



**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 1<sup>ST</sup> DAY OF JUNE, 2026**

**BEFORE**

**THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ**

**WRIT PETITION NO. 28758 OF 2024 (LB-BMP)**

**BETWEEN**

MR. SHASHIKUMAR. M  
S/O. LATE MR. MARIYAPPA  
AGED ABOUT 57 YEARS  
RESIDING AT ANNAPOORNA, NO. 797  
10<sup>TH</sup> MAIN, 35<sup>TH</sup> CROSS  
4<sup>TH</sup> BLOCK, JAYANAGAR  
BENGALURU 560011  
PH. NO 91 9845898268  
EMAIL ID SHASHI@VALUEFORGEASSETS.

...PETITIONER

(BY SRI. NARENDRA DEV., ADVOCATE)

**AND**

1. THE JOINT DIRECTOR  
TOWN PLANNING (SOUTH)  
BRUHAT BENGALURU MAHANAGARA PALIKE  
N.R. CIRCLE BENGALURU 560002  
EMAIL ID JDTP@BBMP.GOV.IN
2. THE DEPUTY COMMISSIONER  
(LAND ACQUISITION AND TDR)  
BRUHAT BENGALURU MAHANAGARA PALIKE  
N.R. CIRCLE BENGALURU - 560 002  
EMAIL ID BBMPDCLAQ@GMAIL.COM  
ADDL.TP.BBMP@GMAIL.COM
3. THE COMMISSIONER  
BRUHAT BENGALURU MAHANAGARA PALIKE  
N.R. CIRCLE  
BENGALURU 560 002  
EMAIL ID COMM@BBMP.GOV.IN





4. JHANA VI HEIGHTS TRISHUL LLP  
A LIMITED LIABILITY PARTNERSHIP FIRM  
HAVING REGISTERED OFFICE AT G-02  
JHANA VI SAI VILLE, SITE NO.99  
3<sup>RD</sup> CROSS, 34<sup>TH</sup> MAIN,  
BTM DOLLARS SCHEME LAYOUT  
MADIWALA, BTM STAGE-I  
BENGALURU 560 068  
REPRESENTED HEREIN BY ITS DESIGNATED PARTNER  
MR. DEEPENDER SEHRAWAT  
PH. NO 91 72040 23337  
EMAIL ID DEEP.SEHRAWAT@GMAIL.COM  
INFO@JHANA VIHEIGHTS.COM

.... RESPONDENTS

(BY SRI. MONESH KUMAR. K.B., ADVOCATE FOR R1 TO R3;  
V/O/D 7.1.2026 NOTICE TO R4 IS D/W)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI QUASHING THE IMPUGNED COMMUNICATION DTD 30.09.2024 ISSUED BY THE R-1 BEARING NO. PRJ/9650/2021-22 (ANNEXURE-F) TO THE EXTENT THAT IT REQUIRES THE PETITIONER TO RELINQUISH 380.71 SQ.M., OF HIS PROPERTY IN FAVOUR OF THE RESPONDENT BBMP FOR THE PURPOSES OF ROAD WIDENING , WITHOUT PAYMENT OF ANY COMPENSATION TO THE PETITIONER IN LIEU OF SUCH RELINQUISHMENT AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 26.02.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

### **CAV ORDER**

1. The petitioner is before this Court seeking for the following reliefs:

a. *Issue a writ of Certiorari quashing the Impugned Communication dated September 30, 2024 issued by*



*the Respondent No.1, bearing No.PRJ/9650/2021-22 (Annexure-F), to the extent that it requires the petitioner to relinquish 380.71 sq.m., of his property in favour of the Respondent BMP for the purposes of road widening, without payment of any compensation to the petitioner in lieu of such relinquishment;*

- b. Issue a writ of mandamus directing the Respondent No. 1 to 3 to ensure that the process of relinquishment of the land by the petitioner to the Respondent BBMP towards road widening is carried out by following due process of law, including payment of suitable compensation to the petitioner in lieu of such relinquishment; and*
- c. Issue such other, writ, order or direction as this Hon'ble Court deems fit given the facts and circumstances of the case.*

2. The petitioner claims to be the owner of residentially converted land measuring 2 acres and 4.5 guntas, equivalent to approximately 92,020.5 sq.ft., comprised in and forming part of Sy.No.49, presently bearing Municipal No.812/49 and PID No.25/812/49, situated at Thalagattapura Village, Kanakapura Road, Bengaluru South Taluk. The land was converted for residential purposes under Official Memorandum dated 25.11.2002. It is stated that the petitioner entered into a Joint Development Agreement ("JDA") dated 04.11.2023 with respondent No.4 – Jhanavi Heights Trishul LLP, registered as document No.BSK-1-09735-2023-24 in Book-I before the Senior Sub-Registrar, Basavanagudi, whereunder respondent



No.4 undertook development of a project known as "Jhanavi Alaska".

3. It is further stated that on 04.11.2023 the petitioner executed a General Power of Attorney in favour of respondent No.4, registered as document No.BSK-4-00378-2023-24 in Book-IV before the Senior Sub-Registrar, Basavanagudi, Bengaluru, authorising respondent No.4 to represent him for the purpose of development of the project in terms of the JDA. Prior to execution of the JDA, the petitioner had obtained a building licence dated 31.12.2015 and a revised building licence dated 20.11.2017 for development of a commercial building over the subject property; however, the said development was not completed.
4. Consequent upon the change in the nature of development from commercial to residential pursuant to the JDA, the petitioner approached the respondent-BBMP seeking modification of the sanctioned plan to permit construction of a residential complex comprising two basements, ground floor and eleven upper floors containing 148 residential units. Pursuant to a demand raised towards plan sanction fees and other statutory charges, the petitioner is stated to have remitted a



sum of Rs.1,33,34,095/- towards statutory fees, cess, labour cess and other applicable charges, and is also stated to have obtained the requisite No Objection Certificates and approvals from the concerned authorities.

5. The modified plan sanction came to be approved on 26.09.2024; however, according to the petitioner, the same was not released. The reason assigned for non-release was that the petitioner had not executed a registered relinquishment deed relinquishing an extent of 381.70 sq.m. from the subject property in favour of respondent-BBMP, free of cost, for the purpose of widening the existing 31-metre Kanakapura Main Road on the eastern side of the property to 45 metres in terms of the Revised Master Plan, 2015. In this regard, a communication dated 30.09.2024 was issued by respondent No.1 to respondent No.2.
6. The petitioner thereafter addressed a communication dated 03.10.2024 requesting the respondents to release the modified sanctioned plan and construction drawings without insisting upon relinquishment of any portion of the property. Upon receipt of the communication dated 30.09.2024, the



petitioner submitted a further reply dated 14.10.2024 stating that while the request for modified plan sanction had already been approved, no portion of the petitioner's land could be required to be relinquished without payment of due compensation. It is in the aforesaid circumstances, and on account of non-release of the sanctioned plan, that the petitioner has approached this Court seeking the reliefs set out above.

7. The submission of Sri.Narendra Dev., learned counsel for the petitioner is that;

7.1. Learned counsel submits that this Court has, on several occasions, held that a private landowner cannot be compelled to relinquish his land in favour of the State or its instrumentalities without authority of law. It is contended that where the State or any of its instrumentalities requires land belonging to a private individual for a public purpose, the same can be secured only by resorting to acquisition proceedings in accordance with law and not by compelling execution of a relinquishment deed.



