

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. JUSTICE JAYANT BANERJI

AND

THE HON'BLE MR. JUSTICE RAJESH RAI K

WRIT APPEAL NO. 8227 OF 2012 (ULC)

C/W

WRIT APPEAL NO. 8416 OF 2012

IN WA No. 8227/2012

BETWEEN:

1. C JAYARAM
AGED ABOUT 62 YEARS,
S/O.LATE C CHIKKATHAMMAIAH
OCC: AGRICULTURIST,
RESIDING AT NO.2320/A,
VINAYAKA NAGAR,
3RD MAIN, 2ND CROSS,
MYSORE-570 012
2. C SITHARAM
AGED ABOUT 59 YEARS,
S/O.LATE C HIKKATHAMMAIAH
OCC:NIL(PHYSICALLY HANDICAPPED)
R/A.NO.2320/A, VINAYAKA NAGAR
3RD MAIN, 2ND CROSS, MYSORE-570 012

SINCE DEAD BY LRS

- 2(A) SMT. MEENAKSHI
W/O LATE C. SITHARAM
AGED ABOUT 64 YEARS
R/A 2319/A, 3RD CROSS, 3RD MAIN,
PADUVARAHALLI, MYSURU - 570 012
- 2(B) SRI. RAVIKUMAR
S/O LATE C. SITHARAM
AGED ABOUT 45 YEARS



RESIDING AT 2319/A,
3RD CROSS, 3RD MAIN
PADUVARAHALLI,
MYSURU - 570 012

- 2(C) SMT. SARALA S.
D/O LATE C. SEETHARAMU
W/O SRI. BALU C
AGED ABOUT 42 YEARS
RESIDING AT 114, 6TH MAIN
GANAPATHI TEMPLE ROAD
JAYALAKSHMIPURAM,
MYSURU - 570 012
- 2(D) SRI. C.S. RAGHAVENDRA
S/O LATE C. SITHARAM
AGED ABOUT 41 YEARS
RESIDING AT 2319/A,
3RD CROSS, 3RD MAIN
PADUVARAHALLI,
MYSURU - 570 012
3. SRI. C RAMACHANDRA
AGED ABOUT 56 YEARS,
S/O.LATE C CHIKKATHAMMAIAH
OCC.PETTY BUSINESS,
RESIDING AT NO.2320/A,
VINAYAKA NAGAR,
3RD MAIN, 2ND CROSS,
MYSORE-570 012
4. SRI. MAHADESH
AGED ABOUT 49 YEARS,
S/O.B BOREGOWDA
OCC.PVT SERVICE,
RESIDING AT NO.2316,
VINAYAKA NAGAR,
3RD MAIN, 2ND CROSS,
MYSORE-570 012
5. SRI. ISHWAR
AGED ABOUT 48 YEARS,
S/O.B BOREGOWDA
OCCU: AUTO DRIVER,
R/A.NO.2316,

VINAYAKA NAGAR,
3RD MAIN, 2ND CROSS,
MYSORE-570 012

SINCE DEAD BY LRS

- 5(A) SMT. B. MAHADEVI
W/O LATE ESHWAR
AGED ABOUT 48 YEARS
R/A NO.2316, 2ND CROSS
VINAYAKA NAGAR
MYSURU - 570 012
- 5(B) KUM BEBI
AGED ABOUT 28 YEARS
D/O LATE ESHWAR
R/AT NO.2316, 2ND CROSS
VINAYAKA NAGAR
MYSURU - 570 012
- 5(C) SMT. LEELA
W/O LATE ESHWAR
AGED ABOUT 50 YEARS
R/A 2316, 2ND CROSS,
VINAYAKA NAGAR
MYSURU - 570 012
- 5(D) KUM E. INCHARA
AGED ABOUT 23 YEARS
D/O LATE ESHWAR
R/A. 3311, 11TH CROSS
R.P. ROAD, NANJANGUD TOWN
MYSURU DISTRICT - 571 301
- 5(E) MR. ARJUN E
AGED ABOUT 20 YEARS
R/A 2316, 2ND CROSS, 4TH MAIN
VINAYAKANAGAR, MYSURU - 570 012

APPLICANTS NO.5(A), 5(C) & 5(D)
ARE REPRESENTED BY GPA HOLDER
SRI. B.S. THULASIRAMU
S/O SRI. B. SIDDARAJU
AGED ABOUT 64 YEARS
R/AT NO.910, 1ST BLOCK

RAMAKRISHNA NAGAR
MYSURU - 570 022

...APPELLANTS

(BY SRI. MANMOHAN P.N, ADVOCATE)

AND:

1. STATE OF KARNATAKA
TO BE REPTD.BY ITS SECRETARY
HOUSING AND URBAN DEVELOPMENT
DEPARTMENT, M.S.BUILDINGS
BANGALORE-01
2. COMPETENT AUTHORITY
AND DEPUTY COMMISSIONER
(URBAN CEILING)
AGGLOMERATION AREA
MYSORE-570 001
3. MYSORE URBAN DEVELOPMENT AUTHORITY
MYSORE-570 001
BY ITS CHAIRMAN
4. SMT LALITHA V GOWDA
W/O.SRI VASU,

SINCE DECEASED BY LR
SRI VASU
S/O LATE CHANNAIAH

SINCE DEAD REPRESENTED BY LRS
- 4(A) KAVEESH GOWDA V.
S/O LATE VASU
AGED ABOUT 40 YEARS
RESIDING AT NO.16
TEMPLE STREET,
JAYALAKSHMIPURAM
MYSORE - 570 012
- 4(B) AVISH GOWDA M.V.
S/O LATE VASU
AGED ABOUT 39 YEARS
RESIDING AT NO.16

TEMPLE STREET
JAYALAKSHMIPURAM
MYSORE - 570 012

- 4(C) RITESH GOWDA M.V
S/O LATE VASU
AGED ABOUT 33 YEARS
RESIDING AT NO.16
TEMPLE STREET
JAYALAKSHMIPURAM
MYSORE - 570 012
5. SMT. K. GAYATHRI
W/O SRI. Y.C. KALEGOWDA
AGE: 59 YEARS
R/AT NO.202, 1ST MAIN,
21ST CROSS,
BRINDAVAN II STAGE,
MYSORE-570 020
6. SRI. N. LOKESH
S/O D. NARASIMHAIAH
AGE: 51 YEARS
R/AT NO.1494,
BAPU SUBBARAO ROAD,
SHIVARAM PETE
MYSORE-01
7. SRI. R.P. KRISHNAMURTHY
S/O P.R. PALLIKONDAN CHETTIAR
AGED ABOUT 75 YEARS.
8. SMT. K. VIJAYA
W/O SRI. R.P. KRISHNAMURTHY
AGED ABOUT 67 YEARS
- RESPONDENTS NO.7 AND 8
R/A NO. CH-19, SWIMMING POOL ROAD
SARASHWATHIPURAM
MYSURU-570 009. ...RESPONDENTS
- (BY SMT. PRATHIBA R.K, AGA FOR R1 & R2,
SRI. T.P. VIVEKANANDA, ADVOCATE FOR R3,
SRI. PRAJWAL PATIL, ADVOCATE FOR

