



HC-KAR

- 1 -

NC: 2026:KHC:12247
WP No. 9819 of 2012
C/W WP No. 32108 of 2015
WP No. 32109 of 2015

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 27TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE RAVI V HOSMANI

WRIT PETITION NO. 9819 OF 2012 (ULC)

C/W

WRIT PETITION NO. 32108 OF 2015 (ULC)

WRIT PETITION NO. 32109 OF 2015 (ULC)

IN WP NO.9819/2012:

BETWEEN:

1. SMT MAREMMA
W/O LATE MADIAIAH
AGED ABOUT 85 YEARS
SINCE DEAD, REP BY LRs
- 1a. SWAMY,
S/O LATE BASAPPA,
AGED ABOUT 42 YEARS,
R/A #34, TUKKAD,
MADIAIAHAINA HUNDI,
VARUNA HOBLI,
MYSURU TALUK & DIST. - 571 311.
- 1b. KUMARA B.,
S/O LATE BASAPPA,
AGED ABOUT 37 YEARS,
R/A #34, TUKKAD,
MADIAIAHAINA HUNDI,
VARUNA HOBLI,
MYSURU TALUK & DIST. - 571 311.
- 1c. RAJA,
S/O LATE BASAPPA,
AGED ABOUT 34 YEARS,
R/A #34, TUKKAD,
MADIAIAHAINA HUNDI,





VARUNA HOBLI,
MYSURU TALUK & DIST. - 571 311.

2 . SMT. JAYAMMA
D/O LATE MADIAH
W/O LATE BASAPPA,
AGED ABOUT 70 YEARS

3 . SMT. SHUSHILA,
W/O MAHADEVAPPA,
AGED ABOUT 40 YEARS

ALL ARE R/O ALANAHALLI,
KASABA-MYSORE TALUK
AND DISTRICT - MYSORE.

...PETITIONERS

[BY SRI SOMASHEKAR KASHIMATH, ADVOCATE (VC);
SRI S.R. HEGDE HUDLAMANE, ADVOCATE]

AND:

1 . THE SPECIAL DEPUTY COMMISSIONER,
FOR URBAN LAND CEILING,
MYSORE.

2 . THE TAHSILDHAR,
MYSORE CITY.

3 . THE KARNATAKA DAIRY
DEVELOPMENT CORPORATION,
BANGALORE,
BY ITS SECRETARY,
HOSUR ROAD,
BANGALORE - 560 029.

4 . KARNATAKA MILK FEDERATION,
BY M.D. AT T.NARSIPUR ROAD,
SIDHARTNAGAR ROAD, MYSORE.



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- 5 . N.C.C.
13TH KAR B N NEAR
DC OFFICE, MYSORE.
- 6 . STATE OF KARNATAKA,
REP BY ITS SECRETARY,
DEPARTMENT OF
URBAN DEVELOPMENT,
M.S.BUILDING, BANGALORE-560 001.

...RESPONDENTS

[BY SMT. VAHEEDA, AGA FOR R1, R2, R5 & R6 (PH);
SRI K. CHANDRAKANTH ARIGA, ADV. FOR R3 (PH);
SRI ABHINAV R., ADVOCATE FOR R4]

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 &
227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH
THE AWARD DATED 7.2.1985 PASSED BY THE SPECIAL DEPUTY
COMMISSIONER MYSORE AS PER ANNEXURE-A AND ETC.,

IN WP NO.32108/2015:

BETWEEN:

- 1 . SMT.NANJAMMA
W/O LATE CHOWDAIAH
AGED ABOUT 86 YEARS,
SINCE DEAD
- 2 . SRI RAJU
S/O LATE CHOWDAIAH
AGED ABOUT 65 YEARS,
- 3 . SRI SWAMY
S/O LATE CHOWDAIAH
AGED ABOUT 58 YEARS,
- 4 . SRI BASAPPA / SHIVAPPA
S/O LATE CHOWDAIAH
AGED ABOUT 56 YEARS,
SINCE DEAD BY LRS



4a GOWRAMMA,
W/O LATE BASAPPA,
AGED ABOUT 52 YEARS,

4b RAJENDRA B.,
S/O LATE BASAPPA,
AGED ABOUT 32 YEARS,

BOTH 4(a) & (b) ARE R/A #21,
ALANAHALLI,
MYSURU - 570 011.

5 . SRI KUMARA SWAMY
S/O LATE CHOWDAIAH
AGED ABOUT 54 YEARS,

6 . SRI MAHADEVA
S/O LATE CHOWDAIAH
AGED ABOUT 52 YEARS,

ALL ARE R/O ALLANAHALLI VILLAGE,
KASABA HOBLI,
MYSORE TALUK AND DISTRICT

REPRESENTED BY THEIR GPA HOLDER:

SRI D.S.DESHPANDE,
S/O SHYAMARAO DESHPANDEY,
AGED ABOUT 55 YEARS,
R/AT AT NO.80, 2ND CROSS,
IV BLOCK, T.R.NAGAR,
BANGALORE - 560 028.

