

IN THE HIGH COURT OF KARNATAKA AT
BENGALURU

DATED THIS THE 15TH DAY OF MARCH 2016

BEFORE

THE HONOURABLE MR. JUSTICE ANAND BYRAREDDY

WRIT PETITION Nos.18071-18072 OF 2014 (LA-BDA)

BETWEEN:

Sri. S. Venkata Reddy,
Son of Late Subbarayappa,
Aged about 59 years,
Residing at No.99,
7th Cross, 24th Main,
HSR Layout, Sector-I,
Bangalore 560 102.

...PETITIONER

(By Shri N.K.Ramesh, Advocate)

AND:

1. The State of Karnataka,
Represented by its Principal Secretary,
Department of Housing and Urban
Development, Vikasa Soudha,
Bangalore 560 001.
2. Bangalore Development Authority,
Kumara Park West,

Bangalore 560 020,
Represented by its Commissioner.

...RESPONDENTS

(By Shri H. Venkatesh Dodderi, Additional Government
Advocate for Respondent No.1;
Shri Narendra Gowda, Advocate for Respondent No.2)

These Writ Petitions filed under Articles 226 and 227 of the Constitution of India, praying to declare that the acquisition proceedings initiated by the respondents pursuant to the preliminary notification dated 15.12.1984 under Section 17(1)(3) of the BDA Act, 1976 (Annexure-B) and declaration/final notification dated 28.11.1986 under Section 19(1) of the BDA Act, 1976 (Annexure-C) in respect of the petition schedule property belonging to the petitioner has lapsed and consequently issue a writ of certiorari quashing the said notifications vide (Annexure-B and C) in so far as the petition schedule property belonging to the petitioner is concerned and allow this writ petition with costs.

These Writ Petitions coming on for Preliminary Hearing in 'B' Group this day, the court made the following:

ORDER

Heard the learned counsel for the petitioner and the counsel for respondent no.2 and the learned Government Advocate.

2. The petitioner is said to be the owner of land bearing old survey no.146, measuring 1 acre 2 guntas of Agara village, Begur Hobli, Bangalore South Taluk. The Bangalore Development Authority (BDA) had issued a preliminary notification seeking to acquire the land under the provisions of the Bangalore Development Authority Act, 1976 (Hereinafter referred to as the 'BDA Act', for brevity), dated 15.12.1984 followed by a final notification dated 28.11.1986.

3. It is claimed that the petitioner had filed a civil suit against respondent no.2 restraining the BDA from taking possession of the land in the year 1991, wherein there was an interim order directing the BDA not to demolish the existing structures and also directed the petitioner not to put up any further construction. However, the petitioner had withdrawn the said suit. Thereafter, there was an award made only in respect of 25 guntas, excluding 16 guntas of land out of 1 acre 2 guntas. The petitioner had received the award amount only in

respect of 25 guntas. In the year 1992, the officials of the BDA had inspected the land of the petitioner and other adjoining lands and had opined that the area was built up and was in the cultivation of several persons, including the petitioner and it is in this regard that only 25 guntas was acquired leaving aside 16 guntas of land. Thereafter, there was partition in the petitioner's family and the subject property had fallen to the share of the petitioner. The petitioner had then filed a suit against the BDA for permanent injunction in the year 2000 and that was decreed in favour of the petitioner, which was challenged by way of an appeal before this court in its appellate jurisdiction and the same was dismissed confirming the judgment of the trial court. The petitioner had sought for conversion of the land which was granted by the competent authority. It is thereafter when there was threat of dispossession, the present petition was filed and the petitioner was protected by an interim order of this court.

4. Though the petition is filed belatedly seeking a declaration that the Scheme, under which the land was sought to be acquired, has lapsed, in view of this court having opined that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 would apply and by virtue of section 24(2) of the said act, if it is an admitted circumstance that possession has not been taken in respect of 16 guntas of land in survey no.146/A of Agara village, not only the scheme would lapse, but the acquisition as well. Therefore, notwithstanding the delay, by operation of law, the acquisition lapses.

The petition is summarily allowed. It is declared that the acquisition proceedings in respect of the above extent of land have lapsed.

**Sd/-
JUDGE**

nv