



CNR: KAHC010115532015

NC: 2026:KHC:54827
WP NO.50374 OF 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 01ST DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S. INDIRESH

WRIT PETITION NO.50374 OF 2015 (BDA)

BETWEEN:

D. JAYARAM
S/O LATE DASAPPA,
AGED ABOUT 62 YEARS,
R/AT NO.30/1, 1ST CROSS, 1ST MAIN,
MICHAEL PALYA, INDIRA NAGAR,
BENGALURU – 560 038.

...PETITIONER

(BY SRI. BIPIN HEGDE, ADVOCATE FOR
SRI. KARTHIK V., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP. BY THE PRINCIPAL SECRETARY TO
GOVERNMENT,
HOUSING AND URBAN DEVELOPMENT,
M.S. BUILDING,
DR. AMBEDKAR VEEDHI,
BENGALURU – 560 001.
2. THE BANGALORE DEVELOPMENT AUTHORITY
REP. BY ITS CHAIRMAN/COMMISSIONER,
KUMARA PARK WEST,
BENGALURU – 560 001.

...RESPONDENTS

(BY SRI. ADITYA DIWAKARA, AGA FOR R1;
SRI. N.R. GIRISHA, ADVOCATE FOR R2)

Digitally signed by
CHAYA S A
Location: HIGH
COURT OF
KARNATAKA



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THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 23RD SEPTEMBER, 2015 PASSED BY THE RESPONDENT NO.1 VIDE ANNEXURE-A; DECLARE THAT THE SCHEME 'EAST OF NGEF' NOTIFIED UNDER THE PRELIMINARY NOTIFICATION DATED 28TH MAY, 1984 VIDE ANNEXURE-S AND FINAL NOTIFICATION DATED 23RD OCTOBER, 1986 VIDE ANNEXURE-T IN RESPECT OF SURVEY NO.82 OF BANASWADI VILLAGE MEASURING TO AN EXTENT OF 2 ACRE 4 GUNTAS AS LAPSED; AND ETC.

THIS WRIT PETITION HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT, THIS DAY, **E.S. INDIRESH J.**, MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE E.S. INDIRESH

CAV ORDER

In this petition, the petitioner is challenging the order dated 23rd September, 2015 (Annexure-A) passed by the respondent No.1; *inter alia* sought for declaring the Preliminary Notification dated 28th May, 1984 (Annexure-S) and Final Notification dated 23rd October, 1986 (Annexure-T) issued by the respondent No.1 as lapsed in respect of the subject land.

2. It is the case of the petitioner that the petitioner is the owner of the land bearing Survey No.82 of Banaswadi Village, Bengaluru North Taluk measuring to an extent of 2



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acre 4 guntas out of total extent of 3 acre 37 guntas. The subject land has been converted for non-agricultural purpose in terms of the Conversion Certificate dated 25th August, 1938 (Annexure-B). It is the case of the petitioner that the entire extent of 3 acre 37 guntas in Survey No.82 was notified for acquisition by the respondent-Authorities for the purpose of formation of "New Layout to the East of NGEF" and accordingly, the Preliminary Notification was issued on 28th May, 1984 (Annexure-S) and thereafter, Final Notification was issued on 23rd October, 1986 (Annexure-T). It is stated that the subject land was purchased by one K. Jayaprakash as per the registered Sale Deed dated 17th November, 1979 and thereafter, the petitioner purchased the same from said K. Jayaprakash. It is also stated that, wife of petitioner viz., Gangarathnamma had purchased the portion of the alienated land as per Annexure-B5. It is further stated in the petition that the respondent-BDA passed resolution recommending the subject land for de-notification vide subject No.295/1992 dated 24th September, 1992.



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3. It is further averred in the petition that the petitioner herein has filed Writ Petition No.11178/2010 challenging the action of the respondent-BDA as to acquisition proceedings and the said writ petition came to be allowed on 14th September, 2012 (Annexure-H). It is also stated that the Government had called for report from the competent authority as to the order of de-notification. In this regard, the petitioner produced before this Court the report dated 28th June, 1988 (Annexure-N) as to the status of the subject land. The petitioner has also filed representation dated 21st August, 2014 (Annexure-Q) to the respondent No.1, seeking de-notification of the subject land as the respondents have abandoned the acquisition proceedings. In pursuance of the same, the respondent No.1, by order dated 23rd September, 2015 (Annexure-A) declined to de-notify the acquisition proceedings in respect of the subject land. Being aggrieved by the same, the petitioner presented this petition.

