

IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 31ST DAY OF JULY 2021

BEFORE

THE HON'BLE MR.JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION No. 13925 OF 2021 (LA-BDA)

BETWEEN:

SRI.K.N.RAGHAVENDRA
S/O LATE NANJUNDASWAMY,
AGED ABOUT 63 YEARS,
RESIDING AT NO 1, SWATHI, GARDEN ROAD,
MARUTHI NAGAR LAYOUT,
BEHIND SAMUDHAYA BHAVANA,
LAKSHMIPURA, BANGALORE 560 097.

...PETITIONER

(BY SRI.B.S.RADHANANDAN, ADVOCATE)

AND:

- 1 . STATE OF KARNATAKA
DEPARTMENT OF URBAN DEVELOPMENT,
M S BUILDING, DR AMBEDKAR VEEDHI,
BANGALORE 560 001.
REPRESENTED BY ITS SECRETARY.
- 2 . THE BANGALORE DEVELOPMENT AUTHORITY
T CHOWDAIAH RAOD,
BANGALORE 560 020.
REPRESENTED BY ITS COMMISSIONER.
- 3 . THE LAND ACQUISITION OFFICER
BANGALORE DEVELOPMENT AUTHORITY,
T CHOWDAIAH ROAD,
BANGALORE 560 020.

...RESPONDENTS

(BY SRI. PRABHULING.K. NAVADAGI, ADVOCATE GENERAL AW
SRI. A.C.BALARAJ, AGA FOR R-1
SRI D.N. NANJUNDA REDDY, SR.COUNSEL APPEARING FOR
SRI. K. KRISHNA, ADVOCATE FOR R-2 & R-3)

THIS W.P. IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTIFICATION DATED 30.10.2018 ISSUED BY THE R1 AT ANNEXURE-P WITH RESPECT TO THE SCHEDULE PROPERTY BELONGING TO THE PETITIONER AND ETC.

THIS W.P. COMING ON FOR ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

In this petition, petitioners have challenged the impugned Preliminary Notification dated 03.11.2008 and the impugned Final Notification dated 30.10.2018 issued by respondents 2 and 3 - BDA, insofar as it relates to the lands situated in the layout known as "**Dr.Shivaram Karanth Layout**".

2. Heard the learned senior counsel / counsel for the petitioners, Sri.Prabhuling K.Navadagi, learned Advocate General appearing for the State as well as Sri.D.N.Nanjunda Reddy, learned senior counsel appearing for the BDA and perused the material on record.

3. Before advertting to the rival contentions, it is necessary to state that in the earlier round of litigation, one

Sri.T.Ashwathnarayana & Others had challenged the preliminary notification in **W.P.No.9640/2014 & connected matters** before this Court. By order dated **26.11.2014**, the learned Single Judge of this Court quashed the aforesaid preliminary notification by holding as under:-

"13. In that view of the matter, the notification dated: 30.12.2008 assailed in these petitions are held as having lapsed as against the lands of the petitioners referred to in each of these petitions which were included in the said notification.

In terms of the above, these petitions are allowed to that extent. No costs".

4. The BDA filed appeals in **W.A.No.5098/2016 & connected matters** before the Division Bench. By order dated **28.04.2017**, the Hon'ble Division Bench dismissed the said appeals holding as under:-

"The appeal is barred by limitation. The delay is of 720 days.

2. As prayed for by Mr.G.S.Kannur, learned advocates appearing for the appellants, the appeal is taken up for preliminary hearing.

3. The writ petitioner assailed a notification dated December 30, 2008, proposing to acquire the land for formation of a layout. The preliminary notification was issued on December 30,

2008. Thereafter, neither the final notification was issued nor possession was taken. Consequently, the Hon'ble single Judge held that as within the reasonable time, no further action was taken, the proposal for acquisition got lapsed.

4. We do not find any merit in the appeal.

5. The application for condonation of delay filing the appeal is dismissed.

6. In view of the dismissal of the appeal, the pending interlocutory application does not survive for consideration and is, also, dismissed.

