

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30<sup>TH</sup> DAY OF JANUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT APPEAL NO. 914 OF 2024 (LA-BDA)

**BETWEEN:**

1. THE BANGALORE DEVELOPMENT AUTHORITY  
HAVING ITS OFFICE IN  
T. CHOWDAIAH ROAD,  
KUMARA PARK WEST,  
BANGALORE-560 020,  
REPRESENTED BY ITS COMMISSIONER.
2. THE SLAO  
V.V. BUILDING,  
3RD FLOOR,  
BANGALORE.

...APPELLANTS

(BY SRI. MURUGESH V CHARATI, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA  
REPRESENTED BY ITS SECRETARY,  
DEPARTMENT OF LAND ACQUISITION,  
VIDHANA SOUDHA,  
BENGALURU-560 001.
2. SRI. H. CHIKKA PUTTAIAH  
S/O. LATE HOMBAIAH,  
AGED ABOUT 84 YEARS,  
R/AT NO. 16/38,  
7TH MAIN, 1ST STAGE,  
B.T.M. LAYOUT,

Digitally  
signed by  
NIRMALA  
DEVI

Location:  
HIGH COURT  
OF  
KARNATAKA

BANGALORE-560 029.

...RESPONDENTS

(BY SMT. NAMITHA MAHESH B.G, AGA FOR R1  
SRI. UDAYA HOLLA, SENIOR ADVOCATE A/W  
SRI. HARISH H.V, ADVOCATE FOR C/R2)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO SET-ASIDE THE ORDER Dt 19.03.2024 PASSED BY THE HONBLE LEARNED SINGLE JUDGE IN WRIT PETITION No. 16216/2016 (LA-BDA) AND ALLOW THE WRIT APPEAL BY DISMISSING THE WRIT PETITION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE  
and  
HON'BLE MR. JUSTICE C.M. POONACHA

**CAV JUDGMENT**

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

1. The present intra Court appeal is filed by the Bangalore Development Authority [**BDA**] and the Special Land Acquisition Officer [**SLAO**] calling in question the order dated 19.03.2024 passed in Writ Petition No.16216/2015 (LA-BDA), whereunder the writ petition filed by the second respondent/writ petitioner has been allowed by the learned Single Judge and the preliminary notification dated 15.07.1982 and final notification

dated 05.08.1986 in respect of acquisition of an extent of 1 acre 22 guntas of land in Sy.No.14/2 of Malagala Village, Yeshwanthpur Hobli, Bangalore North Taluk [**subject property**] has been set aside.

2. It is the case of the petitioner that one Smt. Sarojini was the owner of the subject property and the writ petitioner is stated to have acquired right, title and interest in the subject property having regard to a Will dated 05.01.2001 executed by the owner Smt.Sarojini. Hence, it is contended that upon the death of the said Smt.Sarojini in the year 2002, the subject property devolved upon the writ petitioner.

3. It is further the case of the petitioner that despite initiation of acquisition proceedings for formation of the 'Nagarabhavi II Stage Layout', he continued to be in possession of the subject property and has developed the property. That no notice of the acquisition proceedings was issued to the original owner Smt. Sarojini and nor to the writ petitioner. That shortly prior to the filing of the writ petition, he learnt about the acquisition proceedings and hence, filed the writ petition. The reliefs claimed in the writ petition were amended during the pendency of the writ

petition. The reliefs sought for in the writ petition as amended are as under:

Wherefore the petitioner prays that for the reasons stated herein above this Hon'ble Court be pleased to:

