent developments which were neither available nor considered during the earlier rounds of litigation. It was contended that the endorsement dated 09.02.2023 issued by the SLAO, stating that the records pertaining to the consent award, payment of compensation and deposit of compensation before the jurisdictional Court were not available, fundamentally alters the factual foundation on which the acquisition had been defended in the previous proceedings. The learned Senior Counsel further submitted that once the acquiring authority itself expressed its inability to produce the records forming the basis of the acquisition, the learned Single

Judge ought to have examined the consequences flowing therefrom instead of dismissing the writ petition solely on the ground of finality.

23. It was further submitted that the affidavit filed by the SLAO pursuant to the order dated 13.12.2024 disclosed that no layout had been formed on the acquired lands, no sites had been allotted by the beneficiary Society and that substantial portions of the land continued to remain in the occupation of the landowners, who had put up residential constructions. These statements were wholly inconsistent with the stand adopted by the respondents in the earlier proceedings, wherein it was repeatedly asserted that possession had been taken, the acquisition had attained finality and the lands had been handed over to the beneficiary Society. It was contended that the learned Single Judge, having noticed these inconsistencies and having directed initiation of departmental enquiry against the concerned officer, could not have simultaneously declined to examine the effect of such material while adjudicating the writ petition.

24. The learned Senior Counsel further contended that the report submitted by the GVK Rao Committee, constituted by

the State Government to enquire into the affairs of House Building Co-operative Societies was submitted after conducting a detailed enquiry and serious irregularities in the functioning of the respondent No.5-Society were recorded. The Committee found that a large number of ineligible persons had been enrolled as members; the bye-laws of the Society were inconsistent with its stated object; exorbitant amounts had been collected from members even before the acquisition proceedings had substantially progressed; and lands situated outside the territorial jurisdiction of the Society had been identified for acquisition. The Committee ultimately recommended that the proposed acquisition in favor of the Society be dropped. The learned Senior Counsel also submitted that these findings strike at the very foundation of the public purpose for which the acquisition was undertaken and could not have been ignored by the learned Single Judge.

25. It was further contended that the subsequent material placed on record, the endorsement dated 09.02.2023 and the affidavit of the SLAO constitute circumstances which were not available during the earlier rounds of litigation. Consequently, the principles of *res judicata* and finality of litigation would have no application to issues arising from facts that surfaced only

subsequently. It was submitted that the learned Single Judge failed to appreciate that the appellant was not seeking to re-agitate issues already concluded by earlier judgments, but was inviting judicial scrutiny of subsequent events having a direct bearing on the legality of the acquisition proceedings.

26. Placing reliance upon the decisions of the Hon'ble Supreme Court in S.P. Chengalvaraya Naidu v. Jagannath (dead) by LRs and Others [(1994) 1 SCC 1], A.V. Papayya Sastry and Others v. Government of Andhra Pradesh and Others [(2007) 4 SCC 221] and Meghmala and Others v. G. Narasimha Reddy and Others [(2010) 8 SCC 383], learned Senior Counsel submitted that where the foundation of an action is alleged to be tainted by fraud, suppression of material facts or misrepresentation, the Court is duty-bound to examine the surrounding circumstances before declining relief on the ground of finality.

SUBMISSIONS ON BEHALF OF THE STATE:

27. The learned AGA appearing for the State supported the judgment and order dated 25.02.2025 passed by the learned Single Judge and submitted that the acquisition proceedings initiated under the provisions of the Land Acquisition Act, 1894

had attained finality long ago and, therefore, the appellant could not be permitted to reopen the same by invoking Section 24(2) of the Right to Fair Compensation Act. It was submitted that the validity of the acquisition had been upheld in successive rounds of litigation before this Court as well as the Hon'ble Supreme Court and the controversy, having attained finality, could not be reagitated under the guise of subsequent developments.

28. The learned AGA submitted that the learned Single Judge has rightly placed reliance upon paragraph 366.9 of the Constitution Bench judgment in *Indore Development Authority v. Manoharlal (supra)* to hold that Section 24(2) of the Right to Fair Compensation Act does not create a fresh cause of action to reopen concluded acquisition proceedings. It was contended that the appellant, having unsuccessfully challenged the acquisition on several earlier occasions, is precluded from questioning the validity of the acquisition once again by merely changing the nature of the relief sought.

