Reserved on : 18.08.2026
Pronounced on : 30.10.2026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 04TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

REVIEW PETITION NO.120 OF 2026

IN

WRIT PETITION NO.12383 OF 2023 (LA – BDA)

BETWEEN:

P.V.VENKATARAMANA
S/O LATE SRI VENKATAPPA,
AGED ABOUT 65 YEARS,
RESIDING AT NO.401,
DEVIN INDIRA PARADISE,
5TH CROSS, DEVI PARADISE LAYOUT,
NEXT TO SHOBHA CITY,
TANISANDRA MAIN,
BENGALURU – 560 064.

...PETITIONER

Digitally signed by PADMAVATHI B K
Location: High Court of Karnataka

(BY SRI BIPIN HEGDE, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   REPRESENTED BY ITS SECRETARY,
   DEPARTMENT OF HOUSING AND

URBAN DEVELOPMENT,
DR.AMBEDKAR VEEDHI,
BENGALURU - 560 001.

2. THE BANGALORE DEVELOPMENT AUTHORITY,
KUMARA PARK WEST,
BENGALURU – 560 020.
REPRESENTED BY ITS
COMMISSIONER.

3. THE SPECIAL LAND ACQUISITION OFFICER,
BANGALORE DEVELOPMENT AUTHORITY,
KUMARA PARK WEST,
BENGALURU – 560 020.

…RESPONDENTS

(BY SMT.HEMALATHA V., AGA FOR R-1;
SRI M.AJAY KUMAR, ADVOCATE FOR R-2 AND R-3)

THIS REVIEW PETITION FILED UNDER SECTION.114 R/W ORDER 47 RULE 1 OF CPC 1908, PRAYING TO REVIEW THE ORDER DATED 30.01.2026 PASSED IN WRIT PETITION NO.12383/2023.

THIS REVIEW PETITION, HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 18.08.2026, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before this Court seeking review of the order dated 30.01.2026 passed in W.P.No.12383/2023.

2. Heard Sri Bipin Hegde, learned counsel for the petitioner, Smt. Hemalatha V., learned Additional Government Advocate for respondent No.1 and Sri M. Ajay Kumar, learned counsel for respondent Nos.2 and 3.

3. This Court after hearing the parties in W.P.No.12383/2023, had disposed the matter on 30.01.2026, on the following reasons:

> "7. The afore-narrated facts are a matter of record. The dates of preliminary notification and the final notification are also a matter of record. It would suffice if the narration would commence from the date on which the learned single Judge of this Court disposed of Writ Petition No.44949 of 2003 and connected cases on 06-06-2006, wherein one of the writ petition filed by the petitioner is Writ Petition No.6198 of 2004. The learned Judge upholds the acquisition with certain directions. The order reads as follows:
>
> "…. …. ….
>
> The challenge to the acquisition in all these writ petitions fails and it is accordingly rejected. The acquisition proceedings are upheld, subject to the following conditions:
>
> (A) The petitioners who are all the owners of sites in question (not duly converted for non-agricultural use in accordance with law) which are acquired are entitled to the following reliefs:

(i) These petitioners shall register themselves as applicants for allotment of sites under the Bangalore Development Authority (Allotment of Sites) Rules, 1984, within a period of two months from today (extendable by another one month by BDA, if sufficient cause is shown). Petitioners will have to pay only the registration fee. They need not pay initial deposit as their sites have been acquired and they are not entitled to receive compensation in regard to the sites under this arrangement.

(ii) The petitioners shall file applications for allotment of sites to BDA within three months from today, in the prescribed form stating that they are applicants who were the petitioners in these writ petitions. Petitioners shall file their documents with BDA along with the application to verify the same

(iii) BDA will treat them as applicants entitled to priority in allotment and allot each of them a site measuring 30' x 40' in "Further Extension of Banashankari 6th Phase" or in any other nearby layouts in Bangalore at the prevailing allotment prices subject to petitioners satisfying the twin requirements for allotment under the BDA (Allotment of Sites) Rules, 1984, that they must be the residents of Bangalore (ten years domicile) and should not be owning any residential property in Bangalore.

(iv) If there are no rival claimants for compensation in regard to the plots claimed by the petitioners, and if the ownership of the petitioners in regard to their respective sites which have been acquired is not disputed, BDA shall calculate the compensation payable to the petitioners and give credit to the same by adjusting the same towards the allotment price for the site to be allotted and call upon the petitioners to pay the balance. Petitioners shall be given six months time for making payment (to enable petitioners to know the amount of compensation, which they will be entitled and to ascertain how much balance they should pay).

(v) If there are rival claimants in regard to the survey numbers or the sites or if any petitioners' title in regard to the sites are challenged, BDA shall make a reference in regard to the compensation in regard to such site/land in question, to the Civil Court under

Section-30 of the Land Acquisition Act, 1894, and the petitioners will have to sort out the matter before the Reference Court. In that event, such petitioners will have to pay the full allotment price within the time stipulated, without seeking adjustment of compensation for the acquired site.

(vi) If any of the petitioners does not fulfill the requirements for allotment, under the allotment Rules, their cases may be considered for allotment of 20' x 30' sites as per the Rules containing incentive scheme for voluntary surrender of land. For the purpose of the said scheme, such petitioners will be deemed to have voluntarily surrendered the sites.

(vii) The above scheme will be available to only those who are owners, as a consequence of execution of registered sale deeds in their favour prior to the date of preliminary notification (and not to GPA/Agreement Holders).

(viii) The Authorities shall also consider whether these petitioners have purchased the sites by way of investment or with the intention of having a roof over their head and based on the said consideration, to pass appropriate orders, in the light of the observations made in this order.

B(i) All the petitioners who are the landowners/converted site owners (duly converted for non-agricultural use of land, in accordance with law), who are seeking dropping of the acquisition proceedings in so far as their respective lands/sites are concerned, on the ground that: (a) their lands are situated within green belt area (b) they are totally built up; (c) converted for non-agricultural use; (d) garden and recognised nursery lands; (e) who have built hospitals, educational institutions and factories; (f) who have not been served with the notice of acquisition and (g) who are in doubt about the inclusion of their land in the notification are permitted to make appropriate application to the authorities seeking such exclusion and exemption and producing documents to substantiate their contentions within three months from the date of this order.

(ii) it is made clear that the authority shall consider such request keeping in mind the status of the land as on the date of preliminary notification and to exclude any developments, improvements, constructions put up subsequent to the preliminary notification and then decide whether their cases are similar to that of the landowners whose objections were upheld and in respect of those lands no final notification is issued

(iii) in the event the Authority comes to the conclusion that those persons are similarly placed and are covered by the Resolution of the BDA dated 28.06.2003 in Subject No. 177/2003, then to de-notify their lands/sites, built up portion and exclude them from acquisition

(iv) Petitioners who are interested in availing this benefit shall make appropriate application within 90 days from the date of this order and thereafter, the authority shall give notice to those persons, hear them and pass appropriate orders expeditiously.

(C) Till the aforesaid exercise is undertaken by the Authority on the applications fled by the petitioners either for allotment of site or for de-notifying or exemption sought for are considered, their possession shall not be disturbed and the existing construction shall not be demolished. After consideration of the application in the light of the aforesaid direction, the Authorities are at liberty to proceed with the acquisition.

(D) The suggestion made by this Court in paragraph-25 during the course of this order may be considered in all earnestness, particularly, in the cases of those who have already put up construction and living therein prior to preliminary notification.

These writ petitions are disposed of accordingly."

(Emphasis supplied)

Insofar as the present petitioner is concerned, clause B(i) assumes significance. The learned Judge directed all the petitioners who are land owners/converted site owners to submit a representation/application to the Authority seeking exclusion and exemption by producing documents to substantiate their contentions within three months. The

petitioner submits his representation before the Authority seeking dropping of his land from acquisition. In the interregnum, the petitioner had also challenged the order of the learned Single Judge insofar as it upheld the acquisition, in Writ Appeal No.1498 of 2006. During the pendency of the said appeal, an endorsement comes to be issued by the BDA in favour of the petitioner, which reads as follows:

"ಬೆಂ.ಅಪ್ರಾ/ಉಅ(ಭೂಸ್ವಾ)/ಎ೮/ಪಿಆರ್/126/07-08 ದಿನಾಂಕ: 22-8-2007

ಹಿಂಬರಹ

ವಿಷಯ:- ಕರ್ನಾಟಕ ಉಚ್ಛ ನ್ಯಾಯಾಲಯದ ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ 6198/04 ಮತ್ತಿತರೆ ರಿಟ್ ಅರ್ಜಿಗಳ ಮೇಲೆ ದಿನಾಂಕ 06.06.2006 ರಂದು ನೀಡಿರುವ ಆದೇಶದಂತೆ ಕ್ರಮ ಜರುಗಿಸುವ ಬಗ್ಗೆ.

ಮೇಲ್ಕಂಡ ಮಾನ್ಯ ಉಚ್ಛ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಬನಶಂಕರಿ 6ನೇ ಹಂತ ಮುಂದುವರಿದ ಬಡಾವಣೆಗೆ ಸೇರಿದ ಹೊಸಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆನಂ. 14/1 ರ ಪೈಕಿ 10 ಗುಂಟೆ ವಿಸ್ತೀರ್ಣವನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡುವ ಬಗ್ಗೆ ಕೋರಿ ಅರ್ಜಿ ಸಲ್ಲಿಸುವುದು ಸರಿಯಷ್ಟೆ.

