HC-KAR
CNR: KAHC010097032025

NC: 2026:KHC:60922
WP No. 5093 of 2025

®

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 2ND DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 5093 OF 2025 (GM-RES)

BETWEEN

M/S ELLIS FASHION EXPORTS PRIVATE LIMITED
A COMPANY REGISTERED UNDER THE
COMPANIES ACT, 1956, HAVING ITS REGISTERED OFFICE
AT NO.29, WHITE HOUSE, 3RD FLOOR,
ST. MARKS ROAD, BENGALURU 560 001,
REPRESENTED BY ITS MANAGING DIRECTOR
SRI. JITENDRA D MAJETHIA.
AGED ABOUT 75 YEARS

... PETITIONER

(BY SRI. RAJENDRA S., ADVOCATE)

AND

1. M/S THE BANGALORE METRO RAIL
   CORPORATION LIMITED
   REGISTERED OFFICE AT BMTC COMPLEX,
   3RD FLOOR, K.H. ROAD, SHANTHI NAGAR,
   BENGALURU - 560 027.
   REPRESENTED BY ITS MANAGING DIRECTOR.

2. ADDITIONAL CHIEF ENGINEER (CIVIL)/R5/P3
   BANGALORE METRO RAIL CORPORATION LIMITED,
   REGISTERED OFFICE AT BMTC COMPLEX,
   3RD FLOOR, K.H. ROAD, SHANTHI NAGAR,
   BENGALURU - 560 027.

3. GENERAL MANAGER, (LA AND A),
   BANGALORE METRO RAIL CORPORATION LIMITED,
   REGISTERED OFFICE AT BMTC COMPLEX,
   3RD FLOOR, K.H. ROAD, SHANTHI NAGAR,

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BENGALURU - 560 027.

…. RESPONDENTS

(BY SRI. HARISH NARASIMHA MURTHY., ADVOCATE FOR R1 TO R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF MANDAMUS OR ANY OTHER APPROPRIATE WRIT , ORDER OR DIRECTION, DECLARING THAT THE PROVISIONS OF THE WAY LEAVE POLICY OF THE RESPONDENTS PRODUCED AND MARKED AS ANNEXURE-C BEARING NO. BMRCL/LAQ/WLP/5132/2022-23 INCLUDING ITS UNILATERAL TERMINATION CLAUSE ARE UNCONSTITUTIONAL, INVALID AND UNENFORCEABLE AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 17.08.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The Petitioner is before this Court seeking for the following reliefs:

> *a. A writ of mandamus or any other appropriate writ, order, or direction, declaring that the provisions of the Way Leave Policy of the Respondents produced and marked as Annexure-C bearing No. BMRCL/LAQ/WLP/5132/2022-23 including its unilateral termination clause are unconstitutional, invalid, and unenforceable.*
>
> *b. A writ of mandamus or any other appropriate writ, order, or direction to the Respondents to provide, forthwith and on a permanent basis, an unrestricted 6 meter*

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wide entry and a 6 meter wide exit to the Schedule Property from the northern side, free of cost, along with the necessary rights for the Petitioner to install and maintain essential utility connections (water, electricity, and sewage) on the relevant acquired land in favour of the Petitioner.

c. A writ of mandamus or any other appropriate writ, order, or direction to the Respondents to make good the loss as demanded under the legal notice of the Petitioner as per Annexure F dated 07/10/2024 and continue to pay such damages till such time the Respondents allow the Petitioner from getting accesses to schedule property as prayed for.

d. Pass such other order/s including the award of costs, as this Hon'ble Court deems fit under the facts and circumstances of the case, in the interest of justice and equity.

2. The Petitioner claims to be the absolute owner of the property bearing Bangalore Mahanagar Palike Municipal No. 28/B, PID No. 57-137-28B, situated at Sarakki Industrial Layout, Bannerghatta Road, 3rd Phase, J. P. Nagar, Bengaluru, measuring 766.26 square metres. The property comprises a commercial building with a super built-up area of 21,839 square feet, consisting of the ground, first, second, third and fourth floors. According to the Petitioner, the property originally had an independent and wide

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entry and exit on its eastern side, directly facing the main road.

3. On 07.03.2017, Respondent No. 1, Bangalore Metro Rail Corporation Limited (BMRCL), issued a letter informing the Petitioner that an extent of 152 square metres on the eastern side of the property would be acquired through the Karnataka Industrial Areas Development Board (KIADB) for the construction of a metro station. The date 07.03.2017 is treated in this order as the date of acquisition of the said extent. Pursuant to the acquisition, a portion of the existing building was demolished and the metro station was constructed. The Petitioner contends that, in the course of these works, the entire access from the property to the main road was taken over, thereby leaving the remaining property without access.

4. The Petitioner states that the property had been leased to M/s. GraphX Solution India Private Limited under a registered lease deed dated 01.07.2015. According to the Petitioner, the tenant was paying monthly rent of Rs.12,01,145/-, subject to an escalation of 15% upon completion of every third year. The Petitioner further contends that, following the proposed demolition of a portion of the building

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and the consequent disconnection of the water, electricity and sewerage connections, the tenant vacated the premises in August 2019, and the demolition was carried out thereafter. Consequently, the property has remained vacant since August 2019, resulting in a continuing loss of rental income.

5. The Petitioner also raises a dispute concerning the compensation paid for the acquired extent of 152 square metres. It is contended that compensation was paid only for 95.75 square metres, while compensation for the remaining 56.25 square metres was declined on the ground that the land constituted kharab land. The Petitioner challenged that decision in W.P. No. 4125/2023, in which this Court directed KIADB to take steps to issue the necessary corrections to a corrigendum so as to include the remaining extent of 56.25 square metres and make payment of compensation.

6. On 15.04.2024, the Petitioner addressed a letter to BMRCL seeking access to the remaining property from the northern side through land acquired by BMRCL. The Petitioner sought a separate ingress and a separate egress, each measuring six metres in width, contending that such access was necessary

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having regard to the size and commercial use of the building and the number of persons using it.

7. By its reply dated 28.06.2024, Respondent No. 2, the Additional Chief Engineer of BMRCL, informed the Petitioner that a combined access measuring six metres in width could be provided, subject to payment of the prescribed way-leave charges in advance and execution of a way-leave agreement for a period of ten years. The Petitioner did not accept the proposal.

8. The Petitioner thereafter issued legal notices dated 05.10.2024 and 07.10.2024. In the notice dated 05.10.2024, the Petitioner contended that BMRCL had left the property without access to the main road and had unauthorisedly disconnected the water, electricity and sewerage connections during construction of the metro station. The Petitioner further asserted that these acts had caused the tenant to vacate the premises and had resulted in financial loss. The Petitioner called upon BMRCL to provide a six-metre-wide entry and a six-metre-wide exit on the north-western side of the property, while reserving the right to claim damages.

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9. By the subsequent legal notice dated 07.10.2024, the Petitioner quantified the loss of rental income and related amounts at Rs.11,30,36,834.57 as on the date of the notice. The Petitioner relied upon the rent payable under the registered lease deed, the stipulated escalation and the period during which the property remained vacant. A statement setting out the calculation of the rental loss and interest, together with a copy of the lease deed, was enclosed with the notice. The Petitioner called upon BMRCL to pay the amount claimed.

10. On 19.11.2024, BMRCL informed the Petitioner that a six-metre-wide entry and exit could be provided for a period of ten years and called upon the Petitioner to confirm in writing its acceptance of the applicable charges. By a reply dated 27.11.2024, the Petitioner disputed the demand for payment for the entire six-metre width, relying upon Clause 4 of BMRCL's way-leave policy, under which, according to the Petitioner, access up to 3.5 metres was to be provided free of cost. The Petitioner contended that BMRCL could not demand charges for access necessitated by its own acts in blocking the existing ingress and egress. The Petitioner further maintained that, having regard to the size and commercial use of

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the property, permanent and unrestricted access was required and reiterated the request for a six-metre-wide entry and exit from the northern side.

11. BMRCL responded on 23.12.2024, stating that the compensation already paid included compensation for the demolished building and that no further compensation was payable. It further stated that, following the demolition, the Petitioner had been permitted, upon request, to strengthen the floors extending from the line of acquisition towards the line of cut, at the Petitioner's own expense and without entitlement to compensation for such works.

12. BMRCL, while admitting that it demolished a portion of the building after taking possession of the acquired land, denied that it had disconnected the water, electricity and sewerage connections in the manner alleged by the Petitioner. It stated that the water and sewerage pipes situated within the acquired portion had been closed to facilitate construction of the metro station, as the property was lying vacant. According to BMRCL, there was consequently no need to restore those connections to the remaining property. It also disputed the Petitioner's claim that the tenant had vacated the

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premises or had been paying monthly rent of Rs.12,01,145/- with an escalation of 15% every three years. BMRCL contended that, if the Petitioner intended to lease the property, separate water and sewerage connections could have been obtained and that it could not be held responsible for the alleged loss of rental income.

13. With regard to access, BMRCL relied upon Clause 4 of its way-leave policy, stating that free access up to 3.5 metres could be permitted over BMRCL's property. It maintained that the policy did not extend to providing water, sewerage or electricity connections across its property and that the Petitioner's demand for a six-metre-wide entry and exit was not permissible under the policy. BMRCL further contended that any right granted to the Petitioner to use its property for ingress and egress would be in the nature of a licence, subject to the applicable terms and conditions. It denied liability for the compensation and damages claimed by the Petitioner.

14. In these circumstances, the Petitioner has approached this Court seeking the reliefs set out in the petition.

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15. Sri.S.Rajendra, learned counsel for the Petitioner would submit that:

15.1. The Petitioner owns the property bearing Bangalore Mahanagar Palike Municipal No. 28/B, PID No. 57-137-28B, situated at Sarakki Industrial Layout, Bannerghatta Road, 3rd Phase, J. P. Nagar, Bengaluru, measuring 766.26 square metres. The property comprises a commercial building with a super built-up area of 21,839 square feet, consisting of the ground, first, second, third and fourth floors. Before the acquisition, the property had a wide, independent access on its eastern side, directly facing the main road, with the entire frontage available for ingress and egress.

15.2. Learned Counsel for the Petitioner submits that, by communication dated 07.03.2017, BMRCL informed the Petitioner that 152 square metres on the eastern side would be acquired through KIADB for construction of a Metro station. Following the acquisition, the road-facing portion of the building was demolished and the Metro station was constructed. The Petitioner's

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case is that the acquisition and construction blocked the entire former frontage and access to the main road, leaving the remaining property without ingress or egress. The Petitioner further submits that access cannot be obtained through the Metro station.

15.3. Learned Counsel for the Petitioner submits that the effect of an acquisition must not be assessed solely by reference to the area acquired. The effect on the remaining property is also relevant, particularly where the use of the acquired land affects the access, usability and commercial utility of the residual property. Payment of compensation for the acquired land and demolished structure does not, by itself, determine the separate question whether the remaining property has been left with reasonable and usable access.

15.4. Learned Counsel for the Petitioner submits that the former frontage was not voluntarily surrendered and that the Petitioner did not independently seek permission to use BMRCL's land for an additional benefit. The land was compulsorily acquired by the State in exercise

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of its power of eminent domain. The need for alternative access arose, according to the Petitioner, because the Metro project removed the access previously available. The Petitioner therefore submits that its request should not be treated as an ordinary request for an additional facility or commercial advantage.

15.5. Learned Counsel for the Petitioner submits that the public purpose of the Metro project is not disputed. The issue is whether that purpose can be achieved while also addressing the foreseeable effect of the project on the remaining property. The Petitioner does not seek to obstruct the project; it seeks an effective means of continuing to use the property left after acquisition.

15.6. Referring to the photographs produced before this Court, Learned Counsel submits that the Metro station abuts the Petitioner's property and that the station wall blocks the eastern side that formerly provided direct access to the main road. The Petitioner relies on the photographs and site layout to contend that neither the former access nor an alternative access is

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available, his submission is that there is at present no Access to the property of the Petitioner.

15.7. Learned Counsel for the Petitioner submits that, by letter dated 15.04.2024, the Petitioner requested access from the northern side through land acquired by BMRCL. The request was for separate ingress and egress passages, each six metres wide, having regard to the size of the property, the commercial building and the movement of persons and vehicles associated with its use.

15.8. Learned Counsel for the Petitioner submits that, by communication dated 28.06.2024, BMRCL offered a single combined passage measuring six metres in width, subject to advance payment of way-leave charges and execution of an agreement for ten years. The Petitioner did not accept the offer. BMRCL reiterated its position by communication dated 19.11.2024 and called upon the Petitioner to confirm acceptance of the applicable charges. The Petitioner submits that a single six-metre passage is not equivalent to two separate

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passages, each six metres wide, because the arrangements differ in width, configuration and the manner in which vehicles would enter and leave the property.

15.9. Learned Counsel for the Petitioner submits that access must be assessed in the context of the building's size and commercial use. The building has a super built-up area of 21,839 square feet and was leased to M/s. GraphX Solution India Private Limited under a registered lease deed dated 01.07.2015. The Petitioner submits that the building was being used commercially and generating rental income before the access and utility disputes arose. The requirements of such a building include access for employees, customers, visitors, service providers, delivery vehicles and the movement of goods, furniture, equipment and materials required for maintenance and repairs. Pedestrian access, or a passage suitable only for limited vehicle movement, would not necessarily provide effective access for the building's intended use.

15.10. Learned Counsel for the Petitioner further submits that parking facilities have been made

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available for persons using the building. Those facilities cannot serve their intended purpose if vehicles cannot reach the property through a suitable passage. The width and configuration of access should therefore bear a reasonable relationship to the property's dimensions, location, commercial use and site conditions. The Petitioner submits that its request for separate six-metre-wide ingress and egress should be considered on its merits and not rejected merely by reference to standard categories in the way-leave policy.

15.11. Learned Counsel for the Petitioner submits that the adequacy of access also raises fire-safety and emergency-response concerns. Fire tenders and other emergency vehicles may need to approach the building. Suitability depends not only on the stated width of a passage but also on its turning radius, clear height, alignment, obstructions and the ability of emergency vehicles to reach the relevant part of the premises. The Petitioner relies on the approximate dimensions of passenger vehicles and larger vehicles, including buses, minibuses, goods trucks and fire tenders, to contend that a

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passage of limited width may not meet all the requirements of the property. Learned Counsel submits that these matters require technical assessment and cannot be resolved merely by referring to the minimum free-access width under the way-leave policy.

15.12. Learned Counsel for the Petitioner submits that BMRCL's policy regulates the use of its land, but does not, by itself, establish that every width permitted under the policy is suitable for every building. The technical adequacy of access and the financial terms on which it is provided are separate questions. The Petitioner's case is that separate six-metre-wide ingress and egress are required for the effective use of the remaining property and should be assessed in light of the relevant site and safety requirements.

15.13. Learned Counsel for the Petitioner relies on Clause 4 of BMRCL's way-leave policy, which, according to the Petitioner, provides for free access up to 3.5 metres for eligible properties. Learned Counsel submits that the policy must be read as a whole and applied to the circumstances of this case. The provision for

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free access shows that the policy recognises the need to provide access to affected properties in at least some circumstances. BMRCL should therefore consider whether the provision applies and whether the Petitioner's circumstances justify a different or case-specific arrangement before demanding charges.

15.14. Learned Counsel for the Petitioner submits that reliance on the 3.5-metre provision does not amount to acceptance of access limited to that width or of BMRCL's offer of a combined six-metre passage. The Petitioner maintains that the required access must be determined by reference to actual site conditions, the building's commercial use and applicable safety requirements. A standard width may be adequate for some residential properties but, according to the Petitioner, may not be adequate for this substantial commercial building. Even if the policy prescribes a standard free width, the Court should consider whether that width is sufficient in this case and whether the policy permits a reasoned, case-specific arrangement.

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15.15. Learned Counsel for the Petitioner further submits that the policy provides for wider passages in the ranges of 3.5 to 7 metres, 7 to 12 metres and 12 to 20 metres, with charges calculated at different percentages of the applicable guidance value. The Petitioner submits that these provisions recognise that access requirements vary, but that charging a landowner whose former access was removed through compulsory acquisition is arbitrary and causes prejudice. The Petitioner's case is that BMRCL must first determine the access reasonably required and provide effective alternative access without charge, because the need for that access arose from the project. The existence of charging slabs does not remove the need to assess the suitability of the proposed arrangement or the reasonableness of the charges and conditions.

15.16. Learned Counsel for the Petitioner submits that BMRCL requires advance payment of way-leave charges and an agreement for ten years. According to the Petitioner, the charges are calculated by reference to the guidance value notified by the State Government, with the

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applicable percentage depending on the width of the passage, and renewal charges are based on the guidance value prevailing at the time of renewal. The Petitioner contends that this would impose a substantial financial burden on an owner who needs access only because the original access was lost through a public project. Learned Counsel submits that BMRCL should not, in effect, charge rent for restoring access that the Petitioner previously enjoyed without charge, or use the acquisition-created need to derive a commercial benefit from the affected owner.

15.17. Learned Counsel for the Petitioner submits that there is a material distinction between a person who voluntarily seeks to use BMRCL's land for an additional benefit and an owner whose former access has been lost as a consequence of a public project. The Petitioner contends that ordinary licence charges may be relevant to the former situation but should not automatically apply where acquisition and construction have left the remaining property without access. The Petitioner further submits that BMRCL should not be permitted to take advantage of a

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situation caused by its own acquisition and construction activities.

15.18. Learned Counsel for the Petitioner submits that the former access to the Schedule Property was available without payment of way-leave charges. Had the road-facing portion not been acquired, the Petitioner would, according to its case, have continued to enjoy that access. The Petitioner submits that compensation paid for the acquired land and demolished building does not include separately assessed compensation for the loss of access to the remaining property. It contends that the Respondents cannot treat alternative access as a new, chargeable privilege while leaving the loss of the former access unaddressed. The Petitioner submits that, at the least, any compensation properly payable for the loss of access should be considered when determining the cost of providing access on a continuing basis. The Petitioner characterises the proposed advance charges as expropriatory in their effect.

