

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF MARCH, 2026

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.6229 OF 2011 (LA - BDA)

BETWEEN:

SRI V. RAMAIAH @ AMRUTHMAHAL RAMAIAH
SINCE DEAD BY HIS LR'S.

1(a) SMT.JAYAMMA
W/O LATE RAMAIAH @ AMRUTHMAHAL RAMAIAH
AGED ABOUT 70 YEARS.

1(b) SRI RAJANNA
S/O LATE RAMAIAH @ AMRUTHMAHAL RAMAIAH
AGED ABOUT 40 YEARS

BOTH ARE RESIDING AT
SY.NO.19, DODDAKALLASANDRA
UTTARAHALLI HOBLI
BENGALURU SOUTH TALUK.

AMENDMENT CARRIED OUT VIDE ORDER
DATED 20.06.2022.

(BY SRI M.SHIVAPRAKASH, ADVOCATE)

... PETITIONERS

AND:

- 1 . THE CHIEF SECRETARY
STATE OF KARNATAKA
VIDHANA SOUDHA
BENGALURU – 560 001.
- 2 . THE COMMISSIONER
BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST
BENGALURU – 560 020.
- 3 . THE SPECIAL DEPUTY COMMISSIONER
BANGALORE DISTRICT
BENGALURU – 560 009.
- 4 . THE SPECIAL LAND ACQUISITION OFFICER
BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST,
BENGALURU – 560 020.
- 5 . THE TAHASILDAR
BANGALORE SOUTH TALUK
BENGALURU – 560 009.

... RESPONDENTS

(BY SRI SESHU V., HCGP FOR R-1, R-3 AND R-5;
SRI MURUGESH V.CHARATI, ADVOCATE FOR R-2 AND R-4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR THE RECORDS ON THE FILE OF RESPONDENT AUTHORITIES IN THE MATTER OF ACQUISITION PERTAINING TO SY.NO.19 OF DODDAKALLASANDRA VILLAGE, UTTARAHALLI HOBLI, BANGALORE SOUTH TALUK; TO ISSUE WRIT OF CERTIORARI & QUASH THE IMPUGNED NOTIFICATIONS AT ANNEXURE-L BEARING NO.BDA/SLAO/A4PR/257/88-89 DATED 17.11.1988 AND ANNEXURE M BEARING NO.HUD/553/MNX/90 DATED 22.07.1991

AND CONSEQUENTLY TO DECLARE THE ENTIRE NOTIFICATION AT ANNEXURE-L & M AS NULL & VOID WITH RESPECT TO PETITIONER SCHEDULE LAND FOR NOT COMPLYING THE PROCEDURE & ALSO LAPSE IN THE SCHEME OF 1988 AND ETC.,

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

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

CAV ORDER

The petitioners are before this Court calling in question acquisition pertaining to Survey No.19 of Doddakallasandra Village, Uttarahalli Hobli, Bangalore South Taluk; the preliminary notification issued on 17-11-1988; the final notification issued 22-07-1991 and consequently seeking a direction by issuance of a writ in the nature of *mandamus* to the respondents - authorities not to disturb their possession in the subject property.

2. Heard Sri M. Shivaprakash, learned counsel appearing for the petitioners, Sri Seshu V., learned High Court Government Pleader appearing for respondent Nos.1, 3 and 5 and Sri Murugesh V. Charati, learned counsel appearing for respondent Nos.2 to 4.

3. Facts in brief, germane, are as follows:

3.1. The petitioners are the legal representatives of the deceased petitioner, who claimed to be the landless agriculturist and permanent resident of Doddakallasandra, Uttarahalli Hobli, Bangalore South Taluk for generations. In this order, reference to 'petitioner' would be reference to the 'deceased petitioner'. It is the averment in the petition that the petitioner, to eke out his livelihood, cultivated certain land by taking possession of Government kharab land in Survey No.19 in the year 1960 and has developed the land by setting up a small garden and dwelling house in the said survey number as described. The land bearing Survey No.19 in total measures 4 acres 10 guntas, out of which, 2 acres and 10 guntas was in occupation at the hands of the petitioner and the remaining was in the possession of one Smt.Kempamma. The revenue records and other contemporaneous documents show that the petitioner was in possession and occupation of the said land. It is the averment in the petition that the then State of Mysore notified a scheme known as 'Thakararu Takte', wherein the revenue authorities would collect tax for utilisation of Government land. The

petitioner then submitted an application seeking cultivation of Government land under Bagair Hukum scheme. On the said application, the revenue authorities have issued several notices to the petitioner since 1972 up to 1991.

