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P. NARAYANAPPA AND ANR.

v.

STATE OF KARNATAKA AND ORS.

AUGUST 18, 2006

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[K.G. BALAKRISHNAN, G.P. MATHUR AND TARUN CHATTERJEE, JJ.]

Land Acquisition:

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Karnataka Industrial Areas Development Board Act, 1966—Sections 28(1) and 28(4)—Notifications under—Challenged for not mentioning complete details of project and purpose of acquisition—Held: At the time of acquisition of land and issuing preliminary Notification complete details of project and purpose of acquisition need not be mentioned—It is to be seen whether land is acquired for development by Board or for any other purpose

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in furtherance of the objects of the Act—Notification clearly mentioned that land was acquired for establishment and development of industries—Thus, Notification not vague or cryptic, landowners not deprived of their right to make proper representation—Delay of 22 months in publication of second notification, and also de-Notification of some land does not render it invalid—Also plea of malafide by landowners not tenable.

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A preliminary Notification was issued under section 28(1) of the Karnataka Industrial Areas Development Board Act, 1966 proposing to acquire 110.30 acres of land for establishment and development of industries by the Karnataka Industrial Areas Development Board. On considering the cause of the landowners and persons interested, and giving them opportunity of hearing, orders were passed under section 28(3) of the Act. Thereafter, some of the landowners challenged the preliminary notification by filing writ petitions in the High Court. The writ petitions were allowed and the orders under section 28(3) of the Act were quashed. The Land Acquisition Officer gave an opportunity of hearing to the landowners. Thereafter, the notification

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under section 28(4) of the Act was issued restricting the acquisition of land to 106 acres 12.3/4 guntas. The appellant land owners challenged both the notifications by filing writ petitions before the High Court. The Single Judge dismissed the writ petitions. On appeal, the Division Bench affirmed the

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judgment of the Single Judge. Hence the present appeals.

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The appellant-landowners contended that the land has been acquired in order to benefit a company-VT for setting up a software technology park; that in the preliminary notification, the purpose for which the company wanted the land was not mentioned; that the appellant could not make a proper and effective representation which deprived them of a valuable right given to them under the Act of showing cause against the proposed acquisition, and as such, the notification is vague and cryptic and is bad, that the entire acquisition proceedings are illegal and the impugned notifications are liable to be struck down; that there was a delay of more than 1 year and 10 months in publication of the second notification under section 28(4); that the whole proceedings for acquisition of the land is clearly *mala fide*; and that the de-notification of some of the lands which had been earlier included in the preliminary notification under section 28(1) is discriminatory.

Dismissing the appeals, the Court

HELD: 1.1. A plain reading of sub-section (1) of Section 28 of the Karnataka Industrial Areas Development Board Act, 1966 shows that land can be acquired for the purpose of (i) development by the Board, or (ii) for any other purpose in furtherance of the objects of the Act. Sub-section (3) of Section 28 states that after considering the cause shown by the owner and the person interested and giving them opportunity of hearing the State Government may pass orders. The final notification is issued under sub-section (4) of Section 28. The necessary precondition for a valid notification under sub-section (4) of Section 28 is that the State Government should be satisfied that the land is required for the purpose specified in the notification issued under section 28(1) of the Act. In order to judge the validity of the notification what is to be seen is whether the acquisition of land is being made for securing the establishment of industrial areas or to promote the establishment or orderly development of industries in such areas. In view of wide definition of the words "industrial infrastructural facilities" as contained in Section 2 (7a) of the Act, making of a technology park, research and development centre, townships, trade and tourism centres or making provisions for marketing and banking which would contribute to the development of industries will meet the objectives of the Act and acquisition of land for such a purpose would be perfectly valid. The impugned notification clearly mentions that the land is sought to be acquired for establishment and development of industries by Karnataka Industrial Areas Development Board. [727-B-F]

1.2. Under sub-section (8) of Section 28, the State Government is

A empowered, after it has taken possession of land, to transfer the same to the Board for the purpose for which the land has been acquired. Section 32 empowers the State Government to place at the disposal of the Board any land vested in it and the Board is enjoined to deal with the land in accordance with the regulations made and directions given by the State Government in this behalf. This stage, when the Board gets the authority to deal with the land, comes at a later stage which is after the land has been developed by it. An entrepreneur or a company may give a proposal to the State Government for setting up an industry or infrastructural facility and the Government may thereafter acquire the land and give it to the Board. It is also possible that after the land has already been acquired and developed by the Board, it may be allotted to an entrepreneur or a company for setting up an industry or infrastructural facility. Therefore, the scheme of the Act does not show that at the time of acquisition of the land and issuing a preliminary notification under Section 28(1) of the Act, the complete details of the nature of the industry or infrastructural facility proposed to be set up should also be mentioned. At that stage what is to be seen is whether the land is acquired for development by the Board or for any other purpose in furtherance of the objects of the Act. [727-G-H; 728-A-C]

