



CNR: KAHC010126962017

NC: 2026:KHC:56421
WP No. 51965 of 2017



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 51965 OF 2017 (GM-TEN)

BETWEEN

1 . SRI MANJEGOWDA
S/O LATE SIDDEGOWDA,
AGED ABOUT 58 YEARS
PUTTAJJJI MANE,
AANJANEYA TEMPLE ROAD,
NARIGUDDENAHALLI,
JYOTHI NAGARA POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102.

2 . SMT PARVATHAMMA
W/O LATE PARVATHEGOWDA,
SINCE DEAD BY LR's

2(a) SRI. LOKESH
S/O LATE PARVATHEGOWDA
AGED ABOUT 56 YEARS

2(b) SMT. PUTTAMMA @ PUTTALAKSHMI
W/O LATE MANJUNATH K.P.
AGED ABOUT 54 YEARS

2(c) SRI. MANJUNATH
S/O LATE PARVATHEGOWDA,
AGED ABOUT 51 YEARS

2(a) TO 2(c) ARE R/O
NARIGUDDENAHALLI,
JYOTHINAGARA POST,
CHIKKAMAGALURU-577102.

3 . SMT LAKSHMAMMA
W/O LATE SHESHAIAH,
AGED ABOUT 55 YEARS
AMBALE VILLAGE,
CHIKKAMAGALURU TALUK & DISTRICT-57102.

4 . SMT CHANDRAMMA
W/O LATE LOKESH,



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AGED ABOUT 39 YEARS
AANJANEYA TEMPLE ROAD,
NARIGUDDENAHALLI,
JYOTHI NAGARA POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102.

- 5 . SRI PARAMESH N P
S/O LATE CHANDRAMMA,
W/O LATE PUTTASWAMYGOWDA,
AGED ABOUT 38 YEARS
AANJANEYA TEMPLE ROAD,
NARIGUDDENAHALLI,
JYOTHI NAGARA POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102.
- 6 . SRI KRISHNAMURTHY N P
S/O LATE CHANDRAMMA,
W/ LAT PUTTAWMYGOWDA,
AGED ABOUT 37 YEARS
AANJANEYA TEMPLE ROAD,
NARIGUDDENAHALLI,
JYOTHI NAGARA POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102.
- 7 . SRI VISHWANATH N P
S/O LATE CHANDRAMMA,
W/O LATE PUTTASWAMYGOWDA,
AGED ABOUT 35 YEARS
AANJANEYA TEMPLE ROAD,
NARIGUDDENAHALLI,
JYOTHI NAGARA POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102.
- 8 . SMT D R JAYAMMA
W/O K.M.RUDRAPPA,
AGED ABOUT 70 YEARS
KYATHANABEEDU VILLAGE,
LAKYA POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102
- 9 . SMT KAMALAMMA
W/O LATE D.R.KUMARASWAMY,
AGED ABOUT 65 YEARS
DODDAKURUBARAHALLI VILLAGE,
JYOTHI NAGAR POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102.
- 10 . SMT D R SHANKARAMMA
D/O LATE RUDREGOWDA,
AGED ABOUT 65 YEARS
DODDAKURUBARAHALLI VILLAGE,
JYOTHI NAGAR POST,

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CHIKKAMAGALURU TALUK & DISTRICT-577102.

- 11 . SRI D R PARAMESHWARAPPA
S/O LATE RUDREGOWDA,
AGED ABOUT 62 YEARS
DODDAKURUBARAHALLI VILLAGE,
JYOTHI NAGAR POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102.
- 12 . SRI D R RENUKAPPA
S/O LATE RUDREGOWDA,
AGED ABOUT 58 YEARS
DODDAKURUBARAHALLI VILLAGE,
JYOTHI NAGAR POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102.
- 13 . SRI KANTHARAJU D K
S/O LATE KUMARASWAMY,
AGED ABOUT 35 YEARS
DODDAKURUBARAHALLI VILLAGE,
JYOTHI NAGAR POST,
CHIKKAMAGALURU TALUK & DISTRICT-577102.

...PETITIONERS

(BY SRI: K.R. LINGARAJU., ADVOCATE)

AND

1. THE COMMISSIONER
CITY MUNICIPALITY,
CHIKKAMAGALURU-577101.
2. THE STATE OF KARNATAKA
REPRESENTED BY ITS PRINCIPAL SECRETARY,
REVENUE DEPARTMENT (LAND ACQUISITION)
VIKASA SOUDHA,
DR.B.R.AMBEDKAR VEEDHI,
BENGALURU-560001.
3. THE STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
URBAN DEVELOPMENT DEPARTMENT,
VIKASA SOUDHA,
DR. AMBEDKAR VEEDHI,
BENGALURU-560001.

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4. THE COMMISSIONER
CHIKKAMAGALURU URBAN DEVELOPMENT
AUTHORITY,
REPRESENTED BY ITS COMMISSIONER,
KALYANA NAGAR,
BYPASS ROAD,
JYOTHI NAGAR POST,
CHIKKAMAGALURU-577101.
5. THE DEPUTY COMMISSIONER
CHIKKAMAGALURU DISTRICT,
CHIKKAMAGALURU-577101.
6. THE ASSISTANT COMMISSIONER
CHIKKAMAGALURU SUB-DIVISION,
CHIKKAMAGALURU-577101.
7. THE TAHASILDAR
CHIKKAMAGALURU TALUK & DISTRICT-577101.
8. K S RAJU
S/O SANNEGOWDA,
AGED ABOUT 52 YEARS
CHURCH STREET,
NAIDU BEEDI,
CHIKKAMAGALURU TALUK & DISTRICT-577101.

...RESPONDENTS

(BY SMT. SARITHA KULKARNI., AGA FOR R2, R3 AND R5 TO R7;
SRI. A. NAGARAJAPPA., FOR R1;
SRI. A. RAVISHANKAR., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OR ORDER IN THE NATURE OF CERTIORARI QUASHING THE E-PROCUREMENT RE-TENDER NOTIFICATION DTD.24.5.2017 AND NOTICE PROCEED THE WORK ORDER DTD.4.11.2017 ISSUED BY R-1 VIDE ANNEX-A AND B IN RESPECT OF PETITIONERS LAND BEARING SY.NO.450 MEASURING 4 ACRES 13 GUNTAS SITUATED AT HIEMAGALURU VILLAGE, KASABA HOBLI, CHIKKAMAGALURU TALUK AND DISTRICT AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 18.08.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

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CAV ORDER

1. The petitioners are before this Court seeking for the following reliefs:

a. Issue a writ or order in the nature of Certiorari quashing the e-procurement re-tender notification bearing No. CMC/CKM/CR/106/2016-2017 dated 24/05/2017 and Notice to proceed the work order dated 04/11/2017 issued by respondent No.1 vide Annexures-'A' & 'B in respect of petitioners land bearing survey No. 450 measuring 4 acres 13 guntas Hiremagaluru Village, Kasaba Hobli, situated at Chikkamagaluru Taluk & District.

b. Declare the Preliminary Notification bearing No. LAQ:2/89-90 dated 12/01/1990 issued under section 4(1) of L.A Act., and Final Notification bearing No. R.D.9.Bhu.Swa.Chi.90 dated 23/03/1991 issued under section 6(1) of the L.A Act both are issued by respondent No.5 vide Annexure-C & D were stands lapsed by virtue of Section 24(2) of "the right to fair compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013" in respect of petitioners land bearing survey No. 450 measuring 4 acres 13 guntas situated at Hiremagaluru Village, Kasaba Hobli, Chikkamagaluru Taluk & District.

C. Pass such other order or orders as this Hon'ble Court deems fit under the facts and circumstances of the case including cost of the proceedings, so as to meet the ends of Justice and equity.

2. The petitioners are before this Court contending that on acquisition of land by the respondents, the award amount has neither been deposited nor paid and it is for that reason that this Court ought to hold that the

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acquisition has lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [hereinafter referred to as the "LA Act 2013"].

3. Sri.K.R.Lingaraju, learned counsel for the petitioners, submits that,

3.1. Learned counsel for the petitioners submits that the e-procurement tender and the consequential Work Order issued for carrying out certain development works on the acquired land have been challenged in the present proceedings. Petitioners Nos.1 to 7 claim to be the owners of land bearing Survey No.450, measuring 3 acres, situated at Hiremagaluru Village, Kasaba Hobli, Chikkamagaluru Taluk and District. The original owner of the said land was Smt. Puttamma, wife of Sidde Gowda, whose name was shown in the preliminary notification issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter, "the LA Act, 1894"). Smt. Puttamma died on 02.11.2007 and her daughter Chandramma died on 29.06.2013 . Petitioners Nos.1 to 7 claim to be legal heirs of Puttamma and

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Chandramma and assert that they have remained in peaceful possession and cultivation of the land without interference by any third party.

3.2. Petitioners Nos.8 to 13 claim to be the owners of land bearing Survey No.450, measuring 1 acre 13 guntas, situated at Hiremagaluru Village, Kasaba Hobli, Chikkamagaluru District. The original owner was one Rudre Gowda, son of late Veerabhadre Gowda, whose name was shown in the preliminary notification issued under Section 4(1) of the LA Act, 1894. Rudre Gowda died on 08.12.2003, and one of his sons had predeceased him on 09.04.1997. Petitioners Nos.8 to 13 claim to be the surviving legal heirs of late Rudre Gowda and assert that they have continued to remain in peaceful possession and cultivation of the said land.

3.3. Respondent No.4–Urban Development Department issued a preliminary notification under Section 4(1) of the LA Act, 1894, on 12.01.1990, which was published in the Official Gazette on 15.03.1990, notifying various lands

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for the development of the Hiremagaluru Project of the Chikkamagaluru Urban Development Department (hereinafter, "**CUDA**"). The lands belonging to Puttamma and Rudre Gowda were included in the notification, their names being shown as the kathedars of the respective properties, measuring 3 acres and 1 acre 13 guntas, respectively. Thus, the total extent of land in Survey No.450 notified for acquisition was 4 acres 13 guntas.

3.4. It is contended that, without affording the kathedars an opportunity of hearing as contemplated under Section 5A of the LA Act, 1894, a declaration under Section 6(1) of the said Act came to be issued on 23.03.1991. According to the petitioners, the kathedars came to know of the said declaration only in October 1992. Consequently, they submitted a representation dated 01.10.1992 to the State Government seeking deletion of their lands from the acquisition proceedings, contending that they were solely dependent upon the lands for their livelihood. Pursuant thereto, the State

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Government called upon CUDA to furnish its comments.

3.5. On 29.05.1993, CUDA furnished a layout plan stating that the lands were required for the proposed layout. Thereafter, several rounds of correspondence ensued between the concerned authorities regarding the necessity of the lands for the project. Ultimately, by order dated 04.01.1995, the State Government rejected the request of the landowners for dropping the lands from acquisition.

3.6. It is contended that the said order dated 04.01.1995 was passed without complying with the principles of natural justice and without considering the relevant documents and materials placed by the landowners. On that basis, the petitioners contend that the order dated 04.01.1995 is unsustainable in law.