- a. Issue a writ or order or direction directing the respondent not to disturb the possession of the petitioner of the land bearing Sy. No. 14/2 to an extent of 1 acre 22 guntas situated in Malgala Village Papareddypalya, Yeshwanthpura Hobli, Bangalore North Taluk as well as restrain the respondent from forming layout by digging drains and construction culverts in pursuance of the final notification-Annexure-H,
- b. Issue a writ or order or direction directing that the acquisition proceedings acquiring land bearing Sy.No. 14/2 land bearing Sy. No. 14/2 measuring 1 acre 22 guntas situated in Malagala Village, Yeshwanthpur Hobli, Bangalore North Taluk, acquired under final notification dated 05.08. 1986 published in Karnataka Gazette on 04.09.1986 lapsed as per Annexure-H has lapsed as per Section 24 of the Land Acquisition Act, 2013 and respondent has no manner of right to disturb possession of the petitioner or to form the layout in the said land,
- c. Issue writ of certiorari or any other writ setting aside the acquisition proceedings with respect to Land bearing Sy.No.14/2, to an extent of 1 acre 22 guntas situated in Malagala Village, YeshwanthpuraHobli, Bangalore North Taluk, so far as the land of petitioner is concerned.
- d. Declare that the acquisition proceedings with respect to Land bearing Sy.No.14/2, to an extent of 1 acre 22 guntas situated in Malagala Village, YeshwanthpuraHobli, Bangalore North Taluk, is deemed to have been lapsed as per section of 27 of the Bangalore Development Authority Act, 1976, so far as the land of petitioner is concerned.
- e. Grant any other relief or reliefs as this Hon'ble Court deems fit to grant in the facts and circumstances of the case.

4. The BDA entered appearance before the learned Single Judge and contested the writ proceeding contending, *inter alia*, that various extents of lands including the land in Sy. No.14/2 of Malagala Village, Yashawanthapura Hobli, Bengaluru South Taluk, measuring 3 acres of land including 29 guntas of Karab wherein the subject property is situated were notified for acquisition for formation of the Nagarabhavi II Stage Layout vide preliminary notification dated 15.07.1982 [gazetted on 12.08.1982] and final notification dated 05.08.1986 [gazetted on 04.09.1986] which were issued under the provisions of the BDA Act as well as the Land Acquisition Act, 1894 [**LA Act**]. Notice under Section 17(5) of the BDA Act was issued to the notified Khatedars. The notified Khatedars were one Munishamappa, N. Krishnamurthy and Sarojamma. The award was passed on 31.05.1988. Notice under Section 12(2) of the LA Act was issued to the notified Khatedars on 22.06.1988 and possession of the land in Sy. No.142 is taken on 13.06.1988. The award amount was deposited before the Civil Court and the notification under Section 16(2) of the LA Act was issued on 06.07.1991 and gazetted on 26.09.1991. It is further contended that the writ petition has been filed after a lapse of nearly 30 years of the acquisition proceedings and that the acquisition proceedings were not challenged by the original owner

i.e., Smt. Sarojini. Hence, the BDA sought for dismissal of the writ petition.

5. The findings recorded by the learned Single Judge are summarized as under:

(i) Admittedly, no notice has been issued to Smt. Sarojini at the time of issuance of the preliminary notification or when the land was taken possession of as contended by the BDA;

(ii) The mahazar produced by BDA, showing that they have taken possession of the property indicates that it is a standard printed form. The details of the five persons present when alleged possession was taken are not properly forthcoming. Admittedly, the owner nor her representative was present at the time of taking possession as no notice of taking possession was issued to her;

(iii) Issuance of notification under Section 16(2) of the LA Act would also have no significance since it arose from the taking possession in terms of the Mahazar which is not valid;

(iv) The original owner (Smt. Sarojini) not challenging the acquisition proceedings during her lifetime will also not become fatal to the case of the petitioner as she was not aware of the acquisition proceedings:

(v) The petitioner is not a purchaser of the property. However, claims to have succeeded the property by way of a Will. Hence, the stand of BDA that the petitioner is not entitled to question the acquisition cannot be accepted;

(vi) The award though passed has not been claimed by the petitioner;

(vii) Though final notification was passed in the year 1986, till 2015 when the writ petition was filed by the petitioner, the BDA has not taken any steps to form a layout on the property;

(viii) The layout plan submitted by the BDA indicates that, initially, the BDA did not intend to form any layout on the property of the petitioner and had virtually abandoned the same. However, subsequently a separate plan has been prepared comprising of the property of the petitioner including the joint properties. However, documents on record show that the property has been developed.