3.2. When things stood thus, a preliminary notification comes to be issued by the Bangalore Development Authority (for short 'BDA'), for the purpose of acquisition of several parcels of land for formation of Jayaprakash Nagar (for short, 'J.P. Nagar') 9th stage on 17-11-1988. On receipt of objections and consideration thereof, a final notification was issued on 22-07-1991. Long thereafter, the land in Doddakallasandra village is agreed to be transferred to Bruhat Bengaluru Mahanagara Palike (for short 'BBMP') to an extent of 2 acres in Survey No.19. Twenty years after the final notification so issued on 22-07-1991, an award notice is issued by the Land Acquisition Officer in respect of acquisition of land in Survey No.19 to an extent of 2 acres 10 guntas on 28-01-2011, as 2 acres of the land was transferred in favour of BBMP. The award notices were issued to all the land owners under Section 12(2) of the Land Acquisition Act, 1894 and the award amount is determined. The

Tahsildar, Bangalore is said to have received a cheque determining the award amount at Rs.3,99,458/- by the Special Land Acquisition Officer and the possession of the said land for the purpose of formation of sites in J.P.Nagar 9th stage is taken. The layout plan also springs for formation of the sites in J.P.Nagar, 9th stage. The State Government acknowledges the award amount by submitting an affidavit before this Court. The subject petition springs calling in question the aforesaid process of acquisition, only after the award notice comes to be issued on 22-01-2011.

4. A coordinate bench of this Court granted an interim order in the case at hand and the said order is subsisting even as on today.

5. Sri M. Shivaprakash, learned counsel appearing for the petitioners would vehemently contend that the acquisition by the BDA for the purpose of formation of the layout is to an extent of 241 acres and 20 guntas. This Court had directed an affidavit to be filed along with the sketch as to the extent of acquisition and utilisation of land for the purpose of formation of the layout.

Affidavit is filed before this Court on 09-09-2024, indicating that formation of layout is only to an extent of 10 acres and 26 guntas, which is 4.40% of implementation of the scheme. With regard to remainder of the land, which is acquired and not utilised, the scheme has lapsed and therefore, the land of these petitioners must be dropped from acquisition. The petitioners are in the possession of the property even as on today. He relies upon several judgments concerning this very scheme 'J.P.Nagar, 9th stage'. The judgments so relied on would bear consideration in the course of the order *qua* their relevance.

6. Sri Murugesh V. Charati, learned counsel for the respondents – BDA would contend that the challenge made in the petition is hit by gross delay, as the preliminary notification and the final notification are of the years 1988 and 1991 respectively, which are sought to be challenged in the year 2011. Therefore, the petition must be dismissed on delay and laches. He would further contend that the lands acquired by issuance of final notification vests with the BDA and never can be divested by the BDA on the score that there is delay in passing the award. Even if it is 20

years, the rights of the BDA would not take away the effect of acquisition, as reasonable period principle is not applicable to the BDA. He would submit that even if the Scheme lapses, the acquisition will not lapse. In the light of the acquisition not lapsing, the lands would not be given back to the hands of the land owners. In all, the learned counsel seeks dismissal of the petition. He also places reliance upon plethora of judgments on every point he has canvassed, all of which would bear consideration in the course of the order.

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

8. The afore-narrated facts are not in dispute. A preliminary notification comes to be issued on 17-11-1988 for formation of JP Nagar 9th Stage, in which the subject land in Sy.No.19 measuring 4 acres and 10 guntas did find place in the preliminary notification. Between 11-04-1989 and 15-03-1999 the BDA conducts enquiry by affording an opportunity to all the stake holders or affected persons

by publication of a notification in the newspapers. On 22-07-1991, a final notification comes to be issued, in which the subject land in Sy.No.19 measuring 4 acres and 10 guntas was shown. The petitioner was said to be in unauthorised occupation of certain piece of land in the year 1991. He filed an application for regularization before the revenue authorities. No order was passed thereon. Therefore, he approaches this Court in Writ Petition No.2168 of 2006 seeking a direction by issuance of a writ in the nature of mandamus for regularization of his unauthorised occupation of the land. On 07-03-2007, a learned single Judge of this Court disposed of the petition with a direction to the concerned authorities to consider the representation and pass necessary orders in accordance with law. While so doing, it was directed that the report of inspection and mahazar if any conducted earlier, must be taken note of.