3.7. Thereafter, the kathedars once again sought deletion of the lands from the acquisition proceedings, resulting in a further exchange of correspondence between the parties. According to the petitioners, the said request remained under consideration and, consequently,



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possession of the acquired lands was never taken in terms of Section 16(1) and (2) of the LA Act, 1894. It is further submitted that the award amount was not deposited in the Civil Court, as neither CUDA nor the State Government required the lands for the proposed project.

3.8. Learned counsel, therefore, submits that, in the aforesaid factual background, upon the coming into force of the LA Act 2013, the acquisition proceedings stood affected by the provisions of the said enactment.

3.9. He submits that Section 24(2) of LA Act 2013 would be applicable, which is reproduced hereunder for easy reference:

24.(2) Notwithstanding anything contained in sub-section (1), in case of land acquisition proceedings initiated under the Land Acquisition Act, 1894, where an award under the said section 11 has been made five years or more prior to the commencement of this Act but the physical possession of the land has not been taken or the compensation has not been paid the said proceedings shall be deemed to have lapsed and the appropriate Government, if it so chooses, shall initiate the proceedings of such land acquisition afresh in accordance with the provisions of this Act:

Provided that where an award has been made and compensation in respect of a majority of land holdings has not been deposited in the account of the beneficiaries, then, all beneficiaries specified in the

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notification for acquisition under section 4 of the said Land Acquisition Act, shall be entitled to compensation in accordance with the provisions of this Act.

- 3.10. Placing reliance upon Section 24(2) of the LA Act, 2013, learned counsel submits that, since compensation has admittedly not been paid, the acquisition proceedings are deemed to have lapsed.
- 3.11. It is submitted that, in the aforesaid circumstances, the petitioners were constrained to approach this Court when the Chikkamagaluru City Municipality proceeded to develop the petitioners' land as a park by issuing an e-tender dated 24.05.2017.
- 3.12. Learned counsel further submits that, when the representation submitted by the petitioners seeking deletion of the land from the acquisition proceedings was still pending consideration, the respondents could not have proceeded to issue the e-tender. It is submitted that the landowners had proposed to provide a 60-feet road through their property, which is situated at the fag end of the layout, and that the said proposal ought to have been accepted, with the balance extent of land being deleted

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from the acquisition proceedings. According to learned counsel, so long as the said proposal remained pending before the State Government, CUDA could not have proceeded to issue an e-tender for development of the land as a park.

3.13. Learned counsel submits that this Court had called upon the respondents to furnish a report regarding payment of compensation. According to the report, no compensation had either been paid to the petitioners or deposited in accordance with law. It is submitted that the contention of the respondents that, insofar as the land measuring 3 acres belonging to petitioners Nos.1 to 7 is concerned, the compensation amount had been deposited in Execution Petition No.247 of 2003 before the Court of the Civil Judge, Chikkamagaluru, is misconceived. According to learned counsel, the alleged deposit was not made with the consent or concurrence of the landowners and, therefore, cannot be treated as payment of compensation to them.

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- 3.14. Learned counsel further submits that the preliminary notification had already been set aside by this Court in W.P. No.27115 of 1991 by order dated 19.06.1998. It is contended that, the said order being applicable to the lands in question, there was no acquisition notification in force.
- 3.15. He further submits that, since the Karnataka Urban Development Authorities Act, 1987 (hereinafter, "the KUDA Act") came into force on 01.05.1988, proceedings for acquisition could not thereafter have been initiated under the LA Act, 1894. On this premise, it is contended that the entire acquisition proceedings are vitiated in law.
- 3.16. Learned counsel also submits that possession of the land was never taken in accordance with the applicable statutory provisions. It is in that background, according to him, that the petitioners have filed the amendment application challenging the acquisition notification bearing No.R.D.9.Bhu.Swa.Chi.90 dated 23.03.1991 by way of I.A. No.1/24.

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- 3.17. Learned counsel reiterates that the alleged payment of Rs.1,49,100/- made on 15.06.2006 in Execution Petition No.247 of 2003 cannot, in law, be regarded as payment of compensation to the petitioners.
- 3.18. He submits that, insofar as the land belonging to petitioners Nos.8 to 13 is concerned, the compensation amount continues to remain in the treasury and has not been deposited before any court of law. According to learned counsel, the statutory requirement is that the compensation amount be deposited before the competent Reference Court and that a deposit made before any other court, including an Execution Court, would not satisfy the requirement of law.
- 3.19. Learned counsel for the petitioners submits that this Court, in W.P. No.27115 of 1991, by order dated 19.06.1998, followed the judgment of the Division Bench dated 15.06.1998 in W.P. Nos.3539 to 3542 of 1996 and connected matters, wherein it was held that a notification issued under Section 4(1) of the Land Acquisition Act, 1894, subsequent to the

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Central Amendment Act 68 of 1984, was without authority of law. Applying the said principle, this Court quashed the notifications issued under Sections 4(1) and 6(1) insofar as the lands therein were concerned, while reserving liberty to the State Government to initiate fresh proceedings.

3.20. Learned counsel submits that the preliminary notification in the present case is also dated 12.01.1990, subsequent to the aforesaid amendment. Hence, relying upon the decision in W.P. No.27115 of 1991 and the Division Bench judgment referred to therein, he submits that the acquisition proceedings concerning the petitioners' lands are without authority of law and cannot constitute the basis for the subsequent development of the land.

3.21. It is further submitted that, in the absence of any fresh acquisition proceedings pursuant to the liberty reserved by this Court, the respondents could not have continued to rely upon the original acquisition proceedings or taken consequential steps, including development of the petitioners' lands as a park.

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3.22. On the aforesaid grounds, learned counsel submits that the writ petition deserves to be allowed and the acquisition proceedings, as well as the consequential action taken pursuant thereto, are liable to be interfered with.

3.23. On the above grounds, he submits that the writ petition is required to be allowed.

4. Sri A. Ravishankar, learned counsel appearing for respondent No.4-Chikkamagaluru Urban Development Authority (hereinafter, "CUDA"), opposing the writ petition, submits that

4.1. The challenge raised by the petitioners is wholly misconceived, particularly in view of the fact that the acquisition proceedings were initiated several decades ago, the awards were passed, compensation amounts were deposited with the Land Acquisition Officer, possession of the acquired lands was taken, and the lands were thereafter utilised for formation and development of the residential layout at Hiremagaluru.

4.2. Learned counsel submits that the acquisition proceedings commenced as early as on

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12.01.1990 with the issuance of the preliminary notification under Section 4(1) of the LA Act, 1894, for the purpose of formation of a residential layout at Hiremagaluru by CUDA. The acquisition was not a mere proposal which remained at an initial or intermediate stage. According to learned counsel, the statutory proceedings were thereafter carried forward to their logical conclusion; declarations were issued, awards were passed, compensation amounts were made available to the Land Acquisition Officer, and the acquired lands were ultimately utilised for the purpose for which they had been acquired.

4.3. It is submitted that pursuant to the acquisition proceedings, the requisite awards came to be passed in respect of the acquired lands. CUDA deposited the award amounts with the State Government/Land Acquisition Officer and the amounts were thereafter disbursed by the competent authority. According to learned counsel, the acquisition therefore cannot now be characterised as an incomplete or abandoned acquisition merely on the basis that the petitioners have subsequently raised a

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dispute regarding the manner or place in which a particular component of the compensation was deposited.

4.4. Learned counsel further submits that the subsequent conduct of the acquiring authority and the manner in which the acquired lands were utilised furnish clear evidence of completion of the acquisition. A residential layout was formed pursuant to the acquisition. Sites were carved out from the acquired lands and allotted to several persons. The allottees have, over a period of time, constructed their residential houses and have been occupying the same. Thus, according to learned counsel, the acquisition has resulted in the creation of a fully developed residential layout and the acquired lands have been substantially put to the very purpose for which they were acquired.

4.5. It is submitted that, once the acquired lands have been incorporated into an approved residential layout, sites have been formed and allotted, and third-party allottees have constructed residential houses thereon, the petitioners cannot seek to reopen the

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acquisition proceedings after such a long lapse of time, particularly when the rights and interests of several third parties have intervened.

4.6. Learned counsel submits that the contention of the petitioners that the acquisition proceedings are liable to lapse under Section 24(2) of the 2013 Act proceeds on an incorrect factual premise. According to him, the statutory requirements concerning possession and payment/deposit of compensation have been substantially complied with. The acquisition had culminated in the formation of the layout and utilisation of the land, and therefore the petitioners cannot rely upon Section 24(2) merely by asserting that the compensation amount was not personally received by them.

4.7. Insofar as the representations submitted by the petitioners and other landowners seeking de-notification of their respective lands are concerned, learned counsel submits that the same had been duly considered by the competent authorities. He submits that CUDA had considered the requests and had

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exchanged correspondence with the State Government. The State Government, after consideration of the matter, rejected the request for de-notification.

4.8. According to learned counsel, the said rejection was not an interim communication or a communication merely seeking further information. It constituted a decision on the request made by the landowners. Once the State Government rejected the request for de-notification, the acquisition continued to remain operative. The petitioners did not challenge the said order of rejection at the relevant point of time.

4.9. Learned counsel submits that the subsequent submission of yet another representation by the petitioners cannot have the effect of reviving a request which had already been considered and rejected by the competent authority. The mere fact that the petitioners may have continued to correspond with the authorities or may have submitted a further representation seeking reconsideration does not mean that the earlier order of rejection ceased to operate.

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- 4.10. He therefore submits that the contention that the request for de-notification remained pending before the Government, and that CUDA was consequently precluded from acting upon the acquired land, is untenable. According to learned counsel, no subsisting order restraining CUDA from utilising the acquired land was brought to the notice of the Court.
- 4.11. Learned counsel further submits that the petitioners' contention regarding non-taking of possession is contrary to the subsequent physical developments on the acquired lands. The fact that a residential layout was formed, that sites were carved out and allotted, and that houses were constructed by third-party allottees demonstrates that the acquired lands were taken over and utilised.
- 4.12. It is submitted that a notification under Section 16 of the LA Act, 1894, had also been issued indicating taking over of possession. Though the original notification under Section 16 is presently not available in the records, the absence of the physical document by itself cannot negate the subsequent and undisputed

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events demonstrating utilisation of the acquired lands. According to learned counsel, the actual development of the layout and occupation by third-party allottees constitute material circumstances supporting the respondents' case that possession had been taken.

4.13. Learned counsel submits that the acquisition was not confined to a paper exercise. The entire process resulted in actual development of the area. In this regard, reliance is placed upon the photographs produced before the Court, which, according to learned counsel, demonstrate the existence of residential houses and other infrastructure in the layout.

4.14. The photographs, according to learned counsel, have to be appreciated along with the approved layout plan, the formation of roads, the allotment of sites and the development undertaken by CUDA. These circumstances, taken cumulatively, establish that the acquired land had been put to the intended public purpose.

4.15. Learned counsel specifically addresses the extent of 4 acres 13 guntas forming part of

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Survey No.450 and submits that the petitioners have proceeded on an incorrect assumption that the entire extent of the land ought to have been covered by residential sites if it were to be treated as having been utilised.

