

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 07TH DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR. JUSTICE KRISHNA S DIXIT

AND

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.8048 OF 2024 (LA - BDA)

BETWEEN:

SHIVANGINI BHARTIA
D/O SRI ALOK BHARTIA
AGED ABOUT 32 YEARS
RESIDENT OF 101,
PARIJAT APARTMENTS,
FAIRFIELD LAYOUT,
NO.45/1, RACE COURSE ROAD,
BENGALURU – 560 001
REPRESENTED BY
POWER OF ATTORNEY HOLDER,
MR.NIRMAL KUMAR JAIN,
RESIDING OF 22,
17TH 'E' MAIN, 7TH CROSS,
6TH BLOCK, KORAMANAGALA
BENGALURU – 560 095.

... PETITIONER

(BY SRI K.N.PHANINDRA, SR.ADVOCATE A/W
SMT.EKTA PRADHAN, ADVOCATE)

AND:

1 . STATE OF KARNATAKA

REPRESENTED BY ITS
PRINCIPAL SECRETARY,
URBAN DEVELOPMENT DEPARTMENT,
VIKAS SOUDHA,
BENGALURU – 560 001.

2 . THE BENGALURU DEVELOPMENT AUTHORITY
REPRESENTED BY ITS COMMISSIONER
T.CHOWDAIAH ROAD,
KUMARA PARK WEST,
BENGALURU – 560 020
KARNATAKA.
EMAIL: commissioner-bda@ka.gov.in

3 . THE LAND ACQUISITION OFFICER
BENGALURU DEVELOPMENT AUTHORITY
T.CHOWDAIAH ROAD,
KUMARA PARK WEST,
BENGALURU – 560 020
KARNATAKA
EMAIL: commissioner-bda@ka.gov.in

... RESPONDENTS

(BY SRI M.RAJAKUMAR, AGA FOR R-1;
SRI SHVAPRASAD M.SHANTANAGOUDAR,
ADVOCATE FOR R-2 AND R-3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE
CONSTITUTION OF INDIA PRAYING TO a) DIRECTING THE R-2 TO
REGULARIZE THE ENTIRE SCHEDULE PROPERTY;
b) DIRECTING THE R-2 TO ISSUE THE CERTIFICATE OF
REGULARIZATION FOR THE ENTIRE SCHEDULE PROPERTY
INCLUDING THE LAND AND OTHER CONSTRUCTED BUILDINGS
OWNED BY THE PETITIONER, AS PER THE ORDER DTD 06.12.2022

PASSED BY THE HON'BLE SUPREME COURT IN MISCELLANEOUS APPLICATION NO.(S) 1614-1616 OF 2019 IN CIVIL APPEAL NO.(S) 7661-7663 /2018 VIDE ANNEXURE – A AND ETC.,

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, ***M. NAGAPRASANNA, J.***, DELIVERED THE FOLLOWING:-

CORAM: HON'BLE MR JUSTICE KRISHNA S DIXIT
AND
HON'BLE MR JUSTICE M.NAGAPRASANNA

CAV ORDER

(PER: **HON'BLE MR JUSTICE M.NAGAPRASANNA**)

In this petition, the petitioner seeks a direction by issuance of a writ in the nature of mandamus directing the 2nd respondent to regularize entire schedule property, for it having been regularized partially by the Committee. As a consequence thereof, she also seeks a writ, in the nature of prohibition, prohibiting respondents 2 and 3 from acquiring or taking possession of any portion of the schedule property.

2. Heard Sri K N Phanindra, learned senior counsel appearing for the petitioner, Sri M Rajakumar, learned Additional Government Advocate appearing for respondent No.1 and Sri Shivaprasad M Shantanagoudar, learned counsel appearing for respondents 2 and 3.

3. Facts, in brief, germane are as follows:-

The petitioner claims to be the absolute owner in possession and enjoyment of the land to the extent of 5 acres 36 guntas in Sy.No.18 situated at Ramagondanahalli Village, IVRI Road, Yelahanka Hobli and Taluk, Bangalore Urban District (hereinafter referred to as 'the schedule property' for short). Portions of the schedule property were originally purchased by the mother of the petitioner in terms of two sale deeds dated 07-04-1999 and 01-02-2001 and through one gift deed from the aunt of the petitioner. These are not in dispute. In 2001, the mother of the petitioner files an application seeking approval of a plan for construction of farm house in the schedule property from Gantiganahalli Panchayat. Permission sought was granted by the Panchayat. The farm house is constructed and upon completion of

construction and inspection of the schedule property building completion certificate was also issued on 19-12-2006 by the Competent Authority. The mother of the petitioner was residing in the farm house itself and developed the farm house into a horticulture and vegetable farm. All the necessary revenue entries are made in the name of the mother of the petitioner and statutory taxes that are to be paid *qua* the schedule property are all in place. In the year 2008, on an apprehension that her property would become subject matter of acquisition by the Karnataka Industrial Areas Development Board ('KIADB'), the petitioner files an application seeking information whether the property would be notified for acquisition. The KIADB in response to the said application replies clarifying that the schedule property was not the subject matter of acquisition by it.

4. When things stood thus, the 2nd respondent/Bangalore Development Authority ('BDA' for short) formulated a scheme for formation of a layout in the name and style of Dr. Shivaram Karanth Layout and issued a preliminary notification on 30-12-2008. After issuance of the said notification, the mother of

the petitioner files an application before the Competent Authority under the Karnataka Town and Country Planning Act, 1961 ('the Act' for short) seeking change of land use from the property being described as a park-zone to a residential main in terms of the Act. The same is accorded by the Competent Authority. The mother of the petitioner then complies with all the statutory necessities issued from to time by paying betterment charges also. The mother of the petitioner and the petitioner did reside in the said property. On 17-05-2011, the mother of the petitioner gifts the schedule property in favour of the petitioner. Thus, the petitioner comes into picture and is said to be in continuous possession since then. Katha and other statutory necessities of the local authorities are complied, and the petitioner is said to be in possession throughout.

5. As observed hereinabove, the preliminary notification that was issued by the 2nd respondent/BDA for formation of Dr. Shivaram Karanth Layout had received several objections from all the stake holders. The said objections, as also the preliminary notification, became the subject matter of proceedings before this Court in Writ Petition Nos. 55863-55865 of 2014. The said writ

petitions come to be allowed. The BDA then challenged it before a Division Bench. The writ appeal is dismissed. The dismissal of the writ appeal leads the BDA before the Apex Court. The axe of acquisition falls on the petitioner in the proceedings before the Apex Court. The BDA, in terms of the order of the Apex Court dated 03-12-2020, issued a public notice on 11-12-2020 directing all the stake holders to file their objections/claim statements before Justice A.V. Chandrashekar Committee constituted for regularization of certain properties in terms of respective orders.

6. The petitioner files a composite application of all the properties seeking regularization of entire schedule property by representations dated 27-03-2023 and 31-03-2023. There was no response from the Committee. Therefore, the petitioner approached this Court in Writ Petition No.9892 of 2023 and sought regularization of entire schedule property – the farm house and other structures. During the pendency of the writ petition, it appears, that the petitioner gets to know that the Committee has not favourably considered the representations of the petitioner and the Apex Court had approved the said partial consideration of

regularization of land of the petitioner. On the said development of the Apex Court approving what was done by the Committee, this Court disposed of Writ Petition No.9892 of 2023 reserving liberty to the petitioner to approach the Apex Court. The Apex Court directed the petitioner to approach this Court. Therefore, the petitioner is before this Court in the subject petition.

7. The learned senior counsel appearing for the petitioner Sri K.N. Phanindra would vehemently contend that the petitioner had placed entire material before Justice A.V.Chandrashekar Committee for regularization of entire property. The Apex Court, in terms of several orders that are passed had directed issuance of regularization certificate for the property of the petitioner partially and the same order prohibited the BDA from acquiring entire schedule property of the petitioner. The petitioner later had communicated several letters to the Committee, all of which go unheeded and, therefore, the petitioner had approached this Court and when the BDA had brought it to the notice of this Court that the Apex Court on 06-12-2022 had accepted the recommendation or report of the Committee, liberty was given to the petitioner to

approach the Apex Court. The Apex Court has now directed the matter to be placed before this Bench. All the material that was necessary to be given before the Committee had been given. In the entire farm house property, the Committee has regularized only the structures and not the land though the petitioner is residing therein. Five acres of land is regularized on the ground that there are structures. The remaining is not. The learned senior counsel submits that the two cannot be separated. Land and the farm house go hand in hand. If the farm house is regularized, the land surrounding the farm house, which the petitioner had developed in these 25 years should also be regularized. The learned senior counsel submits that the Committee fell in error and now the Committee is not in existence and, therefore, this Court should allow the petition in furtherance of what the Apex Court had directed for reconsideration.

8. Per contra, learned counsel Sri Shivaprasad M. Shantanagoudar representing the 2nd and 3rd respondents/BDA would only take this Court through the report of the Committee to contend that the Committee had regularized the structures and the

BDA cannot now go beyond what the Committee has done, as the recommendations of the Committee are accepted by the Apex Court.