9. On 15-02-2008, the BDA is said to have agreed for transfer of 2 acres of land in Sy.No.19 from the hands of the BDA to the BBMP in favour of slum dwellers of Puttenahalli Tank Bed area. On 19-02-2008 the revenue authorities issued a notice on the

application of the petitioner for regularisation under Bagair Hukum Scheme and directed to wait for passing of final order. There was a conflict. Upon consideration and mandamus being issued by the learned single Judge, a notification comes to be issued that 2 acres of land would be transferred to the slum dwellers of Puttenahalli tank bed area. When things stood thus, an award comes to be passed on 22-01-2011 only insofar as 2 acres and 10 guntas of land and the remaining 2 acres was to be handed over to the BBMP as aforesaid. Possession is taken on 29-01-2011 by the BDA. After the possession being taken, the petitioner prefers the subject petition seeking quashment of preliminary and final notifications.

10. Insofar as regularization of 2 acres which was remaining to be considered, Smt. Kempamma approaches this Court in Writ Petition No.8055 of 2010. The Court noticing that saguvali chit for 2 acres had been issued on 31-10-1978 and the fact that no notice was issued for acquisition, quashed preliminary/final notification insofar as it concerns 2 acres of land. The coordinate Bench also notices that as on the date of filing of the writ petition possession was not taken by the BDA.

11. Insofar as the petitioner is concerned, he approaches this Court in Writ Petition No.36313 of 2017 for issuance of saguvali chit for the subject land and consideration of his representation for regularisation. The said writ petition comes to be disposed of on 11-03-2020 with a direction to the jurisdictional Tahsildar to consider and pass orders on the representation submitted by the petitioner. In the case at hand, a coordinate Bench directed the BDA to produce a sketch and file an affidavit indicating acquisition of lands in Doddakallasandra Village. On 09-09-2024, the BDA files its affidavit before this Court in the subject petition along with a tabular column of the lands notified for acquisition, sketch prepared and the lands that are subject matter of acquisition where acquisition is complete. The matter was heard at that stage.

12. It is an admitted fact that the petitioner even today is in possession, cultivation and enjoyment of the land and necessary statutory entries show the petitioner as occupant in cultivation of the land. Insofar as lapsing of the Scheme is concerned, which is projected as the prime ground for seeking quashment of the acquisition, the issue stands answered by a Division Bench

judgment rendered on 21-01-2020 in respect of the same Scheme. The Division Bench in Writ Appeal No.311 of 2013 and connected cases holds as follows:

"....

14. In terms of the aforementioned facts, the following points that would arise for our consideration in these appeals are:

1. Whether the possession of the lands were taken by BDA ?
2. Whether the Jayaprakashnarayan Nagar 9th Stage Scheme was substantially implemented ?

15. **Re. Point No.1:**

Learned Counsel for the 1st respondent-BDA submits that certain inadvertent discrepancies regarding the dates mentioned in the notification issued under Section 16(2) cannot take away the legal effect of taking possession of the lands, which is evident from the mahazar. It is his contention that even in the absence of a Section 16(2) notification, the factum of taking possession cannot be negated since the BDA has placed sufficient material on record to show that the possession of the lands in question were, in fact, in the possession of BDA. The absence of names and addresses of the witnesses in the mahazar cannot invalidate the mahazar. It is his further vehement contention that in the facts and circumstances of the case, the BDA has substantially implemented the Scheme.

To buttress his submission, the learned Counsel would seek to place reliance on the judgment of the Hon'ble Supreme Court in case of **BANDA DEVELOPMENT AUTHORITY, BANDA, VS. MOTI LAL AGARWAL AND OTHERS** reported in **(2011) 5 SCC 394**, particularly to paragraphs 19 and 38, which read as follows:

"19. In matters involving challenge to the acquisition of land for public purpose, this Court has consistently held that delay in filing the writ petition should be viewed seriously and relief denied to the

petitioner if he fails to offer plausible explanation for the delay. The Court has also held that the delay of even few years would be fatal to the cause of the petitioner, if the acquired land has been partly or wholly utilised for the public purpose.