7.2. In this regard, he relies upon the decision of a Coordinate Bench of this Court in ***Dr Arun Kumar B.C. vs. State of Karnataka & Ors***<sup>1.</sup>, more particularly para 16, 17 and 26 thereof, which are reproduced hereunder for easy reference;

**16.** *Having examined the submissions made by the learned counsel for the parties, the point that arises for consideration is: whether the requirement to relinquish the properties belonging to the petitioners designed as road in the master plan free of cost with the respondent BBMP as a precondition for sanctioning of the building plans submitted by the petitioners violate Article 300A of the Constitution of India.*

**17.** *The properties in question are earmarked for the purpose of widening of road in the revised Master Plan 2015 under Section 12(1)(b) of the KT and CP Act. Section 17(3) of the KT and CP Act specifies that the owner is not entitled for compensation while sanctioning a single plot. However, reading of Section 17 of KT & CP Act in its entirety does not specify that the land earmarked as road in the master plan will have to be relinquished free of cost or that the owner is not entitled for compensation while sanctioning the layout plan. Section 17(3) is applicable only to lands enumerated in Section 17-2A like parks, open space, roads formed within the layout and civic amenity site.*

**26.** *In view of preceding analysis, I am of the considered view that the impugned endorsements issued by the respondent BBMP requiring the petitioners to relinquish the properties in question free of cost as a condition precedent for processing their applications for*

---

<sup>1</sup> WP No.9408 of 2020 & Conn. Matters dated 17.01.2022



*sanctioning of building plans is without authority of law and the same violate Article 300A of the Constitution of India. Accordingly, I pass the following:*

**ORDER**

- i) *Writ petitions stand allowed:*
- ii) *The Circular dated 29.2.2016 issued by the 2nd respondent vide Annexure-A & endorsement dated 20.5.2020 issued by respondent No.3 vide Annexure-B in WP No.9408/2020, endorsement dated 24.6.2021 issued by respondent No.2 vide Annexure-G in WP No.14095/2021, the order dated 18.12.2020 passed by respondent No.2 vide Annexure-A in WP No.14975/2021 and Circular dated 29.2.2016 vide Annexure-E issued by respondent No.2 in W.P. No.19737 of 2021 are hereby quashed;*
- iii) *The respondent - BBMP is directed to process the applications submitted by the petitioners for sanctioning the building plans and pass appropriate order in accordance with law within a period of two months from the date of receipt of certified copy of this order.*

7.3. By relying on ***Dr Arun Kumar B.C. vs. State of Karnataka & Ors<sup>2</sup>***, he submits that insistence by respondent-BBMP upon execution of a relinquishment deed in respect of 381.70 sq.m. of the petitioner's land, free of cost, as a precondition for release of the modified

---

<sup>2</sup> WP No.9408 of 2020 & Conn. Matters dated 17.01.2022



sanctioned plan, is without authority of law and violative of the petitioner's constitutional right under Article 300A of the Constitution of India. It is contended that if the respondents require any portion of the petitioner's land for road widening or any other public purpose, the same can be secured only by resorting to acquisition proceedings in accordance with law and upon payment of due compensation.

- 7.4. He relies upon the decision of a Coordinate Bench of this Court in **CNC, Mangalore Kavoor Project Private Limited vs. State of Karnataka & Ors**<sup>3</sup>, more particularly para 10, 11, 12 and 13 thereof, which are reproduced hereunder for easy reference;

*10. Sub-section (20) of Section 14 does not deal with the widening of an existing road falling outside the layout, but deals only with the areas earmarked within the layout for roads, parks, common open spaces and civic amenities. Thus, I am of the considered opinion that relying on sub-section (20) of section 14 would not ensure the benefit of the corporation, in as much as, same does not deal with areas demarcated for widening of existing roads in terms of section 13 of KTCP Act 1961, which lays down the contents for a master plan, Comprehensive Development Plan and any such use of land belonging to private persons by the authorities can only be*

---

<sup>3</sup> dated 15.11.2023 in WP No.15148/2023



*made in terms of Section 69 of KTCP Act 1961 by acquisition thereof.*

**11.** *In terms of regulation 29.5.9 (Mangalore Zonal Regulations), it is made clear that any road shown in the master plan with the proposed road or park shall be incorporated in the sub-divisional plan, and a portion of the road falling within the land shall be handed over to the authority in view of issuance of TDR. Regulation 29.5.9 is reproduced hereunder for the easy reference.*

*29.5.9) road as shown in the Master Plan with proposed road width shall be incorporated in the sub division plan and the portion of the road falling within the plot shall be handed over to the authority in lieu of TDR. All roads in the layout plan shall be handed over to the authority free of cost.*

**12.** *That is to say that if a road is part of master plan and surrender thereof is made, TDR is required to be allotted. It is only where the roads in the layout plan are surrendered the same would be free of cost.*

**13.** *In the present case as afore observed roads in question are in periphery and are not part of the layout plan which is sanctioned, as such even regulation 29.5.9 would not come to the rescue of the corporation.*

7.5. By relying on **CNC, Mangalore Kavoore Project Private Limited vs. State of Karnataka & Ors<sup>4</sup>**, he submits that where land belonging to a private owner is sought to be utilised for widening of an existing road under a Master Plan, such land cannot be

---

<sup>4</sup> dated 15.11.2023 in WP No.15148/2023



insisted upon to be relinquished free of cost. It is submitted that where land falls outside the internal layout and is intended for road widening under the Master Plan, the authorities are required either to acquire the same in accordance with law or extend benefits such as TDR wherever applicable, and cannot compel surrender as a precondition for grant or release of a building sanction plan.

**7.6.** He relies upon the decision of a Coordinate Bench of this Court in ***Sri Vinod Damji Patel vs. The Hoskote Yojana Pradhikara & Anr***<sup>5</sup>, more particularly para 7, 8, 9 and 10 thereof, which are reproduced hereunder for easy reference;

*7. A perusal of Section 17(2-B) indicates that it is when a plan sanction is granted and road ear-marked in such a plan sanction, the said road would have to be surrendered free of cost. If civic amenities are ear-marked the said civic amenities would have to be surrendered free of cost. The essential ingredient being that the said road and civic amenities are required to be part of the plan sanctioned by the planning authority and the extent of road and civic amenities are calculated in terms of the zonal regulations applicable thereto.*

*8. In the present case, what is sought for by respondent No.1 is surrender of land of the*

---

<sup>5</sup> 17.04.2023 in WP No.15103/2022



*petitioner for the proposed widening of the National Highway to 45 meters. In that view of the matter the demand made by respondent No.1 to say the least would be a claim made by the respondent No.1 in extortion by using their power to sanction a plan.*

**9.** *If respondent No.1 intends to form any road on land belonging to a private citizen, it would be required for such authority to acquire the land and make payment of due compensation to such private citizen. Merely because of land being designated for widening of an existing road or designated for a formation of a road, there cannot be demand by a planning authority like respondent No.1 to surrender the said land free of cost by the owner.*

**10.** *The interpretation now sought to be given to Section 17(2-B) KCTP Act is completely misplaced in as much as the said provision only relates to roads formed within the layout and the civic amenities formed within the layout to be sanctioned.*

7.7. By relying on ***Sri Vinod Damji Patel vs. The Hoskote Yojana Pradhikara & Anr***<sup>6</sup>, he submits that Section 17(2-B) of the KTCP Act applies only in relation to roads and civic amenity areas forming part of the internal layout proposed for sanction and not to land sought to be utilised for widening of an existing road or formation of a road under a Master Plan. It is therefore contended that respondent-

---

<sup>6</sup> 17.04.2023 in WP No.15103/2022



BBMP could not have insisted upon relinquishment of 381.70 sq.m. of the petitioner's property, free of cost, as a condition precedent for release of the modified sanctioned plan and construction drawings.

- 7.8. He, therefore, submits that the actions on part of of respondent-BBMP in insisting upon execution of a registered relinquishment deed in respect of an extent of 381.70 sq.m. of the petitioner's property, free of cost, as a condition precedent for release of the modified sanctioned plan and construction drawings is wholly arbitrary, illegal and without authority of law. It is submitted that though the respondents seek to justify such insistence on the ground that the land in question falls within the area earmarked for widening of the existing 31-metre Kanakapura Main Road to 45 metres in terms of the Revised Master Plan-2015, such designation by itself does not confer any authority upon the respondents to compel surrender of privately owned land without payment of compensation.



7.9. Learned counsel submits that the constitutional guarantee contained under Article 300A of the Constitution protects a citizen from being deprived of his property save by authority of law and that deprivation of property cannot be brought about indirectly by imposing conditions that have no statutory foundation. According to him, what cannot be done directly by compulsory acquisition cannot be permitted to be achieved indirectly by withholding a sanctioned building plan and thereby compelling a landowner to execute a relinquishment deed free of cost.