.... PETITIONERS

[BY SRI S.R. HEGDE HUDLAMANE, ADVOCATE FOR P4 (a & b);
SRI K. CHANDAN, ADVOCATE FOR P1 TO P3, P5 & P6]

AND:

1 . THE SPECIAL DEPUTY COMMISSIONER,
(COMPETANT AUTHORITY)



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FOR URBAN LAND CEILING,
D.C. OFFICE,
MYSORE - 570 001.

- 2 . THE TAHSILDHAR,
D.C. OFFICE BUILDING,
MYSORE CITY - 570 001.
- 3 . THE KARNATAKA DAIRY
DEVELOPMENT CORPORATION,
BANGALORE, BY ITS SECRETARY,
HOSUR ROAD,
BANGALORE - 560 029.
- 4 . KARNATAKA MILK FEDERATION,
BY M.D., AT T.NARSIPUR ROAD,
SIDHARTNAGAR ROAD,
MYSORE - 570 014.
- 5 . N.C.C. (NATIONAL CADET CORPS)
13TH KAR. B.N.
NEAR REPRESENTATION OFFICE,
MYSORE - 570 001.
- 6 . STATE OF KARNATAKA,
REPRESENTATION BY ITS SECRETARY,
DEPARTMENT OF
URBAN DEVELOPMENT,
M.S. BUILDING,
BANGALORE-560 001.
7. MYSURU CHAMARAJANAGAR DISTRICT
CO-OPERATIVE MILK PRODUCERS UNION
LIMITED, MYSORE,
REP BY ITS MANAGING DIRECTOR.

...RESPONDENTS

[BY SMT.VAHEEDA, REPRESENTATION FOR R1, R2 & R6;
NOTICE TO R3 & R5 - SERVED;



SRI S.S. NAGANAND, SR. COUNSEL FOR
SMT.SUMANA NAGANAND, ADVOCATE FOR R4]

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 &
227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH
THE AWARD DATED 07.02.1985 PASSED BY SPL DY.
COMMISSIONER, MYSORE AS PER ANNEXURE-C AND ETC.,

IN WP NO.32109/2015:

BETWEEN:

- 1 . SMT.JAVANAMMA
W/O LATE NAGARAJU
AGED ABOUT 65 YEARS
- 2 . SRI BASAVARAJU
S/O LATE HOMBALIAH / THAMMAIAH
AGED ABOUT 68 YEARS
- 3 . SRI LINGAPPA
S/O LATE HOMBALIAH / THAMMAIAH
AGED ABOUT 63 YEARS
SINCE DEAD REP BY LR.s.
- 3a. NAGAMMA,
W/O LATE LINGAPPA,
AGED ABOUT 65 YEARS,
- 3b. L. MAHESH,
S/O LATE LINGAPPA,
AGED ABOUT 40 YEARS,
- BOTH ARE 3a & 3b ARE
R/O NO.1335/2, 1ST CROSS,
KURUBARAHALLI,
MYSURU - 570 011.
- 4 . SRI T.KENCHIAIAH
S/O LATE HOMBALIAH / THAMMAIAH



AGED ABOUT 90 YEARS

5 . SRI JAVARAJU
S/O LATE MARIYAPPA
AGED ABOUT 67 YEARS

6 . SRI BASAVARAJU
S/O T.KENCHIAIAH
AGED ABOUT 66 YEARS

ALL ARE RESIDENTS OF
KURUBARAHALLY VILLAGE,
KASABA HOBLI, MYSORE TALUK
AND DISTRICT.

REPRESENTATION BY THEIR
GPA HOLDER
SRI D.S.DESHPANDE,
S/O SHYAMARAO DESHPANDEY,
AGED ABOUT 55 YEARS,
R/AT AT NO.80, 2ND CROSS,
IV BLOCK, T.R.NAGAR,
BANGALORE-560 028.

.... PETITIONERS

[BY SRI S.R. HEGDE HUDLAMANE, ADVOCATE FOR P3(a & b);
SRI K. CHANDAN, ADVOCATE FOR P1, P2 & P4 TO P6]

AND:

- 1 . THE SPECIAL DEPUTY COMMISSIONER,
(COMPETANT AUTHORITY)
FOR URBAN LAND CEILING,
D.C. OFFICE, MYSORE - 570 001.
- 2 . THE TAHSILDHAR,
D.C. OFFICE BUILDING,
MYSORE CITY - 570 001.
- 3 . THE KARNATAKA DAIRY
DEVELOPMENT CORPORATION,



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BANGALORE, BY ITS SECRETARY,
HOSUR ROAD,
BANGALORE - 560 029.

