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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 22ND DAY OF JULY 1998

BEFORE

THE HON'BLE MR.JUSTICE A.J.SADASHIVA

WRIT PETITION No. 6899/1998

BETWEEN:

The Karnataka Industrial Areas  
Development Board, Nrupatunga  
Road, Bangalore-2, rep by its  
Executive Member.

.. Petitioner

(By Sri K.V.Narayanappa. Adv.,)

AND:

1. Sri Narayana Das, s/o Sri  
Raghunathji Ladda, aged: major,  
r/a Sedam, Gulbarga Dist.,
2. The Special Land Acquisition  
Officer, Karnataka Indl.,  
Development Board, Jeevargi  
Road, Gulbarga.
3. The Principal Civil Judge (Sr.  
Division), Gulbarga, Gulbarga Dist. ..Respondents

(By Sri K.Appa Rao, Adv., for R1;  
Sri K.H.Jagadish, GA, for R3)

This Writ Petition filed under Articles 226 and  
227 of the Constitution of India, praying to quash  
vide Annx.A and B dt. 11.4.97 passed by R3 and etc.,

This Petition coming on for Orders this day,  
the Court made the following :-

h.

## O R D E R

Though this petition is listed for orders on I.A.I, the same is heard on merits and disposed of by this order, as the question in controversy in this petition is covered by the decision of the Supreme Court in more than one case.

2. The Karnataka Industrial Area Development Board is the petitioner in this petition. Sy.Nos. 389 and 414/2 situated in Malkhed Village, Sedam Taluk, belonging to the first respondent was acquired for formation of industrial layout. The first respondent having not been satisfied with the award made by the Land Acquisition Officer sought reference to the Civil Court u/s 18(1) of the Land Acquisition Act, 1894 (for short "the Act") for determination of the just and appropriate market value and for compensation. In the reference before the Civil Court as could be seen from Annexure-A, the petitioner was not made a party.


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3. By virtue of section/of the Act, the Court shall cause a notice ~~to be served on the persons interested?~~ (specifying the day on which the Court will proceed to determine the reference, and directing their appearance before the Court on that day, to be served on the Deputy Commissioner, all

persons interested in the reference and if the acquisition is not made for Government, the person or authority for whom it is made.

4. There is no dispute that the acquisition was made for the petitioner. The Supreme Court in NEELAGANGABAI Vs. STATE OF KARNATAKA, AIR 1990 SC 1321 was of the view that, the judgement rendered in the reference case was illegal and not binding on the Corporation as the Corporation for whom the land was acquired therein was not served with the notice. The relevant portion of the judgement reads thus:-

"3. Admittedly, the land was acquired for the purpose of respondent-corporation and the burden of payment of compensation is on the Corporation. In this back-ground, the Highcourt has held that it was mandatory for the court of reference to have caused a notice served on the respondent-Corporation before proceeding to determine the compensation claim. Since no notice was given to the respondent-Corporation and it was thus deprived of an opportunity to place its case before the Court, the judgement rendered in the reference case was illegal and not binding on the Corporation."



5. In NUCLEAR POWER CORPORATION Vs. GAJRAJ SINGH, AIR 1995 SC 1606 also, the Supreme Court has held that, the appellant for whose benefit the land was acquired is an interested person. Where the interested person is not served with the notice in the reference it is needless to state that the order made in such reference is illegal and not binding on the interested person.

6. In the result, this petition is allowed. Rule made absolute. The award dated April 11, 1997 made by the learned Principal Judge, Gulbarga, in LAC 748/1994 is hereby quashed. The learned Civil Judge is directed to reopen the case and to dispose of the same afresh in accordance with law, with notice to the petitioner also, within six months from the date of receipt of this order.

7. In the circumstances of the case, there is no order as to costs.

8. Sri.K.H.Jagadish, the learned HCGA, is permitted to file memo of appearance within four weeks.



Sd/- JUDGE