4.16. According to him, the acquired land has, in fact, been put to different uses forming part of the overall residential layout. Out of the total extent of 4 acres 13 guntas, approximately 1 acre 15 guntas has been utilised for formation of residential sites, approximately 10 guntas has been utilised for formation of a road, and approximately 2 acres 28 guntas has been earmarked and utilised as a park.

4.17. Learned counsel submits that the petitioners appear to be relying principally upon the fact that the extent of approximately 2 acres 28 guntas presently appears to be vacant. According to him, however, the said area cannot be treated as unused land merely because it has not been converted into residential sites.

4.18. The area has been earmarked as a park in the layout itself. A park constitutes an integral

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component of a residential layout and is intended for the common benefit of the residents and site owners. Therefore, according to learned counsel, the land does not cease to be utilised merely because no individual residential construction has been undertaken upon it.

4.19. Learned counsel further submits that the provision for the park was not an afterthought or a subsequent proposal intended merely to defeat the petitioners' claim. The park area was contemplated while the layout plan was prepared and sanctioned. Consequently, the fact that the area remains substantially open is consistent with the sanctioned purpose of the land.

4.20. He submits that an open area earmarked as a park cannot be equated with an abandoned or unutilised parcel of land. The utility of a park is precisely that it remains open and is available for common use. Thus, according to learned counsel, the petitioners cannot contend that the land has not been utilised merely because

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residential sites or structures are not found upon every portion of the acquired extent.

4.21. Learned counsel submits that, in respect of the entire acquisition covering approximately 140 acres 36.5 guntas, CUDA deposited a total sum of Rs.50,27,000/- with the Land Acquisition Officer on 06.04.1993. The fact that the amount was deposited with the Land Acquisition Officer and was thereafter dealt with by the competent authority demonstrates, according to learned counsel, that the acquiring authority had made available the compensation amount in accordance with the acquisition proceedings.

4.22. He submits that the acquisition proceedings, therefore, cannot be reopened by isolating the case of the petitioners from the larger acquisition and development project. The acquisition was undertaken as one integrated project for formation of the Hiremagaluru residential layout, and the subsequent development demonstrates implementation of the public purpose.

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- 4.23. Learned counsel further submits that this Court, while considering the rival contentions regarding payment or deposit of compensation, called upon the State Government to furnish the relevant material. This direction was issued particularly because the stand of CUDA was that the compensation had been duly paid or deposited.
- 4.24. Pursuant to the said direction, CUDA and the State Government placed their respective materials before the Court. CUDA, in particular, filed a memo dated 06.02.2026 enclosing various documents relating to the payment and deposit of compensation.
- 4.25. One of the documents relied upon by learned counsel is the Form No.4 register maintained by the concerned Court. According to learned counsel, the entries therein establish the connection between the compensation amount pertaining to the land of Puttamma and the subsequent execution proceedings.
- 4.26. He submits that Execution Petition No.247 of 2003 was instituted by Sri K.P. Manjunath. In the said proceedings, Puttamma was arrayed as

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Judgment Debtor No.3. Her son Manjegowda, who is petitioner No.1 herein, was arrayed as Judgment Debtor No.4. Her daughter Chandramma, who is petitioner No.4 herein, was arrayed as Judgment Debtor No.5. Another daughter, Lakshamma, who is petitioner No.3 herein, was arrayed as Judgment Debtor No.8. Petitioners Nos.5 to 7, being the children of another daughter Chandramma, were also connected with the said execution proceedings, their mother having been arrayed as Judgment Debtor No.7.

4.27. Learned counsel submits that the relevance of the said execution proceedings lies in the fact that amounts payable by the Land Acquisition Officer were the subject matter of a garnishee proceeding. The decree-holder in Execution Petition No.247 of 2003 had a claim for a sum of Rs.1,72,872/-. Since amounts were lying with the Land Acquisition Officer, a requisition was made pursuant to a garnishee order for payment out of the amounts available with the Land Acquisition Officer.

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- 4.28. It is submitted that, pursuant to the said order, the Land Acquisition Officer deposited a sum of Rs.1,49,100/- in Execution Petition No.247 of 2003. The amount was thereafter released by the Execution Court by Cheque No.144411 dated 13.02.2007 in favour of the decree-holder.
- 4.29. According to learned counsel, the significance of this transaction is that the amount did not remain merely as an internal entry in the records of the Land Acquisition Officer. It was actually transferred pursuant to a judicial order and was utilised towards satisfaction of the liability of Puttamma and her family in the execution proceedings.
- 4.30. Learned counsel submits that the petitioners cannot now contend that the amount of Rs.1,49,100/- was wholly unrelated to the compensation payable in respect of the acquired land. According to him, the amount was lying with the Land Acquisition Officer and was attached pursuant to a garnishee order issued in the execution proceedings. The

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subsequent release of the amount was therefore a consequence of the judicial process.

4.31. He further submits that the petitioners and their predecessors derived the benefit of the said payment in the sense that the amount was appropriated towards satisfaction of the decree against Puttamma and her family. The execution proceedings were thereafter settled/closed to that extent. Consequently, according to learned counsel, it is not open to the petitioners to contend that no amount whatsoever had been paid or that the acquisition authority had wholly failed to make available compensation.

4.32. Learned counsel submits that the question whether the payment was made directly to the petitioners is not determinative of the respondents' case. According to him, what is relevant is that the compensation amount was subjected to a judicial process and was utilised for discharging an enforceable liability of the landowners. The payment was thus made for and on behalf of the persons claiming through Puttamma.

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- 4.33. On this basis, learned counsel submits that the petitioners cannot derive an advantage from the circumstance that the amount was released to a decree-holder rather than being directly handed over to each individual landowner.
- 4.34. Insofar as the extent of 1 acre 13 guntas originally belonging to Rudre Gowda is concerned, learned counsel submits that CUDA had deposited a sum of Rs.65,852/- with the Land Acquisition Officer towards the compensation payable in respect of the said land.
- 4.35. According to learned counsel, this deposit, coupled with the other material placed before the Court, demonstrates that CUDA had taken the necessary steps towards payment of the awarded compensation. Therefore, it cannot be contended that CUDA had deliberately withheld the compensation or had failed to take any steps towards discharging its obligation arising from the acquisition.
- 4.36. Learned counsel further submits that the petitioners' case regarding the alleged non-utilisation of the 1 acre 13 guntas also cannot

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be accepted on the basis of the physical appearance of the property alone. Reliance is placed upon the Google Map produced before the Court, which, according to learned counsel, demonstrates that the subject property is surrounded by residential sites that have already been formed pursuant to the layout.

4.37. The surrounding development, according to learned counsel, establishes that the land forms part and parcel of the larger residential layout and cannot be viewed as an isolated parcel independent of the development undertaken by CUDA.

4.38. Learned counsel submits that, apart from the residential sites, a road measuring approximately 10 guntas has also been formed in the area. The remaining extent has been earmarked for development as a park. The formation of the road and the provision for the park are, according to learned counsel, integral components of the approved layout.

4.39. He therefore submits that the fact that a particular portion of the land has not been built upon does not establish that possession has not

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been taken or that the land has not been utilised. The purpose of the acquisition was formation of a residential layout and not merely construction of buildings upon every square foot of the acquired land.

- 4.40. Learned counsel reiterates that a residential layout necessarily comprises several categories of land, including residential sites, roads, parks, civic amenity areas and other common-use areas. Each such component serves the public purpose for which the layout is developed. Consequently, the Court, according to learned counsel, ought not to determine utilisation solely by examining whether a particular parcel contains a residential structure.
- 4.41. Learned counsel submits that the area reserved for the park was specifically taken into consideration at the stage of sanctioning the layout plan. The park therefore forms part of the sanctioned development and is not a subsequent device adopted by CUDA after the petitioners initiated the present proceedings.
- 4.42. According to him, if the petitioners' contention were accepted merely because the park area

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presently remains vacant or open, it would result in an anomalous situation where every open space in a residential layout could be treated as unutilised land, notwithstanding its earmarking and intended use as a common amenity.

4.43. Learned counsel further submits that the rights of third-party allottees have intervened during the long period following the acquisition. Several persons were allotted sites, acted upon such allotments and constructed residential houses. The layout has therefore acquired a substantial degree of finality and third-party rights have accrued.

4.44. In such circumstances, according to learned counsel, the petitioners cannot seek to reopen the acquisition on the basis of a subsequent challenge, particularly when the acquisition proceedings themselves were initiated in 1990 and the layout has since been substantially developed.

4.45. Learned counsel submits that the petitioners' attempt to invoke Section 24(2) of the 2013 Act cannot be considered in isolation from the

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factual developments that have taken place over the intervening years. The Court, according to him, must take into consideration the award, deposit of compensation, formation of the layout, taking over and utilisation of the acquired lands, allotment of sites and construction of houses by third parties.

4.46. According to learned counsel, these circumstances collectively establish that the acquisition proceedings have culminated in implementation of the public purpose and that the petitioners cannot contend that the acquisition has remained incomplete merely because they dispute the manner in which certain compensation amounts were dealt with or because a portion of the land is being maintained as an open park.

4.47. Learned counsel accordingly submits that there is no merit in the contention that the acquisition proceedings have lapsed under Section 24(2) of the 2013 Act. According to him, possession had been taken and the acquired lands had been utilised for the purpose for which they were acquired. The

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compensation amounts had also been deposited with the competent authority and, in the case of the land belonging to Puttamma, a portion thereof had subsequently been appropriated pursuant to a judicial order in the execution proceedings.

4.48. Learned counsel further submits that the petitioners cannot derive any advantage from the subsequent request for de-notification. The competent authority had already considered and rejected the request, and that decision was not challenged. The subsequent representations, according to him, could not keep the acquisition proceedings in a state of perpetual uncertainty or prevent CUDA from implementing the sanctioned layout.

4.49. On the question of the e-tender issued for development of the park, learned counsel submits that the tender was merely a consequential step for implementing the sanctioned layout and providing the common amenity contemplated therein. Since the land had already been acquired and earmarked as a park in the layout, the issuance of the e-tender

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cannot be characterised as an independent or unauthorised act affecting the petitioners' alleged continuing rights over the land.

4.50. Learned counsel submits that the petitioners, having allowed the acquisition proceedings and subsequent development to remain unchallenged for several years, cannot now seek to unsettle the completed acquisition and the rights that have accrued in favour of third-party allottees. The challenge, according to him, has to be considered in the context of the enormous lapse of time and the substantial development that has taken place pursuant to the acquisition.

4.51. It is therefore submitted that the material placed on record establishes three essential aspects: first, that the acquisition proceedings had culminated in awards and deposit of compensation; second, that possession was taken and the acquired lands were incorporated into and utilised for the residential layout; and third, that the lands forming part of Survey No.450 have been utilised for residential sites,

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roads and the park contemplated under the sanctioned layout.

4.52. Learned counsel accordingly submits that the petitioners have failed to establish either of the factual circumstances necessary to sustain their claim under Section 24(2) of the 2013 Act. According to him, the record demonstrates that the acquisition had been substantially completed and implemented much prior to the present proceedings, and therefore the subsequent challenge to the acquisition, the e-tender and the development of the park is liable to be rejected.