ಮಾನ್ಯ ಉಚ್ಛ ನ್ಯಾಯಾಲಯವು ನೀಡಿರುವ ಮಾರ್ಗಸೂಚಿಗಳ ಅಡಿಯಲ್ಲಿ ಮೇಲ್ಕಂಡ ಜಮೀನು ಬರುತ್ತಿರುವ ಕಾರಣ ಸದರಿ ಜಮೀನಿನ ಬಗ್ಗೆ ಪ್ರಾಧಿಕಾರವು ದಿನಾಂಕ 25.06.2007 ರಂದು ನಡೆದ ಸಭೆಯಲ್ಲಿ ವಿವರವಾಗಿ ಚರ್ಚಿಸಿ ಸದರಿ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡಲು ಸರ್ಕಾರಕ್ಕೆ ಪ್ರಸ್ತಾವನೆ ಕಳುಹಿಸಲು ತೀರ್ಮಾನಿಸಲಾಗಿರುತ್ತವೆಂದು, ಈ ಮೂಲಕ ತಿಳಿಸಲಾಗಿದೆ.

ಕರಡು ಪತ್ರ ಉಪ ಆಯುಕ್ತರು(ಭೂಸ್ವಾ)

ರವರಿಂದ ಅನುಮೋದನೆಯಾಗಿರುತ್ತದೆ.

ಸಹಿ/- 22/8/17
ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳು
ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ
ಬೆಂಗಳೂರು."

The BDA accepts dropping of the land from acquisition through the aforementioned endorsement. The petitioner then withdraws the writ appeal based upon the said endorsement. The order in Writ Appeal No.1498 of 2006 is as follows:

> "Learned counsel appearing for the appellant submits that the appellant may be permitted to withdraw the Writ Appeal since recommendation has been made by the BDA to the Government as per the letter dt. 22.8.2007 and appellant wants to work out his remedy in accordance with law.
>
> Accordingly, Writ Appeal is dismissed as withdrawn with liberty to the appellant to work out the remedy in accordance with law."

Representation is submitted on 23-05-2017 after the order passed by the Division Bench. No action is taken.

8. Writ Petition No.36757 of 2017 is filed by the petitioner seeking a mandamus for consideration of the representation. This comes to be disposed of by the following order:

> "…. ….. …..
>
> 5. In view of the endorsement dated 05.04.2017 issued by the Bangalore Development Authority intimating the petitioner that the recommendation sent to the Government is still pending before the first respondent and the representation of the petitioner dated 02.04.2017 as well as 23.05.2017 submitted before the respondent No.1 being unconsidered, it is appropriate for this Court to direct the respondent No.1 to consider the said representations of the petitioner in the light of the order passed by this Court in W.P.No.6198/2004 dated 06.06.2006 as well as the recommendations of the Bangalore Development Authority dated 22.08.2017 and 05.04.2017 and is ordered accordingly. The respondent No.1 shall take a decision in accordance with law in an expedite manner and the same shall be communicated to the petitioner.
>
> The compliance of this order shall be made preferably within a period of twelve weeks from the date of receipt of certified copy of the order.
>
> With the aforesaid observations and directions, the writ petition stands disposed of."

Then comes the impugned order dated 25-01-2023 rejecting the claim for de-notification and it reads as follows:

"ಇವರಿಂದ:

ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ,
ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ,
ವಿಕಾಸ ಸೌಧ, ಬೆಂಗಳೂರು.

ಇವರಿಗೆ:

ಶ್ರೀ ಪಿ.ವಿ ವೆಂಕಟರಮಣ,
ಪಿ ನಂ:401, ಡೆವಿನ್ ಇಂದಿರಾ ಪ್ಯಾರಡೇಸ್,
ಥಣಿಸಂದ್ರ ಮುಖ್ಯ ರಸ್ತೆ,
ಚೊಕ್ಕನಹಳ್ಳಿ,
ಬೆಂಗಳೂರು -560064

ಮಾನ್ಯರೇ,

ವಿಷಯ: ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಉತ್ತರ ಹೋಬಳಿ, ಹೊಸಹಳ್ಳಿ, ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 14/1ರಲ್ಲಿನ 10 ಗುಂಟೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡಲು . ಕೋರಿರುವ ಬಗ್ಗೆ.

ಉಲ್ಲೇಖ: 1. ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ:ಬಿಡಿಎಸ್ಎಲ್ ಎಒ.ಎ4/ಪಿಆರ್/194/ತಾಗ 02-03, ದಿನಾಂಕ:07.11.2002.

2. ಅಂತಿಮ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ:ನಅಇ 750 ಬೆಂಭೂ¸Áé 2003, ದಿನಾಂಕ:09.09.2003.

3. ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ:36757/2017ರ ತೀರ್ಪು, ದಿನಾಂಕ:11.04.2019.

4. ತಮ್ಮ ಮನವಿ ದಿನಾಂಕ:03.05.2019.

5. ಪತ್ರ ಸಂಖ್ಯೆ: ಬೆಂಅಪ್ರಾ/ವಿಭೂಸ್ವಾಅ/524/2019-20, ದಿನಾಂಕ: 05.10.2020.
6. ಮಾನ್ಯ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿ, ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ ಇವರ ಅಧ್ಯಕ್ಷತೆಯಲ್ಲಿ ನಡೆದ ಸಭೆ, ದಿನಾಂಕ:29.06.2022.

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ಬನಶಂಕರಿ 6ನೇ ಹಂತ ಮುಂದುವರೆದ ಬಡಾವಣೆಯ ಭೂಸ್ವಾಧೀನಕ್ಕಾಗಿ ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಕಾಯ್ದೆ ಕಲಂ 17(1) ರಡಿಯಲ್ಲಿ 1532 ಎಕರೆ 17 ಗುಂಟೆ ಜಮೀನಿಗೆ ಉಲ್ಲೇಖ (1)ರಂತೆ ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆಯನ್ನು ಹೊರಡಿಸಲಾಗಿದ್ದು, ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಕಾಯ್ದೆ 19 (1)ರಡಿಯಲ್ಲಿ ಒಟ್ಟು 750ಎಕರೆ ಜಮೀನಿಗೆ ಉಲ್ಲೇಖ (2)ರಂತೆ ಅಂತಿಮ ಅಧಿಸೂಚನೆಯನ್ನು ಹೊರಡಿಸಲಾಗಿದ್ದು, ಸದರಿ ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಯನ್ನು ಪ್ರಶ್ನಿಸಿ ಹಲವಾರು ಭೂಮಾಲೀಕರು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ದಾವೆ ಸಲ್ಲಿಸಿದ್ದು, ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ:44949/2003 ಮತ್ತು ಇನ್ನಿತರೆ ಸೇರ್ಪಡೆಗೊಂಡ ಪ್ರಕರಣಗಳಲ್ಲಿ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ಕೆಲವು ಮಾರ್ಗಸೂಚಿಗಳನ್ನು ರಚಿಸಿ ರಿಟ್ ಅರ್ಜಿಯನ್ನು ಇತ್ಯರ್ಥಗೊಳಿಸಿದ್ದು, ಅದರನ್ವಯ ಪರಿಶೀಲಿಸಿ, ಉದ್ದೇಶಿತ ಬಡಾವಣೆ ರಚನೆಗಾಗಿ ಭೂಸ್ವಾಧೀನಪಡಿಸಿಕೊಳ್ಳಲು ಹೊರಡಿಸಿದ ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆಯಲ್ಲಿನ ಒಟ್ಟು 43 ಎಕರೆ 25 ಗುಂಟೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡಲು ಪ್ರಾಧಿಕಾರದ ದಿನಾಂಕ:09.04.2008ರ ಸಭೆಯ ನಿರ್ಣಯದನ್ವಯ ಆಯುಕ್ತರು, ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ಇವರು ಸರ್ಕಾರಕ್ಕೆ ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಸದರಿ 43 ಎಕರೆ 25 ಗುಂಟೆ ಜಮೀನಿನಲ್ಲಿ ಹೊಸಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.14/1 ರಲ್ಲಿನ 10 ಗುಂಟೆ ಜಮೀನು ಸಹ ಒಳಗೊಂಡಿದ್ದು, ಸದರಿ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡುವಂತೆ ಕೋರಿ ತಾವು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ:36757/2017ನ್ನು ದಾಖಲಿಸಿದ್ದು, ಸದರಿ ರಿಟ್ ಅರ್ಜಿಯಲ್ಲಿ ಮಾನ್ಯ ನ್ಯಾಯಾಲಯವು ಉಲ್ಲೇಖ(3)ರಲ್ಲಿ ನೀಡಿರುವ ತೀರ್ಪಿನಲ್ಲಿ, ಪ್ರಾಧಿಕಾರದಿಂದ ಸರ್ಕಾರಕ್ಕೆ ಸಲ್ಲಿಸಿದ್ದ ಪ್ರಸ್ತಾವನೆಯ ಕುರಿತು 12 ವಾರದೊಳಗಾಗಿ ನಿಯಮಾನುಸಾರ ಕ್ರಮಕೈಗೊಂಡು, ಕೈಗೊಂಡ ನಿರ್ಣಯವನ್ನು ಅರ್ಜಿದಾರರಿಗೆ ತಿಳಿಸುವಂತೆ ಆದೇಶಿಸಿತ್ತು. ಅದರಂತೆ ಉಲ್ಲೇಖ(4)ರಂತೆ ತಾವು ದಿನಾಂಕ:03.05.2019ರಂದು ಸರ್ಕಾರಕ್ಕೆ ಮನವಿಯನ್ನು

ಸಲ್ಲಿಸಿ ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಉತ್ತರಹಳ್ಳಿ ಹೋಬಳಿ, ಹೊಸಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.14/1ರಲ್ಲಿನ 10ಗುಂಟೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡಲು ಕೋರಿರುತ್ತೀರಿ.