7. We make no order as to costs".

5. Aggrieved by the aforesaid orders passed by this Court, the BDA preferred **Civil Appeal Nos.7661-7663/2018 & connected matters** before the Apex Court. By order dated **03.08.2018**, the Apex Court allowed the said appeals by restoring the acquisition proceedings and directed the BDA to issue the Final Notification within a period of three months from the date of passing of the order. In the said order reported in **(2018) 12 SCC 122**, the Apex Court held as under:-

"17. It is apparent from the fact that the Single Judge has relied upon the decision in H.N. Shivanna [H.N. Shivanna v. State of Karnataka, 2012 SCC

OnLine Kar 8956 : (2013) 4 KCCR 2793] in which it was observed by the Division Bench that scheme was to be completed in 2 years otherwise it would lapse. It was precisely the question of time period which was dwelt upon and what was ultimately decided by this Court in Offshore Holdings [Offshore Holdings (P) Ltd. v. BDA, (2011) 3 SCC 139 : (2011) 1 SCC (Civ) 662] has been blatantly violated by the Single Judge and that too in flagrant violation of the provisions and intendment of the Act.

18. It is also apparent from the facts and circumstances of the case that there were a large number of irregularities in the course of an inquiry under Section 18(1) of the BDA Act. The Government had nothing to do with respect to the release of the land at this stage, as the stage of final notification had not reached but still the landowners in connivance with the influential persons, political or otherwise, managed the directions in respect of 251 acres of the land and the Special Land Acquisition Collector also considered exclusion of 498 acres of the land against which the question was raised in the Assembly and eyebrows were raised in public domain. Two inquiries were ordered on 24-11-2012 and 19-1-2013 by the State Government and based upon that inquiry, it was ordered and a public notice was issued on 3-5-2014 that the BDA will consider the entire matter afresh

19. In the aforesaid backdrop of the facts, the writ petitions came to be filed, it would not be termed to

be the bona fide litigation, but was initiated having failed in attempt to get the land illegally excluded at the hands of the Special Land Acquisition Collector and the State Government and after the inquiries held in the matter and the notice was issued to start the proceedings afresh. At this stage, the writ petitions were filed. In the aforesaid circumstances, it was not at all open to the High Court to quash the preliminary notification issued under Section 17, as the landowners, the State Government and BDA were responsible to create a mess in the way of planned development of Bangalore City.

20. *The scheme which was framed was so much benevolent scheme that 40% of the 55% of the land reserved for the residential purpose was to be given to the landowners at their choice and they were also given the choice to obtain the compensation, if they so desired, under the provisions of the LA Act. Thus, it was such a scheme that there was no scope for any exclusion of the land in the ultimate final notification.*

21. *It is apparent from the circumstances that the matter cannot be left at the mercy of unscrupulous authority of the BDA, the State Government or in the political hands. Considering the proper development and planned development of Bangalore City, let the Government issue a final notification with respect to the land which has been notified in the initial notification and there is no question of leaving out of the land in the instant case as option has been given*

to landowners to claim the land or to claim the compensation under the relevant LA Act which may be applicable in the case.

22. It was contended on behalf of the landowners that certain developments have taken place after the orders were passed regarding exclusion of the land and when Section 27 provides a limitation of five years after final notification, in case development was not undertaken within five years, even the final scheme would lapse. Thus, the principle enunciated in Section 27 should be followed by this Court with respect to the lapse of preliminary notification as well. We find that there is a vast difference in the provisions and action to be taken pursuant to the preliminary notification and the final notification under Section 19. In the instant case, the facts indicated that it was in the interest of the public, landowners, BDA and the State Government. The scheme had prior approval of the State Government however at the cost of public interest yet another scheme was sought to be frustrated by powerful unforeseen hands and the issuance of final notification had been delayed. Three inquiries were ordered, two by the State Government and one by the BDA as the release of the land was being proposed in an illegal manner. Hue and cry has been raised about their illegalities in the Assembly as well as in the public. Thus, for the delay, owners cannot escape the liability, they cannot take the advantage of their own wrong having acted in collusion with the authorities.

