



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF APRIL, 2025

PRESENT

THE HON'BLE MR JUSTICE SREENIVAS HARISH KUMAR

AND

THE HON'BLE MR JUSTICE C.M. POONACHA

REVIEW PETITION NO. 321 OF 2023

BETWEEN

SMT. SHOBHA
W/O LATE D. RAMIAH,
AGED ABOUT 71 YEARS,
R/AT NO.1240, 32ND G CROSS,
IV T BLOCK, JAYANAGAR,
BENGALURU - 560041

...PETITIONER

(BY SRI. C M NAGABHUSHANA, ADVOCATE)

AND

- 1 . STATE OF KARNATAKA
BY ITS SECRETARY,
URBAN DEVELOPMENT DEPARTMENT,
VIKASA SOUDHA,
BENGALURU - 560001.
- 2 . BANGALORE DEVELOPMENT AUTHORITY
BENGALURU - 560020
REPRESENTED BY ITS COMMISSIONER
- 3 . THE DEPUTY COMMISSIONER (LA)
BANGALORE DEVELOPMENT AUTHORITY,
BENGALURU - 560020.

...RESPONDENTS

(BY SRI. B S SACHIN, ADVOCATE FOR R2 AND R3)

Digitally signed
by NIRMALA
DEVI

Location: HIGH
COURT OF
KARNATAKA



THIS REVIEW PETITION IS FILED UNDER SECTION 114 R/W ORDER 47 RULE 1 OF CPC PRAYING TO REVIEW THE ORDER DATED 16.06.2023 IN WP NO. 40515-516/2011 (LA-BDA) AND PASS SUCH OTHER ORDERS AS THIS HONBLE COURT DEEMS FIT IN THE INTEREST OF JUSTICE AND EQUITY AND ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 28.03.2025, COMING ON FOR PRONOUNCEMENT OF ORDER, THIS DAY, **POONACHA J.**, MADE THE FOLLOWING:

CAV ORDER

(PER: HON'BLE MR JUSTICE C.M. POONACHA)

The present review petition is filed under Section 114 read with Order XLVII Rule 1 of the Code of Civil Procedure, 1908¹ and Rule 39 of the Karnataka High Court Writ Proceedings Rules, 1977 seeking to review the order dated 16.6.2023 passed in WP No.40515/2011, whereunder a coordinate Bench of this Court has dismissed the writ petition filed by the petitioner. The petitioner vide the said writ petition sought for a declaration that the Final Notification dated 28.11.1986 is incapable of enforcement in respect of the property of the petitioner and for quashing the award dated 6.12.2005 and for other reliefs.

2. The relevant facts in a nut shell are that the petitioner is the owner of land measuring 2 acres 12 $\frac{3}{4}$ guntas

¹ Hereinafter referred to as 'CPC'



in Sy.No.31/3 and 31/3A (now renumbered as 31/8) situated at Roopena Agrahara village, Begur Hobli, Bengaluru South Taluk and new property No.83/2 in Bommanahalli village under BBMP jurisdiction², having purchased the same under two registered Sale Deeds dated 8.6.1974.

3. A preliminary notification was issued on 17.1.1985 under Section 17 of the Bangalore Development Authority Act, 1976³ notifying the lands for acquisition for formation of Hosur – Sarjapur Road layout⁴, which included the lands of the petitioner. However, the name of the petitioner was not appearing in the said preliminary notification although the petitioner's name was appearing in the RTC pertaining to the said property since 1980. The petitioner having become aware of the acquisition, filed her objections to the preliminary notification on 25.3.1985, despite which, the final notification under Section 19 of the BDA Act was issued on 25.12.1986.

4. On 13.2.1987 a notice was issued to the petitioner under Sections 11 and 14 of the Land Acquisition Act, 1984, to which the petitioner had filed objections requesting for dropping of the acquisition proceedings contending, *inter alia*,

² Hereinafter referred to as 'the said property'

³ Hereinafter referred to as 'BDA Act'

⁴ Hereinafter referred to as 'HSR Layout'



that the lands were fully developed. It is the case of the petitioner that she has constructed a Kalyana Mantapa on the said property, which was inaugurated on 28.10.1987. That the proposed scheme to develop the entire stretch of land was fully developed and lands adjoining that of the petitioner have not been acquired. The petitioner filed writ petition contending that the acquisition proceedings have lapsed insofar as the lands of the petitioner. A coordinate Bench of this Court, vide order dated 16.6.2023 dismissed the Writ Petition. Seeking review of the said order, the present review petition is filed.