15.19. Learned Counsel for the Petitioner relies on Clause 3 of the way-leave policy, which is said

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to reserve to BMRCL the right to enter upon, pass through or use its land and to discontinue the way-leave facility without notice. The clause is also stated to exclude liability for compensation or reimbursement and to impose no obligation to provide alternative access following discontinuance. Learned Counsel submits that these terms do not provide adequate security or continuity for an owner who requires dependable access for the use of the property and for any tenant occupying the building.

15.20. Learned Counsel for the Petitioner submits that the risk of discontinuance is particularly serious where the Petitioner is required to make substantial advance payment for a ten-year period. The payment obligation and BMRCL's asserted power to discontinue access without notice or an alternative arrangement should be considered together. The Petitioner contends that this would place the owner in an unequal position and could leave the property without access even after payment. The Petitioner therefore challenges the policy insofar as it permits access to be made subject to conditions

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without adequate safeguards against leaving an affected property inaccessible.

15.21. Learned Counsel for the Petitioner submits that the way-leave policy, as applied to this case, is arbitrary and violates Article 14 of the Constitution. The challenge is not merely to the use of standard categories or charges. It is that the policy and its application fail to account for relevant differences between properties and between the circumstances in which access is sought. A property with access from another road is not in the same position as a property whose only access has been blocked by a public project. Likewise, the needs of a small residential property may differ from those of a substantial commercial building. The location, dimensions, frontage, intended use, number of occupants, vehicle movements, safety requirements and availability of alternative access are all relevant considerations.

15.22. Learned Counsel for the Petitioner submits that a uniform policy may provide an administrative framework, but its application must comply with constitutional requirements. If the policy

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does not permit meaningful consideration of an affected property's circumstances, or if BMRCL refuses to consider relevant factors when deciding the Petitioner's request, the resulting decision may be arbitrary even if the policy serves a legitimate administrative purpose in general. The Petitioner contends that BMRCL has not adequately explained why the requested arrangement is unsuitable, why a combined six-metre passage would be sufficient, or why the policy must be applied without modification in the circumstances of this case.

15.23. Learned Counsel for the Petitioner submits that BMRCL has treated the way-leave policy as inflexible and has declined to consider the particular consequences of its acquisition and construction activities. The Petitioner accordingly challenges the policy at Annexure-C as unconstitutional, ultra vires, invalid and unenforceable to the extent that it fails to provide for fair, case-specific consideration of the circumstances pleaded, permits access to be denied or discontinued without adequate safeguards, and allows a time-bound,

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chargeable arrangement to be imposed without adequately addressing the loss of the access previously enjoyed. The Petitioner seeks a declaration to that effect and a consequential writ of mandamus directing the Respondents to provide the access claimed in the writ petition.

15.24. Learned Counsel for the Petitioner submits that the loss of access has affected the Petitioner's ability to use the property for commercial purposes. According to the Petitioner, the tenant, M/s. GraphX Solution India Private Limited, vacated the premises in August 2019 following the proposed demolition and interruption of utility services, and the building has remained vacant since then. The absence of effective access has impaired occupation, delivery of goods, maintenance, emergency response and the ability to lease the premises. Learned Counsel submits that the practical effect of the denial of access must be assessed in the context of the building's established commercial use.

15.25. Learned Counsel for the Petitioner submits that the Petitioner does not contend that Article

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19(1)(g) guarantees every property owner the precise width of access preferred by that owner. The submission is that the State and its instrumentalities must consider the effect of their actions on the ability to use property for lawful commercial purposes. Where a public project removes the former access, the authority must consider whether the alternative arrangement is reasonable and effective. The Petitioner contends that the failure to do so in the present case infringes Article 19(1)(g). Learned Counsel further submits that the public purpose of the Metro project does not answer the separate question whether the remaining property can still be used lawfully and effectively for commercial purposes.

15.26. Learned Counsel for the Petitioner also relies on Article 300A of the Constitution. The Petitioner acknowledges that the acquisition was undertaken for a public purpose, but submits that the Court should consider the substance and effect of the action, rather than only the formal extent of the land acquired. According to the Petitioner, the use made of the acquired land has deprived the remaining property of the

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access required for its effective enjoyment. The consequences for the residual property must therefore be considered separately from compensation for the land and structure actually acquired.

15.27. Learned Counsel for the Petitioner submits that the Petitioner does not seek to treat every inconvenience caused by a public project as a constitutional violation. Its case is that the loss is substantial: the former access has been blocked, the alternative access remains disputed, and the proposed arrangement is subject to charges and conditions that, according to the Petitioner, do not secure dependable access. The Petitioner submits that compensation for the acquired land cannot automatically extinguish every separate claim arising from the effect of the acquisition on the remaining property. The access dispute must be determined on its own facts and under the applicable law.

15.28. Learned Counsel for the Petitioner further relies on Article 21 in relation to the safety of persons who may occupy or use the commercial

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building. The Petitioner submits that the access arrangement should not be treated solely as a dispute about licence charges. Its adequacy also affects emergency response and the safety of persons within the premises. In particular, the Petitioner submits that the requested permanent and unrestricted access under prayer (b) a six-metre ingress and a separate six-metre egress from the northern side, is relevant to fire safety and emergency response and thus to the life and liberty of persons using the building of the Petitioner.

15.29. Learned Counsel for the Petitioner submits that the Respondents' offer of a single passage, of which 3.5 metres is free and anything above that width is chargeable, would not provide adequate access for fire tenders and other emergency vehicles. An emergency at the Schedule Property could also pose a risk to the adjoining Metro station, its operations, commuters and members of the public. The Petitioner submits that access must therefore be assessed by reference to the actual emergency-access requirements of the building and the potential consequences for the

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adjoining Metro infrastructure, rather than solely by reference to a nominal width prescribed by policy. These considerations are relied upon in support of the specific mandamus sought under prayer (b).

15.30. Learned Counsel for the Petitioner submits that the claim for damages under prayer (c) has two components: (i) past losses quantified in Annexure-F dated 07.10.2024; and (ii) continuing damages arising from the ongoing deprivation of effective access. The past claim relates to the period up to the date of the legal notice and is based on rental income said to have been lost after the tenant vacated the building. The Petitioner submits that the proposed subsequent reconnection of water, electricity and sewerage facilities does not extinguish the accrued claim, because proposed restoration of those utilities neither reverses past rental loss nor remedies the continuing access problem.

15.31. Learned Counsel for the Petitioner submits that continuing damages are claimed for the period after 07.10.2024, for so long as the Schedule

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Property remains incapable of effective commercial use and occupation because adequate ingress and egress have not been provided. The Petitioner seeks damages until the permanent and unrestricted access claimed under prayer (b) is provided. The claim for past damages and the claim for continuing damages thus relate to distinct periods. The Petitioner submits that both are covered by prayer (c), subject to adjudication on the pleadings and material on record.

15.32. Learned Counsel for the Petitioner submits that the property was leased to M/s. GraphX Solution India Private Limited under a registered lease deed dated 01.07.2015, at a monthly rent of Rs.12,01,145/-, with an escalation of 15% upon completion of every third year. The Petitioner contends that the tenant vacated in August 2019 after the demolition and disconnection of utility services, and that the premises have remained vacant since then. By legal notice dated 07.10.2024, the Petitioner quantified rental loss and related amounts at Rs.11,30,36,834.57 and enclosed a statement calculating the claimed loss and

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interest by reference to the lease deed. Learned Counsel submits that the claim is based on identifiable contractual and financial records and should be assessed in light of those records.

15.33. Learned Counsel for the Petitioner submits that, by communication dated 23.12.2024, BMRCL stated that the compensation paid included compensation for the demolished building and that no further compensation was payable. BMRCL also stated that the Petitioner had been permitted, at its own expense, to strengthen the floors from the line of acquisition towards the line of cut, without entitlement to compensation for those works. The Petitioner submits that these statements do not resolve the separate issues concerning loss of access to the remaining property, interruption of utilities, the adequacy of the proposed alternative passage, or the terms governing its continued use.

15.34. Learned Counsel for the Petitioner refers to the separate dispute concerning compensation for the 152 square metres acquired. The Petitioner

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submits that compensation was paid for only 95.75 square metres and that compensation for the remaining 56.25 square metres was refused on the ground that the land was classified as kharab land. The Petitioner challenged that refusal in W.P. No. 4125/2023. In that proceeding, this Court directed KIADB to take steps to issue a corrigendum containing the necessary corrections, including the remaining extent of 56.25 square metres, and to make payment of compensation. Learned Counsel submits that this dispute is distinct from the access grievance and that the circumstances demonstrate the need to consider the Petitioner's claims fairly.

15.35. Learned Counsel for the Petitioner submits that the compensation dispute and the access dispute must be kept distinct. The former concerns payment for the land acquired; the latter concerns the loss of access to the remaining property and the conditions on which alternative access is offered. Resolution of the compensation dispute would not, by itself, resolve the access issue. Conversely, the access claim should not replace consideration of

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whether the directions concerning the remaining 56.25 square metres have been complied with.

15.36. Learned Counsel for the Petitioner submits that prayer (b) seeks substantive and prospective relief by way of a mandamus directing the Respondents to provide permanent and unrestricted access to the remaining Schedule Property, comprising a six-metre ingress and a separate six-metre egress from the northern side, together with the necessary rights to install and maintain water, electricity and sewerage facilities. The Petitioner submits that this relief is intended to secure access and enable the property's use and occupation. Compensation for the acquired land and demolished structure does not, by itself, satisfy this separate claim.

15.37. Learned Counsel for the Petitioner submits that prayer (c) seeks monetary relief for the losses quantified in Annexure-F dated 07.10.2024 and continuing damages until the access sought under prayer (b) is provided. The claim concerns loss of rental income and

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consequential losses said to arise from the continued deprivation of access to the remaining property. The Petitioner submits that it is not a claim for duplicate compensation for the acquired land or demolished structure. An order providing access may remove the continuing impediment to use of the property, but would not, by itself, determine or extinguish losses accrued before access is provided. The Petitioner accordingly seeks separate consideration of the monetary relief under prayer (c), in addition to the access relief under prayer (b).

15.38. Learned Counsel for the Petitioner submits that the central issue is not merely the amount of way-leave charges. It is whether the remaining property was left without access as a result of the public project and whether BMRCL's proposed solution is adequate, lawful and reasonable. The Petitioner seeks an arrangement that accounts for the physical configuration of the site, the building's commercial use, the movement of vehicles and goods, applicable safety requirements and the need for continuity of access. The Petitioner

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maintains its request for separate six-metre-wide ingress and six-metre-wide egress.

15.39. Learned Counsel for the Petitioner submits that the Petitioner is also willing, if effective and dependable access cannot reasonably be provided, for BMRCL to acquire the remaining portion of the property upon payment of appropriate compensation. This is advanced as an alternative and not as an admission that acquisition of the remaining property is necessary. The primary relief remains the provision of effective access on lawful and reasonable terms. The alternative is put forward because the Petitioner does not wish to remain indefinitely dependent on a licence that may be discontinued under the terms of the policy.

15.40. Learned Counsel for the Petitioner accordingly submits that the Respondents should be directed to provide permanent and unrestricted access to the Schedule Property in the manner sought under prayer (b), including a six-metre ingress and a separate six-metre egress from the northern side, together with the necessary

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utility rights. The Petitioner also seeks adjudication of its claim for past and continuing damages under prayer (c), and a declaration that Annexure-C, the way-leave policy, is unconstitutional, invalid and unenforceable to the extent pleaded, or, alternatively, a direction requiring BMRCL to apply the policy fairly and give a reasoned decision after considering the particular circumstances of the case. If effective access cannot reasonably be provided, the Petitioner seeks consideration of acquisition of the remaining property in accordance with law.

16. Sri.Harish Narasimha Murthy, learned counsel for BMRCL, would submit that:

16.1. Learned Counsel for the Respondents submits that BMRCL is a joint venture company in which the State Government and the Central Government each hold 50% of the shareholding. It was established to implement the Bangalore Metro Rail project, a major urban infrastructure project providing rapid mass transit for the benefit of the citizens of Bengaluru.

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16.2. Learned Counsel for the Respondents submits that BMRCL formulated the Way Leave Policy after due consideration to provide access where acquisition for the Metro project leaves a property without access. The policy recognises a right of necessity by providing free access up to 3.5 metres, while requiring payment for any additional width. The Respondents submit that the policy establishes a fair and transparent mechanism that balances access to affected properties with public interest and the operational requirements of the Metro project.

16.3. Learned Counsel for the Respondents submits that the writ petition is not maintainable and that the Petitioner is estopped from challenging the Way Leave Policy. The Petitioner's letter dated 31.07.2024 is said to record willingness to pay the applicable way-leave licence charges for access beyond the free entitlement of 3.5 metres. The Respondents contend that, having expressed such willingness, the Petitioner cannot approbate and reprobate by subsequently challenging the policy.

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16.4. Learned Counsel for the Respondents submits that the Petitioner has no vested right to demand free access of 12 metres. BMRCL is prepared to provide 3.5 metres of access free of charge under the policy and to consider an additional five metres, subject to compliance with the policy and payment of the prescribed licence fee. The Respondents submit that no access beyond the additional five metres can be considered and that the Petitioner is bound by the policy. According to the Respondents, the Petitioner cannot challenge the policy merely on the basis of its own assertions, particularly when the different rates for different widths of access were prescribed after due consideration by BMRCL, which has the relevant technical expertise and personnel.

16.5. Learned Counsel for the Respondents submits that the Petitioner's claim for damages and further compensation raises disputed questions of fact that cannot appropriately be determined in proceedings under Article 226 of the Constitution. The Respondents contend that the Petitioner should approach the competent Civil Court to seek damages, compensation or a

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declaration of easementary rights, where evidence can be led. Learned Counsel submits that such claims cannot be adjudicated merely by filing a writ petition.

16.6. Learned Counsel for the Respondents submits that the acquisition was carried out under the Karnataka Industrial Areas Development Act, 1966 ("**KIAD Act**"). A sum of Rs.4,01,44,404/- was paid to the Petitioner as compensation for the acquired land and building. According to the Respondents, the Petitioner accepted that compensation in respect of the acquisition and cannot claim further compensation on account of the same acquisition. Learned Counsel further submits that the compensation was calculated at 200% of the market value, together with solatium and interest, in accordance with the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

16.7. On this basis, the Respondents contend that BMRCL is entitled to levy licence charges for access beyond the free 3.5-metre entitlement

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and that such charges are neither unreasonable nor arbitrary.

16.8. Learned Counsel for the Respondents admits that 152 square metres of the Petitioner's property was acquired. The boundaries of the acquired land were recorded as follows: East—road; West—remaining portion of Property No. 28/B; North—property of Prema Raghu N. V.; and South—property of Madhusudhan P. Patel. Learned Counsel submits that the acquired land lies on the eastern side and now forms part of BMRCL's property.

16.9. It is also admitted that BMRCL demolished a portion of the building after taking possession from the Special Land Acquisition Officer ("**SLAO**"), and that compensation was paid for the demolished portion.

16.10. Learned Counsel for the Respondents submits that the land over which access is sought belongs to BMRCL and is required for its Metro infrastructure. The Petitioner has no independent right to use that land apart from the benefit available under the Way Leave Policy. According to the Respondents, the

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access permitted under the policy is not a vested right and remains subject to BMRCL's discretion. This, he submits, is why the policy reserves the right to cancel the permission to use BMRCL's land. Learned Counsel nevertheless submits that, if the Petitioner pays the prescribed licence fee, BMRCL would not cancel the licence and would enter into renewal agreements from time to time, so long as the applicable fee continues to be paid.

16.11. Learned Counsel for the Respondents submits that the Petitioner's request for water, electricity and sewerage connections through BMRCL's land from the northern side is not covered by the Way Leave Policy. BMRCL therefore denies that it is obliged under the policy to provide those connections. However, he submits that in response to the Petitioner's representation, a joint inspection was conducted on 28.03.2025 in the presence of the Tahsildar, BMRCL's Assistant Engineer and Legal Advisor.

16.12. During the inspection, locations for laying the electricity, sewage and water lines were

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marked, as shown in Annexure-R2 to the objections. Learned Counsel submits that BMRCL is willing to permit the water line, sanitary line and electricity line to be laid at the marked locations.

16.13. Learned Counsel for the Respondents further submits that BMRCL is willing to provide an additional five metres of access, over and above the free 3.5-metre passage, subject to compliance with the Way Leave Policy and payment of the prescribed amounts. The Respondents maintain that BMRCL is not obliged to provide the 12 metres of access sought by the Petitioner and that any additional access beyond the free entitlement is conditional on payment under the policy.

16.14. Learned Counsel for the Respondents submits that BMRCL is not aware of the terms of the alleged lease of the property to M/s. GraphX Solution India Private Limited or the rent payable under it. In any event, the Respondents contend that the lease, the amount of rent and the tenant's decision to

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vacate are matters between the Petitioner and the tenant and do not concern BMRCL.

16.15. Learned Counsel for the Respondents submits that, if this Court were to hold the Way Leave Policy invalid, the Petitioner could not rely on that policy to claim even the free 3.5-metre passage. The Respondents contend that the Petitioner would then have to approach the competent Civil Court and establish an easementary right, including any claim based on easement of necessity. Such a claim, they submit, requires evidence and cannot be determined in the present writ proceedings.

16.16. Learned Counsel for the Respondents submits that the land on the northern side of the Petitioner's property is also required for BMRCL's infrastructure project. The acquired property was required for construction of the Jayadeva Hospital Metro Station on Bannerghatta Road, which serves thousands of Metro users in the area. The Respondents maintain that the acquisition and construction of the station were lawful and proper and

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cannot be challenged in the present proceedings.