E 1.3. While interpreting the provisions of the Act, the Court should not only take into consideration the facts of the instant case but should also have in mind all possible contingencies. Therefore, on a plain reading of the language used in the Act, it cannot be said that the impugned notification is vague or cryptic as the complete details of the project which was proposed to be established by the company were not mentioned and on account of the aforesaid lacuna, the landowners were deprived of their right to make a proper representation or to show cause against the proposed acquisition. [728-E-G]

F 1.4. The Scheme of the present Act is different and there is no similar provision like the one contained in proviso to sub-section (1) of Section 6 of the Land Acquisition Act which lays down a period of limitation of one year for making a declaration under Section 6(1) of the Act. In absence of any specific provision to that effect in the Act, and the time gap being not very long, it is not possible to hold that the notification under Section 28(4) of the Act is invalid. [731-F-H]

H 1.5. Appellant did not lay any foundation in the writ petition to show that the action of the State Government in acquiring their land was a *mala fide* one. Even assuming that the promoters of the company somehow succeeded

in getting their own land acquired in order to save it from being forfeited by the State Government in view of the provisions of Karnataka Land Reforms Act, that by itself cannot be a ground to strike down the impugned notifications insofar as the land of the appellants is concerned. [732-E-F] A

1.6. The fact that the lease deed has been executed only for a limited period of 11 years clearly shows that the land after acquisition has not been reverted back to the company conferring proprietary rights on them but they are merely lessees and the ownership and title thereof still vests with the Board. Therefore, the plea of *mala fide* cannot be accepted. [733-A-B] B

1.7. The acquisition of the appellants' land cannot be struck down on the ground that some of the land which was initially included in the notifications issued under Section 28 of the Act was de-notified. [733-D] C

Munshi Singh & Ors. v. Union of India, [1973] 2 SCC 337 and *M.P. Housing Board v. Mohd. Shafi & Ors.*, [1992] 2 SCC 168, distinguished.

State of Tamil Nadu & Ors. v. L. Krishnan & Ors. [1996] 1 SCC 250; *Babu Barkya Thakur v. State of Bombay*, AIR (1960) SC 1203; *Union of India v. Jaswant Rai Kochhar*, [1996] 3 SCC 491 and *Pratibha Nema & Ors. v. State of M.P. & Ors.*, [2003] (10) SCC 626, referred to. D

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 3540 of 2006. E

From the Judgment and Order dated 6.4.2004 of the High Court of Karnataka at Banagalore in Writ Appeal Nos. 1595-96, 1598-99, 1600-1601, 1602-1604 and 1605/2004.

WITH F

C.A. Nos. 3541, 3542 and 3543/2006.

Shanti Bhushan, Mukul Rohtagi, Prashant Bhushan, K.V. Dhananjay, Dinesh Kumar Garg, Rohit Pandey, M.A. Chinnasamy and N.L. Ganapathi for the Appellants. G

A. Sundaram, L. Nageshwara Rao, Nalin Talwar, Shirin Khajuria (for Indu Malhotra), Kiran Suri, G.V. Chandrasekhar, P.P. Singh, R.C. Kaushik, B. Vijayalakshmi Menon, Ashok Kr. Upadhyay, E.C. Vidya Sagar, Sanjay R. Hegde, Anil K. Mishra, A. Rohen Singh, S.K. Kulkarni, M. Gireesh Kumar, Vijay Kumar, Devashish Bharuka, Dr. Sushil Balwada and Ruchi Kohali for the H

A Respondents.

The Judgment of the Court was delivered by

G.P. MATHUR, J. Leave granted.

B 2. These appeals, by special leave, have been filed challenging the judgment and order dated 6.4.2004 of a Division Bench of Karnataka High Court by which writ appeals filed by the appellants were dismissed and the judgment and order dated 28.1.2004 of the learned Single Judge dismissing the writ petitions was affirmed. The subject matter of challenge in the writ petitions were two notifications issued under Section 28(1) and 28(4) of Karnataka **C** Industrial Areas Development Board Act, 1966 (hereinafter referred to as 'the Act').