4.53. The reliance placed by the petitioners on the order dated 19.06.1998 in W.P. No.27115 of 1991 is wholly misconceived. The said order did not quash the acquisition notification in its entirety. The notifications issued under Sections 4(1) and 6(1) of the Land Acquisition Act, 1894 were quashed only insofar as the lands of the petitioners in the said writ petition were concerned.

4.54. Learned counsel submits that the present petitioners were not parties to W.P. No.27115 of

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1991 and did not challenge the acquisition of their lands at the relevant point of time. Therefore, they cannot seek to derive the benefit of the relief granted in a proceeding instituted by different landowners in respect of their respective lands. The decision relied upon by the petitioners cannot be construed as having the effect of automatically nullifying the acquisition proceedings in respect of lands which were not the subject matter of that writ petition.

4.55. It is further submitted that the Division Bench judgment dated 15.06.1998, which was relied upon by this Court while deciding W.P. No.27115 of 1991, also resulted in relief being granted in respect of the lands of the petitioners in those proceedings. The petitioners herein, having consciously not challenged the acquisition proceedings at the relevant time, cannot now seek to reopen the acquisition after several decades by relying upon a judgment rendered in proceedings to which they were not parties.

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4.56. Learned counsel submits that, in the present case, the acquisition proceedings in respect of the petitioners' lands have proceeded to completion. Awards have been passed, compensation has been dealt with in accordance with the acquisition proceedings, possession has been taken and the acquired lands have been utilised as part of the residential layout. Residential sites have been formed and allotted, roads have been laid and the remaining portion has been earmarked and utilised as a park. Third-party rights have also intervened by way of allotment and construction of residential houses.

4.57. In these circumstances, learned counsel submits that the petitioners cannot, after having failed to challenge the acquisition at the appropriate stage, seek to unsettle the completed acquisition by relying upon the order in W.P. No.27115 of 1991. The said order, being confined to the lands of the petitioners therein, does not have the effect of reviving a challenge which the present petitioners never raised in respect of their own lands.

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4.58. Learned counsel therefore submits that the reliance placed upon W.P. No.27115 of 1991 is misplaced and cannot invalidate the acquisition proceedings concerning the petitioners' lands, which had attained finality and had been acted upon long prior to the institution of the present proceedings. Consequently, the petitioners cannot challenge the subsequent development of the acquired land on the strength of the said decision.

4.59. On the aforesaid grounds, learned counsel appearing for respondent No.4-CUDA submits that the writ petition, including the challenge to the e-tender and the consequential development of the park, is devoid of merit and is liable to be dismissed.

4.60. On all the above grounds, he submits that the writ petition is required to be dismissed.

5. Sri Bopanna Beliappa, learned Additional Government Advocate, on instructions, submits that

5.1. The total compensation awarded in respect of the land bearing Survey No.450, measuring 4 acres 13 guntas, was Rs.2,14,952/-.

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- 5.2. Out of the said amount, a sum of Rs.1,49,100/- was deposited in Execution Petition No.247 of 2003 on 30.06.2006 in so far as Puttamma's family.
- 5.3. Learned Additional Government Advocate submits that the compensation amount was deposited by CUDA with the Land Acquisition Officer and, in turn, the Land Acquisition Officer dealt with and disbursed the award amount in the concerned proceedings.
- 5.4. It is further submitted that, insofar as the extent belonging to Rudre Gowda is concerned, the amount of Rs.65,852/- was paid to Rudre Gowda on 06.04.1993, as reflected in Form KFC-57 produced along with the memo dated 10.02.2026. According to learned Additional Government Advocate, once the said amount had been received by Rudre Gowda, the question of any further deposit of the said amount would not arise.
- 5.5. Learned Additional Government Advocate therefore submits that the contention of petitioners Nos.8 to 13 that compensation in respect of their land was neither paid nor

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deposited is contrary to the records. On that premise, he submits that the writ petition is devoid of merit and is liable to be dismissed.

6. Heard Sri. K. R. Lingaraju, learned counsel for the petitioners, Sri. A. Ravishankar, learned counsel for Respondent No. 4 and Sri. Bopanna Beliappa, learned Additional Government Advocate. Perused papers.
7. The points that would arise for consideration are:
 - (i) **Whether the acquisition proceedings in respect of Survey No.450 measuring 4 acres 13 guntas have lapsed under Section 24(2) of the 2013 Act for want of taking of physical possession and/or payment of compensation?**
 - (ii) **Whether the petitioners can, at this stage, rely upon the order dated 19.06.1998 in W.P. No.27115 of 1991 and the Division Bench judgment referred to therein to challenge the acquisition of their lands, notwithstanding that they were not parties to those proceedings and had not challenged the acquisition at the relevant time?**
 - (iii) **Whether the subsequent formation and implementation of the residential layout, including formation of sites, roads and the park and accrual of third-party rights, has any bearing on the relief sought by the petitioners?**

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(iv) Whether the petitioners are entitled to quashing of the e-procurement re-tender notification dated 24.05.2017 and the Work Order dated 04.11.2017?

(v) What Order?

8. The above points are answered as follows:
9. **Answer to Point No.(i): Whether the acquisition proceedings in respect of Survey No.450 measuring 4 acres 13 guntas have lapsed under Section 24(2) of the 2013 Act for want of taking of physical possession and/or payment of compensation?**

9.1. Sri K.R. Lingaraju, learned counsel for the petitioners, rests the case of the petitioners on Section 24(2) of the LA Act 2013. His submission is that an award was made under the LA Act, 1894, long before the 2013 Act came into force, but the compensation was never paid to the landowners and physical possession of the land was never taken. According to him, each of these failures attracts the deemed lapse provided in Section 24(2), and since compensation has admittedly not been paid, the acquisition must be declared to have lapsed.

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- 9.2. On the question of compensation, learned counsel makes three separate points.
- 9.3. The first is that this Court had called for a report from the respondents on payment of compensation, and that the report shows that no compensation was paid to the petitioners or deposited in accordance with law.
- 9.4. The second concerns the extent of 3 acres which stood in the name of Smt. Puttamma and is now claimed by petitioners Nos.1 to 7. He accepts that a sum of Rs.1,49,100/- was deposited in Execution Petition No.247 of 2003 before the Court of the Civil Judge, Chikkamagaluru, on 15.06.2006. His grievance is that the deposit was made without the consent or concurrence of the landowners, and so it cannot in law be treated as payment of compensation to them.
- 9.5. The third concerns the extent of 1 acre 13 guntas which stood in the name of Sri Rudre Gowda and is now claimed by petitioners Nos.8 to 13. To this extent, he submits that the compensation is still lying in the treasury and has not been deposited before any court.

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- 9.6. His submission is that the amount has to be deposited before the competent Reference Court, and a deposit made before any other court, including an Execution Court, does not meet that requirement.
- 9.7. On possession, learned counsel submits that possession was never taken in terms of Section 16(1) and (2) of the LA Act, 1894. He links this to the requests made by the landowners for deletion of their lands. According to him, those requests kept the matter under consideration with the Government, and it is for this reason that neither was possession taken nor was the award amount deposited in the Civil Court. The petitioners, he says, have continued in peaceful possession and cultivation of the land throughout.
- 9.8. Sri A. Ravishankar, learned counsel for Respondent No.4-CUDA submits that Section 24(2) has been invoked on wrong facts. The acquisition, according to him, did not stop midway. Awards were passed, CUDA made the compensation available with the Land Acquisition Officer, possession was taken, and

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the lands were used to form the residential layout at Hiremagaluru. The petitioners, he says, cannot rely on Section 24(2) merely by asserting that the compensation was not personally received by them.

- 9.9. On compensation, learned counsel points out that CUDA deposited a total sum of Rs.50,27,000/- with the Land Acquisition Officer on 06.04.1993, covering the entire acquisition of about 140 acres 36.5 guntas. For the land of Smt. Puttamma, he relies on the memo dated 06.02.2026 and the Form No.4 register maintained by the concerned Court. He explains that Execution Petition No.247 of 2003 was filed by Sri K.P. Manjunath. Smt. Puttamma was Judgment Debtor No.3. Petitioner No.1 was Judgment Debtor No.4, petitioner No.4 was Judgment Debtor No.5 and petitioner No.3 was Judgment Debtor No.8. The mother of petitioners Nos.5 to 7 was Judgment Debtor No.7. The decree-holder had a claim of Rs.1,72,872/-. Since money was lying with the Land Acquisition Officer, a garnishee order was made, the Land Acquisition Officer deposited Rs.1,49,100/- in the execution petition, and the

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Execution Court released it to the decree-holder by Cheque No.144411 dated 13.02.2007. His submission is that this money was applied, through a judicial process, to discharge an enforceable liability of Smt. Puttamma and her family. It was, therefore, paid for and on their behalf, and they took the benefit of it. For the land of Sri Rudre Gowda, he submits that CUDA deposited Rs.65,852/- with the Land Acquisition Officer towards the compensation payable.

9.10. On possession, learned counsel submits that a notification under Section 16 of the LA Act, 1894, was issued, though the original is not presently available in the records. The absence of the paper, he argues, cannot wipe out what has happened on the ground. Out of 4 acres 13 guntas in Survey No.450, about 1 acre 15 guntas has been used for residential sites, about 10 guntas for a road, and about 2 acres 28 guntas has been earmarked and kept as a park. He relies on the photographs and the Google map produced before this Court to show that the land is surrounded by the formed layout. An open space kept as a park, according to him, is not abandoned or unused land.

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9.11. Sri Bopanna Beliappa, learned Additional Government Advocate on instructions, places three facts before this Court. The total compensation awarded for Survey No.450, measuring 4 acres 13 guntas, was Rs.2,14,952/-. Out of this, Rs.1,49,100/- was deposited in Execution Petition No.247 of 2003 on 30.06.2006 as far as the family of Smt. Puttamma is concerned. For the extent of Sri Rudre Gowda, the sum of Rs.65,852/- was paid to Sri Rudre Gowda himself on 06.04.1993, as shown in Form KFC-57 produced with the memo dated 10.02.2026. He adds that CUDA deposited the compensation with the Land Acquisition Officer, who in turn dealt with and disbursed it. Once Sri Rudre Gowda had received the amount, he submits, there was nothing left to deposit anywhere, and the claim of petitioners Nos.8 to 13 that the amount was neither paid nor deposited is contrary to the records.

9.12. This point concerns the petitioners' contention that the acquisition has lapsed under Section 24(2) of the 2013 Act on the ground that

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possession of the land was not taken and compensation was not paid.

9.13. The validity of the acquisition notifications is a separate question and is considered under Point No.(ii). For the present point, the relevant provisions are Section 24(2) of the 2013 Act and Sections 16 and 31 of the LA Act, 1894.

9.14. Section 24(2) applies where an award under Section 11 of the LA Act, 1894 was made five years or more before the commencement of the 2013 Act and, due to inaction on the part of the acquiring authority, possession had not been taken and compensation had not been paid.