SRI. VAMSHI KRISHNA, ADVOCATE FOR R4(A-C),
SRI. V.M. PRASAD, ADVOCATE FOR R6,
SRI. VINAYAKA B, ADVOCATE FOR R7 & R8,
R5 - SERVED, UNREPRESENTED)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED
IN THE WRIT PETITION NO.14657/2005(ULC) DATED
07/09/2012.

IN WA NO. 8416/2012

BETWEEN:

MYSORE URBAN DEVELOPMENT AUTHORITY
J.L.B. ROAD, MYSORE-570 005
REPRESENTED BY ITS
COMMISSIONER5

...APPELLANT

(BY SRI. T.P. VIVEKANANDA, ADVOCATE)

AND:

1. SHRI C JAYARAM
AGED ABOUT 58 YEARS,
S/O LATE C. CHIKKATHAMMAIAH,
RESIDING AT NO.2320/A,
VINAYAKA NAGAR, 3RD MAIN,
2ND CROSS, MYSORE-570 001
2. SHRI C. SITHARAM
AGED ABOUT 55 YEARS,
S/O LATE C. CHIKKATHAMMAIAH,
PHYSICALLY HANDICAPPED,
RESIDING AT NO.2320/A,
VINAYAKA NAGAR, 3RD MAIN,
2ND CROSS, MYSORE-570 005

DEAD BY LRS OF DECEASED
RESPONDENT NO.2

2(A) SMT. MEENAKSHI
AGED ABOUT 60 YEARS
W/O LATE C. SITHARAM

RESIDING AT NO.2319/A
3RD CROSS, 3RD MAIN
PADUVARAHALLI
MYSURU-570 012.

2(B) SRI RAVIKUMAR
AGED ABOUT 41 YEARS
RESIDING AT NO.2319/A
3RD CROSS, 3RD MAIN
PADUVARAHALLI
MYSURU-570 012.

2(C) SMT. SARALA S
AGED ABOUT C SITHARAM
W/O SRI BALU C
RESIDING AT NO.1146
6TH MAIN,
GANAPATHI TEMPLE ROAD
JAYALAKSHMIPURAM
MYSURU-570 012.

2(D) SRI. C.S RAGHAVENDRA
AGED ABOUT 37 YEARS
S/O LATE C SITHARAM
RESIDING AT NO.2319/A
3RD CROSS, 3RD MAIN
PADUVARAHALLI,
MYSURU-570 012.

3. SHRI C. RAMACHANDRA
AGED ABOUT 52 YEARS,
S/O LATE C. CHIKKATHAMMAIAH,
RESIDING AT NO.2320/A,
VINAYAKA NAGAR,
3RD MAIN, 2ND CROSS,
MYSORE-570 005
4. SHRI MAHADESH
AGED ABOUT 45 YEARS,
S/O B. BOREGOWDA,
RESIDING AT NO.2316,
VINAYAKA NAGAR,
3RD MAIN, 2ND CROSS,
MYSORE-570 005

5. SHRI ISHWAR
AGED ABOUT 43 YEARS,
S/O B. BOREGOWDA,
RESIDING AT NO.2316,
VINAYAKA NAGAR,
3RD MAIN, 2ND CROSS,
MYSORE-570 005
DEAD BY LRS OF DECEASED
RESPONDENT NO.5

5(A) SMT. B. MAHADEVI
AGED ABOUT 48 YEARS
W/O LATE ESHWAR
R/AT NO.2316, 2ND CROSS
VINAYAKA NAGARA
MYSORE-570 012.

5(B) SMT. BABI
AGED ABOUT 28 YEARS
D/O LATE ESHWAR
R/AT NO.2316, 2ND CROSS
VINAYAKA NAGARA
MYSORE-570 012.

5(C) SMT. LEELA
AGED ABOUT 50 YEARS
D/O LATE ESHWAR
R/AT NO.2316, 2ND CROSS
VINAYAKA NAGARA
MYSORE-570 012.

5(D) E. INCHARA
AGED ABOUT 23 YEARS
D/O LATE ESHWAR
R/AT NO.2316, 2ND CROSS
VINAYAKA NAGARA
MYSORE-570 012.

5(E) ARJUN E
AGED ABOUT 20 YEARS
S/O LATE ESHWAR
R/AT NO.2316, 2ND CROSS
VINAYAKA NAGARA
MYSORE-570 012.

6. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
HOUSING & URBAN DEVELOPMENT,
DEPARTMENT M.S. BUILDING,
BANGALOR-560 001

7. COMPETENT AUTHORITY &
DEPUTY COMMISSIONER
(URBAN CEILING)
AGGLOMERATION AREA,
MYSORE-570 001

8. SMT. LALITHA V. GOWDA
MAJOR,
W/O SRI VASU
SINCE DECEASED BY
L.R. VASU,
S/O LATE CHANNAIAH,
MAJOR, RESIDING AT NO.16,
TEMPLE STREET,
JAYALAKSHMIPURAM,
MYSORE-560 012
DEAD BY LRS OF DECEASED
RESPONDENT NO.8

8(A) SRI.KAVEESH GOWDA.V
S/O LATE VASU
AGED ABOUT 40 YEARS
R/AT NO.16, TEMPLE STREET
JAYALAKSHMIPURAM
MYSORE-570 012

8(B) AVISH GOWDA.M.V.
S/O LATE VASU
AGED ABOUT 39 YEARS
R/AT NO.16, TEMPLE STREET
JAYALAKSHMIPURAM
MYSORE -570 012

8(C) RITESH GOWDA M.V.
S/O LATE VASU
AGED ABOUT 40 YEARS
R/AT NO.16, TEMPLE STREET
JAYALAKSHMIPURAM
MYSORE -570 012

9. SMT. K. GAYATHRI
AGED ABOUT 55 YEARS,
W/O SRI Y.C. KALEGOWDA,
RESIDING AT NO.202,
1ST MAIN, 1ST CROSS,
BRINDAVAN II STAGE,
MYSORE-570 001
10. SHRI N. LOKESH
AGED ABOUT 46 YEARS,
S/O D. NARASIMHAIAH,
RESIDING AT NO. 1494,
BAPU SUBBARAO ROAD,
SHIVARAM PETE, MYSORE-570 001

...RESPONDENTS

(BY SRI. MANMOHAN P.N, ADVOCATE FOR R1, R3 & R4 AND
ALSO FOR R2(A-D) & R5(A-E),
SMT. PRATHIBA R.K, AGA FOR R6 & R7
SRI. SUBRAMANYA R, ADVOCATE FOR R9 & R10
R8(A-C) - SERVED, UNREPRESENTED)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET ASIDE THE ORDER PASSED
IN THE WRIT PETITION NO.14657/2005 DATED 07/09/2012.