3. The impugned notifications were issued for acquisition of land for establishment and development of industries by the Karnataka Industrial Areas Development Board. Before adverting to the contention raised by the **D** learned counsel for the parties, it will be convenient to reproduce the impugned notifications. The first notification bears No.CI:289:SPQ:2001 and was issued on 10.12.2001, relevant part whereof, is reproduced below :

"INDUSTRIES AND COMMERCE SECRETARIAT

E NOTIFICATION

NO:CI:289:SPQ:2001, Bangalore, Dated 10th Dec 2001

The below mentioned lands specified are required for the State government for establishment and development of industries by the **F** Karnataka Industrial Areas Development Board.

With an intention of acquiring the lands notification is hereby published according to Section 28(1) (Act No.18 of 1966) of the Karnataka Industrial Areas Development Act, 1966.

G According to Section 25 of the Act
..... (Omitted as not relevant)

From the date of publication of this notification.....
.....(Omitted as not relevant)

H The map of the lands comprised therein is kept in the office of the

Special Land Acquisition Officer, KIADB."

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The second notification under Section 28(4) of the Act bears No. CPMG/KA/BG-GPO/13/2003-05 and was issued on 23.10.2003. The relevant part of the notification is being reproduced below :

NOTIFICATION UNDER SECTION 28(4)

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Where as it appears, to the State Government that the Lands are to be acquired specified in the schedule here to likely to be needed for the purpose stated in the notification No. CI-289 SPQ 2001 dated 10.12.2001 published in Karnataka Gazette part 3-1 page 4 to 11 in exercise of powers conferred according to section 28(1) of the Karnataka Industrial Areas Development Board (Karnataka Act No. 18 of 1966).

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The State Government is satisfied that Lands specified in the schedule of Notification be acquired for the purpose specified as such orders are passed according to section (3). In exercise of the powers conferred according to section 28(4) (Act No. 18 of 1966) of the Karnataka Industrial Areas Development Act, 1966 the Karnataka Government is acquiring said Lands below for the purpose specified in the notification as such a declaration is made."

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By the notification under Section 28(1) of the Act 110.30 acres of land was proposed to be acquired but by the notification under Section 28(4) of the Act, the acquisition was restricted to an extent of 106 acres 12.3/4 guntas of land. Some of the land owners had challenged the preliminary notification by filing writ petitions under Article 226 of the Constitution before the Karnataka High Court after orders had been passed under Section 28(3) of the Act. The writ petitions were allowed and the orders passed under Section 28(3) of the Act were quashed giving liberty to proceed with the acquisition from the stage of preliminary notification. Thereafter, the Land Acquisition Officer, after giving an opportunity of hearing to the landowners on the objections filed by them, passed a detailed order and then the notification under Section 28(4) of the Act was issued.

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4. Shri Shanti Bhushan, learned senior counsel for the appellants, has challenged the impugned notifications on several grounds and the principal ground is that the land has been acquired in order to benefit a company, namely, Vikas Telecom (P) Ltd. (respondent no.9) who had submitted a project

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A report for setting up a software technology park which included an I.T. Training Institute/Engineering College, Research and Development Centre, Educational Centre, Commercial and Residential Buildings and Service Apartments, Convention Centre, Hotel, Shopping Mall, etc. In the notification under Section 28(1) of the Act, the purpose of acquisition, namely, the purpose for which the company, Vikas Telecom (P) Ltd. wanted the land, as enumerated above, was not mentioned and, therefore, the appellant landowners were kept in dark and did not get an adequate opportunity to make an effective objection against the proposed acquisition. Learned counsel has submitted that the notification being absolutely vague and cryptic, it deprived the landowners of a valuable right of making an effective representation and in these circumstances the entire acquisition proceedings are illegal and the impugned notifications are liable to be struck down.