7.10. It is further submitted that a conjoint reading of the provisions of the Karnataka Town and Country Planning Act, 1961 and the relevant planning regulations would indicate that surrender of land free of cost is contemplated only in relation to roads, parks, civic amenity sites, open spaces and other areas forming part of the internal layout proposed for sanction and which are required to be developed as part of such layout. Such provisions, according to learned counsel, are intended to regulate development within a sanctioned layout and



cannot be extended to lands situated outside the layout or lands earmarked under the Master Plan for widening of an existing road or for other public purposes.

7.11. Learned counsel submits that the decisions relied upon by him consistently hold that where land belonging to a private owner is sought to be utilised for widening of existing roads under the Master Plan, the authorities cannot compel the owner to surrender such land free of cost as a precondition for grant of building plan sanction. It is contended that the distinction between roads and civic amenities forming part of an internal layout on the one hand, and land required for implementation of a Master Plan on the other hand, has been repeatedly recognised by this Court.

7.12. It is his submission that where the State or its instrumentalities seek to utilise privately owned land for road widening or any public purpose, such utilisation can only be by resorting to legally recognised mechanisms, namely acquisition proceedings in accordance with law, payment of due compensation, or such other



statutory mechanisms as may be available, including grant of Transferable Development Rights wherever applicable. In the absence of any statutory provision authorising compulsory surrender without compensation, respondent-BBMP cannot insist upon relinquishment merely because the land in question falls within a proposed road widening alignment under the Master Plan.

7.13. Learned counsel therefore submits that the respondents, having already approved the modified plan sanction and the petitioner having complied with all statutory requirements, including payment of plan sanction fees, cess and other charges and obtaining requisite approvals and No Objection Certificates, could not have withheld release of the sanctioned plan on an extraneous consideration. Such insistence, according to him, amounts to the exercise of power for a purpose not contemplated under the statute and consequently renders the impugned action arbitrary, unreasonable and violative of Article 300A of the Constitution of India.



7.14. On the aforesaid grounds, learned counsel seeks issuance of an appropriate writ directing the respondents to release the modified sanctioned plan and construction drawings without insisting upon execution of any relinquishment deed in respect of the petitioner's land.

8. Sri.K.B.Monesh Kumar, learned counsel for the respondents, would submit that;

8.1. Learned counsel submits that the proposed widening of the existing road from 31 metres to 45 metres would, in fact, substantially enure to the benefit of the petitioner himself, inasmuch as the petitioner would obtain improved access, better ingress and egress facilities and a corresponding enhancement in the utility and value of the property. According to him, widening of the road is undertaken in the public interest and simultaneously confers direct advantages upon the petitioner's property by improving connectivity and accessibility. In that background, it is contended that the petitioner ought not to object to surrendering the required extent of land free of cost, particularly when



the petitioner would derive consequential benefits by way of increased market value of the property and improved infrastructural facilities associated with the widened road network.

- 8.2. In this regard, he relies upon the decision of the Hon'ble Apex Court ***Shirdi Nagar Panchayat vs. Kishor Sharad Borawake and others***<sup>7</sup>, more particularly para 23 thereof, which is reproduced hereunder for easy reference;

*23. It can be noticed that this Court in the case of Narayanrao Jagobaji Gowande Public Trust v. State of Maharashtra and others <sup>7</sup> has held that if a Government gives the benefit of development of land concerned with permission to sub-divide the same and uses it for commercial purpose and it, in turn, requires the landowner to handover part of land free of cost for public utility purpose, such a clause cannot be held to be illegal. As such, we find that the High Court has grossly erred in allowing the writ petitions.*

- 8.3. By relying on ***Shirdi Nagar Panchayat***, his submission is that where the planning authority grants developmental benefits and permits utilisation of land for commercial or other developmental purposes, it would be

---

<sup>7</sup> *Slp(C) No.19401 of 2019 dated 22.9.2023*



permissible for such authority to impose conditions requiring surrender of a portion of the land for public utility purposes. According to him, when a landowner derives substantial benefits flowing from the development permission granted by the authority, including enhancement in the utility, accessibility and value of the property, a requirement to surrender a portion of the land for public purposes cannot be construed as illegal or arbitrary.

- 8.4. It is further submitted that in the present case the petitioner, having sought modification of the sanctioned plan and having obtained the benefit of development rights for construction of a large residential complex comprising multiple residential units, cannot object to surrender of a comparatively small portion of land required for road widening, particularly when such widening would directly improve access to the project and increase the value and utility of the petitioner's property itself.
- 8.5. He reiterates that when the government gives a benefit of development of land, it is concerned



with permission to subdivide the same and use it for commercial purposes and in turn, it requires the landowner to hand over part of the land free of cost for public utility purposes. Such a clause cannot be held to be illegal. The widening of the road is for public utility; his submission is that, if the condition is proper and correct, the writ petition is required to be dismissed.

- 8.6. He relies upon the decision of the Hon'ble Apex Court in ***Opto Circuit India Limited vs. Axis Bank and Others***<sup>8</sup>, more particularly para 14 thereof, which is reproduced hereunder for easy reference;

**14.** *This Court has time and again emphasised that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner alone and in no other manner. Among others, in a matter relating to the presentation of an election petition, as per the procedure prescribed under the Patna High Court Rules, this Court had an occasion to consider the Rules to find out as to what would be a valid presentation of an election petition in Chandra Kishore Jha v. Mahavir Prasad [Chandra Kishore Jha v. Mahavir Prasad, (1999) 8 SCC 266] and in the course of consideration observed as hereunder : (SCC p. 273, para 17)*

---

<sup>8</sup> (2021) 6 SCC 707



*"17. ... It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner."*

*Therefore, if the salutary principle is kept in perspective, in the instant case, though the authorised officer is vested with sufficient power; such power is circumscribed by a procedure laid down under the statute. As such the power is to be exercised in that manner alone, failing which it would fall foul of the requirement of complying with due process under law. We have found fault with the authorised officer and declared the action bad only insofar as not following the legal requirement before and after freezing the account. This shall not be construed as an opinion expressed on the merit of the allegation or any other aspect relating to the matter and the action initiated against the appellant and its Directors which is a matter to be taken note of in appropriate proceedings if at all any issue is raised by the aggrieved party.*

- 8.7. By relying on ***Opto Circuit***, his submission is that where a statute confers power upon an authority and simultaneously prescribes the manner in which such power is required to be exercised, the authority is bound to act strictly within the four corners of the statutory framework and cannot adopt any alternative procedure de hors the statute. According to him, the respondents are vested with authority under the applicable planning enactments and regulations to process, approve and regulate development plans, and while exercising such



powers, they are required to follow the procedure contemplated under the governing statutory scheme.

8.8. It is therefore contended that where the applicable statutory provisions contemplate surrender of land, grant of development rights, imposition of conditions or regulation of sanctioned plans in a particular manner, the same must necessarily be undertaken in accordance with the procedure prescribed therein. Learned counsel submits that the respondents, while exercising statutory powers concerning building plan sanction and implementation of planning regulations, are acting strictly in accordance with the statutory mechanism and consequently the petitioner's challenge to the condition imposed by the respondents is unsustainable.

8.9. He lastly submits that even if the procedure has not been followed by the concerned officer, the same would not make the action taken and the decision taken illegal. It can only be bad insofar as non-following of the legal requirement. His submission, therefore, is that even if there is



any procedural violation on the part of the respondents, the same would not provide any benefit to the petitioner.

8.10. On these grounds, he submits that the above writ petition is required to be dismissed.

9. Heard Sri.Narendra Dev.H.N., learned counsel for the petitioner and Sri.K.B.Monesh Kumar, learned counsel for respondents No.1 to 3. Perused papers.

