

**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**

**DATED THIS THE 24<sup>TH</sup> DAY OF SEPTEMBER, 2024**

**PRESENT**

**THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT**

**AND**

**THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL**

**WRIT APPEAL NO.100418 OF 2023 (LA-UDA)**

**C/W**

**WRIT APPEAL NO.100417 OF 2023 (LA-UDA)**

**WRIT APPEAL NO.100457 OF 2023 (LA-RES)**

**WRIT APPEAL NO.100474 OF 2023 (LA-RES)**

**IN WA NO.100418/2023:**

**BETWEEN:**

BELAGAVI URBAN DEVELOPMENT AUTHORITY,  
BELAGAVI, ASHOK NAGAR, BELAGAVI,  
REPRESENTED BY IT'S, COMMISSIONER.

...APPELLANT

(BY SRI. M. A. HULYAL, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY ITS PRINCIPAL SECRETARY,  
URBAN DEVELOPMENT DEPARTMENT,  
VIKAS SOUDHA, BENGALURU.
2. SHRI. BABAN BHAVKANNA MALAI,  
AGE: 51 YEARS, OCC: AGRICULTURE,  
R/O. 80, SHANTISAGAR GALLI,  
KANBARGI, TAL & DIST: BELAGAVI.
3. SHRI. MALLAPPA S/O. BALAPPA GHASARI  
AGE: 76 YEARS, OCC: AGRICULTURE,  
R/O. 901/1, JOTIRLING GALLI, KANBARGI,  
TAL & DIST: BELAGAVI-590003.

4. SHRI. LAXMAN MAHADEV MALAI,  
SINCE DECEASED BY HIS LRS.
  
- 4A. SMT. MALLAVVA W/O. LAXMAN MALAI,  
AGE: 74 YEARS, OCC: AGRICULTURE  
R/O. 770, SIDDESHWAR NAGAR,  
KANBARGI, TAL & DIST: BELAGAVI.
  
- 4B. SHRI. SIDDAPPA S/O. LAXMAN MALAI,  
AGE: 54 YEARS, OCC: AGRICULTURE  
R/O. 770, SIDDESHWAR NAGAR,  
KANBARGI, TAL & DIST: BELAGAVI.
  
- 4C. SMT. VANITA SHRIKRISHNA MALAI,  
AGE: 51 YEARS, OCC: AGRICULTURE  
R/O. 770, SIDDESHWAR NAGAR,  
KANBARGI, TAL & DIST: BELAGAVI.
  
- 4D. SUNITA SHRIKRISHNA MALAI,  
AGE: 31 YEARS, OCC: AGRICULTURE,  
R/O. 770, SIDDESHWAR NAGAR,  
KANBARGI, TAL & DIST: BELAGAVI.
  
5. SHRI. MAHADEV BHIMRAO MALAI  
AGE 74 YRS, OCC: AGRICULTURE,  
R/O. SIDDESHWAR NAGAR, KANBARGI,  
TAL & DIST: BELAGAVI.
  
6. SHRI. UMAKANT B. HALAGEKAR  
AGE 69 YRS, OCC: AGRICULTURE,  
R/O. SIDDESHWAR NAGAR, KANBARGI,  
TAL & DIST: BELAGAVI.
  
7. SHRI. YALLAPPA MALLAPPA MISHI,  
SINCE DECEASED BY HIS LRS.
  
- 7A. SMT. MALLAWVA W/O. YALLAPPA MEESI,  
AGE 69 YRS, OCC: HOUSEHOLD WORK,  
R/O. HINDAL ROAD, KANABARGI BELAGAVI.
  
- 7B. SHRI. SIDDARAI S/O. YALLAPPA MEESI,  
AGE 49 YRS, OCC: PVT. SERVICE,  
R/O. KANGRALI VILLAGE, BELAGAVI.