6. Accordingly, the learned Single Judge allowed the writ petition. Being aggrieved, the BDA has filed the present appeal;

7. Learned counsel Sri Murugesh V. Charati appearing for the appellant-BDA contends:

(i) The learned Single Judge ought not to have entertained the writ petition since it was filed after

lapse of more than 30 years of the initiation of the acquisition proceedings. Hence, the writ petition ought to have been dismissed on the ground of delay and latches itself;

- (ii) The learned Single Judge had not noticed that the acquisition proceedings in respect to the subject property has concluded after passing of the award and taking up possession of the property. Hence, the learned Single Judge ought not to have held that the acquisition proceedings have lapsed and that possession of the property has not been taken by the BDA;
- (iii) The reliance of the petitioner on Section 27 of the BDA Act is without any basis;
- (iv) The learned Single Judge ought to have noticed that the writ petitioner had failed to prove the Will on the basis of which he claimed title to the property;
- (v) Various litigations were initiated by various persons with respect to Sy.No.14/2 and hence, there is no dereliction of duty on the part of the BDA in

completing the acquisition proceedings in respect of this subject property;

(vi) While deciding about the implementation of the scheme, the entire extent of land notified will have to be taken note of and not by a particular piece/parcel of land;

(vii) The finding of the learned Single Judge, disbelieving the Mahazar, is contrary to the judgment of the Supreme Court in the case of **Indore Development Authority vs Manoharlal & Others: (2020) 8 SCC 129.**

8. Hence, the learned counsel seeks for allowing the present appeal and dismissal of the writ petition.

9. Per contra, learned Senior Counsel Sri Udaya Holla appearing along with learned counsel Sri Harish H.V. for the respondent-writ petitioner justifying the order passed by the learned Single Judge contends:

(i) Admittedly, since no notice of the acquisition proceedings was issued to the original owner or the petitioner and hence, the ratio in the case of **Indore**

**Development Authority (supra)** would not aid the case of BDA;

(ii) The finding of the learned Single Judge on the Mahazar is justified since the same was in a cyclostyled format;

(iii) In the absence of BDA taking possession of the property, the learned Single Judge was justified in quashing of the acquisition proceedings.

(iv) The learned Single Judge has rightly allowed the writ petition and quashed the acquisition proceedings, which ought not to be interfered with by this Court in this present appeal.

10. Hence, the learned counsel seeks for dismissal of the writ appeal.

11. Both learned counsels have relied on various judgments which shall be referred to the extent that the same are required for deciding the issues that arise for consideration in the present appeal.

12. Admittedly, the property was owned by one Smt.Sarojini. The petitioner claims right, title and interest in the subject property by virtue of Will dated 05.01.2001, allegedly

executed by the said Smt. Sarojini. It is the case of the petitioner that one Rajan had instituted probate proceedings claiming to be the legatee of a Will allegedly executed by said Smt. Sarojini, which was contested by the petitioner. The probate proceedings were converted to a suit in OS No.613 of 2004, which was dismissed. However, in the said judgment, it was held that the petitioner also failed to prove the Will relied upon by him. The writ petitioner has challenged the same in RFA No.22/2009, which is pending consideration before this Court.

13. Admittedly, the original owner Smt. Sarojini did not challenge the acquisition proceedings. The petitioner, in the writ petition has sought for a direction that the acquisition proceedings have lapsed under Section 27 of BDA Act insofar as the subject property is concerned.

14. A preliminary notification dated 15.07.1982 was issued under Section 17 of the BDA Act and final notification dated 05.08.1986 under Section 19(1) of the BDA Act r/w Sections 3 and 7 of the LA Act for acquisition of various extents of land for the formation of a layout called as Nagarabhavi II Stage Layout .