10. The points that would arise for determination are;

- 1. Whether the respondents were justified in insisting upon execution of a registered relinquishment deed in respect of 381.70 sq.m. of the petitioner's property, free of cost, as a condition precedent for release of the modified sanctioned plan and construction drawings?**
- 2. Whether land earmarked under the Revised Master Plan, 2015, for widening of an existing road stands on the same footing as roads, parks, civic amenity sites and open spaces forming part of an internal layout proposed for sanction under the provisions of the Karnataka Town and Country Planning Act, 1961 and the applicable planning regulations?**
- 3. Whether the respondents are empowered under the Karnataka Town and Country Planning Act, 1961 and the applicable planning regulations to compel**



**relinquishment of privately owned land free of cost for widening of an existing road under the Master Plan?**

- 4. Whether the action of the respondents in withholding the release of the modified sanctioned plan until execution of a relinquishment deed amounts to deprivation of property without the authority of law and is violative of Article 300A of the Constitution of India?**
- 5. Whether the respondents, if they require the petitioner's land for Road widening in public interest, are required to resort to acquisition proceedings or any other legally recognised statutory mechanism, including payment of compensation or grant of TDR, wherever applicable?**
- 6. What order?**

11. This Court answers the above points as follows:

12. **Answer to Point No.1: Whether the respondents were justified in insisting upon execution of a registered relinquishment deed in respect of 381.70 sq.m. of the petitioner's property, free of cost, as a condition precedent for release of the modified sanctioned plan and construction drawings?**

12.1. Sri. Narendra Dev, learned counsel appearing for the petitioner, contended that the action of Respondents No.1 to 3 in withholding the release of the already-approved modified



building plan solely on the ground that the petitioner had not executed a registered relinquishment deed is wholly arbitrary and without authority of law.

- 12.2. He submitted that the petitioner had complied with all statutory requirements for obtaining the modified plan sanction, including payment of all prescribed fees and obtaining necessary approvals and No Objection Certificates, following which the modified plan itself had already been approved on 26.09.2024. According to him, once approval had been granted, the respondents could not introduce a fresh condition unrelated to the statutory requirements governing sanction of the plan.
- 12.3. Learned counsel submitted that the land sought to be surrendered is intended for widening an existing public road under the Revised Master Plan, 2015 and is not part of the petitioner's own development layout. He contended that where land belonging to a private citizen is required for a public purpose, such as widening of an existing road, the State or planning authority can secure such land only in



accordance with law through acquisition proceedings and payment of compensation or other statutorily recognised benefits. The respondents cannot circumvent such a procedure by compelling the execution of a relinquishment deed through regulatory pressure.

12.4. He further submitted that the requirement of surrendering land free of cost as a precondition for release of the building plan has repeatedly been held impermissible by Coordinate Benches of this Court.

12.5. Reliance was placed upon the decisions in:

12.5.1. **Dr. Arun Kumar B.C. vs State of Karnataka & Ors<sup>1</sup>;**

12.5.2. **CNC, Mangalore Kavoov Project Private Limited vs State of Karnataka & Ors<sup>3</sup>; and**

12.5.3. **Sri Vinod Damji Patel vs The Hoskote Yojana Pradhikara & Anr<sup>6</sup>.**

12.6. Placing reliance upon the above authorities, he contended that provisions relating to surrender



without compensation apply only to roads and civic amenities forming part of an internal layout and not to land required for widening existing roads under the Master Plan.

- 12.7. He also submitted that the impugned communication lacks any statutory foundation and therefore violates Article 300A of the Constitution of India, which protects a person from being deprived of property except by authority of law.
- 12.8. He accordingly sought quashing of the impugned communication and a direction to release the sanctioned plan without insisting upon execution of any relinquishment deed.
- 12.9. Sri. K.B. Monesh Kumar, learned counsel appearing for Respondents No.1 to 3, supported the impugned action and contended that the requirement of relinquishment is lawful and justified in the facts of the present case.
- 12.10. He submitted that the proposed widening of Kanakapura Main Road from 31 metres to 45 metres constitutes a public infrastructure project that would directly benefit the petitioner



and the proposed residential development by improving access, ingress and egress facilities, and by enhancing the utility and value of the property.

12.11. He contended that the petitioner, who seeks approval for development of a large residential project consisting of 148 units, cannot object to surrendering a comparatively small portion of land where such surrender facilitates public infrastructure that directly benefits the development itself.

12.12. In support of the aforesaid contention, learned counsel relied upon the decision of the Hon'ble Supreme Court in ***Shirdi Nagar Panchayat vs Kishor Sharad Borawake and Others***<sup>7</sup> and argued that where development benefits are granted to a landowner, a condition requiring surrender of a portion of land for public utility purposes cannot necessarily be regarded as unlawful.

12.13. He also relied upon ***Opto Circuit India Limited vs Axis Bank and Others***<sup>8</sup> to contend that statutory powers exercised under the planning framework must be viewed within the



scheme of the governing enactment and that the respondents were acting in furtherance of such statutory powers.

12.14. He further submitted that even assuming there was any procedural irregularity in the process adopted, the same would not render the action wholly void in law.

12.15. Accordingly, he sought dismissal of the writ petition.

12.16. This Court has carefully considered the submissions advanced by the learned counsel appearing for the parties and examined the pleadings, documents placed on record, the impugned communication dated 30.09.2024 and the material correspondence exchanged between the parties.

12.17. The foundational facts are not in dispute. The petitioner sought modification of an earlier sanctioned plan for development of a residential complex comprising two basement floors, ground floor and eleven upper floors containing 148 residential units. The petitioner paid the prescribed statutory charges, obtained



all requisite approvals and No Objection Certificates and, upon compliance with all requirements, the modified plan sanction came to be approved on 26.09.2024.

12.18. However, notwithstanding such approval, release of the sanctioned plan and construction drawings was withheld solely on the ground that the petitioner had not executed a registered relinquishment deed surrendering 381.70 sq.m. of land free of cost for widening the existing Kanakapura Main Road from 31 metres to 45 metres under the Revised Master Plan, 2015.

12.19. It is also undisputed that the road proposed for widening is an already existing public road situated on the periphery of the petitioner's property and does not form part of the petitioner's own development layout.

12.20. The principal issue that arises for consideration is whether the respondents could lawfully insist upon the surrender of privately owned land free of cost for the widening of an existing public road as a condition precedent to the release of an already-approved building plan.



12.21. The statutory scheme under the Karnataka Town and Country Planning Act contemplates distinct treatment for two separate categories of land requirements. The first concerns land required for roads, parks, civic amenities and open spaces forming part of an internal layout proposed for sanction. The second concerns land required for public purposes under the Master Plan, including the widening of existing public roads. The distinction is fundamental.

12.22. The provisions relating to surrender without compensation operate only in relation to roads and civic amenities constituting components of the internal layout itself. They do not extend to land required for the widening of existing external roads under the Master Plan. Where privately owned land is required for an independent public infrastructure project under the Master Plan, the statutory mechanism contemplated is acquisition in accordance with law together with payment of compensation or other statutorily recognised benefits.

12.23. Significantly, the respondents have not identified any provision under the KTCP Act,



any regulation or any other legal instrument conferring authority to insist upon free relinquishment of land for widening of an external road as a condition for release of a building plan.

12.24. The issue arising in the present case is no longer res integra.

12.25. The Coordinate Bench decisions in **Dr. Arun Kumar B.C. vs State of Karnataka & Ors<sup>1</sup>, CNC, Mangalore Kavour Project Private Limited vs State of Karnataka & Ors<sup>3</sup>** and **Sri Vinod Damji Patel vs The Hoskote Yojana Pradhikara & Anr<sup>5</sup>** consistently hold that land earmarked for widening of roads under the Master Plan stands on an entirely different footing from roads forming part of an internal layout and that provisions relating to surrender without compensation are confined only to the latter category.

12.26. The consistent principle emerging from these decisions is that land required for widening of existing roads must be secured through acquisition and compensation mechanisms recognised by law and that a planning authority



cannot compel surrender of such land by linking it to grant or release of development permissions.

12.27. The factual circumstances of the present case are materially similar and this Court respectfully follows the aforesaid line of authority.

12.28. Sri. K.B. Monesh Kumar placed reliance upon the decision of the Hon'ble Supreme Court in **Shirdi Nagar Panchayat vs Kishor Sharad Borawake and Others**<sup>7</sup> and contended that where developmental benefits are granted to a landowner, a requirement to surrender land for public utility purposes cannot necessarily be treated as illegal. The reliance is misplaced.

12.29. The condition upheld in **Shirdi Nagar Panchayat**<sup>7</sup> arose from a specific statutory and regulatory framework governing subdivision of land and related to open spaces and amenity areas constituting integral components of the very development proposed for sanction.

12.30. The present case stands on a fundamentally different footing. The land sought from the



petitioner is not intended for any component of the petitioner's own development but is required for widening of an already existing public road under an independent Master Plan project.

