

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION NO(S).1614-1616 OF 2019

IN

MISCELLANEOUS APPLICATION NO(S).1346-1348 OF 2019

IN

CIVIL APPEAL NO(S).7661-7663 OF 2018

**BANGALORE DEVELOPMENT AUTHORITY
& ANR.**

... APPELLANTS

VERSUS

THE STATE OF KARNATAKA & ORS.

... RESPONDENTS

ORDER

1. Heard learned counsel for the parties and perused the affidavit dated 26.11.2020, filed by the Commissioner, Bangalore Development Authority.

2. During the course of hearing, it is pointed out that after quashing of the preliminary notification by the High Court and before setting aside of the said order by this Court, several constructions have been put up either by the land-owners or purchasers of the sites from the land-owners. It is submitted that these constructions are mainly dwelling houses. In this factual background, we are of the considered opinion that some protection against demolition of

dwelling houses may be justified. Further the layout is meant for residential sites and this object of formation of layout would not be frustrated by saving lawfully constructed dwelling houses belonging to poor and middle-income groups.

3. Judgement dated 03.08.2018, *inter alia*, observes that 45% of the land covered under the scheme was to be utilised for the civic amenities like play grounds, roads etc. and residential sites would be formed by utilising remaining 55% of the land covered under the scheme. It is also clear that out the said 55% of developed residential area, 40% of 55% will be offered as compensation to the land-owners as specified in the scheme and remaining 60% of 55% will be the share of the Bangalore Development Authority (BDA). The land-owners would be given option to accept the developed eligible residential land or opt for compensation as per the Land Acquisition Act, 1894 (for short, 'the LA Act').

4. Needless to state that the acquisition of the land under the BDA Act is regulated by the provisions of the LA Act so far as they are applicable. (See: Section 36 of the BDA Act). The borrowed provisions of LA Act, become an integral part of the BDA Act and are totally unaffected by the repeal of the LA Act. In other words, the provisions of the LA Act are incorporated into the BDA Act so far as they are applicable. Of Course, the bar contained in Sections 6 and

11-A of the LA Act, are not applicable to the BDA Act. We have discussed this aspect of the matter in our main judgment dated 03.08.2018. It is also clear that the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation & Resettlement Act, 2013 are not applicable for the acquisition made under the BDA Act. Final notification has also been issued after the pronouncement of judgment by this Court in Civil Appeal No(s).7661-7663 of 2018 dated 3.8.2018. We direct the BDA to proceed with the acquisition of the land as proposed in the notification.

5. If the land-owner who has put up the construction opts for land by way of a developed plot in lieu of compensation, the constructed portion would be adjusted in the land that would be allotted in his favour. It is also clarified that the persons who have put up construction/dwelling house are not entitled for compensation in respect of the constructed portion of the land. If the incentive scheme as per Bangalore Development Authority (Incentive Scheme for Voluntary Surrender of Land) Rules, 1989, is applied, the constructed portion can also be adjusted towards incentive site for voluntary surrender of land. However, where a person has constructed a dwelling house or any other building and where the constructed portion is not adjusted for any reason, betterment

charges could be levied on him under Section 20 of the BDA Act. BDA is directed to integrate the said constructions into the layout.

6. As stated above, the buildings constructed in the layout with valid sanction/permission from the competent authority/authority(ies) needs to be saved from demolition. Therefore, it is important to identify the lawful constructions made in the notified lands. For this purpose, we appoint a Committee comprising of Hon'ble Mr. Justice A.V. Chandrasekhar, former Judge of the Karnataka High Court, as its Chairman, Mr. Jayakar Jerome, former Commissioner of the BDA and Mr. S.T. Ramesh, former Director General of Police, as its members. The Committee is required to look into each of the requests of the owners of the dwelling houses/buildings for its regularisation. The Committee should also find out whether the said dwelling houses/buildings have been constructed in accordance with the sanction/permission of the competent authorities. The constructions which have come up after the date of pronouncement of the judgment by this Court i.e. 3.8.2018, shall not be eligible for regularisation. The Committee is permitted to devise its own mechanism/procedure for holding the enquiry including issuing notices in the local newspapers in this regard. Final orders regarding dwelling houses/buildings which will be protected, would be passed after we receive the report of the

Committee.