9.15. The Constitution Bench of the Hon'ble Supreme Court in ***Indore Development Authority v. Manoharlal***, [(2020) 8 SCC 129], has settled the meaning of Section 24(2). In paragraph 366.3, it has held that the word "or" occurring between possession and compensation is to be read as "nor" or "and". Thus, lapse occurs only where, for five years or more before the commencement of the 2013 Act, the authorities had neither taken possession nor paid compensation. If either possession had been

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taken or compensation had been paid, there is no lapse.

9.16. The Constitution Bench has further held that Section 24(2) applies where, because of inaction of the authorities, possession was not taken and compensation was not paid for five years or more before 01.01.2014. The provision is therefore intended to deal with continuing inaction in pending acquisition proceedings.

9.17. In the present case, the making of the award is not in dispute. The total compensation awarded in respect of Survey No.450 was Rs.2,14,952/-. The learned Additional Government Advocate has stated that the compensation amount was deposited with the Land Acquisition Officer on 06.04.1993 and that payment of Rs.65,852/- to Sri Rudre Gowda is recorded on the same date. Since compensation could have been deposited or paid only after the award was made, the award was necessarily made before 06.04.1993. Thus, the award was made more than five years before 01.01.2014.

9.18. Since the acquisition can lapse under Section 24(2) only if both possession was not taken and

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compensation was not paid, it is appropriate first to examine whether compensation in respect of the entire extent was paid. If that is established, the question of possession would not be decisive on the issue of lapse.

9.19. **Compensation relating to 3 acres of Smt.**

Puttamma: In respect of the extent of 3 acres originally standing in the name of Smt. Puttamma, the material placed before the Court shows that Execution Petition No.247 of 2003 was filed before the Civil Judge, Chikkamagaluru. Smt. Puttamma and some of her legal heirs were judgment debtors in the said proceedings. The decree-holder had a claim of Rs.1,72,872/-. Pursuant to a garnishee order, the Land Acquisition Officer deposited Rs.1,49,100/- in the execution proceedings. The amount was thereafter released by the Execution Court to the decree-holder by Cheque No.144411 dated 13.02.2007. These facts are borne out by the Form No.4 register produced along with the memo dated 06.02.2026.

9.20. The petitioners contend that the amount cannot be treated as compensation paid to them

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because it was deposited in the execution proceedings without their consent and was not deposited before the Reference Court.

9.21. This contention requires consideration in the light of Section 31 of the LA Act, 1894. Under Section 31(1), the Collector is required to tender the compensation awarded to the persons entitled to it and to pay the same to them. Sub-section (2) provides for deposit in the Reference Court where the persons entitled do not consent to receive the compensation, where there is no person competent to alienate the land, or where there is a dispute as to the person entitled or the apportionment.

9.22. The present case, however, is not one where the compensation remained unpaid. The amount of Rs.1,49,100/- was attached pursuant to a judicial order in execution of a decree against Smt. Puttamma and her family and was thereafter paid to the decree-holder towards satisfaction of that decree. The payment was thus made out of the amount standing to the credit of the landowners and was applied towards their subsisting liability.

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- 9.23. The fact that the payment was made to the decree-holder, rather than directly to the landowners, does not by itself establish that the compensation remained unpaid. The relevant circumstance is that the amount was subjected to a judicial attachment and was thereafter applied towards the liability of the persons entitled to the compensation.
- 9.24. This conclusion is strengthened by the fact that petitioners Nos.1, 3 and 4 were themselves judgment debtors in the execution proceedings and the mother of petitioners Nos.5 to 7 was also a judgment debtor. There is no material to show that the garnishee order or the subsequent release of the amount to the decree-holder was challenged by them before the Execution Court or in any other proceeding. Smt. Puttamma, in whose name the land stood, continued to live until 02.11.2007, but no material has been placed to show that she questioned the appropriation of the amount during her lifetime.
- 9.25. The petitioners' further submission that the amount was not deposited in the Reference

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Court also does not advance their case. The Constitution Bench in ***Indore Development Authority*** has made it clear that non-deposit of compensation in Court does not result in lapse under Section 24(2). The consequence of non-deposit is dealt with separately in the proviso to Section 24(2), and the failure to deposit compensation in Court may have consequences under the 1894 Act, including payment of interest, but does not by itself result in lapse.

9.26. In the circumstances, the Court is satisfied that the amount of Rs.1,49,100/- was paid out of the compensation payable in respect of the 3 acres of Smt. Puttamma and was applied, pursuant to the order of the Execution Court, towards the liability of Smt. Puttamma and her family.

9.27. **Compensation relating to 1 acre 13 guntas of Sri Rudre Gowda:** The position regarding the remaining extent of 1 acre 13 guntas is somewhat different. The petitioners contend that the compensation was not paid and remained in the treasury. CUDA states that Rs.65,852/- was deposited with the Land

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Acquisition Officer. The learned Additional Government Advocate relies upon Form KFC-57, produced along with the memo dated 10.02.2026, to submit that the Land Acquisition Officer paid Rs.65,852/- to Sri Rudre Gowda on 06.04.1993.

9.28. These statements of CUDA and the State are not inconsistent. CUDA's case relates to the deposit made with the Land Acquisition Officer, whereas the State relies upon the record of the subsequent payment to the landowner. They represent two stages of the same transaction.

9.29. Form KFC-57 is an official record which records payment of Rs.65,852/- to Sri Rudre Gowda on 06.04.1993. Against this record, the petitioners have not produced any document from the treasury, the Land Acquisition Office or any other authority showing that the amount remained unpaid. Sri Rudre Gowda continued to live until 08.12.2003. No material has been placed before the Court to show that he had, during his lifetime, raised any claim that the compensation had not been paid. The present petitioners claim through him.

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9.30. This Court is conscious that disputed questions of fact ordinarily ought not to be decided in a writ proceeding where their determination requires oral evidence. The present case, however, does not rest merely on competing oral assertions. There is an official record of payment made in 1993, whereas the petitioners have placed no contemporaneous material to contradict it. On the material available, the Court has no sufficient basis to disregard the official record.

9.31. Accordingly, this Court finds that the compensation of Rs.65,852/- in respect of the extent of 1 acre 13 guntas was paid to Sri Rudre Gowda on 06.04.1993.

9.32. In any event, even if the petitioners' version that the amount was not paid and remained in the treasury were to be accepted, their case would not necessarily result in lapse. The Constitution Bench in **Indore Development Authority** has held that Section 24(2) does not permit a concluded acquisition to be reopened merely on the ground that compensation was deposited in the treasury rather than in Court,

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or on the ground of the manner in which possession was taken.

9.33. **Compensation for the entire extent:** The two amounts account for the entire compensation awarded for Survey No.450. The amount of Rs.1,49,100/- applied in the execution proceedings and the amount of Rs.65,852/- paid to Sri Rudre Gowda together total Rs.2,14,952/-, which is the compensation awarded for the entire extent of 4 acres 13 guntas. The petitioners have not disputed the total award amount.

9.34. Thus, the record does not disclose any part of the compensation for Survey No.450 which remained unpaid. This finding, by itself, is sufficient to answer the question of lapse under Section 24(2).

9.35. The proviso to Section 24(2) does not require separate consideration in the facts of the present case. No claim has been made in the writ petition for compensation under the 2013 Act on the basis of the proviso, and no material has been placed before the Court to establish the factual conditions necessary for its

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application. In any event, as explained in ***Indore Development Authority***, the proviso deals with the consequence of non-deposit of compensation and does not create a separate ground for lapse of the acquisition.

9.36. **Physical possession:** Although the finding on compensation is sufficient to reject the claim of lapse, the question of possession has been argued at length and is also relevant to the other points arising for consideration. It is therefore appropriate to examine it.

9.37. Section 16 of the LA Act, 1894 provides that after an award is made, the Deputy Commissioner may take possession of the land, whereupon it vests absolutely in the Government. Section 16(2), as applicable in Karnataka, permits the fact of taking possession to be notified in the Official Gazette and provides that such notification shall be evidence of possession.

9.38. The Constitution Bench in ***Indore Development Authority*** has held that possession under the 1894 Act is taken by drawing up an inquest report or memorandum

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and that, once possession is taken under Section 16, the land vests in the State and there is no divesting under Section 24(2).

9.39. The petitioners contend that possession was never taken in accordance with Section 16. CUDA states that a notification under Section 16 was issued, but the original document is not presently available. The absence of the original notification is a circumstance which cannot simply be ignored. At the same time, Section 16(2) treats such notification as evidence of possession; it does not make publication of the notification the act by which possession is taken.

9.40. This Court must therefore consider the other evidence bearing upon possession. On this aspect, the following facts are not seriously disputed: approximately 1 acre 15 guntas of Survey No.450 has been formed into residential sites; approximately 10 guntas has been used for a road; the sites have been allotted and houses have been constructed thereon; and the remaining extent of approximately 2 acres 28 guntas is shown as a park in the sanctioned

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layout. The three components together account for the entire extent of 4 acres 13 guntas.

9.41. These facts are significant. The land was not merely notified for acquisition. It was subsequently incorporated into the layout, divided into sites, allotted to third parties, used for a road and earmarked as a park. Third-party allottees have constructed houses and are in occupation. These are not merely administrative steps; they constitute substantial evidence that the acquiring authority took control of the land and dealt with it as part of the layout.

9.42. Section 36(3) of the KUDA Act also provides that land acquired for the Urban Development Authority is to be handed over to the Authority after it has vested in the Government under Section 16 of the LA Act, 1894. The fact that CUDAs thereafter formed and allotted sites in Survey No.450 is therefore consistent with the land having vested in the Government and having been handed over to the Authority for development.

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- 9.43. The same conclusion follows in respect of the portion shown as a park. The sanctioned layout treats the entire extent as part of one development. The fact that the park area remains open does not, by itself, show that it remained in the possession of the former owners. An open area reserved as a park is an intended use of the acquired land and not evidence of abandonment.
- 9.44. The petitioners' own case also has relevance. Their grievance is that the portion presently lying vacant is being developed as a public park. They have not produced any material showing that they continued to cultivate or otherwise exercise physical possession over that portion after the acquisition. The fact that the land is vacant cannot, by itself, establish continued possession by the petitioners.
- 9.45. The subsequent conduct of the authorities is also consistent with the acquisition having been acted upon. The request for deletion of the lands was considered and rejected by the State Government on 04.01.1995. Thereafter, the land formed part of the layout in which sites

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and roads were developed and a portion was shown as a park. The later representations made by the petitioners do not, by themselves, undo the earlier decision or establish that possession was never taken.

9.46. This Court does not consider it necessary to draw any adverse inference merely from the fact that the petitioners did not approach the Court earlier. Delay and subsequent conduct may have relevance while considering other reliefs, but the finding on possession here rests principally on the documentary and physical evidence of development of the land.

9.47. The absence of the original Section 16 notification does not alter the conclusion. The respondents have explained that the proceedings are several decades old and that the original document is not presently available. More importantly, the question of possession is not determined by that notification alone. The formation and allotment of sites, construction of houses, formation of the road and the sanctioned layout showing the remaining extent as a park are circumstances which, taken

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together, establish that the land was treated and dealt with by the acquiring authority as acquired land.