12.31. Unlike the position in **Shirdi Nagar Panchayat**<sup>7</sup>, there exists neither a statutory basis authorising such surrender nor any direct nexus between the condition imposed and the development for which approval has been granted. The proposed road widening is entirely external to the petitioner's development and therefore the said decision does not advance the respondents' case.

12.32. Reliance was also placed on **Opto Circuit India Limited vs Axis Bank and Others**<sup>8</sup> for the proposition that where a statute prescribes a particular manner of doing an act, such act must be done only in that manner. Rather than supporting the respondents, the principle operates against them.

12.33. If land required for implementation of the Master Plan is to be secured in accordance with the mechanism contemplated by the KTCP Act,



namely acquisition proceedings with attendant statutory consequences, the respondents cannot resort to an alternative non-statutory method of indirectly compelling surrender through withholding release of an approved plan.

12.34. The statute having prescribed one manner for achieving the objective, deviation from such procedure cannot be sustained.

12.35. The impugned action also attracts the doctrine of colourable exercise of power. The power conferred upon planning authorities to process and sanction building plans exists for regulating development in accordance with planning standards and statutory requirements. Such power is not intended to be employed as an instrument for securing land for public infrastructure projects.

12.36. By withholding the release of an already approved plan in order to compel execution of a relinquishment deed, the respondents have attempted to employ a statutory power for a collateral purpose for which no authority exists. What cannot be achieved directly through



lawful acquisition cannot be indirectly achieved through the exercise of regulatory leverage.

12.37. Article 300A of the Constitution mandates that no person shall be deprived of property save by authority of law. The expression "authority of law" necessarily presupposes the existence of a legally recognised source empowering deprivation of proprietary rights.

12.38. The impugned communication merely directs surrender of land without citing any provision of law, regulation or governmental authority supporting such a requirement.

12.39. A citizen cannot be deprived of proprietary rights through a bare administrative directive unsupported by law. What cannot be done directly cannot be permitted indirectly by attaching unauthorised conditions to developmental permissions. The insistence upon free relinquishment, therefore, falls foul of Article 300A.

12.40. An additional circumstance of significance is the stage at which the impugned demand was made. The modified plan sanction stood



approved on 26.09.2024, whereas the impugned communication was issued on 30.09.2024. Once approval had already been granted, the respondents had exercised their discretionary jurisdiction, and what remained thereafter was only the ministerial act of release of the sanctioned documents. The attempt thereafter to impose an additional substantive condition by withholding release of an already approved plan cannot be sustained.

12.41. The petitioner had fulfilled all prescribed requirements, paid substantial fees and secured approval. Such approval generated a legitimate expectation that the sanctioned plan would be released in the ordinary course. The subsequent insistence upon relinquishment without any statutory basis, therefore, assumes an arbitrary character.

12.42. For all the aforesaid reasons, this Court is of the considered view that the respondents had no authority in law to insist upon execution of a registered relinquishment deed in respect of 381.70 sq.m. of the petitioner's property free of cost as a condition precedent for release of the



modified sanctioned plan and construction drawings.

12.43. Land required for widening of an existing public road under the Master Plan can be secured only in accordance with the procedure contemplated by law and not through coercive withholding of developmental permissions.

12.44. The submissions advanced on behalf of Respondents No.1 to 3 are accordingly rejected, and the submissions advanced on behalf of the petitioner are accepted.

12.45. This Court answers Point No.1 by holding that the respondents were not justified in insisting upon execution of a registered relinquishment deed in respect of 381.70 sq.m. of the petitioner's property, free of cost, as a condition precedent for release of the modified sanctioned plan and construction drawings.

13. **Answer to Point No.2: Whether land earmarked under the Revised Master Plan, 2015, for widening of an existing road stands on the same footing as roads, parks, civic amenity sites and open spaces forming part of an internal layout proposed for sanction under the provisions of the Karnataka Town and Country**



**Planning Act, 1961 and the applicable planning regulations?**

- 13.1. Sri. Narendra Dev, learned counsel appearing for the petitioner, submitted that the controversy raises a fundamental question concerning the statutory architecture of the Karnataka Town and Country Planning Act, 1961 and the legal distinction between land forming part of an internal layout proposed for sanction and land earmarked under the Revised Master Plan for widening of an existing public road.
  
- 13.2. Learned counsel submitted that the KTCP Act operates on two distinct planes. The first concerns the preparation and implementation of Master Plans and Comprehensive Development Plans under Sections 12 and 13, which constitute sovereign planning functions intended to regulate future development of the planning area. The second concerns provisions governing private development and layout sanction under Sections 14 and 17, which regulate obligations of developers in relation to their own development projects.



- 13.3. According to him, the statutory obligation of free surrender contemplated under Sections 17(2-A), 17(2-B) and 17(3) belongs exclusively to the latter category and applies only to roads, parks, open spaces and civic amenities forming part of the developer's own layout plan. Such surrender, according to learned counsel, represents the developer's contribution within his own development project and forms part of the consideration for permission to develop the remaining land.
- 13.4. He contended that land required for the widening of an existing road under the Revised Master Plan stands on an entirely different footing. Such land forms part of a sovereign infrastructure project and does not arise out of the petitioner's own development proposal. Consequently, the statutory provisions relating to free surrender cannot be extended to such land.
- 13.5. In support of these submissions, reliance was placed upon the decisions of Coordinate Benches of this Court in **Dr. Arun Kumar B.C. vs State of Karnataka & Ors<sup>1</sup>, Sri Vinod**



**Damji Patel vs The Hoskote Yojana Pradhikara & Anr<sup>5</sup> and CNC, Mangalore Kavoor Project Private Limited vs State of Karnataka & Ors<sup>3</sup>.** Learned counsel submitted that the said decisions consistently hold that provisions relating to surrender without compensation are confined to roads and civic amenities forming part of an internal layout and cannot be extended to land required for widening existing roads under the Master Plan.

13.6. Per contra, Sri. K.B. Monesh Kumar, learned counsel appearing for Respondents No.1 to 3, did not specifically dispute the statutory provisions relied upon by the petitioner but sought to justify the respondents' action on the broader principle that where developmental benefits are conferred by a planning authority, conditions requiring surrender of land for public utility purposes cannot necessarily be regarded as unlawful.

13.7. Placing reliance upon **Shirdi Nagar Panchayat vs Kishor Sharad Borawake and Others<sup>7</sup>,** learned counsel submitted that where a landowner derives developmental benefits,



imposition of a condition requiring surrender of a portion of land for public utility purposes would not be impermissible merely because such surrender is made a condition for development approval. The respondents therefore sought to justify the requirement of relinquishment as part of the broader planning process and prayed that the writ petition be dismissed.

- 13.8. This Court has carefully considered the rival submissions and examined the statutory framework governing the issue.
- 13.9. The question that arises for consideration is whether land earmarked under the Revised Master Plan for widening of an existing public road stands on the same legal footing as roads, parks, open spaces and civic amenity sites forming part of an internal layout proposed for sanction under the KTCP Act.
- 13.10. Upon examination of the statutory scheme, this Court finds that the KTCP Act draws a clear and deliberate distinction between the two categories.



13.11. Sections 12 and 13 of the Act empower the planning authority to prepare Master Plans and Comprehensive Development Plans and to indicate proposed land use, including existing and proposed road networks and road widening proposals. Such provisions merely enable the preparation of planning instruments reflecting developmental intent and future land use patterns. Mere designation of land in a Master Plan neither transfers ownership nor authorises compulsory deprivation of private property.

13.12. On the other hand, Sections 14, 17(2-A), 17(2-B) and 17(3) operate in an entirely different field. These provisions deal with obligations arising within a development layout proposed for sanction and regulate roads, parks, open spaces and civic amenities forming integral components of the developer's own project. The statutory obligation of free surrender contemplated under these provisions is therefore intrinsically linked to the development itself and constitutes part of the regulatory mechanism governing private development.



13.13. The distinction is neither accidental nor merely semantic. Internal layout roads and civic amenities are created by the developer as components of his own project and their extent is determined in accordance with applicable planning regulations. Their surrender forms part of the consideration for permission to develop the remaining area.