THESE APPEALS HAVING BEEN RESERVED FOR
JUDGMENT ON 11.03.2026 COMING ON FOR PRONOUNCEMENT
THIS DAY, **RAJESH RAI K, J.,** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE JAYANT BANERJI
and
HON'BLE MR. JUSTICE RAJESH RAI K

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE RAJESH RAI K)

These intra-court appeals arise from the judgment dated
07.09.2012 delivered by the learned Single Judge in Writ
Petition No. 14657/2005 (ULC).

2. Writ Appeal No.8227/2012 has been filed by C.Jayaram and others, who were the petitioners in the writ petition and are the children/legal heirs of late Chikkathammaiah and Boregowda.

3. Writ Appeal No. 8416/2012 has been filed by the Mysore Urban Development Authority (hereinafter referred to as "MUDA"), which was respondent No. 3 in the writ petition.

4. Brief facts of the case, as borne out from the records, the aforesaid late Chikkathammaiah and his brother Boregowda were the owners of several piece of lands bearing Sy.No.152/1 measuring 4 acres 28 guntas, Sy.No.165/4 measuring 3 acres 38 guntas, Sy.No.164/1 measuring 1 acre 20 guntas, Sy.No.164/2 measuring 1 acre 34 guntas, Sy.No.164/3 measuring 14 guntas, and Sy.No.173/3 measuring 1 acre 9 guntas, all situated at Hinkal Village, Kasaba Hobli, Mysore Taluk (hereinafter referred to as the "**subject lands**").

5. Upon coming into force of the Urban Land (Ceiling and Regulation) Act, 1976 (hereinafter referred to as the "**ULCAR Act**") with effect from 15.02.1976, both the said landowners filed declarations in Form No.6(1) under the ULCAR Act in respect of the subject lands before the Competent

Authority. The said declarations were registered as ULA No.672/1976-77 and ULA No.1850/1976-77. It is, however, evident from the record that only Chikkathammaiah contested the proceedings before the Competent Authority.

6. Thereafter, the Competent Authority issued a draft statement under Section 8(1) of the ULCAR Act on 30.08.1979, holding that Chikkathammaiah was in possession of excess vacant land measuring 24,895.09 sq. meters, and that he was entitled to retain 6,000 sq. meters. Aggrieved by the said determination, Chikkathammaiah preferred an appeal before the Divisional Commissioner in M.A. (ULC) No.38/1979-80, which came to be allowed, and the matter was remanded to the Competent Authority for fresh consideration.

7. During the pendency of the proceedings, Chikkathammaiah submitted an application before MUDA, formerly known as the stating that his lands were encompassed within lands acquired for the formation of Vijayanagara Extension. He asserted that due to the surrounding layout formation, the lands could not be effectively utilized and requested acquisition of the same, along with allotment of eight sites for his children. Subsequently, on 04.04.1987, he filed a

declaration stating that he had delivered possession of the lands to the Authority.

8. Acting upon the said declaration, the Authority exercised its powers under Section 22 of the City of Mysore Improvement Board Act, 1903 and utilized the lands for formation of a layout. Notwithstanding the above, Chikkathammaiah instituted O.S. No.1629/1989 seeking a decree of permanent injunction against interference by MUDA with his alleged possession. An interim injunction was granted, restraining interference, while reserving liberty to the Authority to acquire and take possession in accordance with law. Subsequently, on 10.07.1995, the plaint was returned for presentation before the Competent Court; however, no further steps were taken in that regard.

9. On 30.07.1990, the Competent Authority passed an order under Section 8(4) of the ULCAR Act, followed by a final statement dated 08.08.1990 under Section 9 of ULCAR Act. A declaration under Section 10(3) was published on 26.08.1993, and notice under Section 10(5) was purportedly served on 04.10.1993.

10. It is further seen that, in the absence of the declarants, possession of the lands measuring 25,711.10 sq.

meters in Sy.No.152/1, 1,84,412.94 sq. meters in Sy.No.173/3, and 4,856.18 and 2,442 sq. meters in Sy.No.165/4 was taken by the Revenue Inspector in the presence of panch witnesses on 28.06.1994. Thereafter, an award under Section 11(7) of the ULCAR Act was passed on 10.06.1995. The said award was challenged by Chikkathammaiah in R.A./ULC/74/1995-96, which came to be dismissed on 26.06.1996.

11. In parallel proceedings, Boregowda challenged the order under Section 10(3) dated 06.10.1993 and the endorsement dated 05.10.1993 before the Divisional Commissioner in R.A./ULC/57/1993-94, which was also dismissed on 29.06.1996.

12. Subsequently, the ULCAR Act stood repealed in the State of Karnataka with effect from 08.07.1999 by the Urban Land (Ceiling and Regulation) Repeal Act, 1999 (hereinafter referred to as the "**Repeal Act, 1999**").

13. Chikkathammaiah passed away on 25.04.2004. Thereafter, his legal representatives, along with children of Boregowda, filed W.P. No.14657/2005 seeking restoration of the subject lands, contending that possession had not been

lawfully taken prior to the coming into force of the Repeal Act, 1999. During the pendency of the writ proceedings, MUDA entered appearance and, upon intervention by the Court, made several offers to settle the dispute, including payment of compensation and allotment of sites. Although negotiations were undertaken, including reference to the Lok Adalat and preparation of a draft settlement, the same did not culminate in a final resolution.