Thus, we are of the considered opinion that in the facts of the case the time consumed would not adversely affect the ultimate development of Bangalore City.

23. The authorities are supposed to carry out the statutory mandate and cannot be permitted to act against the public interest and planned development of Bangalore City which was envisaged as a statutory mandate under the BDA Act. The State Government, as well as the authorities under the BDA Act, are supposed to cater to the need of the planned development which is a mandate enjoined upon them and also binding on them. They have to necessarily carry it forward and no dereliction of duty can be an escape route so as to avoid fulfilment of the obligation enjoined upon them. The courts are not powerless to frown upon such an action and proper development cannot be deterred by continuing inaction. As the proper development of such metropolitan is of immense importance, the public purpose for which the primary notification was issued was in order to provide civic amenities like laying down roads, etc. which cannot be left at the whim or mercy of the authorities concerned. They were bound to act in furtherance thereof. There was a clear embargo placed while issuing the notification not to create any charge, mortgage, assign, issue or revise any improvement and after inquiry, it was clear that the notice had been issued in May 2014, thus, no development could have been made legally.

Notification dated 3-5-2014 was issued that re-inquiry was necessary in the matter. The development made, if any, would be at the peril of the owners and it has to give way to larger welfare schemes and the individual interest and cannot come in the way of the larger public interest. The acquisition was for the proper and planned development that was an absolute necessity for the city of Bangalore.

24. In the circumstances, we have no hesitation in condoning the delay. Though, it is apparent that the authorities had come with certain delay, in certain matters and the writ appeals were also filed belatedly with the delay in the High Court, however, considering the provisions of the scheme and the method and manner, wrong has been committed, it has compelled us not only to condone the delay but also to act in the matter so as to preserve the sanctity of the legal process and decision of this Court in Offshore Holdings [Offshore Holdings (P) Ltd. v. BDA, (2011) 3 SCC 139 : (2011) 1 SCC (Civ) 662].

25. We, therefore, direct the State Government as well as the BDA to proceed further to issue final notification without any further delay in the light of the observations made in the order. The impugned orders passed by the Single Judge and the Division Bench are hereby quashed and set aside. The scheme and notification under Section 17 of the BDA Act are hereby upheld with the aforesaid directions.

26. As noticed above, the Land Acquisition Officer proposed exclusion of 251 acres of land from acquisition on being asked by the Government after the preliminary notification was issued. The Land Acquisition Officer, has considered another 498 acres of land to be excluded from being acquired. In connection to this, several questions were raised in the Karnataka Legislative Assembly, as a result of which two inquiries were ordered by the State Government i.e. on 24-11-2012 and 19-1-2013. However, result of the inquiry is not forthcoming. Further, it appears that the exclusion of the lands from acquisition was proposed in connivance with influential persons; political or otherwise. We are of the view that the BDA and the State Government have to proceed with the acquisition of these lands. We are also of the view that it is just and proper to hold an inquiry for fixing the responsibility on the officials of the BDA and the State Government for trying to exclude these lands from acquisition.

27. Therefore, we appoint Hon'ble Mr Justice K.N. Keshavanarayana, former Judge of the Karnataka High Court as the inquiry officer for fixing the responsibility on the officials of the BDA and the State Government who were responsible for the aforesaid. The Commissioner, BDA is hereby directed to consult the inquiry officer and pay his remuneration. Further, we direct BDA to provide appropriate secretarial assistance and logistical support to the inquiry officer for holding the inquiry. In

addition, we authorise the inquiry officer to appoint requisite staff on temporary basis to assist him in the inquiry and to fix their salaries. Further, the BDA is directed to pay their salaries. The State Government and the BDA are directed to produce the files/documents in relation to the aforesaid lands before the inquiry officer within a period of four weeks from today. We request the inquiry officer to submit his report to this Court as expeditiously as possible.