13.14. Land required for widening of an existing road under the Master Plan stands on a fundamentally different footing. Such widening is not proposed by the developer, does not arise out of the development proposal and exists independently of it. It constitutes a public infrastructure project undertaken as part of sovereign planning functions and therefore falls outside the statutory framework governing internal layout obligations.

13.15. This distinction becomes even more evident from Section 69 of the Act, which specifically empowers the acquisition of land required for the purposes of the Act. The existence of a separate acquisition mechanism itself constitutes a strong indication of legislative



intent. Had the legislature intended that land required for widening roads under the Master Plan could also be secured through compelled surrender, a separate acquisition provision would have been unnecessary.

13.16. The interpretation advanced by the petitioner also receives consistent support from the decisions of Coordinate Benches of this Court. In **Dr. Arun Kumar B.C.<sup>1</sup>**, it was held that the no-compensation provisions under Section 17(3) apply only to lands covered under Section 17(2-A). In **Sri Vinod Damji Patel<sup>5</sup>**, it was held that provisions relating to surrender apply only to roads and civic amenities forming part of the sanctioned layout. Likewise, in **CNC, Mangalore Kavoore<sup>3</sup>**, it was specifically held that the provisions relating to layout requirements do not extend to widening of existing roads falling outside the layout.

13.17. This Court finds itself in respectful agreement with the principles laid down in the aforesaid decisions.

13.18. The reliance placed by the respondents upon **Shirdi Nagar Panchayat<sup>7</sup>** is misplaced. The



conditions upheld in that case arose directly from a statutory framework governing layout approvals and related to components constituting integral parts of the proposed development itself. The present case stands on an entirely different footing. The widening of Kanakapura Main Road is an independent infrastructure project external to the petitioner's development and lacks the necessary nexus with the permission sought by the petitioner.

13.19. Planning law recognises that conditions attached to development permissions must bear a reasonable nexus to the development itself. Internal layout roads, parks and civic amenities satisfy such a requirement because they form part of the very project for which permission is sought. The proposed road widening in the present case does not satisfy such a requirement. It pre-exists the petitioner's application and arises independently of it. Even if the petitioner were not to implement its project, the widening of the master plan road has to be made.



13.20. To permit a planning authority to compel surrender of land required for sovereign infrastructure projects through the route of development regulation would effectively enable circumvention of the acquisition process and the constitutional safeguards accompanying it.

13.21. Accordingly, this Court holds that land earmarked under the Revised Master Plan for widening of an existing road does not stand on the same legal footing as roads, parks, civic amenity sites and open spaces forming part of an internal layout proposed for sanction under the KTCP Act and the applicable planning regulations. The statutory obligation of free surrender remains confined to the latter category and cannot be extended to the former.

13.22. This Court answers point no.2 by holding that the land earmarked under the Revised Master Plan, 2015, for widening of an existing road do not stand on the same footing as roads, parks, civic amenity sites and open spaces forming part of an internal layout proposed for sanction under the provisions of the Karnataka Town and



Country Planning Act, 1961 and the applicable planning regulations.

14. **Answer to Point No.3: Whether the respondents are empowered under the Karnataka Town and Country Planning Act, 1961 and the applicable planning regulations to compel relinquishment of privately owned land free of cost for widening of an existing road under the Master Plan?**

14.1. Sri. Narendra Dev, learned counsel appearing for the petitioner, submitted that neither the Karnataka Town and Country Planning Act, 1961 nor any applicable planning regulation confers power upon the respondents to compel relinquishment of privately owned land free of cost for widening an existing road under the Master Plan. According to him, where the State seeks to deprive a citizen of proprietary rights, the burden lies upon the authority to identify a clear and specific statutory source of power authorising such action and, in the absence of such authority, the demand itself becomes unsustainable.

14.2. Learned counsel submitted that the KTCP Act consciously draws a distinction between obligations arising within a private development



layout and land required for independent public purposes under the Master Plan. According to him, Sections 17(2-A), 17(2-B) and 17(3) expressly authorise free surrender only in relation to roads, parks, open spaces and civic amenities forming part of the developer's own layout plan. These provisions represent the developer's obligations within his own project and form part of the consideration for obtaining permission to develop the remaining land.

- 14.3. He submitted that the land required for the widening of an existing road under the Master Plan stands on an entirely different footing and falls within the domain of acquisition under Section 69 of the Act. The legislature, according to learned counsel, has not created any separate mechanism enabling compelled free surrender of such land and, in the absence of express authority, the respondents cannot assume such a power by implication.
- 14.4. He further submitted that planning regulations, being subordinate legislation, cannot enlarge the powers conferred by the parent statute. Consequently, if the KTCP Act itself does not



authorise compelled surrender for road widening under the Master Plan, no planning regulation or administrative direction can create such authority.

14.5. In support of his submissions, reliance was placed upon the decisions of Coordinate Benches of this Court in **Dr. Arun Kumar B.C. vs State of Karnataka & Ors<sup>1</sup>, Sri Vinod Damji Patel vs The Hoskote Yojana Pradhikara & Anr and CNC, Mangalore Kavoor Project Private Limited vs State of Karnataka & Ors<sup>3</sup>**, which, according to learned counsel, consistently recognise the absence of statutory authority to compel surrender of land for widening of existing roads under the Master Plan.

14.6. Per contra, Sri. K.B. Monesh Kumar, learned counsel appearing for Respondents No.1 to 3, submitted that the respondents were exercising powers under the KTCP Act and applicable planning regulations and that planning authorities possess power to impose conditions while granting development permissions,



including conditions requiring surrender of land where such conditions advance public purposes.

- 14.7. Placing reliance upon **Shirdi Nagar Panchayat vs Kishor Sharad Borawake and Others**<sup>7</sup>, he submitted that where developmental benefits are conferred upon a landowner, conditions requiring surrender of land for public utility purposes cannot necessarily be treated as unlawful. Reliance was also placed upon **Opto Circuit India Limited vs Axis Bank and Others**<sup>8</sup> to contend that statutory powers are required to be exercised within the statutory framework prescribed by the enactment.
- 14.8. However, learned counsel did not identify any specific provision under the KTCP Act or any particular planning regulation expressly authorising the respondents to compel free relinquishment of land for widening an existing road under the Master Plan.
- 14.9. This Court has carefully considered the rival submissions and examined the statutory framework governing the issue.



14.10. The question arising for consideration is a narrow but significant one, namely, whether any provision of the KTCP Act or any applicable planning regulation expressly or by necessary implication empowers the respondents to compel relinquishment of privately owned land free of cost for widening an existing road under the Master Plan.

14.11. The answer, in the considered opinion of this Court, must be in the negative.

14.12. A foundational principle of administrative law is that a statutory authority possesses only those powers that are expressly conferred by the statute creating it or such powers as necessarily arise by implication for the effective exercise of the express powers. A statutory authority does not possess inherent powers and cannot create authority for itself through administrative practice, circulars or executive directions.

14.13. Consequently, for the demand contained in the impugned communication to survive judicial scrutiny, the respondents must identify a



specific statutory or regulatory provision authorising such demand.

14.14. Upon examination of the KTCP Act, this Court finds no such provision. Sections 12 and 13 of the Act empower the planning authority to prepare Master Plans and designate land for various planning purposes, including road networks and widening proposals. These provisions are planning provisions intended to express developmental objectives and future land use patterns. Mere designation of land in a Master Plan neither divests the owner of title nor creates a coercive power enabling compulsory surrender of property.

14.15. Similarly, Sections 14, 17(2-A), 17(2-B) and 17(3) operate within a different statutory field and deal with obligations arising within a development layout proposed for sanction. The provisions authorising surrender without compensation relate only to roads, parks, open spaces and civic amenities constituting components of the developer's own project. Such surrender forms part of the regulatory exchange accompanying permission to develop.



14.16. The statutory scheme, therefore, recognises a distinction between obligations internal to a development project and the acquisition of land for independent public purposes.

14.17. Section 69 assumes significance in this context. The legislature has specifically provided a mechanism enabling the acquisition of land required for the purposes of the Act. The existence of such a provision itself constitutes a clear indication that where privately owned land is required for public purposes under the Master Plan, the legislature intended such land to be secured through acquisition proceedings and not through compelled surrender.

