



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 4TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT APPEAL NO. 234 OF 2017 (LA-BDA)

C/W

WRIT PETITION NO. 29302 OF 2013 (LA-BDA)

IN WA No. 234/2017

BETWEEN:

1. BANGALORE DEVELOPMENT AUTHORITY,
BY ITS COMMISSIONER,
KUMARA PARK WEST,
T. CHOWDAIAH ROAD,
BANGALORE - 560 020.
2. THE SPECIAL ADDITIONAL
LAND ACQUISITION OFFICER,
BANGALORE DEVELOPMENT AUTHORITY,
T. CHOWDAIAH ROAD,
KUMARA PARK WEST,
BANGALORE - 560 020.

APPELLANTS 1 AND 2 ARE BEING THE
DIFFERENT SECTION OF THE SAME AUTHORITY.
HENCE, BOTH ARE REPRESENTED
BY ITS SPECIAL ADDITIONAL LAND
ACQUISITION OFFICER.
MRS. ZAHARA KHANUM, SLAO BDA.

...APPELLANTS

(BY SRI. M.V. CHARATI, ADVOCATE)





CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

AND:

1. SMT. PREMA,
W/O LATE A. S. KRISHNA,
AGED ABOUT 60 YEARS,
R/AT NO.19/2, 9TH CROSS,
MANJUNATHANAGAR,
BANGALORE - 560 004.
2. SMT. KOKILAMMA,
W/O SRINIVASULU,
AGED ABOUT 60 YEARS,
REPRESENTED BY GPA HOLDER
1ST PETITIONER, SMT. PREMA HEREIN,
R/AT NO.19/2, 9TH CROSS,
MANJUNATHANAGAR,
BANGALORE - 560 004.
3. THE STATE OF KARNATAKA,
REP. BY ITS UNDER SECRETARY,
HOUSING & URBAN
DEVELOPMENT DEPARTMENT,
VIKASA SOUDHA,
BANGALORE - 560 001.

...RESPONDENTS

(BY SRI.K.N. PHANINDRA, SR. ADVOCATE FOR
SRI. ABHISHEK PATIL & SRI KARTHIK PATIL,
ADVOCATE FOR R1 AND R2)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE
THE ORDER DATED:23.04.2016 PASSED IN THE WRIT
PETITION NO.3183-84/2016 AND DISMISS THE SAID WRIT
PETITIONS



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

IN WP NO. 29302/2013

BETWEEN:

1. SMT. NAGAMMA,
W/O LATE RAMANNA,
AGED ABOUT 65 YEARS,
- 1(a). SRI. B. ANANDA,
ADOPTED S/O LATE SMT. NAGAMMA,
W/O LATE RAMANNA,
R/AT OLD NO.24, NEW NO.30,
PARVATHI NAGARA,
2ND CROSS, BIDRAHALLI HOBLI,
BENGALURU EAST TALUK,
BENGALURU - 560 049.

THE PETITIONER AMENDMENT CARRIED
OUT IN THE ABOVE CAUSE TITLE
AS PER ORDER DATED 21.06.2021.

...PETITIONER

(BY SRI. SHASHIDHARA R., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
URBAN DEVELOPMENT DEPARTEMNT
M.S. BUILDING,
BANGALORE - 560 001.
2. THE BANGALORE DEVELOPMENT
AUTHORITY
REPRESENTED BY ITS
COMMISSIONER
T. CHOWDAIAH ROAD,
BANGALORE - 560 020.

...RESPONDENTS

(BY SRI. S.H. RAGHAVENDRA, AGA FOR R1,
SRI. B.S. SACHIN, ADVOCATE FOR R2)



CNR: KAHC010172432017

**NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013**

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENT BENGALURU DEVELOPMENT AUTHORITY TO GRANT NOC TO THE PETITIONER FOR THE PURPOSE OF UTILIZATION OF THE PETITION SCHEDULE LANDS AND ETC.,

THIS APPEAL AND PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MR. JUSTICE T.M.NADAF

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE T.M. NADAF)

This Writ Appeal and Writ Petition have been filed by the Bengaluru Development Authority¹ and by a person claiming to be the absolute owner in respect of property bearing Sy.No.203 at Halagevaderahalli Village, Kengeri Hobli, Bengaluru South Taluk, in respect of acquisition of land for the purpose of formation of Banashankari V Stage, respectively.