14. On 05.07.2012, the learned Single Judge rejected the initial offer made by MUDA. A subsequent offer dated 13.08.2012 proposing enhanced compensation and site allotment was also rejected on 17.09.2012. Ultimately, the learned Single Judge directed MUDA to initiate acquisition proceedings in accordance with Section 36 of the Karnataka Urban Development Authorities Act, 1987, read with the Land Acquisition Act, 1894, and to complete the same within six months, holding that the petitioners were entitled to compensation at the prevailing market value, though not to restoration of the lands. Aggrieved by the said order, both the petitioners and MUDA have preferred the present writ appeals.

15. Heard learned counsel Sri Manmohan P.N., learned counsel for the appellants - legal representatives of late

Chikkathammaiah and the children of Boregowda; Smt.Prathiba R.K., learned Additional Government Advocate for the State; Sri T.P.Vivekananda, learned counsel for the MUDA; Sri Prajwal Patil, learned counsel for Sri Vamshi Krishna, learned counsel for respondent No.4 (a to c); Sri V.M.Prasad, learned counsel for respondent No.6; and Sri Vinayaka B. learned counsel for respondent Nos.7 and 8 in WA.No.8227/2012.

16. The primary contention advanced by the learned counsel appearing for the appellants in W.A. No.8227/2012 and for the respondents in W.A.No.8416/2012 is that the appellants are entitled to restoration of the subject lands, at least to the extent of the lands still vacant. Placing reliance on photographs and the *dishank* map, it is contended that a substantial portion of the subject lands continues to remain vacant and under the possession of the appellants. It is further urged that there exist material contradictions in the statements of objections filed by the State Government and MUDA with regard to the alleged taking of possession.

17. Elaborating the said contention, the learned counsel submits that, according to the State Government, possession of the subject lands was taken through the jurisdictional Tahsildar on 13.10.1993 and thereafter forwarded to the Deputy

Commissioner for further action, pursuant to which an extent of 6,833.59 sq. meters in Sy.No.165/4 of Hinkal Village was handed over to MUDA. However, MUDA, in its statement, has taken a contradictory stand by asserting that since Chikkathammaiah did not personally deliver possession, the same was taken by the Authorized Officer of the Competent Authority under a mahazar dated 28.06.1994.

18. It is further contended that if the stand of MUDA is that Chikkathammaiah had already delivered possession and that the land stood vested in the State Government by virtue of Section 10(3) of the ULCAR Act, the question of once again taking physical possession under Section 10(5) of the ULCAR Act would not arise. It is also urged that MUDA has alternatively contended that the learned Single Judge ought to have held that constructive possession had been taken. Referring to the chart produced by MUDA in the writ appeal, it is submitted that sites which are stated to have been formed in Sy.No.165/4, Sy.No.152/1 is largely vacant, except for a portion allotted to certain private institutions.

19. The learned counsel further contends that Sy.No.165/4 continues to remain vacant and has not been validly allotted. It is submitted that any allotment, if made

subsequent to the filing of the writ petition and the present appeals, would be in violation of the interim order dated 12.06.2013 passed in the writ appeals and the interim order dated 21.06.2005 passed by the learned Single Judge.

20. Placing reliance on the mahazar drawn by the Revenue Inspector purportedly evidencing the taking of possession under Section 10(6) of the ULCAR Act, it is contended that the Revenue Inspector is not the "Competent Authority" as defined under Section 2(d) of the ULCAR Act, and therefore, the alleged act of taking possession is without authority of law. It is also pointed out that the said mahazar itself reflects the pendency of proceedings before this Court.

21. It is further submitted that admittedly, notice under Section 10(5) of the ULCAR Act was not served upon Chikkathammaiah and his brother Boregowda, and in the absence of such notice, invoking the provisions under Section 10(6) would be impermissible. In support of this contention, reliance is placed on the judgment of the Hon'ble Apex Court in **ANDHRA PRADESH ELECTRICAL EQUIPMENT CORPORATION VS. TAHSILDAR AND OTHERS - 2025 SCC ONLINE SC 447.**

22. The learned counsel also disputes the claim of MUDA and the State Government that Chikkathammaiah had consented to handing over possession by way of a statement dated 04.04.1987. It is contended that a plain reading of the said statement would indicate that Chikkathammaiah had, in fact, asserted his possession over the subject lands and had objected to the formation of layout without notice. It is further submitted that although he expressed willingness to hand over possession, the same was conditional upon securing higher compensation through Court, failing which he reserved his right to obstruct the formation of layout. Therefore, the said statement cannot be construed as unconditional consent. On the contrary, it establishes that he continued to be in possession as on 04.04.1987.

23. It is also brought to the notice of the Court that Chikkathammaiah had instituted O.S.No.1629/1989 seeking a decree of permanent injunction against the authorities. Though the plaint was subsequently returned on 10.07.1995 on the ground of pecuniary jurisdiction, he thereafter challenged the award dated 16.10.1995 in R.A./ULC/74/1995-96. In the aforesaid circumstances, it is contended that the impugned judgment of the learned Single Judge suffers from serious

infirmities and is liable to be set aside, and consequently, the appeal filed by the appellants deserves to be allowed, while dismissing the appeal preferred by MUDA.

24. Learned counsel for the appellants in W.A. No.8227/2012 has filed a memo dated 20.01.2025 stating that the appellants restrict their claim in respect of Sy.No.165/4 to an extent of 2 acre 12 guntas instead of 3 acres 38 guntas since the retainable portion of the land 1 acre 23 guntas was not taken possession by the MUDA and the appellants alienated the same to third parties.

25. *Per contra*, the learned counsel appearing for MUDA contended that, in exercise of powers under Section 22 of the City of Mysore Improvement Board Act, 1903 the State Government had allotted the excess vacant lands to MUDA as follows:

- Sy.No.152/1 – 17,604.38 sq. meters
- Sy.No.173/3 – 4,856.36 sq. meters
- Sy.No.165/4 – 2,631.35 sq. meters
- Sy.No.164/1 – 3,035.14 sq. meters

26. In furtherance of the above, it is contended that the State Government had issued instructions that lands declared

as excess vacant under the ULCAR Act need not be included in acquisition notifications, and instead, such lands would be allotted to MUDA erstwhile City of Mysore Improvement Board (hereinafter referred to as the "**CITB**"). Accordingly, the aforesaid lands were excluded from the preliminary notification dated 01.04.1981 issued for acquisition for the formation of Vijayanagara Extension. It is further submitted that several extent of excess vacant lands, including 25,695 sq. meters belonging to Chikkathammaiah, were taken possession of and handed over to MUDA, upon which MUDA formed layouts. During such formation, MUDA also utilized 5,348.09 sq. meters (1 acre 12 guntas), being the retainable portion of Chikkathammaiah's land.