29. With regard to the affidavit filed pursuant to the order dated 13.12.2024, learned AGA submitted that due to inadvertence, the concerned officer has stated the status of the

land instead of stating whether possession has been taken or not. He further submitted that the observations made by the learned Single Judge concerning the conduct of the concerned officer and the consequential directions for initiation of departmental enquiry were independent of the adjudication of the writ petition and had no bearing on the legality of the acquisition proceedings. It was contended that the learned Single Judge, notwithstanding the said directions, rightly held that the writ petition was liable to be dismissed in view of the binding principles laid down by the Constitution Bench in Indore Development Authority (*supra*).

SUBMISSIONS ON BEHALF OF RESPONDENT NO.5 – SOCIETY:

30. The learned Senior Counsel appearing for Respondent No.5–Society adopted the submissions advanced on behalf of the State and further submitted that the acquisition proceedings had been concluded more than three decades ago. It was contended that pursuant to the preliminary notification dated 23.09.1988 and the final declaration dated 11.10.1989, a consent award was passed on 23.03.1990, possession was taken and the acquired lands were handed over to the beneficiary Society on 23.01.1991. Consequently, the land

stood vested in the State free from all encumbrances and no right survived in favor of the appellant.

31. The learned Senior Counsel submitted that the legality of the acquisition had been examined in several rounds of litigation initiated by the appellant and his predecessor-in-interest before this Court as well as the Hon'ble Supreme Court. Each of the challenges culminated in dismissal, thereby affirming the acquisition proceedings. It was contended that the appellant cannot be permitted to circumvent the binding effect of those judgments by relying upon subsequent events which, according to the Society, do not in any manner affect the validity of the acquisition.

32. With regard to the GVK Rao Committee Report, learned Senior Counsel submitted that the report merely contains certain recommendations concerning the administration and functioning of the Society and does not determine the legality of the acquisition proceedings undertaken by the State. It was contended that the recommendations contained in the report were never accepted by the Government so as to invalidate the acquisition and, therefore, the appellant cannot derive any benefit therefrom.

33. The learned Senior Counsel further submitted that the endorsement dated 09.02.2023 issued by the SLAO merely records the present status of the office records and cannot be construed as evidence that the acquisition proceedings were not completed in accordance with law.

34. It was further submitted that the allegations of fraud are wholly unfounded and unsupported by any cogent material. The learned Senior Counsel also submitted that the appellant seeks to infer fraud merely from subsequent developments without establishing any deliberate suppression, fabrication or deception in the acquisition proceedings. It was contended that in the absence of clear and convincing evidence, the settled rights flowing from concluded acquisition proceedings cannot be unsettled. Learned Senior Counsel, therefore, prayed for dismissal of the appeal.

POINTS FOR CONSIDERATION:

35. The following points arise for our consideration:

(i) Whether the material placed on record discloses sufficient circumstances to warrant judicial scrutiny on the ground of fraud, suppression of material facts and manipulation of official records?

(ii) Whether the present appeal is barred by the principles of *res judicata* and finality of litigation in view of the earlier rounds of proceedings?

(iii) Whether the decision of the Supreme Court in ***Indore Development Authority v. Manoharlal and Others [(2020) 8 SCC 129]*** bars the present proceedings?

ANALYSIS AND CONCLUSION:

36. **Re. Point No.1:** The dispute in the present appeal does not arise merely because the appellant seeks to reopen acquisition proceedings which have been the subject matter for several decades. The foundation of the present case rests upon subsequent material which admittedly surfaced long after the earlier rounds of litigation had concluded. The appellant relies upon the report of the GVK Rao Committee, the endorsement dated 09.02.2023 issued by the SLAO, the affidavit filed pursuant to the order of the learned Single Judge and the consequential directions issued by the learned Single Judge for initiation of departmental enquiry and consideration of contempt proceedings. The issue, therefore, is whether these materials, viewed cumulatively, disclose circumstances requiring judicial scrutiny.