14.18. Equally significant is the fact that neither the impugned communication nor the submissions advanced on behalf of the respondents identify any specific planning regulation authorising the impugned demand. The absence of any cited statutory source is not merely a procedural omission but strikes at the root of the respondents' authority.

14.19. The reliance placed by the respondents upon **Shirdi Nagar Panchayat** does not advance



their case. The conditions upheld in that decision were expressly embedded within the applicable regulatory framework and related to obligations arising within the development itself. The said decision does not create a general power enabling planning authorities to compel surrender of land for any public purpose merely because developmental benefits are conferred upon a landowner.

14.20. Similarly, the principle laid down in **Opto Circuit India Limited**<sup>8</sup> that statutory powers must be exercised in the manner prescribed by the statute, in fact supports the petitioner. If the statute prescribes acquisition under Section 69 as the mechanism for securing land for public purposes, the respondents cannot bypass that procedure and adopt a wholly different method by compelling free surrender.

14.21. The contention that such power may be implied as part of the authority to grant planning permissions also cannot be accepted. Implied powers can arise only where they are necessary for the effective exercise of the express statutory power and where they do not conflict



with the statutory scheme itself. A power compelling free surrender of land for widening an external public road satisfies neither condition. Recognition of such a power would directly undermine and render otiose the acquisition mechanism specifically created under Section 69.

14.22. The interpretation advanced by the petitioner is further reinforced by the consistent line of decisions rendered by the Coordinate Benches of this Court in **Dr. Arun Kumar B.C<sup>1</sup>, Sri Vinod Damji Patel<sup>5</sup> and CNC, Mangalore Kavoore<sup>3</sup>**, all of which have recognised that no statutory authority exists to compel surrender of land for widening of roads under the Master Plan. This Court respectfully agrees with and follows the aforesaid line of authority.

14.23. Accordingly, this Court holds that the respondents are not empowered under the KTCP Act, 1961 or under any applicable planning regulation to compel relinquishment of privately owned land free of cost for widening of an existing road under the Master Plan. The



impugned demand lacks a statutory foundation and is therefore without the authority of law.

14.24. This Court answers Point No.3 by holding that the respondents are not empowered under the KTCP Act, 1961 or the applicable planning regulations to compel relinquishment of privately owned land free of cost for widening an existing road under the Master Plan.

15. **Answer to Point No.4: Whether the action of the respondents in withholding the release of the modified sanctioned plan until execution of a relinquishment deed amounts to deprivation of property without the authority of law and is violative of Article 300A of the Constitution of India?**

15.1. Sri. Narendra Dev, learned counsel appearing for the petitioner, submitted that the action of the respondents in withholding the release of the modified sanctioned plan until execution of a relinquishment deed amounts to deprivation of property without authority of law and consequently violates Article 300A of the Constitution of India.

15.2. Learned counsel submitted that the constitutional protection under Article 300A extends beyond cases of direct acquisition or



physical dispossession and includes indirect forms of deprivation brought about through coercive use of regulatory power. According to him, the State cannot employ its statutory powers in a manner that compels a citizen to surrender proprietary rights without lawful authority and without compensation. The withholding of a duly approved building plan with the object of compelling execution of a relinquishment deed, according to him, is a clear instance of such indirect compulsion.

- 15.3. He further submitted that the expression "authority of law" occurring in Article 300A necessarily contemplates a validly enacted law specifically authorising the deprivation in question. A mere administrative communication, executive instruction or departmental directive unsupported by any statutory provision cannot constitute authority of law within the meaning of Article 300A.
- 15.4. Learned counsel submitted that the impugned communication dated 30.09.2024 does not disclose any statutory basis for the demand made therein and therefore cannot sustain an



action affecting proprietary rights. According to him, what cannot lawfully be achieved directly through acquisition without following due process cannot be indirectly achieved by withholding development permissions.

- 15.5. In support of the above contentions, reliance was placed upon the decision in **Dr. Arun Kumar B.C. vs State of Karnataka & Ors<sup>1</sup>** wherein it was held that insistence upon relinquishment of land for road widening as a condition for plan sanction is without authority of law and violative of Article 300A.
- 15.6. Per contra, Sri. K.B. Monesh Kumar, learned counsel appearing for Respondents No.1 to 3, submitted that the respondents were acting within the statutory framework governing planning permissions and that the requirement of relinquishment formed part of the conditions imposed in exercise of such powers.
- 15.7. Placing reliance upon **Shirdi Nagar Panchayat vs Kishor Sharad Borawake and Others<sup>7</sup>**, he submitted that where developmental benefits are conferred by a planning authority, conditions requiring surrender of land for public



utility purposes cannot necessarily be regarded as illegal. Reliance was also placed upon **Opto Circuit India Limited vs Axis Bank and Others**<sup>8</sup> to contend that statutory powers are required to be exercised in accordance with the statutory framework.

- 15.8. Learned counsel further submitted that even if any procedural irregularity existed in the manner in which the action had been taken, such irregularity would not render the action wholly illegal.
- 15.9. This Court has carefully considered the rival submissions and examined the constitutional and statutory framework governing the issue.
- 15.10. The question arising for consideration is whether the action of the respondents in withholding release of the modified sanctioned plan until execution of a relinquishment deed constitutes deprivation of property without authority of law and thereby violates Article 300A of the Constitution.
- 15.11. Article 300A provides that no person shall be deprived of his property save by authority of



law. Although the right to property is no longer a fundamental right, it nevertheless continues to remain a constitutional right and executive action affecting proprietary interests must satisfy the constitutional requirement embodied therein.

15.12. The expression "authority of law" does not refer to a mere administrative instruction or executive communication. It contemplates a valid law enacted by a competent legislature authorising the particular deprivation and requiring such deprivation to be carried out in the manner prescribed by that law. Executive convenience or administrative practice cannot substitute statutory authority.

15.13. This Court has already held while considering the earlier Points for determination that neither the KTCP Act nor any applicable planning regulation authorises the respondents to compel free relinquishment of privately owned land for widening of an existing road under the Master Plan. The impugned communication dated 30.09.2024 does not disclose any statutory provision conferring such authority.



The demand, therefore, rests entirely upon a bare administrative communication unsupported by law.

15.14. The constitutional issue, however, extends beyond the absence of statutory authority. The concept of deprivation under Article 300A cannot be confined to direct physical dispossession alone. Constitutional protection would become illusory if deprivation were understood only in its narrow physical sense. Deprivation includes coercive use of State power that compels a citizen to part with proprietary rights without lawful authority.

15.15. In the present case, the petitioner had complied with all statutory requirements, paid substantial statutory charges, obtained all necessary approvals and secured approval of the modified building plan on 26.09.2024. Upon such approval, the petitioner acquired a legitimate entitlement to the release of the sanctioned plan and construction drawings in accordance with the law.

15.16. Instead of releasing the approved plan, the respondents made the release conditional upon



the surrender of 381.70 sq.m. of privately owned land without compensation. The effect of the impugned communication was clear: either surrender the land or forfeit the practical benefit of the sanctioned plan.

15.17. The petitioner was therefore confronted not with a voluntary choice but with a coercive condition attached to an entitlement already earned through compliance with the statutory process.

15.18. The constitutional principle that what cannot be done directly cannot be permitted indirectly squarely applies to the present case. If the respondents cannot directly secure the petitioner's land without invoking acquisition proceedings under Section 69 and complying with the statutory safeguards accompanying such process, they equally cannot achieve the same result by employing developmental permissions as an instrument of pressure.

15.19. The reliance placed upon **Shirdi Nagar Panchayat**<sup>7</sup> does not advance the respondents' case. As already observed while dealing with the earlier points, the conditions upheld therein



arose directly from a statutory framework governing obligations internal to the development itself. The present case stands on a materially different footing inasmuch as no statutory basis has been shown for the impugned demand.

15.20. Similarly, reliance upon **Opto Circuit India Limited**<sup>8</sup> is misconceived. The principle that statutory powers must be exercised in the manner prescribed by statute supports rather than weakens the petitioner's case. If the statute contemplates acquisition as the mechanism for securing land required for public purposes, the respondents cannot adopt a different route unsupported by law.