9. We have given our anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

10. The afore-narrated facts are not in dispute. The dates and the link in the chain of events upto 2008 would not need any reiteration. The mother of the petitioner generates a doubt as to whether her property would become subject matter of acquisition. She communicates with KIDAB seeking information. KIADB issues an endorsement on 28-02-2008 which reads as follows:

"ಸಂಖ್ಯೆ:ಬೆಂಗಳೂರು/ವಿಭೂಸ್ವಾಅ/3239/2007-08

ದಿನಾಂಕ:28/2/2008

—::ಹಿಂಬರಹ::—

ವಿಷಯ: ಬೆಂಗಳೂರು ಜಿಲ್ಲೆ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಯಲಹಂಕ ಹೋಬಳಿ,
ರಾಮಗೊಂಡನಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ.18ರಜಮೀನಿನ ಭೂಸ್ವಾದೀನದ ಬಗ್ಗೆ.

ಉಲ್ಲೇಖ: ಅರ್ಜಿದಾರರ ಮನವಿ ದಿನಾಂಕ: 30/1/2008 ಮತ್ತು 31/1/2008

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ಬೆಂಗಳೂರು ಜಿಲ್ಲೆ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಯಲಹಂಕ ಹೋಬಳಿ, ರಾಮಗೊಂಡನಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ.18ರ ಜಮೀನು ಮಡಳಿ ವತಿಯಿಂದ ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಳ್ಳಲಾಗಿದೆಯೇ, ಇಲ್ಲವೇ ಎಂಬುದರ ಬಗ್ಗೆ ಮಾಹಿತಿ ಕೋರಿರುವುದು ಸರಿಯಷ್ಟೆ.

ಸದರಿ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಕಛೇರಿ ದಾಖಲೆಗಳನ್ನು ಪರಿಶೀಲಿಸಿದಾಗ ಬೆಂಗಳೂರು ಜಿಲ್ಲೆ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಯಲಹಂಕ ಹೋಬಳಿ, ರಾಮಗೊಂಡನಹಳ್ಳಿ ಗ್ರಾಮದ ಸ.ನಂ.18ರ ಜಮೀನು ಇಲ್ಲಿಯವರೆಗೂ ಕರ್ನಾಟಕ ಕೈಗಾರಿಕಾ ಪ್ರದೇಶಾಭಿವೃದ್ಧಿ ಮಂಡಳಿಯ ವತಿಯಿಂದ ಯಾವದೇ ಯೋಜನೆಗೂ ಅಧಿಸೂಚನೆ ಮಾಡಿರುವುದಿಲ್ಲವೆಂದು ಹಿಂಬರಹವನ್ನು ಈ ಕೆಳಕಂಡ ನಿಬಂಧನೆಗೊಳಪಡಿಸಿ ನೀಡಲಾಗಿದೆ.

- (ಅ) ಈ ಹಿಂಬರಹವು ಕ.ಕೈ.ಪ್ರ.ಆ.ಮಂಡಳಿ ನೀಡಿದ ನಿರಾಕ್ಷೇಪಣಾ ಪತ್ರ ಎಂದು ತಿಳಿಯಬಾರದು;
- (ಆ) ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ಅಭಿವೃದ್ಧಿ ಚಟುವಟಿಕೆಗಳನ್ನು ಕೈಗೊಳ್ಳಲು ಇದು ಅನುಮತಿ ಪತ್ರವೆಂದು ತಿಳಿಯಬಾರದು;
- (ಇ) ಮುಂದೆ ಕೆ.ಐ.ಎ.ಡಿ.ಬಿ ಗೆ ಮೇಲ್ಕಂಡ ಸರ್ವೆ ನಂಬರು ಜಮೀನು ಅವಶ್ಯಕವಿದ್ದರೆ ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಳ್ಳಲು ಇದು ಅಡ್ಡಿಯಾಗುವುದಿಲ್ಲ;
- (ಈ) ಇದು ಸದರಿ ಜಮೀನಿನ ಮಾಲೀಕತ್ವದ ದೃಢೀಕರಣ ಪತ್ರವೆಂದು ತಿಳಿಯಬಾರದು.”

On the communication, the mother of the petitioner develops the property by seeking change of land use from park zone to residential property. This is permitted by the Competent Authority under the Act, by order dated 08-02-2010 which reads as follows:

“ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ನಡವಳಿಗಳು

ವಿಷಯ: ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಯಲಹಂಕ ಹೋಬಳಿ, ರಾಮಗೊಂಡನಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.18ರ ಪೈಕಿ 5 ಎಕರೆ 36 ಗುಂಟೆ ವಿಸ್ತೀರ್ಣದ ಪ್ರದೇಶವನ್ನು ಉದ್ಯಾನವನ ವಲಯದಿಂದ ವಸತಿ ಉಪಯೋಗಕ್ಕೆ ಭೂ ಉಪಯೋಗ ಬದಲಾವಣೆ ಮಾಡುವ ಬಗ್ಗೆ.

...

ಓದಲಾಗಿದೆ: ಆಯುಕ್ತರು, ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು, ಇವರ ಪತ್ರ ಸಂಖ್ಯೆ: ಬೆಂಅಪ್ರಾ/ನಯೋಸ/ಸಿಎಲ್‌ಯು/01/09-10/2123/2009-10, ದಿನಾಂಕ: 06-10-2009.

ಪ್ರಸ್ತಾವನೆ:

ಮೇಲೆ ಓದಲಾದ ಪತ್ರದಲ್ಲಿ ಆಯುಕ್ತರು, ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು, ಇವರು ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಯಲಹಂಕ ಹೋಬಳಿ, ರಾಮಗೊಂಡನಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.18ರ ಪೈಕಿ 5 ಎಕರೆ 36 ಗುಂಟೆ ವಿಸ್ತೀರ್ಣದ ಪ್ರದೇಶವನ್ನು ಉದ್ಯಾನವನ ವಲಯದಿಂದ ವಸತಿ ಉಪಯೋಗಕ್ಕೆ ಭೂ ಉಪಯೋಗ ಬದಲಾವಣೆ ಮಾಡುವ ಬಗ್ಗೆ ಕರ್ನಾಟಕ ನಗರ ಮತ್ತು ಗ್ರಾಮ ಯೋಜನಾ ಕಾಯ್ದೆ, 1961ರ ಕಲಂ 14(ಎ) ರಡಿಯಲ್ಲಿ ಪರಿಶೀಲಿಸಿ, ಈ ವಿಷಯವನ್ನು ದಿನಾಂಕ:09-09-2009 ರಂದು ನಡೆದ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ವಿಷಯ ಸಂಖ್ಯೆ : 160/09 ರಲ್ಲಿ ಚರ್ಚಿಸಿದ ನಂತರ ಪ್ರಾಧಿಕಾರದ ಶಿಫಾರಸ್ಸಿನೊಂದಿಗೆ ಸರ್ಕಾರಕ್ಕೆ ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸಿ, ಭೂ ಉಪಯೋಗ ಬದಲಾವಣೆ ಮಾಡಲು ಕೋರಿರುತ್ತಾರೆ. ಸರ್ಕಾರವು ಈ ವಿಷಯವನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿ, ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿದೆ.

ಸರ್ಕಾರಿ ಆದೇಶ ಸಂಖ್ಯೆ:ನಅಇ 255 ಬೆಂಆಸೇ 2009, ಬೆಂಗಳೂರು,

ದಿನಾಂಕ: 08-02-2010.

ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಲಾದ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಕರ್ನಾಟಕ ನಗರ ಮತ್ತು ಗ್ರಾಮ ಯೋಜನಾ ಕಾಯ್ದೆ, 1961ರ ಕಲಂ 14(ಎ) ಉಪ ಪ್ರಕರಣ(1) (ಎ) ಪ್ರಕಾರ ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಯಲಹಂಕ ಹೋಬಳಿ, ರಾಮಗೊಂಡನಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.18ರ ಪೈಕಿ 5 ಎಕರೆ 36 ಗುಂಟೆ (ಐದು ಎಕರೆ ಮುವತ್ತಾರು ಗುಂಟೆ ಮಾತ್ರ) ವಿಸ್ತೀರ್ಣದ ಪ್ರದೇಶವನ್ನು ಉದ್ಯಾನವನ ವಲಯದಿಂದ ವಸತಿ ಉಪಯೋಗಕ್ಕಾಗಿ ಭೂ ಬದಲಾವಣೆ ಮಾಡಲು ಈ ಕೆಳಕಂಡ ಷರತ್ತುಗಳೊಂದಿಗೆ ಸರ್ಕಾರದ ಅನುಮೋದನೆಯನ್ನು ನೀಡಿ ಆದೇಶಿಸಿದೆ:-

- 1) ಪ್ರಾಧಿಕಾರವು ಪರಿಷ್ಕರಿಸಿದ ಭೂ ಬದಲಾವಣೆ ಶುಲ್ಕವನ್ನು ಪಡೆಯತಕ್ಕದ್ದು,
- 2) ಪರಿಷ್ಕೃತ ಮಾಸ್ಟರ್ ಪ್ಲಾನ್ 2015ರಂತೆ ಉದ್ಯಾನವನ ವಲಯದಿಂದ ವಸತಿ ಉಪಯೋಗಕ್ಕೆ ಭೂ ಬದಲಾವಣೆ ಮಾಡಿಕೊಳ್ಳುವುದು.
- 3) ವಲಯ ನಿಯಮಾವಳಿಯಲ್ಲಿನ ಷರತ್ತುಗಳನ್ನು ಕಡ್ಡಾಯವಾಗಿ ಪಾಲಿಸುವುದು.
- 4) ಪ್ರಾಧಿಕಾರವು ವಿಧಿಸಬಹುದಾದ ಇತರ ಷರತ್ತುಗಳು.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ

ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ.