¹ 'the BDA', for short



CNR: KAHC010172432017

**NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013**

2. The Writ Appeal is directed against the order dated 23.04.2016 passed by the Writ Court in W.P.3183-3184/2016, allowing the Writ Petition holding that the Scheme under Section 27 of the Bangalore Development Act, 1976² in respect of Banashankari V Stage has lapsed in respect of land of the petitioners, as physical possession not having been taken under Section 16(2) of the Land Acquisition Act, 1894³.

3. The present Writ Petition is filed seeking following reliefs:

- a) *Issue a writ of mandamus directing the respondent Bengaluru Development Authority to grant NOC to the petitioner for the purpose of utilization of the petition schedule lands.*
- b) *Declare that the acquisition is deemed to have been lapsed U/s 27 of the BDA Act and both Government and BDA have no power by virtue of preliminary Notification dated 29.12.1989 in No.BDA/SLAO/A1/34/88-89 published in the gazette on 06.04.1989 and final notification bearing No.HUD 127 MNX 1994 dated 09.05.1994 published in the*

² 'the BDA Act', for short

³ 'the Land Acquisition Act', for short



CNR: KAHC010172432017

**NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013**

Gazette dated 18.05.1994 copies of which are produced at Annexure-B & C to exercise any rights on the basis of acquisition in view of the decision in OFFSHORE HOLDINGS PRIVATE LIMITED VS. BENGALURU DEVELOPMENT AUTHORITY, reported in (2011) 3 SCC 139 para-124 and notifications are totally without the authority of law since the scheme has not been approved and the acquisition proceedings is not there in the eye of law and the same is erased by virtue of not vesting the land by not taking physical possession.

- c) Grant any appropriate writ to declare that the acquisition is arbitrary, illegal and violative of Articles 14 and 300-A of the Constitution of India.*
- d) Forbear, the respondents from implementing the scheme as against the petitioner land.*
- e) Grant, such other relief or relief's as this Hon'ble Court may deem fit grant in the circumstances of the case including an order as to costs, in the interest of justice and equity.*
- f) Issue, writ in the nature of declaration declaring that any action taken pursuant to the preliminary Notification dated 29.12.1989 in No.BDA/SLAO/A1/34/88-89 published in the gazette on 06.04.1989 and final notification bearing No.HUD 127 MNX 1994 dated 09.05.1994 published in the Gazette dated 18.05.1994 copies of which are produced at Annexure-B & C bearing Assessment Register No.174, Sy.No.203, measuring as extent of 4 Acres 11 Guntas including 20 Guntas karab land,*



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

*situated in Halagevaderahalli Village, Kengeri Hobli,
Bengaluru South Taluk.*

4. Since both the matter pertains to Halagevaderahalli village and in respect of acquisition of lands for formation of Banashankari V Stage, both the matters are taken together and disposed of by this common order.

W.A.No.234/2017

5. The parties are referred to as per their ranking before the Writ Court.

6. Facts germane to file the present appeal are as under:

6.1 The petitioners in the Writ Petition claim that they are the absolute owners of land bearing Sy.No.253 of Halagevaderahalli Village, Kengeri Hobli, Bengaluru South Taluk, Bengaluru District for an extent of 03.22 Acres including 04 Guntas kharab. They have purchased the said land from its previous owners



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

namely Boraiah and his children in the year 1984 and have been in possession of the same from the date of purchase. Several lands spread over several villages were acquired including the land in dispute in the present Writ Appeal by the Government under Preliminary Notification followed by Final Notification dated 06.04.1989 and 18.05.1994 respectively.

6.2 The Notifications were unsuccessfully challenged in several Writ Petitions. The petitioners and others said to have constructed buildings in the lands, notwithstanding the acquisition initiated by the BDA. In that view of the matter, several items of the land have been dropped from acquisition and other land owners who had approached the Court, had succeeded in obtaining a declaration that the scheme had lapsed under Section 27 of the BDA Act, as the Scheme not having been substantially implemented within five years from the date of the Final Notification, and the same applies to the petitioners



CNR: KAHC010172432017

**NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013**

land and sought to declare the acquisition itself had lapsed in view of failure to implement the scheme.