16.17. Learned Counsel for the Respondents accordingly submits that the applicable licence charges are authorised by the Way Leave Policy and are not arbitrary. BMRCL is willing to provide free access up to 3.5 metres, consider an additional five metres subject to payment and compliance with the policy, and permit the laying of water, electricity and sewerage lines at the locations marked during the joint inspection. The Respondents contend that the claims for damages, further compensation and easementary rights involve disputed questions of fact that should be pursued before the competent Civil Court. On these grounds, Learned Counsel prays that the writ petition be dismissed.

17. Heard Sri.S.Rajendra, learned counsel for the Petitioner and Sri.Harish Narasimha Murthy, learned counsel for BMRCL, and perused papers.

18. The points that would arise for consideration are as follows:

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(i) Whether the writ petition is maintainable in its present form, having regard to the Respondents' objections concerning the disputed questions of fact, the availability of a civil remedy and the alleged estoppel arising from the Petitioner's communication dated 31.07.2024?

(ii) Whether the Petitioner has established grounds for declaring the impugned Way Leave Policy bearing No. BMRCL/LAQ/WLP/5132/2022-23, including its unilateral termination clause, unconstitutional, invalid and unenforceable, as sought under prayer (a) of the writ petition?

(iii) Whether the Petitioner is entitled to a writ of mandamus under prayer (b), directing the Respondents to provide, permanently and free of cost, an unrestricted six-metre-wide ingress and a separate six-metre-wide egress to the Schedule Property from the northern side, together with the necessary rights to install and maintain water, electricity and sewerage connections over the relevant acquired land; and, in particular, whether the Respondents can restrict such access to the arrangement contemplated under the impugned Way Leave Policy and subject any additional access to licence charges and time-bound conditions?

(iv) Whether the compensation paid in respect of the acquired land and demolished

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structure precludes the Petitioner from pursuing its distinct claim for damages arising from the alleged loss of access to the remaining Schedule Property?

(v) Whether the Petitioner is entitled to the monetary relief sought under prayer (c), namely, recovery of the amount of ₹11,30,36,834.57 claimed under Annexure-F dated 07.10.2024 and continuing damages until the access sought under prayer (b) is provided; and whether such relief can appropriately be adjudicated in the present writ proceedings, having regard to the Respondents' objections concerning disputed facts, causation and the alleged loss of rental income?

(vi) What order?

19. This Court answers the above points as follows:

20. **<u>Answer to Point No. (i):</u> Whether the writ petition is maintainable in its present form, having regard to the Respondents' objections concerning the disputed questions of fact, the availability of a civil remedy and the alleged estoppel arising from the Petitioner's communication dated 31.07.2024?**

20.1. Learned Counsel for the Petitioner, Shri S. Rajendra, submits that the Petitioner does not challenge the acquisition of its land or the

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public purpose of the Metro project. The grievance is that the acquisition and construction of the Metro station have left the remaining Schedule Property without access. The challenge is directed against the conditions imposed by BMRCL for providing access to the property. The Petitioner seeks relief under prayers (a) and (b) of the writ petition.

20.2. The Petitioner submits that its refusal to execute the proposed way-leave agreement does not amount to refusal to cooperate with BMRCL. Its letter dated 31.07.2024 expressed willingness to pay the applicable charges for additional access but did not amount to acceptance of the Policy or its conditions. The Petitioner disputes the financial burden imposed and the absence of any assurance that access would continue. Reliance on Clause 4 of the Way Leave Policy does not amount to acceptance of access limited to 3.5 metres or of BMRCL's proposal for a combined six-metre passage.

20.3. The Petitioner submits that the dispute is not confined to way-leave charges. The principal

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issue is whether BMRCL can leave the remaining property without access as a consequence of a public project and then insist on access only on the terms of its Policy. The Petitioner relies on Articles 14 and 300A of the Constitution and also invokes Articles 19(1)(g) and 21.

20.4. Learned Counsel for the Respondents, Shri Harish Narasimha Murthy, submits that BMRCL is a joint venture of the State Government and the Central Government, established to implement the Bengaluru Metro Rail project, which serves an important public purpose.

20.5. The Respondents raise three objections to maintainability. First, the dispute involves questions of fact, including the alleged loss of rental income and the claim for damages, which require determination by a civil court. Second, the Petitioner has an alternative remedy before the civil court by way of a suit for easement of necessity. Third, the Petitioner's letter dated 31.07.2024, expressing willingness to pay the applicable way-leave charges, precludes it from

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challenging the Policy under the principle of approbation and reprobation.

20.6. The Respondents further submit that, if the Policy is set aside, the Petitioner must establish its right to an easement before the competent civil court. They also rely on the court fee paid in the writ petition and contend that the acquisition and construction of the Metro station were undertaken for a public purpose and should not be questioned.

20.7. The Petitioner does not challenge the acquisition or the construction of the Jayadeva Hospital Metro Station. It accepts that the project serves a public purpose. The validity of the acquisition and construction is therefore not in issue in this writ petition.

20.8. The writ petition seeks three distinct forms of relief:

20.8.1. Prayer (a) challenges the validity of the Way Leave Policy, including its unilateral termination clause.

20.8.2. Prayer (b) seeks permanent and unrestricted access to the Schedule

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Property, comprising a six-metre ingress and a separate six-metre egress from the northern side, together with the necessary rights relating to utility connections.

20.8.3. Prayer (c) seeks the amount claimed in the legal notice dated 07.10.2024 and continuing damages until the access sought under prayer (b) is provided.

20.9. The maintainability of the writ petition must be examined separately in relation to each relief.

FIRST OBJECTION: DISPUTED QUESTIONS OF FACT

20.10. Article 226 of the Constitution empowers the High Court to issue writs for the enforcement of fundamental rights and for any other purpose. The existence of disputed questions of fact does not, by itself, bar the exercise of writ jurisdiction. The Court must examine the nature of the dispute, the facts requiring determination and the relief sought.

20.11. In ***Whirlpool Corporation v. Registrar of Trade Marks*** [(1998) 8 SCC 1] and ***Radha***

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Krishan Industries v. State of Himachal Pradesh [(2021) 6 SCC 771], the Hon'ble Supreme Court has held that the availability of an alternative remedy is not an absolute bar to the exercise of writ jurisdiction. The Court must determine whether the particular claim is appropriate for consideration under Article 226.

20.12. BMRCL is a public-sector joint venture established to implement the Metro project. The impugned Policy governs the conditions on which affected property owners may obtain access over land under its control. The challenge concerns the exercise of public power and raises an issue under Article 14. The objection to jurisdiction cannot be sustained merely because the dispute concerns land or access.

20.13. In relation to prayer (a), the principal issue is the legal validity of the impugned provisions of the Way Leave Policy. The Policy is a written instrument issued by BMRCL. Its terms and legal effect can be examined on the basis of the record. The constitutional validity of the Policy

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is a matter for the Constitutional Court and cannot be determined by a civil court.

20.14. In relation to prayer (b), BMRCL admits that 152 square metres of land on the eastern side were acquired, that the acquired portion is under its control and that part of the building was demolished following the acquisition. BMRCL's proposal to provide access from the northern side also establishes that access over land under its control forms part of the dispute. These matters can be considered on the basis of the pleadings, admissions, correspondence and other documents on record.

20.15. These admissions do not, by themselves, establish the precise access to which the Petitioner is entitled. Whether the Petitioner is entitled to a six-metre ingress and a separate six-metre egress, whether those dimensions are legally required and whether access must be provided free of charge are matters to be determined under the point concerning prayer (b). For the present point, it is sufficient that the claim for access can be examined in writ proceedings.

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20.16. BMRCL disputes the lease in favour of M/s. GraphX Solution India Private Limited, the rent payable, the tenant's departure and the alleged loss of rental income. These matters principally concern prayer (c). A dispute over the amount or cause of the alleged loss does not prevent the Court from examining the legal validity of the Policy or the claim for access.

20.17. BMRCL has not identified any specific factual dispute concerning prayers (a) and (b) that necessarily requires oral evidence before those claims can be considered. The objection based on disputed questions of fact is therefore rejected insofar as it concerns prayers (a) and (b). The monetary claim under prayer (c) is considered separately under Point No. (v).

SECOND OBJECTION: AVAILABILITY OF A CIVIL REMEDY

20.18. The Respondents contend that the Petitioner must institute a civil suit for an easement of necessity. The availability of a civil remedy does not automatically oust the jurisdiction of this Court under Article 226. The question is

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whether the nature of the relief sought warrants consideration in writ proceedings.

20.19. Prayer (a) challenges the validity of a Policy issued by a public body on constitutional grounds. A civil suit for an easement would not resolve that challenge. The Petitioner's grievance concerns not merely the existence of a right of passage but also the conditions imposed by BMRCL for providing access under its Policy. The constitutional challenge is therefore appropriate for consideration by this Court.

20.20. BMRCL itself relies on the Policy as the basis for offering access over land under its control. It also states that the Policy recognises access where a property has been left without an outlet. This establishes that the dispute concerns, at least in part, the terms on which BMRCL proposes to provide access under its own Policy.

20.21. The correspondence shows that the parties have not reached an agreement on those terms. BMRCL offered a combined six-metre passage subject to charges and a time-limited

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agreement. The Petitioner sought separate ingress and egress and disputed the proposed conditions. BMRCL's subsequent position regarding free access and additional access on payment is considered under the point dealing with prayer (b).

20.22. The history of the dispute also does not warrant rejection of the writ petition. BMRCL informed the Petitioner in 2017 that land would be acquired for the project. The demolition of part of the building is admitted. The parties exchanged correspondence concerning access in 2024, followed by the present writ petition in 2025. This history does not require the Petitioner to pursue a civil remedy before the Court considers prayers (a) and (b).

20.23. The objection based on the court fee paid in the writ petition is also untenable. The issue is whether the reliefs sought are appropriate for consideration under Article 226, not whether the court fee is lower than that payable in a civil suit.

20.24. The objection that the Petitioner must first institute a civil suit for an easement of

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necessity is therefore rejected insofar as it concerns prayers (a) and (b). This conclusion does not determine the nature or extent of any easementary right or the precise access arrangement to which the Petitioner is entitled. Those issues fall for consideration under the point dealing with prayer (b).

THIRD OBJECTION: ESTOPPEL ARISING FROM THE LETTER DATED 31.07.2024

20.25. The Respondents contend that the Petitioner expressed willingness in its letter dated 31.07.2024 to pay the applicable charges for access beyond 3.5 metres and cannot now challenge the Policy.

20.26. A statement of willingness to pay for access on proposed terms does not amount to acceptance of the validity of every provision of the Policy. The Petitioner challenges, among other matters, the Policy's termination clause and the conditions imposed for access. The Respondents have not established that the Petitioner expressly accepted those provisions or abandoned its right to challenge them.

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20.27. The principle against approbating and reprobating prevents a party from accepting and obtaining a benefit under a transaction while challenging that same transaction to secure an inconsistent advantage. Its application requires acceptance of the transaction and the benefit flowing from it. A mere expression of willingness to proceed on proposed terms does not satisfy that requirement.

20.28. BMRCL's own case is that access would be provided only after the agreement was signed and the required payment was made. It does not contend that the Petitioner signed the agreement, obtained access under it or otherwise received any benefit under the Policy. The Petitioner's willingness to pay for additional access therefore does not amount to acceptance of the Policy as a whole.

20.29. The subsequent correspondence confirms that no final agreement was reached. The Petitioner sought access on 15.04.2024, did not accept BMRCL's proposal dated 28.06.2024 and subsequently objected to the charges and

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conditions in its communication dated 27.11.2024. The correspondence does not establish that the dispute was settled or that the Petitioner unequivocally abandoned its challenge.

20.30. The Respondents have also not established that they changed their position to their detriment in reliance on the letter dated 31.07.2024. Their case is that access was not provided because the Petitioner did not sign the agreement. This does not establish estoppel against the Petitioner.

20.31. The objection based on estoppel is therefore rejected. The letter dated 31.07.2024 does not preclude the Petitioner from challenging the Policy.

20.32. The Respondents' objections must be considered separately in relation to the reliefs sought. Prayer (a) raises a constitutional issue concerning the validity of a Policy issued by a public body. Prayer (b) concerns access to the remaining property and can be considered on the basis of the pleadings, admissions and documents on record. The disputed claim for

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damages under prayer (c) requires a separate assessment of the facts and of whether monetary relief can properly be granted in writ proceedings.

20.33. This Court accordingly answers Point No. (i) by rejecting the objection to maintainability insofar as it concerns prayers (a) and (b). The availability of a civil suit for an easement of necessity does not require the Petitioner to pursue that remedy before this Court considers those prayers. The Respondents have also failed to establish that the letter dated 31.07.2024 estops the Petitioner from challenging the Policy.

20.34. The maintainability and merits of the monetary claim under prayer (c) are left for separate consideration under Point No. (v).

21. **<u>Answer to Point No. (ii):</u> Whether the Petitioner has established grounds for declaring the impugned Way Leave Policy bearing No. BMRCL/LAQ/WLP/5132/2022-23, including its unilateral termination clause, unconstitutional, invalid and unenforceable, as sought under prayer (a) of the writ petition?**

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21.1. Learned Counsel for the Petitioner, Shri S. Rajendra, challenges the Way Leave Policy at Annexure-C. He submits that the Policy prescribes different charges for passages of different widths—3.5 to 7 metres, 7 to 12 metres and 12 to 20 metres. This recognises that access requirements vary. The Petitioner submits that BMRCL must consider the actual need for access and the circumstances that created it, rather than apply the charging schedule without adequate regard to the individual case.

21.2. Learned Counsel for the Petitioner submits that the Policy requires ten years' charges to be paid in advance and calculates renewal charges by reference to the guidance value then prevailing. These conditions impose a substantial burden on an owner who requires access because the original frontage was acquired for the Metro project. The Petitioner distinguishes an applicant seeking additional access for convenience from an owner whose existing access was lost through acquisition. The Petitioner had direct access from the main road before acquisition and submits that

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compensation for the acquired land and demolished portion of the building did not separately compensate for the loss of access to the remaining property.

21.3. Learned Counsel for the Petitioner challenges Clause 3, which permits BMRCL to discontinue access without notice, compensation, refund or an alternative route. The Petitioner submits that these conditions make access uncertain even after substantial advance payment. Where BMRCL controls the only effective route, the power to withdraw access should be subject to safeguards, including notice, reasons and a suitable alternative arrangement. The Petitioner states that it declined to sign the proposed agreement because of its terms, not because it was unwilling to cooperate.

21.4. On Article 14, Learned Counsel for the Petitioner submits that the Policy does not adequately distinguish owners who have other access from those whose only access was lost through acquisition. Nor does it sufficiently account for differences between properties, including the needs of a substantial commercial

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building. The challenge is not merely to standard categories or charges, but to their application without fair consideration of the affected owner's circumstances. Learned Counsel also relies on Article 300A and submits that the effect of the acquisition on the remaining property must be considered, rather than only the area acquired. Article 19(1)(g) is relied on in relation to lawful commercial use, but the Petitioner does not claim that it guarantees the precise width of access sought. Article 21 was referred to in connection with fire safety.

21.5. Learned Counsel for the Respondents, Shri Harish Narasimha Murthy, submits that the Policy was framed after due consideration to provide access where acquisition for the Metro project has left a property without an outlet. It recognises a right of necessity by allowing a passage up to 3.5 metres free of charge and prescribing charges for additional width. According to the Respondents, the Policy provides a fair and transparent system that balances property owners' needs with public

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interest and the operational requirements of the Metro project.

21.6. Learned Counsel for the Respondents submits that the Petitioner has no vested right to demand 12 metres of free access and must comply with the Policy if it seeks additional access. The Respondents rely on the compensation paid for the acquisition, said to have been calculated at 200% of market value, together with solatium and interest under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. They contend that charging for additional access is not arbitrary. The Respondents further submit that the land belongs to BMRCL, access is permitted at its discretion, and the termination provision protects BMRCL's control over its land. They state that, if charges are paid, BMRCL will not cancel the arrangement and will renew it from time to time.

21.7. Learned Counsel for the Respondents submits that the rates for different widths were fixed after due consideration by a competent

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authority with the technical expertise required for the Metro project. The Respondents contend that the Court should not interfere merely because the Petitioner considers the charges excessive. They also argue that, if the Policy is invalidated, the Petitioner may lose even the benefit of the free 3.5-metre passage and may have to establish an easement before a civil court. The alternative-remedy objection has been considered under Point (i).

21.8. This point concerns prayer (a), which seeks a declaration that the Way Leave Policy, including its unilateral termination clause, is unconstitutional, invalid and unenforceable. The challenge must be decided on the grounds pleaded and the terms of the Policy. The Court does not sit in appeal over every policy choice made by a public authority, nor is it required to decide in the abstract whether a particular percentage of guidance value is the correct charge. The question is whether the challenged provisions are fair and lawful when applied to an owner whose access or frontage was lost through BMRCL's acquisition for the Metro project.

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21.9. The Policy is dated 07.07.2022. BMRCL acquired the relevant land on 07.03.2017, and the Petitioner states that the tenant vacated in August 2019 and that part of the building was demolished thereafter. The Policy was issued after the events giving rise to this dispute, but BMRCL has applied it to the Petitioner and relied on it in its correspondence and submissions. Its validity must therefore be considered on its merits.

21.10. On account of the very date of the Policy it could be held that the Policy dated 07.07.2022 could not be made applicable by BMRCL to the relevant land acquired on 07.03.2017. However, since BMRCL has in fact made the Policy applicable to the Petitioner and has relied upon it in its correspondence and submissions, this Court proceeds to decide the challenge to the Policy on merits and considers all the other arguments addressed by the respective counsels.

21.11. The opening paragraphs of the Policy acknowledge that acquisition for the Metro project has, in some cases, left the remaining

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buildings or sites without access because their entire frontage was acquired. They also recognise that acquisition of only part of a property may affect direct access from the existing road to the remaining land. The Policy states that access in such cases may be unavoidable because of the nature and extent of the Metro alignment. BMRCL thus recognises that the project itself may create the need for access over its land. The issue is whether the terms prescribed to address that need are fair and lawful.