ಸಹಿ/-

(ಎಂ.ಎಸ್.ಪ್ರೇಮಚಂದ್ರ)

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ.”

The petitioner then comes into the picture by a gift deed executed by her mother in her favour.

11. When things stood thus, the BDA issues a preliminary notification seeking to acquire certain lands including the land of the petitioner for the purpose of Dr. Shivaram Karanth Layout. The preliminary notification comes to be challenged before a learned single Judge of this Court in Writ Petition Nos. 55863-55865 of 2014. The petitions come to be allowed by the following order:

“4. The respondents have filed the objection statement. In the objection statement it is contended that since there were large extents of lands which had been notified, the respondents require sometime to go through the process and thereafter complete the acquisition proceedings.

5. In that background, I do not propose to refer to the contentions in detail for the reason that in respect of the very same notification, this Court had made a detailed consideration in W.P.No.9640 of 2014 and connected petitions on 26-11-2014. During the said consideration, this Court had taken note of contention put forth on behalf of the respondents with regard to the delay that has occasioned in the process as there were certain deletions at the initial stages and when subsequent deletions were made by the Land Acquisition Officer, the Government has initiated enquiries in that regard and therefore

there was delay. This Court having not accepted such contention and further relying on a decision of this Court had arrived at the conclusion that the delay as explained by the respondents is not acceptable and therefore, the notification insofar as the lands of the petitioners therein was held as lapsed. Since in the instant case also the position is not different from the said cases, a similar consideration requires to be made.

6. Accordingly, the notification dated 30-12-2008 assailed in these petitions is held as having lapsed as against the lands of the petitioners referred to in these petitions which were included in the said notification.

In terms of the above, these petitions are allowed to that extent.

In view of the disposal of the main petition, I.A.No.2/2014 for dispensation also stands disposed of."

A writ appeal comes to be preferred by the BDA assailing the order passed by the learned Single Judge *supra*. The writ appeal comes to be dismissed by the following order:

"2. As prayed for by Mr. G.S. Kannur, learned Advocate appearing for the appellants, the appeal is taken up for preliminary hearing.

3. The writ petitioner assailed a notification dated December 30, 2008, proposing to acquire the land for formation of a layout. The preliminary notification was issue on December 30, 2008. Thereafter, neither the final notification was issued nor possession was taken. Consequently, the Hon'ble single Judge held that as within the reasonable time, no further action was taken, the proposal for acquisition got lapsed.

4. We do not find any merit in the appeal

5. The application for condonation of delay in filing the appeal is dismissed. Consequently, the appeal is, also dismissed."

BDA challenges both the orders in several cases before the Apex Court. The Apex Court in the case of **BANGALORE DEVELOPMENT AUTHORITY v. STATE OF KARNATAKA**¹ sets aside both the orders of this Court and issues several directions holding:

"....

15. First, we take up the question as to whether the High Court was legally justified on merits in quashing the preliminary notification issued under Section 17. The Constitution Bench of this Court in *Offshore Holdings (P) Ltd. [Offshore Holdings (P) Ltd. v. BDA, (2011) 3 SCC 139: (2011) 1 SCC (Civ) 662]* has decided the question affirmatively. The BDA has issued preliminary notification for acquisition of the lands. Non-finalisation of the acquisition proceedings resulted in the filing of the writ petitions before the High Court of Karnataka by the owners in the year 1987. Certain lands were denotified and the permission which was granted earlier was withdrawn. The denotification of the land was also withdrawn. It was urged that the time-frame which was prescribed under Sections 6 and 11-A of the LA Act would form an integral part of the BDA Act. This Court considered the scheme under the BDA Act and has observed thus: (SCC pp. 158-59, 162, 164-66 & 192, paras 33, 35, 50, 55, 123, 124 & 125)

"33. The provisions of the Land Acquisition Act, which provide for time-frame for compliance and the consequences of default thereof, are not applicable to acquisition under the BDA Act. They are Sections 6 and 11-A of the Land Acquisition Act. As per Section 11-A, if the award is not made within a period of two years from the date of declaration under Section 6, the acquisition proceedings will lapse. Similarly, where declaration under

¹ (2018) 9 SCC 122

Section 6 of this Act is not issued within three years from the date of publication of notification under Section 4 of the Land Acquisition Act [such notification being issued after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 but before the commencement of Central Act 68 of 1984] or within one year where Section 4 notification was published subsequent to the passing of Central Act 68 of 1984, no such declaration under Section 6 of the Land Acquisition Act can be issued in any of these cases.

35. Be that as it may, it is clear that the BDA Act is a self-contained code which provides for all the situations that may arise in planned development of an area including acquisition of land for that purpose. The scheme of the Act does not admit any necessity for reading the provisions of Sections 6 and 11-A of the Land Acquisition Act, as part and parcel of the BDA Act for attainment of its object. The primary object of the State Act is to carry out planned development and acquisition is a mere incident of such planned development. The provisions of the Land Acquisition Act, where the land is to be acquired for a specific public purpose and acquisition is the sum and substance of that Act, all matters in relation to the acquisition of land will be regulated by the provisions of that Act. The State Act has provided its own scheme and provisions for acquisition of land.

50. Applying the above principle to the facts of the case in hand, it will be clear that the provisions relating to acquisition like passing of an award, payment of compensation and the legal remedies available under the Central Act would have to be applied to the acquisitions under the State Act but the bar contained in Sections 6 and 11-A of the Central Act cannot be made an integral part of the State Act as the State Act itself has provided specific time-frames under its various provisions as well as consequences of default thereto. The scheme, thus, does not admit such incorporation.

55. The principle stated in *Munithimmaiah case* [*Munithimmaiah v. State of Karnataka*, (2002) 4 SCC 326] that the BDA Act is a self-contained code, was referred with approval by a three-Judge Bench of this Court in *Bondu Ramaswamy* [*Bondu Ramaswamy v. BDA*, (2010) 7 SCC 129 : (2010) 3 SCC (Civ) 1] . The Court, inter alia,

specifically discussed and answered the questions whether the provisions of Section 6 of the Land Acquisition Act will apply to the acquisition under the BDA Act and if the final declaration under Section 19(1) is not issued within one year of the publication of the notification under Section 17(1) of the BDA Act, whether such final declaration will be invalid and held as under: (*Bondu Ramaswamy case* [*Bondu Ramaswamy v. BDA*, (2010) 7 SCC 129 : (2010) 3 SCC (Civ) 1] , SCC p. 170, paras 79-81)

'79. This question arises from the contention raised by one of the appellants that the provisions of Section 6 of the Land Acquisition Act, 1894 ("the LA Act", for short) will apply to the acquisitions under the BDA Act and consequently if the final declaration under Section 19(1) is not issued within one year from the date of publication of the notification under Sections 17(1) and (3) of the BDA Act, such final declaration will be invalid. The appellants' submissions are as under: the notification under Sections 17(1) and (3) of the Act was issued and gazetted on 3-2-2003 and the declaration under Section 19(1) was issued and published on 23-2-2004. Section 36 of the Act provides that the acquisition of land under the BDA Act within or outside the Bangalore Metropolitan Area, shall be regulated by the provisions of the LA Act, so far as they are applicable. Section 6 of the LA Act requires that no declaration shall be made, in respect of any land covered by a notification under Section 4 of the LA Act, after the expiry of one year from the date of the publication of such notification under Section 4 of the LA Act. As the provisions of the LA Act have been made applicable to acquisitions under the BDA Act, it is necessary that the declaration under Section 19(1) of the BDA Act (which is equivalent to the final declaration under Section 6 of the LA Act) should also be made before the expiry of one year from the date of publication of notification under Sections 17(1) and (3) of the BDA Act [which is equivalent to Section 4(1) of the LA Act].

80. The BDA Act contains provisions relating to acquisition of properties, up to the stage of publication of final declaration. The BDA Act does not contain the subsequent provisions relating to completion of the acquisition, that is, issue of notices, enquiry and award, vesting of land, payment of compensation, principles relating to determination of compensation, etc. Section 36 of the BDA Act does not make the LA Act applicable in its

entirety, but states that the acquisition under the BDA Act, shall be regulated by the provisions, so far as they are applicable, of the LA Act. Therefore, it follows that where there are already provisions in the BDA Act regulating certain aspects or stages of acquisition or the proceedings relating thereto, the corresponding provisions of the LA Act will not apply to the acquisitions under the BDA Act. Only those provisions of the LA Act, relating to the stages of acquisition, for which there is no provision in the BDA Act, are applied to the acquisitions under the BDA Act.

81. The BDA Act contains specific provisions relating to preliminary notification and final declaration. In fact the procedure up to final declaration under the BDA Act is different from the procedure under the LA Act relating to acquisition proceedings up to the stage of final notification. Therefore, having regard to the scheme for acquisition under Sections 15 to 19 of the BDA Act and the limited application of the LA Act in terms of Section 36 of the BDA Act, the provisions of Sections 4 to 6 of the LA Act will not apply to the acquisitions under the BDA Act. If Section 6 of the LA Act is not made applicable, the question of amendment to Section 6 of the LA Act providing a time-limit for issue of final declaration, will also not apply.'