9.48. The petitioners have also relied upon the pendency of their requests for deletion of the land. The record, however, shows that the State Government had already rejected the request on 04.01.1995. The mere submission of a subsequent representation could not, without an order staying or withdrawing the acquisition, prevent the authorities from proceeding with the development of land which had already been acquired. The fact that CUDA had, as early as 29.05.1993, informed the Government that the land was required for the layout, and that the land was subsequently utilised for sites, a road and a park, is consistent with this position.

9.49. The Court therefore finds, on the material available, that possession of the entire extent of 4 acres 13 guntas was taken and that the land vested in the Government under Section 16 of the LA Act, 1894.

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9.50. **Conclusion:** The case before the Court is therefore not one in which the acquiring authority took no steps after issuing the acquisition notification. The compensation was dealt with in 1993 and, in respect of the 3 acres of Smt. Puttamma, the amount of Rs.1,49,100/- was subsequently applied pursuant to the order of the Execution Court towards the decree against her and her family. The remaining Rs.65,852/- was recorded as having been paid to Sri Rudre Gowda on 06.04.1993. The acquired land was thereafter incorporated into the layout, sites were formed and allotted, a road was laid and the remaining extent was earmarked as a park.

9.51. More importantly, compensation for the entire extent has been accounted for. Even assuming, for the sake of argument, that there was some defect in the manner in which the compensation was deposited or in the manner in which possession was taken, such defect would not, in view of the law declared in **Indore Development Authority**, result in lapse of the acquisition under Section 24(2).

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9.52. The essential requirement for lapse under Section 24(2), failure to take possession and failure to pay compensation, is therefore not established. On the contrary, the material shows payment of compensation for the entire extent and also supports the conclusion that possession was taken.

9.53. Accordingly, this Court answers Point No. (i) by holding that the acquisition proceedings in respect of Survey No.450, measuring 4 acres 13 guntas, have not lapsed under Section 24(2) of the 2013 Act.

10. **Answer to Point No.(ii): Whether the petitioners can, at this stage, rely upon the order dated 19.06.1998 in W.P. No.27115 of 1991 and the Division Bench judgment referred to therein to challenge the acquisition of their lands, notwithstanding that they were not parties to those proceedings and had not challenged the acquisition at the relevant time?**

10.1. Sri K.R. Lingaraju, learned counsel for the petitioners, submits that this Court, by order dated 19.06.1998 in W.P. No.27115 of 1991, followed the judgment of the Division Bench dated 15.06.1998 in W.P. Nos.3539 to 3542 of 1996 and connected matters. According to him,

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the Division Bench had held that issuance of a notification under Section 4(1) of the LA Act, 1894, after the Central Amendment Act 68 of 1984 was without authority of law.

10.2. It is submitted that the preliminary notification in the present case was issued on 12.01.1990, after the said amendment. Therefore, according to learned counsel, the acquisition of the petitioners' lands was also without authority of law. He submits that, once this Court had quashed the acquisition notifications in W.P. No.27115 of 1991 and liberty was reserved to the State Government to initiate fresh proceedings, the State could not continue with the acquisition without issuing a fresh notification.

10.3. Learned counsel further submits that the Karnataka Urban Development Authorities Act, 1987 had come into force on 01.05.1988 and, therefore, acquisition thereafter could not have been initiated under the LA Act, 1894. He also contends that the declaration under Section 6(1) dated 23.03.1991 was issued without

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giving the kathedars an opportunity of hearing under Section 5A.

10.4. It is also submitted that the State Government's order dated 04.01.1995 rejecting the request for deletion of the lands was passed without considering the relevant material and without complying with the principles of natural justice. On these grounds, the petitioners seek to challenge the declaration dated 23.03.1991 by way of I.A. No.1/24.

10.5. Sri A. Ravishankar, learned counsel for CUDA, submits that the reliance placed on the order dated 19.06.1998 in W.P. No.27115 of 1991 is misplaced. The order did not quash the acquisition notification in its entirety. The acquisition was quashed only insofar as it related to the lands of the petitioners in that writ petition.

10.6. He submits that the present petitioners were not parties to those proceedings and their lands were not the subject matter of the relief granted therein. Therefore, the order could not have the effect of setting aside the acquisition of the present petitioners' lands.

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10.7. Learned counsel submits that the same principle applies to the Division Bench judgment dated 15.06.1998. The relief granted in that case was in respect of the lands of the landowners who had approached the Court. The present petitioners, who had not challenged the acquisition of their lands, cannot now seek to extend that relief to themselves after several decades.

10.8. He further submits that, by the time the present proceedings were initiated, the acquisition had been acted upon. The layout had been formed, sites had been allotted and third-party rights had come into existence. The petitioners cannot, after such a long lapse of time, seek to unsettle the acquisition on the basis of a judgment rendered in proceedings to which they were not parties.

10.9. As regards the request for deletion, learned counsel submits that the State Government had considered the request and rejected it by order dated 04.01.1995. The said order was never challenged by the petitioners at the relevant time.

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10.10. The principal submission of the petitioners is that the order dated 19.06.1998 in W.P. No.27115 of 1991, read with the Division Bench judgment dated 15.06.1998 in W.P. Nos.3539 to 3542 of 1996 and connected matters, rendered the acquisition notification in the present case ineffective. The question, therefore, is not merely what principle was laid down in those proceedings, but what was actually quashed by the orders passed therein and whether the present petitioners can rely upon those orders to reopen the acquisition of their own lands after more than two decades.

10.11. It is not disputed before this Court that the order dated 19.06.1998 in W.P. No.27115 of 1991 quashed the acquisition notifications only insofar as they related to the lands of the petitioners in that proceeding and reserved liberty to the State to initiate fresh proceedings in respect of those lands.

10.12. This distinction is important. A writ petition is decided with reference to the relief sought and the subject matter before the Court. If an acquisition notification covers several parcels of

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land belonging to different landowners, and the Court quashes the notification only insofar as it relates to the lands of the petitioners before it, the order does not, by that fact alone, annul the acquisition in respect of every other parcel covered by the notification.

10.13. The liberty reserved to the State Government to initiate fresh proceedings must also be understood in the same context. Since the acquisition in respect of the lands before that Court had been set aside, liberty was reserved to initiate fresh proceedings in respect of those lands. It does not follow that the State was required to initiate fresh proceedings in respect of lands which were not the subject matter of that writ petition and in respect of which the acquisition had not been quashed.

10.14. The present petitioners were not parties to W.P. No.27115 of 1991. More importantly, their lands were not the lands in respect of which the acquisition was quashed. The operative effect of that order, therefore, cannot be extended to the petitioners' lands merely because the same

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acquisition notification may have covered both sets of lands.

10.15. The fact that the Division Bench judgment was referred to and followed in W.P. No.27115 of 1991 does not alter this position. The petitioners may rely upon the legal principle declared by a Division Bench as a precedent, subject to its applicability to the facts of their case. What they cannot do is treat the relief granted in another writ petition as though their own lands had also been covered by that relief.

10.16. It is, therefore, unnecessary for this Court, in the present proceedings, to assume that the entire notification stood quashed merely because relief was granted in respect of certain lands under the same notification. The record before this Court does not support such a conclusion.

10.17. **Delay and subsequent conduct:** There is another circumstance which assumes considerable importance. The petitioners themselves state that the kathedars came to know of the declaration under Section 6(1) in October 1992. They thereafter submitted a

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representation dated 01.10.1992 seeking deletion of their lands from the acquisition.

10.18. Thus, the petitioners were aware, at least from 1992, that their lands had been included in the acquisition and that a declaration under Section 6(1) had been issued. Their response at that stage was not to challenge the validity of the acquisition proceedings before this Court. Instead, they requested the Government to delete their lands from the acquisition.

10.19. That request was considered and rejected by the State Government on 04.01.1995. The petitioners did not challenge that order at that stage. They also did not institute proceedings challenging the Section 4(1) notification, the Section 6(1) declaration or the alleged violation of Section 5A.

10.20. This is significant because the grounds now sought to be raised were available to the petitioners at that time. The alleged absence of a hearing under Section 5A, the alleged lack of authority to issue the notification under the LA Act, 1894 after the KUDA Act came into force, and the alleged invalidity of the acquisition

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were all matters which could have been raised when the petitioners became aware of the acquisition.

10.21. The petitioners also did not approach the Court when the judgments dated 15.06.1998 and 19.06.1998 were rendered. If, according to the petitioners, those judgments had the effect of invalidating the acquisition of their lands also, there was no apparent impediment to their approaching the Court at that stage and seeking similar relief. Instead, the acquisition was allowed to proceed. As noticed while considering Point No.(i), an award was made, compensation was dealt with, possession was taken and the land was incorporated into the layout. Residential sites were formed and allotted, a road was formed and the remaining portion was earmarked for a park.

10.22. The present challenge was brought only after the e-tender dated 24.05.2017 and the subsequent Work Order dated 04.11.2017. The challenge to the acquisition itself was sought to be introduced later by I.A. No.1/24. Thus, the challenge to the acquisition is being raised after

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a very long period and after the acquisition has been acted upon.

10.23. This Court is not proceeding on the basis that mere delay can validate an acquisition which is void in law. The question here is narrower. The petitioners seek to reopen an acquisition of their lands which they admittedly knew about from 1992, by relying upon a judgment rendered in proceedings concerning other lands, after the acquisition has been completed and the land has been put to the use for which it was acquired. In such circumstances, the discretionary jurisdiction under Article 226 cannot ordinarily be invoked to unsettle the completed acquisition.

10.24. **Effect of Section 24(2) of the 2013 Act:**

There is also a statutory reason why the petitioners cannot use the present proceedings under Section 24(2) of the 2013 Act to revive the old challenge to the acquisition.

10.25. The Constitution Bench of the Hon'ble Supreme Court in **Indore Development Authority**, has held in paragraph 366.9 that Section 24(2) does not create a fresh cause of action to

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challenge the legality of concluded land acquisition proceedings. It does not reopen concluded proceedings or revive stale and time-barred claims.

10.26. The significance of this principle in the present case is clear. The petitioners originally approached this Court complaining of the proposed development of the acquired land and seeking to invoke Section 24(2). The acquisition proceedings themselves were initiated in 1990 and 1991. The petitioners, by their own showing, were aware of the Section 6(1) declaration in 1992. The validity of that declaration was not challenged then.

10.27. Section 24(2) cannot be converted into a means of reopening that old challenge. The question under Section 24(2) is whether the statutory conditions for lapse were satisfied as on the commencement of the 2013 Act. It is not a mechanism for reviving a challenge to the validity of the original acquisition which had become stale.

10.28. The distinction between the two questions must therefore be maintained. The Division Bench

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judgment and the order dated 19.06.1998 may have decided the validity of the acquisition insofar as the lands before those Courts were concerned. That does not mean that the present petitioners' acquisition stood automatically quashed. Nor does Section 24(2) provide a fresh opportunity to challenge that acquisition on grounds which were available to the petitioners decades earlier.

10.29. **Challenge based on the KUDA Act:** The petitioners next contend that, since the KUDA Act came into force on 01.05.1988, the acquisition could not thereafter be initiated under the LA Act, 1894.