37. The acquisition proceedings were initiated by issuance of the preliminary notification dated 23.09.1988 followed by the final declaration dated 11.10.1989. According to the respondents, a consent award was passed on 26.03.1990, notification under Section 16(2) of the Land Acquisition Act was issued on 26.02.1991, and possession was thereafter handed over to the beneficiary Society. The legality of the acquisition was examined in several earlier proceedings and ultimately attained finality. It is equally true that none of those proceedings proceeded on the basis of the material which has subsequently come on record and forms the basis of the present appeal.

38. The first circumstance which assumes significance is the report submitted by the GVK Rao Committee constituted by the State Government to enquire into the functioning of House Building Co-operative Societies. Insofar as the respondent No.5-Society is concerned, the Committee recorded serious irregularities relating to its constitution and functioning. The Committee found that a substantial number of persons admitted as members were ineligible under the bye-laws; that the bye-laws themselves were inconsistent with the avowed object of the Society; that substantial amounts had been

collected from members even before acquisition proceedings had substantially progressed; and that the lands proposed for acquisition were situated beyond the territorial jurisdiction of the Society. The Committee ultimately recommended that the proposed acquisition in favour of the Society be dropped and that the Society either identify lands falling within its jurisdiction or refund the amounts collected from its members.

39. It is no doubt true that the GVK Rao Committee Report does not, by itself, invalidate the acquisition proceedings. However, it cannot be brushed aside as being wholly irrelevant. The report was prepared by a Committee constituted by the State Government itself to examine the functioning of House Building Co-operative Societies. The findings recorded therein constitute an important piece of contemporaneous material regarding the manner in which the beneficiary Society conducted its affairs. The report, therefore, assumes relevance while appreciating the material placed before the Court.

40. The second circumstance is the endorsement dated 09.02.2023 issued by the SLAO. The endorsement states that the records relating to the consent award, payment of compensation and deposit of compensation before the

jurisdictional Court were not available. These are not peripheral documents. They constitute the very foundation of the respondents' case that the acquisition proceedings had culminated in accordance with law. The inability of the acquiring authority to trace or produce such records does not, by itself, establish that the acquisition is vitiated. Nevertheless, where the existence and completion of statutory proceedings are asserted on the basis of official records, the subsequent disclosure that such records are unavailable is undoubtedly a circumstance which cannot be ignored. It warranted a careful examination of its implications rather than summary rejection.

41. The third circumstance is that the compensation so determined in the alleged consent award was paid by the society and not by the State and it was withdrawn by its promoter himself, who is absconding, on the basis of an alleged power of attorney which does not exist. Thus, Society paid compensation to itself, if any, and not to the owner of the land. Even where the land/property is acquired in exercise of power of eminent domain by the State, the compensation has to be paid by the State otherwise the acquisition would be illegal, unconstitutional and get vitiated. The payment of compensation must be real and not illusory. Section 31 of the Land

Acquisition Act, 1894 specifically provides that on making an award under Section 11, the Collector shall tender payment of compensation awarded by him to persons interested. In **PUNE MUNICIPAL CORPORATION AND ANOTHER vs HARAKCHAND MISIRIMAL SOLANKI AND OTHERS [(2014) 3 SCC 183]** the Supreme Court held that the Collector must tender payment to the persons entitled as soon as the award is made, unless prevented by contingency. The relevant paragraphs are extracted hereunder:

"14. Section 31(1) of the 1894 Act enjoins upon the Collector, on making an award under Section 11, to tender payment of compensation to persons interested entitled thereto according to award. It further mandates the Collector to make payment of compensation to them unless prevented by one of the contingencies contemplated in sub-section (2). The contingencies contemplated in Section 31(2) are: (i) the persons interested entitled to compensation do not consent to receive it, (ii) there is no person competent to alienate the land, and (iii) there is dispute as to the title to receive compensation or as to the apportionment of it. If due to any of the contingencies contemplated in Section 31(2), the Collector is prevented from making payment of compensation to the persons interested who are entitled to compensation, then the Collector is required to deposit the compensation in the court to which reference under Section 18 may be made.

