

**CHAPTER - 2**  
**ACQUISITION OF LAND**

## CHAPTER 2

### ACQUISITION OF LAND

2. KHB is empowered under Section 33 (1) of the KHB Act, 1962 to enter into an agreement with any person for the acquisition from him by purchase, lease or exchange, of any land which is needed for the purposes of a housing scheme or land development scheme or any interest in such land or for compensating the owners of any such right in respect of any deprivation thereof or interference therewith. After identifying the land required for the housing projects, KHB sends proposal to the Deputy Commissioner (DC) of the respective districts to fix land compensation. While fixing land compensation, the District Purchase Committee<sup>14</sup> (DPC) is bound to adhere to the guidelines issued by the Government.

Deficiencies observed in acquisition of land, determination of compensation and its disbursements are discussed in the subsequent paragraphs:

#### 2.1 Non-framing of rules for purchase of land

For the purpose of implementing the provisions of Section 33 (1) of the KHB Act, 1962, KHB is to frame rules prescribing the circumstances under which purchase of land can be resorted to and the procedure thereof. The rules should have the approval of the State Legislature. It was, however, seen that KHB had not framed any rules for implementing the provisions under Section 33(1) of the KHB Act, 1962. There was arbitrariness in the procedure followed by KHB in respect of fixation of rates, grant of incentive sites/developed land in lieu of land compensation *etc.*, due to absence of well-defined approved rules and regulations.

#### 2.2 Non-compliance with Government guidelines in purchase of land

Government through its order dated 2 November 2001 had issued guidelines prescribing the following procedure for purchase of land for the housing projects implemented by the KHB.

- In cases where KHB, after demand survey, desired to take up housing schemes and land was required for public purpose, Board should notify in the district level newspapers, their intention to take up such schemes, and invite offers from owners of the land, suitable for the scheme, in terms of factors like proximity to the existing town, accessibility, topography *etc.* The offers should be scrutinised and the land suitable for the proposed project shortlisted by KHB; and

<sup>14</sup> Is headed by the Deputy Commissioner of the respective districts where the land is purchased by KHB. The other members of DPC are Sub-Registrar, Tahsildar, Executive Engineer of KHB and representatives of land owners.

- Where the price recommended by the Deputy Commissioner (DC) did not exceed the applicable guidance value by 20 per cent, KHB might accept the price and proceed to purchase the land under Section 33(1) of the KHB Act, 1962; otherwise, proceedings should be initiated for acquisition of land under the Land Acquisition Act, 1894 if the land was considered suitable and the cost of land was likely to be reasonable from the point of feasibility of the scheme.

Audit, however, observed that KHB did not publish advertisements in newspapers seeking offers from the owners of the identified land, nor did it scrutinise and evaluate offers. The purchase of land thus, lacked transparency. Further, though the price recommended by the DC exceeded 20 per cent of the guidance value of the land, the Government overlooked its own guidelines and approved purchase of land at higher rates. Direct purchase of land also necessitated additional expenditure towards stamp duty and registration charges paid at the rate of nine to 10 per cent which would not have arisen had land been purchased under the LA Act, 1894. During 2008-13, KHB purchased 744-15 acres of land in eight districts at a total cost of ₹ 111.04 crore for various housing schemes. The stamp duty and registration charges paid for registering the land in favour of KHB aggregated ₹ 11.10 crore approximately.

In reply, KHB stated (September 2013) that while purchasing land; care had been taken to follow the procedure laid down in Government order dated 2 November 2001. However, as brought out in succeeding paragraphs, KHB violated the directions in the purchase of land.

### 2.3 Purchase of land in fragments followed by acquisition under LA Act, 1894

Scrutiny of land purchased directly for housing projects showed that the purchases had not followed any plan and had been done on *ad hoc* basis without ensuring that they were contiguous and forming a compact block. As a result the purchases were sporadic and scattered. After purchasing land in bits and pieces, KHB initiated acquisition of the adjacent land under the LA Act, 1894 to form a compact block. Such instances noticed by Audit are detailed in **Table-6** below:

**Table-6: Details of land purchased in fragments & land acquired under LA Act, 1894 to form a compact block**

District	Location	Extent of land (Acres-guntas)			Period of acquisition	Remarks
		Direct Purchase	Period of direct purchase	Acquired under LA Act, 1894		
Mysore	Ilawala	81-04	December 2008 to July 2009	374-33 ¾	Ongoing	Notification under 4(1) of LA Act, 1894 was issued in respect of 157-26 acres
Dharwad	Amargol	85-28	2005-06	32-33	January 2009 to October 2012	
	Hiremalligewada	206-06	2006-07	95-19	March 2009 to December 2012	
Bijapur	Kasaba	521-32	January 2007	25-28	Ongoing	Award to be passed

(Source: Information furnished by KHB)

The audit observations in this regard are discussed below:

- Direct purchase of land, at above 20 *per cent* of the guidance value was resorted to in the first instance without going for compulsory acquisition under the LA Act, 1894 flouting the Government guidelines in this regard. This also had a direct impact on the compensation fixed for land subsequently acquired under the LA Act, 1894 due to shooting up of the prices.
- Direct purchase did not help the cause of the project as more land still had to be acquired under the LA Act, 1894 which delayed the completion of the acquisition process as indicated in the table above.
- Direct purchases facilitated middlemen in purchasing the identified land from the farmers at throwaway prices and offer the same to KHB at exorbitant rates reaping huge profit in the bargain. This resulted in the denial of actual benefit to the deserving land owners as detailed in paragraphs 2.4 and 2.5.