6.3 On the memo said to have been filed by the petitioners stating to be the additional documents, the Writ Court at paragraph No.4 of its order, has held as under:

"4. Though initially the counsel for the petitioners had not substantiated the contentions of having put up substantial construction over the land in question, on this being noticed and the petitioners being called upon to produce other material, a memo has been filed submitting the additional documents which adequately establish that the land in question has been completely built up."

6.4 Accordingly, the Writ Court allowed the Writ Petition. It is this order passed by the Writ Court, is called in question in this Writ Appeal by the BDA.

7. Heard, Sri.Murugesh V.Charati, learned counsel appearing for the BDA, Sri.K.N.Phanindra, learned Senior



CNR: KAHC010172432017

**NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013**

counsel assisted by Sri.Abhishek Patil and Sri.Karthik Patil, learned counsel for the petitioners and Sri.S.H.Raghavendra, learned Additional Government Advocate appearing for the State.

8. Sri.Murugesh V.Charati, learned counsel appearing for the BDA would submit that the Scheme has not lapsed as held by the Writ Court. The Scheme has been substantially implemented, the award amount has been deposited in the Civil Court by making reference under Section 30 and 31(2) of the Land Acquisition Act and the possession of the land has already been taken over as back as on 15.03.1996 under mahazar and notice under Section 16(2) of the Land Acquisition Act was issued and Gazetted. In that view of the matter, the question of invoking Section 27 of the BDA Act, for non-implementation of the Scheme does not arise.

8.1 Learned counsel further submits that the observation of the Writ Court that the petitioners have put up



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

constructions, cannot be accepted, since possession had already been taken by the BDA. As such even if there is any construction after Preliminary and Final Notification would be illegal and on the ground of unauthorized construction, the acquisition proceedings cannot be quashed or can be said that the Scheme has lapsed.

8.2 Mr.M.V.Charati, further submits that in view of taking possession and depositing the award amount and substantially implementing the Scheme, the order passed by the Writ Court is against the records and unsustainable.

8.3 To buttress his arguments, learned counsel placed reliance on the judgment of the Coordinate Bench of this Court in W.A.No.725/2021 in the case of **BDA AND ANOTHER VS. HEMANTH KUMAR AND ANOTHER**, disposed of on 14.03.2023 in respect of Banashankari V Stage Layout, wherein the



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

Coordinate Bench of this Court, considering the Judgment in W.A.No.291/2019 (**MADDURAMMA & OTHERS VS. STATE OF KARNATAKA AND OTHERS**) disposed of on 03.06.2021, at paragraph No.8 of its judgment has clearly held that the Scheme of Banashankari V Stage has not lapsed, but has been executed and is a full fledged residential layout and set-aside the order passed by the Writ Court in the said case.

8.4 Further, learned counsel has relied on the Judgment of the Coordinate Bench of this Court in W.A.No.2514/2014 in the case of **B.N.SIDDALINGAPPA (DEAD) BY LRS VS. STATE OF KARNATAKA AND OTHERS**, decided on 30.01.2023, wherein the Coordinate Bench of this Court has held that in view of the Judgment in W.A.No.391/2019 that the Scheme has been substantially implemented as Banashankari V Stage and a full fledged layout has been formed, as such



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

Section 27 of the BDA Act is not attracted and further held that, mahazar prepared discloses that possession of the land in question has been taken long back and the contention of the appellant that surrounding lands have been denotified and therefore, the land in question cannot be acquired for formation of layout, cannot be accepted and dismissed the appeal, declining to interfere with the order passed by the Writ Court.

8.5 Sri.Murugesh V.Charathi, learned counsel for the BDA submits that once the Coordinate Bench of this Court has categorically held that the Scheme had already been implemented, resulting in a full fledged residential Layout in respect of Banashankari V Stage, the order passed by the Writ Court is unsustainable in law holding that the Scheme lapsed under Section 27 of the BDA Act. Accordingly, he sought to allow the appeal.