21.12. Clause 1 of the Way Leave Policy is reproduced below:

> ***1.*** *Way leave facilities on BMRCL land involve limited use of land by a party for a specified purpose like passage etc. without conferring upon the party any ownership or right of possession or occupation of the land and without in any way affecting the BMRCL's title, possession, control and use of the land.*

21.13. Clause 1 defines a way-leave facility as limited use of BMRCL land for a specified purpose, without transferring ownership, possession or occupation. The Petitioner does not claim ownership of the land over which access is

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sought. Its case is that the conditions imposed on access must nevertheless be fair where the property has been left without access because of the Metro project.

21.14. Clause 2 is reproduced below:

> ***2.*** *The requests/applications for granting way leave facilities shall be considered with due regard to the circumstances of each case. Some such circumstances may be :-*
> *(a) Non-availability of any other means of access to properties / houses/places of business.*
> *(b) Non-feasibility of provision of water supply, electricity, sewerage etc. from any other direction.*
> *(c) Other means of access are available, but not enough to meet the requirements of the applicant*

21.15. Clause 7 is reproduced below:

> ***7.*** *Way leave facilities should not be granted as a matter of routine, but only after consideration of case on merits after site inspection. Special care should be taken to see that the way leave facility doesn't in any way impinge on the safety & security of metro operations & BMRCL property.*

21.16. Clause 12 is reproduced below:

> ***12.*** *In cases not covered by the above way leave policy, a decision shall be taken with the approval of the Managing Director.*

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21.17. Clauses 2, 7 and 12 require BMRCL to consider each application on its merits, including the availability or adequacy of other access and the feasibility of utility connections from another direction. Clause 7 requires a site inspection and protection of Metro operations and BMRCL property. Clause 12 permits the Managing Director to decide cases not covered by the Policy. These provisions recognise that individual circumstances matter, but do not by themselves resolve the challenge to the mandatory termination and charging provisions.

21.18. Clause 3, including the termination provision challenged by the Petitioner, is reproduced below:

> ***3.*** *In genuine and unavoidable cases, way leave facility may be allowed, if feasible and for the developments coming up on this property, after execution of proper agreement. Land cannot be given on lease/license in such cases and only permission / leave is to be granted for a limited use which is to be specified in detail in the agreement. To avoid any misunderstanding on this score, the agreement should not use terms like 'Lease/License and Rent/License fee etc.' but only permission and way leave. The agreement should also clearly stipulate that the Metro Rail Administration retains full rights to enter upon, pass through or use the land, or to*

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discontinue the way leave facility at any time, without any notice to the party. In the event of the way leave facility being discontinued with, the BMRCL will not be liable to pay any compensation or reimburse any amount to the party, nor to provide any alternative arrangement for access etc., In such a case, any installations like underground pipelines etc., put up by the party are liable to be removed/shifted by the party at his/its own cost.

21.19. Clause 3 permits BMRCL to discontinue access at any time without notice. It excludes compensation, reimbursement or refund and does not require BMRCL to provide alternative access. It also places on the user the cost of removing or shifting installations, including underground pipelines. The issue is whether these terms are fair and lawful when applied to an owner whose original frontage and access were lost through acquisition for the Metro project.

21.20. Clause 4 is reproduced hereunder for ease of reference:

4. *The following amount shall be charged by BMRCL on the party requesting for the way leave, for different activities It shall be made clear in the agreement that these charges are subject to*

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revision and the revised rates shall be applicable when the agreement is revised.

Item	***Type of way leave***	***Way leave charges***
1(a)	*Passage/pathway on/across BMRCL land (up to 3.5 metres wide) for vehicular access. (If property became landlocked, with no other access as on the date of acquisition of the land)*	*Free of cost*
1(b)	*Passage for vehicles, scooters etc. (i.e., between 3.5–7 metres wide)*	*3% of the guidance value notified by the State Government per annum. Way leave agreement shall be entered into for 10 years and way leave charges shall be paid upfront for the 10-year period. Renewal of the agreement after 10 years will be at 3% of the then prevailing guidance value per annum.*
1(c)	*Passage for vehicles, scooters etc. (i.e., between 7–12 metres wide)*	*6% of the guidance*

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		value notified by the State Government per annum. Way leave agreement shall be entered into for 10 years and way leave charges shall be paid upfront for the 10-year period. Renewal of the agreement after 10 years will be at 6% of the then prevailing guidance value per annum.
1(d)	*Passage for vehicles, scooters etc. (i.e., between 12–20 metres wide)*	*10% of the guidance value notified by the State Government per annum. Way leave agreement shall be entered into for 10 years and way leave charges shall be paid*

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		upfront for the 10-year period. Renewal of the agreement after 10 years will be at 10% of the then prevailing guidance value per annum.
2(a)	*Electric lines (domestic purpose/service line) crossing for individual houses, shops etc. (both underground and overhead)*	*Rs. 25,000/- per annum. Way leave agreement shall be entered into for 10 years and the charges for 10 years shall be paid upfront. Renewal of this agreement will be at the discretion of BMRCL for another 10 years with a 50% increase in charges.*
2(b)	*Water/sewage/effluent pipeline crossing for individual up to 300 mm diameter.*	*Same as item 2(a).*
2(c)	*Electrical crossings by State Electricity Boards and Central Agencies.*	*Same as item 2(a).*

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2(d)	*Open drains and overground water/sewage/oil/gas/effluent pipelines by private parties (including public sector undertakings).*	*Same as item 2(a).*
2(e)	*Underground oil/gas/pipelines.*	*Same as item 2(a).*
2(f)	*Underground/overhead electrical crossing other than covered under item 2(c); underground cables and alignment in favour of the Department of Telecommunications/BSNL/other telecom operators. This includes laying of Optic Fiber Cable (OFC).*	*Same as item 2(a).*
3	*If electrical cable/pipeline is to be laid parallel to the BMRCL alignment in BMRCL land.*	*(a) Up to a length of 250 metres: Rs. 25,000/- per annum.* *(b) Beyond 250 metres: Rs. 100 per running metre per annum. Way leave agreement shall be entered into for 10 years and way leave charges shall be paid upfront for the 10-year period. Renewal of this agreement will be at the discretion of BMRCL for*

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		another 10 years with a 50% increase in charges.

Note:
i) Acquired land means land which is acquired /purchased / surrendered for the Bangalore Metro Rail Project, from the party seeking way leave permission.
ii) Way leave charges will be calculated based on the guidance value as on the date of original application for way leave facility by the applicant.
iii) Way leave charges shall be remitted upfront for a block period of 10 years for all the way leave permissions.

21.21. Clause 9 is reproduced below:

> ***9.*** *In all cases of way leave facility granted, proper agreement should be executed Agreement should provide for remittance of way leave charges upfront on signing of the agreement and revision by way leave charges from time to time, as provided in the policy.*

21.22. Read together, Clauses 4 and 9 and Note (iii) provide free vehicular access up to 3.5 metres for a qualifying landlocked property, while wider passages attract charges based on the guidance value, payable ten years in advance. Since the first 3.5 metres is free, the charges under items 1(b) to 1(d) are leviable only for the width over and above 3.5 metres. The

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Policy also prescribes charges for specified utility crossings. The question is whether this structure fairly accounts for an owner who requires replacement access because the original frontage was acquired for the Metro project.

WHETHER ACCESS IS MERELY A DISCRETIONARY BENEFIT

21.23. Learned Counsel for the Respondents submits that the land belongs to BMRCL and that way-leave access is granted at its discretion. BMRCL's ownership is not disputed. However, ownership alone does not permit a public body to impose arbitrary conditions on access to a property.

21.24. The Petitioner's case is that BMRCL's acquisition for the Metro project removed the direct access or frontage of the property, leaving the remaining property dependent on way-leave access. The Petitioner belongs to the class of owners whose access was lost in this manner. Clause 4 recognises the special position of a property that became landlocked and had no other access on the date of acquisition,

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providing free access up to 3.5 metres. Clauses 2 and 7 require individual consideration of applications, site inspection and regard to Metro safety. The validity of the challenged termination and charging provisions must be assessed against this context.

THE TERMINATION PROVISION AND ARTICLE 14

21.25. Article 14 requires public authorities to act fairly and not arbitrarily. Clause 3 permits BMRCL to discontinue access at any time without notice. It does not require reasons or specify the circumstances in which termination may take place. It also excludes compensation or refund and provides no alternative access.

21.26. Read with Clause 4, which requires ten years' charges in advance for wider passages, Clause 3 permits BMRCL to discontinue access after receiving advance payment without refunding any part of it. The owner must also bear the cost of removing or shifting installations.

21.27. These terms are inconsistent with the Policy's requirement for individual consideration before access is granted. Although Clauses 2 and 7

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require BMRCL to consider the circumstances of the property and Metro safety, Clause 3 permits access to be withdrawn without notice, reasons or safeguards.

21.28. BMRCL must be able to discontinue a way-leave facility for reasons relating to safety, security or Metro operations. The defect lies in the unrestricted power conferred by Clause 3 and the absence of safeguards against arbitrary termination. The provision is therefore arbitrary under Article 14 insofar as it permits access to be withdrawn without notice, refund or alternative access in the circumstances of the Petitioner's case.

21.29. BMRCL's assurance that it will not cancel access if charges are paid and that the arrangement will be renewed from time to time does not cure the defect. That assurance is not contained in the Policy. Its validity must be assessed by the power Clause 3 confers, not by an assurance about how BMRCL expects to exercise it.

THE CHARGING PROVISIONS AND ARTICLE 14

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21.30. The Petitioner does not contend that BMRCL can never charge for the use of its land. The challenge is to applying the prescribed charges to replacement access required in the circumstances identified above.

21.31. Clause 4 prescribes charges according to passage width. It does not distinguish between an applicant seeking additional access for other reasons and an owner who requires replacement access. Although Clause 2 recognises that existing access may be insufficient, the charging provisions do not adequately account for the circumstances that necessitate replacement access.

21.32. The width of a passage may affect the use of BMRCL land and Metro operations. However, applying the same charging structure without accounting for the reason access is required places an arbitrary financial burden on the Petitioner.

21.33. BMRCL relies on the compensation paid for the acquired land and demolished structure. That payment does not, by itself, establish that the separate charging conditions for replacement

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access are fair. The scope of compensation and its relationship to the claim for loss of access fall for consideration under Point (iv).

21.34. The requirement to pay ten years' charges in advance further aggravates the burden. The charges are linked to the guidance value, and renewal charges are based on the value prevailing at the time of renewal. Read with Clause 3, the Policy requires a substantial advance payment for access that may be discontinued without notice or refund.

21.35. The Court does not question the technical competence of the officers who fixed the rates or revised the percentages. The constitutional defect lies in the charging structure and its failure to account for the circumstances in which replacement access is required.

21.36. BMRCL's submission that the Petitioner has no vested right to 12 metres of free access concerns the width and form of access sought. That issue falls under Point (iii). The present issue is the validity of the charging provisions.

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ARTICLE 300A AND THE ULTRA VIRES CHALLENGE

21.37. Article 300A provides that no person shall be deprived of property except by authority of law. The acquisition in this case was undertaken under law and is not challenged in this petition. The present issue concerns the conditions imposed on access to the remaining property. The loss of access affects its practical use and is relevant to the assessment of the Policy.

21.38. The finding rests principally on Article 14. Article 300A reinforces the need to consider the effect of the Policy on the use of the remaining property, but does not, by itself, establish a right to a passage of any particular width.

21.39. The Petitioner also challenges the Policy as ultra vires. However, neither party has identified the specific statutory provision under which the Policy was framed or the statutory limit that it is alleged to exceed. No separate finding is made on that ground.

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ARTICLE 19(1)(G) AND THE RESPONDENTS' OBJECTION

21.40. Article 19(1)(g) protects the right to practise a profession or carry on an occupation, trade or business, subject to constitutionally permitted restrictions. The Petitioner does not claim that this provision guarantees access of the precise width sought. The finding on the challenged provisions therefore rests on Article 14.

21.41. BMRCL submits that invalidating the challenged provisions may deprive the Petitioner of even the free 3.5-metre passage. This objection does not justify retaining provisions that impose arbitrary conditions. The Policy's provision for free access up to 3.5 metres in qualifying cases is not itself under challenge.

21.42. For the reasons stated above, THIS Court answers Point No. (ii) by holding that the Petitioner has established grounds for declaring the following provisions of the Way Leave Policy unconstitutional, invalid and unenforceable in their application:

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21.42.1. Clause 3, insofar as it permits BMRCL to discontinue access at any time without notice and excludes refund or alternative access upon discontinuance.

21.42.2. The charging provisions of Clause 4, namely items 1(b), 1(c) and 1(d), and items 2(a) and 2(b) relating to electricity lines and water or sewage pipelines serving the remaining property, read with Note (iii), Clause 9, and the requirements for payment of ten years' charges in advance and revision or renewal of charges by reference to the prevailing guidance value.

21.43. The declaration does not invalidate the remainder of the Way Leave Policy.

22. **<u>Answer to Point No. (iii):</u> Whether the Petitioner is entitled to a writ of mandamus under prayer (b), directing the Respondents to provide, permanently and free of cost, an unrestricted six-metre-wide ingress and a separate six-metre-wide egress to the Schedule Property from the northern side, together with the necessary rights to install and maintain water, electricity and sewerage connections over the relevant acquired land; and, in particular, whether the Respondents can**

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restrict such access to the arrangement contemplated under the impugned Way Leave Policy and subject any additional access to licence charges and time-bound conditions?

22.1. Learned Counsel for the Petitioner submits that the Petitioner owns Municipal No. 28/B, PID No. 57-137-28B, Sarakki Industrial Layout, measuring 766.26 square metres. The property contains a commercial building with a super built-up area of 21,839 square feet, comprising the ground floor and four upper floors. Before acquisition, the property had a full and wide entry and exit on the eastern side facing the main road, and the entire frontage served as access. On 07.03.2017, BMRCL, through KIADB, acquired 152 square metres on the eastern side.

22.2. Learned Counsel submits that the road-facing portion of the building was demolished and the Metro station was constructed. The acquisition took away the frontage and former access, leaving the remaining property without effective ingress or egress. The photographs and site layout are relied on to show that the Metro station now abuts the property and that

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no other access is available. The Petitioner did not voluntarily surrender the frontage; the land was acquired in exercise of the State's power of eminent domain.

22.3. Learned Counsel submits that the effect of acquisition cannot be assessed only by the area taken. The use made of the acquired land may affect access to, and the practical use of, the remaining property. Compensation for the acquired land and demolished structure does not, by itself, resolve whether the remaining property has reasonable and usable access. The request is for a replacement route made necessary by the Metro project, not an additional facility sought merely for convenience.

22.4. Learned Counsel submits that, by letter dated 15.04.2024, the Petitioner sought a separate six-metre ingress and a separate six-metre egress from the northern side. BMRCL's replies dated 28.06.2024 and 19.11.2024 offered a combined six-metre passage, subject to advance way-leave charges and a ten-year agreement. By letter dated 23.12.2024, BMRCL

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stated that free access was available only up to 3.5 metres. Before this Court, BMRCL has offered 3.5 metres free and a further five metres on payment. None of these proposals provides the separate entry and exit lanes sought.

22.5. Learned Counsel submits that the Schedule Property is a large commercial building previously leased to M/s GraphX Solution India Private Limited. The Property would once again have to be let out, and its use involves employees, customers, visitors, service providers, vehicles, deliveries, goods and maintenance. Pedestrian access alone would not be adequate. Access must be suited to the building's size, layout and lawful commercial use, including access to its parking facilities and the movement of goods and materials.

22.6. Learned Counsel further submits that fire tenders and other emergency vehicles must be able to reach the building. Adequacy depends not only on nominal width but also on turning radius, clear height, alignment and obstructions. The Policy's minimum free width

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cannot replace a site-specific assessment or override applicable safety requirements. A fire in the building may also pose a risk to the adjoining Metro station and its commuters. The Petitioner relies on Article 21 in support of the need for safe access.

22.7. Learned Counsel submits that Clause 4 of the Way Leave Policy provides free access up to 3.5 metres for qualifying landlocked properties, but that width cannot be treated as sufficient in every case. The Petitioner does not contend that Article 19(1)(g) guarantees any particular width of access. Its submission is that the State and its instrumentalities must not disregard the effect of their actions on the lawful use of the remaining property. The Petitioner seeks a proportionate arrangement that permits the Metro project to continue while restoring effective access.

22.8. Learned Counsel submits that prayer (b) seeks permanent access comprising a six-metre ingress and a separate six-metre egress from the northern side, together with the right to install and maintain water, electricity and

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sewerage lines over the relevant land. The width and configuration must be assessed in relation to the property's size, shape, use and applicable safety and operational requirements.

22.9. Learned Counsel for the Respondents submits that BMRCL admits acquisition of 152 square metres on the eastern side of the Petitioner's property. The acquired land is bounded by the road to the east, the remaining portion of Property No. 28/B to the west, the property of Prema Raghu N. V. to the north and the property of Madhusudhan P. Patel to the south. BMRCL admits that the acquired portion is now its property and that part of the building was demolished after possession was taken through the Special Land Acquisition Officer, for which compensation was paid.

22.10. Learned Counsel submits that BMRCL is not obliged to provide twelve metres of free access. It is willing to provide 3.5 metres free under the Policy and a further five metres on payment. BMRCL contends that the northern land is also required for Metro infrastructure

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and that the Petitioner has no vested right to twelve metres of free access.

22.11. On utility connections, Learned Counsel for the Respondents initially submits that the Policy does not cover water, electricity and sewerage connections through BMRCL land. BMRCL nevertheless states that a joint inspection was held on 28.03.2025 in the presence of the Tahsildar and BMRCL's Assistant Engineer and Legal Advisor, and that locations for electric, sewage and water lines were marked. The plan is produced as Annexure-R2. BMRCL is willing to permit the lines at those points, subject to the Policy and payment of applicable charges. It also states that it is willing to provide an additional five metres of access over and above the free 3.5 metres on the same conditions. The Petitioner has throughout sought separate ingress and egress, each six metres wide.