15. It is the contention of the BDA that, at the time of issuance of the preliminary notification, one Munishamappa S/o Byrappa, N. Krishnamurthy and Sarojamma were the notified

Khatedars of the land and were issued the acquisition notices. It is also contended that spot inspection of the land was conducted on 15.12.1987 and the award in respect of 3 acres 36 guntas in Sy.No.14/2 was passed on 31.05.1988 which was approved on 15.06.1988. The notice under Section 12(2) of the LA Act was also issued to Munishamappa, N. Krishnamurthy and Sarojamma on 22.06.1988 calling upon them to hand over possession on 30.08.1988. Thereafter, possession of the land in Survey No.14/2 of Malagala Village was taken on 30.06.1988 and handed over to the Engineering Section of the BDA for development on 18.07.1988. The award amount for 3 acres 7 guntas in a sum of Rs.2,94,930/- was deposited vide Cheque No.635693 dated 29.06.2006 in the Civil Court and the compensation amount for 29 guntas of karab land was sent to the Tahsildar, Bangalore North taluk. The notification under Section 16(2) of the LA Act was issued on 06.07.1991 and gazetted on 26.09.1991.

16. It is noticed that the writ petitioner claims to have become the owner of the subject property by virtue of a Will dated 05.01.2001 which was nearly about 20 years after the initiation of the acquisition proceedings. The original owner Smt. Sarojini is stated to have died in the year 2002. The Will dated 05.01.2001,

relied upon by the petitioner on the basis of which he claimed to have been bequeathed the subject property has not yet held to be proved.

17. Admittedly, the original owner did not challenge the acquisition proceedings. Notice of the acquisition proceedings were issued to the notified Khatedars. In the writ petition apart from stating that the writ petitioner had no knowledge of the acquisition proceedings, there is absolutely no explanation for the inordinate delay in filing the said writ petition. It is merely averred that three weeks prior to filing the writ petition, when the officials of the BDA tried to disturb the possession of the petitioner by forming a drain in the said land, the petitioner learnt regarding the acquisition. The said averment does not, in any manner, explain the inordinate delay of more than 30 years in filing the petition. Hence, the learned Single Judge erred in entertaining the writ petition and granting the reliefs sought for.

18. It is also pertinent to note that even as per the admitted case of the petitioner, he claimed right, title and interest of the property by virtue of the Will dated 05.01.2001 executed by the original owner Smt. Sarojini. The said Smt.Sarojini is stated to have died in the year 2002. The Will dated 05.01.2001 has not

been proved and the same is the subject matter of consideration in RFA No.22/2009 which is pending before the Court. Admittedly, the original owner has not challenged the acquisition proceedings. It is only the writ petitioner who having acquired to have subsequently acquired right, title and interest in the subject property, has filed the writ petition. It is also pertinent to note that the writ petitioner has not challenged either the preliminary notification dated 15.07.1982 or the final notification dated 05.08.1986 as also the notification issued under Section 16(2) of the LA Act, which was issued on 06.07.1991 and gazetted on 26.09.1991.

19. It is pertinent to notice that in the case of **M. Maridev and others Vs. State of Karnataka and others, 2009 SCC OnLine Kar 219** a Coordinate Bench of this Court considered as to whether the acquisition proceedings in respect of the "Nagarabhavi II Stage Layout " is vitiated due to non-formation of the layout visa-a-vis the property which was the subject matter of the said writ proceedings. Considering the said contention, this Court held that the acquisition proceedings had not lapsed as implementation of scheme of acquisition is required to be considered from the

perspective of the entire scheme and not a piece of land. The relevant portion of the said judgment reads as under: -

**45.** Section 27 of the BDA Act operates only where there is no substantial compliance or implementation of the scheme. But in the instant case, when the fact remains that out of 604 acres and 23 guntas, the 2nd respondent had already formed a layout over an extent of 564 acres and 39 guntas of land and house sites have been distributed to various allottees, which establishes that the scheme is substantially executed, in our considered opinion, it is not permissible for the appellants/petitioners to contend that the scheme had lapsed, particularly, when the award had already been passed and that the owners/occupants had already been dispossessed from the impugned land in question. Considering the magnitude of the housing scheme, we are satisfied that the scheme is substantially implemented and therefore, Section 27 is not attracted.