KHB stated (September 2013) that as more time was required to acquire land under the LA Act, 1894, it resorted to direct purchase of land. However, as observed, time involved in acquisition was more than three years in all cases as KHB had purchased land in scattered bits, necessitating initiation of acquisition proceedings under the LA Act, 1894 for forming a compact block.

#### **2.4 Failure to notify the land led to purchase of proposed land by middlemen**

Based on the proposal sent by KHB in February/March 2010, the Government accorded approval to various housing schemes during May 2010. KHB initiated purchase of 39-26 acres of land in several survey numbers of Mudigere village of Chickmagalur district. The DPC while fixing (January 2011) the land compensation at ₹ 6 lakh per acre, opined that the Board could consider purchasing the land up to ₹ 7 lakh/acre. The Board resolved to pay a compensation of ₹ 7 lakh/acre and the Government accorded approval for the same in March 2012.

It was seen that 10-04 acres of land in six survey numbers of Mudigere village had been purchased for ₹ 21.95 lakh by three persons during April to June 2010, immediately after project proposals had been sent to the Government in March 2010. The said persons resold the same land to KHB for ₹ 70.71 lakh and reaped a profit of ₹ 48.76 lakh within a period of less than three years.

It is evident from the above that the price recommended by DPC was much higher than the market value. Though KHB had the option to reconsider the rate fixed by DPC, it paid even higher compensation than that fixed by DPC.

## 2.5 Acquisition of land from GPA holders

KHB had purchased 81-04 acres of land at the rate of ₹ 36.50 lakh/acre during the period December 2008 to July 2009 in several survey numbers of three villages of Ilawala Taluk, Mysore district. It was seen that in four cases, detailed in **Table-7** below, KHB had disbursed compensation of ₹ 401.50 lakh for 11 acres of land in favour of General Power of Attorney (GPA) holders:

**Table-7: Disbursement of compensation to GPA holders**

Sy.No. & village	Extent (Acres-Gunta)	Owners Sri/Smt	GPA holder Sri/Smt	Date of registration of GPA	Date of execution of Sale Deed by KHB	Guidance value as on date of registration GPA (₹ in lakh)	Amt paid by KHB (₹ in lakh)
35/9 Gungral Chatra	1-20	Jayamma & 3 others	Shivashankar H.Pulase	03.01.09	05.01.09	13.50	54.75
54/21 Kallur Naganahalli	3-00	Putta Naik & 5 others	-do-	02.01.09	05.01.09	26.40	109.50
54/P-P5 Kallur Naganahalli	2-00	Venkataramane Gowda & 5 others	-do	03.01.09	05.01.09	23.00	73.00
95 Kallur Naganahalli	4-20	Lakke Gowda & 9 others	Prakash Mahendrakar	03.01.09	05.01.09	49.50	164.25
<b>Total</b>	<b>11-00</b>					<b>112.40</b>	<b>401.50</b>

(Source: Information furnished by KHB)

The land owners of the above mentioned survey numbers had registered GPA deeds on 2 and 3 January 2009. Immediately thereafter (5 January 2009), the GPA holders, on behalf of the land owners executed sale deeds with KHB for the said land, and KHB disbursed land compensation to the GPA holders. The sale consideration for 11 acres of land as per the GPA deeds aggregated to ₹ 1.12 crore, as against which, the GPA holders received a land compensation of ₹ 4.02 crore from KHB for the same land, which accounted for an increase of 359 *per cent* within a gap of 2-3 days.

It is evident that the GPA holders purchased the land from the land owners, being aware of the proposed housing project of the KHB. Thus, while the actual owners of the land received less, the GPA holders benefitted by the higher rate of compensation. These are again instances of KHB fixing land value much higher than the guidance value /market value evidently to favour a few persons who were buying land only for the purpose of reaping profits at the expense of the Government.

## 2.6 Irregular sanction of the housing project by the Government

During 2010-12, KHB had initiated process for acquisition of land at two places of Mysore Taluk for two projects (Project-A and Project-B<sup>15</sup>) and submitted the same to the Government for approval. However, Audit observed that the approach taken by the Government in these two projects while according approval was inconsistent which is discussed below:

<sup>15</sup> Project A refers to Udburu and Kalalavadi villages and Project B refers to Daripura and Danagalli villages

- **Project A**

The Executive Engineer, upon the request of the land owners, submitted a proposal (March 2011) providing for acquisition of 204-12 acres in two villages of Mysore taluk under the LA Act, 1894 and seeking approval of KHB to issue the preliminary notification. But as per the oral orders of the Chairman, it was decided to procure land through direct purchase.

DPC fixed (July 2011) a price of ₹ 36.50 lakh per acre, for land whose guidance value was ₹ 5.50 lakh to ₹ 12 lakh per acre in these villages. KHB approved (February 2012) the same and sent (April 2012) the proposal to the Government which observed (June 2012) that the purchase rates approved by KHB were very high as compared to the existing market value and directed KHB to purchase alternative land at less price. However, based on the clarification by KHB that they would realise a net income of ₹ 8.43 lakh per acre, the Government approved the proposal (November 2012) for acquisition of 204-12 acres of land.

Audit observed that subsequently, the Commissioner of KHB had issued oral orders (February 2013) to stop the purchase process for the Project. However, KHB had already purchased 1-32 acres.