ಈ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಪ್ರಶ್ನಿತ ಜಮೀನು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ನಿಗದಿಪಡಿಸಿರುವ ಯಾವ ಮಾರ್ಗಸೂಚಿಗಳಡಿ ಬರುತ್ತದೆ? ಹಾಗೂ ಸದರಿ ಜಮೀನು ಪ್ರಾಧಿಕಾರದ ಬಡಾವಣೆ ರಚನೆಗಾಗಿ ಅವಶ್ಯವಿದೆಯೇ? ಎಂಬ ಬಗ್ಗೆ ಸಂಪೂರ್ಣ ಮಾಹಿತಿಯೊಂದಿಗೆ ವರದಿ ಸಲ್ಲಿಸುವಂತೆ ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವನ್ನು ಕೋರಲಾಗಿ, ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ನೀಡಿರುವ ಮಾರ್ಗಸೂಚಿಗಳಡಿ ಬರುವ 43 ಎಕರೆ 25 ಗುಂಟೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡಲು ಈಗಾಗಲೇ ಸರ್ಕಾರಕ್ಕೆ ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸಿದ್ದು, ಅದರಲ್ಲಿ ಪ್ರಶ್ನಿತ ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಉತ್ತರಹಳ್ಳಿ, ಹೋಬಳಿ, ಹೊಸಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.14/1ರಲ್ಲಿನ 10ಗುಂಟೆ ಜಮೀನು ಸಹ ಒಳಗೊಂಡಿರುತ್ತದೆ ಎಂದು ವರದಿ ಸಲ್ಲಿಸಲಾಗಿತ್ತು.

ಪ್ರಾಧಿಕಾರದ ವಿಷಯ ಸಂಖ್ಯೆ:118/2007, ದಿನಾಂಕ:25.06.2007ರ ನಿರ್ಣಯದಂತೆ ಸದರಿ ಜಮೀನು ನ್ಯಾಯಾಲಯವು ನಿಗದಿಪಡಿಸಿರುವ ಮಾರ್ಗಸೂಚಿಯಡಿಯಲ್ಲಿ ಬರುವುದಾಗಿ ಸರ್ಕಾರಕ್ಕೆ, ಪುಸ್ಥಾವನೆಯನ್ನು ಸಲ್ಲಿಸಲು ನಿರ್ಧರಿಸಿ, ಅದರಂತೆ ಭೂಮಾಪಕರ ವರದಿಯನ್ನು ಪಡೆಯಲಾಗಿದ್ದು, ಹೊಸಹಳ್ಳಿ, ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.14/1ರಲ್ಲಿ 05 ಎಕರೆ ಜಮೀನು ದಿನಾಂಕ:13.01.1995ರಂದು ಭೂ ಪರಿವರ್ತನೆಯಾಗಿದ್ದು, ಪ್ರಶ್ನಿತ 10 ಗುಂಟೆ ಪ್ರದೇಶವು ಒಳಗೊಂಡಿರುತ್ತದೆ. ಪ್ರಶ್ನಿತ ಜಮೀನಿನ ಸುತ್ತಲೂ 8 ಅಡಿ ಸಿಮೆಂಟ್ ಬ್ಲಾಕ್‌ನ ಕಾಂಪೌಂಡ್ 20*15 ಎಸಿಸಿ ಶೀಟ್ ಶೆಡ್ ನಿರ್ಮಾಣವಾಗಿದ್ದು, ಸದರಿ ಜಮೀನು ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆಗಿಂತ ಮುಂಚಿತವಾಗಿ ಭೂಪರಿವರ್ತನೆಯಾಗಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ ಹಾಗೂ ಗ್ರಾಮ ಠಾಣಕ್ಕೆ ಹೊಂದಿಕೊಂಡಂತಿದ್ದು, ಪ್ರಾಧಿಕಾರದ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು(ದಕ್ಷಿಣ) ನೀಡಿರುವ ವರದಿಯಲ್ಲಿ ಪ್ರಶ್ನಿತ 10 ಗುಂಟೆ ಜಮೀನು ಬನಶಂಕರಿ 6ನೇ ಹಂತ ಮುಂದುವರೆದ ಬಡಾವಣೆಗೆ ಹೊಂದಿಕೊಂಡಂತಿದ್ದು, ಪ್ರಾಧಿಕಾರದ ಬಡಾವಣೆಗೆ ಯಾವುದೇ ಅಡ್ಡಿಯಿರುವುದಿಲ್ಲ. ಸದರಿ ಪ್ರದೇಶವು ಪ್ರಾಧಿಕಾರದಿಂದ ರಚನೆಯಾಗಿರುವ ನಿವೇಶನಗಳ ಹಿಂದೆ ಬರುತ್ತಿರುವುದರಿಂದ, ಯಾವುದೇ ಅಡಚಣೆಯಿಲ್ಲ ಎಂದು ಉಲ್ಲೇಖ-5ರ ಪ್ರಸ್ತಾವನೆಯಲ್ಲಿ ಉಪ ಆಯುಕ್ತರು(ಭೂಸ್ವಾ) ಬಿಡಿಎರವರು ವರದಿ ಮಾಡಿರುತ್ತಾರೆ.

ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ: 36767/2017ರಲ್ಲಿ ದಿನಾಂಕ: 11.04.2019ರಂದು ನೀಡಿರುವ ತೀರ್ಪಿನ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ತೆಗೆದುಕೊಳ್ಳಬಹುದಾದ ಕ್ರಮಗಳ ಬಗ್ಗೆ ಉಲ್ಲೇಖ-6ರಂತೆ ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ

ಕಾರ್ಯದರ್ಶಿ, ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆರವರ ಅಧ್ಯಕ್ಷತೆಯಲ್ಲಿ ನಡೆದ ಸಭೆಯಲ್ಲಿ ಚರ್ಚಿಸಿ ನಿರ್ಣಯಿಸಿರುವಂತೆ, ಪ್ರಾಧಿಕಾರದ ದಾಖಲೆಗಳನ್ನಯ ಸರ್ವೆ ನಂ.14/1ಪಿ ರಲ್ಲಿನ 6ಎಕರೆ 07ಗುಂಟೆ ಜಮೀನಿನ ಪೈಕಿ 3ಎಕರೆ 24ಗುಂಟೆ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಅಂತಿಮ ಅಧಿಸೂಚನೆಯಾದ ನಂತರ ದಿನಾಂಕ:12.01.2004ರಂದು ಅವಾರ್ಡ್ ಅನುಮೋದನೆಯಾಗಿದ್ದು, ದಿನಾಂಕ:10.02.2004ರಂದು ಸ್ವಾಧೀನಕ್ಕೆ ಪಡೆದು ತಾಂತ್ರಿಕ ವಿಭಾಗಕ್ಕೆ ಹಸ್ತಾಂತರಿಸಿ ಪ್ರಾಧಿಕಾರವು ಸ್ವಾಧೀನಕ್ಕೆ ಪಡೆದಿರುವುದರಿಂದ ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಉತ್ತರಹಳ್ಳಿ ಹೋಬಳಿ, ಹೊಸಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.14/1ರಲ್ಲಿನ 10ಗುಂಟೆ ಪ್ರಶ್ನಿತ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡಲು ನಿಯಮಗಳಲ್ಲಿ ಅವಕಾಶವಿರುವುದಿಲ್ಲ. ಅದರಂತೆ ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡುವಂತೆ ಕೋರಿರುವ ಉಲ್ಲೇಖ-4ರ ತಮ್ಮ ಮನವಿಯನ್ನು ತಿರಸ್ಕರಿಸಲಾಗಿದೆ ಎಂದು ತಿಳಿಸಲು ನಿರ್ದೇಶಿಸಲ್ಪಟ್ಟಿದ್ದೇನೆ.

ತಮ್ಮ ನಂಬುಗೆಯ,
ಸಹಿ/- 25/01/2003
(ಎಸ್. ದಿವಾಕರ್)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ(ಪ್ರ)
ಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ.
(ಬಿ.ಡಿ.ಎ ಮತ್ತು ಬೆಂಗಳೂರು-1)"

The petitioner claims on the strength of the communications and endorsements issued by the BDA recommending the land for de-notification. Though the recommendation was clear, the State has not acceded to de-notify the land.

9. The issue now would be, whether this Court can direct de-notification of the land? In identical circumstances, a coordinate Bench of this Court in **MALLAPPA v. STATE OF KARNATAKA**[1], was answering a prayer seeking de-notification of a particular extent of 10 acres 25 guntas in two survey numbers in Bagalkot. The coordinate Bench by the following order rejects the claim:

"…. …. ….

[1] **Writ Petition No.4465 of 2008 disposed of 05-07-2019**

11. It is an admitted fact that the petitioners' lands were acquired under 4(1) and 6(1) notifications dated 09.08.1991 and 20.06.1992 respectively. In respect of the acquired lands, award was passed on 02.06.1994 and on reference, compensation was enhanced. The petitioners have received the compensation including the enhanced compensation. The petitioners have not challenged the acquisition and on the other hand they have accepted the acquisition by receiving the award amount and handing over possession. When once the acquisition proceedings is complete and possession is taken, the land vests with Government free from encumbrance. When once the lands on acquisition vest with the State Government, it is for the State Government to utilize the same for public purpose. Even if the lands are unutilized or not utilized for the purpose for which the lands are acquired, it cannot be reassigned to the petitioners nor the petitioners can seek for reconveyance of the lands on the ground that the lands are not utilized. The lands which are acquired and which are not utilized for the purpose for which they were acquired could be utilized for any other public purpose.