10.30. This submission overlooks Section 36(1) of the KUDA Act. That provision expressly provides that acquisition of land under the KUDA Act otherwise than by agreement is to be regulated, so far as applicable, by the provisions of the LA Act, 1894.

10.31. Section 36, therefore, does not exclude the LA Act, 1894. It incorporates that Act for the purpose of compulsory acquisition under the KUDA Act. Section 36(3) further contemplates

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that, after the land vests in the Government under Section 16 of the LA Act, 1894, it may be transferred to the Urban Development Authority.

10.32. The very structure of Section 36 thus shows that the KUDA Act and the LA Act, 1894 were intended to operate together in the matter of compulsory acquisition. The mere fact that the KUDA Act had come into force before the preliminary notification dated 12.01.1990 does not, by itself, invalidate the acquisition.

10.33. No specific provision of the KUDA Act has been identified by the petitioners which prohibited the use of the LA Act, 1894 for the acquisition in question. Nor has any specific procedural requirement under the KUDA Act, which was allegedly violated before issuance of the Section 4(1) notification, been established on the material placed before this Court.

10.34. **Challenge based on Section 5A:** The petitioners also contend that no hearing was afforded under Section 5A before issuance of the declaration under Section 6(1).

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10.35. The importance of Section 5A cannot be disputed. It provides a statutory opportunity to a person interested in the land to object to the proposed acquisition and requires consideration of the objections before the Government proceeds to make the declaration under Section 6(1). The difficulty for the petitioners is that this objection is being raised more than three decades after the declaration. The petitioners' own case is that they became aware of the declaration in October 1992. They did not challenge the declaration then. They instead sought deletion of the lands, and that request was rejected on 04.01.1995. The petitioners cannot, after allowing the acquisition to proceed for decades, seek to have the entire acquisition reopened merely on the basis of a bare assertion that no hearing was afforded.

10.36. More importantly, even assuming that the petitioners have a grievance regarding compliance with Section 5A, that grievance had to be raised when the declaration was known to them. The subsequent enactment of the 2013 Act and the filing of a petition under Section

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24(2) cannot revive such a stale challenge to the original acquisition.

10.37. **Order dated 04.01.1995:** The petitioners also challenge the order dated 04.01.1995 rejecting their request for deletion of the lands. The nature of that order must first be kept in view. The petitioners had sought deletion of their lands from an acquisition which had already proceeded to the stage of a Section 6(1) declaration. The State Government considered that request and rejected it. The order was not an adjudication of a challenge to the validity of the Section 4(1) or Section 6(1) notifications.

10.38. If the petitioners considered the rejection to be contrary to law or in breach of natural justice, they could have challenged it at that stage. They did not do so. The fact that further representations may have been submitted subsequently does not, by itself, keep the original acquisition proceedings open indefinitely or prevent the respondents from acting upon an acquisition which had already been completed.

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10.39. This Court therefore finds no basis to treat the order dated 04.01.1995, or the subsequent representations, as preserving an otherwise concluded challenge to the acquisition.

10.40. **I.A. No.1/24:** By I.A. No.1/24, the petitioners seek to introduce a direct challenge to the declaration dated 23.03.1991.

10.41. The amendment sought is not merely a clarification of the existing challenge. It seeks to introduce, at this stage, a direct challenge to an acquisition declaration which was made more than three decades ago and of which the petitioners admittedly became aware in 1992.

10.42. Even if the amendment were allowed, the challenge would face the same difficulty of extraordinary delay and the fact that the acquisition has already been acted upon and completed. The amendment cannot be permitted merely to introduce a claim which cannot itself be entertained at this stage. The application for amendment is therefore liable to be rejected.

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10.43. The order dated 19.06.1998 in W.P. No.27115 of 1991 did not quash the acquisition notification in its entirety. The relief was confined to the lands which were the subject matter of that petition. The present petitioners' lands were not before that Court. The same is true of the relief granted by the Division Bench in W.P. Nos.3539 to 3542 of 1996 and connected matters.

10.44. The present petitioners were aware of the acquisition by October 1992. They did not challenge the Section 4(1) notification or the Section 6(1) declaration. They sought deletion of their lands, but the request was rejected on 04.01.1995, which order was not challenged at the relevant time. The acquisition thereafter proceeded and was acted upon.

10.45. The petitioners cannot now treat the orders passed in proceedings relating to other lands as though those orders had also quashed the acquisition of their lands. Nor can Section 24(2) of the 2013 Act be used to revive a challenge to the validity of an acquisition which was available to them decades earlier.

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10.46. The challenge based on the KUDA Act also fails, since Section 36 of that Act expressly makes the LA Act, 1894 applicable to compulsory acquisition. The challenge based on Section 5A is raised after an extraordinary delay, notwithstanding the petitioners' admitted knowledge of the declaration from 1992. The challenge to the order dated 04.01.1995 is likewise belated.

10.47. For all the above reasons, this Court answers Point No. (ii) by holding that the petitioners cannot, at this stage, rely upon the order dated 19.06.1998 in W.P. No.27115 of 1991 or the Division Bench judgment referred to therein to reopen the acquisition of their lands.

11. **Answer to Point No.(iii): Whether the subsequent formation and implementation of the residential layout, including formation of sites, roads and the park and accrual of third-party rights, has any bearing on the relief sought by the petitioners?**

11.1. The submission of Sri K.R. Lingaraju, learned counsel for the petitioners, is that the petitioners continue to be in possession and cultivation of the land and that the Chikkamagaluru City Municipality has now

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sought to develop the remaining portion as a park.

11.2. Learned counsel also submits that the petitioners had offered to provide a 60-foot road through the property, which is situated at the fag end of the layout, and that the remaining extent ought to have been deleted from the acquisition.

11.3. Sri A. Ravishankar submits that the acquisition was followed by formation of the Hiremagaluru residential layout. Sites were formed and allotted, and houses have been constructed by the allottees. A road has also been formed. The remaining extent of the subject land is shown as a park in the layout plan.

11.4. Learned counsel submits that the fact that a portion of the land remains open does not mean that it has not been put to use. A residential layout necessarily contains not only residential sites but also roads, parks and other common areas. According to the break-up placed before the Court, out of 4 acres 13 guntas, about 1 acre 15 guntas has been utilised for sites, about 10 guntas for a road

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and about 2 acres 28 guntas has been earmarked as a park. These three extents together account for the entire land in Survey No.450.

11.5. Learned counsel further submits that third-party rights have arisen in the meantime. Sites have been allotted and houses have been constructed. After such a long period, the petitioners cannot seek relief which would unsettle the existing layout and affect persons who are not parties to the present proceedings.

11.6. The question under this Point is whether the subsequent formation of the layout, the formation of sites and roads, the portion earmarked as a park, and the creation of rights in favour of third parties have any bearing on the relief sought by the petitioners.

11.7. At the outset, it is necessary to keep apart two different questions. The formation of a layout or the creation of third-party rights does not, by itself, prevent an acquisition from lapsing if the statutory requirements for lapse are otherwise satisfied. Therefore, the subsequent development of the land cannot be treated as

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an independent answer to a claim under Section 24(2) of the LA Act, 2013.

11.8. In the present case, however, this Court has already held under Point No.(i) that the acquisition has not lapsed. The subsequent development of the land is relevant for another reason. It bears upon the question of possession and also upon whether discretionary relief should be granted after the acquisition has been acted upon for several decades.

11.9. **The land has formed part of the layout:** The material placed before the Court shows that the entire extent of 4 acres 13 guntas in Survey No.450 has been dealt with as part of the Hiremagaluru layout. According to the respondents, about 1 acre 15 guntas has been used for residential sites, about 10 guntas for a road and about 2 acres 28 guntas has been shown as a park. These three extents together account for the entire land in question.

11.10. The petitioners have not produced any material to show that any portion of the land falls outside the layout. Their own case is that the property is situated at the fag end of the layout

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and that they had offered to provide a 60-feet road through it. This itself shows that the property has been dealt with as part of the layout.

11.11. The formation and allotment of sites is also significant. The material before the Court shows that sites have been formed and allotted and that houses have been constructed. A road has also been formed. These facts are not consistent with the petitioners' claim that the entire land continued to remain in their possession and cultivation. The photographs and Google Maps placed on record clearly establish this.

11.12. This Court has already considered these circumstances while dealing with possession under Point No.(i) and has held that possession of the entire extent was taken over. The subsequent development of the land lends further support to that finding. The layout, therefore, is not being referred to as a substitute for the statutory requirement relating to possession; it is being considered as

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evidence of what happened to the land after the acquisition.

11.13. **The portion shown as a park:** The petitioners' case appears to proceed on the basis that the extent of about 2 acres 28 guntas cannot be treated as having been put to use because no residential sites have been formed on it. This submission cannot be accepted.

11.14. A residential layout is not confined to residential sites. Roads and open spaces may form part of the layout. Therefore, the fact that a portion has not been covered by buildings does not, by itself, mean that the land was not acquired or that it continued to remain with the former owners.

11.15. In the present case, the relevant fact is that the disputed extent is shown as a park in the layout. It is therefore not an unidentified or unused piece of land lying outside the layout. It has been earmarked for a particular purpose within the layout.

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11.16. The record also shows that CUDA had furnished the layout plan to the State Government on 29.05.1993 stating that the lands were required for the layout. The request for deletion of the lands was thereafter rejected on 04.01.1995. There is nothing on record to show that the portion now shown as a park was subsequently brought into the layout only after the petitioners approached this Court.

11.17. The later issuance of the e-tender for development of the park does not alter this position. It indicates that the authorities proposed to develop the portion which had already been shown as a park in the layout. The e-tender cannot therefore be treated as an admission that the land had remained with the petitioners.

11.18. The fact that the park was yet to be fully developed when the petition was filed is also not decisive. The question is whether the land formed part of the layout and had been taken over for the acquired purpose. An open area earmarked as a park cannot be treated as land

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outside the layout merely because further development was proposed.

11.19. The petitioners' proposal for a 60-feet road: The petitioners rely upon their proposal to provide a 60-feet road through the property and contend that the remaining land ought to have been deleted from the acquisition.

11.20. This proposal does not assist the petitioners. It was a proposal for an alternative arrangement and not an order deleting the land from the acquisition. The request for deletion had already been considered and rejected by the State Government on 04.01.1995. No material has been placed before the Court to show that the said decision was subsequently withdrawn or that the petitioners' proposal was accepted.

11.21. The fact that the petitioners were willing to give land for a road also does not establish that possession of the remaining land continued with them. At the highest, it shows that the petitioners sought a different use of the land and deletion of the balance extent from the acquisition. That proposal did not result in any change in the acquisition proceedings. What it

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could, however, show is that the layout has been formed and this road was offered by the petitioners to be provided as access to the layout, which does not help the petitioners.

11.22. **Effect of third-party rights:** The next question is the effect of the rights created in favour of third parties. The record shows that sites have been allotted and houses have been constructed in the layout. These persons have acquired their interests during the period in which the petitioners did not challenge the acquisition.

11.23. The relief sought by the petitioners is in respect of the acquisition of the entire extent of 4 acres 13 guntas. That extent includes the portion on which residential sites have been formed and houses constructed, the road, and the portion shown as a park.