15. *Simply put, Section 31 of the 1894 Act makes provision for payment of compensation or deposit of the same in the court. This provision requires that the Collector should tender payment of compensation as awarded by him to the persons interested who are entitled to compensation. If due to happening of any contingency as contemplated in Section 31(2), the compensation has not been paid, the Collector should deposit the amount of compensation in the court to which reference can be made under Section 18.*

18. *The 1894 Act being an expropriatory legislation has to be strictly followed. The procedure, mode and manner for payment of compensation are prescribed in Part V (Sections 31-34) of the 1894 Act. The Collector, with regard to the payment of compensation, can only act in the manner so provided. It is settled proposition of law (classic statement of Lord Roche in Nazir Ahmad [Nazir Ahmad v. King Emperor, (1935-36) 63 IA 372 : (1936) 44 LW 583 : AIR 1936 PC 253 (2)]) that where a power is given to do a certain thing in a certain way, the thing must be done in that way or not at all. Other methods of performance are necessarily forbidden."*

42. In this case, the compensation was not deposited with the State for making payment by the Collector to the land losers. Mr. M.N. Sudev Hegde, learned AGA fairly conceded that the amount of compensation was not deposited with State

for making payment by the Collector/Deputy Commissioner to the land losers whose land was purportedly acquired.

43. The significance of the endorsement becomes strong when viewed alongside the affidavit filed by the SLAO pursuant to the order dated 13.12.2024. In the said affidavit, it was stated that no layout had been formed on the acquired lands, no sites had been allotted by the beneficiary Society and that portions of the land continued to remain under the occupation of the appellant and other landowners, who had raised residential constructions. These statements presented a factual position which was contrary to the premise on which the acquisition had been defended in the earlier proceedings. Whether such contradiction could ultimately displace the legal consequences of vesting is a matter requiring adjudication. However, the existence of such inconsistencies could not have been disregarded while examining the challenge laid by the appellant.

44. The learned Single Judge also found the explanation offered by the concerned officer to be unsatisfactory. The order directing initiation of departmental enquiry and directing the Registry to place the matter before the appropriate Bench for

consideration of contempt proceedings is itself indicative of the seriousness. These directions were not issued in vacuum. They were founded upon the inconsistencies noticed in the material placed before the Court. Once the learned Single Judge found the official explanation to be sufficiently doubtful to warrant departmental action, the legal effect of the very same material required closer examination while deciding the writ petition.

45. The respondents have contended that the earlier rounds of litigation conclude the matter and that the subsequent material cannot be permitted to unsettle rights which have attained finality. The submission, in our considered opinion, overlooks the cumulative effect of the material available on record. The GVK Rao Committee Report exposing serious irregularities in the affairs of the respondent No.5-Society, the endorsement dated 09.02.2023 issued by the SLAO acknowledging the non-availability of the records relating to the consent award, non-payment of compensation and non-deposit before the jurisdictional Court, the contradictory stand thereafter taken by the very same authority before the learned Single Judge, and the findings recorded in the impugned judgment leading to the direction for initiation of departmental enquiry against the concerned officer, when read together,

cannot be dismissed as isolated discrepancies or administrative lapses. They disclose a consistent pattern of suppression, concealment and manipulation of official records.

46. The Supreme Court in case of **SATLUJ JAL VIDYUT NIGAM vs RAJ KUMAR RAJINDER SINGH [(2019) 14 SCC 449]** categorically held as under:

"68. Fraud vitiates every solemn proceeding and no right can be claimed by a fraudster on the ground of technicalities. On behalf of the appellants, reliance has been placed on the definition of "fraud" as defined in Black's Law Dictionary, which is as under:

"Fraud: (1) A knowing misrepresentation of the truth or concealment of a material fact to induce another to act to his or her detriment. Fraud is usually a tort, but in some cases (esp. when the conduct is wilful) it may be a crime.

(2) A misrepresentation made recklessly without belief in its truth to induce another person to act. (3) A tort arising from a knowing misrepresentation, concealment of material fact, or reckless misrepresentation made to induce another to act to his or her detriment. (4) in contract law, the Unconscionable dealing; esp., unconscientious use of the power arising out of the parties' relative positions and resulting in an unconscionable bargain."