38. In the light of the above discussion, we hold that the action of the State authorities concerned to go to the spot and prepare panchnama showing delivery of possession was sufficient for recording a finding that actual possession of the entire acquired land had been taken and handed over to BDA. The utilisation of the major portion of the acquired land for the public purpose for which it was acquired is clearly indicative of the fact that actual possession of the acquired land had been taken by BDA. Once it is held that possession of the acquired land was handed over to BDA on 30-6-2001, the view taken by the High Court that the acquisition proceedings had lapsed due to non-compliance with Section 11-A cannot be sustained. "

16. The learned Counsel would further seek to place reliance on the judgment of the Hon'ble Supreme Court in case of **PRAHLAD SINGH AND OTHERS VS. UNION OF INDIA AND OTHERS** reported in **(2011)5 SCC 386** which followed **Banda Development Authority's** case to contend that once possession is taken, the land would vest with the BDA.

17. The learned Counsel would further rely on the judgment of the learned Division Bench of this Court in the case of **THE MYSORE URBAN DEVELOPMENT AUTHORITY AND ANOTHER VS. CHIKKABORAIHAH AND OTHERS REPRESENTED BY L.RS.** reported in **ILR 2011 KAR 1874**, at paragraph No.9, which reads thus:

" 9. The material on record would clearly show that final Notification was passed on 25.6.1988. Section 27 of the Act reads as follows:

"27. Authority to execute the scheme within five years: where within a period of five years from the date of publication in the Official Gazette of the declaration under sub-Section (1) of Section 19, the Authority fails to execute the scheme substantially, the scheme shall lapse and

the provisions of Section 36 shall become inoperative.”

It is clear on perusal of the above said provisions of Section 27 of the Act that entire scheme will lapse if there is no substantial compliance in executing the scheme and the order passed by the Learned Single Judge to the effect that scheme has lapsed only insofar as it relates to the land of the petitioner is clearly contrary to the provisions of Section 27 of the Act. It is well settled that in view of the decision of this Court in K. Sathyanarayana, Since Dead by his LRs. v. State of Karnataka [W.A. Nos. 2106/2007 C/w 1944/2007 decided on 28.1.2008.] , merely because there is dispute about taking possession and implementing the scheme insofar as the land of the Writ Petitioner is concerned, scheme will not lapse as the scheme would lapse when there is no substantial implementation of the scheme. Having regard to the particulars filed along with the affidavit of the Commissioner of the Appellant — Authority and having regard to the allotment register which is produced, we are satisfied that there is substantial compliance with the scheme as the layout has been formed, allotment of civic amenity sites have been made and sites of various dimensions have been formed in an area of 240 acres out of 260 acres. Therefore, the order passed by the Learned Single Judge cannot be sustained and liable to be set aside. Accordingly, we pass the following:

ORDER

The Writ Appeal is allowed. The order passed by the Learned Single Judge in W.P. No. 31712/2002 dated 23.7.2003 is set aside and W.P. No. 31712/2002 is dismissed.”

18. In terms of the aforementioned judgments, it is urged by the learned Counsel for the BDA that once possession having been taken and the Scheme implemented, the learned Single Judge could not have reversed the same on the ground that the Scheme insofar as it pertains to the lands of the petitioners have lapsed.

19. In this context, it is necessary to notice the notification dated 1.6.1998 depicting that BDA has taken

possession of the lands mentioning the survey numbers to the extent indicated therein and the respective dates of possession in months and years. Though the notification was issued on 1.6.1998, for certain lands, the BDA has taken possession after the said date is an impossible act that can be done. There cannot be taking possession on subsequent months and years notified under the notification of having taken possession in terms of section 16(2) of the LA Act.

20. It would be useful to extract this impossible act of BDA in several cases stated in the notification dated 1.6.1998, which reads as follows:

Sl. No.	LAC No.	Sy.No.	Extent	Date of taking possession
2.	44/97-98	28/6	1 acre of 13 guntas	29.7.1998
3.	45/97-98	28/7	13 guntas	29.7.1998
14.	494/91-92	91	04 acres	29.7.1998
15.	495/91-92	92	04 acres	05.1.1999
17.	382/91-92	28	22 guntas	30.7.1998
25.	22/97-98	10/3	02 acres 20 guntas	18.6.1998
26.	23/97-98	11/1	24 guntas	18.6.1998
27.	36/97-98	84/1	1 acre 30 guntas	18.6.1998
28.	37/97-98	84/3	02 acres	18.6.1998
29.	321/91-92	91	5 acres	29.7.1998

Thus, it can be seen from the notification dated 1.6.1998, possession of the land was taken in July 1998 and also in January 1999. This itself is enough to conclude that the possession was not taken on 1.6.1998.