- 4 . KARNATAKA MILK FEDERATION,
BY M.D., AT T.NARSIPUR ROAD,
SIDHARTNAGAR ROAD,
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- 5 . N.C.C. (NATIONAL CADET CORPS)
13TH KAR. B.N.
NEAR DC OFFICE,
MYSORE - 570 001.
- 6 . STATE OF KARNATAKA,
REP BY ITS SECRETARY,
DEPARTMENT OF
URBAN DEVELOPMENT,
M.S. BUILDING,
BANGALORE-560 001.
7. MYSURU CHAMARAJANAGAR DISTRICT
CO-OPERATIVE MILK PRODUCERS
UNION LIMITED, MYSORE,
REP BY ITS MANAGING DIRECTOR.

...RESPONDENTS

[BY SMT.VAHEEDA, AGA FOR R1, R2 & R6;
NOTICE TO R3 & R5 - SERVED;
SRI S.S. NAGANAND, SR. COUNSEL FOR
SMT.SUMANA NAGANAND, ADVOCATE FOR R4]

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 &
227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH
THE ORDER PASSED BY SPL DY. COMMISSIONER, MYSORE AS
PER ANNEXURE-A PASSED BY R1 AND ETC.,



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THESE PETITIONS ARE HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 18.09.2025, THIS DAY, THE COURT, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE RAVI V HOSMANI

CAV ORDER

Heard Sri SR Hegde Hudlamane, learned counsel for legal representatives of petitioner no.1 in WP no.9819/2012, for petitioners no.4 (A and B) in WP no.32108/2015 and petitioners no.3 (A and B) in WP no.32109/2015; Sri Somashekar Kashimath, learned counsel for petitioners no.2 and 3 in WP no.9819/2012; Sri K. Chandan, learned counsel for petitioners no.1 to 3, 5 and 6 in WP no.32108/2015, and petitioners no.1, 2, 4 to 6 in WP no.32109/2015 and Smt.Vaheeda, learned AGA appearing for respondents – Special Deputy Commissioner, Mysore, Tahsildar, Mysore, National Cadet Corps, 13th Karnataka Battalion, Mysore and State of Karnataka; Sri Chandranath Ariga, learned counsel appearing for Karnataka Dairy Development Corporation, Bangalore; Sri S.S. Naganand, learned Senior Counsel appearing for Smt.Sumana Naganand, learned counsel for Karnataka Milk Federation, Mysore in WP no.32108/2015 and WP no.32109/2015, and Sri Abhinav R.,



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learned counsel appearing for Karnataka Milk Federation, Mysore in WP no.9819/2012.

2. It was submitted, WP no.9819/2012 was filed seeking for quashing of award bearing no.ULA2609:76-77 dated 07.02.1985, passed by Special Deputy Commissioner, Mysore, Tahsildar, Mysore, at Annexure-A (**'Spl.DC'**, for short) etc. It was submitted, Madaiah was absolute owner of lands bearing Sy.no.64/1, measuring 25 guntas, Sy.no.56, measuring 31 guntas and Sy.no.63/3, measuring 1 Acre 14½ guntas of Alanahalli village, Mysore. It was submitted, original petitioners no.1 was his wife, petitioner no.2 his daughter and petitioner no.3 his granddaughter respectively. It was submitted, under provisions of Urban Land (Ceiling and Regulation) Act, 1976, (**'ULC'**, for short), proceedings were initiated, wherein Spl.DC found Madaiah held 27,132.47 Sq.mts. of urban land in excess of ceiling limit of 1500 Sq.mts. and passed award dated 07.02.1985 in ULA.2609:76-77 for its acquisition. It is however contended, despite proceedings, physical possession of excess land was not taken and therefore, by virtue of Section 3 (2) of Urban Land (Ceiling and Regulation) Repeal Act, 1999,



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(**'Repeal Act'**, for short), which came into force on 11.01.1999, providing that if physical possession of any land vested under ULC were not taken, holder of said land would be entitled for restoration on repayment of award amount.

3. In WP no.32108/2015, petitioners - owners of lands bearing Sy.nos.66/8 and 62/1 totally measuring 15,884.42 Sq.Mts. in Alanahalli village were seeking for quashing of award dated 07.02.1985 passed by Spl.DC as per Annexure-C and all proceedings from declaration at Annexure-B dated 19.01.1978 till passing of award at Annexure-C etc. Likewise, in WP no.32109/2015, petitioners were owners of land bearing Sy.no.54/1, measuring 7 Acres (excluding 1500 Sq.Mts.) in Alanahalli village, were seeking for quashing of order no.ULC.Misc.45/80-81 passed by Spl.DC as per Annexure-C.

4. Common contentions urged are that ULC was enacted to prevent concentration of urban lands in hands of few and to facilitate equitable distribution for public good etc. by providing ceiling limit on holding urban land, for determination of land holding beyond ceiling limit and for acquisition thereof etc. For said purposes, Section 4 of ULC provided ceiling limit based on categorization of lands; Section 6 mandating every



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person holding lands exceeding ceiling limit to file statement before Competent Authority; Section 8 (1) of ULC requiring Competent Authority to prepare draft statement of persons filing such statements and Section 8 (3) of ULC requiring Competent Authority to invite objections on statements and Section 8 (4) requiring Competent Authority to consider objections and pass orders thereon. It was submitted, Section 9 of ULC required preparation of final statement based on such orders and service on same on concerned persons. Thereafter, Section 10 (1) of ULC required Competent Authority to issue notification determining excess holding and stating that:

- (i) such vacant land is to be acquired by concerned State Government; and
- (ii) the claims of all persons interested in such vacant land may be made by them by giving particulars of nature of their interests in said land etc.

