

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JULY, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT APPEAL NO.1543 OF 2023 (LB-RES)

BETWEEN:

SRI RAVISHANKAR C. SARNAIK
S/O C.S.SARNAIK
AGED ABOUT 75 YEARS
R/AT NO.217, STERLING ARCHERS
FLAT NO.101, 5TH CROSS
C.V. RAMAN ROAD
RMV 1ST STAGE
BENGALURU-560 094

...APPELLANT

(BY SRI. BIPIN HEGDE, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPT. OF URBAN DEVELOPMENT
M.S. BUILDING
BENGALURU-560 001
2. THE JOINT DIRECTOR AND MEMBER SECRETARY
BANGALORE INTERNATIONAL AIRPORT AREA
PLANNING AUTHORITY
NO.333/1, V.J.COMPLEX

Digitally
signed by
PAVITHRA
N
Location:
High Court
of Karnataka

1ST FLOOR, SHANTHINAGAR
SULIBELE ROAD
DEVANAHALLI TALUK
BANGALORE RURAL DISTRICT-562 110

...RESPONDENTS

(BY SRI. KHAMROZ KHAN, AGA FOR R1;
SRI. YOGESH D. NAIK, ADV. FOR R2)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO A) CALL FOR RECORDS IN WRIT PETITION No.27586 OF 2014, B) TO SET ASIDE THE ORDER DATED 11.09.2023 PASSED BY THE LEARNED SINGLE JUDGE IN WP No.27586/2014 AND CONSEQUENTLY ALLOW THE WRIT PETITION No.27586/2014.

THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 15.07.2026 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 MR. JUSTICE VENKATESH NAIK T

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

This writ appeal is filed challenging the Order dated 11.09.2023 passed by the learned Single Judge in Writ Petition No.27586/2014 (LB-RES).

2. We have heard Shri. Bipin Hegde, learned counsel appearing for the appellant, Shri. Khamroz Khan, learned Additional Government Advocate appearing for respondent No.1 and Shri. Yogesh D Naik, learned counsel appearing for respondent No.2.

3. The appellant is the owner of lands bearing Survey No.128/2, 127 and 18/2, measuring a total extent of 21 acres 23 guntas, situated at Navarathna Agrahara Village, Jala Hobli, Bengaluru North Taluk. After obtaining conversion of the said lands, the appellant applied to respondent No.2 - Bangalore International Airport Area Planning Authority (BIAAPA), for approval of a residential layout. Pursuant to the execution of a Relinquishment Deed on 24.12.2007, BIAAPA approved the Layout Plan by Order dated 26.12.2007, sanctioning 126 residential sites. The

approved layout earmarked 49.99% of the total area for residential sites, 30.13% for roads, and 19.88% for parks and playgrounds. Relying upon the Government Orders dated 26.05.2005 and 13.09.2007, the appellant submitted an application along with a modified Layout Plan seeking revision of the approved layout by increasing the residential site area from 49.99% to 55%, without altering the approved road alignment or site configuration. By letter dated 22.02.2013, respondent No.2 informed the appellant that the request had been referred for legal opinion and later sought certain clarifications, which were furnished by the appellant. Thereafter, by Order dated 29.04.2013, respondent No.2 rejected the request of the appellant for modification on the ground that the appellant had already executed a Relinquishment Deed and sold more than 60% of the sites. The appellant submitted representations dated 25.03.2013 and 22.02.2014. As no orders were passed on the said representations, the appellant filed Writ Petition No.27586/2014 seeking to quash the rejection order dated 29.04.2013 and for a direction to respondent No.2 to issue a

revised Layout Plan by considering the appellant's representations dated 25.03.2013 and 22.02.2014.

4. The learned Single Judge considered the question whether a developer can be permitted to seek for modification of the Plan after relinquishment of parks and open spaces and sale of residential sites to third parties? On examining the provisions of Section 17 of the Karnataka Town and Country Planning Act, 1961, the learned Single Judge held that execution of the Relinquishment Deed was a prerequisite for sanction of the layout and that the appellant had obtained the benefit of the sanctioned layout on that basis. Thereafter, 76 sites were initially released and sold, while the remaining sites were subsequently released and alienated, and only thereafter, in the year 2013, the writ petitioner sought modification of the approved layout.