20. As noticed above, pursuant to the preliminary notification and final notification, BDA has passed an award on 31.05.1988. Notice under Section 12(2) of the LA Act which contemplates issuance of notice to interested persons was issued on 22.06.1988 and they were called upon to hand over possession. The notification under Section 16(2) of the LA Act was issued on 06.07.1991 and gazetted on 26.09.1991. The Karnataka Amendment by virtue of which Section 16(2) of the LA Act has been enacted [vide Mysuru Act 17 of 1961 - w.e.f. 24.08.1961] reads as under:

"(2) The fact of such taking possession may be notified by Deputy Commissioner in the Official Gazettee; and such notification shall be evidence of such fact".

21. It is evident from a plain reading of Section 6(2) of the LA Act, that the fact of taking possession, once notified in the Official Gazette shall be evidence of such fact.

22. The Supreme Court in the case of **Indore Development Authority** (supra) held as under:

**269.** In *Ram Singh v. Jammu Development Authority* [*Ram Singh v. Jammu Development Authority*, (2017) 13 SCC 474 : (2017) 5 SCC (Civ) 676] , this Court stated that the mode of taking possession is by drawing a *panchnama*. Concerning the mode of taking possession in any other land, law to a similar effect has been laid down in *NAL Layout Residents Assn. v. BDA* [*NAL Layout Residents Assn. v. BDA*, (2018) 12 SCC 400 : (2018) 5 SCC (Civ) 368] . Certain decisions were cited with respect to other statutes regarding coalfields, etc. and how the possession is taken and vesting is to what extent. Those have to be seen in the context of the particular Act. Possession comprises of various rights, thus it has to be couched in a particular statute for which we have a plethora of decisions of this Court. Hence, we need not fall back on the decisions in other cases. The decision in *Burrakur Coal Co. Ltd. v. Union of India*, (1962) 1 SCR 44 : AIR 1961 SC 954] held that a person can be said to be in possession of minerals contained in a well-defined mining area even though his actual physical possession is confined to a small portion. Possession in part extends to the whole of the area. The decision does not help the cause of the petitioner. Once possession has been taken by drawing a *panchnama*, the State is deemed to be in possession of the entire area and not for a part. There is absolute vesting in Government with possession and control free from all encumbrances as specifically provided in Section 16 of the 1894 Act.

**273.** In the decision in *Raghubir Singh Sehrawat v. State of Haryana* [*Raghubir Singh Sehrawat v. State of Haryana*, (2012) 1 SCC 792 : (2012) 1 SCC (Civ) 402] , the observation made was that it is not possible to take the possession of entire land in a day on which the award was declared, cannot be accepted as laying down the law correctly and the same is contrary to a large number of precedents. The decision in *State of M.P. v. Narmada Bachao Andolan* [*State of M.P. v. Narmada Bachao Andolan*, (2011) 7 SCC 639, paras 78-85 : (2011) 3 SCC (Civ) 875] , is confined to particular facts of the case. The Commissioner was appointed to find out possession on the spot. DVDs and CDs were seen to hold that the landowners were in possession. The District Judge, Indore, recorded the statements of the tenure-holder. We do not approve the method of determining the possession by appointment of Commissioner or by DVDs and CDs as an acceptable mode of proving taking of possession. The drawing of *panchnama* contemporaneously is sufficient and it is not open to a Court Commissioner to determine the factum of possession within the purview of Order 27 Rule 9 CPC. Whether possession has been taken, or not, is not a matter that a court appointed Commissioner cannot opine. However, drawing of *panchnama* by itself is enough and is a proof of the fact that possession has been taken.

(emphasis supplied)

23. Although it is the vehement contention of the learned counsel for the respondent, that the subject property is completely built up and there exists a commercial building in the same, in view of the admitted position that the original owner did not challenge the acquisition proceedings and the acquisition process has been completed by the BDA by adequately complying with all the statutory stipulations, the relief sought for by the writ petitioner is not liable to be granted. There is also no plausible explanation for the inordinate delay in filing the writ petition.

24. Having regard to the factual matrix and legal position as noticed above, the learned Single Judge erred in allowing the writ petition.

25. In view of the aforementioned, the appeal is allowed, the impugned order is set aside and the writ petition shall stand dismissed.

26. Pending IAs., if any, stand disposed of.

**Sd/-  
(VIBHU BAKHRU)  
CHIEF JUSTICE**

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

Vmb/BS