5. It is the submission of learned counsel Sri C.M.Nagabushan appearing for the petitioner that the writ petition was posted before a learned Single Judge and vide order dated 25.8.2012 noticing that similar questions, which arose for consideration in the writ petition were also involved in writ appeals, the Writ Petition was ordered to be clubbed along with the said writ appeals. That the writ petition was listed along with various other writ appeals and writ petitions before a coordinate Bench of this Court on 31.1.2023 and since in the writ petition an application for amendment was pending and there were certain office objections, the writ petition was not



disposed of along with the other writ appeals. That in WA No.4583/2011 together with other connected writ appeals pertaining to the scheme for acquisition for HSR Layout, vide common judgment dated 1.2.2023, the preliminary notification dated 15.12.1984 and final notification dated 28.11.1986 insofar as the lands of the petitioners/appellants therein were quashed on the ground that the authority failed to conclude the land acquisition proceedings within a reasonable time and no award was passed for a period of 24 years from the date of final notification. That in WA No.15015/2011 along with other connected writ appeals, a coordinate Bench of this Court, vide common judgment dated 31.1.2023, while dealing with various writ appeals and writ petitions pertaining to validity of acquisition in relation to J.P.Nagar VIII phase, held that the scheme of acquisition insofar as the lands in the said appeals/petitions had lapsed. That in WA No.824/2013, a coordinate Bench of this Court, vide judgment dated 14.2.2023 noticing the judgment dated 1.2.2023 passed in WA No.4583/2011, has allowed the writ appeal, set aside the order passed by the learned Single Judge and quashed the preliminary notification dated 15.12.1984 and final notification



dated 28.11.1986 as well as the award dated 12.5.2010 insofar as the lands of the said writ appeal, which were sought to be acquired for the purpose of formation of HSR Layout. That in the order under review, without noticing the judgment passed in other connected writ petitions that were listed along with the writ petition of the petitioner, the impugned order has been passed dismissing the writ petition. That if the writ petition filed by the petitioner was required to be adjudicated independently of the matters along with which it was connected, the writ petition of the petitioner ought to have been listed before the learned Single Judge and ought not to have been rejected by the Division Bench. That the acquisition of the lands adjoining that of the petitioner has been quashed, hence the acquisition of the lands of the petitioner is also required to be quashed.

6. *Per contra*, learned counsel Sri B.S.Sachin, appearing for the BDA opposes the review petition and contends that the acquisition process having been completed and the possession having been taken, as also the fact that the writ petition filed by the petitioner having been dismissed on the ground of delay, the order passed in the writ petition is not



liable to be reviewed. That various contentions urged by the petitioner are beyond the scope of review and re-appreciation of the case of the petitioner on merits ought not to be undertaken in the present review proceedings. Learned counsel for the BDA seeks to distinguish various judgments that have been relied upon by the learned counsel for the petitioner. Further, reliance is placed by the learned counsel for the BDA on the judgment of the Constitution Bench of the Hon'ble Supreme Court in the case of ***Indore Development Authority v. Manoharlal & Ors., ETC⁵***.

7. Both the learned counsel have relied upon various judgments, which shall be referred to the extent the same are necessary for the purpose of consideration of the present review petition.

8. The submissions of both the learned counsel have been considered and the material on record has been perused. The question that arises for consideration is:

Whether the order dated 16.6.2023 passed in WP No.40515/2011 is liable to be reviewed?

⁵ (2020) 3 SCR 1



9. The relevant fact situation is undisputed, inasmuch as the petitioner had filed writ petition for declaring that the final notification dated 25.12.1986 is incapable of enforcement in respect of the property/lands of the petitioner since the scheme for acquisition of HSR Layout had lapsed and for quashing of the award dated 6.12.2005 as also for other reliefs. It is a matter of record that the writ petition was listed before a learned Single Judge and pursuant to the order dated 25.8.2012, the writ petition was ordered to be listed before a Division Bench along with various other writ appeals/writ petitions.

10. Learned counsel for the petitioner has filed a memo placing on record the cause list dated 31.1.2023, which indicates that the writ petition of the petitioner was listed along with WA No.4583/2011 and various other connected writ appeals/writ petitions.