ISSUES AND MATERIAL FACTS

22.12. Point (iii) concerns the relief sought under prayer (b): permanent and free access comprising a six-metre ingress and a separate six-metre egress from the northern side,

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together with the right to install and maintain water, electricity and sewerage lines. The questions are what access is reasonably required, whether BMRCL may confine the Petitioner to its standard Policy arrangement, and on what terms replacement access and utility routes must be provided. The validity of the relevant charging and termination provisions has been considered under Point (ii).

22.13. The material facts are substantially undisputed. BMRCL admits that 152 square metres of the eastern, road-facing portion were acquired, that the land is now BMRCL property, and that part of the building was demolished. The correspondence records the Petitioner's request for separate six-metre entry and exit lanes on 15.04.2024; BMRCL's proposals for a combined six-metre passage on 28.06.2024 and 19.11.2024, subject to advance payment and a ten-year agreement; its letter dated 23.12.2024 referring to free access of 3.5 metres; and its offer before this Court of 3.5 metres free plus five metres on payment. None provides the separate lanes sought.

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22.14. BMRCL has not identified another effective route into the Schedule Property. Its own proposals to provide access over land under its control support the conclusion that the property has lost its former access and requires a replacement route. BMRCL has admitted that the land on the northern side belongs to it, and it is from that land that it proposed to provide 3.5 metres free and a further five metres on payment. There is no dispute as to BMRCL's ownership of that land.

ENTITLEMENT TO REPLACEMENT ACCESS; WHY IT MUST BE FREE AND PERMANENT

22.15. The Petitioner previously had direct access from the main road on the eastern side. That frontage was acquired and the road-facing part of the building was demolished for the Metro project. The remaining property thereby lost its former access. The Petitioner seeks to replace access lost through acquisition and construction, not merely to improve convenience.

22.16. BMRCL's ownership of the land proposed for the replacement route entitles it to protect its

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property and the safe operation of the Metro. It does not, by itself, answer whether the remaining property may be left without effective access after the project took away the former route. The Policy itself recognises that acquisition may leave a property without access. In the circumstances of this case, replacement access is necessary to make the remaining property reasonably usable. The source of the Petitioner's entitlement is the admitted fact that BMRCL, by its acquisition and construction of the Metro station, closed the existing access and left the remaining property without access. Having deprived the Petitioner of its access, BMRCL is bound to provide replacement access, and it is therefore unnecessary to examine whether an easement of necessity is made out.

22.17. Under Point (ii), the relevant charging provisions and the Policy's unilateral termination provision have been held invalid and unenforceable insofar as they apply to owners whose access was lost through BMRCL acquisition and who require replacement access. BMRCL cannot rely on those provisions

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to require advance payment, a ten-year agreement, renewal at revised rates or discretionary withdrawal of access in this case.

22.18. Compensation for the acquired land and demolished structure does not, by itself, resolve the separate question of access. Compensation is considered under Point (iv). For present purposes, payment of acquisition compensation is not a sufficient reason to require the Petitioner to pay again for the route made necessary by the acquisition.

22.19. The Policy's free-access provision recognises the distinction between replacement access made necessary by acquisition and additional access sought for convenience. However, the standard width of 3.5 metres cannot conclusively determine what this property reasonably requires. The need for replacement access will continue for as long as the Schedule Property requires it. A ten-year permission subject to renewal and revised charges would leave use of the property dependent on periodic approval and expose the Petitioner to the risk of losing access. No sufficient reason has been

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shown for imposing that uncertainty. Access must therefore be permanent and continue in perpetuity, subject to law and reasonable safeguards that protect Metro operations without defeating the right granted.

WHETHER SEPARATE SIX-METRE INGRESS AND EGRESS ARE JUSTIFIED

22.20. The Petitioner seeks a six-metre ingress and a separate six-metre egress. BMRCL has offered a combined six-metre passage and later offered 3.5 metres free plus five metres on payment, making 8.5 metres in total. The question is whether the proposed arrangement provides safe, reasonable and dependable access for a large commercial building, including two-way vehicle movement, deliveries, movement of goods and access by emergency services.

22.21. An owner cannot insist on a width merely because it is preferred. The width must bear a reasonable relationship to the size and use of the property, site configuration and applicable safety and operational requirements. However, a standard width in a policy cannot be conclusive where the Policy itself requires

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individual consideration. Clause 2 identifies inadequate alternative access as relevant; Clause 7 requires consideration of the merits after site inspection; and Clause 12 provides for cases not covered by the Policy to be decided with the Managing Director's approval.

22.22. The Schedule Property contains a commercial building with a super built-up area of 21,839 square feet over five floors and parking facilities. Its use involves employees, customers, service providers, deliveries, maintenance and movement of goods. A pedestrian route or a single narrow passage does not, without more, establish adequate access. BMRCL has not produced material showing that separate lanes are unnecessary or that a lesser configuration would provide equivalent and dependable access.

22.23. The dimensions of ordinary vehicles illustrate the practical issue but do not determine the technical requirement. A bus or goods truck may be about 2.5 to 3.5 metres wide, depending on the vehicle, and mirrors require additional clearance. Fire engines vary in size

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and need sufficient clear width and turning space. Actual requirements depend on vehicle dimensions, turning radius, clear height, alignment, surface and obstructions. No site-specific technical report on these matters has been identified in the material before the Court.

22.24. Separate ingress and egress reduce the likelihood that entering and exiting vehicles will obstruct one another. In a single passage, a vehicle breakdown or obstruction may prevent both entry and exit and delay emergency access. Separate lanes do not eliminate every risk, but they provide a more dependable arrangement.

22.25. BMRCL's proposals have varied: a combined six-metre passage in the letters dated 28.06.2024 and 19.11.2024; 3.5 metres free in the letter dated 23.12.2024; and 3.5 metres free plus five metres on payment before this Court. These proposals show the widths BMRCL was willing to offer under its Policy.

22.26. The joint inspection dated 28.03.2025 is relied on in relation to locations marked for utility lines. The record does not establish that BMRCL

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assessed the width and configuration needed for vehicular access, including two-way movement, emergency access and risk of obstruction. Nor has it explained why separate entry and exit lanes cannot be accommodated.

22.27. BMRCL's statement that it was willing to provide five metres in addition to the free 3.5 metres does not establish that the Petitioner abandoned the claim for separate six-metre lanes. The Petitioner did not accept that offer, and no document records any reduction in the request. The Petitioner's letter dated 15.04.2024 sought separate six-metre entry and exit lanes, and its reply dated 27.11.2024 maintained that request while disputing the charges. The Petitioner continues to seek the same relief. In any event, one combined passage of 8.5 metres is not equivalent to two separate six-metre lanes.

22.28. BMRCL submits that the northern land is required for infrastructure. The Metro's public purpose and operational requirements must be respected. However, BMRCL has not identified a particular plan, structure, operational need or

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safety constraint that would be affected by the access sought. Nor has it explained why the land it is willing to use for an 8.5-metre passage cannot accommodate separate entry and exit lanes.

22.29. The Policy contemplates passages wider than 3.5 metres, with categories for widths of 3.5–7 metres, 7–12 metres and 12–20 metres. BMRCL has described the request as a total width of twelve metres. The Policy therefore does not treat that width as inherently impermissible. The issue is whether the configuration is justified on the facts and whether BMRCL properly considered the circumstances. The charging provisions cannot defeat the relief for the reasons given under Point (ii).

BUILDING REGULATIONS, ZONING AND DEVELOPMENT POTENTIAL

22.30. The Petitioner relies on Bangalore Mahanagara Palike Building Bye-laws, 2003, of which Bye-law 9.2, read with Table 6, and Bye-law 9.10 link plot coverage and Floor Area Ratio (FAR) for commercial buildings, among other things,

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to plot area, development-area classification and road width. The Petitioner submits that replacement access must permit lawful and effective use of the existing building under applicable building regulations.

22.31. Bye-law 9.2, Table 6, and Bye-law 9.10 of the Bangalore Mahanagara Palike Building Bye-laws, 2003, are reproduced hereunder for easy reference:

> ***9.2*** *Exterior open spaces/ setbacks, coverage, floor area ratio, numbers of floors and heights - The setbacks required on all the sides of building/s, maximum plot coverage, maximum FAR, maximum number of floors, maximum height of buildings that are permissible for different dimensioned sites and widths of roads are set out in Tables 4, 5 and 6 given below.*

TABLE 6 (Bye-law 9.2 and 9.10)

COVERAGE AND FAR FOR RESIDENTIAL, COMMERCIAL, PUBLIC AND SEMI-PUBLIC, TRAFFIC & TRANSPORTATION, AND PUBLIC UTILITY BUILDING

Plot Area in Sq. mtr.	*Residential*		*Commercial*		*Public & Semi Public T&T & Public Utilities*		*Road width (Mtrs)*
	Plot	*F.A.R.*	*Plot*	*F.A.R.*	*Plot*	*F.A.R.*	

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	Cove-rage Max.	Max.	Cove-rage Max.	Max.	Cove-rage Max.	Max.	
A – INTENSELY DEVELOPED AREA							
Upto 240	65%	0.75	65%	1.00	60%	1.00	Upto 6
Over 240 Upto 500	60%	0.75	60%	1.00	55%	1.00	Over 6 upto 9
Over 500 Upto 750	60%	1.00	60%	1.25	50%	1.00	Over 9 upto 12
Over 750 Upto 1000	60%	1.00	60%	1.25	50%	1.25	Over 12 upto 15
Over 1000	60%	1.25	55%	1.50	45%	1.25	Over 15
B – MODERATELY DEVELOPED AREA							
Upto 240	65%	1.00	65%	1.25	60%	1.00	Upto 9
Over 240 Upto 500	60%	1.25	60%	1.50	55%	1.25	Over 9 upto 12
Over 500 Upto 750	60%	1.25	60%	1.50	50%	1.25	Over 12 upto 15
Over 750 Upto 1000	60%	1.50	60%	1.75	50%	1.50	Over 15 upto 18
Over 1000	60%	1.75	55%	1.75	45%	1.50	Over 18
C - SPARSELY DEVELOPED AREA							
Upto 240	65%	1.00	65%	1.25	60%	1.25	Upto 9
Over 240 Upto 500	60%	1.25	60%	1.50	55%	1.50	Over 9 upto 12
Over 500	60%	1.50	60%	1.75	50%	1.50	Over 12 upto 15

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Upto 750							
Over 750 upto 1000	*60%*	*1.50*	*60%*	*1.75*	*50%*	*1.80*	*Over 15 upto 18*
Over 1000	*60%*	*2.00*	*55%*	*2.00*	*45%*	*1.80*	*Over 18*

***Note 1**: The dimensions in British system if any, adopted for the dimensions of plots may be interpreted as follows in Metric system and set backs may be applied accordingly. 20'-0" – 6.0 m 30'-0" – 9.0 m 40'-0" – 12.0 m 50'-0" – 15.0 m 60'-0" – 18.0 m 80'-0" – 24.0 m*

***Note 2** : The open spaces to be provided shall conform to the height necessary to consume the permissible FAR.*

***Note 3**: (a) The front and rear set backs shall be with reference to the depth of the site. (b) The left and right set backs shall be with reference to the width of the site. (c) If the height of a building exceeds 9.5 metres, the set backs to be provided shall be higher of the set backs specified in tables 4 and 5.*

***Note 4** : Building lines have been prescribed to certain roads by the Bangalore Development Authority in Table 33 of the Zoning Regulations. This table is appended as Schedule X to these bye-laws. In such cases, the front set back or the building line which is higher of the two shall be provided.*

***Note 5** : In the case of corner sites both the sides facing the road shall be treated as front side and regulations applied accordingly to maintain the building line on these roads and to provide better visibility.*

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Note 6 *: In the case of a building facing more than two roads, the plot should be considered as corner plot taking two wider roads into consideration.*

Note 7 *: In the case of sites facing roads both in front and rear, both the sides facing roads should be treated as front and other two sides not facing roads should be treated as right and the setbacks be applied accordingly.*

Note 8 *: In case where the plinth of the building is not parallel to the property line, the setbacks shall not be less than the specified setbacks at any given point on any side.*

Note 9 *: In case of irregular plots the set-backs are to be calculated according to the depth or width at the points where the depths or widths are varying. Average set-backs shall not be considered in such cases.*

Note 10 *: The left and right set-backs may be interchanged by the Authority in exceptional cases due to existing structures like; open well and also considering the topography of the land. However, this shall be resorted to by the Authority only as an exception.*

Note 11*: Set-backs should be provided in the owner's plot. Public open space or conservancy should not be considered as set-backs.*

Note 12*: In case of two or more buildings proposed on a single site, the set-backs shall be applied by considering them as a common building. In such cases, the distance between the two buildings shall be minimum of half the height of the taller building.*

Note 13*: For plots with an area of more than 750 sqm. bell mouth entrance shall be provided.*

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Note 14*: The front set back mentioned above are minimum. The building shall be shifted back to the building lines, if any declared by any competent authority.*

9.10 Limitations of floor area and covered area

9.10.1 *The coverage, and FAR, for different sizes of plots with reference to existing road width as limiting factor are given in the table No.6 for various types of buildings like residential, commercial, public and semi-public, etc. The local planning area of Bangalore City is divided into A, B & C areas by the Bangalore Development Authority for the purpose of regulating building constructions as under:-*

A: Intensely developed area.

B: Moderately developed area.

C:– Sparsely developed area .

Note*: (1) A map showing the details of A, B and C areas is available in the office of the Bangalore Development Authority, Bangalore. A copy of this map is appended to these bye-laws.*

Note*: (2) When two sides of the same road are included in two different areas like: A and B or A and C, then both the sides shall be treated as intensively developed area ('A' area) up to one property depth.*

Note*: (3) When two sides of the same road are included in two different areas like: B and C, then both the sides shall be treated as moderately developed area ('B' area) up to one property depth.*

9.10.2 *In respect of the following buildings, the maximum coverage shall be as prescribed below.*

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Building	*Permissible maximum coverage*
a. Hospital	*25%*
b. Health centre/nursing home	*33.33%*
c. Nursery school/primary school	*33.33%*
d. Secondary school	*30%*
e. College	*25%*

9.10.3 *(a) The floor area of a building shall be the aggregate area of the floors of all parts of the building including thickness of walls, parking area, staircase rooms, lift rooms, ramps, escalators, machine rooms, balconies, ducts including sanitary ducts, water tanks, lobbies, corridors, foyers and such other parts provided for common service.*

(b) The floor area ratio shall exempt the floor area used for the following purposes, namely:- (i) parking space (ii) staircase rooms (iii) lift rooms (iv) ramps (v) escalators (vi) machine rooms (vii) open balconies (viii) ducts including sanitary ducts and (ix) water tanks.

(c) Parking area shall be exempted to the extent required for the building.

(d) The area covered by the following structures on the roof are exempted from the floor area upto fifteen percent of the area of the roof over which they are erected, namely:- (i) staircase rooms (ii) lift machine rooms (iii) pent house (iv) water tanks (v) equipments for ventilation, air conditioning and similar services. (e) Lobbies, corridors provided in the plan shall be considered for F.A.R.

(f) The nomenclature of certain roads may differ with those mentioned in the District Maps of the Revised C.D.P. In such cases, the location of the site may be considered to determine the land use.

Note *: One penthouse only is permissible for a building. The area of the penthouse with staircase room shall be limited to 19 sq.mtrs. If this limit is*

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exceeded, the structures shall be considered for reckoning the FAR.

9.10.4 *When sites do not face the roads of required width noted against each, then the FAR applicable to the corresponding width of roads shall apply.*

9.10.5 *When a site faces wider road than the one prescribed against it, the FAR shall be restricted only to the limit prescribed for the area of that particular site.*

9.10.6 *When coverage is less than the maximum prescribed in Table 6, floors and height beyond the limits indicated in table 5 may be permitted to utilise the full FAR subject to the provision of minimum set backs prescribed in Tables 4 and 5, whichever is applicable.*

9.10.7 *The set-backs and coverage shall be determined irrespective of the width of the road.*

22.32. The schedule of the property in question as per the lease deed is as under:-

SCHEDULE

All that piece and parcel of premises having a super built-up area of ***21,839 sq. ft.*** *consisting Stilt + 3 floors + terrace, situated at Plot no 28/ B, Bannergahatta Main Road, Sarakki Industrial Area, JP Nagar, Phase III, Bangalore – 560076*

22.33. A perusal of the above would indicate that the super built-up area consists of stilt + three floors + terrace. The said building has been put to commercial use. The National Building Code,

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2016 determines the access required for a building in order to provide a No-objection Certificate by the fire and emergency services. The fire and emergency services have themselves not fixed any particular width of the road, nor does the building bylaws or the zonal regulation fix such width.

22.34. Regulation 4.6, which is the applicable regulation in relation thereto is reproduced hereunder for ease of reference:

> ***4.6*** *For high rise buildings and special buildings (see Part 4 'Fire and Life Safety' of the Code), the following additional provisions of means of access shall be ensured:*
>
> *a) The width of the main street on which the building abuts shall not be less than 12 m and one end of this street shall join another street not less than 12m in width.*
>
> *b) The road shall not terminate in a dead end; except in the case of residential building, up to a height of 30 m.*
>
> *c) The approach to the building and open spaces on all its sides shall be not less than 6 m in width, and a turning radius of minimum 9 m shall be provided for fire tender movement of fire tenders weighing up to 45 t. The same shall be hard surface capable of taking the mass of fire tender, weighing up to 45 t minimum. For heavier fire tenders, the minimum width, turning radius and the hard surface capable of taking the fire tender loads shall be as per the requirement laid down by the Fire Department. The layout for the open space for fire tender movement*

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shall be done in consultation with the Chief Fire Officer of the city, which shall be kept free of obstructions and shall be motorable. The compulsory open spaces around the building shall not be used for parking.

d) The main entrance to the plot shall be of adequate width to allow easy access to the fire engine and in no case shall it measure less than 6 m. The entrance gate shall fold back against the compound wall of the premises, thus leaving the exterior accessway within the plot free for movement of fire tender. If the main entrance at the boundary wall is built over, the minimum clearance shall be 4.5 m.

