2023INSC871

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 8073 OF 2022

KARNATAKA STATE
ELECTRONICS DEVELOPMENT
CORPORATION LTD. ...APPELLANT(S)

VERSUS

KUMAON ENTERTAINMENT
AND HOSPITALITIES PVT. LTD. ...RESPONDENT(S)

J U D G M E N T

VIKRAM NATH, J.

1. This appeal is directed against the judgment and order dated 28.07.2017 passed by the Division Bench of the High Court of Karnataka in Writ

Appeal No. 175 of 2017 titled "**Karnataka State Electronics Development Corporation Ltd. Vs. Kumaon Entertainment and Hospitalities Private Limited"**, whereby the appeal of the appellant was dismissed, thereby confirming the judgment of the learned Single Judge dated 03.09.2015 and 14.11.2016, allowing the Writ Petition No.1605 of 2015 of the respondent and dismissing the review petition respectively.

2. The State of Karnataka came up with a policy decision for the purposes of promoting and developing industries related to Electronic & Information Technology within the State. It established Karnataka State Electronic Development Corporation Ltd.[1] as a Non-Profit Organisation for the aforesaid purpose across the State including the Electronic City in Bangalore. Acquisition of land in large amount was made in Bangalore city for setting up an area known as Electronic City.

[1] In short known as "appellant"

3. The appellant, vide its 133rd Board Resolution came up with a new selection process for allotment of land in the Electronic City. Vide allotment letter dated 25.01.2006, the appellant allotted plot admeasuring 0.25 acres to the respondent for development of such land to be used in industry relating to Information Technology & Electronic Development Sector (Animation & Multi Media Services). The tentative price fixed of the allotted land was Rs. 1 Crore per acre. The respondent was required to commence the project at the earliest.

4. The allotment was made on lease cum sale basis for a period of ten years. It was further stipulated that upon completion of ten years or on completion of the project, the lease would convert to a sale, subject to fulfilment of all the terms & conditions of allotment and payment of price of land in full as may be finally determined by the appellant. It was also clearly mentioned in the allotment letter that the price of land indicated was only tentative (Rs. 1

Crore per acre). The final price of the allotted land would be communicated later, which would be dependent upon other factors being finalized in the meantime. Possession of the land was given to the respondent on 09.05.2006.

5. A lease cum sale agreement was executed between the appellant and the respondent on 30.10.2006. The terms of the lease cum sale agreement would be dealt in detail at a later stage.

6. The respondent, which was originally a partnership firm, applied for it being converted into a private limited company in 2007. The appellant issued no objection certificate in that regard on 18.05.2007.

7. In the 141st Board meeting of the appellant dated 19.07.2007, the Board resolved that the price for allotment would be as per the guidance value fixed by the Government, which was Rs. 800/- per sq. ft. It would work out to Rs. 3.2 Crores per acre. The

said value was duly adopted based upon the guidance value determined by the Government.

8. On 23.07.2007, the respondent applied to the appellant for conversion of nature of use from Information Technology sector to Hospitality sector. As per the terms of allotment and the lease agreement, change in nature of use could be granted, subject to the payment of additional charges at the prevailing rate. On 24.09.2007, communication was issued by the appellant granting permission for the change in the nature of activity, subject to payment of Rs. 20 lacs per acre. The respondent thereafter paid an amount of Rs. 5 lacs as the allotted land was only one quarter of an acre. On 15.10.2007, the respondent also applied for approval of its plan for construction.

9. On 06.11.2008, an audit objection was raised stating that the prevailing rate of plot at the time of change of use was Rs. 3.2 Crores per acre, whereas permission of change of use was granted at a much

lower rate. The appellant had, therefore, suffered a loss of Rs. 46.25 lacs. Further, as the rate of Rs. 3.2 Crores per acre was applicable for residential purposes, but this being used for commercial purpose, the rate would be higher by 40 per cent and, therefore, the loss would be additional Rs. 32 lacs.

10. On 31.10.2011, the respondent requested the appellant for execution of the sale deed. Thereafter he also gave a show cause notice on 05.06.2012 for execution of the sale deed. The appellant sent a reply in response to the notice on 25.07.2012, calling upon the respondent to pay Rs. 83.25 lacs for execution of the sale deed in view of the prevailing rate being Rs. 3.2 Crores per acre for residential purposes and for commercial use would be Rs.4.48 Crores being enhanced by 40%.