27. It is further contended that by communication dated 04.07.1989, Chikkathammaiah was informed by MUDA that since the lands were subject to proceedings under the ULCAR Act, they were not included in either the preliminary or final acquisition notifications. Consequently, the question of payment of compensation for excess land did not arise. However, insofar as the retainable extent of 1 acre 12 guntas in Sy.No.165/4 is concerned, the MUDA has expressed readiness to compensate. It is submitted that such compensation could

not be paid due to a temporary injunction granted in O.S.No.2002/1989 filed by another member of the joint family before the Court of the First Munsiff at Mysore. It is also urged that during his lifetime, Chikkathammaiah neither challenged the ULCAR proceedings nor pursued any legal remedy against MUDA in respect of compensation for the retainable land.

28. With regard to the memo dated 20.01.2025 filed by the appellants in WA.No.8227/2012 to the effect that they restrict their claim in respect of Sy.No.165/4 to an extent of 2 acre 12 guntas instead of 3 acres 38 guntas is concerned, it is contended by the MUDA by filing objections for the said memo on 06.02.2025 that, before the learned Single Judge the appellants did not restrict their prayer as above, as such in the appeal they cannot raise such contention. Further the MUDA has taken possession of 1 acre 23 guntas and formed the layout along with 2 acres 12 guntas. By placing reliance on the photographs and survey sketch, learned counsel for the MUDA contended that there is no land left except the lands, which are in the possession of MUDA.

29. The learned counsel further submits that although the ULCAR Act was repealed on 07.07.1999, Chikkathammaiah did not, thereafter, raise any contention that possession had

not been taken in accordance with law, nor did he seek the benefit under Section 3 of the Repeal Act, 1999. He passed away on 25.04.2004, and it was only thereafter, in the year 2005, that his legal representatives, along with the children of Boregowda, filed W.P.No.14657/2005 seeking restoration of the lands on the ground that possession had not been taken as on the date of repeal.

30. It is further contended that Chikkathammaiah had not challenged the order dated 30.08.1979 passed by the Competent Authority, nor the subsequent order dated 13.10.1990 passed after remand. Pursuant to allotment by the State Government, MUDA is stated to have taken possession of the entire extent of 11 acres 9 guntas, including the retainable portion. An award dated 16.10.1995 was passed in respect of 9 acres 29 guntas in favour of Chikkathammaiah. Though challenged, the said award came to be dismissed on the ground of delay and thus attained finality.

31. It is additionally contended that the Repeal Act, 1999 does not create any fresh cause of action in favour of the legal representatives of Chikkathammaiah and Boregowda for restoration of the lands, particularly when they were not in possession of the subject lands as on the date of coming into

force of the Repeal Act, 1999. In such circumstances, it is prayed that the appeal filed by MUDA be allowed and that filed by the legal representatives be dismissed.

32. The learned counsel appearing for respondent Nos.7 and 8, by way of written submissions, has adopted the arguments advanced on behalf of MUDA and further contended that respondent Nos.7 and 8 are *bonafide* purchasers, having acquired the property from MUDA under a lease-cum-sale deed dated 01.10.2014, and are in lawful possession and enjoyment thereof. On these grounds, it is prayed that the appeal filed by the legal representatives of Chikkathammaiah and Boregowda be dismissed.

33. Having heard the learned counsel appearing on both sides and upon perusal of the impugned order and material available on record, the following points arise for consideration:

(i) *Whether the subject lands vested in the State Government under Section 10(3) of the ULCAR Act and whether possession thereof was lawfully taken under Section 10(6) of the Act after submission of Form No.6*

by the original owners and subsequently handed over to MUDA ?

(ii) Whether the appellants in W.A. No.8227/2012 are entitled to restoration of the subject lands under Section 3(2)(a) and (b) of the Repeal Act, 1999?

34. Before advertng to the rival submissions canvassed on either side on the point No.1 raised above, we must look into few relevant provisions of the Repeal Act, 1999 which read as under:-

"Section 3. Savings— (1) The repeal of the principal Act shall not affect—

(a) the vesting of any vacant land under sub-section (3) of Section 10, possession of which has been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority;

(b) the validity of any order granting exemption under sub-section (1) of Section 20 or any action taken thereunder, notwithstanding any judgment or any Court to the contrary;

(c) any payment made to the State Government as a condition for granting

exemption under sub- section (1) of Section 20.

(2) Where—

(a) any land is deemed to have vested in the State Government under sub-section (3) of Section 10 of the Principal Act but possession of which has not been taken over by the State Government or any person duly authorised by the State Government in this behalf or by the competent authority; and

(b) any amount has been paid by the State Government with respect to such land, then such land shall not be restored unless the amount paid, if any, has been refunded to the State Government.

Section 4. Abatement of legal proceedings:—All proceedings relating to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, Tribunal or any authority shall abate;

Provided that this section shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act insofar as such proceedings are relatable to the land, possession of which has been taken over by the State Government or any person duly

authorised by the State Government in this behalf or by the competent authority."

35. Thus, by virtue of the provisions of Section 3 of the Repeal Act, 1999, if possession of vacant land has been taken over on behalf of the State Government before the coming into force of the Repeal Act, 1999, the repeal of the Principal Act would not affect the vesting of such land under sub-section (3) of Section 10 of Act, 1976. Hence, the issue as to whether actual possession of land declared excess under the Act has been taken over or not assumes great significance after the coming into force of the Repeal Act, 1999 inasmuch as if possession has not been taken over, the proceedings would abate under Section 4 of the Repeal Act, 1999 and the ownership of the land, if vested in the State Government under Section 10(3) of the Act, 1976 would be required to be restored to the original landholder subject to repayment of any amount that has been paid by the State Government with respect to such land.

36. Sub-sections (5) and (6) of Section 10 of the Act, 1976 respectively which are relevant for the purpose of deciding the present Appeals read as under:

"10. Acquisition of vacant land in excess of ceiling limit— (5) Where any vacant land is vested in the State Government under sub-section(3),the competent authority may, by notice in writing, order any person who may be in possession of it to surrender or deliver possession thereof to the State Government or to any person duly authorized by the State Government in this behalf within thirty days of the service of notice.

(6) If any person refuses or fails to comply with an order made under sub section (5), the competent authority may take possession of the vacant land or cause it to be given to the concerned State Government or to any person duly authorised by such State Government in this behalf and may for that purpose use such force as may be necessary".