5. Shri L. Nageshwara Rao, learned senior counsel for Karnataka Industrial Areas Development Board (respondent no.2) (hereinafter referred to as 'KIADB'), has submitted that the land was actually acquired by the State Government for industrial development and after acquisition of the land, the same vests with the KIADB which has the authority to give the same on leasehold basis or outright sale to entrepreneurs or companies for the purpose of industrial development and the basic object of acquisition is to promote the establishment and orderly development of industries in that area. Learned counsel has further submitted that the impugned notification did not suffer from any vagueness and clearly indicated the purpose for which the land was sought to be acquired and there is no illegality in the same. He has also urged that the mere fact that a substantial area of the land was subsequently given on lease to a company, Vikas Telecom (P) Ltd., it was not at all obligatory to specifically mention the details of the project which the said company wanted to establish. Learned counsel for the State of Karnataka and also Shri A. Sundaram, learned senior counsel for Vikas Telecom (P) Ltd. (respondent no.9) supported the stand taken by learned counsel for KIADB and submitted that the impugned notifications fully satisfied the requirements of the Act and the Act did not contemplate that at the time of acquisition of the land, the details of the project which was to be set up by the lessees or the subsequent purchasers from the KIADB should also be mentioned in the notifications.

6. In order to examine the contentions advanced by learned counsel for the parties, it is necessary to notice the provisions of the Karnataka Industrial Areas Development Act. The preamble of the Act reads as under :

H "An Act to make special provisions for securing the establishment of

industrial areas in the State of Karnataka and generally to promote the establishment and orderly development of industries therein, and for that purpose to establish an Industrial Areas Development Board and for purposes connected with the matters aforesaid." A

Some of the provisions of the Act, which are relevant for the decision of the issue involved, are as under: - B

"Section 2 - Definitions: -

In this Act, unless the context otherwise requires,-

(1) "amenity" includes road, supply of water or electricity, street lighting, drainage, sewerage, conservancy, and such other convenience, as the State Government may, by notification specify to be an amenity for the purposes of this Act; C

(2) "Board" means the Industrial Areas Development Board established under this Act; D

(3)

(4)

(5) "development" with its grammatical variations means the carrying out of levelling, digging, building, engineering, quarrying or other operations in, on, over or under land, or the making of any material change in any building or land, and includes re-development; and "to develop" shall be construed accordingly; E

(6) "industrial area" means any area declared to be an industrial area by the State Government by notification which is to be developed and where industries are to be accommodated and industrial infrastructural facilities and amenities are to be provided and includes, an industrial estate; F

(7) "industrial estate" means any site selected by the State Government where factories and other buildings are built for use by any industries or class of industries; G

(7a) "industrial infrastructural facilities" means facilities which contribute to the development of industries established in industrial area such as research and development, communication, transport, Banking, Marketing, Technology parks and Townships for the purpose of H

A establishing trade and tourism centres; and any other facility as the State Government may by notification specify to be an industrial infrastructural facility for the purposes of this Act.

Section 3 - *Declaration of industrial areas:* —

B (1) The State Government may, by notification, declare any area in the State to be an industrial area for the purposes of this Act.

(2) Every such notification shall define the limits of the area to which it relates.

Section 5 - *Establishment and incorporation:* —

C (1) For the purposes of securing the establishment of industrial areas in the State of Karnataka and generally for promoting the rapid and orderly establishment and development of industries and for providing industrial infrastructural facilities and amenity in industrial areas in the State of Karnataka, there shall be established by the State Government by notification a Board by the name of the Karnataka Industrial Areas Development Board.

D (2) The said Board shall be a body corporate with perpetual succession and a common seal, and may sue and be sued in its corporate name, and shall subject to the provisions of this Act and the rules made thereunder be competent to acquire, hold and dispose of property, both movable and immovable, and to contract and do all things necessary for the purposes of this Act.

E Section 14 - *General powers of the Board:* —

F Subject to the provisions of the Act, the Board shall have power:-

(a) to acquire and hold such property, both movable and immovable as the Board may deem necessary for the performance of any of its activities and to lease, sell, exchange or otherwise transfer any property held by it on such conditions as may be deemed proper by the Board;

G (b)

(c) to provide or cause to be provided amenities, industrial infrastructural facilities and common facilities in industrial areas and construct and maintain or cause to be maintained works and buildings therefor;

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Section 28 - Acquisition of land: —

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(1) If at any time, in the opinion of the State Government, any land is required for the purpose of development by the Board, or for any other purpose in furtherance of the objects of this Act, the State Government may by notification, give notice of its intention to acquire such land.

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(2) On publication of a notification under sub-section (1), the State Government shall serve notice upon the owner or where the owner is not the occupier, on the occupier of the land and on all such persons known or believed to be interested therein to show cause, within thirty days from the date of service of the notice, why the land should not be acquired.