- 7C. SHRI. NAGARAJ S/O. YALLAPPA MEESI,  
AGE 47 YRS, OCC: PVT. SERVICE,  
R/O. HINDAL ROAD KANABARGI, BELAGAVI.
- 7D. VIJAYKUMAR S/O. YALLAPPA MEESI,  
AGE 45 YRS, OCC: GOVERNMENT SERVICE,  
R/O. GOKAK, BELAGAVI.
8. RAMAPPA APPAYYA DASA,  
AGE 56 YRS, OCC: AGRICULTURE,  
R/O. 626, MATH GALLI, KANBARGI,  
TAL & DIST: BELAGAVI.
9. SHRI. BABU SHANKAR ASHTEKAR,  
AGE 49 YRS, OCC: AGRICULTURE,  
R/O. SIDDESHWAR NAGAR, KANBARGI,  
TAL & DIST: BELAGAVI.
10. SRI. PARSHRAM SIDRAM MENASE @ MALAI,  
AGE 74 YRS, OCC: AGRICULTURE,  
R/O.SHANTISAGAR GALLI, KANBARGI,  
TAL & DIST: BELAGAVI.
11. SRI. SURESH G. CHARANTIMATH  
SINCE DECEASED BY HIS LRS.
- 11A. GIRIJA W/O. SURESH CHARANTIMATH  
AGE 72 YRS, OCC: AGRICULTURE,  
R/O. GOKAK ROAD, KANBARGI,  
TAL & DIST: BELAGAVI.
- 11B. ANNAPURNA KUMARSWAMY HIREMATH,  
AGE 46 YRS, OCC: AGRICULTURE,  
R/O. GOKAK ROAD, KANBARGI,  
TAL & DIST: BELAGAVI.
- 11C. VISHWANATH SURESH CHARANTIMATH,  
AGE 41 YRS, OCC: AGRICULTURE,  
R/O. SUNITA GOKAK ROAD KANBARGI,  
TAL & DIST: BELAGAVI.
- 11D. VIJAY SURESH CHARANTIMATH,

AGE 43 YRS, OCC: AGRICULTURE,  
R/O. GOKAK ROAD KANBARGI,  
TAL & DIST: BELAGAVI.

11E. MINAXI RAJSHEKHAR HIREMATH,  
AGE 49 YRS, OCC: AGRICULTURE,  
R/O. GOKAK ROAD, KANBARGI,  
TAL & DIST: BELAGAVI.

12. MARUTI BHARMA MALAI,  
AGE 42 YRS, OCC: AGRICULTURE,  
R/O. 224, SAMARTH GALLI, KANBARGI,  
TAL & DIST: BELAGAVI.

...RESPONDENTS

(BY SRI. V.S. KALASURMATH, HCGP FOR R1;  
SRI. D. RAVIKUMAR GOKAKAR, ADV. FOR R2 TO R12)

THIS WRIT APPEAL IS FILED U/S.4 OF KARNATAKA HIGH  
COURT ACT, 1961, PRAYING TO SET ASIDE THE IMPUGNED ORDER  
DATED. 12/04/2023 IN W.P.NO. 106336/2014 (LA-UDA), BY THE  
LEARNED SINGLE JUDGE, N THE INTEREST OF JUSTICE AND EQUITY.

**IN WA NO.100417/2023:**

**BETWEEN:**

BELAGAVI URBAN DEVELOPMENT AUTHORITY,  
BELAGAVI, REPRESENTED BY ITS COMMISSIONER,  
ASHOK NAGAR, BELAGAVI-590016.

...APPELLANT

(BY SRI. M. A. HULYAL, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY ITS PRINCIPAL SECETARY,  
URBAN DEVELOPMENT DEPARTMENT,  
VIKAS SOUDHA, BENGALURU-560001.
2. SRI SACHIN VENKATESH KULKARNI,  
AGE. 50 YEARS, OCC. AGRICULTURE,

R/O. 32/2, 2ND CROSS, BHAGYA NAGAR,  
BELAGAVI, TAL AND DIST. BELAGAVI.