12. The Hon'ble Supreme Court in the case reported in (1996) 3 SCC 491 relied upon by the learned counsel for the respondent No.5 at Paragraph No.4 has held as follows:

> "It is contended for the respondents that since the acquisition is for housing scheme, the land cannot be used for commercial purpose, namely, District Center. Therefore, the learned single Judge and the Division Bench have rightly disapproved the change of the user contrary to the purpose notified in section 4(1) of the Land Acquisition Act. We find no force in the contention. It is conceded by the learned counsel that the construction of the District Center for commercial purpose itself is a public purpose. No doubt it was sought to be contended in the High Court that in a housing scheme, providing facilities for commercial purpose is also one of the composite purposes and that, therefore, acquisition was valid in law. However, the contention was rejected by the High Court. We need not go to that part. Suffice it to state that it is a well settled law that land sought to be acquired for public purpose may be used for another public purpose. Therefore, when the notification has mentioned that the land is sought to be acquired for housing scheme but it is

> sought to be used for district Centre, the public purpose does not cease to be public purpose and the nomenclature mentioned in the notification under section 4(1) as housing scheme cannot be construed to be a colorable one. The notification under section 4(1) could not have been quashed on the ground that the land is sought to be used for District Center, namely, for commercial purpose. It is obvious that the lands acquired for a public purpose should serve only the public purpose of providing facilities of commercial purpose, namely, District Center as conceded by the learned counsel in fairness to be a public purpose. The notification under section 4(1) cannot be quashed on the ground of change of user. The High Court was wholly wrong in quashing the notification on the ground of change of user."

13. Admittedly, the lands were acquired in the year 1991 and 1992 by issuing preliminary and final notifications under the Act. After more than 15 years from the date of acquisition, for the first time on 09.03.2007 petitioners are said to have made representation requesting denotification and thereafter in the year 2008 filed the present writ petition, when the acquired lands were allotted to respondent No.5 for establishment of petrol pump. There is inordinate delay of more than 15 years in questioning the acquisition or in requesting reassignment or to denotify. It is not in dispute that the petitioners did not oppose the acquisition when 4(1) and 6(1) notifications were issued in the year 1991 and 1992. They participated in the award proceedings and subsequently got enhanced compensation. **There is inordinate delay in approaching this Court, which is not at all explained in the writ petition. The petitioners have no right to request for denotifing the acquired land subsequent to final notification and taking possession. Here it is not in dispute with regard to taking possession of the acquired land and the petitioners having received the compensation. There is no provision under the Act to denotify the lands once the possession of the lands is taken. The Hon'ble Supreme Court dealing with the issue of denotification and whether the land could be reassigned if the land acquired is not utilized for the purpose for which it was acquired**

has held as follows in the judgment reported in (2013) 4 SCC 524 in the case of Mahadeo (Dead) though LRs and Others Vs. State of Uttar Pradesh and Others at paras 14 and 16:

> **"14. There is no dispute with regard to the settled proposition of law that once the land is acquired and mandatory requirements are complied with including possession having been taken, the land vests in the State Government free from all encumbrances. Even if some unutilised land remains, it cannot be re-conveyed or re-assigned to the erstwhile owner by invoking the provisions of the Land Acquisition Act. This Court in the case of Govt. of A.P. vs. V.Syed Akbar AIR 2005 SC 492 held that :-**
>
> > **"10. It is neither debated nor disputed as regards the valid acquisition of the land in question under the provisions of the Land Acquisition Act and the possession of the land had been taken. By virtue of Section 16 of the Land Acquisition Act, the acquired land has vested absolutely in the Government free from all encumbrances. Under Section 48 of the Land Acquisition Act, the Government could withdraw from the acquisition of any land of which possession has not been taken. In the instant case, even under Section 48, the Government could not withdraw from acquisition or to reconvey the said land to the respondent as the possession of the land had already been taken. The position of law is well settled. In State of Kerala and Ors. v. M. Bhaskaran Pillai & Anr. (1997) 5 SCC 432 para 4 of the said judgment reads: (SCC p. 433)**
> >
> > '4. In view of the admitted position that the land in question was acquired under the Land Acquisition Act, 1894 by operation of Section 16 of the Land Acquisition Act, it stood vested in the State free from all encumbrances. The question emerges whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the

> erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the Directive Principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore, invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through the public auctions so that the public also gets benefited by getting a higher value.'"
>
> 15. xxxxx
>
> 16. Indisputably, the land in question was acquired by the State Government for the purpose of expansion of the city i.e. residential/commercial construction building of under planned development scheme by the Meerut Development Authority and that major portion of the land has already been utilized by the Authority. Merely because some land was left at the relevant time, that does not give any right to the Authority to send proposal to the Government for release of the land in favour of the land owners. The impugned orders passed by the High Court directing the Authority to press the Resolution are absolutely unwarranted in law."

14. The petitioners have no locus standi to challenge the allotment of land made in favour of respondent No.5 for the purpose of establishment of petrol pump. The petitioners have neither made application for allotment of land nor they are the rival contenders for establishment of petrol pump. The respondent No.5 made application for allotment of land for establishment of petrol pump and respondent taking into consideration the necessity of petrol pump, as there was no petrol pump for about 7 k.m. on the Navanagar and Bagalkot link road, allotted 15 guntas of land. The petitioners cannot have any grievance with regard to allotment of land to respondent No.5. The establishment of petrol pump would be for general public and it cannot be at any stretch could be considered as for private purpose. In the decision cited by the petitioner i.e. 1992 (1) KLJ 589 (DB) in the case of Mrs.Behroze Ramyar Batha and Others Vs. The SLAO Bangalore it is observed that "where a cross section of the public or even an individual is benefited as a member of public

and not as an individual thereof, certainly it will be a public purpose." Hence, the contention that allotment of land to respondent No.5 for establishing petrol pump is not for public purpose cannot be accepted. Admittedly, the petitioners' lands were acquired for formation of road in the Bagalkot Navanagar areas. So as to achieve alround development of the Bagalkot Navanagar area and with an object of securing further development, the respondent Authority allotted the land for establishment of petrol pump.

15. The petitioner relied on the decision reported in (2011) 10 SCC 608, Royal Orchid Hotels Limited and Another Vs. G.Jayarama Reddy and Others to contend that lands acquired for the purpose of formation of road could not have been allotted to petrol pump. With respect I find that the said decision would have no application to the facts of the present case. In the above cited decision lands were acquired for public purpose and then the same were transferred to a private individual and corporate entities by citing poor financial health of the corporation as the cause for doing so. Moreover, in that case the acquisition notification concerned had already been quashed in their entirety in earlier writ petitions filed by some land owners. Under those circumstances, the Hon'ble Supreme Court observed that land acquired for public purpose cannot be transferred to private parties.

16. Further, the contention of the petitioners is that respondent No.5 was the member of respondent No.2-Authority and respondent No.5 got allotted the land in his favour. The learned counsel for respondent No.5 repelling the contention of the petitioners has stated that the allotment of land for the purpose of establishment of petrol pump was much prior to respondent No.5 becoming the member of respondent No.2-Authority. He submitted that respondent No.5 became member of respondent No.2-Authority on 15.02.2007 and he was member till 08.10.2007. But he submits that the site for establishment of petrol pump was allotted much prior i.e. on 28.12.2006. Therefore, taking into consideration the above factual position, I am of the view that the petitioners' contention would not merit any consideration.

17. For the reasons stated above, the writ petition is rejected."

10. The Apex Court long before the order passed by the coordinate Bench, had in **GOVERNMENT OF ANDHRA**

PRADESH v. SYED AKBAR[2] interpreting Section 48(1) of the Land Acquisition Act, held as follows:

"…. …. ….

10. It is neither debated nor disputed as regards the valid acquisition of the land in question under the provisions of the Land Acquisition Act and the possession of the land had been taken. By virtue of Section 16 of the Land Acquisition Act, the acquired land has vested absolutely in the Government free from all encumbrances. Under Section 48 of the Land Acquisition Act, Government could withdraw from the acquisition of any land of which possession has not been taken. In the instant case, even under Section 48, the Government could not withdraw from acquisition or to reconvey the said land to the respondent as the possession of the land had already been taken. The position of law is well settled. In *State of Kerala* v. *M. Bhaskaran Pillai* [(1997) 5 SCC 432] para 4 of the said judgment reads: (SCC p. 433)

> **"*4*. In view of the admitted position that the land in question was acquired under the Land Acquisition Act, 1894 by operation of Section 16 of the Land Acquisition Act, it stood vested in the State free from all encumbrances. The question emerges whether the Government can assign the land to the erstwhile owners? It is settled law that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In case there is no other public purpose for which the land is needed, then instead of disposal by way of sale to the erstwhile owner, the land should be put to public auction and the amount fetched in the public auction can be better utilised for the public purpose envisaged in the directive principles of the Constitution. In the present case, what we find is that the executive order is not in consonance with the provision of the Act and is, therefore,**

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[2] **(2005) 1 SCC 558**

> **invalid. Under these circumstances, the Division Bench is well justified in declaring the executive order as invalid. Whatever assignment is made, should be for a public purpose. Otherwise, the land of the Government should be sold only through the public auctions so that the public also gets benefited by getting a higher value."**

11. In that case, an extent of 1.94 acres of land was acquired in 1952 for construction of national highway and the construction was completed in 1955 in 80 cents of land and the balance of land remained unused. The remaining land was sought to be sold to the landowner at the same rate at which the compensation was awarded under Section 11. This again was challenged in the writ petitions. The Government tried to sustain the action on the basis of the executive order issued by the Government for permission for alienation of the land. On these facts, the position of law was made clear in para 4 extracted above. Thus, it is clear that under Section 16 of the Land Acquisition Act, the acquired land should vest in the State free from all encumbrances and that *any executive order inconsistent with the provisions of the Land Acquisition Act was invalid*. Further that if the land is acquired for a public purpose, after the public purpose was achieved, the rest of the land could be used for any other public purpose. In our view, this decision supports the case of the appellants fully.

