

BERNARD FRANCIS JOSEPH VAZ VS GOVERNMENT OF KARNATAKA

On 2nd January 2025 the Supreme Court said the Right to Property is a human right in a welfare State and a Constitutional Right under Article 300-A and a person cannot be dispossessed of his property without being given adequate and prompt compensation for the same.

KEY FACTS

- The appellants purchased various residential sites between 1995-1997 at Gottigere Village, Uttarahalli Hobli, Bengaluru South Taluk, Karnataka through registered sale deeds.
- The government of Karnataka and Nandi Infrastructure Corridor Enterprise Ltd (NICE) signed a framework agreement (FWA) for the development of the Bengaluru-Mysuru Infrastructure Corridor Project (BMICP). Under the terms the government was to acquire 13,237 acres of private land and 6,956 acres of government land. A total of 20,193 acres.
- Between 1998-2003 notifications were issued under the KIAD Act to acquire the lands, including those of the appellants. Objections were raised but dismissed, with the final notification being issued in 2003.
- In 2005 the appellants' land was taken over by the Karnataka Industrial Areas Development Board (KIADB) and handed over to NICE without awarding any compensation.
- From 2009-2011 the appellants filed writ petitions to seek quashing of the acquisition or be allotted alternative residential sites of equal size. In 2011 the High Court dismissed these petitions, instructing the land owners to approach authorities for rehabilitation or welfare schemes.
- In February 2016 the landowners filed representations to the Government of Karnataka and NICE asking for rehabilitation or allotment of alternative sites. After their requests went unheeded they approached the High Court which instructed the authorities to look into the matter and take adequate action immediately, as per the law. When necessary action was not taken by the authorities, the land owners filed contempt petitions, alleging non-compliance of the High Court order.
- During the contempt proceedings the Special Land Acquisition Officer (SLAO) passed an award for compensation on 22nd April 2019. The appellants argued that the compensation should be according to current market rates, considering that there had been a significant delay. NICE and other entities challenged the 2019 award stating that compensation should be based on original notification date of 2003.
- The High Court quashed the 2019 award and directed the SLAO to issue a fresh award based on the original notification date and also dismissed the writ petition of the appellants, citing it to be premature.
- The appellants then decided to approach the Supreme Court.

Exercising its extraordinary powers under Article 142 of the Constitution, a bench of Justices B R Gavai and K V Vishwanathan quashed and set aside the 22nd November 2022 judgement of the Karnataka High Court's Division Bench which had rejected the plea of the appellants for determining compensation due to them as per the current market value of the land.

- The writ petition filed by the appellants before the High Court, was allowed.
- The Special Land Acquisition Officer (SLAO) was instructed to issue a fresh award as per the market value on 22nd April 2019, within 2 months of this recent order, after hearing both the parties.
- The court also ruled that the appellants would receive all the statutory benefits available to them under the law.
- The parties, if aggrieved, have the right to challenge the award through appropriate legal reference.
- Since no opinion had been expressed regarding the claims, if any, of Respondents No. 6 & 7, against the KIADB or the State concerning the delay in passing the award by the SLAO, Respondent No. 6 & 7 were allowed to take legal recourse if they were not satisfied by the award to be passed by the SLAO.
- Any pending notifications were considered disposed of.

The decision of the Supreme Court reflects on the importance of fair and timely compensation for land owners, and stresses on current market value, especially if there have been significant delays.