3. SMT. GAYATRI SHEKHAR KULKARNI,  
AGE. 63 YEARS, OCC. AGRICULTURE,  
R/O. 32/2, 2ND CROSS, BHAGYA NAGAR,  
BELAGAVI, TAL AND DIST. BELAGAVI.
4. SRI SOURABH SHEKHAR KULKARNI,  
AGE. 40 YEARS, OCC. AGRICULTURE,  
R/O. 32/2, 2ND CROSS, BHAGYA NAGAR,  
BELAGAVI, TAL AND DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. V. S. KALASURMATH, HCGP FOR R1;  
SRI. D. RAVIKUMAR GOKAKAR, ADV. FOR R2 TO R4)

THIS WRIT APPEAL IS FILED U/S.4 OF KARNATAKA HIGH  
COURT ACT, 1961, PRAYING TO SET ASIDE THE IMPUGNED ORDER  
PASSED BY THE LEARNED SINGLE JUDGE IN W.P.NO. 111632/2015  
(LA-UDA), DATED 12/04/2023, IN THE INTEREST OF JUSTICE AND  
EQUITY.

**IN WA NO.100457/2023:**

**BETWEEN:**

1. BELAGAVI URBAN DEVELOPMENT AUTHORITY,  
BELAGAVI, REPRESENTED BY ITS COMISSIONER,  
ASHOK NAGAR, BELAGAVI-590016.
2. THE SPECIAL LAND ACQUISITION OFFICER,  
BELAGAVI, URBAN DEVELOPMENT AUTHORITY,  
ASHOK NAGAR, BELAGAVI-590016.

...APPELLANTS

(BY SRI. GURUDAS KHANNUR, SENIOR COUNSEL FOR  
SRI. M. A. HULYAL, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY ITS PRINCIPAL SECRETARY,

URBAN DEVELOPMENT DEPARTMENT,  
VIKAS SOUDHA, BENGALURU.

2. SHRI MARUTI S/O. NINGAPPA SULAGEPATIL,  
AGE. 64 YEARS, OCC. SILK FARMING,  
R/O. H.NO. 933/14, SIDDESHWAR NAGAR,  
KABARGI, TAL AND DIST. BELAGAVI-590015.
3. THE COMMISSIONER,  
CITY CORPORATION BELAGAVI,  
NEAR S. P. OFFICE, BELAGAVI-590001.

...RESPONDENTS

(BY SRI. V. S. KALASURMATH, HCGP FOR R1;  
SRI. V. P. KULKARNI, ADV. FOR R2;  
SRI. CHETAN MUNNOLI, ADV. FOR R3)

THIS WRIT APPEAL IS FILED U/S.4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING TO, SET ASIDE THE IMPUGNED ORDER DATED 12/04/2023 IN W.P.NO.103378/2016 (LA-RES), BY LEARNED SINGLE JUDGE, IN THE INTEREST OF JUSTICE AND EQUITY.

**IN WA NO.100474/2023:**

**BETWEEN:**

MARUTI S/O. NINGAPPA SULAGEPATIL,  
AGE ABOUT 63 YEARS, OCC. SILK FARMING,  
R/O. HOUSE NO.933/14,  
SIDDESHWAR NAGAR,  
KANBARGI, TQ. BELAGAVI,  
DIST. BELAGAVI-590015.

...APPELLANT

(BY SRI. V.P. KULKARNI, ADV. FOR  
SRI.GIRISH A YADAWAD, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA,  
R/BY ITS PRINCIPAL SECRETARY,

URBAN DEVELOPMENT DEPARTMENT,  
VIKASA SOUDHA, BENGALURU-560001.

2. BELAGAVI URBAN DEVELOPMENT AUTHORITY,  
R/BY ITS COMMISSIONER,  
ASHOKA NAGAR, BELAGAVI,  
TQ. AND DIST. BELAGAVI-590001.
3. SPECIAL LAND ACQUISITION OFFICER,  
BELAGAVI URBAN DEVELOPMENT AUTHORITY,  
ASHOK NAGAR, BELAGAVI,  
TQ AND DIST. BELAGAVI-590001.
4. THE COMMISSIONER,  
CITY CORPORATION, BELAGAVI,  
NEAR S.P. OFFICE, BELAGAVI,  
TQ. AND DIST. BELAGAVI-590001.