We may notice that, in the above case, the Court declined to examine whether the provisions of Section 11-A of the Central Act would apply to the acquisition under the BDA Act but categorically stated that Sections 4 and 6 of the Central Act were inapplicable to the acquisition under the BDA Act.

123. Accepting the argument of the appellant would certainly frustrate the very object of the State law, particularly when both the enactments can peacefully operate together. To us, there appears to be no direct conflict between the provisions of the Land Acquisition Act and the BDA Act. *The BDA Act does not admit reading of provisions of Section 11-A of the Land Acquisition Act into its scheme as it is bound to debilitate the very object of the State law.* Parliament has not enacted any law with regard to development the competence of which, in fact, exclusively falls in the domain of the State Legislature with reference to Schedule VII List II Entries 5 and 18.

124. Both these laws cover different fields of legislation and do not relate to the same List, leave apart

the question of relating to the same entry. *Acquisition being merely an incident of planned development, the Court will have to ignore it even if there was some encroachment or overlapping.* The BDA Act does not provide any provision in regard to compensation and manner of acquisition for which it refers to the provisions of the Land Acquisition Act. There are no provisions in the BDA Act which lay down detailed mechanism for the acquisition of property, i.e. they are not covering the same field and, thus, there is no apparent irreconcilable conflict. The BDA Act provides a specific period during which the development under a scheme has to be implemented and if it is not so done, the consequences thereof would follow in terms of Section 27 of the BDA Act. None of the provisions of the Land Acquisition Act deals with implementation of schemes. We have already answered that the acquisition under the Land Acquisition Act cannot, in law, lapse if vesting has taken place. Therefore, the question of applying the provisions of Section 11-A of the Land Acquisition Act to the BDA Act does not arise. Section 27 of the BDA Act takes care of even the consequences of default, including the fate of acquisition, where vesting has not taken place under Section 27(3). Thus, there are no provisions under the two Acts which operate in the same field and have a direct irreconcilable conflict.

125. Having said so, now we proceed to record our answer to the question referred to the larger Bench as follows:

For the reasons stated in this judgment, we hold that the BDA Act is a self-contained code. Further, we hold that provisions introduced in the Land Acquisition Act, 1894 by Central Act 68 of 1984, limited to the extent of acquisition of land, payment of compensation and recourse to legal remedies provided under the said Act, can be read into an acquisition controlled by the provisions of the BDA Act but with a specific exception that the provisions of the Land Acquisition Act insofar as they provide different time-frames and consequences of default thereof, including lapsing of acquisition proceedings, cannot be read into the BDA Act. Section 11-A of the Land Acquisition Act being one of such provisions cannot be applied to the acquisitions under the provisions of the BDA Act."

(emphasis supplied)

16. This Court has emphasised that the primary object of the BDA Act is to carry out planned development. The State Act has provided its own scheme. The time constraints of the land acquisition are not applicable to the BDA Act. Making applicable the time-frame of Section 11-A of the LA Act would debilitate the very object of the BDA Act. It is apparent that the decision of the Single Judge as well as the Division Bench is directly juxtaposed to the decision of the five-Judge Bench of this Court in *Offshore Holdings [Offshore Holdings (P) Ltd. v. BDA]*, (2011) 3 SCC 139: (2011) 1 SCC (Civ) 662] in which precisely the question involved in the instant cases had been dealt with. By indirect method by making applicable the time period of two years of Section 11-A of the LA Act mandate of BDA Act has been violated. However, it is shocking that various decisions have been taken into consideration particularly by the Single Judge, however, whereas the decision that has set the controversy at rest, has not even been noticed even by the Single Judge or by the Division Bench. If this is the fate of the law of the land laid down by this Court that too the decision by the Constitution Bench, so much can be said but to exercise restraint is the best use of the power. Least said is better, the way in which the justice has been dealt with and the planned development of Bangalore City has been left at the mercy of unscrupulous persons of the Government and the BDA.

17. It is apparent from the fact that the Single Judge has relied upon the decision in *H.N. Shivanna [H.N. Shivanna v. State of Karnataka]*, 2012 SCC OnLine Kar 8956: (2013) 4 KCCR 2793] in which it was observed by the Division Bench that scheme was to be completed in 2 years otherwise it would lapse. It was precisely the question of time period which was dwelt upon and what was ultimately decided by this Court in *Offshore Holdings [Offshore Holdings (P) Ltd. v. BDA]*, (2011) 3 SCC 139: (2011) 1 SCC (Civ) 662] has been blatantly violated by the Single Judge and that too in flagrant violation of the provisions and intendment of the Act.

18. It is also apparent from the facts and circumstances of the case that there were a large number of irregularities in the course of an inquiry under Section 18(1) of the BDA Act. The Government had nothing to do with respect to the release of the land at this stage, as the stage of final notification had not reached but still the landowners in connivance with the

influential persons, political or otherwise, managed the directions in respect of 251 acres of the land and the Special Land Acquisition Collector also considered exclusion of 498 acres of the land against which the question was raised in the Assembly and eyebrows were raised in public domain. Two inquiries were ordered on 24-11-2012 and 19-1-2013 by the State Government and based upon that inquiry, it was ordered and a public notice was issued on 3-5-2014 that the BDA will consider the entire matter afresh.

19. In the aforesaid backdrop of the facts, the writ petitions came to be filed, it would not be termed to be the bona fide litigation, but was initiated having failed in attempt to get the land illegally excluded at the hands of the Special Land Acquisition Collector and the State Government and after the inquiries held in the matter and the notice was issued to start the proceedings afresh. At this stage, the writ petitions were filed. In the aforesaid circumstances, it was not at all open to the High Court to quash the preliminary notification issued under Section 17, as the landowners, the State Government and BDA were responsible to create a mess in the way of planned development of Bangalore City.

20. The scheme which was framed was so much benevolent scheme that 40% of the 55% of the land reserved for the residential purpose was to be given to the landowners at their choice and they were also given the choice to obtain the compensation, if they so desired, under the provisions of the LA Act. Thus, it was such a scheme that there was no scope for any exclusion of the land in the ultimate final notification.

21. It is apparent from the circumstances that the matter cannot be left at the mercy of unscrupulous authority of the BDA, the State Government or in the political hands. Considering the proper development and planned development of Bangalore City, let the Government issue a final notification with respect to the land which has been notified in the initial notification and there is no question of leaving out of the land in the instant case as option has been given to landowners to claim the land or to claim the compensation under the relevant LA Act which may be applicable in the case.

22. It was contended on behalf of the landowners that certain developments have taken place after the orders were passed regarding exclusion of the land and when Section 27 provides a limitation of five years after final notification, in case development was not undertaken within five years, even the final scheme would lapse. Thus, the principle enunciated in Section 27 should be followed by this Court with respect to the lapse of preliminary notification as well. We find that there is a vast difference in the provisions and action to be taken pursuant to the preliminary notification and the final notification under Section 19. In the instant case, the facts indicated that it was in the interest of the public, landowners, BDA and the State Government. The scheme had prior approval of the State Government however at the cost of public interest yet another scheme was sought to be frustrated by powerful unforeseen hands and the issuance of final notification had been delayed. Three inquiries were ordered, two by the State Government and one by the BDA as the release of the land was being proposed in an illegal manner. Hue and cry has been raised about their illegalities in the Assembly as well as in the public. Thus, for the delay, owners cannot escape the liability, they cannot take the advantage of their own wrong having acted in collusion with the authorities. Thus, we are of the considered opinion that in the facts of the case the time consumed would not adversely affect the ultimate development of Bangalore City.

23. The authorities are supposed to carry out the statutory mandate and cannot be permitted to act against the public interest and planned development of Bangalore City which was envisaged as a statutory mandate under the BDA Act. The State Government, as well as the authorities under the BDA Act, are supposed to cater to the need of the planned development which is a mandate enjoined upon them and also binding on them. They have to necessarily carry it forward and no dereliction of duty can be an escape route so as to avoid fulfilment of the obligation enjoined upon them. The courts are not powerless to frown upon such an action and proper development cannot be deterred by continuing inaction. As the proper development of such metropolitan is of immense importance, the public purpose for which the primary notification was issued was in order to provide civic amenities like laying down roads, etc. which cannot be left at the whim or mercy of the authorities concerned. They were bound to act in

furtherance thereof. There was a clear embargo placed while issuing the notification not to create any charge, mortgage, assign, issue or revise any improvement and after inquiry, it was clear that the notice had been issued in May 2014, thus, no development could have been made legally. Notification dated 3-5-2014 was issued that re-inquiry was necessary in the matter. The development made, if any, would be at the peril of the owners and it has to give way to larger welfare schemes and the individual interest and cannot come in the way of the larger public interest. The acquisition was for the proper and planned development that was an absolute necessity for the city of Bangalore.

24. In the circumstances, we have no hesitation in condoning the delay. Though, it is apparent that the authorities had come with certain delay, in certain matters and the writ appeals were also filed belatedly with the delay in the High Court, however, considering the provisions of the scheme and the method and manner, wrong has been committed, it has compelled us not only to condone the delay but also to act in the matter so as to preserve the sanctity of the legal process and decision of this Court in *Offshore Holdings [Offshore Holdings (P) Ltd. v. BDA]*, (2011) 3 SCC 139: (2011) 1 SCC (Civ) 662].