22.35. A perusal of the above regulation would indicate that other than a high-rise building or special building, the width of the main street on which the building abuts shall not be less than 12 meters and one end of the street shall join another street not less than 12 meters in width. In the present case, what was requested for by the Petitioner was 6 meters separate ingress and 6 meters separate egress which is in tune with the requirement of Regulation 4.6 of the National Building Code.

22.36. Clause (ix) of Regulation 3.16 of the Zonal Regulations of the Revised Master Plan 2015, is reproduced hereunder for ease of reference:

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> *ix. Areas which fall within 150m radius from the metro terminals shall be eligible for a maximum FAR of 4 for all permissible uses, irrespective of the FAR applicable for the respective uses in the respective tables. However, this will be applied only after the completion of the metro stations and also the same to be confirmed by the BMRCL. Till such time the existing regulations shall apply.*

22.37. The above Clause IX of Regulation 3.16 provides for any building which falls within a distance of 150 meters from the outer boundary of the metro station/terminals to be eligible for a maximum FAR of 4 for all permissible uses, irrespective of the FAR applicable for the respective uses in the respective tables of the zoning regulation. Admittedly, the property of the Petitioner abutting the metro railway station is definitely within 150 meters, and therefore would be eligible to a FAR of 4. Thus, apart from the construction which has already been put up, the Petitioner would be entitled to put up construction to an extent of 4 times the area of the property.

22.38. If the area of 766.26 sq. mt. represents the plot area before acquisition of 152 sq. mt. by BMRCL, the residual plot area would be 614.26

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sq. mt. The total permissible floor area at FAR 4 would then be 2,457.04 square meters or approximately 26,447 square feet. The construction which has been put up now, being 21,839 square feet, the Petitioner would, on this calculation, be entitled to put up an additional construction of approximately 4,608 square feet. Alternatively, if the area of 766.26 sq. mt. represents the plot area remaining after acquisition of 152 sq. mt. by BMRCL, the total extent area of the property being 766.26 sq. mt., the Petitioner would be entitled to put up 766.26 into 4, i.e., 3,065.04 square meters or approximately 32,992 square feet. The construction which has been put up now, being a super-built up area of 21,839 square feet, the Petitioner would be entitled to put up an additional construction of approximately 11,153 square feet.

22.39. As per the Schedule to the Lease Deed, the property consists of stilt + 3 floors + terrace. In terms of the zonal regulation, the height of the building would vary on the ground coverage permissible, taking into account the FAR applicable. The FAR in the present matter being

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assumed at 4, the total permissible floor area would be approximately 32,992 square feet if the plot area is 766.26 sq. m. after acquisition, or approximately 26,447 square feet if the said extent represents the plot area before acquisition of 152 sq. m. by BMRCL. The actual permissible construction would be subject to verification of the plot area available for development, the applicable Zonal Regulations and the area of the existing construction counted for FAR purposes.

22.40. The FAR being 4, the road access that would have to be provided to the said building would have to be commensurate with the FAR as per the zonal regulation so as to make available the incentive of 4 FAR being achieved by the land user. Though the FAR is required to be provided by a different authority, namely the local planning authority and the BMRCL has nothing to do with it, it is required for BMRCL to make the achievement of the incentive of the additional FAR possible.

22.41. Hence, taking into consideration the requirement of the National Building Code, the

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minimum width of the road which is required to be provided is 12 meters. It may be for achieving the larger FAR, there may be a higher road width which is required to be provided. That would have to be ascertained during the course of trial and cannot be done in this writ petition. What this Court can only direct is the provision of the minimum width of the road as required under the National Building Code. If the Petitioner has any further grievance relating to the width of the road, then the same would have to be agitated before the Civil Court and proper reliefs would have to be sought for.

22.42. On the present record, separate six-metre ingress and egress provide a more reasonable and dependable arrangement than a single combined passage. They address the separate needs of entering and leaving traffic, reduce the likelihood of obstruction and improve access for emergency vehicles. BMRCL has not established that the arrangement would interfere with an identified Metro requirement or that a lesser configuration would provide adequate access. Separate six-metre ingress

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and egress are therefore justified on the facts of this case.

FIRE SAFETY, EMERGENCY ACCESS AND THE ADJOINING METRO STATION

22.43. The building's size and commercial use make emergency access relevant. The Petitioner submits that fire tenders must be able to reach the building and that a fire could affect the adjoining Metro station, its operations and commuters.

22.44. The approximate dimensions of buses, trucks and fire engines do not, by themselves, establish the prescribed minimum width for this site. The applicable requirement depends on the relevant building and fire-safety standards and the site-specific circumstances. Clause 4.6 of Part 3 of the National Building Code of India, 2016, prescribes certain requirements for means of access to high-rise and special buildings.

22.45. The Metro station and its commuters must be protected. The station is on the eastern side, where the former frontage was acquired, and

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the requested replacement access on the northern side over land admitted to be held by BMRCL. BMRCL has not identified a specific security or operational risk arising from the proposed northern access. It may impose reasonable safeguards consistent with law, but those safeguards must not narrow, obstruct or withdraw the access granted without lawful justification.

WATER, ELECTRICITY AND SEWERAGE CONNECTIONS

22.46. BMRCL submits that the Policy does not cover utility connections through its land. However, the Policy's introduction refers to way-leave requests for underground water-supply and sewerage pipelines and electrical and telecommunication lines. Clause 2(b) identifies the feasibility of providing water, electricity and sewerage from another direction as a relevant consideration. Items 2(a) and 2(b) of the charging table prescribe charges for electric service lines and water and sewage pipelines. The Policy therefore contemplates such

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installations, although it prescribes charges for them.

22.47. The Petitioner does not ask BMRCL to supply these services; it seeks the right to install and maintain its own connections across the relevant land. BMRCL states that locations for water, sanitary and electric lines were marked during the joint inspection on 28.03.2025 and that it is willing to permit the lines at those points. This is inconsistent with its initial position that the lines cannot be provided under the Policy and confirms that installation is feasible in principle, subject to appropriate alignment and safeguards.

22.48. For the reasons given under Point (ii), the relevant charging provisions cannot be applied to make the necessary replacement utility routes chargeable in this case. The Petitioner must bear the cost of installing and maintaining the lines and any charges payable to the relevant service providers. The lines shall be laid at the points marked during the joint inspection and shown in Annexure-R2, or at such other points as may be marked in

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accordance with the operative order. BMRCL shall not obstruct the authorised lines except in accordance with law and that order.

22.49. Water and sewerage pipes passing through the acquired portion were closed during construction and the replacement utility lines have not yet been installed and commissioned. Merely marking their locations does not secure the Petitioner's ability to install and maintain them. The Petitioner must have the right to route the necessary lines through the relevant land, subject to applicable technical and safety requirements. BMRCL need not supply the services or bear the costs of obtaining, installing, operating or maintaining the connections.

22.50. Access to water and sanitation is closely connected with the right to life and human dignity under Article 21. Electricity is also necessary for the ordinary and lawful use of a modern commercial building. Where the need to route utility lines arises from acquisition and construction for the Metro project, BMRCL must not impose conditions that leave the remaining

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property without a practical means of obtaining essential services merely to protect its administrative or commercial interests.

APPLICATION OF THE POLICY AND BALANCE OF INTERESTS

22.51. BMRCL appears to have treated the Policy's standard widths and charges as controlling. Yet Clause 2 requires consideration of the circumstances of each case, Clause 7 requires consideration on the merits after site inspection, and Clause 12 provides for cases not covered by the Policy to be decided with the Managing Director's approval. A case like this in which the entire road frontage has been acquired and the remaining commercial property has been left without effective access requires individual assessment.

22.52. BMRCL's positions have differed: it says the Policy does not cover utility lines but offers to permit them at marked points; it says the northern land is needed for infrastructure but has offered a passage of 8.5 metres; and its

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access proposals have varied in width and configuration. These changes have not been accompanied by a reasoned explanation of what the property requires or why separate six-metre lanes cannot be provided.

22.53. The relief must respect the public purpose of the Metro project. The Court does not direct the return of acquired land or alteration of the Metro station, nor does it transfer BMRCL's ownership or control of its land. The direction is confined to replacement access and necessary utility routes over land held by BMRCL. BMRCL may protect its infrastructure and operations through reasonable measures consistent with this order, but the public purpose of the project does not justify leaving the remaining property without effective access where no specific operational or safety impediment has been demonstrated.

22.54. BMRCL's offer of 3.5 metres free plus five metres on payment does not resolve the issue. A combined passage of 8.5 metres is not equivalent to separate six-metre ingress and egress, which together provide twelve metres,

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approximately 40 feet. Nor does an assurance that access will not be cancelled while charges are paid remove the time limit, renewal conditions or payment burden found inapplicable under Point (ii).

NATURE OF THE RIGHT AND IMPLEMENTATION

22.55. Replacement access cannot be made subject to a ten-year agreement, periodic renewal, revised way-leave charges or discretionary withdrawal. It must continue in perpetuity, subject to law. BMRCL cannot withdraw, curtail or obstruct it merely at its discretion or because a fixed term has expired. Any lawful restriction must be supported by a genuine requirement consistent with law and must not defeat the right granted. Since the access is free and in perpetuity, the question of termination of the way-leave does not arise.

22.56. Permanent and free access does not transfer ownership or possession of BMRCL's land to the Petitioner and does not create a public road. The route is for the Petitioner and persons lawfully using the Schedule Property to enter and leave, and for authorised utility lines to

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pass. No construction other than that reasonably required for the access surface and utility lines is permitted. Clauses 5 and 11 of the Policy continue to apply to the extent consistent with this order. BMRCL may take reasonable measures to protect Metro safety, security and operations, provided they do not narrow, obstruct or render ineffective the access granted.

22.57. The alignment of the two six-metre lanes shall be marked on land held by BMRCL on the northern side. It must avoid third-party land and interference with the Metro station and its operations. Utility lines shall be laid at the points marked on 28.03.2025 and shown in Annexure-R2, or at such other points as are agreed or determined under the operative order. Either party may approach this Court for directions on a genuine implementation dispute. Such an application shall not reopen the entitlement to replacement access, its free and permanent character, or the separate six-metre widths determined under this Point, subject only to the determination by the committee mentioned below. Whether separate

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six-metre width ingress and egress can be provided shall be determined by a committee to be constituted by the Managing Director of BMRCL, comprising concerned officers having the requisite technical expertise, after notice to the Petitioner and having regard to the building bye-laws, zonal regulations, fire force requirements and the nature of the construction. Only if the committee records in writing, with reasons, that separate ingress and egress cannot be provided, BMRCL shall provide a single access of at least 40 feet (about 12.2 metres) for both ingress and egress.

22.58. This Court answers Point No. (iii) by holding that the Petitioner is entitled to a writ of mandamus under prayer (b). BMRCL shall provide, free of cost and on a permanent basis, over land held by BMRCL, a six-metre-wide ingress and a separate six-metre-wide egress to the Schedule Property from the northern side; if the committee referred to above records, with reasons, that separate ingress and egress cannot be provided, BMRCL shall instead provide a single access of at least 40 feet (about 12.2 metres) for both ingress and

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egress. The access shall continue in perpetuity and shall not be withdrawn, curtailed, made subject to renewal or obstructed at BMRCL's discretion. This direction is subject to law and to reasonable safeguards for Metro safety, security and operations, provided those safeguards do not defeat or materially impair the access granted.

22.59. BMRCL shall permit the Petitioner to install and maintain water, electricity and sewerage lines at the points marked during the joint inspection on 28.03.2025 and shown in Annexure-R2, or at such other points as are marked under the operative order. The Petitioner shall bear the costs of installing and maintaining the lines and any applicable charges payable to the relevant service providers. BMRCL shall not rely on the charging provisions or fixed-term conditions of the Way Leave Policy to deny, charge for or interrupt the replacement access and utility routes granted under this Point.

22.60. The exact alignment and marking shall be settled under the operative directions, on land held by BMRCL and without encroachment on

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third-party land or interference with the Metro station. Any dispute concerning implementation may be brought before this Court in accordance with the operative order.

23. **<u>Answer to Point No. (iv):</u> Whether the compensation paid in respect of the acquired land and demolished structure precludes the Petitioner from pursuing its distinct claim for damages arising from the alleged loss of access to the remaining Schedule Property?**

23.1. Learned Counsel for the Petitioner submits that the compensation paid for the land and building acquired by BMRCL does not automatically extinguish every separate claim arising from the effect of the acquisition on the remaining property. The compensation was paid for the property taken over for the Metro project. Prayer (c), by contrast, concerns losses allegedly caused by the resulting loss of effective access to the property left with the Petitioner. The two claims must be considered separately.

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23.2. Learned Counsel submits that, when only part of a property is acquired, the effect on the remainder must also be considered. Adequate ingress and egress are necessary for the effective use of a commercial building by its owner, tenants, employees, customers and other lawful users. The Petitioner's case is that its former access from the eastern side, facing the main road, was entirely lost when the land was acquired and the Metro station was constructed, leaving the remaining building without effective access and causing the tenant to vacate.

23.3. Learned Counsel submits that compensation for the acquired land and demolished structure is distinct from losses caused by the deprivation of access to the remaining property. Payment for what was taken does not, by itself, settle the consequences for what remained.

23.4. Learned Counsel also refers to the dispute concerning compensation for the acquired extent of 152 square metres. Compensation was paid for 95.75 square metres, while the remaining 56.25 square metres were treated as

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kharab land. The Petitioner challenged that treatment in W.P. No. 4125/2023, in which this Court directed KIADB to take steps to issue a corrigendum including the remaining extent and to pay compensation. Learned Counsel submits that this proceeding concerns a separate issue from the claim arising from loss of access.

23.5. Referring to BMRCL's letter dated 23.12.2024, Learned Counsel submits that the statement that compensation included the demolished building does not answer the claims concerning loss of access, interruption of utility services or loss of rental income. Nor does the statement that the Petitioner was permitted to strengthen the remaining floors at its own cost resolve whether the building could be accessed and used.

23.6. Learned Counsel accordingly submits that prayer (c) is not a claim for duplicate compensation for the acquired land or demolished structure. It is a separate claim for losses suffered because the remaining property could not be accessed and effectively used.

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Acceptance of acquisition compensation does not, by itself, bar consideration of that claim.

23.7. Learned Counsel for the Respondents submits that the acquisition was carried out under the Karnataka Industrial Areas Development Act, 1966, and that BMRCL paid Rs.4,01,44,404/- as compensation for the acquired land and building. The Petitioner accepted that amount and, according to BMRCL, cannot seek further compensation arising from the acquisition.

23.8. Learned Counsel submits that compensation was calculated at 200% of the market value, together with solatium and interest, under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. BMRCL relies on the amount paid to support its position that no further compensation is payable and that it may levy charges for access beyond the free width permitted under its Way Leave Policy.

23.9. Learned Counsel further relies on BMRCL's letter dated 23.12.2024, which states that the compensation included the demolished building and that the Petitioner was permitted to

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strengthen the remaining floors at its own cost, without any right to compensation.

QUESTION FOR DETERMINATION AND SCOPE OF THIS POINT

23.10. The question under this Point is limited to whether the compensation paid for the acquired land and demolished structure, by itself, bars the Petitioner from pursuing a distinct claim for losses allegedly caused by the acquisition and the resulting loss of access to the remaining Schedule Property. This Point does not determine whether the Petitioner has proved its entitlement to the amount claimed in Annexure-F. That issue falls for consideration under Point (v).

WHETHER THE COMPENSATION PAID BARS A SEPARATE CLAIM

23.11. BMRCL states that it paid Rs.4,01,44,404/- as compensation for the acquired land and building, including the demolished structure, and relies on its assertion that the award included 200% of market value, solatium and interest. The purpose for which compensation

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was assessed is material. BMRCL has not shown that the amount included a specific assessment of losses arising from the loss of access to the remaining property, interruption of utility services or loss of rental income.

23.12. The substantial amount paid does not, by itself, establish that every consequence of the acquisition was assessed or compensated. The acquired land and demolished structure are distinct from the remaining property and the impairment of its use. If the loss of access is established, it concerns the use and utility of the property left with the Petitioner, rather than the value of the property acquired.

23.13. The Petitioner's case is that it formerly had independent and complete access from the eastern side facing the main road and lost that access after the acquisition and construction of the Metro station. It alleges that the remaining building was left without effective ingress and egress. Whether the loss of access caused the tenant to vacate, whether other circumstances contributed to the vacancy, and whether any

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resulting rental loss is legally recoverable are matters reserved for Point (v).

23.14. Compensation for acquired land does not itself provide access to the remaining property. Nor does it establish, that the loss of use or rental income was included in the award. BMRCL has not identified a settlement or release by which the Petitioner relinquished claims concerning access, interruption of utilities or loss of income. On the material placed before this Court, acceptance of the acquisition compensation does not, by itself, dispose of those distinct claims.

23.15. The effect of acquisition on the remaining property must be considered separately from the value of the property taken. The public purpose of the Metro project and the payment of compensation for the acquired property do not, by themselves, answer whether the remaining property was left without effective access or whether any resulting loss has been addressed in accordance with law.

23.16. Article 300A of the Constitution is relevant to the extent that it protects against deprivation

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of property except by authority of law. It does not, by itself, establish an entitlement to every consequential loss claimed by an owner. It reinforces, however, that the effect of public action on private property must be considered in accordance with law and cannot be treated as immaterial merely because compensation has been paid for the property acquired.

STATUTORY COMPENSATION AND THE HEADS OF LOSS

23.17. BMRCL has referred to both the Karnataka Industrial Areas Development Act, 1966, and the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The present Point does not require the Court to determine the complete statutory basis of the acquisition or reopen the acquisition award. It requires the Court to distinguish the compensation actually paid from the losses now claimed.