...RESPONDENTS

(BY SRI. V. S. KALASURMATH, HCGP FOR R1;  
SRI. GURUDAS KHANNUR, SENIOR COUNSEL FOR  
SRI. M. A. HULYAL, ADV. FOR R2 & R3;  
SRI. CHETAN MUNNOLI, ADV. FOR R4)

THIS WRIT APPEAL IS FILED U/S.4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING TO, MODIFY THE ORDER PASSED IN W.P.NO.103378/2016 (LA-RES) DATED 12.04.2023 AND ALLOW THE WRIT PETITION AND QUASH THE PRELIMINARY NOTIFICATION DATED 28-03-2007 VIDE ANNEXURE-B INsofar AS IT RELATES TO THE APPELLANT'S LAND IN QUESTION, IN THE INTEREST OF JUSTICE AND EQUITY & ETC.,

THESE APPEALS HAVING BEEN HEARD & RESERVED FOR JUDGMENT ON 19.09.2024 COMING ON FOR PRONOUNCEMENT, THIS DAY, **VIJAYKUMAR A.PATIL J.**, DELIVERED THE FOLLOWING:

CORAM: THE HON'BLE MR. JUSTICE KRISHNA S.DIXIT  
AND  
THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL

**CAV JUDGMENT**

(PER: THE HON'BLE MR. JUSTICE VIJAYKUMAR A.PATIL)

These intra-Court appeals are filed under Section 4 of the Karnataka High Court Act, 1961, by one of the land owners and BUDA<sup>1</sup> challenging the learned Single Judge's orders dated 12.04.2023 passed in WP No.103378/2016, WP No.111632/2015 and WP No.106336/2014.

**2.** Brief facts leading to filing of these appeals are stated herein below:

- a.** In WP No.103378/2016, the petitioner is the owner of land bearing RS No.500 measuring 1 acre 38 guntas of Kanabaragi Village of Belagavi Taluk.
- b.** In WP No.111632/2015, the petitioner is the owner of the land bearing RS No.492/4B measuring 36 guntas of Kanabaragi Village.
- c.** In WP No.106336/2014, the petitioners are the owner of land referred in the tabular column below:

<b>Sl. No.</b>	<b>Name</b>	<b>Sy.No. and extent In Acres-Guntas</b>
<b>1</b>	Baban Bhavkanna Malai and others.	515 1 Acre 23 Gunthas 523/1 0.26 Gunthas 523/3
<b>2</b>	Mallappa Balappa Ghasari	502/1A 3 Acres 508/4 0.8 Gunthas 508/7 0.15 Gunthas

<sup>1</sup> Belagavi Urban Development Authority



<b>3</b>	Laxman Mahadev Malai	518/1 0.39½ Gunthas
<b>4</b>	Mahadev Bhimrao Malai and others.	518/1 0.38 Gunthas
<b>5</b>	Umakant B. Halagekar and others.	488 1A 37 Gunthas
<b>6</b>	Yallappa Mallappa Mishi and others.	517/1B/2 1 Acre
<b>7</b>	Rama Apayya Dasaka	526 02 Acre 08 Gunthas
<b>8</b>	Babu Shankar Astekar	495/1 1A 08 Gunthas
<b>9</b>	Parsharam Sidram Mense @ Malai	517/A1 0.39 Gunthas
<b>10</b>	Suresh G. Charantimath	517/2 1 Acre 04 Gunthas 515 2 Acres 14 Gunthas
<b>11</b>	Maruti Bharma Malai	489/1+2 2 Acres 22 Gunthas

- d.** The BUDA issued Preliminary Notification under Section 17(1) of the Karnataka Urban Development Authorities Act, 1987<sup>2</sup> intending to acquire total extent of 160 acres 10 guntas 14 annas of land at Kanabaragi village of Belagavi Taluk including the land of the petitioners.
- e.** The land owners have filed objections to the Preliminary Notification dated 28.3.2007 seeking to delete/exclude/drop the acquisition proceedings on the ground that they are having silk farm, the acquired lands are the only lands owned by them, surrounding lands are fully developed and having non-agricultural potentiality and the lands are irrigated lands etc.
- f.** The BUDA rejected the objections filed by the land owners by its Resolutions dated 7.1.2010 and 19.11.2010 and proceeded to issue Final

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<sup>2</sup> 'KUDA Act', for short

Notification under Section 19(1) of the KUDA Act dated 4.2.2014 to the extent of 159 acres 23 guntas and 3 annas of land. Being aggrieved, the land owners have filed the aforesaid writ petitions challenging Preliminary Notification dated 28.3.2007 and Final Notification dated 4.2.2014. BUDA filed statement of objections, opposed the writ petitions. BUDA filed statement of objections opposing the writ petitions.