11. The respondent challenged the reply dated 25.07.2012 by way of Writ Petition No. 10338 of 2013. The said petition was disposed of by order

dated 14.08.2014 with a direction to the respondent to submit a representation and a further direction to the appellant to decide the said representation within two months.

12. The representation submitted by the respondent was rejected by the appellant. The respondent thereafter preferred Writ Petition No. 1605 of 2015, praying for a direction to the appellant to execute the sale deed in their favour, as according to them, they had fulfilled all the formalities. Before the High Court, the respondent also filed a communication which took place between the appellant and the audit department, wherein the appellant sent a response to the audit objection justifying that the prevailing rate was Rs. 1 Crore per acre and not Rs. 3.2 Crore per acre.

13. The learned Single Judge, vide judgment dated 03.09.2015, relying on the said audit objection and its response by the appellant, allowed the Writ Petition No.1605 of 2015. Appropriate directions

were issued to appellant to execute the sale deed. Subsequent thereto the appellant filed an intra Court appeal and also filed a review. Further, after dismissal of review, appellant filed another intra Court appeal and also filed a review before the Division Bench. Finally, came the judgement of the Division Bench dated 28.07.2017. Same is impugned in this appeal. The fact remains that the Writ Petition filed by the respondent was allowed by the Single Judge and the intra court appeal filed by the appellant was dismissed by the Division Bench. This gave rise to the filing of the present appeal.

14. We have heard learned counsel for the parties and perused the material on record.

15. The submissions advanced by learned counsel for the appellant are summarized as hereunder:

a) The Division Bench committed an error in dismissing the appeal primarily on the ground of delay of 459 days, which was not satisfactorily explained. The Division Bench

failed to take into consideration the time spent by the appellant in taking recourse to other legal measures permissible under the law before a valid forum. The appellant was entitled to benefit of section 5 of the Limitation Act, 1963[2]. Reliance has been placed on the judgment of this Court in the case of **Union of India vs. West Coast Paper Mill[3]**.

b) The Single Judge and the Division Bench erred in relying upon the communication or the correspondence with respect to the objections raised in the audit report merely because the appellant was trying to justify the demand of Rs. 5 Lakhs, the said justification being on a wrong premise, cannot deprive the appellant, which is a Public Sector Undertaking, from recovering the valid dues payable by the respondent which is a commercial entity. The respondent cannot take undue advantage of the internal

[2] The Limitation Act
[3] (2004) 3 SCC 458

communication. The same was not supported by the decision taken in the Board meeting which alone would be binding on the appellant.

c) It was very clearly mentioned in the agreement of sale cum lease that the rate of Rs.1 Crore was tentative rate. It was further stipulated in clear terms that at the time of final execution of sale cum lease deed, the prevailing rate would be charged as would be finalised in due course of time depending upon other attending charges which may be liable to be paid by the appellant. Under the decision of the 141st Board meeting, the prevailing rate in 2007 at the time when change in nature of use was sought was Rs.3.2 Crores per acre and further addition of 40% was liable to be paid for the change in nature as the use was for commercial purposes.

d) The Single Judge and the Division Bench failed to appreciate that all other entities, list of which was provided, had been charged at the final rate determined as per the 141st Board resolution. In

case the respondent is allowed to pay at the tentative rate only, all other similarly placed entities who have paid at the final rate would start claiming refund from the appellant causing immense loss of public revenue.

e) The communication based on ignorance of a Board decision, demanding only Rs. 5 lakhs could not be said to be the decision of the appellant. It was a mistake committed by the staff apparently because the Board resolution had been passed about two months earlier. It may not have come to the knowledge of the staff dealing with the request made by the respondent for execution of sale-cum-lease deed after change of nature of the use.

f) The Single Judge and the Division Bench of the High Court fell in error in not appreciating that any loss to the appellant would amount to loss to the public exchequer. The appellant is a Public Sector Undertaking working under the aegis of the State of Karnataka. It is a non-profit

organisation, established for the growth and promotion of Information Technology and Electronics sector in the State of Karnataka. It had been established to help the IT industries to flourish in the State of Karnataka. Hundred per cent shares of the appellant company are held by the State of Karnataka.

g) The impugned order passed by the Division Bench deserves to be set aside, the appeal deserves to be allowed and as a result the writ petition preferred by the respondent is liable to be dismissed.