4. Heard Sri. Bipin Hegde, learned counsel on behalf of Sri. Karthik V., appearing for the petitioner; Sri. Aditya Diwakara, learned Additional Government Advocate appearing



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for the respondent No.1; and Sri. N.R. Girisha, learned counsel appearing for the respondent No.2.

5. Sri. Bipin Hegde, learned counsel appearing for the petitioner contended that the respondent No.1 has failed to consider the observation made by this Court at Paragraph 6 in the order dated 14th September, 2012 (Annexure-H) passed in Writ Petition No.11178/2010. Learned counsel also referred to the report at Annexure-P and contended that total extent of land notified for acquisition was 523 acre 3 guntas and award came to be approved to an extent of 195 acre 5 guntas. In the said report, it is also mentioned that, there is a built up area to an extent of 56 acre 22 guntas and further the acquisition in respect of 23 acres 37 guntas was quashed by this Court. Therefore, learned counsel appearing for the petitioner contended that the scheme has not been implemented as required under Section 27 of the Bangalore Development Authority Act.

6. In this regard, learned counsel appearing for the petitioner further contended that, in view of the fact that the



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possession of the subject land remained with the petitioner, the land is not vested with the State Government. Accordingly, by referring to the judgment of Hon'ble Supreme Court in the case of **PRAHLAD SINGH AND OTHERS vs. UNION OF INDIA AND OTHERS** reported in (2011) 5 SCC 386 and in the case of **OFFSHORE HOLDINGS PVT. LTD. vs. BANGALORE DEVELOPMENT AUTHORITY AND OTHERS** reported in (2011) 3 SCC 139, learned counsel appearing for the petitioner contended that, as the subject land was not vested with the State Government, the acquisition proceedings is lapsed in terms of Section 27 of the Bangalore Development Authority Act. Accordingly, he sought for interference of this Court.

7. It is further contended by the learned counsel appearing for the petitioner that, as the possession of the subject land was not taken from the petitioners, the acquisition proceedings in respect of the subject land requires to be set-aside in view of the judgment of this Court in the case of **D. NARAYANAPPA vs. THE STATE OF KARNATAKA, BY ITS SECRETARY, HOUSING AND URBAN**



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DEVELOPMENT DEPARTMENT, BANGALORE AND OTHERS reported in *ILR 2005 KAR 295*.

8. By referring to the order dated 01st December, 2025 passed in Writ Appeal No.4718 of 2016, learned counsel appearing for the petitioner contended that, even if the notification is issued under 16(2) of the Land Acquisition Act, however, mahazar has not been drawn and therefore, sought for interference of this Court.

9. Per contra, Sri. N.R. Girisha, learned counsel appearing for the respondent No.2-BDA sought to justify the impugned order dated 23rd September, 2015 (Annexure-A) passed by the respondent No.1 and reiterates the averments made in the statement of objections. It is contended by learned counsel appearing for the respondent No.2 that the possession of the subject land was taken on 28th June, 1988 and transferred to Engineering Section for formation of layout and in this regard, referred to the Notification dated 05th December, 1991 issued under Section 16(2) of the Land



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Acquisition Act. Therefore, he contended that the writ petition requires to be dismissed.

10. Sri. Aditya Diwakara, learned Additional Government Advocate appearing for the respondent No.1-State sought to justify the impugned order passed by the respondent No.1.

11. In the light of the submission made by learned counsel appearing for the parties, it is not in dispute that the respondent No.1 had issued the Preliminary Notification dated 28th May, 1984 (Annexure-S) to acquire the vast extent of land for the purpose of formation of "New Layout to the East of NGEF" and thereafter, the Final Notification came to be issued on 23rd October, 1986 (Annexure-T). It is also stated that the respondent-Authorities have issued Notification dated 05th December, 1991 under Section 16(2) of the Land Acquisition Act. It is also pertinent to mention here that, the respondent No.2-BDA, by Mahazar dated 28th June, 1988 had taken possession of the land, however, the mahazar regarding taking possession is in cyclostyle and printed form, which will



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not prove the actual taking of possession. It is also stated that the award dated 20th June, 1988 came to be passed in favour of one Jayaprakash. It is also forthcoming that, the respondent No.2-BDA passed a resolution dated 24th September, 1992 in subject No.295/92 for de-notifying the subject land bearing Survey No.82 measuring to an extent of 2 acre 4 guntas which was purchased by the petitioner from the erstwhile owner. In the meanwhile, the petitioner filed Writ Petition No.11178/2010 and this Court, by order dated 14th September, 2012 (Annexure-H) disposed of the petition. Paragraphs 5 and 6 of the said order reads as under:

"5. A further additional statement as on 4.7.2011 is filed to further elucidate that the land measuring 2 acres 4 guntas of Channasandra village was notified among other lands for formation of the NGEF Layout, for which the BDA had issued a Preliminary Notification in the year 1984 and a Final Notification in the year 1986 and an award also having been passed in the year 1988 and possession having been taken as on 28.06.1988 itself, the award amount has been deposited in court and Notification under Section 16(2) of the Land Acquisition Act, 1894, has been issued in the Official Gazette dated 5.12.1991.