12. In the case *Chandragauda Ramgonda Patil* v. *State of Maharashtra* [(1996) 6 SCC 405] claim of the petitioner for restitution of the possession of the land acquired pursuant to the resolution of the State Government was rejected. In para 2, this Court observed thus: (SCC p. 406)

> "*2*. … We do not think that this Court would be justified in making direction for restitution of the land to the erstwhile owners when the land was taken way back and vested in the Municipality free from all encumbrances. We are not concerned with the validity of the notification in either of the writ petitions. It is axiomatic that the land acquired for a public purpose would be utilised for any other public purpose, though use of it was intended for the original public purpose. It is not intended that any land which remained unutilised, should be restituted to the erstwhile owner to whom

adequate compensation was paid according to the market value as on the date of the notification. Under these circumstances, the High Court was well justified in refusing to grant relief in both the writ petitions."

13. Yet in another recent decision, this Court in *Northern Indian Glass Industries* v. *Jaswant Singh* [(2003) 1 SCC 335] referring to the case of *Chandragauda Ramgonda Patil* [(1996) 6 SCC 405] and other cases held that: (SCC p. 340, para 12)

"12. If the land was not used for the purpose for which it was acquired, it was open to the State Government to take action but that did not confer any right on the respondents to ask for restitution of the land."

Paras 10 and 11 of the said judgment read thus: (SCC p. 340)

"*10*. In *Chandragauda Ramgonda Patil* v. *State of Maharashtra* [(1996) 6 SCC 405] it is stated that the acquired land remaining unutilised was not intended to be restituted to the erstwhile owner to whom adequate compensation was paid according to the market value as on the date of notification.

***11*. Yet again in *C. Padma* v. *Dy. Secy. to the Govt. of T.N.* [(1997) 2 SCC 627] it is held that acquired land having vested in the State and the compensation having been paid to the claimant, he was not entitled to restitution of possession on the ground that either original public purpose had ceased to be in operation or the land could not be used for other purpose."**

14. From the position of law made clear in the aforementioned decisions, it follows that (*1*) under Section 16 of the Land Acquisition Act, the land acquired vests in the Government absolutely free from all encumbrances; (*2*) the land acquired for a public purpose could be utilised for any other public purpose; and (*3*) the acquired land which is vested in the Government free from all encumbrances cannot

be reassigned or reconveyed to the original owner merely on the basis of an executive order.

15. At the hearing, we specifically asked learned counsel for the respondent whether the Board's Standing Order No. 90(32) was issued under any particular statute, the learned counsel was not able to point out to any provision of law under which it was issued. He was not in a position to show that the said order bears any statutory force. Even otherwise, as per para 32 of the said order, the land acquired, no longer required for the public purpose for which it was acquired, could not be disposed of in favour of any person other than a citizen of India and that too without the sanction of the Government. If the land acquired for the public purpose is specifically relinquished, such land could be disposed of as stated in the said paragraph. If the land relinquished is likely to be again required for public purposes, it should be merely leased out for such term as may be considered desirable in each case. If the acquired land was an agricultural land at the time of acquisition, it should be disposed of inviting for sale in public auction by giving wide publicity in respect of sale. If at the time of sale, anybody puts forth his claim in respect of any field either as an adjacent owner or as an original owner, the sale of that field should be stopped and his claim investigated and disposed of in the manner specified in sub-clauses (*i*) and (*iv*) of Note (2) of the Board's Standing Order No. 90(32). If it is found that his claim is not proved, the field should be sold by public auction. In the case on hand, there is nothing on record to show that the part of the acquired land which remained unused was relinquished by the Government. A letter of the Resident Engineer stating that the unused land was no more required cannot amount to relinquishment of the said land by the competent authority. In order to make a claim under para 32 of the said Board's Standing Order in the first place, it was necessary that the competent authority had subsequently relinquished the unused land. After such relinquishment of the land, the land had to be notified for sale in public auction. If at the time of sale of such land, the original owner made a claim, sale could be stopped and his claim could be investigated and thereafter the land was to be disposed of in the manner specified under the said paragraph. Added to this, by virtue of the

amendment to para 32 brought about by GOMs No. 783 dated 9-10-1998, the land for the public purpose shall be utilised for the same purpose for which it was acquired as far as possible and in case the land is not used for the purpose for which it was acquired due to any reason, the land shall be utilised for any other public purpose as deemed fit. It appears this amendment was not brought to the notice of the High Court.

16. Chapter V of the Act deals with occupation of *khalsa* land and right of occupant. Under Section 54, procedure is prescribed for acquiring unoccupied land. This section enables a person to submit a petition to the Tahsildar if he is desirous of taking unoccupied land. On such application, the Tahsildar may in accordance with the rules made by the Government give permission in writing for occupation. Section 54-A indicates the procedure in respect of land acquired for the purpose of public benefit and which is no more required. It is clear from plain and clear language of the said section that when an agricultural land acquired for public benefit is no longer required, the *patta* thereof shall be made in the name of the person or his successor from whom such land was acquired provided he consents to refund the compensation originally paid to him. This section does not say that the agricultural land acquired for public benefit is no longer required *for the purpose for which it is acquired*. This section can be attracted only in a case where agricultural land acquired for public benefit is no longer required not necessarily for the specific purpose for which it was acquired. Added to this, that the land is no more required is a decision required to be made by the competent authority. As in the present case, mere letter of the Resident Engineer that the unused land is no more required is not enough. When the land is acquired under the Land Acquisition Act which is vested in the State Government free from all encumbrances, the question of reconveying the land as claimed by the respondent could not be accepted in view of the clear position of law stated in the decisions of this Court aforementioned. Whether the unused remaining land out of the acquired land was sufficient or not for the purpose of construction of Mandal Revenue Office could not be decided by the High Court. It was for the competent authorities to

decide about the same. The High Court, in our view, was not right in saying that the proposal to construct the Mandal Revenue Office in the unused land acquired was an afterthought. No material was placed on record to attribute any mala fides on the part of the authorities or to support the case that the proposal to build a Mandal Revenue Office was an afterthought.

17. Thus viewed from any angle, we find it difficult to sustain the impugned order. Consequently, it is set aside and the writ petition filed by the respondent is dismissed. The appeal is allowed accordingly. No costs."

The Apex Court holds that once the land is vested with the Government even unused, cannot be reassigned or de-notified.

11. The petitioner now seeks 10 guntas of land out of 3 acres and 24 guntas, acquired and is in possession of Government, which comes to be rejected, rightly so, on the score that once possession is taken and vesting occurs, Section 48(1) of the Act cannot be applied. It becomes apposite to refer to a judgment of the High Court of Delhi in **NAGIN CHAND GODHA v. UNION OF INDIA**[3] wherein the Division Bench interprets Section 48 and holds that the petitioner enjoying possession even after taking over symbolic possession and being in such possession cannot subsequently come to the Court for de-notification of the land. The Division Bench has held as follows:

"…. …. ….

3. It is also stated by the respondent that wider public interest is liable to be borne in mind while exercising the power of granting stay and injunction while entertaining writ petition. It is also required to be borne in mind that on account of proceedings initiated earlier the authorities could not take action in the matter.

4. As against this, it is submitted that the land is in possession of the petitioner and therefore

[3] **2003 SCC OnLine Del 411**

considering the provisions contained in Section 48(1) of the Act, the application, which is made to the Lt. Governor is required to be disposed of first. Section 48(1) reads as under:—

> **"(1) Except in the case provided for in Section 36, the Government shall be at liberty to withdraw from the acquisition of any land of which possession has not been taken."**

5. The question, which is required to be determined, is whether possession was taken or not. It is contended before the Court that symbolic possession is no possession unless and until the person is actually dispossessed it cannot be said that possession is taken by the acquiring body. Our attention has been drawn to Annexure-1 (p. 218) to the counter filed by the respondent. It is dated 22.9.1986. It is clear that formal possession of land in Khasra No. 166(3-06), 167(3-11), 627/174 (0-18), 628/174(1-00) total 8 Bighas 15 biswas of village Lado Sarai has been handed over to the appropriate authority. It is contended that the property is built up and it cannot be said that the possession thereof was taken. It is a big plot of land and by drawing Panchnama the possession was taken. It was contended before us that when possession is taken in such fashion, it cannot be said that the possession -was taken. Reliance was placed on the case of Balwant Narayan Bhagde v. M.D. Bhagwat, 1976 (1) SCC 700 to say that symbolic possession is no possession. We indicate the Apex Court has stated in para 22 as under:

> "It would thus be seen that a symbolical or formal delivery of possession as understood in law has the effect of dispossessing the judgment-debtor from his right or interest in the property. It does not dispossess the unactual possession in his own right not liable to be evicted under the decree or in pursuance of the auction sale. A symbolical or formal delivery of possession against the judgment-debtor is giving of actual possession of the property in the eye of law and has the effect of dispossessing him although as matter of fact he may have succeeded in resuming back possession as before shortly after dispossession."