- **Project-B**

The Project B comprised of 212-32 acres of land in two other villages of the same Mysore Taluk. The DPC fixed (July 2011) compensation of ₹ 37.50 lakh per acre which was approved by KHB (February 2012). The proposal was sent to the Housing Department, Government of Karnataka in April 2012 for approval.

The Housing Department did not approve the proposal due to the fact that the Finance Department had rejected the project proposal on the following grounds:

- KHB did not follow the instructions issued by the Government in November 2001 (Para 2.2) and compromised on transparency;
- Against the average market/sale rate of ₹ 5.72 lakh/acre, the rate was fixed at ₹ 37.50 lakh/acre; and
- KHB did not draw a formal policy of granting developed land to the farmers while fixing land compensation. It also did not follow a consistent approach in this regard. Without the existence of a policy and consistent approach, adhocism and inconsistency of KHB would be legally questionable.

It is thus seen that the sanction accorded to the housing Project-A during November 2012 was neither justifiable nor consistent as Finance Department

had rejected Project-B (as discussed above) in the same district and the same hobli<sup>16</sup> citing reasons that are applicable to both projects.

## 2.7 Compensation in the form of developed land

Audit noticed that KHB was inconsistent in its approach towards payment of land compensation in the form of developed land to the farmers as discussed below:

Final Notification under Sec 6(1) of the LA Act, 1894 was issued (January 2009) notifying 499-21 acres of land in Kakaramanahalli, Borehalli and Muddapurakarenahalli villages of Ramanagara district.

DPC had fixed (November 2008) land compensation at ₹ 24 lakh/acre, after adding 20 per cent to the prevailing guidance value of ₹ 20 lakh/acre.

However, KHB resolved (February 2009) to purchase the land at ₹ 32 lakh per acre in view of the fact that earlier it had purchased land in four villages of Anekal Taluk, Bangalore Urban district at the rate of ₹ 32 lakh/acre. KHB submitted (May 2009) the proposal to the Government for approval.

The Government directed (July 2009) KHB to re-examine the issue as prior permission of the Government was not obtained before initiating the acquisition proceedings and also criticised KHB's move to purchase the land at an exorbitant rate of ₹ 32 lakh, ignoring land compensation of ₹ 24 lakh/acre recommended by DPC.

During January 2010, a meeting was held under the Chairmanship of Housing Minister to enhance the land compensation to ₹ 26 lakh/acre, in place of ₹ 24 lakh/acre determined earlier by the DC during November 2008. The Government approved (August 2010) the award. Post-facto approval of KHB was obtained on 16 August 2010.

KHB further resolved (29 May 2012) to grant incentive sites in the following proportion to the land losers at a concessional rate of 25 per cent of the allotment rate:

Extent of land(Acres-Guntas)	Site dimension (in feet)
0-10 acres	Nil
0-10 to 0-20	6 x 9
0-20 to 1-00	9 x12
1-00 to 1-20	9 x 12 & 6 x 9
1-20 to 2-00	Two sites of 9 x 12

(Source: Information furnished by KHB)

Orders of the Government approving the above resolution were not available on file.

<sup>16</sup> A *hobli* is defined as a cluster of adjoining villages administered together for tax and land tenure purposes in the state of Karnataka.

Thus, although the DC had fixed land compensation of ₹ 24 lakh/acre during November 2008, KHB arbitrarily enhanced the same to ₹ 32 lakh during February 2009 and again revised the rate to ₹ 26 lakh during January 2010, which was still higher by ₹ 2 lakh/acre, as compared to the rates determined by the DPC. The subsequent enhancement of land compensation by ₹ 2 lakh/acre was not justified as the DPC had already taken into consideration various factors, before determining the land compensation and also complied with the directions contained in Government Order dated 2 November 2001.

Grant of incentive sites for land directly purchased at mutually agreed rates was irregular as the KHB had not devised a uniform policy with the approval of the Government.

## **2.8 Other flaws in determination of land compensation**

In addition to the observations on determination of land compensation discussed above, audit noticed other flaws. Though the DPC is bound to adhere to the guidelines of November 2001 issued by the Government while fixing land compensation, it was observed that the rates fixed by DPC and subsequently by KHB and also approved by the Government were higher than the prevailing guidance value. Observations on determination of land compensation are brought out in the succeeding paragraphs:

### **2.8.1 Mysore district**

The Government had accorded (November 2008 and March 2009) approval for purchase of 352-34 acres of land in various villages of Ilawala hobli of Mysore district at the rate of ₹ 36.50 lakh per acre. However, the guidance value at that time ranged from ₹ 1 lakh to ₹ 3.50 lakh per acre. Thus, the rates fixed by KHB were higher than the guidance value.

It was further seen that a few persons entered into registered sale agreements or obtained GPA from the land owners for huge tracts of land in the proposed project area just a few months before the project took the final shape. The sale consideration mentioned in the registered sale agreements ranged from ₹ 0.62 lakh to ₹ 11.50 lakh per acre against the compensation of ₹ 36.50 lakh per acre fixed by KHB. These persons, apparently were aware of the housing project being formulated by KHB in the area, obtained land on GPA/registered sale agreements only for benefit from the higher compensation fixed by KHB.