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6. *However, it us further stated that the land has been inspected by the Engineering Section and it is found that there exist 3 RCC buildings and 8 Asbestos Sheet roofed houses and since the land in question is in the middle of a layout, it is stated that it is required for the development of sites and roads in terms of the Notification issued and that the land is vested in the authority in the eye of law and therefore, partially resiling from its earlier stand that it may be denotified, has filed a contradictory statement of objections. Since the BDA, in the first instance, has recommended denotification of lands in question and the later statement of objections being filed to the contrary that land is still required for the formation of roads and sites, is a contradiction, which cannot be reconciled. Added to the circumstance that there are buildings on the land in question even as on date, thereby implying that possession has not been taken of the same even as on date, would defeat the very stand of the BDA. Therefore, if, in the first instance, they have submitted a report to the State Government recommending denotification, the State Government to consider the same and pass appropriate orders herewith, in any event, within a period of six weeks from the date of receipt of a certified copy of this order."*

(emphasis supplied)



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12. Perusal of the aforementioned order of this Court makes it clear that the possession of the subject land has not been taken by the respondents. On perusal of the report at Annexure-P, it is forthcoming that the total extent of land sought to be acquired as per the Preliminary Notification was 523 acre 3 guntas and thereafter, the final notification was issued to the said entire extent of land. However, the award was approved to an extent of 195 acre 5 guntas and balance extent of land was 327 acre 38 guntas. It is also forthcoming from the very same report that the built-up area in the entire acquisition of land was to an extent of 56 acre 22 guntas and further to an extent 23 acre 37 guntas land, the acquisition proceedings came to be quashed in terms of the orders of this Court. Therefore, the acquisition of the land for the purpose of formation of 'New Layout to East of NGEF' was less than 20% out of total extent of land. In the backdrop of these aspects, the possession of the subject land has not been taken by the respondents and same is remained with the petitioner.



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13. Hon'ble Supreme Court in the case of **OFFSHORE HODLINGS PVT. LTD.,** (*supra*), at paragraphs 38 to 40 held as under:

38. On a conjunctive reading of the provisions of Sections 27 and 36 of the State Act, it is clear that where a scheme lapses, the acquisition may not. *This, of course, will depend upon the facts and circumstances of a given case. Where, upon completion of the acquisition proceedings, the land has vested in the State Government in terms of Section 16 of the Land Acquisition Act, the acquisition would not lapse or terminate as a result of lapsing of the scheme under Section 27 of the BDA Act. An argument to the contrary cannot be accepted for the reason that on vesting, the land stands transferred and vested in the State/Authority free from all encumbrances and such status of the property is incapable of being altered by fiction of law either by the State Act or by the Central Act. Both these Acts do not contain any provision in terms of which property, once and absolutely, vested in the State can be reverted to the owner on any condition. There is no reversal of the title and possession of the State. However, this may not be true in cases where acquisition proceedings are still pending and land has not been vested in the Government in terms of Section 16 of the Land Acquisition Act.*



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39. *What is meant by the language of Section 27 of the BDA Act i.e. "provisions of Section 36 shall become inoperative", is that if the acquisition proceedings are pending and where the scheme has lapsed, further proceedings in terms of Section 36(3) of the BDA Act i.e. with reference to proceedings under the Land Acquisition Act shall become inoperative. Once the land which, upon its acquisition, has vested in the State and thereafter vested in the Authority in terms of Section 36(3); such vesting is incapable of being disturbed except in the case where the Government issues a notification for revesting the land in itself, or a corporation, or a local authority in cases where the land is not required by the Authority under the provisions of Section 37(3) of the BDA Act.*

40. *This being the scheme of the acquisition within the framework of the State Act, read with the relevant provisions of the Central Act, it will not be permissible to bring the concept of "lapsing of acquisition" as stated in the provisions of Section 11-A of the Land Acquisition Act into Chapter IV of the BDA Act."*