6. It is required to be noted that in para 25, the Apex Court has laid down as under:

> "...Unless possession is taken by the written agreement of the party concerned the mode of taking possession obviously would be for the authority to go upon the land and to do some act which would indicate that the authority has taken possession of the land. It may be in the form of a declaration by beat of drum or otherwise or by handing a written declaration on the spot that the authority has taken possession of the land. The presence of the owner or the occupant of the land to effectuate the taking of possession is not necessary. No further notice beyond that under Section 9(1) of the Act is required., When possession has been taken, the owner or the occupant of the land is dispossessed. Once possession has been taken the land vests in the government."

7. It is also required to be noted that in a recent decision of the Apex Court in *Balmokand Khatri Educational and Industrial Trust, Amritsar* v. *State of Punjab* (1996) 4 SCC 212 and in the case of *Tamil Nadu Housing Board* v. *A Viswam (Dead by LRs)*, 1996 (8) SCC 259 has held as under:—

> "It is seen that the entire gamut of the acquisition proceedings stood completed by 17.4.1976 by which date possession of the land had been taken. No doubt, Shri Parekh has contended that the appellant still retained their possession. It is now well-settled legal position that it is difficult to take physical possession of the land under compulsory acquisition. The normal mode of taking possession is drafting the panchnama in the presence of the panchas and taking possession and giving delivery to the beneficiaries is the accepted mode of taking possession of the land. Subsequent thereto, the retention of possession would tantamount only to illegal or unlawful possession."

8. The aforesaid decisions were followed by the Division Bench of this Court in *Puran Singh* v. *Lt. Governor, Delhi*, (1999) 78 DLT 412.

9. The Division Bench of this Court in the case of *Delhi Development Authority* v. *Prasadi*, 2003 (69) DRJ 751, LPA No. 562 of 2001 decided on 26.9.2002 had an

occasion to examine similar question. In para 71, it is held as under:—

> "the said report states that possession of 600 bighas of land has already been taken, this fact alone sufficiently would warrant the reexamination of the matter [Refer: (1) *General Manager, Telecommunication* v. *Dr. Madan Mohan Pradhan*, 1995 (4) Supp SCC 268, (2) *P. Chinnanna* v. *State of A.P.*, 1994 (5) SCC 486, 3) *Balmokand Khatri Educational and Industrial Trust Amritsar* v. *State of Punjab*, 1994 (6) SCC 212, (4) *Sanjeevanagar Medical & Health Employees Co-operative Housing Society* v. *Mohd Abdul Wahab*, (1993) 3 SCC 600, (5) *Rajasthan Housing Board* v. *Shiv Kishan*, (1993) 2 SCC 84 and 6) *Awadh Bihari Yadava* v. *State of Bihar*, (1995) 6 SCC 31]".

10. The Apex Court in the case of *Executive Engineer Jal Nigam Central Stores Division U.P.* v. *Suresha Nand Juyal*, (1997) 9 SCC 224, also considered the question of symbolic possession taken by the Officers. Therefore, in view of what is stated hereinabove, it is not possible for this Court to agree with the submission of the learned counsel that possession is not taken. Suffice it so say that after symbolic possession is taken, if the petitioner is enjoying the possession, he is enjoying the possession as a trustee on behalf of the public at large and that by itself cannot be considered to be a ground to contend that possession is not taken. It is the duty of the person who is occupying the property to look after the property and to see that the property is not defaced or devalued by himself or by others. He cannot subsequently come to the Court to say that actual possession is not taken and therefore he should be protected and land be denotified.

11. In the case of *DDA* v. *Prasadi*, (supra) the Apex Court had the occasion to consider the question of de-notification. In para 71:—

> "We now revert to the most important aspect. It was the case of the respondents herein in the writ

petition which was argued with all vehemence before us as well that the possession of the land was not taken by the DDA, and therefore, review of the earlier decision by the impugned decision dated 6th July, 1999 was clearly uncalled for. The learned Single Judge has accepted this submission and in fact dealt with this aspect at great length. While coming to the conclusion that no legal possession of the land was taken over by the DDA. While dealing with this aspect, it would be necessary to take note of certain factual events."

The Court has pointed out that in such a situation legal possession is that the land owner had no right in the land after acquisition is complete.

12. The Division Bench of this Court in a reported decision in the case of Ajit Singh v. Union of India, (2001) 89 DLT 495 : 2001 (57) DRJ 335(DB) (to which one of us, A.K. Sikri, J. was a party) pointed out in para 8 as under:—

> "8. Section 16 signifies culmination of the land acquisition proceedings. As it has happened in the present case, compensation has been received by the land owners and possession of the land has been taken over by the Government. The award was made in May, 1987 and possession of the lands was taken in pursuance thereof. It is settled law that once the land vests in the Government after its possession is taken over by it, the land becomes; absolute property of the Government. Thereafter even the Government does not have any power to denotify the land or to quash the notifications under which it had been acquired. The effect of taking possession under Section 16 is that a curtain is drawn so far as the land acquisition proceedings are concerned. The Government becomes absolute owner of the land. The land goes outside the purview of the land Acquisition Act. If later the Government has to pass on the title of the land to anyone else including its erstwhile owners, it can do so only by conveying the title by way of a sale deed or grant etc, i.e. the land thereafter has to be dealt with in accordance with ordinary civil law."

13. Thus, once there is vesting of land, it is for the Government to make use of the land. Even if the purpose is changed, others have no right because there is vesting. It is stated in the affidavit by the respondent that the competent authority has placed the land at the disposal of the DDA. Thus land vests with the DDA and it

is for the BDA to make use of the land for the purpose which is in the interest of the public at large.

14. Learned counsel appearing for the DDA submitted that in the interest of justice and public interest, High Court should be slow in exercise of discretionary power. High Court must balance the competing interests of the parties. Learned counsel has placed reliance on *Ramniklal N. Bhutta* v. *State of Maharashtra*, (1997) 1 SCC 134 and drawn our attention to para 10 of the judgment, where the Apex Court has laid down as under:—

> "10. Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an ambitious programme of all-round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with China economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g. south Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country. The means of transportation, power and communications are in dire need of substantial improvement, expansion and modernization. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in courts. These challenges are generally in the shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interest of justice and the public interest coalesce. They are very often one and the same. Even in a civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature is equally discretionary. The courts

have to weigh the public interest vis-a-vis the private interest while exercising the power under Article 226 — indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say we hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings."

15. Learned counsel for the petitioner also submitted that such denotification orders are passed in the cases of other persons and thus others are given benefit and so far as the petitioner is concerned he is left out and discriminatory treatment is given by not deciding the application. This contention is meritless. In support, we adopt the reasoning given by a Division Bench of this Court in *Shanti Sports Club* v. *Union of India*, 2001 (60) DRJ 16, wherein this Court has pointed out as under:

> **"The learned counsel for the petitioners also argued that the petitioners have been suspected to discrimination as certain other lands which were subject matter of acquisition have been denotified under Section 48 of the Land Acquisition Act. We find no force in the contention since the land is still needed for the housing project. Similar argument advanced before the Full Bench in *Roshanara Begum* v. *Land Acquisition Collector* for challenging the acquisition was rejected and it was held that there cannot be any question of discrimination merely because some of the lands were denotified in exercise of the powers under Section 48 of the Act, it seems to us that in case some land is wrongly denotified for showing favour to a party, such action of the State can be challenged. But a party cannot seek denotification of the land on the analogy of a case where State withdraws from acquisition on extraneous grounds as two wrongs cannot make a right."**