5. The learned Single Judge held that, once third-party rights had accrued on the basis of the sanctioned layout, the writ petitioner could not unilaterally seek modification by reducing the area earmarked for parks, open spaces, civic amenities and playgrounds, as such

modification would adversely affect the purchasers. Although the learned Single Judge afforded the writ petitioner an opportunity to implead the purchasers or produce their no-objection certificates, the writ petitioner did neither. Accordingly, the learned Single Judge dismissed the writ petition as the proposed modification was impermissible and upheld the rejection order dated 29.04.2013 passed by respondent No.2.

6. The learned counsel appearing for the appellant contends that Section 17 of the Karnataka Town and Country Planning Act empowers the Planning Authority not only to sanction a layout but also to sanction a modified layout, and such approval can be refused only where the proposed layout is inconsistent with the Master Plan. As the subject layout is situated in a residential zone and the proposed modification is in conformity with the applicable Zonal Regulations, respondent No.2 could not have rejected the request for modification. It is further contended that Rule 36 of the Karnataka Planning Authority Rules, 1965

prescribes only the procedure for considering Layout Plans and does not prohibit approval of a modified plan.

7. It is further contended that neither the Karnataka Town and Country Planning Act, the Karnataka Planning Authority Rules, nor the BIAAPA Zonal Regulations contain any provision requiring execution of a Relinquishment Deed as a condition affecting modification of a layout. Consequently, the Government Circular dated 30.07.2007, relied upon by respondent No.2, cannot override the statutory provisions. Reliance is placed on the decision of the Apex Court in the case of ***Commissioner of Central Excise, Bolpur v. M/s Ratan Melting and Wire Industries*** reported in ***2008 AIR SCW 7963***, to contend that executive circulars cannot prevail over statutory provisions or judicial pronouncements.

8. It is also contended that the learned Single Judge failed to appreciate that the applicable Zonal Regulations permitted residential site area up to 55% even at the time of the original layout approval. The request for modification did not involve any realignment of roads, parks or civic

amenities, or alteration of the approved layout configuration, but merely sought enhancement of the residential site area in accordance with the prevailing regulations. The rejection of the modification solely on the ground that a Relinquishment Deed had already been executed and the finding that third-party rights would be adversely affected are erroneous. Respondent No.2 has, on various occasions, approved modifications to Layout Plans after the execution of a Relinquishment Deed.

9. Reliance is also placed on the decision of the Apex Court in the case of ***Madhya Pradesh Housing and Infrastructure Development Board and Another v. Vijay Bodana and Others*** reported in ***AIR 2020 SC 2163***.

10. The learned counsel appearing for respondent No.2 contends that, pursuant to the sanctioned Layout Plan, the appellant had formed the layout, sold more than 100 residential sites to third parties, and relinquished 19.88% of the land earmarked for parks and civic amenities in favour of the Planning Authority. It was submitted that permitting the proposed modification would require re-transfer of the

relinquished land, which was impermissible. Reliance is placed on the Government Circular dated 30.07.2007, which states that modification of a sanctioned layout can be considered only prior to execution of the Relinquishment Deed, and on the decision of the Apex Court in the case of ***Madhya Pradesh Housing and Infrastructure Development Board***'s case (supra), to contend that purchasers had acquired rights on the basis of the sanctioned layout and would be prejudiced by any reduction in the area reserved for parks, open spaces and civic amenities. It was further submitted that, having sought modification only in the year 2013, several years after sanction of the layout in 2007, the appellant's request was rightly rejected.

11. To decide the issue raised in this appeal, the following provisions of law require to be noticed:-

Section 17 of the Karnataka Town and Country Planning Act as it stood prior to the amendment in the year 2020 read as follows:-

"17. Sanction for sub-division of plot or layout of private street.- [(1) *The State Government shall by rules prescribe the standards to be followed and minimum extent of land to be considered for approval of layout for sub-dividing a plot and prescribe the minimum extent of area to be earmarked for park, open spaces and civic amenity sites and laying out roads. Every person who intends to sub-divide his plot by making a layout on or after the date of the publication of the declaration of Local Planning Area under Section 4-A, shall submit detailed plan of the layout of his plot showing layout of roads, sub-divided plots and earmarking area for park and open spaces and civic amenities to such extent and in such manner, as prescribed.*

(2) The Planning Authority may, within the prescribed period, sanction such plan either without modification or subject to such modifications and conditions as it considers expedient or may refuse to give sanction, if the planning authority is of the opinion that such plan is not in any way consistent with the proposals of the Master Plan:

Provided that where the Master Plans are not finally approved, in such cases the Planning Authority may sanction the layout plan as per the guidelines issued by the Government from time to time.