14. It is also relevant to extract paragraph 13 in the case of **PRAHLAD SINGH** (*supra*), which reads as under:



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"We have given our serious thought to the entire matter and carefully examined the records. Section 16 lays down that once the Collector has made an award under Section 11, he can take possession of the acquired land. Simultaneously, the section declares that upon taking possession by the Collector, the acquired land shall vest absolutely in the Government free from all encumbrances. In terms of the plain language of this section, vesting of the acquired land in the Government takes place as soon as possession is taken by the Collector after passing an award under Section 11. To put it differently, the vesting of land under Section 16 of the Act presupposes actual taking of possession and till that is done, legal presumption of vesting enshrined in Section 16 cannot be raised in favour of the acquiring authority. Since the Act does not prescribes the mode and manner of taking possession of the acquired land by the Collector, it will be useful to notice some of the judgments in which this issue has been considered."

(emphasis supplied)

15. This Court, in the case of **NARAYANAPPA** (*supra*) also held as under:

"xiv) The original Master lay-out plan of the layout was summoned from the BDA and when the same was perused, it is noticed by this Court that in the surrounding areas of ht eland in question, sites have been formed and numbers are assigned and allotted in



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favour of different persons. In respect of this portion of the land, neither sites are formed nor any numbers are assigned in the master layout plant. From this, undisputed fact noticed from the layout plan of the BDA it can be conveniently held that the BDA did not take actual possession of the land from the petitioner on account of the fact that he has been in possession and structures were in existence upon the property in question. That is the reason for leaving the land in question blank in the Mater-lay-out plan, which is produced by the BDA. Under these circumstances, it cannot be said that BDA took possession of the land in question on 28.12.1976 as asserted by it as mentioned in the notification."

16. Perusal of the aforementioned judgments makes it clear the respondents have to show certain material as to taking possession of the subject land in actual sense. The order passed by this Court in Writ Petition No.11178/2010 would clearly establish the fact that the possession of the subject land is remained with the petitioner. On the perusal of Mahazar dated 28th June, 1988 (Annexure-N) indicate that there is no appropriate details as to the panchas while taking possession of the subject land. In this regard, it is relevant to extract the judgment of Division Bench of this Court in the



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case of **BDA vs. STATE OF KARNATAKA AND ANOTHER**
made in Writ Appal No.4718/2016. Paragraph 15 of the said
judgment reads as under:

"15. On perusal of the mahazar, we notice that the mahazar witnesses are not identifiable. Except for their signatures, no other particulars such as names or addresses are furnished. This deficiency is found in the mahazar, in addition to the other infirmities notice hereinabove. This Court, in W.P.No.16865/2022, disposed of on 27.01.2025 [H.Nagarajaiah and others vs. State of Karnataka and others], has held that where the mahazar witnesses are not identifiable, the mahazar itself cannot be relied upon. In the present case also, as the mahazar witnesses are not identifiable for want of particulars, the principle laid down in the aforesaid decision squarely applies. We find that the facts in both cases are substantially identical."

17. Following the law declared by the Division Bench of this Court in the aforesaid case, I am of the view that, there is no impediment for the respondents to de-notify the subject land. Therefore, reasons assigned in the impugned order dated 23rd September, 2015 (Annexure-A) is contrary to records and same requires to be set-aside.



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18. Nextly, the petitioner herein has purchased the subject land from the erstwhile owner and therefore, the petitioner is having *locus standi* to challenge the acquisition proceedings as lapsed in terms of Section 27 of the Land Acquisition Act (*See order dated 09.01.2026 passed in Writ Petition No.58292/2014 cw. WP No.11782/2024*). Therefore, the subsequent purchaser can challenge the acquisition proceedings, if such acquisition proceedings has lapsed in terms of Section 27 of the Bangalore Development Authority Act.

19. In that view of the matter, taking into account the fact that, less than 20% of the total extent of 523 acre 3 guntas of land earmarked as per the Preliminary and Final Notifications for the purpose of formation of "New East of NGEF Layout" is utilised, the acquisition proceedings is lapsed in respect of the subject land. Hence, I pass the following:

ORDER

- (i) Writ Petition ***allowed;***



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- (ii) Order dated 23rd September, 2015 (Annexure-A) passed by the respondent No.1 is hereby quashed;
- (ii) The entire acquisition proceedings in terms of Preliminary Notification dated 28th May, 1984 (Annexure-S) and Final Notification dated 23rd October, 1986 (Annexure-T) in respect of the land bearing Survey No.82 of Bansawadi Village, Bengaluru North Taluk measuring to an extent of 2 acre 4 guntas belonging to the petitioner is declared as lapsed.

**SD/-
(E.S. INDIRESH)
JUDGE**

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List No.: 1 Sl No.: 64