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(3) After considering the cause, if any, shown by the owner of the land and by any other person interested therein, and after giving such owner and person an opportunity of being heard, the State Government may pass such orders as it deems fit.

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(4) After orders are passed under sub-section (3), where the State Government is satisfied that any land should be acquired for the purpose specified in the notification issued under sub-section (1), a declaration shall, by notification in the official Gazette, be made to that effect.

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(5) On the publication in the official Gazette of the declaration under sub-section (4), the land shall vest absolutely in the State Government free from all encumbrances.

(6)

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(7)

(8) Where the land has been acquired for the Board, the State Government, after it has taken possession of the land, may transfer the land to the Board for the purpose for which the land has been acquired."

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Section 29 provides that where the land is acquired by the State Government under Chapter VII (Sections 27 to 31), the compensation for acquisition shall be paid in accordance with the provisions of the Act. Section 30 provides that the provisions of the Land Acquisition Act shall *mutatis*

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A *mutandis* apply in respect of the enquiry and award by the Deputy Commissioner, the reference to Court, the apportionment of compensation and payment of compensation in respect of lands acquired under this Chapter. It is important to note that the Land Acquisition Act is not applicable at the stage of acquisition of the land but becomes applicable only in the matter of payment of compensation on account of Section 30 of the Act. Therefore, the provisions of Sections 4 and 6 of the Land Acquisition Act have no application here and acquisition of land has to be done in accordance with the provisions of the Act.

C 7. The Preamble of the Act shows that it has been enacted to make special provisions for securing the establishment of industrial areas and generally to promote the establishment and the orderly development of the industries in such industrial areas. Section 2(7a) defines industrial infrastructural facilities. This provision was inserted on 19.2.1997 by an amendment made by Act No.11 of 1997. The Statement of Objects and Reasons of the amending Act has some relevance and the same is being reproduced below :

D “After the liberalization of economic and industrial policies in the year 1991 increased emphasis has been given for Private Sector Investment not only in the Industrial Sector but also in the Infrastructural Sectors. As such a number of proposals, both from indigenous and foreign companies have been received for considerable investments in infrastructural areas like establishment of power projects, express highways, ports, airports, townships, industrial parks etc. These projects need considerable extent of land for implementation.

E Therefore, it is considered necessary to amend the Karnataka Industrial Areas Development Act, 1966, to enable the Board to acquire land for providing Industrial Infrastructural Facilities.”

F As the definition shows, anything which contributes to the development of industries in industrial areas like technology parks, townships for the purpose of establishing trade and tourism centres and any other facility as the State Government may notify, will be an industrial infrastructural facility. G It, therefore, shows that the object of the Act is not only to secure establishment of industrial areas and orderly development of industries therein, but also to create facilities which contribute to the development of industries which may include technology parks, townships, trade and tourism centres, etc.

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9. The provision for acquisition of land under the Act is contained in Section 28 which is somewhat different from the provisions contained in Sections 4, 5A and 6 of the Land Acquisition Act. The legislature in its wisdom thought it proper to make a specific provision for acquisition of the land in the Act itself rather than to take recourse to Sections 4 and 6 of the Land Acquisition Act. A plain reading of sub-section (1) of Section 28 would show that land can be acquired for the purpose of (i) development by the Board, or (ii) for any other purpose in furtherance of the objects of the Act. Sub-section (3) of Section 28 is similar to Section 5A of the Land Acquisition Act and the final notification is issued under sub-section (4) of Section 28. The necessary precondition for a valid notification under sub-section (4) of Section 28 is that the State Government should be satisfied that the land is required for the purpose specified in the notification issued under sub-section (1), viz., for the purpose of (i) development by the Board, or (ii) for any other purpose in furtherance of the objects of the Act. Therefore, in order to judge the validity of the notification what is to be seen is whether the acquisition of land is being made for securing the establishment of industrial areas or to promote the establishment or orderly development of industries in such areas. In view of wide definition of the words "industrial infrastructural facilities" as contained in Section 2 (7a) of the Act, making of a technology park, research and development centre, townships, trade and tourism centres or making provisions for marketing and banking which would contribute to the development of industries will meet the objectives of the Act and acquisition of land for such a purpose would be perfectly valid.