28. The State Government and the BDA are further directed to proceed with the acquisition of the aforementioned lands without excluding land from acquisition and submit a report to this Court the steps taken by them in this regard within a period of three months from today.

29. In addition, it was submitted at the Bar that several cases where similar orders of exclusion in relation to lands notified for acquisitions for the formation of "Dr K. Shivarama Karantha Layout" have been passed by the High Court and that BDA has failed to challenge those orders in connivance with the landowners and influential persons. We hereby direct the BDA to challenge all such orders/seek review of the said orders in accordance with law within a period of three months from today.

30. The appeals are disposed of in the aforesaid terms leaving the parties to bear their own costs".

6. The material on record indicates that it is not in dispute that subsequently, the BDA has issued the aforesaid final notification dated **30.10.2018**. As noticed above, subsequent to the aforesaid order dated **03.08.2018** passed by the Apex Court, the present petitions have been filed putting forth various contentions including challenging the aforesaid preliminary and final notifications.

7. Subsequently, while considering **Miscellaneous Application Nos.1614 -1616/2019** filed in the aforesaid **Civil Appeal Nos.7661-7663/2018**, the Apex Court passed an order dated **03.12.2020**, which reads as under:-

"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. *Judgment 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, road etc. and residential sites would be formed by utilising remaining 55% of the land covered under the scheme. It is also clear that out of 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 compensations 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: 03.08.2018. We direct the BDA to proceed with the acquisition of the lands as proposed in the notification.

5. *If the land - owner who has put up the construction opts for land by way of developed plot in lieu of compensation, the constructed portion would be adjusted in the land that 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 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 building 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.Chandrashekhar, 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 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., 03.08.2018, shall not be eligible for regulations. 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 construction 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 office 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. Shviarama Karantha 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".*

8. A perusal of paragraphs 5, 6 and 7 of the said order dated **03.12.2020** passed by the Apex Court will indicate that the Justice A.V.Chandrashekara Committee, in addition to dealing with the other aspects as directed by the Apex Court, was also directed to submit a report with regard to the constructions put up by various persons in the said Layout. Pursuant to the aforesaid order dated **03.12.2020**, Justice A.V.Chandrashekara Committee constituted by the Apex Court has taken up the matter as directed in the order and the Committee work is in progress.

9. The material on record indicates that subsequent to the aforesaid order dated **03.12.2020** passed by the Apex Court, several petitions in relation to the properties where constructions were put up in the subject layout were pending before this Court. One such petition was **W.P.No.8358/2020** which was disposed of by this Court on **20.01.2021**, which reads as hereunder:-

"(i) Petition is disposed of.

(ii) The petitioners are reserved liberty to approach the Committee constituted by the Hon'ble Supreme Court in its order dated 03.12.2020 passed on Misc.Application Nos.1614-1616/2019 in Civil (Appeal) Nos.7661/7663/2018.

(iii) Liberty is reserved in favour of the petitioners to file pleadings and documents before the said Committee and also engage the services of a Counsel to represent them before the said Committee.

(iv) Since several other contentions are urged by both sides including the legality and validity of the impugned Notifications which are also questioned in the present petition, having regard to the submissions made at the bar coupled with the liberty reserved in favour of the petitioners to approach the Committee as stated supra, no opinion is expressed on the merits / demerits of any of the rival contentions and all rights and contentions of the

parties are kept open and liberty is reserved in favour of the petitioners to pursue such legal remedies as available in law in respect of any of their grievances and contentions.

Subject to the aforesaid directions, petition is disposed of.

No costs".

10. Subsequently, following the aforesaid decision passed by this Court in **W.P.No.8358/2020** referred to supra, several petitions in relation to the properties where constructions have been put up, have been disposed of by this Court by relegating the respective petitioners to the said Justice A.V.Chandrashekara Committee.