15.21. The submission that the present case involves merely a procedural irregularity also cannot be accepted. The issue here is not a procedural defect in the exercise of an existing power but the absence of power itself. A distinction must be maintained between an irregular exercise of lawful authority and an attempt to exercise authority that does not exist at all. The former



may be curable; the latter is void from inception.

15.22. This Court also finds significance in the sequence of events. The modified building plan had already been approved on 26.09.2024. The demand for relinquishment arose only thereafter at the stage of release of the sanctioned documents. Once the respondents had completed scrutiny and granted approval, imposition of a new substantive condition unsupported by law assumes an arbitrary character and further reinforces the constitutional infirmity underlying the impugned action.

15.23. For all the aforesaid reasons, this Court is of the considered opinion that the action of the respondents in withholding release of the modified sanctioned plan until execution of a relinquishment deed constitutes deprivation of property without authority of law and is violative of Article 300A of the Constitution of India.

15.24. This Court answers point No.4 by holding that the action of the respondents in withholding the



release of the modified sanctioned plan until execution of a relinquishment deed amounts to deprivation of property without the authority of law and is violative of Article 300A of the Constitution of India.

16. **Answer to Point No.5: Whether the respondents, if they require the petitioner's land for Road widening in public interest, are required to resort to acquisition proceedings or any other legally recognised statutory mechanism, including payment of compensation or grant of TDR, wherever applicable?**

16.1. Sri. Narendra Dev, learned counsel appearing for the petitioner, submitted that if the respondents genuinely require the petitioner's land measuring 381.70 sq.m. for widening of Kanakapura Main Road in public interest, the respondents must necessarily resort to legally recognised mechanisms contemplated under the statutory framework and cannot compel surrender of such land free of cost.

16.2. Learned counsel submitted that the KTCP Act itself provides the mechanism through which privately owned land required for public purposes may be secured. According to him, Section 69 of the KTCP Act read with the



applicable land acquisition law constitutes the primary statutory mechanism and requires acquisition to be undertaken in accordance with law together with payment of fair compensation.

16.3. He further submitted that planning law also recognises the grant of Transferable Development Rights (TDR) as an alternative compensatory mechanism where surrender of land is accepted for public purposes in accordance with applicable planning regulations. He contended that surrender of land for road widening under the Master Plan cannot occur without corresponding consideration, whether by way of compensation or TDR, and that free relinquishment without any form of consideration is not contemplated under the statutory scheme.

16.4. Reliance was placed upon the decisions in **CNC, Mangalore Kavour Project Private Limited vs State of Karnataka<sup>3</sup> & Ors** and **Sri Vinod Damji Patel vs The Hoskote Yojana Pradhikara & Anr<sup>5</sup>** to contend that where land is required for the formation or widening of



roads under the Master Plan, the planning authority must either acquire such land in accordance with law or resort to legally recognised compensatory mechanisms.

- 16.5. Learned counsel accordingly submitted that while allowing the writ petition, this Court may clarify that the respondents continue to retain liberty to acquire the petitioner's land in accordance with law so that the order is not construed as preventing acquisition itself.
- 16.6. Per contra, Sri. K.B. Monesh Kumar, learned counsel appearing for Respondents No.1 to 3, reiterated his earlier submission that the demand for free relinquishment itself is lawful and that no occasion arises for resort to acquisition proceedings or grant of TDR.
- 16.7. Placing reliance upon **Shirdi Nagar Panchayat vs Kishor Sharad Borawake and Others**<sup>7</sup>, he submitted that where developmental benefits are conferred upon a landowner, conditions requiring surrender of land for public purposes cannot necessarily be regarded as impermissible. However, learned counsel did not specifically address the mechanism that



ought to be followed if the demand for free surrender were to be held unsustainable.

16.8. This Court has already concluded while answering the earlier Points for determination that the respondents possess no statutory authority to compel relinquishment of privately owned land free of cost for widening of an existing road under the Master Plan and that such action is contrary to Article 300A of the Constitution. The present question is therefore a consequential one, namely, what is the lawful mechanism available to the respondents if they genuinely require the petitioner's land for the road widening in the public interest.

16.9. Upon examination of the statutory framework, this Court finds that the KTCP Act itself provides the answer.

16.10. Section 69 of the Act specifically empowers the acquisition of land required for the purposes of the Act. The existence of this provision demonstrates the legislative intent regarding the manner in which privately owned land required for public purposes under the Master Plan is to be secured. The statutory mechanism



envisaged by the legislature is acquisition in accordance with the applicable land acquisition law, together with payment of compensation and observance of procedural safeguards.

16.11. Acquisition proceedings constitute a structured statutory process incorporating safeguards intended to balance public necessity with private proprietary rights. Such a process includes notification, opportunity to raise objections, determination of compensation and availability of judicial remedies. The statutory framework thus reflects the constitutional requirement embodied under Article 300A that deprivation of property must occur only through authority of law.

16.12. The respondents cannot, therefore, bypass this statutory mechanism and substitute it with an extra-statutory process of compelled relinquishment without consideration.

16.13. Apart from acquisition, planning law also recognises Transferable Development Rights as a compensatory mechanism under appropriate regulatory frameworks. TDR constitutes a planning device whereby an owner whose land



is required for public purposes receives development rights capable of being utilised or transferred in accordance with applicable regulations.

16.14. The decision in **CNC, Mangalore Kavoore**<sup>3</sup> illustrates that where planning regulations contemplate surrender of land required under the Master Plan, such surrender may be accompanied by the grant of TDR rather than occurring gratuitously. The underlying principle emerging therefrom is that privately owned property required for public purposes cannot ordinarily be taken without corresponding consideration.

16.15. Whether TDR is available in relation to the subject property and the extent of such benefit, if applicable, are matters falling within the domain of the competent authority under the relevant regulations, and this Court does not propose to adjudicate upon those factual and regulatory aspects in the present proceedings.

16.16. What is clear, however, is that free relinquishment without acquisition, compensation or any recognised compensatory



mechanism does not find support either in the KTCP Act or in the planning framework governing the field.

16.17. The respondents' submission that the petitioner may derive benefit from road widening also does not alter the legal position. Incidental benefit flowing from a public infrastructure project cannot extinguish or dilute constitutional protection over private property. Any enhancement in value arising from road widening may be a factor considered while determining compensation in accordance with law, but cannot justify dispensing with compensation itself.

16.18. This Court also considers it necessary to clarify that allowing the present writ petition does not foreclose the respondents from proceeding in accordance with law if the land is genuinely required in public interest. The respondents continue to retain the liberty to initiate acquisition proceedings under Section 69 of the KTCP Act read with the applicable land acquisition law. Equally, if the relevant planning regulations permit the grant of TDR and the



parties are agreeable, such a course may also be explored in accordance with the law.

16.19. The present order merely prohibits an extra-statutory route of compelled surrender and cannot be construed as preventing lawful acquisition for a public purpose.

16.20. Accordingly, this Court answers point no. 5 by holding that, if the respondents require the petitioner's land for widening of the road in public interest, they are required to resort to legally recognised statutory mechanisms, including acquisition proceedings under Section 69 of the KTCP Act read with the applicable land acquisition law together with payment of due compensation, or grant of TDR wherever permissible under the applicable planning regulations. Free relinquishment without any form of consideration is not a legally available option.

17. **Answer to Point No.6: What order?**

17.1. In view of the findings on all five Points for Determination, this Court is satisfied that the



petitioner is entitled to the reliefs sought.  
Hence, this Court passes the following

**ORDER**

- i. The writ petition is **ALLOWED**.
- ii. A Certiorari is issued quashing the impugned communication dated 30.09.2024 bearing No.PRJ/9650/2021-22 (Annexure-F) to the extent it demands free relinquishment of the petitioner's land.
- iii. A Mandamus is issued directing Respondents No.1 to 3 to release the modified sanctioned plan and construction drawings without insisting upon relinquishment of any portion of the petitioner's land within 30 days of the receipt of a copy of this order.
- iv. Liberty is, however, reserved to the respondents to acquire the petitioner's land in accordance with law, if so deemed fit by the appropriate authority.

**Sd/-  
(SURAJ GOVINDARAJ)  
JUDGE**

SR  
List No.: 1 Sl No.: 100