**3.** The learned Single Judge in the aforesaid three writ petitions quashed the Final Notification dated 4.2.2014 and further proceedings pursuant thereto in respect of the subject land, so also the Resolutions dated 7.1.2010 and 19.11.2010 passed by BUDA insofar it relates to the land in question and the matter was remitted back to the respondents for consideration afresh and proceed from the stage of consideration of the objections/representations of the land owners by providing them an opportunity of hearing. Being aggrieved, one of the land owners i.e., in WP No.103378/2016 and the BUDA are in appeal.

**4.** Sri. Gurudas Khannur, learned Senior Counsel appearing on behalf of Sri. M.A. Hulyal, learned counsel appearing for the BUDA submits that the learned Single Judge

has committed an error in remitting the matter back to the BUDA to consider the objections of the land owners. It is submitted that the objections of the land owners have been considered by the BUDA in its Resolution dated 7.1.2010 and rejected the said objections and thereafter, Final Notification dated 4.2.2014 came to be issued. It is further submitted that the learned Single Judge has failed to appreciate the fact that entire acquisition proceedings are completed, as the BUDA has passed the award in respect of the land in question and at this stage, quashing of Final Notification would be contrary to the material available on record. It is also submitted that the Authority is not required to give a detailed reasons for rejection of objections of the land owners, hence, approach of the learned Single Judge in quashing the Final Notification requires to be interfered in these appeals. It is also submitted that except these three sets of land owners, other land owners have consented for acquisition and compensation is disbursed to them and at this stage, if the acquisition is interfered, the implementation of the scheme would be delayed. It is contended that insofar as delay in issuing Final Notification is concerned, there is no such statutory limitation under the

provision of the KUDA Act and contrary contention urged by the land owners has no merit consideration. In support of the same, he places reliance on the decision of the Hon'ble Supreme Court in the case of **BANGALORE DEVELOPMENT AUTHORITY & ANOTHER VS. STATE OF KARNATAKA & OTHERS**<sup>3</sup>.

5. It is further contended that insofar as signing of resolution by the Chairman and Commissioner is concerned, there is no mandatory requirement under law that all the members are required to sign the resolution, as 10 of 14 members have participated in the meeting and after deliberations, the resolution dated 7.1.2010 is passed. Hence, he seeks to allow the appeals filed by the BUDA by setting aside the impugned orders of the learned Single Judge.

6. Sri. V.P. Kulkarni & Sri. D. Ravikumar Gokakar, learned counsel for the land owners submit that the learned Single Judge has committed an error in remitting the matter back to the BUDA to consider the objections filed by the land owners to the preliminary notification, as the land owners have challenged the entire acquisition proceedings on the ground

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<sup>3</sup> (2018) 9 SCC 122

that there is a delay of more than 7 years between the preliminary notification and final notification. On this ground alone, the learned Single Judge ought to have declared that the BUDA has abandoned the acquisition proceedings. In support of their contention, they have placed reliance on a decision in the case of **SHIMOGA URBAN DEVELOPMENT AUTHORITY & OTHERS VS. STATE OF KARNATAKA & OTHERS**<sup>4</sup> and the judgment of learned Single Judge dated 17.1.2024 rendered in WP No.26117/2022<sup>5</sup>. It is submitted that there is a flaw in the procedure followed by the BUDA while passing the Resolution dated 7.1.2010, as only the Chairman and Commissioner have signed the subject Resolution. However, the KUDA Act contemplates that it is the 'Authority', which is required to consider the objections and not by two members. The Resolution dated 7.1.2010 is not by the Authority as defined under the provisions of the KUDA Act. In support of the said contention, they placed reliance on a decision of the learned Single Judge in the case of **AMEER KHAN & OTHERS VS.**