37. Upon a plain reading of above provisions, it is manifest that the statute envisages providing an opportunity to a landholder, or any person in possession of excess vacant land, to surrender or deliver possession thereof to the State Government. The statute mandates the issuance of a written notice directing such person to surrender or deliver possession. Only upon the refusal or failure to comply with such notice under sub-section (5) within thirty days of service, the

Competent Authority is empowered to take possession of the land and employ force if necessary. Accordingly, the provisions of sub-section (6) are applicable solely in the event of non-compliance with an order under sub-section (5) of Section 10 of the Act within the prescribed period.

38. Applying the above statutory framework to the facts of the present case, it is observed that the father of appellant Nos.1 to 3 in W.A. No.8227/2012, namely Chikkathammaiah, was the owner of the following lands in Hinkal Village, Mysore Taluk:

- Sy.No.152/1 – 4.28 acres
- Sy.No.164/1 – 1.20 acres
- Sy.No.165/4 – 3.38 acres
- Sy.No.173/3 – 1.09 acres

39. Similarly, the father of appellant Nos.4 and 5 in W.A. No.8227/2012, namely Boregowda, held ownership of the following lands in Hinkal Village, Mysore Taluk:

- Sy.No.165/4 – 1.30 acres
- Sy.No.164/1 – 0.30 acres
- Sy.No.205/2 – 1.05 acres

40. Consequent to the enforcement of the ULCAR Act, 1976, both Chikkathammaiah and Boregowda submitted declarations in Form No.6(1) on 14.09.1976. The Competent Authority, by order dated 30.08.1979, determined that Chikkathammaiah held the following vacant lands:

- Sy.No.152/1 – 17604.38 Sq.Mtrs.
- Sy.No.164/1 – 3035.14 Sq.Mtrs.
- Sy.No.165/4 – 7982.44 Sq.Mtrs.
- Sy.No.173/3 – 4856.36 Sq.Mtrs.

The total area held amounted to 30895.09 Sq.Mtrs.

41. In accordance with the Act, the retainable vacant land for Chikkathammaiah was assessed at 6,000 Sq.Mtrs., rendering the excess vacant land 24,895.00 Sq.Mtrs. The Competent Authority allocated the retainable portion as follows:

- Hinkal Sy.No.165/4 – 5348.09 Sq.Mtrs. (1 acre 20 guntas)
- House site in Paduvarahalli, House Nos.3C, 2330/A, 2319/3, and 2383 – 651.01 Sq.Mtrs.

42. Boregowda, by order dated 11.03.1980, was found to hold the following vacant lands:

- Sy.No.164/1 – 6070.50 Sq.Mtrs.
- Sy.No.165/4 – 7891.61 Sq.Mtrs.

- Sy.No.205/2 – 4148.17 Sq.Mtrs.

The total area held by him was 18,552 Sq.Mtrs., with retainable vacant land limited to 1,500 Sq.Mtrs., resulting in excess land of 17,052.26 Sq.Mtrs.

43. Pursuant to Section 22 of the City of Mysore Improvement Board Act, 1903 the State Government allotted the following vacant lands to MUDA:

- Sy.No.152/1 – 17,604.38 Sq.Mtrs.
- Sy.No.173/3 – 4,856.36 Sq.Mtrs.
- Sy.No.165/4 – 2,631.35 Sq.Mtrs.
- Sy.No.164/1 – 3,035.14 Sq.Mtrs.

44. It is admitted that the subject lands were not included in the preliminary notification dated 01.04.1981 for the formation of Vijayanagara Extension by MUDA, in light of the Government's instructions that excess vacant land under ULCAR need not be notified for acquisition and would instead be allotted to MUDA, the successor of CITB. The Government took possession of the lands and handed them over to MUDA for layout formation in 1982.

45. Objections were raised by Chikkathammaiah during the layout formation, contending that both his excess and retainable lands were included within the proposed layout. On 04.04.1987, he delivered possession of the lands subject to a representation for higher compensation, indicating that in the absence of such compensation, he would obstruct layout formation.

46. Subsequently, legal possession was taken by the Revenue Inspector, Kasaba Hobli, Mysore, under mahazar on 28.06.1994. Thereafter, MUDA proceeded to form the layout and sell sites to purchasers.

47. On careful scrutiny of the records, it is apparent that in the present case, no notice under Section 10(5) of the ULCAR Act was issued to the original owners namely Chikkathammaiah and Boregowda, directing them to surrender or deliver possession of the subject lands, either by the Competent Authority or by MUDA. Notwithstanding this, a clear discrepancy emerges regarding the date of taking possession of the lands by the State Government and MUDA. According to the State Government, physical possession was taken by the jurisdictional Tahsildar on 30.10.1993. Conversely, MUDA contends that possession was taken by the Competent

Authority under a mahazar drawn on 28.06.1996. Further, MUDA maintains that the original owner, Chikkathammaiah, delivered possession of the subject lands, which vested with the Government by virtue of Section 10(3) of the ULCAR Act, and therefore, the question of taking possession under Section 10(6) of the ULCAR Act does not arise, as such constructive possession had been effected by MUDA. We are, however, unable to accept MUDA's contention in view of the authoritative pronouncement of the Hon'ble Apex Court in **A.P. ELECTRICAL EQUIPMENT CORPORATION V. TAHSILDAR AND OTHERS - 2025 SCC OnLine 447**, wherein the Court, in paragraph 25, held as follows:

"25. Thus, applying the principle of strict construction as explained in the aforesaid two decisions, the authorities are required to act strictly in accordance with the statutory provisions. Thus, when sub-section (5) of Section 10 mandates giving notice of an order under the said sub-section to the person in possession, the same is required to be complied with in its true letter and spirit. Considering the nature of rights involved, mere issuance of notice without service thereof, cannot be said to be due compliance with the provisions of the statute. Besides, the provisions of sub-section (6) of Section 10

can be resorted to only if the person fails to comply with an order under sub-section (5) thereof, within a period of thirty days of service of notice. Hence, possession cannot be taken over under Section 10(6) of the Act, 1976 unless a period of thirty days from the date of service of notice has elapsed. In absence of service of notice under sub-section (5) of Section 10, there will be no starting point for calculating the period of thirty days. In other words, time will not start running, hence the question of taking over possession under sub-section (6) of Section 10 of the Act, 1976 will not arise at all. In this view of the matter, in the case on hand, it was not open to the respondent authorities to resort to the provisions of sub-section (6) of Section 10 of the Act, 1976 without first strictly complying with the provisions of sub-section (5) thereof. Hence, such action being in contravention of the statutory provisions cannot be sustained and deserves to be struck down."