5. It was submitted, Section 10 (2) of ULC required determination of claims; Section 10 (3) of ULC for declaration about acquisition of excess vacant land and its vesting in State Government, while Section 10 (4) of ULC prohibited alienation of such land for voiding same. It was submitted, Section 10 (5) and (6) of ULC stipulated procedure for taking possession of



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acquired lands. It was submitted, Section 10 (5) of ULC firstly mandated, Competent Authority to issue written notice for voluntary surrender of land within thirty days and in case of non-compliance, Section 10 (6) of ULC, authorised Competent Authority to take possession forcibly.

6. It was submitted, respondents failed to establish compliance with Sections 8, 9 and 10 of ULC and though respondents claimed to have issued notification under Section 10 (1) of ULC, copy published in Official Gazette was not produced. In WP no.32109/2015, it was specifically contended that no notification was issued or published in Official Gazette. It was specifically contended that no notifications were issued under Section 10 (3) and copies of notification dated 21.03.1978 allegedly gazetted on 30.03.1978 and produced as Annexure-R1 as well as endorsement for showing voluntarily handing over possession of lands on 01.02.1982 as per Annexure-R2 were false as per endorsement dated 26.04.2022, issued by Karnataka State Archives Department produced as Annexure-N. Therefore, for non-compliance with mandatory requirements, entire proceedings were vitiated. It was alternatively contended that, Annexure-R2 was unreliable as it



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did not bear signatures of all land owners. And for failure to establish taking of possession either as per Section 10 (5) or (6) of ULC and passing of award/payment of compensation proceedings were required to be held vitiated.

7. Insofar as claim about putting up of construction on lands in question, petitioners sought to rely on Google Earth timeline printouts of lands in question of year 2015 and 2016, showing construction commenced only in year 2016, which was after coming into force of Repealing Act and therefore prayed for declaring proceedings under ULC as abated and restore lands to owners. In support of proposition that publication of notification in Official Gazette was mandatory, learned counsel relied on decision of Hon'ble Supreme Court in case of **Rajendra Agricultural University v. Ashok Kumar Prasad & Ors.**, reported in **(2010) 1 SCC 730**. And for proposition that failure to issue notifications under Sections 10 (1) and 10 (3) of ULC and publish them in Official Gazette would vitiate proceedings, decision of this Court in case of **Vaijyanthi v. State of Karnataka**, reported in **ILR 2014 Kar. 4648**, was relied. Likewise, decision of Hon'ble Supreme Court in case of **A.P. Electrical Equipment Corporation v. Tahsildar and**



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Ors. reported in **2025 SCC OnLine SC 447**, was relied for proposition that in absence of cogent material about service of notice under Sections 10 (5) and (6) of ULC on owner of land, panchanama drawn were held bogus and fabricated.

8. Further, decisions in **State of UP v. Hari Ram** reported in **(2013) 4 SCC 280**; **Somashekar v. State of Karnataka**, reported in **2024 SCC OnLine Kar 8455** and **Ningaiah v. State of Karnataka**, reported in **2013 (5) KLJ 487**, were relied for proposition that though Section 10 (3) of ULC provided for vesting of excess land, same was only *de jure* possession and unless possession was shown to be surrendered voluntarily after notice under Section 10 (5) or taken forcibly after notice under Section 10 (6) of ULC, taking of possession by State would not be in accordance with law. And for proposition that delay and laches would not defeat right to relief, petitioners relied on decision of Hon'ble Supreme Court in case of **Sukh Dutt Ratra and Anr. v. State of Himachal Pradesh & Ors.**, reported in **(2022) 7 SCC 508**, wherein it was held right against deprivation of property unless in accordance with procedure established by law, continued to be a constitutional right under Article 300-A and State cannot



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shield itself on ground of delay and laches and there could be no 'limitation' on doing justice. They also relied on decision in case of **Tukaram Kana Joshi and Ors. v. MIDC and Ors.**, reported in **AIR 2013 SC 565**, for proposition that delay and laches was one facet in exercise of discretion, but not absolute impediment and mitigating factors such as continuity of cause action or circumstances shocking judicial conscience etc. were required to be considered.

9. On other hand, Sri SS Naganand, learned Senior Counsel appearing for Smt.Sumana Naganand, advocate for respondent no.4 at outset relied on decision of Hon'ble Supreme Court in **Suraj Lamps and Industries (P) Ltd. v. State of Haryana**, reported in **2012 (1) SCC 656**, to submit that in WP no.32108/2015, petitioner no.1 – Nanjamma was widow and other petitioners are children/grand children of Chowdaiah. Though writ petitions were filed through their GPA holder, on death of GPA holder, his legal heirs could not claim to be brought on record.