11. It is also a matter of record that WA No.4583/2011 along with the other connected writ appeals/writ petitions pertaining to HSR Layout scheme was allowed vide judgment dated 1.2.2023, whereunder the preliminary notification 15.12.1984 and final notification dated 28.11.1986 were



quashed insofar as the lands of the writ petitioners in WP Nos.26972/2010, 28549/2010, 36667/2011 and 59675/2014. It is further a matter of record that WA No.15015/2011 along with other connected writ appeals/writ petitions pertaining to the acquisition of J.P.Nagar VIII Phase were allowed and it was held that J.P.Nagar VIII Phase scheme insofar as it pertains to the land acquisition in the said appeals/petitions had lapsed. The writ petition filed by the petitioner was listed before a coordinate Bench of this Court on 16.6.2023 and having regard to the judgment of the Hon'ble Supreme Court in the case of ***Banda Development Authority v. Motilal Agarwal and others***⁶ this Court dismissed the writ petition as being barred by time.

12. While the writ petition of the petitioner was considered, the orders/judgments passed in the other writ appeals/writ petitions, which were listed along with the case of the petitioner ought to have also been noticed in view of the fact that the writ petition of the petitioner was ordered to be listed along with the other similar matters and hence, were listed before a Division Bench of this Court. The similar

⁶ (2011) 5 SCC 394



matters having been adjudicated upon by a coordinate Bench of this Court, wherein the scheme of acquisition was held to have lapsed, the petitioner was entitled to point out that the case of the petitioner also fell under a similar circumstance and was hence, entitled to the same relief granted. However, without noticing the orders of quashing of acquisition as being lapsed passed in matters with which the writ petition was posted along with, this Court merely noticing that the writ petition has been filed belatedly, dismissed the writ petition as barred by time.

13. Learned counsel for the petitioner is justified in pointing out that in the case of ***Banda Development Authority⁶*** which was noticed by this Court while dismissing the writ petition of the petitioner, the acquired land was partly or wholly utilized, whereas in the present case the land has not been utilized.

14. Both the learned counsel for the petitioner and learned counsel for the BDA have made elaborate submissions as to whether the petitioner was entitled to the relief sought for in the writ petition having regard to the fact that the notifications for acquisition and the award have been passed. It is also sought to be contended by the learned counsel for the



petitioner that the petitioner continues to be in possession of the property and continues to run the Kalyana Mantapa in the said property. However, it is sought to be contended by the Learned Counsel for the BDA that Mahazar having admittedly been drawn, possession is with the BDA and the learned Counsel for the petitioner is not entitled to the relief sought for in the writ petition.

15. The various aspects as to the entitlement of the petitioner for the reliefs as sought for in the petition, having regard to the facts and circumstances of the case of the petitioner as also whether the petitioner was entitled to similar reliefs that were granted by this Court with respect of the other writ appeals/petitions pertaining to the acquisition of the HSR layout scheme and J.P.Nagar VIII phase, are required to be adjudicated in the writ petition. This Court is of the considered opinion that the order dated 16.6.2023 passed in WP No.40515/2011, is liable to be reviewed and the writ petition is required to be restored to file and be posted before a learned single judge for consideration of the case of the petitioner on its merits as the writ petition of the petitioner had been dismissed only on the ground of delay without noticing the orders passed



by the coordinate bench of this Court in other writ appeals/writ petitions that were listed along with the case of the petitioner.

16. It is settled proposition of law that the judgment/order can be reviewed, if there is a mistake or error apparent on the face of record and the error must be such, which is self evident and does not require any long drawn arguments (See ***Sanjay Kumar Agarwal⁷ and Kalmesh Verma⁸***)

17. The detailed reference made by the learned counsel for the BDA to the judgment of the Hon'ble Supreme Court in the case of ***Indore Development Authority⁵*** is not required to be noticed as the merits of the case of the petitioner put forth in the writ petition is not being considered in the review petition. Suffice to state that the non-consideration of the orders passed in the connected matters which were posted along with the writ petition while disposing the writ petition constitutes an error apparent on the face of the record rendering the impugned order liable to be reviewed. Accordingly, the question framed for consideration is answered in the affirmative.

⁷ (2024) 2 SCC 362

⁸ (2013) 8 SCC 320



18. In view of the aforementioned, the following:

ORDER

- i. The above review petition is allowed.
- ii. The order dated 16.6.2023 passed in WP No.40515/2011, is reviewed and recalled;
- iii. The writ petition is restored to file;
- iv. The writ petition be listed before the learned Single Judge having roster, after obtaining suitable orders in this regard.

**Sd/-
(SREENIVAS HARISH KUMAR)
JUDGE**

**Sd/-
(C.M. POONACHA)
JUDGE**