16. The submissions advanced by the learned counsel for the respondent are briefly summarised as under:

a) The price of land reflected in the Letter of Allotment could be done only on two counts namely towards development work or finalization of court of awards. The respondent has already paid an additional amount of

Rs.3,75,000/- towards land development cost for which a separate demand had been raised as such no further demand could be raised on the basis of revision of prices. Any change in the price reflected in the Letter of Allotment ought to have been done at the earliest in view of the expressions used "as soon as it may be" in clause 13 (b) of the Lease cum Sale Agreement dated 30.10.2006. Reliance has been placed upon a judgment of this Court in the case of **Karnataka Industrial Development Board Anr. vs. M/s Prakash Dal Mill and Ors.**[4]**.**

b) The respondent has already paid the demand raised vide letter dated 24.09.2007 for an amount of Rs.5 Lakhs with respect to the charges for change in activity. After much delay further demand of more than Rs.83 Lakhs has been made based on some audit objection. The same has rightly been held to be illegal by the

[4] (2011) 6 SCC 714

Single Judge as also the Division Bench of the High Court.

c) The demand raised on the basis of the rates determined in the 141st Board meeting of the appellant was not applicable to the respondent inasmuch as the said fixation was for fresh allotment of stray plots.

d) The appellant had themselves admitted in response to the audit objections that the prevailing rate was Rs.1 Crore per acre and not Rs.3.2 Crores per acre and, therefore, they cannot keep on changing their stand from time to time in order to extract more money from the respondent who has always been compliant to their previous demands.

e) It was only when the respondent repeatedly requested the appellant to execute the final lease cum sale deed and was compelled to issue a legal notice that an additional demand of Rs.83 Lakhs was raised vide communication dated 25.07.2012. The said conduct of the appellant was wholly unjustified and has been

rightly disapproved by the High Court. The repeated filing of reviews and appeals by the appellant also shows their malicious conduct in somehow or the other stalling the execution of the lease cum sale deed and to somehow or the other extract unwarranted amount from the respondent which was otherwise not payable. Reliance was placed upon the following four judgments:

- **M. Nagabhushana v. State of Karnataka[5], paras 12, 13, 18 & 22;**
- **Dnyandeo Sabaji Naik v. Pradnya Prakash Khadekar[6] – para 14;**
- **Vinod Kapoor v. State of Goa[7], paras 11to 13;**
- **Sandhya Educational Society v. Union of India[8], paras 13, 16 to 18.**

[5] (2011) 3 SCC 408
[6] (2017) 5 SCC 496
[7] (2012) 12 SCC 378
[8] (2014) 7 SCC 701

f) Benefit of the Limitation Act was not admissible to the appellant in as much as the entire exercise and the time spent in filing reviews and appeals repeatedly was in itself an abuse of process of law. Reliance was placed upon the following two judgments:

- **Neeraj Jhanji v. Commr. Of Customs & Central Excise[9], paras 2-3;**
- **Haryana State Coop L&C Federation Ltd. v. Unique Coop L&C Coop Society Ltd.[10], at paras 11-15.**

g) The appeal lacks merit and is liable to be dismissed based on the above submissions.

17. Before proceeding to analyze the arguments advanced by the learned counsel for the parties, at the outset, it would be relevant to refer to the terms of the allotment letter, terms of the agreement

[9] (2015) 12 SCC 695
[10] (2018) 14 SCC 248

between the parties as also the resolutions passed from time to time.

a) A copy of letter of intent/allotment dated 25.01.2006 is filed as Annexure – P1. According to it, the respondent which was earlier known as "M/s Kumaon Associates & Technology", at the time of allotment, was allotted 0.25 acres of land in Plot No.56 within Survey No.66 of Doddathougur Village at Electronic City for setting up of IT related service activities.

b) Paragraph 1 of the said allotment letter provided that the lease shall be converted into a sale subject to fulfilment of all terms and conditions of allotment and payment of price of land in full as finally fixed, subject to adjustment of amount already paid towards premium and rent.

c) Paragraph 2 mentions that the price of land would be determined by the appellant and intimated in due course to the respondent. It was only for the purposes of allotment that the

tentative price of the land was fixed at Rs.1 Crore per acre.

d) Paragraph 9 of the allotment letter provided that the appellant reserves its rights to increase the tentative price of land indicated in the said letter after completion of all development works and finalization of court awards, if any.

e) Paragraphs 1, 2 and 9 of the allotment letter are reproduced hereunder:

> "1. The allotment of land is on lease cum sale basis for a period of 10 year. At the end of 10 years or completion of the project for which land is allotted whichever is early, the lease shall be converted into a sale subject to fulfillment of all the terms and conditions of allotment and payment of price of land in full as finally fixed subject to adjustment of amounts paid by you towards premium and rents. The conversion of lease into a sale shall also be subject to the utilization of minimum 50% of the extent handed over as determined by KEONICS on the merits of each case. The decision of KEONICS in this behalf is final and binding on you.
>
> 2. The price of the land shall be determined by KEONICS and intimated to the applicant in due course. However, for the purposes of this allotment the tentative price of the land per acre has been fixed at Rs.1 Crore per acre.
> ....