48. Further, on a careful perusal of the statement dated 04.04.1987 made by Chikkathammaiah, it is evident that he was in physical possession of the subject lands at the time when CITB commenced work on the formation of the Vijayanagara Extension. It is also apparent that neither

preliminary nor final notifications for acquisition of the said lands were issued by the Government, and no notice was served by the Competent Authority for taking possession. It follows, therefore, that neither the Competent Authority nor MUDA can be said to have taken possession of the subject lands in accordance with law.

49. The Hon'ble Apex Court in the case of **STATE OF UTTAR PRADESH Vs. HARI RAM – (2013) 4 SCC 280** has held that where possession of land under the ULCAR Act has not been taken by the State Government, or by any person duly authorized by the State Government, or by the Competent Authority, proceedings under the said Act cannot be sustained. Mere vesting of vacant land in the State by operation of law, without actual physical possession, is insufficient. Mere "paper possession" does not validate the State's claim unless it is demonstrated by cogent evidence that actual physical possession of the entire land was taken, including eviction of all persons in occupation. The onus rests on the State to establish that actual physical possession of the excess vacant land was effected prior to the repeal of the ULCAR Act.

50. Applying the above principles to the facts and circumstances of the present case, as discussed hereinabove, it

is clear that the State Government and MUDA have failed to establish taking of legal possession of the subject lands in accordance with law. We, therefore, have no hesitation in holding that Point No.1 raised above has to be answered in favour of the appellants in W.A.No.8227/2012.

51. Addressing Point No.2 raised in the present appeal, it is stated in the memorandum of appeal in W.A. No.8416/2012 that after taking possession of the subject lands, MUDA proceeded to form a layout comprising sites of varying dimensions, as detailed below:

Sy. No.	Measurement of the land	Measurement of the site	No. of sites formed
173/3	1 acre 8 guntas	40' X 60' (12X18 Mtrs.) 50' X 80'	11 8
164/1	1 acre 20 guntas	Land reserved for public and semi-public purpose in the layout.	
165/4	3 acres 38 guntas	50' X 80' 120' X 80' 40' X 60' Corner sites	14 5 2 5
152/1	4 acres 22 guntas	Reserved for Schools & Colleges.	

52. The chart above establishes that MUDA laid out a total extent of 11 acres 8 guntas, which included the retainable portion of land in Sy.No.165/4. It is further noted that the

appellants in W.A. No.8227/2012 subsequently sold the said lands to third parties vide Sale Deed dated 09.09.2020.

53. The records indicate that the award dated 16.10.1995 was challenged by Chikkathammaiah in RA/ULC/74/1995-96, which was dismissed on 26.06.1996. Additionally, the original suit filed by Chikkathammaiah in O.S.No.1629/1989 before the First Munsiff, Mysore, seeking a decree of permanent injunction in respect of the subject lands, had been returned for presentation of the plaint before the proper Court on 10.07.1995. The plaint, however, was not subsequently presented.

54. The order passed under Section 10(3) of the ULCAR Act dated 06.10.1993, together with the endorsement dated 05.10.1993, was challenged by Boregowda in RA/ULC/57/1993-94 before the Divisional Commissioner, Mysore, and the said appeal was dismissed vide order dated 29.06.1996. Notably, although the Repeal Act, 1999 came into force in the State of Karnataka on 08.07.1999, neither Chikkathammaiah nor Boregowda challenged the legality of acquisition and possession of the subject lands. Chikkathammaiah passed away on 25.04.2004, more than five years after the Repeal Act, 1999 came into force.

55. The appellants in W.A.No.8227/2012, namely the legal representatives of Chikkathammaiah and the children of Boregowda, filed a writ petition on 23.05.2005. The records further reveal that Chikkathammaiah had made a representation before MUDA seeking higher compensation and requesting allotment of eight sites formed in the layout. Negotiations took place between MUDA and Chikkathammaiah in this regard. Before the learned Single Judge, the matter was referred for mediation on several occasions. While disposing of the writ petition, the learned Single Judge observed in paragraphs 9 to 11 as follows:

"9. Having heard the learned counsel for the parties further, I find that as already found by this Court vide order dated 05.07.2012, although in the normal circumstances the petitioners would have been entitled for the restoration of the land by virtue of the provisions contained under Section 3(2)(a) & (b) of the Repealing Act, in the facts and circumstances of the present case, keeping in mind the utilization of the lands by the MUDA for the purpose of formation of layout and allotment of some of the sites formed therein in favour of third parties, even assuming that certain portions of the land is kept vacant for the purpose of being used for civic amenities etc., any direction

for restoration of the lands would affect the interest of third parties and will also seriously prejudice the public interest.

10. *As can be seen from the materials on record including the documents produced at Annexures-R1 & R2 by the MUDA along with the statement of objections, the possession of the lands were taken by MUDA from Chikkathammaiaha way back in the year 1987. There is no reason to disbelieve these documents insofar as the delivery of possession by Chikkathammaiah to MUDA is concerned. But, it is apparent from the pleadings including these documents that Chikkathammaiah had not agreed for payment of compensation in a sum of Rs.25,000/- per acre that was offered by MUDA, instead he insisted that the MUDA shall acquire the land, pass an award and pay compensation, whereupon he will have the remedy before the Civil Court for determination of market value to which he would be entitled. Despite such categorical and fair stand taken by Chikkathammaiah, the MUDA did not think it fit to initiate acquisition proceedings, determine the market value and pay the compensation. Instead, it proceeded to make use of the lands for formation of the layout without even paying any compensation to the erstwhile owners.*

11. *Petitioners being the successors-in-title to the properties as legal representatives of the original owners are entitled to contend that they have been deprived of their right, title and interest over the land without being paid due compensation and therefore there is deprivation of the right guaranteed under the Constitution of India as per Article 300A. It is well established that a person cannot be deprived of his property except in accordance with law by paying the compensation to which he is entitled as per the law in force."*

56. It is evident that the Government and MUDA failed to take possession of the subject lands, including the retainable portion of Chikkathammaiah's land, in accordance with law. By virtue of the provisions contained in Section 3(2)(a) and (b) of the Repeal Act, 1999 the appellants in W.A.No.8227/2012 are, in principle, entitled to restoration of the subject lands. However, the practical reality is that MUDA had, long prior, in 2014, formed a layout on the subject lands and created interests in favour of third-party purchasers, who have since constructed houses and are residing thereon. The remaining portions of the lands are reserved for public and semi-public purposes, including Schools and Colleges. In these circumstances, while our sympathies naturally incline towards

the appellants in W.A.No.8227/2012, considerations of equity compel recognition of the rights of subsequent purchasers, who would suffer hardship, if the subject lands were restored to the appellants, potentially resulting in multiplicity of proceedings.