11. The material on record also indicates that subsequently, after taking into account the grievances of persons in respect of sites where no constructions have been put up, the Apex Court passed one more order dated **05.05.2021**, which reads as hereunder:-

"(1) We have heard the learned counsel for the parties.

(2) Issue notice on I.A. No.55439 of 2021 to: Sri Kodihalli Chandrashekhar, "Renaissance Lanarat Apartment", No.102, 2nd Floor, 10th A Main Road, Near MES College, Malleshwaram, Bangalore –

560003 Notice as above to be served through the Commissioner of Police, Bangalore.

(3) Learned counsel for the State of Karnataka is permitted to inspect and make notes of the report submitted by Hon'ble Mr. Justice K.N Keshavanarayana, as per their request in I.A. No.56870 of 2021.

(4) In our Order dated 18.03.2021, we had observed as under: "It appears that certain persons belonging to poor and middle-income groups have purchased house sites from the land owners whose lands have been notified for the acquisition for the formation of the lay-out in question, prior to the date of the judgment dated 03.08.2018. We are of the view that their grievances also require to be redressed. We are informed that similar grievances of the purchasers of the sites in other layouts formed by the Bangalore Development Authority have been redressed by the Bangalore Development Authority. The Commissioner, Bangalore Development Authority, is directed to place on record the mode and manner of redressal of the grievances of such site-holders adopted by the Bangalore Development Authority in the previously formed lay-outs within a period of four weeks from today."

(5) In compliance of the above order, the Commissioner, Bangalore Development Authority (B.D.A.), has filed an affidavit dated 12.04.2021 stating that in respect of the previous lay-outs formed 3 by the B.D.A. such as Anjanapura Layout, Sir M.

Vishweshwaraiah Layout, Banashankari 6th Stage layout, the purchasers of the revenue sites in those lay-outs have been permitted to apply for allotment of sites measuring 30 ft. x 40 ft. even though the sites purchased by them are bigger in dimension. The affidavit also indicates the other conditions based on which the sites were allotted to the revenue site holders.

(6) *In consideration of the above, we are of the view that the purchasers of sites in Dr. Shivaram Karanth Layout are entitled for allotment of sites provided that their purchase of such sites is prior to the date of the judgment i.e. 03.08.2018.*

(7) *The purchasers of the sites in Dr. Shivaram Karanth Layout are permitted to get themselves registered in the B.D.A. as applicants for allotment of sites under the Bangalore Development Authority (Allotment of Sites) Rules, 1984 ("B.D.A. Allotment of Site Rules") within 4 months from today.*

(8) *These purchasers should not be owning any other residential property in Bangalore and surrounding vicinity. They shall be bound by all the other terms and conditions for allotment of sites as per the B.D.A. Allotment of Site Rules.*

(9) *The General Power of Attorney holders and persons having an Agreement to Sell are not entitled for allotment of the sites.*

(10) *Purchasers of sites, through registered sale deeds, prior to 03.08.2018, are alone entitled for allotment of sites as per this order.*

(11) *The B.D.A. shall calculate the compensation payable to the applicants in respect of their acquired sites and give credit 4 accordingly by adjusting the same towards the allotment price for the sites to be allotted and call upon the applicants to pay the balance, if any.*

(12) *The allotment of sites is restricted to sites measuring 30 ft. x 40 ft. being the maximum extent irrespective of the measurement of their sites that have been acquired by the B.D.A.*

(13) *The applicants have to withdraw the cases filed by them, if any, challenging the acquisition of their lands, before filing an application with the B.D.A. in terms of this order.*

(14) *The purchasers of the sites are permitted to apply for allotment of sites to the B.D.A. along with self-certified photocopy of the title deeds on or before 17.09.2021. It is clarified that they need not pay the initial deposit. The documents submitted by the applicants along with their applications for allotment of sites in terms of this order shall be referred by the Commissioner, B.D.A., to a committee of retired District Judges comprising of a Chairman and two Members. The Committee so appointed shall examine the title deed of the applicants and submit a report as to the ownership of the sites to the Commissioner, B.D.A. The rival claim(s), if any, shall also be decided by the committee. The B.D.A. would allot sites only to those applicants who are duly certified by this*

Committee as the owners, subject to their satisfying other conditions of this order.