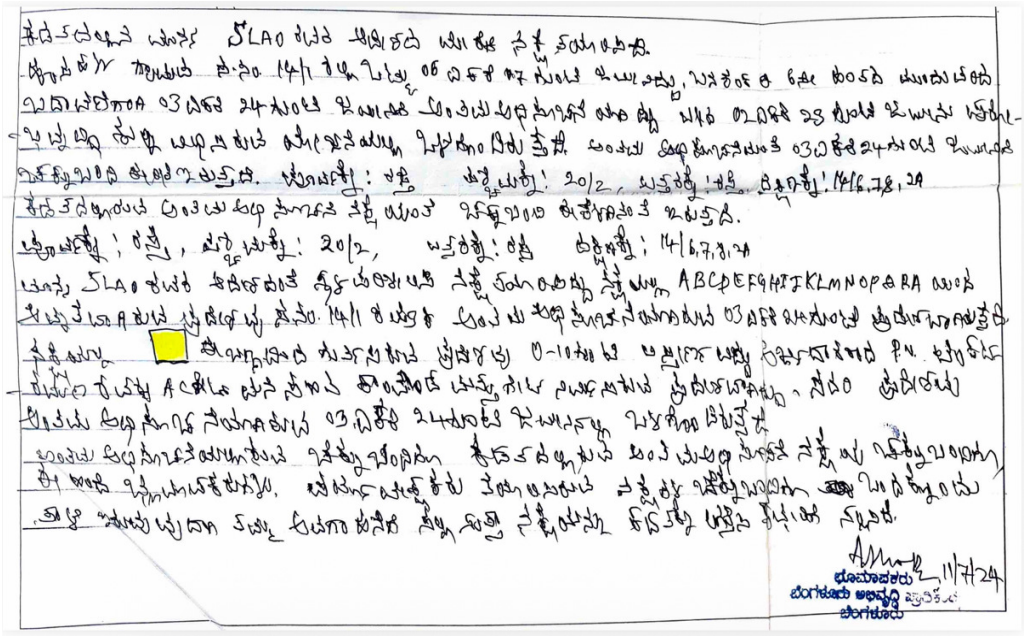
> **16.** Learned counsel also submitted that site of the road has been shifted and therefore there is no need of acquiring this land. Only a part of the land is required for the purpose of construction of road and the petitioner is ready and willing to give the same. On the contrary, on behalf of the DDA it has been pointed out in the affidavit that the land is required for district park as well as the road. Considering the contentions which are on affidavit, after acquisition proceedings are complete, the Court is of the opinion that the Court should not interfere in such matters and the petition is dismissed with costs quantified at Rs. 5000/-. Interim order stands vacated."
>
> *(Emphasis supplied at each instance)*
>
> 12. Insofar as recordings in the note sheet are concerned, any recording in the note sheet cannot render any right in favour of the petitioner. They are all rights that are still born. In law, once possession is taken, if Section 48(1) cannot become applicable, it simply cannot become applicable. Plethora of notings in the note sheet remain notes in the note sheets and cannot become an order contrary to law.
>
> 13. Finding no merit in the petition, the petition stands ***rejected***, with a direction to the respondent/BDA to award compensation to the land of the petitioner in accordance with law, in the event compensation is not awarded and disbursed to the petitioner as on date, without brooking further delay."

The subject review petition is preferred on the score that the order dated 30.01.2026 passed in W.P.No.12383/2023 suffers from an error apparent on the face of the record.

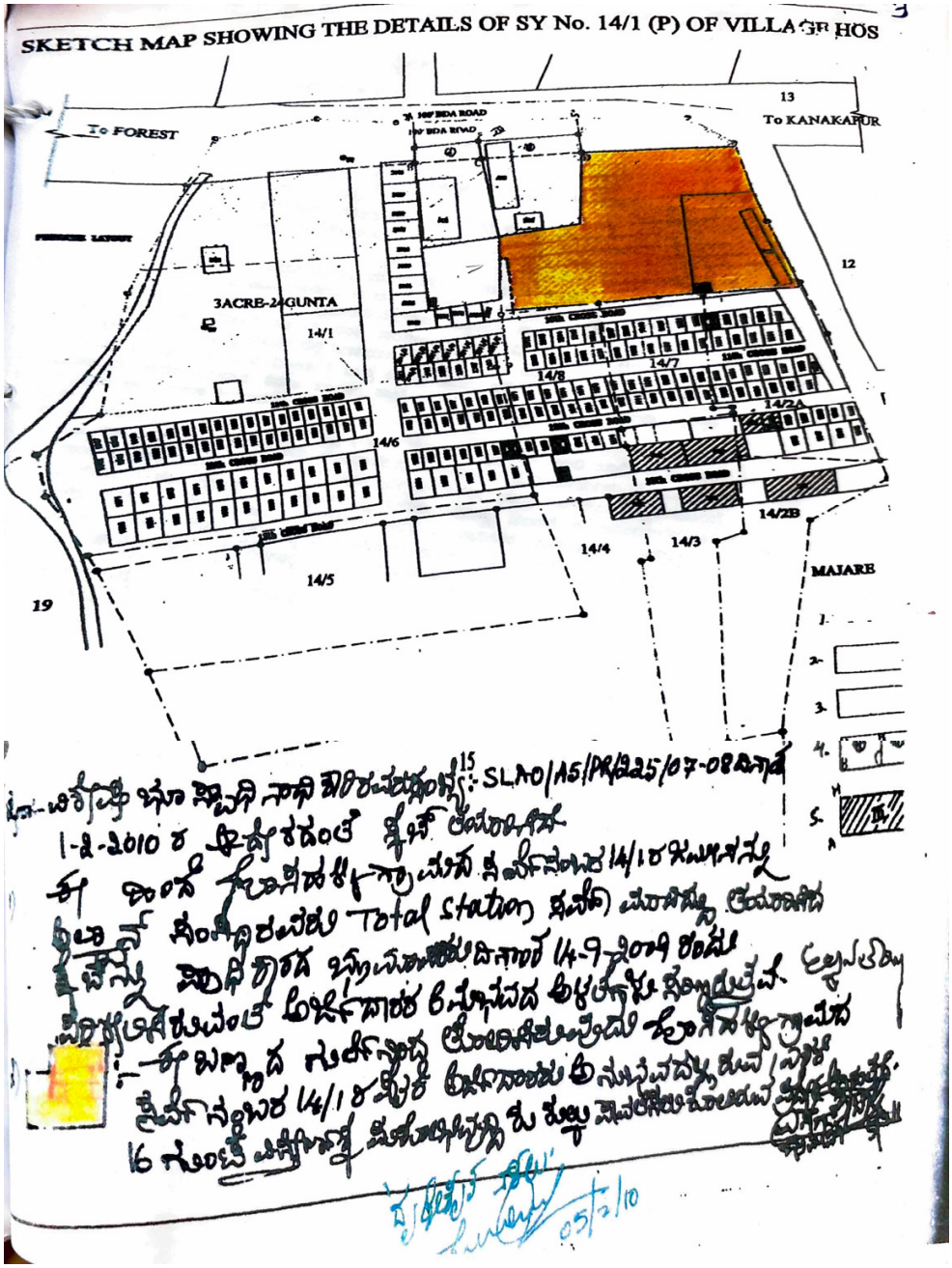
4. Sri Bipin Hegde, learned counsel appearing for the petitioner would vehemently contend that the petitioner is in

possession of the property even as on today, while the finding in the impugned order is that, the possession has been taken by the Bengaluru Development Authority (hereinafter referred to as 'the BDA' for short). In the statement of objections filed along with the documents by respondent Nos.2 and 3 – BDA themselves in the writ petition would indicate that the petitioner is still in possession of the property. The map appended to the statement of objections filed by respondent Nos.2 and 3 is as follows:





4.1. Learned counsel would further submit that the report of the Executive of the BDA even confirms that existence of 8 foot compound wall and an ACC shed on the land to show that the petitioner is in physical possession of the property. Documents *i.e.,* document Nos.3 and 4 appended to the subject petition would indicate that the petitioner had been in possession of the **property as on 05.02.2010**. Document No.3 reads as follows:


SKETCH MAP SHOWING THE DETAILS OF SY No. 14/1 (P) OF VILLAGE HOS
To FOREST
13
To KANAKAPUR
12
3ACRE-24GUNTA
14/1
14/6
14/7
14/8
14/2A
14/2B
14/4
14/3
14/5
MAJARE
19
1.
2.
3.
4.
5.

4.2. The reply given by the BDA on the application filed by the petitioner under the provisions of the Right to Information Act, 2005, dated 13.04.2026 would also indicate that the petitioner was in possession of the property. Learned counsel for the petitioner submits that in the statement of objections filed in W.P.No.12383/2023, respondent Nos.2 and 3 had appended a survey map which depicts that the schedule property is in the possession of the petitioner. The survey map is dated 11.07.2024. He would submit that all these factors are ignored by this Court while passing the order holding that the BDA has already taken possession of the property. In the light of the said documents which depict that the petitioner is in possession of the property, the petitioner has preferred the subject review petition.

5. Learned counsel for respondent Nos.2 and 3 would submit that the order has reference to the submissions that the BDA has already taken possession of the property. The petitioner, therefore, will have to file an appeal as no new ground is made out to entertain the review petition and that the review petitioner is wanting to re-argue the entire matter.

6. I have given my anxious consideration to the submissions made by the respective learned counsel for the parties and have perused the material on record.

7. Before embarking upon the consideration of the issue on its merit of entertainment of the review petition or otherwise, it is necessary to notice the judicial landscape. The review petition is filed under Order XLVII Rule 1 of the CPC. It reads as follows:

> **"ORDER XLVII - REVIEW -**
>
> **1. Application for review of judgment.—**
>
> (1) Any person considering himself aggrieved—
>
> (a) by a decree or order from which an appeal is allowed, but from which no appeal has been preferred,
>
> (b) by a decree or order from which no appeal is allowed, or
>
> (c) by a decision on a reference from a Court of Small Causes,
>
> **and who, from the discovery of new and important matter or evidence which, after the exercise of due diligence was not within his knowledge or could not be produced by him at the time when the decree was passed or order made, or on account of some mistake or error apparent on the face of the record or for any other sufficient reason, desires to obtain a review of the decree passed or order made against him, may apply for a review of judgment to the Court which passed the decree or made the order."**

7.1. Interpretation of Order XLVII Rule 1 of the CPC need not detain this Court for long or delve deep into the matter. The Apex Court in the case of **MALLEESWARI v. K. SUGUNA**[4], while considering the difference in scope and ambit of appeal and review under the CPC, observes as follows:

> " …. …. ….
>
> 15. It is axiomatic that the right of appeal cannot be assumed unless expressly conferred by the statute or the rules having the force of a statute. The review jurisdiction cannot be assumed unless it is conferred by law on the authority or the Court. Section 114 and Order 47, Rule 1 of CPC deal with the power of review of the courts. **The power of review is different from appellate power and is subject to the following limitations to maintain the finality of judicial decisions:**
>
> **15.1 The review proceedings are not by way of an appeal and have to be strictly confined to the scope and ambit of Order 47 Rule 1 of CPC [Meera Bhanja v. Nirmala Kumari Choudhury, (1995) 1 SCC 170].**
>
> **15.2 Review is not to be confused with appellate powers, which may enable an appellate court to correct all manner of errors committed by the subordinate court [Aribam Tuleshwar Sharma v. Aribam Pishak Sharma, (1979) 4 SCC 389].**
>
> **15.3 In exercise of the jurisdiction under Order 47 Rule 1 of CPC, it is not permissible for an erroneous decision to be reheard and corrected. A review petition, it must be remembered, has a limited purpose and cannot**

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be allowed to be an appeal in disguise [Parsion Devi v. Sumitri Devi, (1997) 8 SCC 715].

