

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO. 302 OF 2023 (LA-BDA)

BETWEEN:

1 . BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST
BENGALURU-560 020
REP. BY ITS COMMISSIONER

2 . THE SPECIAL LAND ACQUISITION OFFICER
BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST
BENGALURU-560 020

...APPELLANTS

(BY SRI. MURUGESH V. CHARATI, ADVOCATE A/W
SMT. LATHA, ADVOCATE)

Digitally
signed by
RAKSHA
Location:
High Court
of Karnataka

AND:

1 . SRI. A.B. SURYA
S/O LATE A.N. BALAPPA
AGED ABOUT 84 YEARS
R/AT. FLAT No.5

GOLDEN NEST APARTMENT
BEHIND VIJAYA BANK
ADUGODI
BENGALURU-560 030

2 . THE STATE OF KARNATAKA
REP. BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT
VIKASA SOUDHA
BENGALURU-560 001

...RESPONDENTS

(BY SMT. S. SUSHEELA, SENIOR COUNSEL FOR
SRI. SHIVARAJU M.K., ADVOCATE FOR R1;
SMT. SAVITHRAMMA, AGA FOR R2)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT, 1961 PRAYING TO SET ASIDE THE IMPUGNED
ORDER OF THE LEARNED SINGLE JUDGE DATED 07.12.2022 IN
WRIT PETITION No.39971/2018 BY ALLOWING THIS APPEAL.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 09.04.2026 AND COMING ON FOR
PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN
J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

CAV JUDGMENT**(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)**

This writ appeal is preferred against the Order dated 07.12.2022 passed by the learned Single Judge in Writ Petition No.39971/2018 (LA-BDA).

2. We have heard Shri. Murugesh V. Charati, learned counsel along with Smt. Latha, learned counsel appearing for the appellants, Smt. S. Susheela, learned senior counsel as instructed by Shri. Shivaraju M.K, learned counsel appearing for respondent No.1 and Smt. Savithramma, learned Additional Government Advocate appearing for respondent No.2.

3. It is submitted by the learned counsel appearing for the appellants that respondent No.1 claimed ownership of land bearing Sy.No.81/1 measuring 1 acre 15 guntas at Arakere Villlage, Begur Hobli, Bengaluru South Taluk. The Bangalore Development Authority (BDA) initiated acquisition proceedings for formation of 'BTM VI Stage' Layout through Preliminary Notification dated 08.09.1987, published in the Official Gazette on 18.02.1988 and Final Notification dated

28.07.1990. Respondent No.1, though notified as kathedar, did not file objections. The mahazar was drawn on 14.11.1990 for taking possession. An Award was passed on 01.01.1994. The land was handed over to the Engineering Department on 22.03.1994 and compensation of Rs.1,89,043/- was deposited before the City Civil Court in LAC No.239/1996 under Sections 30, 31(2) of the Land Acquisition Act, 1894 on 07.10.1995.

4. Writ Petition No.15733/1994 was filed by respondent No.1, which came to be dismissed as withdrawn on 09.06.1994 with liberty to file a fresh petition. Writ Petition No.17408/1994 was filed by Smt. Suguna, who claimed possession under an Agreement of Sale from respondent No.1 and the same was dismissed on 08.01.1997 on the ground that acquisition had been completed and she had no legal right to challenge it. Writ Petition No.3122/1997 filed by respondent No.1 challenging the Preliminary and Final Notifications, which was dismissed on 18.08.1998 holding that acquisition was complete. Further, Civil Suits in O.S No.6317/1994 and O.S.

No.8419/1999 were also filed by third parties claiming possession over the very same land, indicating that respondent No.1 has parted with his rights in favour of third parties. On 28.07.2017, BDA has issued an intimation letter stating that the award amount had been deposited in its RD account, which is pending disbursement. Despite vesting of the land in BDA and repeated opportunities to receive compensation, respondent No.1 failed to collect the award amount and instead continued filing litigation with the object of reclaiming the acquired land.

5. Respondent No.1 again filed Writ Petition No.39771/2018 alleging that the acquisition proceedings has lapsed as abandoned in view of Section 24(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 ('2013 Act' for short) and in view of Section 27 of the Bangalore Development Act, 1976 and also to quash the Preliminary and Final Notifications dated 08.09.1987 and 28.07.1990 insofar as the Petition Schedule Property is concerned.