10. Shri Shanti Bhushan, learned senior counsel for the appellants, has strongly urged that as the impugned notification under Section 28(1) of the Act did not mention that the land was sought to be acquired for a technology park, research and development centre, shopping mall, engineering college, residential apartments, etc., the landowners could not make a proper and effective representation under Section 28(2) of the Act which deprived them of a valuable right given to them under the Act of showing cause against the proposed acquisition and consequently the notification is bad. Learned counsel has also submitted that the notification is very vague and cryptic. We are unable to accept the contention raised. Sub-section (1) of Section 28 clearly shows that the land can be acquired for (i) development by the Board; or (ii) for any other purpose in furtherance of the objects of the Act. Under sub-section (8) of Section 28, the State Government is empowered, after it has taken possession of land, to transfer the same to the Board for the purpose for which the land has been acquired. Section 32 empowers the State

- A Government to place at the disposal of the Board any land vested in it and the Board is enjoined to deal with the land in accordance with the regulations made and directions given by the State Government in this behalf. This stage when the Board gets the authority to deal with the land comes at a later stage which is after the land has been developed by it. An entrepreneur or a company may give a proposal to the State Government for setting up an industry or infrastructural facility and the Government may thereafter acquire the land and give it to the Board. It is also possible that after the land has already been acquired and developed by the Board, it may be allotted to an entrepreneur or a company for setting up an industry or infrastructural facility. Therefore, the scheme of the Act does not show that at the time of acquisition of the land and issuing a preliminary notification under Section 28(1) of the Act, the complete details of the nature of the industry or infrastructural facility proposed to be set up should also be mentioned. At that stage what is to be seen is whether the land is acquired for development by the Board or for any other purpose in furtherance of the objects of the Act, as mentioned in sub-section (1) of Section 28 of the Act. In fact, if the contention raised by the learned senior counsel for the appellants is accepted, it would mean that even at the stage of preliminary notification under Section 28(1) of the Act, the nature of the activity which may be done by some entrepreneur or a company which may give a proposal for setting up an industry or infrastructural facility much after land has been acquired should also be taken note of and specifically mentioned in the notification, which is well nigh impossible. While interpreting the provisions of the Act, the Court should not only take into consideration the facts of the present case but should also have in mind all possible contingencies. Therefore, on a plain reading of the language used in the Act, it is not possible to accept the contention of the learned senior counsel for the appellants that the impugned notification is vague or cryptic as the complete details of the project which was proposed to be established by Vikas Telecom (P) Ltd. (respondent no.9) were not mentioned and on account of the aforesaid lacuna, the landowners were deprived of their right to make a proper representation or to show cause against the proposed acquisition.
- G 11. Learned senior counsel for the appellant has placed strong reliance on a Three Judge Bench decision of this Court in *Munshi Singh & Ors. v. Union of India* [1973] 2 SCC 337 in support of his submission that the impugned notifications are vague and are, therefore, liable to be struck down. In this case a notification was issued under Section 4 of the Land Acquisition Act by the State Government on 16.7.1960 declaring its intention to acquire
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34,000 acres of land in 50 villages of Ghaziabad. By a subsequent notification dated 9.2.1962, the proposed area was reduced from 34,000 acres to 6,158 acres. The appellants Munshi Singh and others made an application on 4.7.1962 to the Special Land Acquisition Officer for supplying a copy of the Scheme of the planned development to enable them to make an effective representation at the time of hearing of the objections under Section 5A of the Land Acquisition Act, but the same was rejected by an order which mentioned that "the scheme of the planned development is not necessary for a notification under Section 4 of the Act, as such, no such scheme of the planned development is available in this office." The Master Plan was sanctioned subsequently on 4.9.1962. The notification was challenged on the ground that the words in the notification, viz. "for planned development of the area", gave no indication whatsoever as to the purpose for which the land was acquired and the same was vague. It was held that there was no indication whatsoever in the notification whether the development was to be of residential area and building cities or of commercial and industrial plots nor was it possible for anyone to find out what kind of planned development was under contemplation i.e. whether the land was to be developed by the Government or whether the owners of the properties would be required to develop a particular area in a specified way. It was also held that if the Master Plan which came to be sanctioned on 4.9.1962 had been available for inspection by the persons interested or even if the knowledge of its existence on the part of the appellants had been satisfactorily proved, the position may have been different, as in that situation the landowners could not claim that they were unable to file objections owing to the lack of any indication in the notification under Section 4 of the nature of the development for which the area was being acquired. In our opinion, the authority cited is clearly distinguishable on facts. The Scheme of the planned development was not available when the notification was issued and in fact the Master Plan itself was sanctioned much after the publication of the notification and in these circumstances the words "planned development of the area" were clearly vague. Such is not the case here as the impugned notification clearly mentions that the land is sought to be acquired for establishment and development of industries by KIADB. The second case relied upon by the learned counsel for the appellants is *M.P. Housing Board v. Mohd. Shafi & Ors.*, [1992] 2 SCC 168. In this case, a notification was issued under Section 4 of the Land Acquisition Act to acquire 2.298 hectares of land in city/village Mandsaur, Tehsil and Distt. Mandsaur and in the column for purpose only "residential" was mentioned. The notification was struck down on the ground that no khasra number, locality or any other particulars of the land sought to be acquired was