(2-A) If the Authority decides to sanction the layout plans under sub-section (2), it shall sanction provisional layout plan in accordance with such rules as may be prescribed for demarcation and development purposes showing the sites, street alignment, park and civic amenity area and any other infrastructure facility

including the arrangement to be made for leveling, paving, metalling, flagging, channeling, sewerage, draining, street lighting and water supply to the satisfaction of the Planning Authority and local authority. One copy of such plan shall be marked to the jurisdictional local authority. The owner shall relinquish the roads, parks to the local authority and Civic Amenity areas to the Planning Authority through registered relinquishment deed free of cost without claiming any compensation.

(2-B) The Planning Authority shall ensure the completion of all development works including all infrastructure facilities as mentioned in sub-section (2-A) under the supervision of the concerned Authority/ Agency/Department. On obtaining the certificate of completion from the concerned Authority/Agency/Department on having completed all the development works and on relinquishment of the roads, parks to the local authority and Civic Amenity areas to the Planning Authority and handing over the same, the Planning Authority may issue the final layout plan affixing the seal of the Planning Authority for registration purpose. Provided that no Commencement Certificate or licence shall be sanctioned or issued for buildings on sites in the layout unless the final layout plan is issued.]

(3) No compensation shall be payable for the refusal or the insertion, imposition or modification or conditions in the grant of sanction.

(4) If any person does any work in contravention of sub-section (1) or in contravention of the modifications and conditions of the sanction granted under sub-section (2) or despite refusal for the sanction under the said sub-section (2), the Planning Authority may direct such person by notice in writing to stop any work in progress and after making an inquiry in the prescribed manner, remove or pull down any work or restore the land to its original condition.

(5) Any expenses incurred by the Planning Authority under sub-section (4) shall be a sum due to the Planning Authority under this Act from the person in default.

[(6) Any person aggrieved by the decision of the Planning Authority under sub-section (2) or sub-section (4) may, within thirty days from the date of such decision, appeal to such authority as may be prescribed.

(7) The prescribed authority may after giving a reasonable opportunity of being heard to the appellant and the Planning Authority, pass such order, as it deems fit, as far as may be, within four months from the date of receipt of the appeal.]"

Amendment to the provision has been carried out effective from 22.05.2020.

12. It is pertinent to note here that the Layout Plan was submitted by the appellant for approval in the year

2007. The said Layout Plan, as submitted could have been approved or rejected or approved with modifications by the Planning Authority. The Layout Plan was so approved after Relinquishment Deed was executed in respect of parks, playgrounds, open spaces and roads. It is on the basis of this approved Layout Plan that the sites were sold. Though, the learned counsel appearing for the appellant raises a contention that he was forced to execute the Relinquishment Deed as a condition precedent for the approval of the Layout Plan, it is worth noticing that the execution of such Deeds was in the year 2007 and carried out without any demur. Once the Relinquishment Deed was executed and sites were sold holding out that the Layout would be formed in terms of the approved plan, the learned Single Judge was fully justified in holding that there could be no unilateral modification of the Layout Plan by the developer. Further, the contention that there can be no prescription contrary to the statute in a Circular also cannot stand scrutiny in view of the fact that there is no statutory provision of law brought to our notice which permits the modification of an approved

Layout Plan which has been abridged by the Circular. In the absence of any statutory provisions, the limitation provided in the Circular has the force of an executive instruction, which is valid and legal.

13. We are of the opinion that the contentions raised in this appeal are devoid of merits. The appeal fails and the same is accordingly ***dismissed***.

All pending interlocutory applications shall stand disposed of.

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

**Sd/-
(VENKATESH NAIK T)
JUDGE**

PN