IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 22ND DAY OF DECEMBER 2020

BEFORE

THE HON'BLE MR.JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.11097 OF 2018 (LA-BDA)

BETWEEN:

SRI.S.KRISHNAPPA
S/O LATE SIDDAPPA
SINCE DEAD BY HIS LRS

1. THRIMURTHY.K
   S/O S.KRISHNAPPA
   AGED 53 YEARS

2. KUMAR.K
   S/O S.KRISHNAPPA
   AGED 35 YEARS

   BOTH ARE RESIDING AT
   NO.156-1, CHIKKABEGUR
   BEGUR POST, BENGALURU – 560 068

… PETITIONERS

(BY SRI SADASHIVAIAH K.G ADVOCATE)

AND:

1. THE BANGALORE DEVELOPMENT AUTHORITY
   REPRESENTED BY ITS CHAIRMAN
   T.CHOWDAIAH ROAD
   KUMARA KRUPA WEST
   BANGALORE – 560 020

2. THE DEPUTY COMMISSIONER
   BANGALORE DISTRICT
   BANGALORE – 560 001

… RESPONDENTS

(BY SRI BIPIN HEGDE, ADVOCATE FOR R1,
SRI. A.C.BALARAJ, AGA FOR R2)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS; DECLARE THAT THE SCHEME OF THE R1 IN ACQURING THE LAND BEARING SY NO.54/1 MEASURING 14.08 GUNTAS OF HONGASANDRA VILLAGE, BEGUR HOBLI, BENGALURU SOUTH TALUK IS LAPSED UNDER SECTIION 27 OF THE BDA ACT AND ETC.

THIS W.P. COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The learned counsel for the petitioner has filed amended cause title and the same is received on record.

In this petition, the petitioners have sought for the following reliefs:

> *"a) Declare that the scheme of the 1st respondent in acquiring the land bearing Sy.No.54/1 measuring 14.08 Guntas of Hongasandra Village, Begur Hobli, Bengaluru South Taluk is lapsed under Section 27 of the BDA Act;*
>
> *b) Issue the Writ in the nature of Mandamus directing the 2nd respondent to accord permission for conversion for residential purpose in respect of the land bearing Sy.No.54/1 measuring 14.08 Guntas of Hongasandra Village, Begur Hobli, Bengaluru South Taluk;*
>
> *c) Issue such other Writ or order or direction as this Hon'ble Court deems fit to grant in the interest of justice and equity."*

2. Heard the learned counsel for the petitioners and learned counsel for BDA and perused the material on record.

3. In addition to reiterating the various contentions urged in the petition and referring to the documents produced by the petitioner, the learned counsel for the petitioner submits that despite the lapse of almost 30 years after issuance of preliminary notification at Annexure-B dated 20.06.1991, BDA has not taken any steps to complete the acquisition proceedings nor issue the final notification so far and consequently, the scheme pursuant to preliminary notification was issued has lapsed and the acquisition proceedings have been abandoned by the BDA. It is submitted that the material on record also indicates that the acquisition proceedings insofar as the subject land bearing survey No.54/1 measuring 14.08 Guntas of Hongasandra Village, Begur Hobli, Bengaluru South Taluk to concerned, the acquisition has been abandoned by the BDA and the acquisition proceedings pursuant to the preliminary notification deserve to be quashed.

4. Per contra, learned counsel for the BDA has produced the original file in relation to the subject land and

submits that the final notification has not been issued under Section 19(1) of the BDA Act as can be seen from paragraph 19 of the proceeding sheet maintained by the BDA. The said submission is placed on record.

5. In view of the aforesaid facts and circumstances, I am of the considered opinion that having regard to the undisputed facts that BDA has not taken any steps to continue the acquisition proceedings despite having issued the preliminary notification as long back as on 20.06.1991 coupled with the decisions of this Court in the cases of ***B.R.Krishnamurthy and another vs. The Bangalore Development Authority and another, and Sri K.S.M Shabbir vs. BDA and others*** (Annexures J and K). the impugned acquisition proceedings have been abandoned by the BDA and the same deserve to be quashed. In the result, I pass the following:

ORDER

1. Petition is allowed.
2. The impugned preliminary notification at Annexure-B dated 20.06.1991 and acquisition proceedings pursuant thereto are hereby quashed

as having been lapsed and abandoned by the BDA insofar as subject land bearing survey No.54/1 measuring 14.08 Guntas of Hongasandra Village, Begur Hobli, Bengaluru South Taluk is concerned.

3. Consequently, respondent No.2 is directed to consider the application for conversion submitted by the petitioner in accordance with law as expeditiously as possible and at any rate not later than period of three months from the date of receipt of copy of this order.

Subject to the aforesaid directions, petition stands allowed.

Sd/-
JUDGE

HB/-