It would be pertinent to note that the Government had approved (March 2007) compensation of ₹ 32 lakh per acre for 1,090 acres purchased in Anekal Taluk of Bangalore Urban District for the formation of a composite housing scheme called "Suryanagar". The compensation was through mutual consent. When KHB was able to secure land at Bangalore at ₹ 32 lakh per acre during 2008-09, the land situated at a distance of 22 km from Mysore city could not have commanded a price of ₹ 36.50 lakh per acre during the same period.

In reply, KHB stated (September 2013) that, based on the discussions in the Legislative Assembly, it was decided to follow the procedures for acquisition of land under the LA Act, 1894. In the exit conference, it was also stated that the irregularities were being investigated by Lokayukta.

### **2.8.2 Dharwad district**

Land measuring 32-33 acres was acquired at Amargol village through final notification (January 2009) under the LA Act, 1894 for forming a compact block. Of this, the Government had denotified (March 2010 and June 2010) 8-39 acres.

Though award (February 2010) had been passed by the DC for the remaining 23-34 acres, possession of only 11-21 acres was taken over by KHB (September 2011) as the remaining land were under litigation. In order to resolve the issue, the Housing Minister conducted a spot inspection and a meeting (March 2012) with the land owners and directed KHB to allot developed land in the ratio of 60:40 in lieu of compensation.

Accordingly, KHB resolved (July and October 2012) to allot to the land owners 40 *per cent* of the developed land in the form of sites (9,583 sq ft of developed land per acre). Following this, the land owners withdrew the writ petition.

The allotment rate fixed for the sites developed by KHB at Amaragol Housing Project was ₹ 430 per sq ft. Thus, the land compensation paid for land acquired under the LA Act, 1894 worked out to ₹ 41.21 lakh per acre against the compensation of ₹ 9.12 lakh per acre fixed by the DC.

The KHB had deposited (July 2007 and December 2008) ₹ 30.07 crore with the Divisional Commissioner, Dharwad towards cost of land acquired under LA Act, 1894. Particulars of refund of this amount in view of grant of developed land in lieu of land compensation were not found on file.

KHB in its reply stated (September 2013) that as there was possibility of delay in implementation of the project, the Commissioner had issued orders for granting developed land in lieu of compensation as per the provisions of Government order dated 20 October 2012. The reply was not acceptable as the land was acquired during January 2009 and the provisions of the Government order were silent on its applicability retrospectively.

### **2.8.3 Bijapur district**

Several land owners in their representation (August 2006) to the Housing Minister had volunteered to sell their land measuring 298-12 acres in Sy.Nos 36 to 75 of Bijapur taluk to KHB at appropriate and reasonable rates determined by KHB and the Housing Minister instructed KHB to purchase the said land.

The Deputy Commissioner, with the consent of the farmers, fixed (September 2006) a compensation of ₹ 7 lakh per acre, considering that the land were abutting National Highway (NH) 13 and were located at a distance of two kms from Bijapur bus station. KHB approved (December 2006) purchase of 298 acres of land at the rate fixed by the DC and the Government accorded (January 2007) approval for the same. The Commissioner issued specific instructions to purchase only those land which were close to NH at the rates approved by DPC.

However, KHB was unable to purchase the land that had been actually identified. Therefore, in the meeting conducted during March 2007, the Housing Minister directed to purchase other land, irrespective of whether they were abutting the NH or otherwise. He also issued directions to acquire land in specific survey numbers and also to limit the purchase to 298 acres.

Following this direction KHB, did not take steps to identify the survey numbers in which the approved extent of 298 acres was to be acquired. Instead, it purchased 521-32 acres of land in various survey numbers at a cost of ₹ 37.95 crore as against 298 acres approved by the Government.

Purchase of 223-32 acres at an excessive cost of ₹ 15.67 crore was unauthorised. Further, the DC had fixed land compensation at ₹ 7 lakh/acre, mainly for the reason that the identified land were just adjacent to NH 13 but the land compensation was paid at the same rate for remote land without ascertaining reasonableness.

#### **2.8.4 Chickmagalur district**

The DPC, while fixing (January 2011) the land compensation at the rate ₹ 6 lakh per acre for 39-26 acres of land in several survey numbers of Mudigere village of Chickmagalur district, opined that KHB could consider purchasing the land up to ₹ 7 lakh/acre. KHB resolved to pay a compensation of ₹ 7 lakh /acre, and the Government accorded approval for the same in March 2012.

It was seen from the proceedings of the DPC meeting of January 2011 that the guidance value of the land purchased by KHB was ₹ 0.77 lakh/acre. The adjacent land had been registered for amounts ranging from ₹ 2.06 lakh per acre to ₹ 4.50 lakh per acre during April 2010 to October 2010. Therefore the compensation paid by KHB was much higher than even the prevailing market value.

In reply KHB stated (May 2013) that land owners were ready to sell land subject to payment of compensation of ₹ 7 lakh/acre. Further, it was stated that the market value of the land was ₹ 10 lakh /acre. The reply was not acceptable as the guidance value was ₹ 0.77 lakh/acre and 20 *per cent* in excess of the guidance value which was the compensation value as per Government Order dated 2.11.2001 worked out to only ₹ 0.92 lakh per acre.

### 2.8.5 Gulbarga District

#### • *Chincholi Project*

Sri Chandrakanth M Biradar in his representation (May 2010) to the Minister for Housing had stated that he owned 17 acres of land in Sy No.155/1 of Chincholi Village, Gulbarga district and was willing to sell them to KHB at the rate of ₹ 14 lakh/acre. The Minister forwarded this letter to the Commissioner with directions to examine the feasibility and submit a report within 15 days.

