

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 31st DAY OF MAY, 2012

BEFORE

THE HON'BLE MR.JUSTICE MOHAN SHANTANAGOUDAR

W.P.NO.16889 OF 2012 (BDA)

BETWEEN

M/S STERLING DEVELOPERS PVT LTD
NO.8, CUBBON ROAD, LEVEL 5
PRESTIGE NEBULA
BANGALORE-560001
REP. BY ITS DIRECTOR
MR. RAMANI SASTRY.

... PETITIONER

(By SRI UDAYA HOLLA, M/S HOLLA AND HOLLA, ADVS.)

AND

1. TOWN PLANNING MEMBER
BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST
BANGALORE-560020
2. BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST
BANGALORE-560020
REP BY ITS COMMISSIONER.

... RESPONDENTS

(By Sri.B.R.SHANKAR NARAYANA RAO, ADV.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE LETTER DATED 23.4.2012 ISSUED BY THE TOWN PLANNING MEMBER, BDA, THE R1 HEREIN VIDE ANNEX-A., DIRECT THE

RESPONDENTS TO CONSIDER THE APPLICATION OF THE PETITIONER FOR SANCTION OF MULTI-STORIES RESIDENTIAL BUILDINGS ON THE SCHEDULE PROPERTY INDEPENDENT OF THE DEVELOPMENT SCHEME OF DEVARAJ URS LAYOUT AND TO TAKE A DECISION IN THE MATTER WITHIN TWO MONTHS.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

Petitioner has sought for quashing the endorsement/order at Annexure-A dated 23.4.2012 issued by the Bangalore Development Authority, rejecting the prayer of the petitioner for grant of permission to form the residential layout in the lands bearing Sy.Nos.47/1, 2, 3, 4, 5, 6 of Varthur Village, Bangalore East Taluk, Survey Nos.58, 59, 60/1, 2, 62, 63/1, 63/3B of Khane Kandaya Village and Sy.Nos.340/2, 3, 341/1, 2, 3, 4, 5, 342, 343/1, 2, 3, 344, 345/2, 346, 347, 349 and 366 of Belandur Amanikere

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Village, Uttarahalli Hobli, Bangalore North Taluk.

2. According to the petitioners, they are the owners of the lands bearing Sy.Nos.47/1, 2, 3, 4, 5, 6 of Varthur Village, Bangalore East Taluk, Survey Nos.58, 59, 60/1, 2, 62, 63/1, 63/3B of Khane Kandaya Village and Sy.Nos.340/2, 3, 341/1, 2, 3, 4, 5, 342, 343/1, 2, 3, 344, 345/2, 346, 347, 349 and 366 of Belandur Amanikere Village, Uttarahalli Hobli, Bangalore North Taluk measuring 13 acres of Varthur Village, Bangalore South Taluk: that the permission is granted by the Deputy Commissioner for conversion of the lands for residential purposes; subsequent to obtaining of the conversion orders, the petitioner filed applications for grant of permission to develop the aforementioned

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lands for the purpose of forming the private housing layout; same is rejected by the impugned order erroneously on the ground that the proposed private layout ^{to be} ₂ formed by the petitioner falls within the area, which is sought to be acquired for the purpose of formation of D.Devaraj Urs layout by the Bangalore Development Authority.

3. Sri Udaya Holla, learned senior counsel submits that not even preliminary notification is issued for acquiring the property for the formation of D.Devaraj Urs layout by the Bangalore Development Authority; so also the scheme is not finalised; except the approval of the Government to the proposal of the Bangalore Development Authority to go ahead with the

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layout, nothing more is done by the respondents.

4. It is not in dispute that the preliminary notification is not issued by the Bangalore Development Authority as required under law for acquiring the properties in question including the other properties for the formation of D.Devaraj Urs layout. The scheme is not formulated or finalised. There is no layout as such formed by the Bangalore Development Authority adjoining the area in question and consequently, there is no question of extension of such developed layout by the Bangalore Development Authority. In such circumstances, it is not open for the respondents to pass an order rejecting the prayer of the petitioners only on the ground that the petitioners' lands may

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fall within the proposed formation of the layout called D.Devaraj Urs layout.

5. The question involves in this writ petition is no more *res integra*. The very question as raised in this writ petition is fully covered by various judgments of this Court including the judgments in W.P.No.2856/2012 D.D. 10.4.2012, W.P.No.33709/2011 D.D. 16.11.2011 and W.P.Nos.21696-22027/2009 D.D.11.12.2009. In view of the same, the impugned endorsement/order needs to be quashed.

6. The prayer of the petitioner for grant of permission to form a private layout in the aforementioned survey numbers will have to be considered afresh on other points. If the

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petitioner is otherwise entitled for grant of permission to form the layout as per law, his application shall be considered. It is open for the Bangalore Development Authority to reconsider the prayer of the petitioner on all other points except the point decided supra. Such consideration shall be made within four months from the date of receipt of this order.

The Writ Petition stands disposed of accordingly.

Sd/-
JUDGE

* ap/-