47. In case of **SRI KRISHNA REDDY AND OTHERS vs STATE OF KARNATAKA AND OTHERS [W.A.99/2013]**, the

Division Bench of this Court held that where the power of acquisition is exercised for a collateral purpose, or where the professed public purpose is merely a device to transfer land to private hands, such exercise would amount to a colourable exercise of power and a fraud on the statute, warranting interference by the Court. The relevant paragraphs are extracted hereunder:

"50. *It is no longer res integra that if the fraud is the basis for the decision of the authority and even the matter had attained finality by the decision of the Competent Court, if the fraud is detected later, such a decision of the Government authority is to be declared as void because fraud vitiates every judicial act and finality of litigation cannot be invoked to permit ongoing or irrevocable wrongful consequences. The core principle is that the fraud defeats the validity of judicial acts and once fraud is established, the decision can be recalled or set aside notwithstanding prior finality.*

52. *The Courts and Tribunals have inherent power to recall their own orders or judgments if those orders were obtained by fraud, even when statutory review is not available or has been exhausted (MEGHMALA vs NARASIMHA REDDY ([2010] 8 SCC 383); HAMZA HAJI vs STATE OF KERALA ([2006] 7 SCC 416); INDIAN BANK vs SATYAM FIBRES (INDIA) PRIVATE LIMITED ([1996] 5 SCC 550).*

55. *The finality does not immunize fraud. Even where a Competent Court has rendered a final decision, fraud discovered later can invalidate that decision and permit*

recall or correction. The finality of judicial proceedings cannot cure fraud and the fraud, if discovered later, is a ground to reopen or declare a final decision as void."

48. In case of **RAM CHANDRA SINGH V. SAVITRI DEVI [(2003) 8 SCC 319]**, it was observed that fraud vitiates every solemn act. Fraud and justice never dwell together and it cannot be perpetuated or saved by the application of any equitable doctrine including res judicata. The Supreme Court held as under:

"33. Once it is held that a judgment and decree has been obtained by practising fraud on the court, it is trite that the principles of res judicata shall not apply. The High Court, therefore, in our opinion committed a serious error in referring to the earlier orders passed by it so as to shut the doors of justice on the face of the appellant for all times to come. We, therefore, are of the opinion that the impugned judgment dated 10-12-1998 cannot be sustained."

49. Similarly, in the case of **A.V. PAPAYYA SASTRY vs GOVERNMENT OF A.P. [(2007) 4 SCC 221]** the Supreme Court held that:

"22. It is thus settled proposition of law that a judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non est in the eye of the law. Such a judgment, decree or order-by the first court or by the final court-

has to be treated as nullity by every court, superior or inferior. It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings."

50. What prompted us to go in deep and examine the records minutely is that the appellant is approaching this Court even when he has suffered adverse judgment with costs on earlier two occasions. He has run the risk of coming before this Court in the aforesaid writ petition which got dismissed with cost of Rs. 1,50,000/-. No person takes the risk of getting severe costs imposed, unless he is seriously aggrieved for some grave wrong and non-consideration of his grievance of the alleged fraud.

51. Fraud, suppression of material facts and manipulation of official records rarely admit to direct evidence. The existence of such circumstances is ordinarily discerned from the cumulative effect of the documentary material and the conduct of the parties. We are, therefore, of the considered view that the material placed on record does not merely warrant judicial scrutiny but affirmatively establishes that the acquisition proceedings stood vitiated by fraud, suppression of material facts and manipulation of official records. Since fraud strikes at the very root of every judicial and administrative action, the

respondents cannot derive any advantage from the earlier proceedings founded upon such tainted material.

52. **Re. Point No.2:** At the outset, it is necessary to consider the respondents' preliminary objection that the present appeal is barred by the principles of *res judicata* and finality of litigation, as the appellant has unsuccessfully challenged the acquisition proceedings on earlier occasions. However, equally well-settled is the principle that fraud constitutes an exception to every rule of finality.

53. The factual matrix of the present case would indeed disclose that the acquisition proceedings were initiated in the year 1988 and have been the subject matter of repeated litigation. The respondents have consistently relied upon the alleged consent award dated 26.03.1990, the taking of possession on 23.01.1991, the issuance of notification under Section 16(2) on 26.02.1991, and the delivery of possession to the beneficiary Society to contend that the acquisition proceedings stood concluded decades ago. It is also true that the appellant had approached this Court in earlier proceedings, including W.P. Nos. 35685-35686/1995, which came to be dismissed on 28/31.01.1997 on the ground of delay and laches

without adjudicating upon the allegations of fraud. Significantly, the order passed while speaking to the minutes on 11.01.1995 expressly clarified that no opinion had been expressed on the allegation of fraud. Thereafter, the appellant unsuccessfully prosecuted further proceedings culminating in dismissal of the writ appeals, the Special Leave Petition and the Review Petition.