25. We, therefore, direct the State Government as well as the BDA to proceed further to issue final notification without any further delay in the light of the observations made in the order. The impugned orders passed by the Single Judge and the Division Bench are hereby quashed and set aside. The scheme and notification under Section 17 of the BDA Act are hereby upheld with the aforesaid directions.

26. As noticed above, the Land Acquisition Officer proposed exclusion of 251 acres of land from acquisition on being asked by the Government after the preliminary notification was issued. The Land Acquisition Officer, has considered another 498 acres of land to be excluded from being acquired. In connection to this, several questions were raised in the Karnataka Legislative Assembly, as a result of which two inquiries were ordered by the State Government i.e. on 24-11-2012 and 19-1-2013. However, result of the inquiry is not forthcoming. Further, it appears that the exclusion of the lands

from acquisition was proposed in connivance with influential persons; political or otherwise. We are of the view that the BDA and the State Government have to proceed with the acquisition of these lands. We are also of the view that it is just and proper to hold an inquiry for fixing the responsibility on the officials of the BDA and the State Government for trying to exclude these lands from acquisition.

27. Therefore, we appoint Hon'ble Mr Justice K.N. Keshavanarayana, former Judge of the Karnataka High Court as the inquiry officer for fixing the responsibility on the officials of the BDA and the State Government who were responsible for the aforesaid. The Commissioner, BDA is hereby directed to consult the inquiry officer and pay his remuneration. Further, we direct BDA to provide appropriate secretarial assistance and logistical support to the inquiry officer for holding the inquiry. In addition, we authorise the inquiry officer to appoint requisite staff on temporary basis to assist him in the inquiry and to fix their salaries. Further, the BDA is directed to pay their salaries. The State Government and the BDA are directed to produce the files/documents in relation to the aforesaid lands before the inquiry officer within a period of four weeks from today. We request the inquiry officer to submit his report to this Court as expeditiously as possible.

28. The State Government and the BDA are further directed to proceed with the acquisition of the aforementioned lands without excluding land from acquisition and submit a report to this Court the steps taken by them in this regard within a period of three months from today."

The Apex Court, on the reasons so rendered, directs the State Government and the BDA to proceed with the acquisition for formation of layout without excluding any land from acquisition and submit a report to the Apex Court the steps taken towards the said acquisition. It directed completion within 3 months.

12. Pursuant to the directions of the Apex Court, the BDA issues final notification. In the final notification, the axe falls on the land of the petitioner, as the Apex Court had directed that all the lands that had been given up be acquired, as the lands were given up illegally. Then comes a few miscellaneous applications in the disposed of case before the Apex Court. The Apex Court, on the miscellaneous applications, to consider several nuances of the lands to be dropped from acquisition appointed a Committee. The order directing constitution of the Committee reads as follows:

"1. Heard learned counsel for the parties and perused affidavit dated 26-11-2020, filed by the Commissioner, Bangalore Development Authority.

2. During the course of hearing, it is pointed out that after quashing of the preliminary notification by the High Court and before setting aside of the said order by this court, several constructions have been put up either by the land owners or purchasers of the sites from the land owners. It is submitted that these constructions are mainly dwelling houses. In this factual background, we are of the considered opinion that some protection against demolition of dwelling houses may be justified. Further the layout is meant for residential sites and this object of formation of layout would not be frustrated by saving lawfully constructed dwelling houses belonging to poor and middle income groups.

3. Judgment dated 3-08-2018, inter alia, observes that 45% of the land covered under the scheme was to be utilized for the civic amenities like play grounds, roads etc.

and residential sites would be formed by utilizing remaining 55% of the land covered under the scheme. It is also clear that out of the said 55% of developed residential area, 40% of 55% will be offered as compensation to the land owners as specified in the scheme and remaining 60% of 55% will be the share of the Bangalore Development Authority (BDA). The land-owners would be given option to accept the developed eligible residential land or opt for compensation as per the Land Acquisition Act, 1894 (for short 'the LA Act').

4. Needless to state that the acquisition of the land under the BDA Act is regulated by the provisions of the LA Act so far as they are applicable. (See: Section 38 of the BDA Act). The borrowed provisions of LA act, become an integral part of the BDA Act and are totally unaffected by the repeal of the LA Act. In other words, the provisions of the LA Act are incorporated into the BDA Act so far as they are applicable. Of course, the bar contained in Sections 6 and 11-A of the LA Act, are not applicable to the BDA Act. We have discussed this aspect of the matter in our main judgment dated 3-08-2018. It is also clear that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 are not applicable for the acquisition made under the BDA Act. Final notification has also been issued after the pronouncement of judgment by this court in Civil Appeal No(s). 7661-7663 of 2018 dated 3-08-2018. We direct the BDA to proceed with the acquisition of the land as proposed in the notification.

5. if the land-owner who has put up the construction opts for land by way of a developed plot in lieu of compensation, the constructed portion would be adjusted in the land that would be allotted in his favour. It is also clarified that the persons who have put up construction/ dwelling house are not entitled for compensation in respect of the constructed portion of the land. If the incentive scheme as per Bangalore Development Authority (Incentive Scheme for Voluntary Surrender of Land) Rules, 1989, is applied, the constructed portion can also be adjusted towards incentive site for voluntary surrender of land. However, where a person has constructed a dwelling house or any other building and where the constructed portion is

not adjusted for any reason, betterment charges could be levied on him under Section 20 of the BDA Act. BDA is directed to integrate the said constructions into the layout.

6. As stated above, the buildings constructed in the layout with valid sanction/permission from the competent authority/authority(ies) needs to be saved from demolition. Therefore, it is important to identify the lawful constructions made in the notified lands. For this purpose, we appoint a Committee comprising Hon'ble Mr. Justice A.V. Chandrashekhar, former Judge of the Karnataka High Court, as its Chairman, Mr. Jayakar Jerome, former Commissioner of the BDA and Mr. S.T. Ramesh, former Director General of Police as its Members. The Committee is required to look into each of the requests of the owners of the dwelling houses/buildings for its regularization. The Committee should also find out whether the said dwelling houses/buildings have been constructed in accordance with the sanction/permission of the competent authorities. The constructions which have come up after the date of pronouncement of the judgment by this Court i.e., 3.08.2018, shall not be eligible for regularization. The Committee is permitted to devise its own mechanism/ procedure for holding the enquiry including issuing notices in the local newspapers in this regard. Final orders regarding dwelling houses/buildings which will be protected, would be passed after we receive the report of the Committee.

7. To ensure that in the interregnum and from now onwards no further constructions come up, the Commissioner, BDA, would undertake exercise for satellite imaging of the area in question for identifying and noting the constructions as they exist. The said exercise would be undertaken within a period of three days from the date of receipt of a copy of this order. This exercise would be repeated periodically every month and in case any new constructions are noticed, they would be brought to the notice of the Committee and action, including demolition etc. would be undertaken.

8. The Commissioner of the BDA is hereby directed to consult the Chairman and its Members of the Committee and accordingly fix and pay their remunerations. We direct the

BDA to provide appropriate secretarial assistance, transport and other logistical support to the Chairman and the members of the Committee for holding an enquiry within two weeks from today. We authorize the Chairman of the Committee to appoint requisite staff, if needed, on a temporary basis to assist the Committee in conducting enquiry and fix their salaries which would be paid by the BDA. The BDA is also directed to provide enough office space in its headquarters for the smooth functioning of the Committee within two weeks. The Committee is also permitted to take assistance of any of the employees including surveyors from the BDA or of the State Government for the purpose of spot inspection, measurement and for its overall functioning.

9. We make it clear that there is no bar for the Chairman or the Members of the Committee to accept any other engagement/arbitration matters during the subsistence of the Committee.

10. The Committee is requested to submit its report before this court preferably within a period of six months from to-day.

11. It appears that certain writ petitions are pending before the Karnataka High Court challenging the final notification for acquisition of lands for the formation of Dr.ShivaramaKaranth Layout. BDA is directed to furnish the list of pending cases in respect of the said layout to the Registrar General of the High Court within a week from today. We request the Registrar General to list them before the Court within two weeks. We request the high Court to dispose of the said cases on their merits expeditiously.

12. The State Government is directed to grant approval to the 60:40 scheme in respect of the layout in question, if necessary within two weeks from to-day. The State Government is also directed to depute additionally six Land Acquisition Officers to the BDA within two weeks from today.

13. BDA to file status report on or before 11.02.2021.

14. List these cases on 19-01-2021."

13. Pursuant to the aforesaid constitution of the Committee, a public notice comes to be issued seeking claim statements to be made before the Committee by all stake holders. The petitioner files a claim statement before the Committee. The gist, the schedule and the prayer in the claim statement read as follows:

"....