21. The next evidence of taking possession according to the BDA is the mahazar, which was drawn on 30.5.1998 (Annexure-R2) and Section 16(2) notification (Annexure-R3) which shows that possession was taken on 10.5.1998. As we have indicated hereinabove, because of these impossible acts and self destructive contradictions that are made in the annexures, no credence can be attached to such notification issued under Section 16(2) of the LA Act.

22. Perusal of the copy of the mahazar (Annexure-R2) would indicate that it is a cyclostyled form, some columns are filled in and some are just left blank. It does not contain the names and particulars of the persons whose signatures are taken at the time of taking possession. The purpose of drawing the mahazar and the affixture of signatures thereon by the independent witnesses who are present on the spot, is only to establish that the possession was taken. When the witnesses' names and addresses were not furnished and merely their signatures were found on the mahazar, this Court is unable to accept that the respondents have done anything equivalent to taking effective possession.

23. The judgments relied on by the learned Counsel for the BDA are distinguishable on facts. With reference to the factum of taking possession of the land that is acquired, the Apex Court in case of **BANDA DEVELOPMENT AUTHORITY, BANDA, VS. MOTI LAL AGARWAL AND OTHERS** reported in **(2011) 5 SCC 394**, at paragraph No.37, has held as follows:

" 37. The principles which can be culled out from the above noted judgments are:

(i) No hard-and-fast rule can be laid down as to what act would constitute taking of possession of the acquired land.

(ii) If the acquired land is vacant, the act of the State authority concerned to go to the spot and prepare a panchnama will ordinarily be treated as sufficient to constitute taking of possession.

(iii) If crop is standing on the acquired land or building/structure exists, mere going on the spot by the authority concerned will, by itself, be not sufficient for taking possession. Ordinarily, in such cases, the authority concerned will have to give notice to the occupier of the building/structure or the person who has cultivated the land and take possession in the presence of independent witnesses and get their signatures on the panchnama. Of course, refusal of the owner of the land or building/structure may not lead to an inference that the possession of the acquired land has not been taken.

(iv) If the acquisition is of a large tract of land, it may not be possible for the acquiring/designated authority to take physical possession of each and every parcel of the land and it will be sufficient that symbolic possession is taken by preparing appropriate document in the presence of independent witnesses and getting their signatures on such document.

(v) If beneficiary of the acquisition is an agency/instrumentality of the State and 80% of the total compensation is deposited in terms of Section 17(3-A) and substantial portion of the acquired land has been utilised in furtherance of the particular public purpose, then the court may reasonably presume that possession of the acquired land has been taken."

This was again followed in the case of **PRAHLAD SINGH AND OTHERS VS. UNION OF INDIA AND OTHERS** reported in **(2011)5 SCC 386**. The Apex Court in the said judgment, at paragraph 19, has held as follows:

"19. The same issue was recently considered in *Banda Development Authority vs. Moti Lal Agarwal* decided on 26.04.2011. After making reference to the judgments in *Balwant Narayan Bhagde vs. M.D.Bhagwat*, *Balmok and Khatri Educational and Industrial Trust vs. State of Punjab*, *P.K.Kalburqi vs. State of Karnataka*, *NTPC Ltd., vs. Mahesh Dutta*, *Sita Ram Bhandar Society vs. Government of NCET of Delhi*, *Omprakash Verma vs. State of A.P.* and *Naharsingh vs. State of U.P.* this Court laid down the following principles: (*Banda Development Authority case*, SCC Page 411, para 37)

i) No hard-and-fast rule can be laid down as to what act would constitute taking of possession of the acquired land.

ii) If the acquired land is vacant, the act of the State authority concerned to go to the spot and prepare a panchnama will ordinarily be treated as sufficient to constitute taking of possession.

iii) If crop is standing on the acquired land or building/structure exists, mere going on the spot by the authority concerned will, by itself, be not sufficient for taking possession. Ordinarily, in such

cases, the authority concerned will have to give notice to the occupier of the building/structure or the person who has cultivated the land and take possession in the presence of independent witnesses and get their signatures on the panchnama. Of course, refusal of the owner of the land or building/structure may not lead to an inference that the possession of the acquired land has not been taken."

In terms of the afore-extracted judgments, it is evident that the BDA has not taken possession of the lands belonging to the petitioners.