54. However, the dispute in the present appeal cannot be viewed merely through the prism of repeated litigation. The appellant does not seek a mere reconsideration of issues which stood concluded in the earlier proceedings. The foundation of the present appeal rests upon subsequent events which, according to the appellant, fundamentally undermine the factual basis on which the earlier judgments proceeded. The endorsement dated 09.02.2023 issued by the SLAO stating that no records relating to the consent award, payment of compensation or deposit before the jurisdictional Court were available, the contradictory stand thereafter taken by the very same authority before the learned Single Judge, and the order dated 13.12.2024 directing the concerned officer to file an affidavit regarding the taking of possession, culminated in the learned Single Judge, by the impugned judgment dated

25.02.2025, directing a departmental enquiry against the SLAO and calling upon the Registry to examine initiation of proceedings under the Contempt of Courts Act. These developments were admittedly not the subject matter of the earlier rounds of litigation.

55. The doctrine of *res judicata* proceeds on the premise that the earlier adjudication was rendered on a truthful and complete factual foundation. Where subsequent material emanating from the acquiring authority itself casts serious doubt upon the authenticity of the very records forming the basis of the earlier adjudication, the Court cannot mechanically invoke the doctrine of finality to shut out judicial scrutiny. Fraud, suppression of material facts and fabrication of official records stand on a different footing from a mere challenge to the correctness of an earlier judgment. The Supreme Court has consistently held that fraud vitiates every solemn act and that no judicial order, however final, can be permitted to stand if its very foundation is shown to have been procured by fraud. In the case of ***S.P. CHENGALVARAYA NAIDU (DEAD) BY LRS VS JAGANNATH (DEAD) BY LRS AND OTHERS [(1994) 1 SCC 1]*** the Supreme Court has held that a litigant must disclose all the material documents relevant to the case and

that deliberately suppressing a vital document to obtain an advantage amounts to fraud on the Court. A decree obtained by fraud is non est and may be challenged even in collateral proceedings. The relevant paragraphs are extracted hereunder:

"1. "Fraud avoids all judicial acts, ecclesiastical or temporal" observed Chief Justice Edward Coke of England about three centuries ago. It is the settled proposition of law that a judgment or decree obtained by playing fraud on the court is a nullity and non est in the eyes of law. Such a judgment/decreed — by the first court or by the highest court — has to be treated as a nullity by every court, whether superior or inferior. It can be challenged in any court even in collateral proceedings.

5. The High Court, in our view, fell into patent error. The short question before the High Court was whether in the facts and circumstances of this case, Jagannath obtained the preliminary decree by playing fraud on the court. The High Court, however, went haywire and made observations which are wholly perverse. We do not agree with the High Court that "there is no legal duty cast upon the plaintiff to come to court with a true case and prove it by true evidence". The principle of "finality of litigation" cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants. The courts of law are meant for imparting justice between the parties. One who comes to the court, must come with clean hands. We are constrained to say that more often than not, process of the court is being abused. Property-grabbers, tax-evaders, bank-loan-dodgers and other unscrupulous persons

from all walks of life find the court-process a convenient lever to retain the illegal gains indefinitely. We have no hesitation to say that a person, who's case is based on falsehood, has no right to approach the court. He can be summarily thrown out at any stage of the litigation."

56. The principles of res judicata and finality are intended to advance justice and cannot be invoked to perpetuate an illegality or protect a fraudulent transaction from judicial examination.