21. Firstly, it guaranteed that "All citizens shall have the right to acquire, hold and dispose of the property." The State, however, could impose reasonable restrictions (i) to serve the exigencies of public welfare and (ii) to protect the interest of any Scheduled Tribe [vide Article 19 Clauses (1) (f) (5)].
22. Secondly, in the phraseology of Article 300-A, the Constitution makers in Article 31(1) guaranteed that "No person shall be deprived of his property save by the authority of law." The provision indicated that a person can be deprived of his property only through an Act passed by the Parliament/State Legislature and not by executive order or fiat. The word "Law" in Article 300-A means an Act of Parliament or a State Legislature, a rule or a statutory order, having the force of law, that is positive or state-made law.
23. The Constitution 44th Amendment Act, 1978, changed the "right to property" of its fundamental right-character, and adorned it with status of Constitutional/legal right. Articles 19(1) (f) and 31 were deleted from the Part III- "Fundamental Rights" and only a fraction in the form of Article 300-A which corresponds to Article 31(1) only, has been inserted in Part XII under a separate Chapter V "Right to Property"

24. The effect of this amendment of vast magnitude is that the "right to property" is no more a fundamental right but is only a constitutional/ legal right and in the event of breach thereof the remedy available to an aggrieved person is to approach the High Court under Article 226 of the Constitution of India and not the Supreme Court under Article 32 of the Constitution, a speedy, remedy available earlier. Article 21 essentially deals with personal liberty. It has little to do with the right to own property as such.
25. The entire surrounding area is fully developed with a number of residences (example Towns End Layout with above 50 residences). Government Establishments (example CRPF).

In view of the above justification, it is once again requested to de-notify the schedule property from acquisition owned by the objector considering the following:

- The property is identified as, Residential (Main) in the 2007
- The Objector spent huge amounts to construct her farm house and obtain necessary statutory approvals, electricity connection, obtain change of land use, sink borewells, grow plants etc.
- Spotted developments are already existing in and around the schedule property.
- The adjoining land of about 51 acres 11 guntas in Sy. Nos. 66, 69/1, 69/2, 70, 71 and 73 as well as 11 acres bearing Sy. No. 110, is approved for Residential (Main) use by BDA and Residentially (Main) converted and developed.

In view of what has been stated hereinabove, if this objection of the Objector is not considered by the Urban Development Department, Government of Karnataka and the Bangalore Development Authority, the Objector will be put to irreparable financial loss, mental agony and hardship.

PRAYER

WHEREFORE, the Objector respectfully prays that the Government of Karnataka UDD Department and the Bangalore Development Authority.

- (a) Pass an order to de-notify the schedule property.
- (b) Take into account that the Objector is living in the schedule property and has spent huge amount for purchase / construction of the schedule property, development charges, obtaining change of land use, obtaining electricity sanction, sinking of borewells and installation of DG set and is presently residing in the schedule property
- (c) Take into account that all the adjoining properties are used for residential and all of them being residentially, converted land.
- (d) Pass such other order or orders as the Government /Bengaluru Development Authority may deem fit and proper in the interest of justice taking into all the facts stated hereinabove.

SCHEDULE PROPERTY

All that piece and parcel of property being portion of Survey No.18, situated at Romagondanahalli Village, Yelahanka Hobli, Bengaluru North. (Additional) Taluk, presently Yelahanka Taluk measuring an extent of 5 acres and 36 guntas of 23876.254 Square meters with a Residential (Main) farm house measuring 602.46 Square meters built-up area constructed on the land having permanent electricity connection, bore-well water supply and bounded on the:

East by: Village Boundary of Ananthapur Village and Property owned by Mr.Muniyappa and Mr.Joginder Singh Sahani

West by: Portion of Sy. No. 18 of Ramagondanahalli Village and I.V.R.I. Experiment Station

North by: Sy. No.66 of Avalahalli Village

South by: Portion of Sy. No. 18 & Sy.Nos.62, 63 & 64 of Ramagondanahalli Village and part of I.V.R.I. Experiment Station."

The endorsement of receipt of claim statement and the clarification reads as follows:

"JUSTICE A.V. CHANDRASHEKAR COMMITTEE
BDA HEAD OFFICE, KUMARAPARK WEST
BANGALORE-560 020

No.JCC/28/2021-22

Date: 10-08-2021

ENDORSEMENT

Sub: Buildings in the proposed Dr. K.Shivaram Karanth Layout, Bangalore North Taluk.

Ref: Your application dated 05-03-2021.

With reference to the above subject and reference cited above, I am desired to invite your attention to the claim statement you have submitted to Justice A.V. Chandrashekar Committee and to state that the matters raised by you are concerned directly with the BDA and not with the Committee, which is mandate to go into the question of buildings which have come up in Shivaram Karanth Layout prior to 3-8-2018. In case you have constructed any building prior to 3-8-2018, you may please approach the following help Desks:

1. Somashettyhalli, Samudaya Bhavana, Somashettyhalli.
2. Medi Agrahara, Government Urdu Primary School.

You can visit the Committee on 18-08-2021 for collecting your memorandum.

Sd/-
(Jascinth Vaz)
Secretary."

The Committee, on considering the claim statements, places its report before the Apex Court. The Apex Court, in terms of its order dated 06-12-2022, directed certain action to be taken and certain action not to be taken in respect of the report filed. The order dated 06-12-2022 reads as follows:

"(1) We have heard learned counsel for the parties and Mr. Anand Sanjay M.Nuli, learned counsel appearing for the justice A.V. Chandrashekar Committee.

(2) Bangalore Development Authority has not filed any objections to the **Twenty-Fifth Report** dated 09-11-2022 sent by the Justice A.V. Chandrashekar Committee. The **Twenty-Fifth Report** is accepted accordingly.

(3) We have also perused **Twenty-Nineth** and **Thirtieth Reports** both dated 02-12-2022 sent by the Justice A.V. Chandrashekar Committee.

Twenty Ninth Report

(4) For the reasons set out in this Report, BDA is directed not to acquire land in Sy.No.7/1 measuring 1 acre 18 guntas, Sy.No.7/2 measuring 27 guntas, Sy.No.7/3 measuring 13 guntas and Sy.No.9/2 measuring 2 acres 39 guntas, totally measuring 5 acres 17 guntas of Kempanahally Village, Yelahanka Hobli, Bengaluru North Taluk, bounded on East by: Remaining land in Sy.No.9/2 and land in Sy.No.12, West by: Remaining land in Sy.No.9/1 and Sy.No.1 and Gramathana,

North by: Land in Sy.No.2, Sy.No.5 and Sy.No.8 and South by: Road. The land acquisition proceedings in respect of these lands are hereby quashed.

(5) The Justice A.V. Chandrashekar Committee is requested to furnish a copy of this report to the Commissioner, BDA.

Thirtieth Report

(6) For the reasons set out in paragraphs 3 and 4 of this Report, the approval granted for regularization of certain buildings as per Annexure-"W" is hereby withdrawn.

(7) For the reasons set out in paragraphs 5 and 6 of this Report, we direct the BDA to regularize the buildings described in Annexure-"X" subject to the conditions that what is partially required for the Revised Master Plan Roads shall be handed over to the BDA for which the land owners be compensated in accordance with law.

(8) For the reasons set out in paragraph 7 of the Report, earlier order dated 05-05-2021 stands modified and the BDA is directed not to acquire 32.38 guntas of land in Sy.no.70 of Avalahalli Village, Yelahanka Hobli, Bangalore North Taluk.

(9) In paragraphs 10, 11 and 12 of the Report, the Justice A.V.Chandrashekar Committee has recommended regularization of total 205 buildings contained in Annexure-L 125 buildings Sl.No.2248 to 2285, Annexure-M 38 buildings Sl.No.2378 to 2502, Annexure-N 15 buildings Sl.No.343 to 357, Annexure-AN 14 buildings Sl.No.1 to 14 and Annexure-X 13 buildings Sl.No.1 to 13.

(10) For the reasons stated therein these buildings are required to be regularized in terms of our order dated 03-12-2020.

(11) We direct the BDA to regularize the buildings specified in Annexure-L Sl.No.2248 to 2285, Annexure-M Sl.No.2378 to 2502, Annexure-N Sl.No.343 to 357, Annexure-AN Sl.No.1 to 14 and Annexure-X Sl.No.1 to 13, which are made part and parcel of this order. We direct the BDA not to acquire

or take possession of the land/buildings specified in Annexure-L, Sl.No.2248 to 2285, Annexure-M Sl.No.2378 to 2502, Annexure-N Sl.No.343 to 357, Annexure-AN Sl.No.1 to 14 and Annexure-X Sl.No.1 to 13 subject to the conditions indicated in our order dated 03-12-2020 and paragraph '12' of the **Thirtieth Report**. However, betterment tax may be levied at a later stage.

(12) The Justice A.V. Chandrashekar Committee, for the purpose of record, will hand over a copy of the **Thirtieth Report** along with Annexure-L Sl.No.2248 to 2285, Annexure-M Sl.No.2378 to 2502, Annexure-N Sl.No.343 to 357, Annexure-AN Sl.No.1 to 14 and Annexure-X Sl.No.1 to 13 to the Commissioner of BDA.

(13) The Commissioner of BDA is directed to issue regularization certificates to the concerned applicants in a transparent manner under the supervision of the Justice A.V. Chandrashekar Committee as early as possible.

(14) The suggestions made by the Justice A.V. Chandrashekar Committee in paragraphs 14, 15, 16, 17 and 18 are accepted.

(15) For the reasons set out in paragraphs 19, 20 and 21, BDA is directed to regularize the 48 residential flats built by M/s Indradhanush Properties Pvt. Ltd., on the land bearing Sy.No.5, measuring 0.17½ guntas, Ganigarahally Village, Yeshwanthpura Hobli, Bengaluru North Taluk. However, regularization certificate will be issued only on production of occupancy certificate.

I.A.No(s)163190/2022 & 163191/2022 – Applicant(s): Smt. Nagalakshmi & others.

I.A.No(s). 163203/2022 & 163205/2022 – Applicant(s): Smt. Nagalakshmi & Ors.