6. After considering the contentions advanced, the learned Single Judge found that the Petition Schedule Property formed a part of the proposed 'BTM VI Stage' Scheme of the BDA. The learned Single Judge relied on the decision in the case of ***Honnappa v. State of Karnataka and Others*** passed in ***Writ Petition No.55991/2015*** by order dated **18.09.2017**, wherein 'BTM VI Stage' Scheme had lapsed and the acquisition proceedings were quashed. The said finding was affirmed by the Division Bench of this Court in ***Writ Appeal No.6936/2017*** on **16.08.2018**, holding that the Scheme was never implemented and the acquisition stood abandoned and the subsequent SLP No.19776/2019 (Civil) was dismissed by the Apex Court by Order dated 12.10.2022.

7. In view of these undisputed facts and binding precedents, the learned Single Judge held that the impugned acquisition proceedings relating to the Petition Schedule Property could not survive. Accordingly, the writ petition was allowed and the impugned Preliminary and Final Notifications dated 08.09.1987 and 28.07.1990, were

quashed insofar as they related to the Petition Schedule Property.

8. The learned counsel appearing for the appellants contends that the petition filed by respondent No.1 ought to have been dismissed at the threshold for suppression of material facts. Respondent No.1 failed to disclose the earlier proceedings initiated by him in Writ Petition No.15733/1994 and Writ Petition No.3122/1997. It is further contended that the learned Single Judge failed to notice that the judgment of this Court in Writ Petition No.55991/2015 was confirmed by the Division Bench of this Court in WA No.6936/2017 dated 16.08.2018 was confined only to the lands of the petitioners therein. The case of respondent No.1 stands on a materially different footing, particularly in view of the earlier adverse orders suffered by him in the years 1994, 1997, 1998, all of which were suppressed in the present writ petition. It is also submitted that the challenge to those judgments before the Apex Court was dismissed on 12.10.2022. It is further contended that the cogent records were placed before the Court to

demonstrate that an award had been passed in respect of the schedule property and possession had been taken by drawing a Mahazar. Both physical and constructive possession, in terms of law is stated to vest with the appellant. Filing repeated writ petitions on different grounds and at different stages is a clear abuse of judicial process and no relief ought to be granted.

9. It is also contended that an award amount has been deposited before the competent Civil Court and respondent No.1's refusal to receive the compensation cannot lead to an inference that no award had been passed and that the acquisition proceedings were completed in accordance with law. The appellant has already formed a layout on the acquired lands, sites have been demarcated and allotted to various purchasers, thereby establishing that the scheme has been substantially implemented and has not lapsed. The only reason possession could not be handed over to the allottees is the continuous obstruction caused by respondent No.1, who cannot be permitted to continue enjoying the acquired land on the basis of his own illegality.

10. It is also contended that there exists a serious cloud over respondent No.1's title to the Petition Schedule Property as Civil Suits have been filed by third parties claiming possession over the petition schedule property. Without establishing the clear title, respondent No.1 could have not maintained the writ petition. Further, despite being aware that sites had been formed and allotted, respondent No.1 failed to implead the allottees as necessary parties.

11. The learned senior counsel appearing for respondent No.1 contends that the acquisition proceedings are liable to be quashed due to the appellants' failure to discharge their statutory obligations. It is alleged that no valid award was passed, possession of the land was never taken in accordance with Section 16 of the Land Acquisition Act and the Scheme was not substantially implemented within the period prescribed under Section 27 of the Bangalore Development Authority Act, 1976 ('BDA Act' for short). Since the Final Notification was issued on 28.07.1990 and the Scheme was not executed within five years, the entire Scheme stood lapsed and Section 36 of the BDA Act

became inoperative. As per Section 24(2) of the 2013 Act, it is contended that the acquisition proceedings have also lapsed for want of possession and compensation.

12. It is further contended that though 562 acres and 34 guntas were notified for formation of a residential layout, the entire extent was never utilized, demonstrating failure of substantial implementation. Discriminatory pick and choose action by the appellants in releasing lands of certain owners while retaining others, thereby violating Article 14 of the Constitution of India. It is further contended that respondent No.1 continued to be in possession, his name remained in RTC records and his rights under Article 300-A of the Constitution of India have been adversely affected as he is unable to effectively deal with the property.

13. It is further contended that the acquisition proceedings have lapsed and that there is no delay in approaching the Court as the appellants have failed for nearly 27 years to take lawful possession of the land or implement the Scheme. It is also contended that no third-

party rights have been created and no prejudice would be caused to the appellants. Therefore, the relief cannot be denied on the ground of delay or limitation. It is further contended that compensation was not deposited before the City Civil Court as required under Section 31 of the Land Acquisition Act, but was instead kept in the RD account of the BDA, which does not amount to valid compliance. Since neither possession was taken nor compensation properly deposited more than five years prior to the commencement of the 2013 Act, the acquisition is stated to have lapsed under Section 24(2) of the 2013 Act.