15.4 The power of review can be exercised for the correction of a mistake, but not to substitute a view. Such powers can be exercised within the limits specified in the statute governing the exercise of power [Lily Thomas v. Union of India, (2000) 6 SCC 224].

15.5 The review court does not sit in appeal over its own order. A rehearing of the matter is impermissible. It constitutes an exception to the general rule that once a judgment is signed or pronounced, it should not be altered [Inderchand Jain v. Motilal, (2009) 14 SCC 663]. Hence, it is invoked only to prevent a miscarriage of justice or to correct grave and palpable errors [Shivdev Singh v. State of Punjab, 1961 SCC OnLine SC 29].

16. To wit, through a review application, an apparent error of fact or law is intimated to the court, but no extra reasoning is undertaken to explain the said error. The intimation of error at the first blush enables the court to correct apparent errors instead of the higher court correcting such errors. At both the above stages, detailed reasoning is not warranted.

17. Having noticed the distinction between the power of review and appellate power, we restate the power and scope of review jurisdiction. Review grounds are summed up as follows:

17.1 The ground of discovery of new and important matter or evidence is a ground available if it is demonstrated that, despite the exercise of due diligence, this evidence was not within their knowledge or could not be produced by the party at the time, the original decree or order was passed.

17.2 Mistake or error apparent on the face of the record may be invoked if there is something more than a mere error, and it must be the one which is manifest on the face of the record [Hari Vishnu Kamath v. Syed Ahmad Ishaque, (1954) 2 SCC 881]. Such an error is a patent error and not a mere wrong decision [T.C. Basappa

> **v. T. Nagappa, (1954) 1 SCC 905]. An error which has to be established by a long-drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of the record [Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, 1959 SCC OnLine SC 10].**
>
> **17.3 Lastly, the phrase 'for any other sufficient reason' means a reason that is sufficient on grounds at least analogous to those specified in the other two categories [Chhajju Ram v. Neki, 1922 SCC OnLine PC 11].**
>
> 18. Courts ought not mix up or overlap one jurisdiction with another jurisdiction. **Having noted the appellate and review jurisdiction of the Court, we will apply these principles to the impugned order to determine whether the High Court was within its power of review jurisdiction** or had exceeded it by reversing the findings, as if the High Court were sitting in appeal against the order dated 23.09.2022. We appreciate the above tabulated summary of the view taken in the impugned order while doing so."

The Apex Court in the afore-quoted judgment observes that there are three broad grounds under which review under the CPC can be sought: discovery of new and important matter or evidence if such evidence was not within their knowledge despite due diligence; mistake or error apparent on the face of the record or any other sufficient reason. The petitioner relies on a error in the impugned order observing that possession of the property is with the BDA which contradicts the material on record.

7.2. The Apex Court in its judgment in the case of **PREM PORWAL v. JAGDEESH CHANDRA PRAJAPATI[5],** while considering the term 'error apparent on the face the record' as a ground for review under Order XLVII, Rule 1 of the CPC, has held as follows:

> " …. …. ….
>
> 5.2. It may be true that the exercise of review jurisdiction by the courts takes place on limited grounds, therefore, not to be a routine exercise. It is nevertheless well settled that review powers under Order XLVII, Rule 1 of the Civil Procedure Code, 1908, or inherent review powers under Article 226 of the Constitution, could be exercised on the grounds permissible for the purpose. **One of the accepted grounds is that the review of a judgment and order can be undertaken when there exists an 'error apparent on the face of record' or any other sufficient ground.**
>
> **5.2.1. An error apparent on the face of record is thus a ground for invoking the review jurisdiction, and in a given case where such apparent error exists, reviewing of the judgment or order becomes imperative. An error apparent on the face of record is one when in comprehending such error, elaborate reasoning is not required. It is one which does not involve debatable issues.**
>
> **5.3. In Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale [Satyanarayan Laxminarayan Hegde v. Mallikarjun Bhavanappa Tirumale, 1959 SCC OnLine SC 10], this Court observed in paragraph 17, 'an error which has to be established by long drawn process of reasoning on points where there may conceivably be two opinions can hardly be said to be an error apparent on the face of record.' The observations**

[5] 2026 SCC OnLine SC 1100

in T.S. Balaram, Income Tax Officer, Company Circle IV, Bombay v. Volkart Brothers, Bombay6, in which the scope of rectification under Section 154 of the Income Tax Act, 1961 was under interpretation, this Court furthered its reasoning as to what could be treated as an error apparent, observing that 'a mistake apparent on record must be an obvious and patent mistake and not something which can be established by a long-drawn process of reasoning on points on which there may conceivably be two opinions.'

5.4. In Meera Bhanja v. Nirmala Kumari Choudhury [Meera Bhanja v. Nirmala Kumari Choudhury, (1995) 1 SCC 170], this Court stated that an error apparent on the face of record must be such an error which strikes on mere looking at the record. More recent decisions in S. Madhusudhan Reddy v. V. Narayana Reddy, in S. Murali Sundaram v. Jothibai Kannan [Madhusudhan Reddy v. V. Narayana Reddy, (2022) 17 SCC 255] and in Arun Dev Upadhyaya v. Integrated Sales Service Limited [Arun Dev Upadhyaya v. Integrated Sales Service Ltd., (2023) 8 SCC 11], similarly explained and reiterated the connotation 'an error apparent on the face of record'.

5.5. Thus, an error which is self-evident and which can be detected without resorting to a long-drawn process of reasoning, is classified as 'an error apparent on the face of record'. The error of this kind and nature justifies the court to exercise its powers of review. The purpose of exercise of any statutory power and exercise of all kinds of jurisdictions, in their ultimate analysis, is to do justice to the party who stands prejudiced or seriously discounted for its rights by virtue of the judgment or order affecting such party, by curing the error committed by the court. When 'an error apparent on the face of record' is noticed or found to exist, the court should not hesitate to exercise the review powers to set right the injustice and restore the justice to the aggrieved party."

7.3. Yet again, the Apex Court in the case of **STATE OF U.P. v. ANJUMAN ISHAAT-E-TALEEM TRUST**[6] observes as follows:

> " ....
>
> 6. Yet again, recently, this Court in Bharti Airtel Ltd. v. A.S. Raghavendra [Bharti Airtel Ltd. v. A.S. Raghavendra, (2024) 6 SCC 418] had the occasion to hold as follows:
>
> > 16. The gist of the aforestated decisions is that:
> >
> > **16.1. A judgment is open to review inter alia if there is a mistake or an error apparent on the face of the record.**
> >
> > **16.2. A judgment pronounced by the court is final, and departure from that principle is justified only when circumstances of a substantial and compelling character make it necessary to do so.**
> >
> > **16.3. An error which is not self-evident and has to be detected by a process of reasoning, can hardly be said to be an error apparent on the face of record justifying the court to exercise its power of review.**
> >
> > **16.4. In exercise of the jurisdiction under Order 47 Rule 1 CPC, it is not permissible for an erroneous decision to be "reheard and corrected".**
> >
> > **16.5. A review petition has a limited purpose and cannot be allowed to be "an appeal in disguise".**
> >
> > **16.6. Under the guise of review, the petitioner cannot be permitted to reagitate and reargue the**

[6] 2026 SCC OnLine SC 998

questions which have already been addressed and decided.

16.7. An error on the face of record must be such an error which, mere looking at the record should strike and it should not require any long-drawn process of reasoning on the points where there may conceivably be two opinions.

16.8. Even the change in law or subsequent decision/judgment of a coordinate or larger Bench by itself cannot be regarded as a ground for review."

(Emphasis supplied at each instance)

On coalesce of judgments rendered by the Apex Court what would unmistakably emerge is that, a review petition is entertainable if the order suffers from an error apparent on the face of the record.

8. In the case at hand, the order dated 30.01.2026 passed in W.P.No.12383/2023, suffers from an error on the face of the record, for the reason that this Court has dismissed the petition on the score that the possession has been taken by the BDA while the BDA themselves in the documents appended to the statement of objections observes that the BDA has not taken possession of the property. This observation comes to be affirmed in the response to

the application filed by the petitioner under the provisions of the Right to Information Act, 2005. In the light of the aforesaid submissions and the circumstance that the BDA has not taken the possession of the property, the impugned order dated 30.01.2026 requires to be recalled.

9. For the aforesaid reasons, the following:

ORDER

a. The review petition is allowed.

b. The order dated 30.01.2026 passed in W.P.No.12383/2023 stands recalled.

c. The matter in W.P.No.12383/2023 is restored to file.

d. **Registry is directed to list W.P.No.12383/2023 on 20.11.2026, for further hearing at 02:30 p.m**.

Sd/-
(M.NAGAPRASANNA)
JUDGE

nvj
CT - MJ