57. The Supreme Court, in the recent landmark 3-Judge Bench decision in **VISHNU VARDHAN @ VISHNU PRADHAN vs STATE OF UTTAR PRADESH & OTHERS [2025 SCC OnLine SC 1501]** has unequivocally carved out a broad fraud exception to the "doctrine of merger and finality". The relevant paragraph is extracted hereunder:

"5. The principle of 'finality of litigation' cannot be pressed to the extent of such an absurdity that it becomes an engine of fraud in the hands of dishonest litigants.... fraud and justice cannot dwell together, the legislature never intends to guard fraud, the question of limitation to exercise power does not arise, if fraud is proved, and even finality of litigation cannot be pressed into service to absurd limits when a fraud is unravelled." ..."Nothing... nothing... and nothing, obtained by fraud, can be sustained, as fraud unravels everything."

58. This principle is further reinforced by the Supreme Court in **VIPIN KUMAR V. JAYDEEP & OTHERS, (2025) 6 SCC 465** which held:

"36.... Even the most solemn proceedings stand vitiated if they are actuated by fraud. Fraud is thus an extrinsic collateral act which vitiates all judicial acts, whether in rem or in personam. A judgment, decree or order obtained by playing fraud on the court, tribunal or authority is a nullity and non-est in the eye of the law.... It can be challenged in any court, at any time, in appeal, revision, writ or even in collateral proceedings."

59. In the present case, the subsequent official endorsement dated 09.02.2023, the contradictory pleadings of the acquiring authority, the findings recorded by the learned Single Judge regarding the conduct of the SLAO, and the direction for departmental enquiry collectively constitute fresh material giving rise to a distinct cause for judicial scrutiny. These circumstances *prima facie* indicate that the appellant is not seeking to reagitate issues already adjudicated upon, but is questioning the very factual substratum on which those adjudications rested. Consequently, we are of the considered opinion that the present appeal cannot be rejected on the ground of *res judicata* or finality of litigation.

60. **Re. Point No.3**: The learned Single Judge has primarily rested the impugned judgment upon paragraph 366.9 of the Constitution Bench decision in Indore Development Authority v. Manoharlal (*supra*), holding that Section 24(2) of the Act of 2013 cannot be invoked to reopen concluded acquisition proceedings. The proposition laid down by the Constitution Bench is unexceptionable and continues to hold the field. Section 24(2) cannot be treated as a fresh cause of action for reopening acquisition proceedings which have attained finality.

61. However, the dispute in the present appeal stands on a different footing. The appellant does not merely invoke Section 24(2) as an independent source of relief. The principal allegation is that the very records evidencing the passing of the award, payment of compensation and taking of possession are tainted by fraud and that the earlier judicial proceedings proceeded on a factual foundation which itself is under serious cloud. The Constitution Bench was not concerned with a situation where the validity of the underlying acquisition records themselves was questioned on allegations of fraud. Paragraph 366.9 cannot therefore be read as conferring immunity upon proceedings which are alleged to have been

procured by practicing fraud upon statutory authorities or the Court.

62. The law consistently recognises that fraud vitiates every solemn act and no judgment, however final, can be permitted to survive if its foundation is shown to have been procured by fraud. Consequently, before invoking the embargo contained in paragraph 366.9, the Court must first satisfy itself that the acquisition proceedings are free from allegations of fraud warranting judicial examination. The learned Single Judge, in our considered view, committed an error in applying paragraph 366.9 without first adjudicating this foundational issue.

CONCLUSION:

63. In view of the foregoing discussion, we are of the considered opinion that the material placed on record and the inconsistencies emerging therefrom clearly establishes that the acquisition proceedings were vitiated by fraud, suppression of material facts and manipulation of official records. The learned Single Judge, while noticing these subsequent developments, has committed an error in declining to examine their legal effect by invoking the principles of finality and paragraph 366.9 of the judgment in the case **INDORE DEVELOPMENT**

AUTHORITY (*supra*). The present proceedings are founded upon subsequent material which fundamentally undermines the factual basis of the earlier adjudications and, therefore, are not barred by the principles of *res judicata* or finality of litigation.

64. In view of the aforesaid, we allow this writ appeal granting the prayer sought for and set aside the impugned judgment and order dated 25.02.2025 passed by the learned Single Judge.

In view of disposal of the appeal, pending IAs, if any, do not survive for consideration and accordingly, they stand disposed of.

**Sd/-
(D K SINGH)
JUDGE**

**Sd/-
(T.M.NADAF)
JUDGE**

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