7. To ensure that in the interregnum and from now onwards no further constructions come up, the Commissioner, BDA, would undertake exercise for satellite imaging of the area in question for identifying and noting the constructions as they exist. The said exercise would be undertaken within a period of three days from the date of receipt of a copy of this order. This exercise would be repeated periodically every month and in case any new constructions are noticed, they would be brought to the notice of the Committee and action, including demolition etc., would be undertaken.

8. The Commissioner of the BDA is hereby directed to consult the Chairman and its Members of the Committee and accordingly fix and pay their remunerations. We direct the BDA to provide appropriate secretarial assistance, transport and other logistical support to the Chairman and the members of the Committee for holding an enquiry within two weeks from today. We authorise the Chairman of the Committee to appoint requisite staff, if needed, on a temporary basis to assist the Committee in conducting enquiry and fix their salaries which would be paid by the BDA. The BDA is also directed to provide enough officer space in its headquarters for the smooth functioning of the Committee within two weeks. The Committee is

also permitted to take assistance of any of the employees including surveyors from the BDA or of the State Government for the purpose of spot inspection, measurement and for its overall functioning.

9. We make it clear that there is no bar for the Chairman or the members of the Committee to accept any other engagement/ arbitration matters during the subsistence of the Committee.

10. The Committee is requested to submit its report before this Court preferably within a period of six months from today.

11. It appears that certain writ petitions are pending before the Karnataka High Court challenging the final notification for acquisition of lands for the formation of Dr. Shivarama Karanth Layout. BDA is directed to furnish the list of pending cases in respect of the said layout to the Registrar General of the High Court within a week from today. We request the Registrar General to list them before the Court within two weeks. We request the High Court to dispose of the said cases on their merits expeditiously.

12. The State Government is directed to grant approval to the 60:40 scheme in respect of the layout in question, if necessary, within two weeks from today. The State Government is also directed to depute additionally six Land Acquisition Officers to the BDA within two weeks from today.

13. BDA to file status report on or before 11.01.2021.

14. List these cases on 19.01.2021.

.....J.
(S. ABDUL NAZEER)

.....J.
(SANJIV KHANNA)

**New Delhi;
December 03, 2020.**

REVISED

ITEM NO.1 Court 7 (Video Conferencing) SECTION IV-A

**S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS**

MA No(s).1614-1616/2019 in CA No(s). 7661-7663/2018
(Arising out of impugned final judgment and order dated 03-08-2018
in C.A. No. No. 7661/2018 03-08-2018 in C.A. No. No. 7662/2018 03-
08-2018 in C.A. No. No. 7663/2018 passed by the Supreme Court Of
India)

BANGALORE DEVELOPMENT AUTHORITY & ANR. Petitioner(s)

VERSUS

STATE OF KARNATAKA & ORS. Respondent(s)

(Inquiry Report has been received from Hon'ble Mr. Justice K.N.
Keshavanarayana) (IA No. 192874/2019 - CLARIFICATION/DIRECTION)

Date : 03-12-2020 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE S. ABDUL NAZEER
HON'BLE MR. JUSTICE SANJIV KHANNA

For Petitioner(s) By Courts Motion, AOR

Mr. Prabhuling K. Navadgi, Advocate General,
Mr. S.K. Kulkarni, Adv.
Mr. M. Gireesh Kumar, Adv.
Mr. Ankur S. Kulkarni, AOR

For Respondent(s) Mr. Prabhuling K. Navadgi, Advocate General,
Mr. V. N. Raghupathy, AOR

Mr. D. K. Devesh, AOR
Mr. Piyush Upadhyay, Adv.

Mr. Balaji Srinivasan, AOR

UPON hearing the counsel the Court made the following
O R D E R

BDA to file status report on or before 11.01.2021.

List these cases on 19.01.2021 in terms of the directions passed in the signed order

(GULSHAN KUMAR ARORA)
AR-CUM-PS

(KAMLESH RAWAT)
COURT MASTER

(Signed order is placed on the file)

ITEM NO.1 Court 7 (Video Conferencing) SECTION IV-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

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Mr. Piyush Upadhyay, Adv.

Mr. Balaji Srinivasan, AOR

UPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel for the parties.

Arguments concluded.

Reserved for orders.

(GULSHAN KUMAR ARORA)

(KAMLESH RAWAT)

AR-CUM-PS

COURT MASTER