10. On merits, it was submitted, there was no dispute about proceedings being initiated application filed by land owners leading to issuance of Notification under Section 10 (1)



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of ULC on 18.01.1978; passing of award on 07.02.1985 and possession taken by drawing mahazar on 01.02.1982 produced as Annexure-R2 along with Statement of Objections filed by State. Thus, entire process of determining and declaring excess land holding under ULC was completed in accordance with law. It was submitted, Notification was duly published in Official Gazette and though alleged, copy produced as Annexure-R1 did not bear signature of Spl.DC, attention was drawn to specific assertion in para-2 of statement of objections filed by State that original Notification was duly signed, and which was not controverted by filing rejoinder. It was submitted, Notification issued under Section 10 (3) of ULC was duly signed by petitioner and without challenging same, challenge of subsequent notification would be futile.

11. It was submitted even respondent no.7 had produced records along with its statement of objections, establishing completion of proceedings under ULC in accordance with law and subsequent allotment of land in favour of KDDC as per Annexure-R5, preparation of sketch and handing over of possession as per Annexure-R6. It was submitted public notice issued by Spl.DC as per Annexure-R7



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while referring to notifications under Section 10 (3) and 10 (5) of ULC, called upon persons interested to participate in process of determination of compensation. It was submitted, Annexure-R8 would indicate transfer of allotment from KDDO to District Milk Unions and photographs at Annexures-R9 (colly.) would establish completion of construction by allottee.

12. It was submitted, under above circumstances, where writ petition was filed more than thirty years after publication of Gazette, without explanation except semblance of same in para-7 of writ petition would be, in any case, unacceptable, writ petition was liable to be dismissed by relying on decisions of Hon'ble Supreme Court in case of **City and Industrial Development Corporation v. Dosh Aardeshwar Bhiwandiwalla**, reported in **(2009) 1 SCC 168**; **State of Assam v. Bhaskar Jyoti Sarma**, reported in **(2015) 5 SCC 321** and that of this Court in case of **Special Deputy Commissioner & Ors v. Smt.Mahadevamma & Ors.** reported in **2021:KHC:17977-DB**, affirmed in **Mahadevamma & Ors v. Special Deputy Commissioner (SLP no.13025/2021** disposed of on **03.09.2021**).



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13. Further, relying on decision in case of **Padma Sundara Rao v. State of T.N.**, reported in **(2002) 3 SCC 533**, it was submitted, ratio of a decision was required to be understood in light of fact situation in that case and decisions relied on by petitioners were distinguishable. It was submitted, decision in **Vaijayanti's** case (supra) was rendered in a case where notifications under Section 10 (1) and (3) of ULC were not issued and even compensation was not paid, unlike in present case, where petitioners themselves produced notification under Section 10 (1) of ULC as Annexure-B and notification under Section 10 (3) of ULC was produced as Annexure-R1 by State and petitioners admit receipt of compensation. It was further submitted, as stated in para-26, decision in **Sukh Dutt Ratra's** case (supra) was rendered invoking power under Article 136 of CoI and could not therefore be treated as precedent. On above grounds, sought for dismissal of writ petitions.

14. Learned AGA as well as other counsel appearing for other respondents, while referring to statement of objections filed, reiterated above submissions that there was due



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compliance with provisions of ULC and therefore petitioners were not entitled for any relief.

15. Heard learned counsel and perused available material on record.

16. From above, it is seen, in WP no.9819/2012, petitioner - wife, children and grand children of Madaiah s/o Kadabasaiah are challenging award dated 07.02.1985 passed by Spl.DC at Annexure-A, passed under Section 11 (7) of ULC, admitting receipt of compensation and undertaking to refund it on succeeding in writ petition and claiming that until enactment of Repealing Act, physical possession of their land was not taken and as per Sections 3 (2) and 4 of Repealing Act, proceedings under ULC would abate and they would be entitled for restoration.

17. They specifically contend that name of Madaiah was not mutated in RTCs until 18.03.1982 and therefore, claim of respondents about conduct of proceedings under ULC in year 1977-78 by issuing notices to Madaiah was not justified and seek for quashing of proceedings on similar lines as done in WP no.31306/2003 disposed of on 28.06.2005, WP no.8087/2003 disposed of 25.06.2004, WP no.30723/2002 disposed of



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30.05.2005 and WP no.39061/2003 disposed of 14.07.2004. But, said claim was opposed by respondent – State by filing statement of objection stating that Madaiah was holding 28632.47 Sq.mts. of land in Alanahalli village and filed declaration and proceedings under ULC culminated in declaring 27132.47 Sq.mts., as excess holding beyond eligible limit of 1500 Sq.mts. and publication of notification under Section 10 (1) of ULC on 18.01.1978 followed by notification under Section 10 (3) of ULC on 21.03.1978.