The DPC fixed (January 2011) a compensation of ₹ 9 lakh per acre and also a site measuring 30' x 40' at the prevailing allotment rate which was also approved by KHB in February 2011. KHB submitted a proposal (May 2011) to the Government to this effect.

In the meantime, Chairman of Mysore Sales International Limited (a local political leader) requested the Chairman of KHB to allot the incentive sites to the land owners free of cost, besides land compensation of ₹ 9 lakh/acre. KHB submitted (July 2011) yet again a revised proposal to the Government which was approved by it in August 2011.

Audit observed that:

- Before purchasing the land, no demand survey had been undertaken and no public offers had been invited by KHB but land was purchased at the request of an individual, who volunteered to sell his land.
- The ceiling fixed by the Government in November 2001 on the compensation had also not been adhered to. The guidance value of the land during 2010-11 ranged from ₹ 0.57 lakh to ₹ 0.77 lakh against the compensation of ₹ 9 lakh per acre fixed by KHB during January 2011 plus a free site of 30' x 40' dimension. The allotment rate of the site, as worked out by KHB was ₹ 1.51 lakh per site. Thus, the actual compensation paid by KHB amounted to ₹ 10.51 lakh/acre.
- Photocopies of sale deeds available on files showed that Shri Chandrakanth M Biradar and others had purchased 20-20 acres of land in Sy No.155/1 on 31<sup>st</sup> October 2008 at ₹ 0.98 lakh per acre. After purchasing these land, they volunteered to sell the same land to KHB, at an exorbitant price of ₹ 14 lakh per acre, which was later brought down to ₹ 9 lakh per acre after negotiation along with a free site.

KHB in its reply (August 2013) confirmed the facts.

#### • *Kalagnoor/ Kushnoor project*

The DPC had recommended (December 2006) a price of ₹ 9.5 lakh per acre for 210 acres of land in Kalagnoor/Kushnoor villages of Gulbarga. However, KHB reduced the rate to ₹ 8.90 lakh per acre by negotiating with the farmers.

The Government accorded (March 2007) approval to purchase the land at the negotiated rate of ₹ 8.90 lakh.

Acting on the directions of the Minister for Housing and Muzrai (May 2009), KHB issued a notification (January 2011) in a local newspaper informing its intention of purchasing another 132-18 acres in the said village at the rate of ₹ 8.90 lakh per acre.

In response to a representation (February 2011) on behalf of the farmers received by the Commissioner requesting for revision of the rate to ₹ 12 lakh per acre on the ground that the rates had been fixed way back during 2006-07, a fresh DPC meeting was conducted wherein it was decided to pay a rate of ₹ 13 lakh to ₹ 13.25 lakh per acre, inclusive of tax deducted at source.

Meanwhile, Chairman of the Implementation Committee of Dr.Nanjundappa Committee Report requested (May 2009) KHB to acquire land in certain survey numbers of Kushnoor village, informing that the farmers/land owners were willing to sell their land to KHB for the housing project and that the land were situated adjacent to those already purchased by KHB.

The matter related to purchase of land was once again placed before the Board (June 2011) and it was decided to purchase additional 672 acres (385 acres in Kalagnoor village and 287 acres in Kushnoor village) at ₹ 13 lakh per acre and to submit the proposal to the Government for approval. The land proposed to be purchased also included the land recommended by the Chairman mentioned above. However, the Government accorded (November 2011) approval only for purchase of 287 acres of land in Kushnoor village at ₹ 13 lakh per acre.

It was seen that:

- The market value of the land in that area was ₹ 0.36 lakh to 0.67 lakh as per the sales statistics.
- Despite getting necessary approval from the Government in March 2007 for purchase of 210 acres, KHB purchased only 97-12 acres of land (46 *per cent*) in several survey numbers of Kalagnoor village during December 2008 to July 2009.
- Following the approval accorded by the Government in November 2011 on the second occasion, KHB had purchased 218-36 acres out of 287 acres of land in Kushnoor village during January to May 2012 at the rate of ₹ 13 lakh per acre.
- Though KHB had identified 210 acres of land in two villages for purchase and also finalised the rate of ₹ 8.90 lakh/acre during March 2007 itself, laxity in purchasing the identified land resulted in purchasing 112-28 acres of land at the enhanced rate of ₹ 13 lakh per acre. As a consequence, the project cost escalated by ₹ 4.51 crore.

- An additional expenditure of ₹ 2.18 crore was also incurred on 218-36 acres of land purchased till date due to fixing the value of land at ₹ 13 lakh per acre instead of ₹ 12 lakh per acre as demanded by the farmers.
- The basis on which the Board of KHB resolved (June 2011) to purchase additional 672 acres of land at ₹ 13 lakh per acre, as compared to 210 acres originally proposed to be purchased was not on record which reflected absence of an appropriate planning system for housing projects.
- Demand survey had also not been done when KHB initially proposed to acquire 210 acres during 2006-07, or for the purchase of additional 672 acres approved during June 2011.