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

9. In contrast, Sri.K.N.Phanindra, learned Senior counsel appearing for the petitioners, with all his persuasive skills would submit that the Division Bench of this Court in W.A.No.435/2017 c/w W.A.No.595/2016 in the case of **BDA AND ANOTHER VS. SRINIVAS MURTHY AND OTHERS**, disposed of on 03.01.2020, has categorically recorded after noticing the details of land notified for formation of Banashankari V Stage layout and status of the lands that the Scheme in respect of the said Layout in so far as the lands of the petitioners are concerned has lapsed. The Division Bench has further held that the land acquired is not vested in the Government, therefore, lapsing of Scheme would invariably result in the lapsing of acquisition.

9.1 Learned Senior counsel further relied on the Judgment of the Coordinate Bench of this Court in W.A.No.1027/2021 in the case of **BDA AND ANOTHER VS. B.S.VENUGOPAL AND OTHERS**, decided on 10.07.2023 to contend that, award has



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

not been passed in the said case and the Court taking into consideration of the Judgment of the Division Bench in W.A.No.557/2021 in ***KIADB & ANOTHER VS. K.H.SHIVANNA AND OTEHRS,*** disposed of on 23.03.2022, sustained the order passed by the Writ Court in that case, wherein it was held that the Scheme is lapsed under Section 27 of the BDA Act, as the same has not been implemented.

10. Though Sri.K.N.Phanindra, learned Senior counsel tried to impress us referring to the Judgment in W.A.No.391/2019 passed by the Coordinate Bench of this Court stating that the Judgment was rendered in respect of particular land, as such the Judgment passed placing reliance on said judgment are not applicable and distinguishable on facts.

11. We, having considered the rival submissions, perused the entire appeal papers.



CNR: KAHC010172432017

**NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013**

12. Though at first blush, argument of Sri.K.N.Phanindra, learned Senior counsel appearing for the petitioners, would appear attractive, however in the judgment of W.A.No.391/2019, the Coordinate Bench of this Court, especially at paragraph No.30 after referring the submissions, categorically observed that Scheme has been executed and it is a full fledged residential layout.

13. The Judgment cited by the BDA, especially in W.A.No.725/2021, at paragraph Nos.7 and 8, the Coordinate Bench of this Court has held as under:

"7. Admittedly, writ petition preferred by respondent No.1 seeking quashing of preliminary as well as final Notification dated 06.04.1989 and 17.09.1997 was filed after inordinate delay of 17 years. No explanation was offered for inordinate delay in filing the writ petition. Learned Single Judge ought to have appreciated the challenge to the effect that preliminary as well as final Notification was belated. Besides it is relevant to take note of para No.30 of the judgment passed by Division Bench of this Court in W.A.No.391/2019, which reads as under:

"30. Further, from the words of Section 24 of the 2013 Act, what is significant to note is



CNR: KAHC010172432017

the fact that the said Section expressly refers to land acquisition proceedings initiated under the LA Act, 1894. The said Section does not incorporate the words "or proceedings initiated under any other enactment". Therefore, the expression "land acquisition proceedings initiated under the LA Act, 1894" are significant and must be given its natural and plain meaning and the said expression cannot be given an expansive interpretation by adding words to the provision, in the absence of the provision itself giving rise to any such implication. In this regard, the rules of interpretation of a statute would become relevant and reliance could be placed on guiding principles of interpretation of statute. One such principle is that the Court is not entitled to read words into a provision of an Act or Rule for, the meaning is to be found within the four corners of the provisions of an act or rule, as in the instant case. Therefore, while it is not permissible to add words or to fill in a gap or lacuna, on the other hand effort should be made to give meaning to each and every word used by the legislature. Thus, the golden rule of construction is that the words of a provision of a statute, or rule must be first understood in the natural, ordinary or popular sense. Phrases and sentences must be construed according to their grammatical meaning, unless that leads to some absurdity or unless there is something in the context, or in the object of the statute to suggest the contrary. In other words, the



CNR: KAHC010172432017

golden rule is that the words of a statute prima facie be given an ordinary meaning. Natural and ordinary meaning of words should not be departed from "unless it can be shown that the legal context in which the words are used requires a different meaning". Such a meaning cannot be departed from by the judges "in light of their own views as to policy" unless it is shown to adopt a purposive interpretation of the statute, which does not arise in the instant case. [Source - G.P.Singh Principles on Statutory Interpretation - Fourteenth Edition]."