18. It is further stated, on 12.03.1981, notice under Section 10 (5) of ULC was issued to land owner and authorising Spl. Revenue Inspector to take possession and that in pursuance of same, 'excess land' as well as 'retainable land' were demarcated and 'Madaiah' voluntarily handed over possession. It is also stated that subsequently, award under Section 11 (7) of ULC was passed, Madaiah received compensation and signed receipt, thereby establishing compliance with provisions of ULC and opposing petition filed after 30 years.

19. Even in statement of objections filed by Respondent no.4, it is stated that Madaiah was holding 28632.47 Sq.mts.,



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of land in Sy.nos.64/1, 56, 66/3 and 66/2 of Alanahalli village. That notice was given to him under Section 8 (1) of ULC on 20.06.1977 and as no objections were filed, final notification was issued and served on 12.09.1977. Thereafter, notification under Section 10 (1) of ULC was issued on 19/20.01.1978 followed by Notification under Section 10 (3) of ULC dtd. 10.04.1978. Subsequently, notice under Section 10 (5) of ULC was also issued on 01.02.1982 and after demarcation of 1500 Sq.mts. of retainable land and preparation of sketch in presence of Madaiah, possession was taken. It is further stated that thereafter, respondent no.4 was allotted 1,28,804.79 Sq.mts., of land for development of Dairy under Annexure-R1 - Government Order dated 12.08.1981 and possession was delivered on deposit of Rs.4,00,000/- under Memo dated 13.05.1982, produced as Annexure-R2.

20. It is alleged, petitioners suppressed issuance of notification for acquisition of land in Sy.no.56 of Alanahalli village, produced as Annexure-R3; its challenge in WP no.9195-97/1990 and its dismissal as withdrawn on 16.04.1993 as per Annexure-R4. It is also stated that respondent no.4 had utilized



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land for construction as shown in photographs and newspaper extracts produced as Annexures-R5 to R7.

21. In rejoinder statement, petitioner denies compliance with provisions of ULC by relying on replies given to applications filed under Right to Information Act ('**RTI**', for short) seeking copies of Gazette Notifications, produced as Annexures-H, J and K, stating that copy of Gazette in which Notification under Section 10 (1) and (3) of ULC claimed to be published was not available. Relying on decision in **Vipinchandra Vadilal Bavishi (D) by LRs v. State of Gujarat**, reported in **AIR 2016 SC 626**, it is contended, lands continued to be agricultural and reiterating prayer for allowing petition.

22. Apart from filing statement of objections, respondent – State has produced original records. Perusal of same reveals that Madaiah s/o Kadabasavaiah of Alanahalli village (**declarant**) filed Form no.I under Section 6 (1) of ULC on 24.09.1976 declaring that he was holding 27 guntas in Sy.no.64, 31½ guntas in Sy.no.56 and 1 Acre 14½ guntas in Sy.no.66. Declarant states that in family partition, he got 27 guntas in Sy.no.64, 4 Acres 10 guntas in Sy.no.56, 31½ guntas



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in Sy.no.66/2 and 1 Acre 14½ guntas in Sy.no.66/3 i.e. total of 7 Acres and 3 guntas, which is verified and found correct. That on 16/20.06.1977, notice was issued to declarant appending draft statement under Section 8 (1) of ULC, proposing surplus holding of 27132.47 Sq.mts. Acknowledgement reveals said statement was served on him on 29.06.1977. And after finalisation, on 12.09.1977 notice under Section 9 of ULC was issued and as per acknowledgment served on him on 24.09.1977.

23. And in absence of objections, Notification dated 17.01.1978 was issued under Section 10 (1) of ULC, identifying 2731.71 Sq.mts. in Sy.no.64/1; 17199.75 Sq.mts., in Sy.no.66; 4014.01 Sq.mts. in Sy.no.66/3; and 3187 Sq.mts. in Sy.no.66/2 of Alanahalli. It is also seen that notification dtd.17.01.1978 bears signature of Spl.DC. and letter dt.19.01.1978, Assistant Director, Government Branch Press, Madikeri, was requested to publish it in Gazette on 02.02.1978. Copy of Notification was maintained in file. Even in respect of notification under Section 10 (3) of ULC issued on 21.03.1978, there is request letter dt.21.03.1978 for publication in Gazette dt.30.03.1978.



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24. Records further reveal that on 12.03.1981, notice under Section 10 (5) of ULC was issued to declarant marking copy to Spl. Revenue Inspector (ULC) – Channabasappa authorizing him to take possession after having excess land and retainable lands demarcated and boundary stones fixed and to submit report. Subsequently, notice under Section 11 of ULC was issued to produce records to substantiate interest in land and thereafter Award was passed on 07.02.1985 under Section 11 (7) of ULC. Records also contain representation by declarant admitting acquisition of excess land and seeking payment of compensation of Rs.20,349/-.