11.24. A declaration in respect of the entire extent would therefore have consequences beyond the dispute between the petitioners and the acquiring authorities. It would affect persons who have been allotted sites and constructed houses on the basis of the layout, although

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those persons are not parties to these proceedings.

11.25. This aspect is particularly relevant because of the delay on the part of the petitioners. As noticed under Point No.(ii), the petitioners came to know of the Section 6 declaration in 1992. They sought deletion of the land, but the request was rejected on 04.01.1995. They did not challenge the acquisition at that stage. The layout was thereafter formed, sites were allotted and houses were constructed.

11.26. This Court must therefore consider not only the claim made by the petitioners but also the consequences of granting the relief sought. Where the acquisition has been acted upon, the land has been incorporated into a residential layout, sites have been allotted and houses have been constructed, this Court cannot ignore the position that has arisen over the years, particularly when the petitioners themselves did not challenge the acquisition for a long period.

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11.27. The subsequent formation and implementation of the layout has a bearing on the present proceedings in three respects.

11.28. Firstly, it supports the finding already recorded under Point No.(i) that possession of the entire extent was taken over. The residential sites, road and the portion shown as a park together account for the entire extent of 4 acres 13 guntas.

11.29. Secondly, the fact that about 2 acres 28 guntas remains open does not establish that the land was left with the petitioners. The material shows that this portion forms part of the layout and is earmarked as a park. The subsequent proposal to develop the park is consistent with that position.

11.30. Thirdly, the formation of sites, construction of houses and creation of third-party rights are relevant to the exercise of discretionary writ jurisdiction. The petitioners seek to disturb an acquisition and layout which have been acted upon for several decades, without challenging the acquisition at the stage when such challenge was available to them.

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11.31. These circumstances do not, by themselves, determine the question of lapse under Section 24(2). That question has already been answered under Point No.(i). They are relevant to the present Point because they show the extent to which the acquisition has been implemented and the consequences that would follow if the relief sought by the petitioners were granted at this stage.

11.32. For these reasons, this Court answers Point No. (iii) by holding that the subsequent formation and implementation of the residential layout, including the formation of sites and roads, the earmarking of the remaining portion as a park, and the creation of third-party rights, have a material bearing on the relief sought by the petitioners.

12. **Answer to Point No.(iv): Whether the petitioners are entitled to quashing of the e-procurement re-tender notification dated 24.05.2017 and the Work Order dated 04.11.2017?**

12.1. Sri K.R. Lingaraju submits that the Chikkamagaluru City Municipality issued the e-procurement re-tender notification dated

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24.05.2017 for development of the disputed land as a park and thereafter issued the Work Order dated 04.11.2017. According to learned counsel, these proceedings were impermissible because the acquisition had already lapsed and the land continued to belong to the petitioners.

12.2. Learned counsel further submits that the request of the landowners for deletion of the land from the acquisition proceedings was still under consideration. The landowners had offered to provide a 60-foot road through their property and had sought deletion of the remaining extent. According to him, until that request was finally decided, the respondents ought not to have proceeded with development of the land as a park.

12.3. Sri A. Ravishankar submits that the e-tender was issued only to implement the layout which had already been formed on the acquired land. The portion in question had been earmarked as a park in the layout. Therefore, the e-tender and the subsequent Work Order were steps towards implementation of the existing layout

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and did not amount to any fresh action against the petitioners' land.

12.4. With regard to the request for deletion, learned counsel submits that the State Government had already considered and rejected the request by order dated 04.01.1995. The petitioners did not challenge that order. The subsequent representations made by them could not, by themselves, revive a request which had already been decided.

12.5. Learned counsel submits that no subsequent order recalling or modifying the order dated 04.01.1995 has been produced. Nor has any order of the Court or the Government restraining the respondents from implementing the layout been brought to the notice of this Court.

12.6. The challenge to the e-tender and the Work Order has to be considered in the background of what had happened to the land before those proceedings were initiated.

12.7. The acquisition commenced with the preliminary notification dated 12.01.1990. The

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declaration under Section 6(1) was thereafter issued on 23.03.1991. The landowners became aware of the declaration in October 1992 and submitted a representation dated 01.10.1992 seeking deletion of their lands from the acquisition.

12.8. The request for deletion was considered by the State Government. CUDA furnished its layout plan on 29.05.1993 and stated that the land was required for the layout. After the correspondence between the authorities, the State Government rejected the request for deletion on 04.01.1995.

12.9. The petitioners did not challenge the order dated 04.01.1995 at that stage. Nor did they obtain any order staying the acquisition proceedings or restraining CUDA from proceeding with the layout.

12.10. The acquisition was thereafter acted upon. An award was made, compensation was dealt with in the manner considered under Point No.(i), possession was taken over and the residential layout was formed. Sites and roads were formed and sites were allotted to third parties.

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The portion now in question was shown as a park in the layout.

12.11. It was much later, in 2017, that the e-procurement re-tender was issued for development of the park. The Work Order followed on 04.11.2017. Thus, the e-tender was not the event by which the land was first sought to be brought into the layout. It was a subsequent step for implementing the layout which had already been formed.

12.12. The petitioners' challenge to the e-tender is based on their assertion that the land continued to belong to them because the acquisition had lapsed or was otherwise invalid. That contention has already been considered under the earlier Points.

12.13. Under Point No.(i), this Court has held that the acquisition had not lapsed. Under Point No.(ii), this Court has held that the petitioners cannot, at this stage, reopen the validity of the acquisition on the grounds now urged by them. Under Point No.(iii), this Court has found that the disputed extent forms part of the layout

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and that the portion in question has been earmarked as a park.

12.14. Those findings are material to the present issue. If the acquisition had lapsed and the petitioners had established a subsisting right in the land, the authority of the respondents to undertake development thereon would require examination. But once the acquisition is held to have remained effective and possession is found to have been taken, the petitioners cannot challenge the subsequent implementation of the layout merely on the ground that the land was once owned and cultivated by them.

12.15. The principal argument of the petitioners is that their request for deletion was pending when the e-tender was issued. The record does not support that contention. The request for deletion was made in 1992 and was considered by the State Government. It was rejected on 04.01.1995. The petitioners did not challenge that decision.

12.16. It is stated that further representations and correspondence followed. However, no

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subsequent order has been placed before this Court showing that the order dated 04.01.1995 was recalled, set aside or modified. There is also no material showing that the State Government subsequently directed CUDA to keep the land out of the layout.

12.17. Mere correspondence cannot, by itself, undo a decision already taken by the competent authority. Nor can a subsequent representation, without an order accepting it, suspend the operation of the earlier decision.

12.18. The proposal to provide a 60-feet road stands on the same footing. It was only a proposal made by the landowners. There is no material to show that the State Government accepted the proposal or formally released the remaining land from acquisition.

12.19. In the absence of such an order, the petitioners cannot contend that the respondents were required to wait indefinitely before implementing the layout. The acquisition and the layout could not be kept in a state of uncertainty merely because the landowners continued to make representations.

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12.20. The e-tender dated 24.05.2017 was for development of the park shown in the layout. The Work Order dated 04.11.2017 followed the tender process.

12.21. The petitioners have not pointed out any independent illegality in the tender process or in the Work Order. There is no challenge that the tender conditions were illegal, that the process was conducted arbitrarily, or that the Work Order was issued contrary to the applicable rules.

12.22. The challenge is therefore not really to the tender process. It is to the respondents' authority to use the land for the purpose for which it had been acquired. Since the acquisition has been held to be subsisting and possession has been held to have been taken, that challenge cannot succeed. The development of the park also cannot be treated as a new acquisition. The land had already been included in the layout, and the park was part of that layout. The e-tender was only a step towards giving effect to that planned use.

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12.23. There is another circumstance which cannot be ignored. By the time the e-tender was issued, the acquisition had been acted upon for more than two decades. Residential sites had been formed and allotted, houses had been constructed and roads had been laid. The petitioners now seek to quash the e-tender and Work Order as part of their larger challenge to the acquisition. Such relief cannot be considered without taking into account the position which has arisen during the long period in which the petitioners did not challenge the acquisition.

12.24. In the present case, the petitioners had notice of the acquisition at least by October 1992. They sought deletion of the land, their request was rejected in 1995, and they did not challenge that decision. The layout was thereafter implemented. The e-tender was issued only in 2017 for development of the park. In these circumstances, there is no justification to grant a discretionary writ which would have the effect of reopening the completed acquisition and disturbing the existing layout.

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12.25. As discussed under Point No.(i), possession has been considered on the basis of the entire material available before the Court, including the subsequent formation and implementation of the layout. The fact that the land has been dealt with as part of the layout, residential sites and roads have been formed, and the remaining portion has been earmarked as a park, supports the conclusion already reached regarding possession.

12.26. The concerned authorities should, nevertheless, make appropriate efforts to trace and preserve the original acquisition and possession records. Proper maintenance of such records is particularly important where the acquisition is of considerable vintage.

12.27. The e-tender dated 24.05.2017 and the Work Order dated 04.11.2017 were issued after the acquisition had been acted upon and the layout had been formed. The park for which the tender was issued forms part of that layout.

12.28. The petitioners have not established any subsisting right in the land which would prevent the respondents from implementing the layout.

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Their request for deletion had already been rejected in 1995, and no subsequent order releasing the land from acquisition has been produced. The subsequent representations made by the petitioners did not, by themselves, keep the request for deletion pending or prevent the respondents from proceeding with the layout. The e-tender and the Work Order therefore cannot be quashed on that ground.

12.29. In view of the findings recorded under Points Nos.(i) to (iii), and particularly the findings that the acquisition has not lapsed, that the petitioners cannot now reopen its validity, and that the disputed land forms part of the existing layout, this Court answers Point No. (iv) by holding that the petitioners are not entitled to the relief of quashing the e-procurement re-tender notification dated 24.05.2017 or the Work Order dated 04.11.2017.

13. **Answer to Point No.(v): What Order?**

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13.1. In view of the above, this Court passes the following:

ORDER

- (i) The writ petition is **dismissed**.
- (ii) The prayer for a writ of certiorari to quash the e-procurement re-tender notification bearing No.CMC/CKM/CR/106/2016-2017 dated 24.05.2017 and the Work Order dated 04.11.2017, at Annexures-A and B, is **rejected**.
- (iii) The prayer for a declaration that the preliminary notification bearing No.LAQ:2/89-90 dated 12.01.1990 and the final notification bearing No.R.D.9.Bhu.Swa.Chi.90 dated 23.03.1991, at Annexures-C and D, have lapsed under Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, in respect of land bearing Survey No.450, measuring 4 acres 13 guntas, situated at Hiremagaluru Village, Kasaba Hobli, Chikkamagaluru Taluk and District, is **rejected**.

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(iv) I.A. No.1/24 is **Dismissed**.

(v) Interim order, if any, stands vacated. All pending interlocutory applications, if any, stand disposed of.

This Court has been assisted by Mr. Sourav,
Law Clerk, in the formulation of this Judgment.

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(SURAJ GOVINDARAJ)
JUDGE

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