23.18. Section 28 of the 2013 Act is reproduced hereunder for easy reference:

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28. Parameters to be considered by Collector in determination of award.*–In determining the amount of compensation to be awarded for land acquired under this Act, the Collector shall take into consideration—*

firstly, the market value as determined under section 26 and the award amount in accordance with the First and Second Schedules;

secondly, the damage sustained by the person interested, by reason of the taking of any standing crops and trees which may be on the land at the time of the Collector's taking possession thereof;

thirdly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of severing such land from his other land;

fourthly, the damage (if any) sustained by the person interested, at the time of the Collector's taking possession of the land, by reason of the acquisition injuriously affecting his other property, movable or immovable, in any other manner, or his earnings;

fifthly, in consequence of the acquisition of the land by the Collector, the person interested is compelled to change his residence or place of business, the reasonable expenses (if any) incidental to such change;

sixthly, the damage (if any) bona fide resulting from diminution of the profits of the land between the time of the publication of the declaration under section 19 and the time of the Collector's taking possession of the land; and

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seventhly, any other ground which may be in the interest of equity, justice and beneficial to the affected families.

23.19. Section 28 identifies matters to be considered when determining compensation, including damage caused by severance of the acquired land from other land and damage caused where the acquisition injuriously affects other property or earnings. The provision may therefore be relevant to the distinction between the value of the land acquired and consequential loss.

23.20. The amount paid at 200% of market value, together with solatium and interest, does not by itself establish that the Petitioner was compensated for every consequence of the acquisition. The amount may be relevant to the acquisition claim, but its magnitude does not prove that the separate losses now claimed were included or that the Petitioner agreed to relinquish any distinct remedy available under law.

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RELEVANCE OF THE WAY LEAVE POLICY AND ACCEPTANCE OF COMPENSATION

23.21. The Way Leave Policy recognises that acquisition may leave a property without adequate access and provides a mechanism for considering access in such circumstances. This supports the conclusion that access to the remaining property is a distinct matter requiring consideration. The Policy's existence does not, by itself, establish the Petitioner's entitlement to damages or the amount recoverable.

23.22. The Petitioner's acceptance of Rs.4,01,44,404/- is not disputed. However, BMRCL has not identified any release or settlement showing that the Petitioner relinquished its separate claims concerning access, utility services or loss of rental income. Acceptance of compensation for the acquired land and building does not, without more, establish that the Petitioner agreed to make no further claim for the effect of the acquisition on the remaining property.

23.23. The Petitioner's continued access grievance and the separate proceedings concerning

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compensation for part of the acquired extent are consistent with its maintaining distinct claims. The finding under this Point rests principally on the purpose of the compensation paid and the absence of material showing that the consequential losses were included in or settled by that payment.

SEPARATE PROCEEDING CONCERNING 56.25 SQUARE METRES

23.24. The dispute concerning the remaining 56.25 square metres is separate. The Petitioner states that compensation was paid for 95.75 square metres out of the 152 square metres acquired and that the balance was treated as kharab land. In W.P. No. 4125/2023, this Court directed KIADB to take steps to issue a corrigendum including the remaining extent and to pay compensation. Compliance with those directions and the amount, if any, remaining payable are not determined under this Point. Nothing in this finding alters the directions in that proceeding.

23.25. The extent for which acquisition compensation was paid is a separate issue from whether the

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compensation for the acquired land and building bars the claim arising from loss of access to the remaining property. The answer to the latter question does not depend on the final outcome of the former.

EFFECT OF THE STATEMENT CONCERNING STRENGTHENING OF THE BUILDING

23.26. BMRCL's letter dated 23.12.2024 states that the Petitioner was permitted to strengthen the remaining floors at its own cost and without any right to compensation. That statement concerns work on the remaining structure. It does not establish that effective access was provided or that loss of use and rental income was included in the acquisition compensation. No finding is made under this Point concerning the cost or adequacy of the strengthening work.

23.27. This Court answers Point No. (iv) by holding that the compensation paid for the acquired land and demolished structure does not, by itself, preclude the Petitioner from pursuing a distinct claim for losses caused by the

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acquisition and the resulting loss of effective access to the remaining Schedule Property.

24. **<u>Answer to Point No. (v):</u> Whether the Petitioner is entitled to the monetary relief sought under prayer (c), namely, recovery of the amount of ₹11,30,36,834.57 claimed under Annexure-F dated 07.10.2024 and continuing damages until the access sought under prayer (b) is provided; and whether such relief can appropriately be adjudicated in the present writ proceedings, having regard to the Respondents' objections concerning disputed facts, causation and the alleged loss of rental income?**

24.1. Learned Counsel for the Petitioner submits that the Schedule Property bearing Municipal No. 28/B, PID No. 57-137-28B, at Sarakki Industrial Layout, Bannerghatta Road, 3rd Phase, J.P. Nagar, Bengaluru, measures 766.26 square metres and comprises a commercial building with a super built-up area of 21,839 square feet, extending from the ground floor to the fourth floor.

24.2. Learned Counsel submits that, before the Metro project, the property had access from the eastern side facing the main road. By letter dated 07.03.2017, BMRCL indicated that 152

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square metres on the eastern side would be acquired through the Karnataka Industrial Areas Development Board (KIADB) for the Metro station. The Petitioner's case is that the acquisition and subsequent construction took over the former frontage and deprived the remaining property of effective access.

24.3. Learned Counsel further submits that the electricity, water and sanitation connections serving the Schedule Property were disconnected in 2019 in connection with the Metro construction. The property had been leased to M/s GraphX Solution India Pvt. Ltd. under a registered lease deed dated 01.07.2015, recording monthly rent of ₹12,01,145 and contractual escalation of 15% every three years. The Petitioner asserts that the tenant vacated in August 2019 because effective access and essential services were unavailable, and that the property has consequently remained incapable of effective commercial use.

24.4. Learned Counsel submits that compensation paid for the acquired land and demolished

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structure does not necessarily compensate for the separate effect on the remaining property. Of the 152 square metres identified for acquisition, compensation is said to have been paid for 95.75 square metres, while the remaining 56.25 square metres were treated as kharab land. The issue concerning the remaining extent is the subject of W.P. No. 4125/2023. The Petitioner submits that the acquisition compensation issue is distinct from the loss allegedly caused to the remaining property by deprivation of access and essential services.

24.5. Learned Counsel submits that, by request dated 15.04.2024, the Petitioner sought replacement access from the northern side over land held by BMRCL, comprising a separate six-metre-wide entry and a separate six-metre-wide exit. By letters dated 28.06.2024 and 19.11.2024, BMRCL offered a combined six-metre passage subject to upfront way-leave charges and a ten-year agreement. The Petitioner disputes those conditions because the need for replacement access arose from the Metro project.

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24.6. Learned Counsel relies on the registered lease deed as a relevant basis for assessing rental loss. By legal notice dated 07.10.2024, the Petitioner claimed ₹11,30,36,834.57 under Annexure-F and also sought continuing compensation until effective access and essential services were provided or restored.

24.7. Learned Counsel for the Respondents submits that access and utility lines over land acquired for the Metro project are governed by BMRCL's Way Leave Policy. BMRCL relies on the Policy provisions concerning permitted widths, charges and licence conditions, and on its offers of a combined six-metre passage subject to the terms set out in its letters dated 28.06.2024 and 19.11.2024.

24.8. Learned Counsel submits that, by letter dated 23.12.2024, BMRCL stated that pipes passing through the acquired portion had been closed during construction because the property was vacant, and that separate utility connections could be obtained. BMRCL disputes responsibility for the alleged loss of rental income and contests the dates, circumstances

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and causal connection relied upon by the Petitioner.

24.9. Learned Counsel for the Respondents further submits that the claim raises disputed questions concerning the acquisition award, the date and responsibility for the utility disconnections, the date and reason for the tenant's departure, the rent payable from time to time, the period of any loss, mitigation and the computation of damages. BMRCL contends that those issues require evidence and should be determined in a civil suit.

24.10. The issues for determination are:

24.10.1. whether payment of compensation for the acquired portion, by itself, bars a separate claim for consequential loss allegedly suffered by the remaining property;

24.10.2. which aspects of the dispute can be determined in these writ proceedings; and

24.10.3. whether the precise amount and period of any recoverable rental loss should be

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left to a competent civil court for determination on evidence.

24.11. The Court has considered the claim in the context of its findings under Point Nos. (ii), (iii) and (iv). The issues must be kept distinct. The legality of BMRCL's approach to replacement access and utility services is one matter. Whether the acquisition award included compensation for the particular consequential loss now alleged is another. Whether, for what period and in what amount the Petitioner in fact suffered recoverable rental loss attributable to the acts or omissions complained of is a further, evidentiary question.

24.12. The findings under Point Nos. (ii) and (iii) determine the legal position governing replacement access and utility connections in the circumstances of this case. The identified provisions of the Way Leave Policy cannot be relied upon to impose the impugned charges or time-limited conditions on an owner whose former access was lost through BMRCL's acquisition or construction, and BMRCL is required to provide the replacement access and

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utility arrangements directed in this judgment. Those findings and directions remain operative irrespective of the forum in which the precise monetary loss is assessed.

24.13. The Court rejects BMRCL's broad proposition that payment of compensation for the acquired land and demolished structure, by itself, necessarily bars a separate claim arising from the effect of the acquisition and Metro works on the remaining property. The acquired land and the remaining property are distinct subjects of potential injury. The fact that compensation was paid for the former does not, without examination of the award and its component heads, establish that loss of access, severance, injurious affection, loss of earnings or rental loss concerning the remaining property was also assessed and compensated.

24.14. Section 28 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, and 23 of the Land Acquisition Act, 1894, illustrate the legal distinction between the value of the land acquired and certain consequential injuries

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to other property or earnings. The Court does not decide in these writ proceedings which statutory regime governs the acquisition or whether a particular head was payable under that regime. The relevant factual question is what the acquisition award actually assessed and paid. That question must be answered by examining the complete award, valuation materials, payment records and related proceedings.

24.15. The registered lease deed is relevant evidence of the parties' contractual arrangement and may provide an important measure when assessing loss. It does not, by itself, prove that rent at the stated rate was payable or received throughout every month claimed; that the tenant vacated for the reason alleged; that the premises could not otherwise have been let; or that all loss during the period was caused by BMRCL. Those matters must be considered with the tenancy records, termination and handover documents, rent-payment evidence, utility records, evidence concerning access, and any attempts to re-let the property.

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24.16. The precise date on which each utility service was disconnected must be established from the relevant records. The date on which the tenant vacated, the reason for its departure and the period for which rent would otherwise have been payable must likewise be proved. The rent applicable from time to time must be calculated by reference to the complete lease deed, including its escalation provisions and any relevant variation, termination, rent-free period, credit or other adjustment. These matters bear directly on causation, the period of loss and the amount, if any, legally recoverable.

24.17. The same applies to the acquisition-compensation issue. Whether the award included compensation for severance, injurious affection, loss of earnings, rental loss or any overlapping head cannot safely be determined by a general assertion from either side. The award and supporting valuation record must be examined. If any payment is shown to cover the identical loss for the identical period, it must be accounted for to prevent double recovery. If no such overlap is established, the

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mere payment of acquisition compensation cannot defeat a distinct claim.

24.18. The Court is satisfied that the Petitioner has raised a substantial grievance concerning the consequences of a public infrastructure project and BMRCL's handling of the resulting access and utility problem. The record warrants the findings elsewhere in this judgment concerning BMRCL's application of the Way Leave Policy, the need for effective replacement access and the obligation to address the continuing impairment of the remaining property. BMRCL's conduct, as analysed under Point No. (vi), merits the Court's express disapproval for the reasons recorded there.

24.19. However, the existence of a public-law wrong or the establishment of the Petitioner's right to effective access does not permit the Court to presume every element of the pleaded monetary claim. Article 226 permits consequential relief where appropriate, but it does not require the Court to conduct a full civil trial within writ proceedings. Where damages depend on contested evidence about the

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contents of an acquisition award, dates of disconnection, the tenant's departure, the rent payable over time, mitigation, causation and the extent of any overlap, a trial is the appropriate means of resolving those issues.

24.20. The Court therefore distinguishes the matters that can properly be decided in these proceedings from those that cannot. This Court can determine the legality of the impugned Policy provisions as applied to the Petitioner, the Petitioner's entitlement to the replacement access and utility-related relief directed under Point No. (iii), and the legal proposition that payment for the acquired portion does not automatically extinguish a distinct claim for consequential loss to the remaining property. It can also record its disapproval of BMRCL's handling of the grievance, award costs where justified, and issue directions governing future cases.

24.21. This Court cannot, on the present record and without a trial, finally determine the precise commencement date of rental loss, the date on which the tenant vacated, whether the tenant

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left for the reasons alleged, the rent legally payable in each month, the extent to which the property could have been re-let, the effect of intervening circumstances, the contents and effect of the acquisition award, or the precise amount of recoverable loss. Those questions require production and testing of evidence, including cross-examination where necessary.

24.22. The Court does not accept BMRCL's submission insofar as it seeks to use the existence of disputed facts to defeat the Petitioner's public-law challenge or the relief concerning access and utility services. Nor does the Court accept that payment of acquisition compensation automatically bars the Petitioner from pursuing a separate claim. The proper consequence of the factual disputes is that the precise monetary claim must be left to a competent civil court, rather than being quantified finally in these writ proceedings.

24.23. The Petitioner shall accordingly have liberty to institute an appropriate civil suit before the competent court for recovery of rental loss and other consequential damages, if so advised and

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in accordance with law. The civil court shall determine, on the evidence adduced by the parties, whether and to what extent the Petitioner suffered loss attributable to BMRCL's acts or omissions; the relevant period of loss; the effect of the acquisition award and compensation already paid; the rental terms and escalation applicable from time to time; mitigation and other relevant circumstances; interest thereon, and the final amount, if any, payable. The Petitioner though shall be entitled to the benefit of Section 14 of the Limitation Act, 1963 for the time spent in prosecuting this writ petition. The loss complained of is a continuing cause of action, which shall be treated as continuing until the access is made available and the water, electricity and sewerage facilities are restored.

24.24. For that purpose, the Petitioner may rely on the registered lease deed dated 01.07.2015, Annexure-F dated 07.10.2024 or any other document that would reflect the rentals that the Petitioner would have secured, which it has now lost out on, the acquisition award and payment records, utility and construction

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records, tenancy and handover documents, correspondence, and such other admissible evidence as may be available. BMRCL shall be at liberty to raise all legally available defences concerning causation, proof, quantum, mitigation and overlap, except that the general proposition that acquisition compensation automatically bars a distinct consequential-loss claim stands rejected for the reasons stated above. All questions requiring evidence shall be decided by the trial court independently in accordance with law.

24.25. The trial court shall not treat the observations in this judgment concerning the legal distinction between acquisition compensation and consequential loss as a finding that the Petitioner has already proved the precise amount claimed; the observation is only limited to the fact that the Petitioner would be entitled to losses caused by the deprivation of access, in addition to the acquisition compensation, the existence and extent of such losses not having been determined or proved in these proceedings. Equally, the Petitioner shall not be required to establish the legal validity of the

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Policy provisions afresh as determined in this judgment, or the entitlement to the replacement access and utility-related directions granted herein. The trial court shall determine the factual issues and monetary consequences on the evidence before it, consistently with the binding findings of this Court.

24.26. The Court expresses no final view on whether the entire sum of ₹11,30,36,834.57 claimed under Annexure-F is recoverable, nor on the exact amount of continuing or other consequential damages. No monetary decree for that sum is passed in these writ proceedings. This observation is made to ensure that the claim is adjudicated on complete evidence and that BMRCL has a fair opportunity to contest the factual basis and calculation.

24.27. Accordingly, Point No. (v) is answered partly in favour of the Petitioner. BMRCL's contention that payment of compensation for the acquired portion, without examination of the award and the relevant heads of compensation,

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automatically defeats the claim for consequential loss is rejected. The precise claim for rental-based compensation and other damages is reserved for determination by a competent civil court on evidence. The findings and directions under Point Nos. (ii), (iii) and (iv) remain unaffected.

25. **Answer to Point No. (vi): What order?**

BMRCL'S STAND AND THE APPLICATION OF ITS OWN POLICY

25.1. The Petitioner contends that BMRCL treated its Way Leave Policy as rigid, asserted that it was bound by the Policy, and failed to consider the particular circumstances of the Petitioner's property. The Court records the following further observations.

25.2. The Policy itself provided mechanisms for considering cases on their individual merits. Clause 2 required consideration of the circumstances of each case; Clause 7 contemplated a decision on the merits after site inspection; and Clause 12 provided for a

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decision, with the approval of the Managing Director, where the Policy did not cover the case.

25.3. The present case concerned a property whose eastern frontage had been acquired for the Metro project, leaving the remaining commercial building without any access. The need for a permanent replacement route and associated utility connections called for a reasoned, site-specific assessment. Although a joint inspection was later conducted and points were marked for utility lines, the separate six-metre-wide ingress and egress sought by the Petitioner was not provided and no reasons are placed on record, except to contend that it cannot be provided. BMRCL cannot justify its stand merely by referring to standard widths and charges prescribed by the Policy when the Policy itself contemplated consideration of individual circumstances.

25.4. BMRCL's positions were also inconsistent. It relied on the Policy to contend that access was governed by its discretion and prescribed licence conditions, while its own Policy

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recognised the special position of properties left without access. It initially maintained that the Policy did not cover the provision of utility lines, yet subsequently identified points at which those lines could be laid. It asserted that the relevant land was required for Metro infrastructure, but also offered access over that land, though on conditions disputed by the Petitioner.

25.5. Its proposals shifted from a combined six-metre-wide passage to an arrangement involving 3.5 metres free of charge and a further five metres on payment. Neither proposal addressed the Petitioner's distinct request for separate six-metre-wide entry and exit passages. Further, BMRCL relied on an assurance that access would not be cancelled if charges were paid, while maintaining that its Policy's power of discontinuance must remain available. These positions reveal the absence of a consistent and reasoned approach to the particular problem before it. BMRCL also did not adequately address the applicable building bye-laws and fire-safety requirements relied upon by the Petitioner.