> 9. KEONICS reserves its right to increase the tentative price of the land indicated in this letter of intent after completion of all development works and finalization of Court Awards, if any."

f) The Lease cum Sale Agreement (Annexure -P2) dated 30.10.2006 executed between the parties also contains similar clauses which are briefly referred to hereunder.

g) Paragraph 6 of the said agreement states that the parties have agreed to the price of land being tentatively fixed at Rs.25 Lakhs. The said paragraph is reproduced hereunder:

> "6. And whereas the LESSOR and the LESSEE having agreed that the price of the land tentatively to be Rs. 25,00,000/- (Rupees Twenty Five Lakhs Only) and the LESSOR having received Rs.25,00,000/- (Rupees Twenty Five Lakhs Only) from the Lessee towards the final consideration, the receipt of which the LESSOR hereby acknowledges."

h) Under the terms and conditions of the agreement, clause (3) lays down several conditions. Relevant for our purposes are clauses 3r(i) and (ii). Clause r(i) provides that

lessee (respondent) would not change the constitution status of its firm/company without previous written consent of the lessor and clause r(ii) thereof provides that the lessee (respondent) would not change the name/product as mentioned in the application again without the previous written consent of the lessor (appellant). For such change the lessee would have to pay prevailing rate of the plot. The said two clauses are reproduced hereunder:

> "r(i) The lessee shall not change the constitution/status of its firm/company (proprietary or partnership (registered or un-registered) or private limited company or unlimited Company) without the previous written consent of the lessor or any other officer authorized by the lessor and such consent shall be granted by the lessor subject to the condition that the original applicant/ partners/promoters/Directors/shareholders should continue to hold a minimum 51% of the interest/shares in the newly constituted firm/company. And in the event of the lessee's death, the person to whom the title shall be transferred as heir or otherwise shall cause notice thereof to be given to the lessor within three months from such death.

> ii) The lessee shall not change the name/product (as mentioned in the application) without the previous written consent of the lessor or any officer authorized by the lessor and such consent shall be granted by the lessor subject to the condition that the lessee has to pay prevailing rate of the plot."

i) The next relevant clause is clause 13(b) which provides that the lessor (appellant) would fix the price as soon as it is convenient and the same would be communicated to the lessee so that the sale could be affected. It further records that the decision of the lessor would be final and binding on the lessee.

j) Clause 13(c) provides that the allotment would be for a period of ten years and at the expiry of the ten years or completion of the project for which land was allotted whichever is earlier, the lease would be converted into a sale subject to fulfillment of the terms and conditions of allotment and payment of price of land in full as finally fixed. It further records that the decision of the lessor in the said behalf would be final

and binding. Clauses 13(b) and 13(c) are reproduced hereunder:

> "13(b). As soon as it may be convenient the LESSOR shall fix the price of the demised premises in the allotment letter and at which it will be sold to the LESSEE and communicate it to the LESSEE and the decision of the LESSOR in this regard will be final and binding on the LESSEE. The LESSEE should pay the balance of the value of the property, if any after adjusting the premium and the total amount of the rent paid by the LESSEE and earnest money deposit within one month from the date of receipt of communication from LESSOR. On the other hand, if any sum is determined as payable by the LESSOR to the LESSEE after the adjustment as aforesaid, such sum shall be refunded to the LESSEE before the date of execution of the sale deed.
>
> (c) The allotment of land is on lease cum sale basis for a period of ten year. At the end of ten years or completion of the project for which land is allotted whichever is early, the lease shall be converted into a sale subject to fulfillment of all the terms and conditions of allotment and payment of price of land in full as finally fixed subject to adjustment of amounts paid by you towards premium and rents. The conversion of lease into a sale shall be subject to the utilization of minimum 50% of the extent handed over as determined by LESSOR on merits of each case. The decision of LESSOR in this behalf is final and binding on you."

18. The request of the respondent for change of name and status was permitted by issuing a No Objection Certificate on 18.05.2007 from Partnership to Private Limited Company. The request for change of activity from IT sector to Hospitality sector was permitted vide communication dated 24.09.2007 subject to payment of charges for change of activity i.e.Rs.5 lakhs at that time.