(16) We have heard learned counsel for the parties and also perused the factual report (**Twenty-Seventh Report**) sent by the Justice A.V. Chandrashekar Committee.

(17) We do not find any merit in these applications which are accordingly dismissed.

I.A.D.No(s).189165/2022: 189165/2022 & 189167/2022 – Applicant(s): Smt. Padmavathamma.

(18) We have heard learned counsel for the applicant and also learned counsel for the BDA.

(19) It is hereby clarified that there is no bar for the BDA to consider allotment of sites to the land owners whose lands have been acquired under 40:60 scheme or incentive sites for voluntary surrender of lands or allotment of alternative sites in lieu of acquisition of revenue sites either in the same layout for which their lands/sites have been acquired or in a subsequently formed lay-out.

(20) there is also no bar for the BDA to consider allotment of sites in accordance with Rule 11-A of the Bangalore Development Authority (Allotment of Sites) (Amendment) Rules, 2003 by adhering to the conditions mentioned therein.

(21) However, BDA shall not allot sites carved out of the recovered properties in the developed lay-outs. BDA shall form sites in the recovered properties in the developed layouts and auction these sites in accordance with law unless it intends to retain the said land/sites for its own purpose.

(22) BDA at its own discretion may auction intermediary/stray sites in its developed layouts.

(23) To the above extent, the conditions contained in paragraph (7) of the order dated 26-10-2021 stands modified.

(24) The Cancellation Deed dated 9-11-2022 executed by the applicant – Smt. Padmavathamma in favour of the BDA in respect of Site No.467, 2nd Block, Sir M. Vishweshwaraiah Layout (Annexure-A-17 to the paper book of I.A.) is hereby quashed. BDA is directed to restore this site in favour of the applicant – Smt. Padmavathamma forthwith.

(25) I.A.D No.(s) 189165/2022: 189166/2022 & 189167/2022 are disposed of accordingly.

Status Report dated 3-12-2022 filed by the Commissioner of the BDA:

(26) We have perused the above status report and noted the contents therein.

(27) For the reasons stated in paragraphs 7 and 8 of this Report, the action taken by the BDA to entrust the work to M/s Navigem Data Pvt.Ltd. is approved.

(28) Justice A.V. Chandrashekar Committee is permitted to extend the time for receiving applications from the revenue site holders for allotment of alternative sites

(29) We have held vide our order dated 2-11-2022 that the buildings in existence in the lands notified vide preliminary notification dated 23-08-2022 and final notification dated 21-10-2022, for the formation of Dr. Shivaram Karanth Layout, as on the date of preliminary notification dated 23-08-2022 are also required to be regularized on the same terms and conditions as being done as per the order dated 3-12-2020. The Commissioner of BDA is directed to regularize these buildings in terms of the recommendations which may be made by the Justice A.V. Chandrashekar Committee without reference to this Court.

(30) The Commissioner, BDA, is also directed to allot alternative sites to the applicants whose revenue sites have been acquired for the formation of Dr. Shivaram Karanth Layout in accordance with the report of the former District Judges Committee constituted as per our order dated 5-05-2021.

(31) All the pending application(s) stands closed."

14. Pursuant to the aforesaid direction/order passed by the Apex Court, the status of the claim of the petitioner was not known, as there was no communication from the hands of the Committee. That led the petitioner to communicate to the Committee seeking

information. The said communication is germane to be noticed. It reads as follows:

- "1) That Ms. Shivangini Bhartia is the owner of land to the extent of 5 acres 36 guntas located in Survey No.18 of Ramagondanahalli Village, IVRI Road (Behind CRPF), Yelahanka Hobli, Yelahanka Taluk, Bengaluru Urban District, more particularly described in the Schedule hereto (hereinafter referred to as "Schedule Property").
- 2) That, the Bangalore Development Authority ("**BDA**") published a scheme and notified the formation of a layout named "Dr. K. Shivaram Karantha Layout". The Government of Karnataka vide a G.O. No. UDD 553 MNX 2018 dated 29.10.2018 sanctioned the said scheme and issued a final notification dated 30.10.2018.
- 3) That we learnt from our neighbours that the Schedule Property is also notified for acquisition for formation of "Dr. Shivarama Karantha Layout" by BDA. However, we did not receive any notice from the BDA till date with respect to the said proposed acquisition.
- 4) That, Mrs. Alpana Bhartia, who is the mother of Ms. Shivangini Bhartia, acquired the portions Schedule Property vide two sale deeds and a gift deed executed in the year 1999, 2001 and 2004 respectively. Mrs. Alpana, thereafter, applied to the BDA for conversion of land use from agricultural to residential and the same was granted by the BDA vide the Order no. NAE 255 BDA 2009 dated 08.02.2010 upon payment of Betterment charges of Rs. 4,89,470/- on 09.03.2010 as well as inspection fee.
- 5) That, Mrs. Alpana, obtained permission for construction of a farm house in the Schedule Property from the Gantiganahalli panchayat in the year 2006.
- 6) That, Mrs. Alpana constructed a farm house in the said Schedule property and also planted several medicinal trees, fruit trees, and vegetable farms. The electricity connection

was also provided in the year 2006; a 35 KVA Generator & borewell was also installed in the Schedule Property.

- 7) We employ about 15 workers in our property such as Gardeners, Drivers, helpers, security guard & Manager. They live in quarter constructed on the Schedule Property with their families built on the same land/and if the buildings are demolished all of them will be unemployed & without any accommodation.
- 8) That, subsequently, Mrs. Alpana transferred the Schedule Property to her daughter Ms. Shivangini Bhartia by way of a gift deed dated 17.05.2011. Please note that we have carried out substantial development on the Schedule Property and have incurred huge expenditure on the purchase, conversion and construction thereof.
- 9) That, we had submitted its objections before SLA03 BDA & yourself on 19.06.2020 & 04.03.2021 and, respectively. However, no orders have been communicated to the us on the same till date. Please note that no order(s)/award(s) has been communicated to us by the Justice A.V. Chandrashekhara Committee either on the objections.
- 10) That, we came across a Public Notification published in the newspaper on 07.03.2023 calling upon the landowners to submit applications seeking compensation either for cash or developed sites as per the scheme before 15.04.2023 to concerned Special Land Acquisition Officer.
- 11) That, the said Public Notice dated 07.03.2023 presupposes issuance of notice/passing of award in favour of the landowners of Ramagondanahalli Village when no such notice/award has been communicated to us.
- 12) That, we don't have any other residential property and we will be left without any accommodation if the Schedule Property is acquired by the BDA not to mention that it will defeat the very objective of the entire scheme of BDA.
- 13) That, JCBs have been levelling the lands of the adjoining properties. Under these circumstances, we request you to

stop all works/proceedings until order are passed on the objections filed by Our Client and communicated to us.

- 14) Our first prayer will be to drop the acquisition proceedings for the entire extent of 5 acres 36 guntas or in the alternative exclude all the buildings with the land appurtenant thereto from acquisition proceedings in the interest of justice and equity. This representation is given since no personal hearing was afforded to objector. Principles of natural justice demand that a personal hearing should be afforded to the objector before passing any order/award.
- 15) Hence please consider or request sympathetically and regularise all the buildings which have been put up in the year 2006 itself in the interest of justice.

SCHEDULE PROPERTY

All the piece and parcel of property bearing portion of Survey No.18 situated at Ramagondanahalli Village, Yelahanka Hobli, Bengaluru North (Additional) taluk, presently Yelahanka Taluk measuring an extent of 5 acres and 36 guntas or 23876.254 square metres with a residential farm house along with other buildings constructed on the land having permanent electricity connection and bore-well water supply and bounded on the:

- | | |
|---------|--|
| East : | Village Boundary of Ananthapur Village and property owned by Mr. Muniyappa and Mr. Joginder Singh Sahani. |
| West : | Portion of Sy. No.18 of Ramagondanahalli Village and IVRI Experiment Station |
| North : | Sy. No.66 of Avalahalli Village |
| South : | Portion of Sy. No. 18 & Sy. No.62, 63 and 64 of Ramagondanahalli Village and part of IVRI Experiment Station." |

Again, no information is received. The petitioner approaches this Court in Writ Petition No.9892 of 2023. During the pendency of the petition, the petitioner gets a message that the application of the petitioner has not been approved completely. Noticing the fact that matters were pursuant to the direction of the Apex Court with particular reference to the 30th report, the coordinate Bench disposed of the writ petition by the following order:

" "

3. It is submitted by the learned Senior Counsel appearing on behalf of the petitioner Sri.Aditya Sondhi that in terms of the order of the Apex Court, the Thirtieth Report having been accepted and orders passed, it is clear that buildings referred to at Annexure-M are required to be regularised in terms of the order of 03.12.2020. Attention is drawn to Page No.0247 of Annexure-M of Justice A.V.Chandrashekar Committee and the relevant table at Annexure-M contains details of the application of the petitioner which is numbered as JCC-15-04918 and the relevant portion of the table relating to the said application is reproduced below:

Sl. No	JCC No.	Applicant Name	Address. Phone No. Email	Survey & Site No.	Type	Plan Sanctioned	Built-up Area (In Sq.ft.) & No. of Flrs	Sital Area (in Sq.ft.)
24 83	JCC-15-04918	ALPANA BHARTIA	SY.NO.18, Ramagondana hilly, Yelahanka Hobli, Bengaluru-66 Ph- 9845178220	18	Residential	Without Approval	6485.0; Flrs:1	257004.0

Accordingly, it is submitted that insofar as the extent of built up area of 6485 Sq.ft., as well as sital area of 257004 Sq.ft., is concerned, recommendations of the Committee requires to be implemented.