24. It is also useful to refer to the statement of objections filed by BDA before the learned Single Judge in the writ petitions. There is no whisper in the entire statement of objections as to how the possession was taken and from whom the possession was taken of the lands in question. Thus, neither the mahazar nor the statement of objections would indicate that the owners of the lands in question were ever called upon to hand over possession or to be present when the mahazar was drawn. The reliance placed by the BDA on the judgment in case of Banda Development Authority (Supra) would not come to its aid, as in the said case, the said Authority, after taking the possession of the acquired lands, formed the roads, constructed nalas, laid down pipelines, erected electrical poles with lights fixed, carved out plots and allotted them to the people belonging to different categories. It is on those facts, the Apex Court held that the possession was complete and the Scheme have been completed.

25. Even in the statement of objections, it is not the case of the respondents that the land in question was developed by BDA in any way after 30.05.1998 on which date they claim to have taken the possession of the lands belonging to the petitioners.

26. Thus, in terms of the table which we have hereinbefore extracted, which contains information regarding the notification dated 1.6.1998, it is impossible

to accept that the BDA had taken possession of the property.

Thus, we answer point No.1 in favour of the writ petitioners.

27. Re. Point No.2:

In order to examine as to whether the Jayaprakashnarayan Nagar 9th Stage Layout Scheme was substantially implemented, it is necessary to refer to the relevant statutory provisions of Section 27 of the Act, which reads thus:

"Section 27: Authority to execute the Scheme within five years

– Where within a period of five years from the date of the publication in the Official Gazette of the declaration under sub-section (1) of Section 19, the authority fails to execute the Scheme substantially, the Scheme shall lapse and the provisions of Section 36 shall become inoperative."

Thus, it is clear that the improvement Scheme has to be implemented within five years. If there is no substantial execution of the Scheme within the said period, the Scheme shall lapse and the provisions of Section 36 shall become operative.

28. The land utilization certificate is produced before us, pertaining to Jayaprakashnarayan Nagar 9th Stage Layout, which reads as follows:

Extent of Land Notified	:	1118 Acres 9.8 Guntas
Extent of land Handed over to Engineering Section	:	262 Acres 14 Guntas
Extent of Land utilized for Formation of Layout	:	179 Acres 31 Guntas
Total No. of Sites Formed	:	3078

Note :- Details are as per information available in this Office.

In terms of the afore-extracted chart, out of the 1118 acres and 9.8 guntas of land, only 262 acres and 14 guntas have been handed over to engineering section. Out of which, only 179 acres and 31 guntas were utilised for formation of layout and total number of sites is 3078. In the case of Doddakallasandra village, the situation is still worse. Out of total 241 acres and 20 guntas, only 12 acres were utilized. Thus, by no stretch of imagination, it can be held that the Scheme namely, "Jayaprakashnarayan Nagar 9th Stage Layout" is substantially implemented. It is not even implemented to the tune of 50 percent even after the lapse of 29 years of issuance of final notification.

29. Insofar as the judgment relied on by the BDA in the case of Mysore Urban Development Authority (Supra) also would not come to his aid as in the said case, 240 acres out of 260 acres acquisition of lands had been developed by the Mysore Urban Development Authority. It is in those circumstances, the learned Division Bench was of the view that there was substantial compliance. In view of our finding that there is not even 50 percent of compliance in the present case, the judgment of the learned Division Bench would not be applicable.

Hence, we answer point No.2 in favour of writ petitioners.

30. The learned Single Judge has considered the case in its entirety and on thorough examination of the facts, has held that the Scheme had lapsed insofar as it pertains to the lands of the petitioners. Consequently, the acquisition proceedings insofar as the lands of the petitioners are concerned had also lapsed. In our view, the order of the learned Single Judge does not warrant any interference.

31. For the aforementioned reasons, the appeals being devoid of merit are dismissed.

There shall be no order as to costs.”

The Division Bench considered the challenge to the order of the learned single Judge who had quashed the very preliminary and final notifications on the score that the Scheme had lapsed in the light of the BDA not taking possession of the land for close to 29 years.

13. Further, it becomes germane to notice the observations of the Apex Court in **KOLKATA MUNICIPAL CORPORATION v. BIMAL KUMAR SHAH**¹, wherein it is held as follows:

“....

33.6.The Right to an efficient and expeditious process

33.6.1. The acquisition process is traumatic for more than one reason. The administrative delays in identifying the land, conducting the enquiry and evaluating the objections, leading to a final declaration, consume time and energy. Further, passing of the award, payment of compensation and taking over the possession are equally time-consuming. It is necessary for the administration to be efficient in concluding the process and within a reasonable time. This obligation must necessarily form part of Article 300-A.