(15) The Committee in terms of this Order shall be appointed within a period of four months from today. The remuneration of the Chairman and the Members of this Committee may be fixed by the Commissioner, B.D.A., in consultation with the Chairman of the 5 Committee.

(16) The Commissioner, B.D.A., is directed to provide enough office space to the Committee in its head office, for its smooth functioning. The Commissioner, B.D.A., is also directed to provide secretarial assistance and other logistical support to the Chairman and the Members of the Committee.

(17) Some of the purchasers of the sites in the said lay-out have filed an application (I.A.NO.46146 of 2021) bringing to the notice of this Court that the B.D.A. had approved certain lay-outs in the notified lands prior to 03.08.2018 and that the developers have formed residential lay-out in compliance with all statutory regulations and sold the sites. Some of the purchasers of those sites have put up construction on the sites purchased by them. The Commissioner, B.D.A. in his affidavit dated 12.04.2021 has stated as under: "Secondly, there are 17 layouts formed in 126 acres and these layouts are formed with due approval of B.D.A. under Section 32 of the B.D.A. Act. After forming layouts, the parks, open spaces and civic amenity areas have been relinquished in favour of B.D.A. as per law. Buildings have come up including

high rise buildings. Valuations for these buildings will be enormous. Having regard to these aspects, B.D.A. would respectfully seek appropriate directions of this Hon'ble Court in this regard."

(18) It is clear from the above that certain lay-outs have been formed in accordance with the permission accorded by the B.D.A. under Section 32 of the B.D.A. Act before 03.08.2018 and that the lay-outs have been formed according to the plan approved by the B.D.A. The sites in these lay-outs have already been sold to different persons. We are of the view that it is just and proper 6 not to demolish constructions made in these lay-outs. Accordingly, we direct the B.D.A. not to acquire the lands where the lay-outs were approved and sanctioned before 03.08.2018. This, however, is subject to verification in terms of our directions given below.

(19) The developers of these lay-outs are permitted to file the documents in relation to approval of these layouts to the Justice A.V. Chandrashekhar Committee within a period of three months from today. The B.D.A. is directed to furnish the files containing approval granted to these lay-outs to the Justice A.V. Chandrashekhar Committee within a period of three months from today. We request the Justice A.V. Chandrashekhar Committee to examine the approvals granted to these lay-outs and submit a report to this Court. The B.D.A. is directed to integrate these private lay-outs into the lay-out which is going to be formed by it i.e. Dr. Shivaram Karanth Layout. The

fencing/boundary wall of these layouts, if any, shall be demolished by the B.D.A. while integrating these layouts as above.

(20) The purchasers of the sites or the persons who have built the houses in the sites purchased by them in these approved layouts need not apply as per paragraphs 6 to 14 of this order or as per our order dated 03.12.2020. However, the site owners in these approved layouts are liable to pay betterment tax in accordance with Section 20 of the B.D.A. Act to the B.D.A.

(21) We make it clear that the order made by us in paragraph Nos. 18 to 20 is not applicable to the ‘unauthorised’ lay-outs. The purchasers of the sites in ‘unauthorised’ lay-outs are permitted to apply for allotment of sites in accordance with paragraph 6 to 14 7 of this Order. If they have put up any construction on these sites, they are to be governed by our order dated 03.12.2020.

(22) At the first instance, we direct the B.D.A. to allot sites in Dr. Shivaram Karanth Layout to the applicants in accordance with this order, to the land owners who have opted for 60:40 scheme and incentive sites as per the Bangalore Development Authority (Incentive Scheme for Voluntary Surrender of Land) Rules, 1989. It is only thereafter that the B.D.A. would allot sites in accordance with the B.D.A. Allotment of Site Rules to the general public.