14. The learned senior counsel appearing for respondent No.1 has placed reliance on the decision of the Apex Court in the case of ***Bangalore Development Authority and Another v. Sri. Honnappa and Another***, by order ***dated 12.10.2022*** passed in ***Special Leave to Appeal (C) No(s).19776/2019***.

15. We have considered the contentions advanced. The learned Single Judge has quashed the Preliminary and

Final Notifications for acquisition of land dated 08.09.1987 and 28.07.1990, respectively on the ground that the Notifications were for 'BTM VI Stage' and this Court, in ***Bangalore Development Authority and Another v. Sri. Honnappa and Another***'s case (supra) has held that the Scheme in relation to 'BTM VI Stage' layout had lapsed and had quashed the Notification. This was upheld upto the Apex Court. Though, the learned counsel appearing for the appellants contends that the acquisition cannot be quashed even if the Scheme has not been implemented, we notice that the acquisition was one made under the provisions of the BDA Act.

16. Section 18 of the BDA Act provides for the preparation of a Scheme by the Authority and the submission of the same before the Government for sanction with all the details as provided. It is on obtaining sanction to the Scheme and the publication of the sanction in the Official Gazette that the land acquisition has to be initiated for the purpose of the said Scheme. The declaration under Section 19 of the BDA Act should state the limits within which, the

land proposed to be acquired is situated, the purpose for which it is needed, etc. Such declaration is evidenced that the land is needed for the public purpose as provided in the Scheme which is notified. Therefore, the contention of the appellants that the finding in ***Offshore Holdings Private Limited v. Bengaluru Development Authority & Ors.*** reported in **(2011) 3 SCC 139** that once the acquisition is complete, the land vests in the Government even if the purpose for which the acquisition is made, is not carried out, may not be the correct proposition of law applicable in the facts and circumstances of the instant case. Here, the acquisition is for the specific public purpose of the Scheme as sanctioned by the Government. Therefore, if the Scheme is not implemented at all, or if the Scheme is only partially implemented, then the Authority has the responsibility to place pleadings before this Court that the property in question falls within the area where the Scheme has been implemented pursuant to the sanction granted by the Government.

17. In the instant case, such details are conspicuous by their absence. The only contention raised by the appellants is that there are materials to show that award was passed and amount was deposited in respect of the lands in question. To the pointed question raised by this Court as to whether there is any material to show that the Scheme has been implemented in the vicinity of the property involved in this case, the appellants have not been able to give the Court any reply, much less a convincing reply. It is therefore, a case where the Scheme has not been implemented and the possession of the land remained with the respondents even in spite of an award being passed and an amount being deposited.

18. The larger Bench of the Apex Court in ***Offshore Holdings Private Limited's*** case (supra) has clearly held that there is no repugnancy between the BDA Act and the Land Acquisition Act and that they operate in different areas. The contention that the land has vested in the Government under Section 16 of the Land Acquisition Act is not the contention available to the BDA, since admittedly the

Scheme has not been implemented by the BDA and Section 27 of the BDA Act has come into effect, since the Scheme has not been implemented within five years from the date of the publication in the Official Gazette of the declaration under sub-Section (1) of Section 19 of the BDA Act. The Scheme has therefore lapsed and the provisions of Section 36 of the BDA Act have become inoperative. Section 36 of the BDA Act provides that the acquisition of land under the BDA Act, otherwise, than by agreement, shall be regulated by the provisions of the Land Acquisition Act. The Apex Court clearly held that on a conjoint reading of the provisions of Sections 27 and 36 of the BDA Act, it is clear that where the Scheme lapses, the acquisition may not. This, of course, will depend upon the facts and circumstances of the given case. Upon completion of the acquisition proceedings, the land has vested in the State Government in terms of Section 16 of the Land Acquisition Act. The acquisition would not lapse or terminate as a result of lapsing of the Scheme under Section 27 of the BDA Act.

19. However, in the instant case, apart from showing files to say that possession has been taken and amounts deposited in the Civil Court, there is absolutely no materials to show that physical possession had been taken and the acquisition completed in terms of the Land Acquisition Act. Further, no material has been produced before us to show that the Scheme has been implemented in the vicinity of the property in acquisition.

20. In the above circumstances, we are of the opinion that, in view of the fact that possession of the lands remain with the land owners and the compensation has never been released to them, the contentions of the appellants - BDA cannot be accepted.

21. In view of the clear finding in connected cases that the Scheme had not been implemented and that the acquisition in respect of properties had lapsed, we are of the opinion that the finding of the learned Single Judge cannot be faulted. The appeal fails and the same is accordingly ***dismissed.***

All pending interlocutory applications shall stand disposed of.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(TARA VITASTA GANJU)
JUDGE**

cp*