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<sup>4</sup> 2001 SCC ONLINE KAR 693

<sup>5</sup> HS ABDUL RIYAZ BASHA VS. STATE OF KARNATAKA & OTHERS

**STATE OF KARNATAKA & OTHERS<sup>6</sup>.** It is further submitted that due to delay in issuing Final Notification, surrounding lands have been developed and the BUDA would not be in a position to implement the scheme in its entirety, hence, the entire acquisition proceedings are required to be quashed. It is also submitted that the BUDA has issued NOC to the land owner covered in WP No.111632/2015, wherein it is stated that his land is not covered in any of the schemes of BUDA. The BUDA has not issued any notice of enquiry, hence, he could not file any objections to the Preliminary Notification and BUDA has straightway proceeded to issue Final Notification. It is also contended that by way of corrigendum, the survey number was included in the Preliminary Notification, hence, the entire acquisition requires to be quashed by setting aside the order of the learned Single Judge.

**7.** We have heard the learned Senior Counsel appearing for the BUDA, learned counsel appearing for the land owners and learned Government Advocate for the State and meticulously perused the material available on record.

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<sup>6</sup> ILR 1998 KAR 2762

**8.** The undisputed facts are that the BUDA issued Preliminary Notification under Section 17(1) of the KUDA Act on 28.3.2007. Pursuant to the said notification, the land owners have filed objections seeking for exclusion/dropping of acquisition proceedings in respect of their lands. The land owner in WP No.111632/2015 has not filed objections to the Preliminary Notification, as no notice was served by BUDA as his name was reflected in the preliminary notification, however, survey number was not shown in the preliminary notification. The BUDA passed Resolutions dated 7.1.2010 and 19.11.2010, wherein it has rejected the objections of the land owners and proceeded to request the government to issue Final Notification. The State Government issued Final Notification under Section 19(1) of the KUDA Act on 4.2.2014. The records indicate that the SLAO has passed general award in respect of the land in question, however, no possession of the land in question was taken by the BUDA.

**9.** The contention of the learned Senior Counsel appearing for the BUDA that the learned Single Judge ought not to have remanded the matter back to the Authority for reconsideration of the objections. Such contention is required

to be rejected on the ground that the Resolutions dated 7.1.2010 and 19.11.2010 do not whisper anything with regard to consideration of the objections raised by the land owners. The objections filed by the land owners to the acquisition proceedings indicate that they are seeking dropping of acquisition proceedings on various grounds referred in the objections filed before the BUDA. The BUDA in its Resolution has not dealt with any of the objections raised by the land owners. The learned Single Judge has rightly recorded a finding that the BUDA has summarily rejected the objections and no reasons are forthcoming for consideration of the objections of the land owners from the resolutions. It is also observed by the learned Single Judge that the resolution is not only unreasoned but also non-speaking, cryptic, laconic and without application of mind.

**10.** We are conscious of the fact that the BUDA while considering the objections of the land owners is not required to hold roving enquiry, but it is required to consider each of the objections independently by applying its mind, by assigning proper reasons for accepting or rejecting such objections. In the instant case, the Resolution of the BUDA is without any



reasons. Hence, the learned Single Judge has rightly quashed the Resolution and remitted the matter back to the Authority for reconsideration of the objections of the land owners after providing opportunity of hearing. The consideration of the objections/representations of the land owner cannot be an empty formality, but it should be judicious consideration. In other words, the BUDA is required to assign reasons for overruling the objections of the land owners. The consideration of representations/objections provided under the KUDA Act is the only right guarantees to the person interested in the property to safeguard against the compulsory acquisition by the State. Hence, the Authority is required to act as per the intent of the legislature in considering the representations/objections of land owners. Hence, contrary contention urged by the learned Senior Counsel has no merit consideration and accordingly, rejected.

**11.** Insofar as the contention of the learned Senior Counsel that the land owners themselves are seeking for 50% of the developed land in their objections/representations and BUDA is ready to give the same. Hence, consideration of the objections/representations by the BUDA would not arise. The

said contention is also required to be rejected, as this Court is not expected to act as an Authority under Sections 17 & 18 of the KUDA Act while exercising power under Article 226 of the Constitution of India and consider the representation/objections of the land owner. A bare perusal of the objections/representations indicate that they have raised several objections in support of their prayer to drop the acquisition proceedings and those objections are required to be considered by the Authority alone in accordance with law.