33.6.2. Sections 5-A(1), 6, 11-A and 34 of the Land Acquisition Act, 1894, Sections 6(1-A) and 9 of the

¹ **2024 SCC OnLine SC 968**

Requisitioning and Acquisition of Immovable Property Act, 1952, Sections 4(2), 7(4), 7(5), 11(5), 14, 15(1), 16(1), 19(2), 25, 38(1), 60(4), 64 and 80 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 and Sections 3-C(1), 3-D(3) and 3-E(1) of the National Highways Act, 1956, prescribe for statutory frameworks for the completion of individual steps in the process of acquisition of land within stipulated timelines.

33.6.3. On multiple occasions, upon failure to adhere to the timelines specified in law, the courts have set aside the acquisition proceedings.”

The Apex Court holds that the acquisition process is traumatic for more than one reason. Administrative delays eat away the right of parties. Therefore, the delay in challenge would not come in the way of consideration by the Courts.

14. Diving back to the facts of the case, this very acquisition process insofar as 2 acres in Sy.No.19 is concerned has been quashed by the co-ordinate Bench solely on the score that no notice was given to the petitioner therein viz., Smt. Kempamma despite the land being granted to her in terms of saguvali chit and there had been huge delay in taking possession. The order of the learned single Judge reads as follows:

“2. The records reveal that the petitioner was granted 2 acres of land in Sy.No.19 under the provisions of Rule 27 of

Land Grant Rules, 1969 (for short hereinafter referred to as the 'Rules') as per the order at Annexure-A, dated 31.10.1978. The upset price of ₹700/- per acre was to be paid by the grantees. However, the petitioner being the lady, 75% of the upset price, subject to the maximum of ₹500/- was waived under Rule 12(4) of the Rules and the balance amount was ordered to be recovered in three equal instalments. Accordingly, the upset price at the concessional right was said to have been paid. Pursuant to the said order at Annexure-A, the possession certificate (certificate of grant of Saguvali chit), was given to the petitioner as per Annexure-B, on 2.6.1979. Thus, it is clear that the petitioner became grantee of land on 31.10.1978 and was continued in possession of the property by grant of certificate at Annexure-B, dated 2.6.1979. The name of the petitioner came to be entered in the revenue records from the year 1978-79 itself. The mutation was certified as per Annexure-D. Thereafter, i.e., from the year 1981 onwards, the name of the petitioner came to be entered in the revenue records as is clear from Annexures-E to H. It is relevant to note here itself that the name of the petitioner entered in ownership column as well as possessor's column till the year 1989. However, her name was discontinued from the year 1989 onwards in possessors column though the same continued in the ownership column till 2010.

When the facts stood thus, the notifications came to be issued under Section 17(1) and (3) of the BDA Act, 1976 (for short hereinafter referred to as the 'Act'), proposing to acquire number of properties, including the property of the petitioner. The petitioner's property bearing Sy.No.19 is found at Sl.No.514 of the preliminary notification, but the said entry does not reveal the name of the petitioner as the owner of the property, but it reveals as Kharab Katte, meaning thereby the property is owned by the State Government and is a waste land. Subsequently, the final acquisition notification came to be issued as per Annexure-K under Section 19(1) of the BDA Act. The petitioner's property bearing Sy.No.19 finds place at Sl.No.411 in the final notification. Once again, the said property is shown to be owned by Kharab Katte (State Government's waste land). However, the possession continued with the petitioner till the filing of the writ petition. After coming to know that her property is also sought to be acquired without notice to her, she has approached this Court with the delay of 20 years by filing this writ petition.

3. The writ petition is opposed by the learned advocate appearing on behalf of BDA. He submits that wide publicity is given in the local newspapers i.e., in 'Kannada Prabha' and 'Deccan Herald' during the relevant period and the notifications were published; that therefore the petitioner ought to have filed statement of objections *suo moto* without waiting for service of notice to be served on her. Relevant portion of the statement of objections is as under:-

"But so far in respect of the land bearing Sy.No.19 of Doddakallasandra Village measuring 4 acres 10 guntas, Government was the owner as per the RTCs pertaining to the years 1986-87 7 and 1988. The said land was described as Kharab Katte and stands in the name of the Government. As such, there was no need for this authority to issue any notice to the petitioner herein."