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- A mentioned when Mandsaur city was spread over a large area of 25 sq. kilometers. It was also held that the word "residential" was hopelessly vague as it conveyed no idea about the purpose of acquisition. In our opinion, this case can be of no assistance to the appellants for the obvious reason that the no details or particular of the land like khasra number and locality had been mentioned and the word "residential" by itself did not show that the
- B acquisition was being made for a public purpose, which is essential for a valid notification under Section 4 of the Land Acquisition Act. The next decision relied upon by the learned senior counsel for the appellants is *State of Tamil Nadu & Ors. v. L. Krishnan & Ors.*, [1996] 1 SCC 250. In this case, after referring to some earlier decisions including that of *Munshi Singh* (supra), it
- C was held that whether the public purpose stated in a particular notification is vague or not, is a question of fact to be decided in each case and cannot be treated as a question of law.

12. Shri Nageshwara Rao, learned senior counsel for KIADB has, on the other hand, relied upon a Constitution Bench decision in *Babu Barkya*
- D *Thakur v. State of Bombay*. AIR (1960) SC 1203, wherein it was held as under:

- E "It is not absolutely necessary to the validity of the land acquisition proceedings that the statement that the land to be acquired was needed for a public purpose should find a place in the notification actually issued. The requirements of the law will be satisfied if, in substance, it is found on investigation, and the appropriate Government is satisfied as a result of the investigation that the land was needed for the purpose of a company, which would amount to a public purpose under Part VII."

- F In *Union of India v. Jaswant Rai Kochhar*, [1996] 3 SCC 491, it was held that when the notification mentioned that the land is sought to be acquired for a housing scheme but actually it is to be used for a district centre, the public purpose does not cease to be a public purpose and the notification could not be quashed on the ground that the land is sought to be used for a commercial purpose. This authority has been cited to show that even a
- G change of purpose (from residential to commercial) would not result in invalidating the notification. Strong reliance has also been placed on *Pratibha Nema & Ors. v. State of M.P. & Ors.*, [2003] 10 SCC 626, where the notification was challenged on the ground that it was vague and reliance was placed on the decisions rendered in *M.P. Housing Board* (supra) and *Munshi Singh* (supra) where it was observed that the public purpose "needs to be
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particularized” to satisfy the requirements of law. The Bench held as under in para 38: A

“38. When no prejudice has been demonstrated nor could be reasonably inferred, it would be unjust and inappropriate to strike down the notification under Section 4(1) on the basis of a nebulous plea, in exercise of writ jurisdiction under Article 226. Even assuming that there is some ambiguity in particularizing the public purpose and the possibility of doubt cannot be ruled out, the Constitutional Courts in exercise of jurisdiction under Article 226 or 136 should not, as a matter of course, deal a lethal blow to the entire proceedings based on the theoretical or hypothetical grievance of the petitioner. It would be sound exercise of discretion to intervene when a real and substantial grievance is made out, the non redressal of which would cause prejudice and injustice to the aggrieved party. Vagueness of the public purpose, especially, in a matter like this where it is possible to take two views, is not something which affects the jurisdiction and it would therefore be proper to bear in mind the considerations of prejudice and injustice.” B C D

It is necessary to emphasize that all the decisions cited by learned counsel for the parties deal with notifications issued under Land Acquisition Act and as demonstrated earlier, the Scheme of the Act under our consideration is different. Even on the principle laid down in the authorities which were cited by learned counsel for the parties and which have been discussed above, it cannot be held that the impugned notifications are vague or cryptic or that they suffer from any infirmity. The challenge raised to the notifications on the aforesaid grounds must fail. E