## **2.9 Payment of Compensation**

Deficiencies/irregularities noticed in the test-checked cases in the disbursement of land compensation are brought out in the succeeding paragraphs:

### **2.9.1 Compensation for land classified under “B” Kharab**

The Government in Revenue Department had clarified (June 2003 and May 2004) that land, which are not suitable /unfit for cultivation, have been classified under “A” and “B” kharab land under sub-section (2) of Rule 21 of the Karnataka Land Revenue Rules (KLR), 1966. If Kharab land classified under “A” has been granted by the competent authority under the provisions of the Karnataka Land Grant (KLG) Rules, 1969 in such circumstances, the grantee becomes the owner of the land, provided such land has been granted before the date of issue of preliminary notification and, in such cases, the grantee would become eligible for land compensation. As regards land categorised under “B”, the question of payment of compensation does not arise.

Final notification (October 2011) under the LA Act, 1894 was issued by KHB for acquisition of 271-07 acres of land in three villages of Mysore district. Out of this, 208-02 acres had been classified as “B” Kharab as per revenue records as confirmed (June 2012) by Tahsildar, Mysore.

Audit, however, observed that KHB had paid land compensation of ₹ 47.53 crore at the rate of ₹ 36.50 lakh per acre for 130-09 acres of “B” Kharab land to several persons in Sy.Nos.54 and 99 of two villages.

KHB replied (April 2013) that the land in question had been granted by the Government to the said persons and also issued RTC in their favour and that after obtaining necessary documents payment had been made.

### 2.9.2 Discrepancies in disbursement of land compensation

In seven cases listed in **Table-8** below, compensation amounting to ₹ 852.28 lakh was awarded to persons other than khatedar by the SLAO without sufficient verification of vital records:

**Table-8: Discrepancies in the disbursement of land compensation**

Land owner	Extent of land (Acres-Guntas)/ SyNo.	Compensation paid			Relationship with the land owner	Documents not verified by SLAO	Audit observation
		Extent of land (Acres-Guntas)	Amount (₹ in lakh) /Period	To			
(1)	(2)	(3)	(4)	(5)	(6)	(8)	(9)
Ningamma	3-00 54/P-8	2-00	73.00/ May 2012	Guruboraiah	Eldest Grandson	<ul style="list-style-type: none"> <li>Death certificate of other two sons.</li> <li>Mutation entries in the Revenue records</li> <li>Succession certificate</li> </ul>	Acceptance of family tree issued by non-competent authority with specific condition (sale of land) and in the absence of records at Column (8), the payment to the rightful owner was doubtful
Rajamma	1-30 /54 Part	1-30	63.88/ June 2012	Rajamma	Self		Khatedar had entered into sale agreement on 7.11.2007 for ₹ 37.87 lakh and received an advance of ₹ 3.88 lakh. NOC from the agreement holder was not obtained.
Rache Gowda	4-00 54/15	4-00	146.00/ June 2012	Savitamma	Wife	<ul style="list-style-type: none"> <li>Death certificate of Khatedar not obtained</li> </ul>	Rachegowda had filed application for no due certificate from Primary Land Development Bank, Mysore on 29.12.2011 which indicated that he was alive.
Papegowda	3-00 54/3	2-00	73.00/ Feb 2012	Jayanna	Son	<ul style="list-style-type: none"> <li>Death certificate of khatedar, wife and daughter</li> <li>Succession certificate</li> <li>Mutation entries in revenue records</li> </ul>	Acceptance of family tree issued by non-competent authority with specific condition (sale of land) and in the absence of records at Column (8), the payment to the rightful owner was doubtful
		1-00	36.50/ Feb 2012	Shivanna	Grandson		
Sanne Gowda	2-24 55	2-24	94.90/ May 2012	Ashok	Son		Revenue mutation was in the name of Khatedar and the Khatedar was alive. Hence payment was not in order.
Lakshamma	3-00 54/23	1-20	54.75/ June 12	Swamy Naika	Son	<ul style="list-style-type: none"> <li>Death certificate of khatedar</li> <li>Succession certificate</li> <li>Mutation entries in revenue records</li> </ul>	<ul style="list-style-type: none"> <li>Whether the husband of the khatedar was alive was not confirmed.</li> <li>No records to prove that the payees were the sons of the khatedar.</li> <li>NOC from the daughter was not obtained.</li> <li>Cross verification of records (notice under Sec 4(1), encumbrance certificate and nil tenancy certificate) showed that the khatedar was alive.</li> </ul>
		1-20	54.75/ June 12	Govinda Naika	Son		

Land owner	Extent of land (Acres-Guntas)/ SyNo.	Compensation paid			Relationship with the land owner	Documents not verified by SLAO	Audit observation
		Extent of land (Acres-Guntas)	Amount (₹ in lakh) /Period	To			
(1)	(2)	(3)	(4)	(5)	(6)	(8)	(9)
Putta Nayaka	4-00 54/P 11	4-00	146.00/ June 09	Putta Nayaka	Self	• Grant certificate	In the absence of land grant certificate, it could not be verified whether PuttaNayaka had been granted 7 acres of Government land in Sy.Nos. mentioned at Col (2)
	3-00 54/21	3-00	109.50/ Jan 09	Shiva Shankar H Pulse.	GPA Holder	• Grant certificate • Mutation entries in revenue records	
<b>Total</b>			<b>852.28</b>				

(Source: Information furnished by KHB)

Thus, ₹ 8.52 crore was paid as compensation without availability of necessary documents and therefore audit could not derive assurance that payments were made to rightful owners.