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25.6. BMRCL's stand placed the practical and financial burden of resolving the access problem on the Petitioner, although the need for replacement access arose from the Metro project. The Petitioner's refusal to accept terms requiring advance payment and a time-limited agreement cannot, in the circumstances found under Point Nos. (ii) and (iii), be treated as a sufficient answer to the failure to provide effective replacement access.

RELIANCE ON ACQUISITION COMPENSATION TO ANSWER THE DISTINCT LOSS OF ACCESS

25.7. A further feature of BMRCL's stand is its reliance on compensation paid for the acquired land and demolished structure as though that payment necessarily answered the grievance concerning access to the remaining property. As explained under Point No. (iv), these are distinct matters. Compensation for the land and building acquired does not, by itself, establish that the effect on the remaining property, including deprivation of effective access and loss of use, was assessed and compensated.

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25.8. BMRCL did not identify a specific assessment showing that the compensation already paid included the separate loss now in issue. Nor did it show that the Petitioner had settled or relinquished the distinct claim arising from the effect of the acquisition on the remaining property. The Court does not reopen the adequacy of compensation for the property acquired. The criticism is that BMRCL relied on that payment as a complete answer to a different grievance without addressing whether the two matters were in fact assessed separately.

INCONSISTENT POSITION CONCERNING THE TENANT AND THE VACANCY OF THE PROPERTY

25.9. BMRCL's letter dated 23.12.2024 presents an inconsistency requiring comment. BMRCL disputed the Petitioner's assertion concerning the tenant's departure, while also stating that the property was vacant and that the pipes had been closed because there was no need to restore services to a vacant property. Those positions are difficult to reconcile. The inconsistency is relevant to the adequacy of

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BMRCL's response to the grievance, although it does not, without trial, conclusively establish the date or reason for the tenant's departure or the precise amount of rental loss.

25.10. The registered lease deed dated 01.07.2015 predates the present dispute and records the agreed rent and escalation. BMRCL's correspondence did not provide a consistent or reasoned answer to the Petitioner's case that the interruption of access and essential services had impaired the use of the property. This inconsistency is relevant to the Court's assessment of BMRCL's handling of the grievance. The precise tenancy facts and their monetary consequences remain open for determination on evidence in the civil suit.

RELIANCE ON A CIVIL SUIT FOR AN EASEMENT OF NECESSITY

25.11. BMRCL also submitted that, if the Petitioner required more access than the Policy allowed, it should institute a civil suit for an easement of necessity and that this Court should not intervene in writ proceedings. However, BMRCL's own Policy recognises the need to

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consider access where acquisition leaves a property without effective access. BMRCL cannot rely on the Policy framework while declining to address the consequences of its acquisition and construction in a manner consistent with that framework.

25.12. The availability of a civil remedy is relevant to the limits of relief that may be granted in writ proceedings. It does not remove this Court's jurisdiction to examine whether BMRCL applied its Policy lawfully and fairly. The Court has considered the maintainability objection separately and rejected it insofar as it concerns the public-law challenge and the prayers for replacement access and utility-related relief. The monetary claim, by contrast, involves disputed facts requiring trial and is therefore left open to the competent civil court.

THE CUMULATIVE EFFECT OF BMRCL'S CONDUCT

25.13. The above features must be viewed together with the findings under Point Nos. (ii), (iii) and (iv). The former frontage and access were lost in connection with the Metro project. The grievance concerning access and utility

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arrangements remained unresolved despite the Petitioner's representations and the later joint inspection. When the Petitioner sought replacement access, BMRCL's proposals were conditional and did not address the distinct request for separate entry and exit passages. BMRCL did not produce a reasoned, site-specific assessment explaining why the requested arrangement could not be accommodated, and continued to rely on Policy conditions found unenforceable as applied to the Petitioner.

25.14. The Court recognises the public importance of the Metro project and BMRCL's responsibility to protect its land, infrastructure, safety and operations. The relief granted does not require alteration of the Metro station, return of acquired land or surrender of BMRCL's control over its property. It requires workable replacement access and routes for utility lines, subject to reasonable safeguards consistent with this order. No specific operational or safety requirement has been established on the material before the Court that justifies leaving the remaining property without effective access

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or making replacement access dependent on the impugned charges.

25.15. A public authority is expected to deal fairly, consistently and proactively with persons affected by its projects. Its Policy should assist it in identifying and resolving the consequences of acquisition, not become a reason to avoid doing so. BMRCL's failure to make effective use of the case-specific mechanisms in its Policy, its inconsistent positions, and its insistence that the Petitioner should bear the burden of securing replacement access materially contributed to the continuation of the dispute.

DISAPPROVAL OF BMRCL'S CONDUCT AND AWARD OF COSTS

25.16. The Court's disapproval is not based merely on the fact that BMRCL has failed in its defence. A public authority is entitled to contest a claim and protect its property and legitimate operational interests. This case, however, involves more than an ordinary disagreement over the interpretation of a policy. The cumulative record shows that BMRCL failed to address a foreseeable consequence of its

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acquisition, did not provide an effective solution for a prolonged period, relied on compensation for the acquired land as a complete answer to a distinct grievance, adopted inconsistent positions concerning the tenancy and vacancy of the premises, and sought to place the burden of resolving the resulting access problem on the Petitioner.

25.17. The Petitioner was compelled to approach this Court to secure relief concerning access and essential services necessary for the effective use of the remaining commercial property. The prolonged failure to provide a reasoned resolution, despite the mechanisms available under BMRCL's own Policy, materially added to the burden of the proceedings. The Court considers that a declaration and directions for access should be accompanied by an award of costs reflecting its disapproval of the manner in which BMRCL dealt with the grievance.

25.18. In these circumstances, an award of costs is justified. The amount must reflect the prolonged and avoidable nature of the dispute, the need for the Petitioner to institute and

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prosecute these proceedings to secure effective relief, and the failure of a public authority with the requisite technical and administrative capacity to resolve the problem through a fair and lawful application of its own Policy. The award is intended to mark the Court's disapproval of that conduct and to meet, in part, the burden of litigation imposed on the Petitioner. It is distinct from any rental loss or consequential damages that may be established in the civil suit.

25.19. Having regard to the cumulative circumstances, this Court directs Respondent No. 1, BMRCL, to pay costs of ₹10,00,000 (Rupees Ten Lakhs only) to the Petitioner. The costs shall be paid within eight weeks from the date of this order.

CLARIFICATION

25.20. The above observations are confined to BMRCL's handling of the Petitioner's request and the positions taken in these proceedings. They do not question the public purpose of the Metro project or BMRCL's authority to protect its property and operations by lawful means. The criticism concerns the failure to address

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fairly and consistently the consequences of the project for the remaining Schedule Property, and the resulting need for judicial intervention.

BEFORE PARTING: DIRECTIONS FOR FUTURE CASES

25.21. Before parting, this Court considers it necessary to set out directions for BMRCL to follow in future cases involving acquisition of private land for Metro projects, particularly where the acquisition or construction may affect access to or the ordinary use of the remaining property. The present case demonstrates that the consequences of acquisition cannot be assessed by considering only the extent of land taken over. The effect on the remaining property must also receive due attention.

25.22. Whenever BMRCL proposes to acquire land or undertake construction that may affect access to, or the ordinary use of, the remaining property, it shall identify the likely consequences for that property at the planning and implementation stages. The assessment shall, as relevant to the site, consider existing

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ingress and egress, access for vehicles and emergency services, the availability of water, electricity and sanitation, and any other essential facility that may be affected by the proposed works.

25.23. Where the proposed acquisition or construction is likely to leave the remaining property without access or effective access or essential services, BMRCL shall, as far as practicable, inspect the site, consult the affected owner and consider a workable arrangement before the existing access or services are disrupted. The assessment and proposed solution shall be recorded in writing. The purpose is to identify and address the consequences for the remaining property in a timely manner, rather than leave the owner to seek a remedy after deprivation has occurred.

25.24. While considering a request for replacement access, BMRCL shall distinguish between a request for additional or more convenient access and a request made necessary because the original access or frontage has been lost owing to its acquisition or construction

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activities. Such a request shall not be rejected merely by referring to standard widths, charging slabs or licence conditions under the Way Leave Policy. BMRCL shall consider actual site conditions, the use and configuration of the remaining property, the availability of alternative access, relevant safety and operational requirements, applicable building bye-laws, the National Building Code, Fire and Emergency Services requirements and other applicable regulatory requirements. The decision shall state reasons for accepting or rejecting the requested arrangement.

25.25. BMRCL shall give due effect to the provisions of its Way Leave Policy that require consideration of individual circumstances, site inspection and a decision on the merits, including the procedure for cases not specifically covered by the Policy. The Policy shall be applied as a framework for fair decision-making and not as a reason to avoid examining the consequences of BMRCL's own acquisition or construction. The provisions declared invalid or unenforceable in this judgment shall not be applied to owners whose original access or frontage has been lost

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because of BMRCL's acquisition for the Metro project.

25.26. Where utility routes are likely to be affected, BMRCL shall coordinate, as necessary, with the relevant service providers and the affected owner to identify a workable arrangement for continuity or restoration of essential services at the earliest, without any delay. Where replacement utility routes are required over land held by BMRCL, the proposed alignment, responsibilities for installation and maintenance, and applicable service-provider charges shall be clearly communicated. Administrative or contractual conditions shall not be imposed in a manner that defeats the practical provision of essential services.

25.27. If BMRCL considers that effective replacement access cannot reasonably or lawfully be provided, it shall communicate its reasons to the affected owner and consider, in accordance with applicable law, whether acquisition of the remaining property or another lawful solution is appropriate. An owner whose property has been left without access or effective access

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shall not be kept indefinitely in uncertainty while the authority neither provides a workable solution nor takes a reasoned decision on the available alternatives.

25.28. BMRCL shall ensure that decisions concerning replacement access and essential services are communicated within a reasonable time, supported by recorded reasons, and identify the steps required for implementation. Any genuine technical or operational restriction relied upon shall be identified with sufficient clarity to permit the affected owner to understand the basis of the decision and, where appropriate, challenge it in accordance with law.

25.29. The Managing Director of BMRCL shall issue appropriate internal instructions to the concerned officers to ensure compliance with these directions and the findings in this judgment. The instructions shall make clear that the consequences of acquisition for the remaining property must be considered at the planning and implementation stages; requests for replacement access must receive individual consideration; and the provisions declared

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invalid or unenforceable in this judgment must not be applied to the class of owners covered by the declaration. The instructions shall be issued within four weeks from the date of this order.

25.30. These directions do not prevent BMRCL from acquiring land for a lawful public purpose, protecting its property or imposing reasonable measures necessary for Metro safety, security and operations. They require that such powers be exercised fairly, consistently and in accordance with law, with due regard to the consequences for the remaining property of persons affected by acquisition. The public purpose of the Metro project and the rights of affected owners must be addressed together; the former does not justify ignoring the latter.

25.31. In view of the reasons and the answers given above, this Court passes the following:

ORDER

(i) The writ petition is **allowed in part**, in terms of the declarations and directions set out below.

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(ii) It is declared that the following provisions of the Way Leave Policy of BMRCL bearing No. BMRCL/LAQ/WLP/5132/2022-23 dated 07.07.2022 (Annexure-C) are unconstitutional, invalid and unenforceable as against the Petitioner and any owner of land whose direct access or frontage was lost because of acquisition by BMRCL for the Metro project:

a. the provision in Clause 3 permitting BMRCL to discontinue a way-leave facility at any time without notice, together with provisions excluding compensation, refund or alternative access upon such discontinuance; and

b. the charging provisions in Clause 4 for passages wider than 3.5 metres, namely rows 1(b), 1(c) and 1(d), and rows 2(a) and 2(b) relating to electricity lines and water or sewage pipelines serving the remaining property, read with Note (iii), Clause 9 and the requirements for ten years' upfront payment and revision or renewal of charges by reference to prevailing guidance value.

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c. This declaration is confined to the provisions identified above and the class of owners described. The remainder of the Way Leave Policy is not invalidated. BMRCL may impose lawful and reasonable safeguards for the protection of its property, Metro safety, security and operations, subject to this order.

(iii) A writ of mandamus is issued to Respondent Nos. 1 to 3, directing them as follows:

a. within four weeks from the date of this order, BMRCL shall depute officers to mark on the ground, after reasonable notice to the Petitioner and jointly with the Petitioner's representative, an ingress six metres wide and a separate egress six metres wide on the northern side of the Schedule Property over the adjoining land held by BMRCL. Whether separate ingress and egress can be provided shall be determined, within the same period, by a committee to be constituted by the Managing Director of BMRCL comprising concerned officers having the requisite

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technical expertise, after notice to the Petitioner and having regard to the building bye-laws, zonal regulations, fire force requirements and the nature of the construction; only if the committee records in writing, with reasons, that separate ingress and egress cannot be provided, BMRCL shall mark and provide instead a single access of at least 40 feet (about 12.2 metres) for common ingress and egress. If the Petitioner does not attend after notice, BMRCL may mark the access in the Petitioner's absence, record the action taken and provide a copy to the Petitioner;

b. Within eight weeks from the date of this order, BMRCL shall provide and hand over to the Petitioner, on a permanent basis, free of cost and without an agreement for a fixed term, the ingress and egress so marked. The access shall not be withdrawn, curtailed, obstructed or made subject to renewal or payment of way-leave charges at BMRCL's discretion;

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c. BMRCL shall permit the Petitioner to install and maintain water, electricity and sewerage lines to the Schedule Property over the land held by BMRCL on the northern side, at the points marked at the joint inspection of 28.03.2025 (Annexure-R2), or, where those points cannot be used because of the marking of the strips, at other points marked by BMRCL for that purpose, without way-leave charges. The Petitioner shall bear the cost of laying and maintaining the lines and charges payable to service providers; and

d. The access is for the Petitioner and persons lawfully using the Schedule Property. It does not create a public road or general right of access for third parties. BMRCL may adopt reasonable measures to protect Metro safety, security and operations, provided such measures do not narrow, obstruct or render ineffective the access directed above.

(iv) It is declared that payment of compensation for the land acquired and structure demolished

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does not, by itself, bar a distinct claim for consequential loss suffered by the remaining property. Whether the acquisition award included compensation for loss of access, severance, injurious affection, loss of earnings, rental loss or any overlapping head shall be determined by the competent civil court upon examination of the complete award, valuation materials and payment records. Any proven overlap shall be accounted for to prevent double recovery.

(v) No monetary decree is passed in these writ proceedings in respect of the claim for ₹11,30,36,834.57 made under Annexure-F dated 07.10.2024, or for continuing rental loss or other consequential damages. The Petitioner is at liberty to institute an appropriate civil suit before the competent court, if so advised and in accordance with law. Though the Petitioner shall be entitled to the benefit of Section 14 of the Limitation Act, 1963 for the time spent in these proceedings, the cause of action shall be treated as continuing until the access is made available and the water, electricity and sewerage facilities are restored.

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(vi) In any suit instituted by the Petitioner, the competent civil court shall determine on the evidence:

a. the date or dates of disconnection of electricity, water and sanitation services and whether the disconnections were attributable to the Metro works or BMRCL;

b. the date and reason for the tenant's vacation;

c. the rent legally payable from time to time under the registered lease deed dated 01.07.2015, including contractual escalation and any relevant adjustment;

d. whether and to what extent the Petitioner suffered rental loss or other recoverable damage caused by BMRCL's acts or omissions;

e. the period of any recoverable loss and the effect of any intervening cause or mitigation;

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f. the heads of compensation actually included in the acquisition award and any overlap with the claim;

g. interest;

h. All such factual and monetary issues are left open for determination at trial.

(vii) The Petitioner may rely in the civil suit on the registered lease deed dated 01.07.2015, Annexure-F dated 07.10.2024, the acquisition award and payment records, utility and construction records, tenancy and handover documents, correspondence, and any other admissible evidence. BMRCL shall be at liberty to raise all legally available defences concerning causation, proof, quantum, mitigation and overlap, subject to the findings of law recorded in this judgment. The trial court shall independently assess the evidence and shall not treat this judgment as having established the precise amount of rental loss.

(viii) If BMRCL elects not to provide the replacement access directed under clause (iii), or maintains that such access cannot lawfully or feasibly be

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provided, it shall take appropriate steps under applicable law to acquire the balance property. Any acquisition, valuation and payment of compensation shall follow the applicable statutory procedure. The current value of the balance property and any acquisition compensation are not determined in these writ proceedings. Merely deciding to initiate acquisition proceedings or taking preliminary steps shall not satisfy the direction to provide effective access or, by itself, determine any monetary claim reserved for civil trial. Acquisition of the balance property shall not negate the claim of the Petitioner for compensation for rental loss already incurred or continuing, and other consequential damages.

(ix) BMRCL shall pay the Petitioner costs of ₹10,00,000 (Rupees Ten Lakhs only) within eight weeks from the date of this order. These costs are distinct from, and shall not be treated as a determination of, the rental loss or consequential damages reserved for civil trial.

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(x) The stand of BMRCL, as recorded in this order, is deprecated for the reasons set out under Point No. (vi).

(xi) BMRCL shall file a memo of compliance in this Court, with a copy to the Petitioner, within two weeks after expiry of the period for handing over the ingress and egress. The memo shall state the dates on which the access was marked and handed over and the steps taken to facilitate the utility lines.

(xii) Either side may apply to this Court for directions if a genuine difficulty arises in carrying out the directions concerning access or utility lines, including a difficulty concerning the land over which the strips are to be marked or their length along the boundary. This liberty does not authorise reopening of the monetary issues reserved for civil trial.

(xiii) Pending interlocutory applications, if any, stand disposed of. Any interim order in force stands merged in this order.

(xiv) Though the writ petition is disposed of by this order, relist the matter on 22.01.2027 for the

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Managing Director of BMRCL to report compliance.

This Court has been assisted by Ms. Harshada R.B., Law Clerk, in reviewing this judgment.

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(SURAJ GOVINDARAJ)
JUDGE

PRS, List No.: 1 Sl No.: 45