(23) *The Commissioner, B.D.A. to file further Status Report on or before 04.06.2021. List the matter after the ensuing summer vacation".*

12. A perusal of the aforesaid order dated **05.05.2021** passed by the Apex Court will indicate that liberty has been reserved in favour of the owners of vacant sites to approach the BDA and ventilate their grievances; so also, in respect of sites situated in approved layouts, Justice A.V.Chandrashekara Committee which was constituted pursuant to the orders of the Apex Court dated **03.12.2020** (*supra*), has been directed to submit its report to the Apex Court.

13. Learned Senior counsel / counsel for the petitioners, learned Advocate General for the State as well as learned Senior counsel for the BDA submit in unison that in view of the aforesaid orders dated **03.12.2020** and **05.05.2021** passed by the Apex Court, coupled with the fact that the schedule / subject properties in the present petitions are vacant sites, the present petitions can also be disposed of reserving liberty in favour of the petitioners to approach the BDA / Justice A.V.Chandrashekara

Committee to ventilate their grievances as permitted and directed by the Apex Court in the aforesaid orders dated **03.12.2020** and **05.05.2021** referred to supra.

14. Under these circumstances, having regard to the material on record and the aforesaid facts and circumstances coupled with the submissions made at the bar, without expressing any opinion on the merits / demerits of any of the rival contentions urged by the parties and without prejudice to any of their rights and contentions, I deem it just and proper to dispose of this petition, reserving liberty in favour of the petitioners to approach the BDA / Justice A.V.Chandrashekara Committee to ventilate their grievances in respect of the schedule / subject properties as permitted / directed by the Apex Court in its orders dated **03.12.2020** and **05.05.2021**.

15. In the result, I pass the following:-

ORDER

(i) Petition is disposed of in terms of the orders dated **03.12.2020** and **05.05.2021** passed by the Apex Court in

Misc.Application Nos.1614 - 1616/2019 in Civil Appeal Nos.7661-7663/2018.

(ii) The petitioners are reserved liberty to approach the BDA / Justice A.V.Chandrashekara Committee and ventilate their grievances as permitted / directed by the Apex Court in its orders dated **03.12.2020** and **05.05.2021** passed on ***Misc.Application Nos.1614-1616/2019 in Civil Appeal Nos.7661-7663/2018.***

(iii) Liberty is reserved in favour of the petitioners to file pleadings and documents before the BDA / Justice A.V.Chandrashekara Committee and also engage the services of a Counsel to represent them before the BDA / Justice A.V.Chandrashekara Committee.

(iv) Since several other contentions are urged by both sides including the legality and validity of the impugned Notifications which are also questioned in the present petition, having regard to the submissions made at the bar coupled with the liberty reserved in favour of the petitioners to approach the BDA / Justice A.V.Chandrashekara Committee as stated supra, no opinion is expressed on the merits / demerits of any of the

rival contentions and all rights and contentions of the parties are kept open and liberty is reserved in favour of the petitioners to pursue such legal remedies as available in law in respect of any of their grievances and contentions.

(v) In addition to the directions issued above, having regard to the fact that the petition schedule property comprises of nursery as well as constructions, petitioner is entitled and reserved liberty to request Justice A.V. Chandrashekara Committee / BDA to take a holistic view of the matter while examining the claims of the petitioner in relation to the schedule property; so also, liberty is reserved in favour of the petitioner to take recourse to such remedies as available in law after orders are passed by the Apex Court pursuant to the Justice A.V. Chandrashekara Committee / BDA submitting a report in relation to the petition schedule property to the Hon'ble Supreme Court.

(vi) It is further directed that till the BDA / Justice A.V.Chandrashekha Committee submits a report to the Apex Court in terms of its orders dated **03.12.2020** and **05.05.2021** and until further orders are passed by the Apex Court pursuant thereto, all parties are directed to maintain

status-quo in all respects in respect of the subject /
schedule properties.

Subject to the aforesaid directions, the petition is
disposed of.

No costs.

**Sd/-
JUDGE**

Srl.