4. Learned Senior Counsel Sri.Jayakumar S. Patil appearing on behalf of BDA submits that insofar as Sl.No.2483 is concerned, an extent of built up area of 6485 Sq.ft., was recommended for regularisation and necessary orders regarding the same would be passed. However, it was submitted that insofar as application of the petitioner other than JCC-15-04918, applications of the petitioner namely JCC-15-04923 to JCC-15-04936 have been rejected.

5. Learned Senior Counsel appearing on behalf of the petitioner submits that the order of the Apex Court is clear insofar as Apex Court has noticed that Justice A.V.Chandrashekar Committee had recommended regularisation of 38 buildings and further observations at para 10 of the same order of 06.12.2022 clarifies the matter. It is further submitted that there is further direction at Para 11 which directed BDA not to acquire and take possession of the land/buildings specified in Annexure-L, M etc., and accordingly, report of the Committee must be construed appropriately and in effect the buildings in the entire extent of land of 05 Acres 36 Guntas cannot be touched.

6. However, the learned Senior Counsel appearing for BDA submits that, that would not be a correct reading of the order of the Apex Court passed on the recommendations of the Committee in its Thirtieth Report.

7. Learned Senior Counsel appearing on behalf of the petitioner submits that there must be protection granted in light of the summer vacation of the Supreme Court and necessary steps would be taken to obtain clarification in light of the contentions of both parties referred to above.

8. It is submitted on behalf of the respondent-BDA that as on date, the extent of land in Sy.No.18 is yet to be taken up for development by civil works and that the apprehension of the petitioner of immediate works by BDA is ill-

founded. In light of submission of the learned Senior Counsel for petitioner that appropriate clarification would be sought from the Supreme Court, it would be appropriate to dispose off the matter while noticing that clarification would be obtained at the earliest by moving the Apex Court immediately after reopening of the court. This court refrains from passing any order of restraint before any clarification is sought by moving the Apex Court in light of submission made by the BDA. If however, the respondent-BDA intends to start civil works etc., before summer vacation of the Apex Court they are at liberty to move this court.

9. Accordingly, the petition is disposed off."

The petitioner was reserved liberty to move the matter before the Apex Court and also reserving liberty, if the BDA would take up construction in the property to move this Court. The petitioner then files an application before the Apex Court in the pending matter. The Apex Court, in terms of its order dated 12-12-2023, remits the matter back to be heard by this Bench by the following order:

"These proceedings pursuant to the judgment of this Court dated 03-08-2018 have remained pending. By the order dated 03-12-2020, a committee headed by Mr. Justice A.V.Chandrashekar, former Judge of the Karnataka High Court, with Mr. Jayakar Jerome, former Commissioner, Bangalore Development Authority (for short, "BDA") and Mr. S.T. Ramesh, former Director general of Police, as its members, was appointed (For short, "Committee"). The Committee has been submitting its reports from time to time. The committee's tenure ends on 31.12.2023.

Mr. Justice A.V.Chandrashekar has recommended that the Committee be disbanded, as it has completed the task assigned by this court. The members of the Committee, namely Mr.

Jayakar Jerome and Mr. S.T.Ramesh have stated that the Committee should continue for another six months.

We are of the opinion that the present proceedings should be transferred to the High Court of Karnataka, at Bangalore (For short, "High Court"). Whether or not the term of the Committee should be extended, as well as, the question of composition of the Committee, will be examined by the High court.

The entire records of the present proceedings including all the applications, reports submitted by the Committee till date, and the orders passed thereon, will be sent to the High Court. An electronic/shadow file will, however, be maintained in this court. The High court will examine the latest reports filed by the Committee, that is, the 31st Report and the 32nd Report and pass appropriate orders.

The physical records will be transferred to the BDA, after storing an e-copy/set on cloud. The credentials/details to assess such e-copy shall be given to the authorized officers of BDA. The BDA will make a copy of the cloud records and store this one set on its server/ cloud facility, as available with it. The original e-set will not be altered, modified or tampered.

Any person/entity, including the BDA, having an objection or issue arising from any reports of the Committee, may move an application before the High Court. The High Court will be entitled to decide all the pending issues and applications including the application(s) challenging any of the decisions taken by the committee, or a subject matter of its reports.

However, in case there is any specific order or direction regarding a particular property, passed by this court, applications regarding the same will be entertained by this court.

Any person aggrieved by any order passed by the High Court will be entitled to approach this court.

All interim orders passed by this court with regard to transfer or retaining of the officers are hereby recalled.

Learned Advocate General for the State of Karnataka has drawn our attention to paragraph 23 of the order dated 20-01-2022, and submits that the State would like to pay additional compensation over and above the compensation payable under the Land Acquisition Act, 1894 (For short, "the 1894 Act"). Accordingly, the direction may be modified. We make no comments in this regard. It will be open to the State to move an appropriate application before the High Court indicating grounds and justification. The prayer will be considered in accordance with law.

Pending miscellaneous applications are also transferred.

We would request the Chief Justice of the High Court to nominate a Bench to deal with the cases arising out of the judgment dated 03-8-2018 and the order dated 03-12-2020.

Recording the aforesaid, the miscellaneous applications are disposed of."

15. The issue now would be, whether entire land of the petitioner is required to be regularized. Therefore, it becomes necessary to notice the findings of the Committee. They read as follows:

"....

10. **REGULARISATION OF BUILDINGS**

This Report may kindly be considered as part and parcel of the Third Report dated 10-11-2021 and perused in that background. Your Lordship may specifically peruse the adjudication criteria in paragraph No.24 of the Third Report dated 10-11-2021 which is excerpted below:

"Adjudication Criteria"

24. At the time of adjudication by the JCC certain parameters were agreed upon. This was to ensure uniformity in decision making and consequent recommendation to the Hon'ble Supreme Court as to which cases may be regularised. Among others, the important criteria was:

- a) A building should be in existence on notified land;
- b) The ownership of the building should be established;
- c) The applicant and his relationship/ownership of the building should be established.
- d) Once a building has received electricity connection, a meter is installed. The meter therefore, forms a basis for identifying individual properties, residential/commercial. A building may have multiple units. Each of these units would have a separate meter. In such cases, the individual units in these buildings are invariably rented out. At times, the ownership of such individual units may also be different. Therefore, the electricity meter has been taken as the basis to treat the building as a unity to decide whether it should be regularized or not.
- e) Any one of the 17 documents (**Annexure-A**) to prove the building has come up before the cut off date. This document among others would include sanction plan or/and permission to construct or/and property tax paid receipt or/and, electricity connection indicating the date the electricity was serviced.

11. In the light of what has already been stated and taking all the factors into consideration, the JCC in this Report recommends regularization of total 205 (two hundred and five buildings only) in Annexure-L 125 buildings Sl.No.2248 to 2285, Annexure-M buildings Sl.2378 to 2502, Annexure-N 15 buildings Sl.No.343 to 357, Annexure-AN 14 buildings Sl.No.1 to 14 and Annexure-X 13 buildings Sl.No.1 to 13 in all total 205 buildings (two hundred and five buildings only).

12. The J.C.C. further recommends that the BDA be directed:

- (a) To issue Regularization Certificates to the applicants under the supervision of JCC – Annexure-L 125 buildings Sl.No.2248 to 2285, Annexure-M 38 buildings Sl.2378 to 2502, Annexure-N 15 buildings Sl.No.343 to 357, Annexure-AN 14 buildings Sl.No.1 to 14 and Annexure-X 13 buildings Sl.No.1 to 13, in all total 205 buildings (two hundred and five buildings only).**
- (b) To determine and collect Betterment Levy as per the provisions of the BDA Act, 1976.
- (c) To integrate these buildings into the Dr.K.Shivaram Karanth Lay-out.
- (d) To give wide publicity to this order electronically, digitally and by other means necessary.
- (e) While regularizing Industries/Factories the area of beneficial enjoyment/setbacks shall be as per Zoning Regulation of the Revised Master Plan 2015.
- (f) While regularizing residential and commercial buildings, the beneficial enjoyment/setbacks will be as per the BDA Zoning Regulations.”

The Committee had regularized the constructions. The Apex Court, in terms of its order dated 06-12-2022 *supra* clearly holds that constructions should not be touched and those lands surrounding the constructions should not be acquired. Notwithstanding the said finding, the Committee regularized only the buildings and not the

lands surrounding the buildings. The petitioner is claiming all the land that is surrounding buildings. It is the schedule property measuring 5 acres 36 guntas in which she is in possession for over 25 years and has developed the property as a farm house. If the construction in the farm house is regularized, it is ununderstandable as to how the surroundings cannot be regularized. In that light, the petition deserves to succeed and the prayer to be answered in favour of the petitioner.

16. For the aforesaid reasons, the following:

ORDER

- (i) Writ petition is allowed.

- (ii) Mandamus issues to the respondents/BDA to regularize entire schedule property in favour of the petitioner and issue such regularization certificate within a period of 8 weeks from the date of receipt of a copy of this order.

**Sd/-
(KRISHNA S DIXIT)
JUDGE**

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

bkp
CT:MJ