13. Learned counsel for the appellant has next submitted that the notification under Section 28(1) was published on 10.12.2001 and the notification under Section 28(4) was published on 23.10.2003 and thus there was a delay of more than 1 year and 10 months in publication of the second notification. As already discussed, the Scheme of the present Act is different and there is no similar provision like the one contained in proviso to sub-section (1) of Section 6 of the Land Acquisition Act which lays down a period of limitation of one year for making a declaration under Section 6(1) of the Act. In absence of any specific provision to that effect in the Act, and the time gap being not very long, it is not possible to hold that the notification under Section 28(4) of the Act is invalid. F G H

A 14. Shri Shanti Bhushan, learned senior counsel for the appellants, has also submitted that Vikas Telecom (P) Ltd. (respondent no.9) were themselves owners of nearly 90 acres of land as three members of a family who were promoters and directors of the company had purchased agricultural land in the year 1995-96. They being not agriculturists, proceedings under the Karnataka Land Reforms Act were initiated against them, whereunder the land would have been forfeited to the State Government without payment of any compensation. In order to save their land, they manipulated with the Government and got their own land acquired whereunder they would be entitled to compensation. It is thus submitted that the whole proceedings for acquisition of the land whereunder not only the land of promoters and directors of Vikas Telecom (P) Ltd. but also the land of the appellants, who are agriculturists, was acquired is clearly *mala fide*. This point has been considered in detail by the High Court and has been repelled. Initially, proceedings initiated under Sections 79A, 79B and 80 of the Karnataka Land Reforms Act, 1961 against Devi Das Garg, one of the promoters of the company were dropped by the order of the Assistant Commissioner dated 23.5.2001. The Assistant Commissioner passed an order of forfeiture of the land against Santosh Kumar Garg on 29.12.2002 and a similar order was passed against Devi Das Garg on 31.12.2003. It may be noted that the order for forfeiture of the land was passed much after the preliminary notification under Section 28(1) of the Act had been issued on 10.12.2001. That apart, the appellants herein are interested in saving their own land from acquisition and have no concern with the land belonging to promoters of Vikas Telecom (P) Ltd. They have not laid any foundation in the writ petition to show that the action of the State Government in acquiring their land was a *mala fide* one. Even assuming that the promoters of Vikas Telecom (P) Ltd. somehow succeeded in getting their own land acquired in order to save it from being forfeited by the State Government in view of the provisions of Karnataka Land Reforms Act, that by itself cannot be a ground to strike down the impugned notifications insofar as the land of the appellants is concerned.

G Shri Nageshwara Rao, learned senior counsel for KIADB has also submitted that the Karnataka Industrial Areas Development Board has only executed a lease deed in favour of Vikas Telecom (P) Ltd. for a period of 11 years for a consideration of Rs.25,71,50,781/- and the lessee has to pay a rent of Rs.1,000/- per annum from the date of taking over possession of the land. The lease has been granted on stringent conditions and under clause 10(d) the lessor has the right to terminate the lease and resume the possession of the scheduled property in the event the lessee fails to implement the project

within the stipulated period or extended period, if any. Clause 14 contains a condition that the lessor shall be entitled to determine the lease and resume possession of the land if and when there is breach of any of the covenants and obligations contained in the lease deed. The fact that the lease deed has been executed only for a limited period of 11 years clearly shows that the land after acquisition has not been reverted back to Vikas Telecom (P) Ltd. conferring proprietary rights on them but they are merely lessees and the ownership and title thereof still vests with the Board. In such circumstances it is not possible to accept the plea of *mala fide* raised on behalf of the appellants. A B

15. It is lastly submitted that the State Government had acted in a discriminatory manner in de-notifying some of the lands which had been earlier included in the preliminary notification under Section 28(1) of the Act and whosoever was in a position to approach the concerned authority of the State Government, his land was exempted from acquisition. It has been urged that survey no.9/4 which was earlier included in the notification under Section 28(1) of the Act was specifically de-notified. We are afraid that this plea cannot be examined by us for want of sufficient details. The acquisition of the appellants' land cannot be struck down on the ground that some of the land which was initially included in the notifications issued under Section 28 of the Act was de-notified. C D

16. For the reasons discussed above, there is no merit in these appeals, which are hereby dismissed. No order as to costs. E

N.J.

Appeals dismissed.