Thus, it is contended by the BDA that there was no question of issuing notice to the petitioner as the property is a Government property.

Learned Government Advocate also opposes the writ petition.

4. In the normal course, this Court would not have entertained the writ petition as the writ petition is filed after long lapse of 20 years. The writ petition would have been dismissed on the ground of delay and laches. But in the matter on hand, the delay is properly explained. The facts and circumstances clearly go to show that there is no delay on the part of the petitioner in approaching this Court.

5. It is not in dispute that the petitioner was granted 2 acres in Sy.No.19 of Doddakallasandra Village, Uttarahalli Hobli, Bangalore South Taluk as she was a landless and unauthorised occupant of the very land. The property initially was a Government property and the petitioner was in unauthorised occupation of 2 acres of land which is granted to her as per Annexure-A, dated 31.10.1978 under the provisions of the Rules. By passing the said order, the State Government has recognized the petitioner's possession over the property and it has also

recognized that she is a landless person. Possession certificate is also granted to her as per Annexure-B on 2.6.1979, by which the petitioner's possession was continued as the regular occupant of the land though it was unauthorised earlier. Thereafter, the entries were mutated in the revenue records in respect of the property in question. The entries continued till the year 2010. As aforementioned, the petitioner's name continued in possessor's column till 1989. Without any reason her name was discontinued from the year 1989 onwards in possessor's column. But the name of the petitioner is continued in the ownership column even till 2010 i.e., till filing of the writ petition. Which means that the petitioner is undisputedly the owner of the property as on the date of issuance of acquisition notifications.

6. Though the petitioner was the owner of the property in question, though her name was entered in the revenue records as is clear from Annexures-E to H as the owner of the property, strangely the BDA has proceeded to show the name of the owner of the property in acquisition notification as the State Government by describing the land as the Government waste land. Final notification came to be issued on the same lines. Thereafter, award was not passed in respect of the property in question, inasmuch as the BDA has treated the property as a Government land. Therefore, there was no occasion of passing the award also. It is also relevant to note that the possession of the property is not taken till filing of the writ petition.

7. It is brought to the notice of the Court by the learned counsel appearing for BDA that the possession of the property is taken on 29.1.2011, i.e., after filing of the writ petition. All these facts would clearly go to show that the petitioner continued to be owner in possession of the property. The BDA ignored the ownership of the petitioner while issuing the acquisition notifications. Possession continued with the petitioner till filing of the writ petition. In view of the same, it is but natural that the petitioner did not have notice of the acquisition proceedings. Thus, virtually, there is no delay on the part of the petitioner. Even the justice and equity are in favour

of the petitioner. She cannot be penalized unheard. Her name is not shown in the acquisition proceedings. Possession is not obtained from her and award is also not passed. In such an event, it cannot be said that the acquisition proceedings have taken place in an orderly manner in so far as the petitioner's property is concerned. Therefore, the acquisition proceedings as in respect of the property in question vitiate and consequently the acquisition notifications are liable to be quashed.

Accordingly, the acquisition notifications dated 17.11.1988 and 22.7.1991 vide Annexures-J and K respectively in respect of Sy.No.19, measuring 2 acres of Doddakallasandra Village, Uttarahalli Hobli, Bangalore South Taluk is concerned, stand quashed.

Petition is **allowed** accordingly."

(Emphasis supplied at each instance)

15. In the light of the issue being answered by the Division by its judgement *supra*, as also the order of the learned single Judge in the case of Kempamma which was concerning this very land, the petition deserves to succeed, as the order of quashing the notification to an extent of 2 acres of land in Sy.No.19 has attained finality. If the acquisition *qua* adjacent land of 2 acres is quashed on account of delay and lapsing of the Scheme and that has attained finality, it cannot be said that the BDA can now take possession of the land of the petitioner concerning final notification of 1991 in 2026, which would be 34 years after issuance of final

notification. The petition thus deserves the same treatment as the adjacent lands deserved at the hands of the coordinate Bench.

16. For the aforesaid reasons, the following: -

ORDER

- (i) Writ Petition is **allowed**.
- (ii) The Preliminary Notification dated 17-11-1988 and the Final Notification dated 22-07-1991 concerning the land of the petitioner in Sy.No.19 measuring 2 acres 10 guntas of Doddakallasandra Village, Uttarahalli Hobli, Bangalore South Taluk stand quashed.

**Sd/-
(M.NAGAPRASANNA)
JUDGE**

Bkp
CT:MJ