19. The Government Audit Party, while auditing the records of the appellant, raised an objection at Audit Enquiry No.27 vide communication dated 06.11.2008 that the appellant was suffering a loss of at least Rs.78.25 lakhs in as much as the change in activity from IT related sector to hospitality sector would amount to a fresh transaction and, therefore, the rate prevailing at the time of seeking change in activity should have been applied treating it to be a fresh transfer. The objection also noted that the land was originally allotted for promoting Information Technology and related industry in the Electronic City but the allottee had completely

changed usage of the said land by wanting to set up a hotel which fell in the hospitality sector. The objection of the Audit Party is reproduced hereunder:

> "6. The allotment of land in January 2006 was influenced by the objective of setting up of IT related industry. However, in contravention the Allottee proposed (June/July 2007) to construct the Hotel. Therefore, the consent should have been accorded by charging the prevailing rate of plot (Rs.3.2 Crores per acre) in terms of clause 3(4)(ii) of the Land cum Sale Agreement. Failure to do so, that caused loss to the Company to extent of Rs.46.25 lakhs. Further, the rate of Rs.3.20 Crore per acre was applicable to residential purpose and the rate has to be increased by 40 percent for commercial purpose. Considering this loss would further increase by Rs.32 lakhs."

20. It is true that initially the appellant tried to justify the demand of change in activity of Rs.5 lakhs calculated at the rate being Rs.1 Crore per acre but later on it realized that the audit objection was correct and, therefore, the appellant was entitled to demand the revised final rate as determined by the 141st Board meeting. It would be relevant to reproduce the Resolution of Board of Directors passed in its 141st meeting:

"EXTRACT OF THE RESOLUTION PASSED AT THE 141ST MEETING OF THE BOARD OF DIRECTORS OF M/S. KARNATAKA STATE ELECTRONICS DEVELOPMENT CORPORATION LIMITED HELD ON THURSDAY, THE 19TH DAY OF JULY, 2007 AT 03.00 PM AT THE REGISTERED OFFICE, 29/1, RACE COURSE ROAD, BANGALORE – 560 001

ADDITIONAL SUBJECT:

Additional Subject No.2:- Fixation of Land Cost for stray plots in Electronics City, Bangalore.

Identification and availability of some stray sites due to

a) Resurveying and fixation of boundaries to various allotees,
b) Reclaiming of some plots due to court decision.
c) Result of lifting of green belt in the present CDP plan by BDA was noted by the Board.

The Board further noted about the huge demand for land by the industries to set up IT Parks and IT related activities in Electronics City, and fixation of guidance value by the Government in Electronics City at Rs.800/- per sq. ft., which works out to around Rs.3.2 Crores per acre.

The Directors suggested to adopt the guidance value of Rs.3.2 Crores per acre fixed by the Government, which will enable the Corporation to maximize its returns,

> hence, to fix, the price of Rs.3.2 Crores per acre.
>
> Thereafter the Board resolved to approve for adopting the guidance value of Rs.3.2 Crores fixed by the Government as allotment rate for the stray and other sites available in the Electronics city. And further authorized the Managing Director for taking necessary actions in this regard.
>
> For KARNATAKA STATE ELECTRONICS DEVELOPMENT CORPORATION LIMITED."

21. There is no denying the fact that the appellant is a fully owned Undertaking/ Corporation of the State of Karnataka. Any loss suffered by it would be a loss to the Public Exchequer. The respondent, on the other hand, has shifted its purpose of setting up an IT related industry to a Hospitality sector to set up a hotel. If the amount for such conversion of usage is not legally recovered from the respondent, as a result, loss being suffered by the appellant, would not be in public interest. It is also not disputed that all other similarly situate allottees have paid at the rate determined in the 141st Board Meeting of the appellant.

22. The respondent seems to be getting undue advantage merely because the clerical staff and the officer signing the demand notice for conversion charges applied the tentative rate of Rs. 1 Crore per acre instead of the prevailing rate of Rs.3.2 Crores per acre and in addition, additional 40 percent for use as commercial as the rate of Rs.3.2 Crores per acre being that for residential purposes. Neither the clerical staff nor an officer of the appellant would be competent to override or deviate from the decision of the Board of Directors taken in the 141st Board Meeting. The 141st Board Meeting has taken place prior to the respondent applying for change of use and issuing of the demand notice for conversion, there could be no justification for not adhering to the decision taken in the 141st Board Meeting. A bona fide mistake could always be corrected.