## 2.10 Denotification of land in contravention of the provisions of LA Act, 1894

Under Section 48 (1) of the LA Act, 1894 the Government is at liberty to withdraw from acquisition of any land of which possession has not been taken. Thus, if possession of land has been taken following the due procedure under the LA Act, 1894 the Government has no power to withdraw from acquisition proceedings. This position has been upheld by the Supreme Court and the High Court of Karnataka in many cases.

During the period 2008-13, the Government denotified, under the provisions contained in Section 48(1) of the LA Act, 1894 an extent of 637-32¼ acres of land in seven cases.

Observations of audit with regard to two out of seven cases are brought out in the following paragraphs.

### 2.10.1 Bangalore district

The Government had denotified (September 2010) an extent of 36-10 acres in Allalasangra village of Bangalore North Taluk which had earlier been acquired for the formation of a housing project during April 1991. The above 36-10 acres of notified land was purchased by Dharmasthala Manjunatheshwara Educational Society during the period from 15 February 1993 to 9 May 2001.

The events that had occurred from the date of acquisition to the date of denotification are tabulated below in chronological order:

Month & year	Event
April 1991	Final Notification u/s 6(1) of the LA Act, 1894 issued notifying 106-01 acres
February 1993 to May 2001	Purchase of 36-10 acres of land notified by the Society

Month & year	Event
July 2002 and May 2003	Possession of entire notified land by the KHB
September 2002	Society filed Writ Petition before High Court of Karnataka challenging the acquisition and status quo orders obtained
March 2004	Government decided to denotify the land
September 2010	Denotified 36-10 acres of land in favour of the Society
April 2011	Writ Petition withdrawn by the Society

From the above, it could be seen that a Society had purchased notified land in contravention of Sec 3 of Karnataka Land (Restriction on Transfer) Act, (KLRT Act), 1991 which prohibits the transfer of land notified under the LA Act, 1894 for a public purpose. Further, the possession of the land had also been taken over by KHB and therefore, it was not permissible under the LA Act, 1894 to denotify the land at this stage.

However, the Government overlooked the provisions of the said Acts and denotified the land in favour of the Society for the reason that KHB did not develop the acquired land and development at that stage would involve huge expenditure.

In reply, KHB stated (April 2013) that the Revenue Department had been requested during July 2011 to cancel the denotification order and the matter was pending before the Government. The Commissioner also stated in the exit conference (August 2014) that monitoring mechanism has been strengthened to track the developments after publication of notification for acquisition of land.

### 2.10.2 Hassan district

In response to a demand survey conducted during 2002-03, KHB decided (May 2007) to acquire 527-13 acres of land in three villages of Hassan district.

The developments that took place after May 2007 are tabulated below in chronological order:

Month & year	Event
June 2007	Preliminary Notification u/s 4(1) of the LA Act, 1894 notifying 598-07 acres
January 2010	Final Notification u/s 6(1) of the LA Act, 1894 notifying 587-31 acres
December 2008 and December 2009	Representations by land owners seeking denotification of land and pressure through politicians
June 2010	Government conveyed approval of the Chief Minister and issued directions to forward draft Notification for denotification with the condition that the land should not be alienated for five years
February 2011	587-31 acres denotified without insertion of alienation clause

Though final notification for acquisition of 587-31 acres of land was issued during January 2010, the Government denotified (February 2011) the entire land owing to pressure from the land owners and politicians. Therefore, denotification of land acquired for a public purpose despite demand for sites was neither justified nor legal.

### 2.11 Failure to pass award within stipulated time

Under the LA Act, 1894, the acquisition process should be completed within three years. KHB had initiated proceedings for acquisition of 434-22 acres of land in two villages of Bangalore North taluk during March 2007. However, the land acquisition process was completed only during October 2011 involving the following stages in a chronological order:

Month & year	Event
March 2007	Preliminary Notification u/s 4(1) of the LA Act, 1894 notifying 434-22 acres
June 2009	Final Notification u/s 6(1) of the LA Act, 1894 notifying 420-05 acres
May 2011	DPC determined compensation of ₹ 75 lakh per acre and allotment of a free site measuring 1200 sft.
July 2011	KHB resolved to pay compensation of ₹ 60 lakh per acre and a free site.
October 2011	KHB forwarded the proposal to the Revenue Department for approval of award.
March 2012	Revenue Department rejected the proposal on the ground that award was not made within two years from the date of final notification.

Audit observed that the Government had approved (August 2005) the purchase of 537-31 acres of land at the rate of ₹ 11.25 lakh per acre. Against this, KHB was able to purchase only 4-00 acres of land as response from the land owners had not been encouraging. Therefore, KHB decided to acquire the identified land under Section 33(2) of the KHB Act, 1962, by invoking the provisions of the LA Act, 1894. The acquisition proceedings initiated under the LA Act, 1894 were also not fruitful as KHB did not adhere to the timeframe prescribed under the Act. As a result, the entire housing project was shelved. KHB failed in its endeavor to acquire land either through direct purchase or through compulsory acquisition under the LA Act, 1894.

KHB also incurred a loss of ₹ 2.24 lakh on advertisement charges besides the investment of ₹ 49.50 lakh on purchase of 4 acres of land. KHB had not taken any action to fix responsibility for failure to pass the award within the stipulated period.

It was seen that laxity on the part of KHB to get the award passed within the stipulated period paved the way for numerous private developers and builders to purchase the notified land and reap attractive benefits. Several persons had purchased the notified land in violation of KLRT Act, 1991 and also got those land converted for residential use, even before rejection of award proposal by the Revenue Department.

