

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF AUGUST, 2017

BEFORE

THE HON'BLE MR.JUSTICE B.S.PATIL

W.P.No.18363/2017 (LA-UDA)

BETWEEN

SRI G. MUNIRAJU
S/O. LATE GIDDAPPA,
AGED ABOUT 65 YEARS,
R/AT NO.90,
MUNESHWARA TEMPLE ROAD,
6TH B CROSS, JAKKUR,
BANGALORE 560 064.

REPRESENTED BY HIS GPA HOLDER
SRI SANJAY H CHUGH,
S/O. SRI HARICHAND B. CHUGH,
AGED ABOUT 43 YEARS,
R/AT NO.229,
SUBEDAR CHATRAM ROAD,
BANGALORE 560 009.

... PETITIONER

(BY SMT. B V VIDYULATHA, ADV.)

AND

1. STATE OF KARNATAKA
DEPARTMENT OF HOUSE AND URBAN
M S BUILDING
BANGALORE-560 001
REPRESENTED BY ITS SECRETARY
2. MYSORE URBAN DEVELOPMENT AUTHORITY
JHANSI LAKSHMI BAI ROAD
MYSORE-570005

BY ITS COMMISSIONER

3. SPECIAL LAND ACQUISITION OFFICER
MYSORE URBAN DEVELOPMENT AUTHORITY
JHANSI LAKSHMI BAI ROAD
MYSORE-570005

... RESPONDENTS

(BY SRI VIJAYKUMAR A. PATIL, AGA FOR R1
SRI T.P.VIVEKANANDA, ADV. FOR R2 & R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE PRELIMINARY NOTIFICATION DATED 28.12.2006 ISSUED BY R-2 AT ANNEX-B TO W.P. IN SO FAR AS SCHEDULE PROPERTY BELONGING TO PETITIONER IS CONCERNED; DECLARE THAT THE LAND ACQUISITION PROCEEDINGS INITIATED BY ISSUANCE OF PRELIMINARY NOTIFICATION DATED 28.12.2006 BY R-2 AT ANNEX-B TO W.P. HAS LAPSED BY VIRTUE OF THE RIGHT TO FAIR COMPENSATION AND TRANSPARENCY IN LAND ACQUISITION, REHABILITATION AND RESETTLEMENT ACT, 2013 IN SO FAR AS SCHEDULE PROPERTY BELONGING TO THE PETITIONER IS CONCERNED.

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

ORDER

1. Learned Additional Government Advocate takes notice for respondent No.1. Sri T.P.Vivekananda, learned Standing Counsel for MUDA takes notice for respondents 2 & 3.

2. In this writ petition, petitioner is challenging the preliminary notification dated 28.12.2006 issued under Section 17(1) of the Karnataka Urban Development Authority Act, 1987, proposing to acquire the land bearing Sy.No.58/2A measuring 1 acre 13 guntas situated at Chikkahalli Village, Varuna Hobli, Mysuru Taluk, for the purpose of formation of Lal Bahadur Shastri Nagar, 2nd Stage Extension, for the benefit of respondent - Mysuru Urban Development Authority (for short, 'MUDA').

3. It is the contention of the petitioner that though preliminary notification has been issued as back as on 28.12.2006 proposing to acquire the land, the same has not been followed by issuing final notification nor the exercise of formation of layout as conceived was proceeded with by the respondent - MUDA initiating any steps in that regard. Therefore, petitioner has urged that the acquisition proceedings have been abandoned by the State and the beneficiary of the acquisition. Hence, the declaration is sought in this regard.

4. Learned Counsel for all the parties during the course of arguments submit that in similar circumstances and in respect of the same preliminary notification, this Court in series of writ petitions has quashed the preliminary notification making it clear that inordinate delay on the part of the respondent-authorities in proceeding with the acquisition resulted in the acquisition being abandoned. Reliance has been placed on the order dated 31.05.2013 passed in W.P.No.43463/2011 and the order dated 03.12.2014 passed in W.P.No.47098/2013 in support of their contention.

5. Learned Additional Government Advocate submits that as per the information received from the Under Secretary to Urban Development Department, Government of Karnataka, dated 02.08.2017, no proposal was submitted by the MUDA for approval of the scheme with regard to Lal Bahadur Shastri Nagar II Stage Extension at Mysuru and therefore, no further action has been taken in the matter.

6. In the light of the orders already rendered by this Court and in view of the submission made at the bar, following the orders already passed in the connected writ petitions mentioned above, this writ petition is also allowed. It is hereby declared that the acquisition proceedings initiated pursuant to the preliminary notification dated 28.12.2006 have been abandoned by the MUDA and the State, and therefore, the acquisition has lapsed.

Learned Additional Government Advocate is permitted to file memo of appearance for respondent No.1 within three weeks from today. Sri T.P.Vivekananda, learned Standing Counsel for MUDA is permitted to file vakalath for respondents 2 & 3 within three weeks from today.

**Sd/-
JUDGE**

VP