23. The arguments advanced by the respondent and strongly relied upon by the learned Single Judge as also the Division Bench regarding the stand taken by the appellant in filing its objections to the audit

report regarding the financial loss, also cannot be of any help to the respondent. The said objections being contrary to the 141st Board Meeting decision, would again be a mistake at the hands of the clerical staff and some officers of the appellant Corporation. The audit objection is based upon correct appreciation of the decisions taken in the Board Meeting, in particular, 141st Board Meeting as also based upon the terms and conditions laid down in the Letter of Allotment and the Lease Agreement. We have no reason to find any fault with the audit objections.

24. The relevant clauses of the allotment letter as also the lease agreement have already been reproduced in the earlier part of this order. They are very clear that the rate of Rs.1 Crore per acre was tentative rate and the final rate was to be determined later on which would be binding on the lessee i.e. the respondent. The respondent cannot, in any manner, go against the terms and conditions given under the Letter of Allotment as also the Lease

Agreement. Once the respondent is bound by the terms and conditions, the final rate determined by the Board in its 141st meeting, being the prevailing rate of the Collector, would be binding on the respondent.

25. It is true that the appellant had filed repeated review applications both before the learned Single Judge as also the Division Bench, which had resulted into delay in filing the appeal before the Division Bench. The Division Bench ought not to have taken into consideration the delay of 459 days to be without any satisfactory explanation in dismissing the appeal of the appellant. As a matter of fact, the Division Bench failed to exercise its discretion vested under the law in condoning the delay in order to advance justice *inter se* parties thereby resulting into serious prejudice and financial loss to the appellant Corporation which is a public entity. Four judgments relied upon by the respondent regarding filing of review petitions have no application on facts to the present case. In the

case of **M.Naghabhushana** (supra), the party had reagitated the issue before the High Court after having lost upto this Court. The principle of *res judicata* was applied. The case of **Dnyandeo Sabaji Naik** (supra) was regarding filing of frivolous and groundless filing of applications/petitions, which is not the case in hand, as we have already held that the orders passed by the Single Judge and the Division Bench are not tenable in law. The case of **Vinod Kapoor** (supra) related to filing of a second S.L.P. after withdrawal of the first without liberty to file a fresh one. The case of **Sandhya Educational Society** (supra) also has no application as it related to maintainability of the S.L.P. only against the order passed in the Review by the High Court, without challenging the main order. The other two judgments relied upon by the respondent regarding applicability of Section 14 of the Limitation Act also are of no assistance as we are not extending any benefit under Section 14 of the Limitation Act to the appellant. In our considered view, the delay in filing the appeal before the Division Bench had been

satisfactorily explained and as such it ought to have been condoned under Section 5 of the Limitation Act.

26. Another argument advanced on behalf of the respondent that the final rate ought to have been determined at the earliest i.e. soon after the Letter of Allotment and there being sufficient delay in determining the final rate, the respondent should be allowed to get the sale deed executed at the tentative rate. Reference has been made to the phrase 'as soon as it may be' in Clause 13(b). Further reliance has been placed upon the judgment in the case of **Prakash Dal Mill** (supra) This argument has no legs to stand prior to the request for execution of the sale deed, the final rate had already been determined in the 141st Board Meeting and, therefore, the respondent would be bound to and abide by the same. The judgment in the case of **Prakash Dal Mill** (supra) is of no help to the respondent. In the said case, for the same land the final rate was fixed belatedly. In the present

case, the respondent itself had applied for change of use to hospitality on 23.07.2007 whereas in the Board meeting of 19.07.2007 the final rates applicable had been fixed.

27. Another argument advanced was with respect to the rate of Rs.3.2 Crores per acre being applicable to for a stray site available in the Electronic City being not applicable to the respondent is also without any merit. Once the respondent had made a request for change of use of the allotted plot from an IT sector industry to a Hospitality sector, it would amount to a fresh transaction and, therefore, the rate determined in the 141st Meeting would be fully applicable.

28. For all the reasons recorded above, we find that the demand raised by the notice dated 25.07.2012 does not suffer from any infirmity. The respondent is liable to pay the demand as per the said notice. Accordingly, the appeal is allowed. The impugned

judgments passed by the Division Bench and the Single Judge are set aside and the writ petition filed by the respondent stands dismissed.

.....J.

(VIKRAM NATH)

.....J.

(AHSANUDDIN AMANULLAH)

NEW DELHI

OCTOBER 5, 2023