It was, therefore, evident that KHB did not exercise appropriate vigilance over the notified land, which led to illegal sale of the notified land in contravention of the KLRT Act, 1991.

In exit conference (August 2014), the Commissioner admitted the facts pointed out by Audit.

## 2.12 Betterment Charges

Sections 34 to 37 of the KHB Act, 1962 deal with the assessment of betterment charges, levy and mode of collection and recovery of betterment charges. Betterment charges are leviable by KHB in all cases where the land value increases owing to the execution of a housing scheme or development scheme by KHB.

Under Sec 34(1) of the KHB Act, 1962, KHB is required to identify/assess the areas, which are so likely to be affected by the implementation of the scheme, while framing the scheme itself, showing the details of land, which attract betterment charges. KHB is also required to publish a declaration that betterment charges shall be payable by the land owners or any person having an interest therein in respect of the increase in value of the land from the execution of the scheme.

It is therefore imperative that while publishing Notification u/s 4(1) of the LA Act, 1894 KHB should also simultaneously publish Notification u/s 34(1) of the KHB Act, 1962, indicating the details of land and land owners, liable for payment of betterment tax, to be assessed at a later date.

Section 34(2) of the Act lays down the procedure for the assessment of betterment charges. It is stipulated that the difference between the value of land on completion of the scheme and its value prior to the execution of the scheme should be arrived at and the betterment charges should be computed at 50 *per cent* of such difference.

KHB is empowered to levy the betterment charges for the identified land, provided those land are either used or converted for non-agricultural purposes as per Section 34(4) of the KHB Act, 1962.

It was seen that KHB had so far not invoked any of the provisions laid down in Sections 34 to 37 of the KHB Act, 1962 and no betterment charges had been assessed or recovered from the land owners. During the exit conference (August 2014) the Commissioner expressed inability for levy of betterment charges stating that he was not an Administrator. The reply is not tenable as no efforts have been made by KHB to sort out the issue with the help of local town planning authorities.

### 2.13 Court Deposits

Under Section 31 of the LA Act, 1894 on making an award under Section 11, compensation awarded needs to be paid to the persons interested/entitled thereto according to the award, unless prevented by someone. The Act also stipulates deposit of the amount of the compensation in the Court to which a reference under Section 18 would be submitted, in all cases where, the land owners/interested persons shall not consent to receive it, or if there be no person competent to alienate the land, or if there be any dispute as to the title to receive the compensation or as to the apportionment of it.

In the above context, review of files related to compulsory acquisition of land [u/s 33(2) of the KHB Act, 1962] under the provisions of the LA Act, 1894 disclosed the following lacunae:

- Project-wise compensation payment register was not closed periodically to ascertain the progressive extent of land, to which compensation had been paid and the balance extent, in respect of which compensation was yet to be disbursed, as compared to the total land notified u/s 6(1) of the LA Act, 1894. Therefore, the extent and also the quantum of land compensation remaining unpaid to the land owners under different housing projects as on a given date could not be ascertained.
- On passing the award u/s 11(1) or 11(2) of the LA Act, 1894, as the case may be, award notice u/s 12(2) had been served on the land owners of the notified land, directing them to hand over the documents mentioned in the award notice within 15 days from the receipt of notice and to collect the land compensation. After the expiry of this period, KHB was required to deposit the unclaimed land compensation with the court as required u/s 31 of the LA Act, 1894. However, KHB had not deposited such amounts with the jurisdictional Court.
- It was also mentioned in the award notices issued by KHB that after the expiry of the stipulated period, the amount of land compensation would be held in a deposit account with Board and that no interest would be admissible on such deposits. KHB had not maintained a separate deposit account and hence outstanding land compensation was not verifiable. The system followed by KHB was not in tune with the provisions laid down in the LA Act, 1894.
- In three test-checked projects alone, the undisbursed land compensation amounted to ₹ 143.77 crore as shown in **Table-9** below :

**Table-9: Details of undisbursed land compensation**

Name of the District	Location	Extent for which compensation is payable (Acres-Guntas)	Amount of undisbursed land compensation (in ₹)	Remarks
Dharwad	Gamanagatti, Suthagatti	63-07½	85,03,818	General award @ ₹ 1.35 lakh/acre
Mysore	Kallur-Naganahallikaval, Gungralchatra, Yalachahalli	153-29	55,34,46,250	Consent award @ ₹ 36.50 lakh/acre

Name of the District	Location	Extent for which compensation is payable (Acres-Guntas)	Amount of undisbursed land compensation (in ₹)	Remarks
Ramanagara	Borehalli, Muddapura-Karenahalli, Kakaramanahalli	336-32½	87,57,12,500	Consent award @ ₹ 26 lakh/acre
<b>Total</b>			<b>143,76,62,568</b>	

(Source: Information furnished by KHB)

- KHB had deposited the land compensation in the court only in cases where there were disputes related to the notified land. However, the Land Acquisition wing had not maintained a court deposit register, showing the amounts deposited from time to time and their disbursement to the land owners through the court. Due to non-maintenance of court deposit register, total deposits remaining with the court, pending disbursement to the land owners were not ascertainable.
- Audit also noticed that there was no system in place to periodically verify, with reference to the court records, the actual disbursement of the land compensation to the land owners. In the absence of such reconciliation, Audit could not ascertain whether the amount deposited with the court had actually been disbursed to the land owners, after disposal of the respective court case.