8. *Thus, from the perusal of para No.30 of the aforesaid judgment rendered by Division Bench of this Court, it is evident that categorical findings has been recorded that the scheme of Banashankari V stage Layout has not lapsed, but has been executed and is a full fledged residential layout. However, in view of the aforesaid judgment dated 03.06.2021 passed by Division Bench of this Court, the order dated 16.10.2020 passed by learned Single Judge in W.P.No.7946/2014 is to be set aside."*

14. Once the Coordinate Bench of this Court has held that the Scheme has been substantially executed and resulted in a full fledged residential layout, the question of lapsing of Scheme on the basis of the claim in respect of particular land cannot be countenanced. The entire



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

Scheme is required to be looked, as the same has been upheld stating that the Scheme has been implemented in its full extent. In that view of the matter, we find no merit in the submissions made by Sri.K.N.Phanindra, learned Senior counsel appearing for the petitioners/ respondents 1 and 2 herein. Accordingly, the order passed by the Writ Court is liable to be set-aside.

In W.P.No.29302/2013

15. The petitioner claims that she is the absolute owner of the property in Sy.No.203, situated at Halagevaderahalli Village, Kengeri Hobli, Bengaluru South Taluk. She acquired the property under Partition Decree passed by the Civil Court in O.S.No.6307/2008. The aforesaid land was subject matter of Preliminary Notification dated 29.12.1988, published in the Official Gazette on 06.04.1989, followed by Final Notification dated 18.05.1994 issued by the BDA for the purpose of formation of Banashankari V Stage Layout.



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

15.1 It is the further claim of the petitioner that, no award has been passed and the possession is still continued by the petitioner. The letter dated 11.05.2007 at Annexure-D itself shows that the petitioner is in possession of the property.

15.2 The petitioner further claims that the plan prepared by the BDA shows that, no layout is formed, no sites have been distributed as on 31.03.2005 in respect of Halagevaderahalli Village and the Scheme is not implemented even on an inch of the land. Hence, the Scheme is lapsed and consequently the acquisition. In that view of the matter, the Scheme has become infructuous in view of decision in **BONDU RAMASWAMY VS. BANGALORE DEVELOPMENT AUTHORITY**⁴. With this sought a declaration that the Scheme is lapsed as the same has not been implemented within five years, in view of law laid

⁴ (2010) 7 SCC 129



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

down in **OFFSHORE HOLDINGS PRIVATE LIMITED VS. BANGALORE DEVELOPMENT AUTHORITY⁵**. Accordingly, sought to allow the Writ Petition.

16. Heard, Sri.K.S.Mallikarjunaiah, learned counsel appearing for the petitioner, Sri.H.S.Raghavendra, learned Additional Government Advocate appearing for the State and Sri.B.S.Sachin, learned counsel appearing for the BDA.

17. Sri.K.S.Mallikarjunaiah, learned counsel appearing for the petitioner submits that though the land acquired in respect of Halagevaderahalli Village was 199.01 Acres of land, however only 01 Acre 10 Guntas of land has been utilized. Sy.No.203, has fallen to the share of the petitioner under suit for partition and the Notification was issued in the name of some other person. He submits that the land in respect of Sy.No.203, the

⁵ (2013) 3 SCC PARA 124



CNR: KAHC010172432017

**NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013**

petitioner is still in possession as such the Scheme required to be held as lapsed under Section 27 of the BDA Act for non-implementation of scheme within time and consequently Preliminary Notification as well as Final Notification to be stated as without authority of law and required to be quashed.

18. In contrast, Sri.B.S.Sachin, learned counsel appearing for the BDA, relying on the statement of objections would submit that the Preliminary Notification was dated 29.12.1988 & Gazetted on 13.04.1989, Final Notification was dated 09.05.1994, award was passed on 09.03.1999 and the same had been approved on 28.07.1999. Possession of the land in question was taken on 30.09.1999 and handed over to the Engineering Section on 06.10.1999.

18.1 It is further contended that as per the revenue record, the Notified Khatedar of the land in question was Sri.Hanumaiah S/o.Thimmaiah. On 06.02.2008,



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

one Sri.Manmohan Attavar, Proprietor of M/s.Manmohan Farm made a representation that Madaiah and his family members sold the property by executing the Sale Agreement dated 03.05.1991 and GPA to him and collected the sale consideration of Rs.3,02,000/- and said Manmohan Attavar made application dated 01.10.2008 to the State Government for deletion of the above land. The State Government by its letter dated 09.04.2008 called upon the BDA to submit the status report of the land in question. The BDA sent its report to the Government on 20.10.2008. In view of the aforesaid actions by the Notified Katedhar, the petitioner has no right, title over the land in question and the petitioner has no right to file the Writ Petition.