25. And under communication dt.04.06.1986, Secretary, Mysore City Planning Authority was requested to prepare sketch demarcating 1500 Sq.mts. of retainable land. There is also reference to notice of WP no.24930/1991 filed before this Court and its disposal on 10.09.1996. There are subsequent representations by declarant on 25.08.1986, 28.09.1989 and 06.10.1989, etc. for issuance of amended award and sketch. And representation dt.29.12.1989 requesting for demarcating retainable land in Sy.no.56 instead of Sy.no.64/1 of Alanahalli and its rejection by Spl.DC, under



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endorsement dt. 17.01.1990 on ground that same was already modified earlier as per his request from Sy.no.66/3 to Sy.no.64/1. Records further contain representations dt.05.09.1990 and 06.09.1990 for providing sketch demarcating 1500 Sq.mts., of eligible land in Sy.no.64/1 and endorsement dt.14.09.1990 enclosing sketch demarcating eligible land in Sy.no.64/1. Said records establish conclusions of proceedings under ULC in accordance with law.

26. Apart from above, records also reveal, challenging notification dt.21.03.1978 issued under Section 10 (3) of ULC insofar as land bearing Sy.no.66/2 of Alanahalli village, Smt.Deveeramma w/o Madaiah had filed WP no.5082/1997 which was disposed of in terms of order passed in WP no.37418/1998 disposed of on 23.08.1999, after filing of affidavit by Spl. Tahsildar (ULC), Mysore, about due compliance and completion of entire process under ULC till taking of possession and passing of award, much prior to Repealing Act.

27. Interestingly, WP no.37418/1998 is seen to be disposed of holding proceedings under ULC Act as abated except insofar as proceedings under Sections 11, 12, 13 and 14 of ULC Act and possession taken over by State Government or



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any person duly authorized by State Government in this behalf or by competent authority. Further, petitioners admit receipt of compensation in proceedings under ULC, i.e. by Madaiah. Therefore, their contention that his name was mutated in RTC only on 18.03.1982 would be contrary to law/record.

28. At same time, it is seen petitioners suppressed fact that prior to present petition, Lingaiah s/o Kadabasaiah along with others had approached this Court in WP no.9195-97/1990, which was dismissed as withdrawn. Thereafter, wife of Madaiah had filed WP no.5082/1997 challenging notification dt.21.03.1978 issued under Section 10 (3) of ULC, which was disposed of following order in WP no.37418/1998. Thus, contention based on Repealing Act received consideration by this Court and disposed of as follows:

"The Urban Ceiling and Regulations Act, 1999 was repealed by Central Act 15 of 1999. The State adopted the Urban Ceiling and Regulation Repeal Act 1999 with effect from 8.7.1999.

2. Section 4 of the Repeal Act 1999 states that all proceedings relating to any order made or proposed to be made under the principal Act pending immediately before the commencement of the Act before the Court, Tribunal or other authority shall abate except those proceedings under Sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to



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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.

3. Accordingly all proceedings have abated under the Repeal Act except those proceedings mentioned therein. The writ petition is disposed of accordingly.

4. If the petitioner's land is protected under Section 3(2) of the Repeal Act 1999 the petitioner is at liberty to take such steps in accordance with law."

29. It is clarified that benefit of Section 4 of Repealing Act, will not apply to proceedings relating to Sections 11, 12, 13 and 14 of ULC, insofar as such proceedings are relatable to land, possession of which has been taken over by State Government or any person duly authorised by it or competent authority.

30. As noted above, proceedings under ULC were initiated and concluded after service of notice on declarant and his participation at every stage. It is seen, notices were duly served on him after issuance of Notifications under Sections 10 (1) and (3) of ULC as well as under Section 10 (5) of ULC prior to surrender of possession corroborated by proceedings for demarcation of retainable extent as per his choice.



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31. It is noted that office copies of Notifications under Section 10 (1) and 10 (3) of ULC are duly signed by Spl.DC. Therefore, Gazette Notifications not bearing signature of Spl.DC would not invalidate same. Even admission about receipt of compensation and Notification under challenge being award determining compensation under Section 11 (7) of ULC, would also lend sufficient credence to contention of respondents.

32. Apart from above, there is suppression about Lingappa S/o Madaiah having filed WP no.24930/1991, wherein contention against Notification dated 07.02.1985 was about entire compensation being paid to Lingaiah S/o Kadabasavaiah. Even this would indicate petitioners being aware of proceedings under ULC and their failure to urge present contentions in earlier proceedings. Therefore, petition would be barred by constructive *res judicata* as well.

33. In light of above facts and circumstances, decisions relied by petitioners would not be of any aid to them. It is seen that WP no.8087/2003 is clearly distinguishable, as proceedings under ULC were set at naught on ground that notification under Section 10 of ULC was issued against dead person, unlike in present case. Further, WP no.39061/2003 was filed on ground



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that award under Section 11 (7) of ULC was passed after coming into force of Repealing Act and this Court held failure on part of State to establish passing of award under Section 11 (7) of ULC and taking of possession prior to Repealing Act. In instant case, records establish conclusion of proceedings under ULC prior to Repealing Act.