57. With regard to the contention of the learned counsel for the appellants in WA.No.8227/2012 that their prayer is restricted only to an extent of 2 acres 12 guntas instead of 3 acres 38 guntas by leaving 1 acre 23 guntas i.e., the retainable portion is concerned, as discussed supra, the MUDA has specifically stated that while forming the layout, the MUDA has utilized the said land of 1 acre 23 guntas inadvertently and thereafter, formed layout and allotted sites to third parties. As such, the said portion cannot be given back to the appellants. We have carefully perused the documents and photographs placed by MUDA, which are not seriously objected to by the learned counsel for the appellants and the same depicts that the MUDA has acquired entire extent of land. Further, as rightly urged by the learned counsel for the MUDA, the appellants have not restricted their claim 2 acres 28 guntas in Sy.No.165/4 in the writ petition. In such circumstance, the memo dated 20.01.2025 filed by the appellants in W.A.No.8227/2012 cannot be considered in this appeal.

58. In similar factual circumstances of this case, the Hon'ble Apex Court in the case of **SAVITRI DEVI Vs. STATE OF U.P. - (2015) 7 SCC 21**, has held, in paragraph 46, as follows:

"46. Thus, we have a scenario where, on the one hand, invocation of urgency provisions under Section 17 of the Act and dispensing with the right to file objection under Section 5-A of the Act, is found to be illegal. On the other hand, we have a situation where because of delay in challenging these acquisitions by the landowners, developments have taken place in these villages and in most of the cases, third-party rights have been created. Faced with this situation, the High Court going by the spirit behind the judgment of this Court in Bondu Ramaswamy [(2010) 7 SCC 129 : (2010) 3 SCC (Civ) 1] came out with the solution which is equitable to both sides. We are, thus, of the view that the High Court considered the ground realities of the matter and arrived at a more practical and workable solution by adequately compensating the landowners in the form of compensation as well as allotment of developed abadi land at a higher rate

i.e. 10% of the land acquired of each of the landowners against the eligibility and to (sic under) the policy to the extent of 5% and 6% of Noida and Greater Noida land respectively."

However, we also note that the Supreme Court in **Savitri Devi** had also stated that the judgment in **GAJRAJ Vs STATE OF U.P. & ORS. - 2011 SCC Online All 1711** which judgment was being tested by the Supreme Court in **Savitri Devi** has held that the judgment in **Gajraj** would not be taken as precedent.

59. The Hon'ble Apex Court in the case of **BONDU RAMASWAMY AND OTHERS VS. BANGALORE DEVELOPMENT AUTHORITY AND OTHERS - (2010) 7 SCC 129** has held, in paragraph-158 and 159, as follows:

"158. *Where arbitrary and unexplained deletions and exclusions from acquisition, of large extents of notified lands, render the acquisitions meaningless, or totally unworkable, the court will have no alternative but to quash the entire acquisition. But where many landlosers have accepted the acquisition and received the compensation, and where possession of considerable portions of acquired lands*

has already been taken, and development activities have been carried out by laying plots and even making provisional or actual allotments, those factors have to be taken note of, while granting relief. The Division Bench has made an effort to protect the interests of all parties, on the fact and circumstances, by issuing detailed directions. But implementation of these directions may lead to further litigations and complications.

159. *To salvage the acquisition and to avoid hardships to BDA and its allottees and to avoid prolonged further round litigations emanating from the directions of the High Court, a more equitable way would be to uphold the decision of the division bench, but subject BDA's actions to certain corrective measures by requiring it to re-examine certain aspects and provide an option to the landlosers to secure some additional benefit, as an incentive to accept the acquisition. A direction to provide an option to the land-losers to seek allotment of developed plots in lieu of compensation or to provide*

for preferential allotment of some plots at the prevailing market price in addition to compensation will meet the ends of justice. Such directions will not be in conflict with the BDA (Allotment of sites) Rules, as they are intended to save the acquisitions. If the acquisitions are to be quashed in entirety by accepting the challenges to the acquisition on the ground of arbitrary deletions and exclusions, there may be no development scheme at all, thereby putting BDA to enormous loss. The directions of the High Court and this Court are warranted by the peculiar facts of the case and are not intended to be general directions applicable to regular acquisitions in accordance with law, without any irregularities."

60. In the instant case, as discussed above, although the acquisition is not in accordance with law, we take note of the subsequent developments, namely the formation of a layout and the allotment of a substantial portion of the land to third parties. It is further observed that the original owner did not challenge the acquisition for a considerable period during his lifetime. In view of these circumstances, and in order to

avoid a prolonged and further round of litigation, we deem it appropriate to apply the principles laid down by the Hon'ble Apex Court in the aforesaid decision in **Bondu Ramaswamy** to the facts of the present case and in order to achieve a balance of equities, we attempt to recompense the appellants in W.A.No.8227/2012. Accordingly, while we answer Point No.2 raised above in the negative by modifying the order passed by the learned Single Judge, we additionally direct MUDA to allot five sites, each measuring 30' x 40', to the appellants as compensation for the utilization of their retainable land measuring 1 acre 12 guntas in Sy.No.165/4. If no sites are available, the MUDA shall compensate the appellants in W.A No.8227/2012 with the current market value of said five sites. In view of the foregoing, we pass the following:

ORDER

- (i) Writ Appeal No.8227/2012 ***is allowed in part.***
- (ii) The impugned order dated 07.05.2012 in W.P. No.14657/2005(ULC) passed by the learned Single Judge is modified. MUDA is directed to initiate acquisition proceedings in respect of the subject lands in accordance with the provisions of Section 36 of the Karnataka Urban Development Authorities

Act, 1987, and as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, granting appropriate compensation to the appellants.

- (iii) In addition, MUDA is directed to register five sites, each measuring 30' x 40', in favour of the appellants in W.A. No.8227/2012, free of cost. The appellants shall, however, bear the registration fee. If no sites are available, the MUDA shall compensate the appellants in W.A No.8227/2012 with the current market value of said five sites.
- (iv) The above exercise shall be completed within a period of six months from the date of receipt of the certified copy of this order.
- (v) W.A. No.8416/2012 filed by MUDA is ***dismissed.***

SD/-
(JAYANT BANERJI)
JUDGE

SD/-
(RAJESH RAI K)
JUDGE