18.2 Sri.B.S.Sachin, further contended that the Final Notification issued for acquisition of land for Banashankari V Stage was subject matter by large number of land owners, which was considered and



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

Writ Petitions were disposed of in the year 1996 with liberty to the BDA to consider the objections of the land owners and pass fresh Final Notification within one year. Thereafter, the Final Notification was issued on 16.09.1997, which was also challenged by several land owners as well as site owners, which were disposed of during 1998 with liberty to issue fresh Final Notification after considering the objections of those writ petitioners and Final Notification was issued on 07.10.1999. Learned counsel submits that in view of several litigations during 1994 to 1999, some unauthorized constructions came up and the BDA has formed layout in the litigation free area of 116 Acres 27 Guntas of land. In that view of the matter, the contention that the Scheme has been lapsed does not hold any water. Section 27 of the BDA Act will attract only in cases where the Authority is in a position to implement the scheme and then fails to



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

do so. However, in view of large number of litigations and several unauthorized constructions come up during the period from the Preliminary Notification and Final Notification, there was some delay in implementation of the Scheme within the stipulated time as the same occurred due to persistent litigation. Therefore, the contention of the petitioner that the Scheme has been lapsed cannot be countenanced.

18.3 Learned counsel vehemently contended that the BDA has formed 1,346 sites and the same have been allotted to the general public and the BDA has spent more than a sum of Rs.5,48,80,000/- for the implementation of the layout so far. The Scheme has been substantially executed. As such, the petition does not survive for consideration.

18.4 He further submits that the Writ Petition filed on 02.07.2013, is hit by delay and laches. There is an



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

inordinate delay of twenty-five years from the date of Preliminary Notification and even if it is considered from the date of Final Notification, there is a delay of fourteen years in challenging the said Notification. As such, the Writ Petition is required to be dismissed only on the ground of delay and laches. With this, he sought to dismiss the Writ Petition

19. Having considered the rival submissions, we have perused the entire Writ Petition papers.

20. Since the Coordinate Bench of this Court, as we have stated afore, has categorically stated that Banashankari V Stage Layout Scheme has been properly executed and resulted in a full fledged layout and substantially implemented in respect of Halagevaderahalli Village, Kengeri Hobli, Bengaluru South Taluk, the contention of the petitioners that the Scheme was implemented only in respect of 01 Acre 10 Guntas of land cannot be countenanced. The petitioner has not placed



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

any document to substantiate the contention taken in that regard. Whereas, the judgment which we have already extracted above unequivocally and categorically holds that the Scheme has been implemented. Once the Scheme has been implemented, there is no question of again invoking Section 27 of the BDA Act in respect of single part of the particular property. The Scheme is required to be looked at a contiguous Scheme, which has already been executed, resulting in full fledged residential layout.

21. Further, as rightly contended by Sri.B.S.Sachin, there is an inordinate delay of 14 years, even if it is construed from the date of issuance of Final Notification in the year 1999, to challenge the Scheme. It is trite law that the petitioners need not wait for several years to file a Writ Petition. In the present case, there is no plausible explanation forthcoming in the petition. In that view of the matter, we are not in a position to comprehend the contentions raised by the learned counsel for the petitioner. In view of our answer stated supra in respect of



CNR: KAHC010172432017

NC: 2026:KHC:40680-DB
WA No. 234 of 2017
C/W WP No. 29302 of 2013

implementation of Scheme, the prayer now sought in the Writ Petition, cannot be granted.

22. For the foregoing reasons, we pass the following:

ORDER

- i. The Writ Appeal No.234/2017 is ***allowed***.
- ii. The order dated 23.04.2016 passed by the Writ Court in W.P.No.3183-3184/2016 is set-aside. Consequently, the Writ Petitions are dismissed.
- iii. The Writ Petition No.29302/2013 is ***dismissed***, as meritless.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(T.M.NADAF)
JUDGE

TKN
List No.: 2 Sl No.: 3
ct-vn