34. In WP no.30723/2002, challenge of orders passed by DC and Divisional Commissioner was on ground of failure to serve notice under Section 10 (5) of ULC. Even in WP no.31306/2003, challenge was on ground of failure to serve notices under Section 10 (5) and (6) of ULC and failure to establish taking of possession prior to Repealing Act. But, in instant case, there is due service of notice on land owner and conclusion of proceedings under ULC prior to Repealing Act.

35. For aforesaid conclusions, WP no.9819/2012 is liable to be dismissed.

36. In WP no.32108/2015, petitioners claimed to be owners of land bearing Sy.nos.66/8 and 62/1 of Alanahalli village, Mysuru, in respect of which declaration in Form no.1 was filed by petitioner no.1 - Smt.Nanjamma w/o Chowdaiah. It is contended that without issuing notice to her, proceedings



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under ULC were concluded. It is also contended that Notification under Section 10 (3) of ULC alleged to have been gazetted on 19.01.1978 as per Annexure-B, was not signed by Spl.DC. It is also contended that no notices were issued under Section 10 (5) and (6) of ULC before taking possession and therefore, entire proceedings from declaration under Section 10 (3) of ULC till passing of award as per Annexure-C, were liable to be declared as vitiated.

37. In statement of objections, respondent - State has asserted that after coming into force of ULC, petitioner no.1 filed declaration before Spl.DC that she was owner of lands bearing Sy.nos.66/8 and 62/1 of Alanahalli, that as on 15.09.1976, her land-holding was 3 Acres 25 guntas i.e., 14,360.28 sq.mts. in Sy.no.62/1 and 12 guntas i.e., 1214.05 Sq.mts. in Sy.no.66/8 of Alanahalli. And that she agreed to give up extent of 14,384.62 Sq.mts., determined as excess holding on 18.04.1977. Accordingly, Final Statement was prepared under Section 9 of ULC and thereafter Notification under Section 10 (1) of ULC was gazette (Annexure-R1). It is specifically stated that office copy was signed by Spl.DC. It was stated declarant did not object against determination about



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excess land holding. And specifically denying contention about failure to issue notices under Section 10 (5) and (6) of ULC, it was stated that petitioner no.1 voluntarily surrendered possession of excess land on 01.02.1982, as recorded in mahazar drawn by Spl.RI, Mysore, produced as Annexure-R2. It is further stated that thereafter, notice under Section 11 (7) of ULC was issued and award as per Annexure-R3 passed on 07.02.1985 determining total compensation payable at Rs.43,153.25/-. And further that on 24.10.1982, declarant filed application before Spl.DC stating that she received 25% of compensation and requesting for release of balance 75% with interest and that balance amount was paid with interest by way of two demand drafts dt.22.07.1998 and 27.08.1998. It was specifically stated that prior to coming into force of Repealing Act on 22.03.1999, entire proceedings under ULC were duly concluded and therefore, petitioner would not be entitled for any benefit under Section 4 of Repealing Act. And that after taking physical possession, land was allotted to KDDC Ltd., which had utilized it for construction and that petitioner had approached Court belatedly.



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38. In separate statement of objection, respondent no.7 stated, notification under Section 10 (1) of ULC was issued on 19.01.1978, produced as Annexure-B by petitioners, followed by notification under Section 10 (3) of ULC on 21.03.1978, as Annexure-R1; delivery of possession on 01.02.1982 and payment of entire compensation.

39. It is also stated that under Government Order dated 12.08.1981, there was allotment of land for development of a Dairy and by memo dt.13.05.1982, produced as Annexure-R5, Spl.DC directed Spl.RI to handover possession. Said memo mentions about taking of possession from owners, on 01.02.1982. Copy of sketch drawn on 14.05.1982 demarking extent of land eligible to be held by land owners is produced as Annexure-R6. And notice issued by Spl.DC on 23.06.1982 inviting claims for compensation is produced as Annexure-R7.

40. Perusal of Annexure-R6 reveals demarcation of retainable land (including in Sy.no.62/1) and preparation of sketch. Further, Annexure-R7 is notice to public inviting claims for compensation over excess land. In rejoinder, petitioners raised a new contention about non-publication of notification under Section 10 (1) and (3) of ULC, which was not urged in



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writ petition. Such new contention cannot be permitted to be raised in rejoinder statement.

41. Apart from above, other contention urged is about failure to follow mandatory procedure for taking possession under Section 10 (5) and (6) of ULC. But, as noted above, assertion by State that after determination of excess land holding and issuance of Notifications under ULC, taking of possession by Spl.RI is sufficiently corroborated by contents of Annexure-R3 produced by it and mahazar at Annexure-R5 produced by respondent no.7.

42. In view of above facts, it is held that none of petitioners contention merit consideration and petition liable to be dismissed. And since facts as well as grounds in WP no.32109/2015 are similar to those in WP no.32108/2015, even said petition requires to be rejected.

43. Consequently, all three writ petitions are dismissed.

Sd/-
(RAVI V HOSMANI)
JUDGE

AV,GRD
List No.: 1 Sl No.: 26