**12.** The contention of the parties with regard to delay in issuing final notification is concerned, the issue is no more res-integra. The Hon'ble Supreme Court in the case of **Bangalore Development Authority** referred supra at paragraphs-15 to 17, 24 & 25 held as under:

*"15. First, we take up the question as to whether the High Court was legally justified on merits in quashing the preliminary notification issued under Section 17. The Constitution Bench of this Court in Offshore Holdings (P) Ltd. has decided the question affirmatively. The BDA has issued preliminary notification for acquisition of the lands. Non-finalisation of the acquisition proceedings resulted in the filing of the writ petitions before the High Court of Karnataka by the owners in the year 1987. Certain lands were denotified and the permission which was granted earlier was withdrawn. The denotification of the land was also withdrawn. It was urged that the time-frame which was prescribed under Sections 6 and 11-A of the LA Act would form an integral part of the BDA Act. This Court considered the scheme under the BDA Act and has*

*observed thus: (SCC pp. 158-59, 162, 164-66 & 192, paras 33, 35, 50, 55, 123, 124 & 125)*

*"33. The provisions of the Land Acquisition Act, which provide for time-frame for compliance and the consequences of default thereof, are not applicable to acquisition under the BDA Act. They are Sections 6 and 11-A of the Land Acquisition Act. As per Section 11-A, if the award is not made within a period of two years from the date of declaration under Section 6, the acquisition proceedings will lapse. Similarly, where declaration under Section 6 of this Act is not issued within three years from the date of publication of notification under Section 4 of the Land Acquisition Act [such notification being issued after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 but before the commencement of Central Act 68 of 1984] or within one year where Section 4 notification was published subsequent to the passing of Central Act 68 of 1984, no such declaration under Section 6 of the Land Acquisition Act can be issued in any of these cases.*

*35. Be that as it may, it is clear that the BDA Act is a self-contained code which provides for all the situations that may arise in planned development of an area including acquisition of land for that purpose. The scheme of the Act does not admit any necessity for reading the provisions of Sections 6 and 11-A of the Land Acquisition Act, as part and parcel of the BDA Act for attainment of its object. The primary object of the State Act is to carry out planned development and acquisition is a mere incident of such planned development. The provisions of the Land Acquisition Act, where the land is to be acquired for a specific public purpose and acquisition is the sum and substance of that Act, all matters in relation to the acquisition of land will be regulated by the provisions of that Act. The State Act has provided its own scheme and provisions for acquisition of land.*

*50. Applying the above principle to the facts of the case in hand, it will be clear that the provisions relating to acquisition like passing of an award, payment of compensation and the legal remedies*

*available under the Central Act would have to be applied to the acquisitions under the State Act but the bar contained in Sections 6 and 11-A of the Central Act cannot be made an integral part of the State Act as the State Act itself has provided specific time-frames under its various provisions as well as consequences of default thereto. The scheme, thus, does not admit such incorporation.*

*55. The principle stated in Munithimmaiah case that the BDA Act is a self-contained code, was referred with approval by a three-Judge Bench of this Court in Bondu Ramaswamy, The Court, inter alia, specifically discussed and answered the questions whether the provisions of Section 6 of the Land Acquisition Act will apply to the acquisition under the BDA Act and if the final declaration under Section 19(1) is not issued within one year of the publication of the notification under Section 17(1) of the BDA Act, whether such final declaration will be invalid and held as under:*

*(Bondu Ramaswamy case, SCC p. 170, paras 79-81)*

*79. This question arises from the contention raised by one of the appellants that the provisions of Section 6 of the Land Acquisition Act, 1894 ("the LA Act", for short) will apply to the acquisitions under the BDA Act and consequently if the final declaration under Section 19(1) is not issued within one year from the date of publication of the notification under Sections 17(1) and (3) of the BDA Act, such final declaration will be invalid. The appellants' submissions are as under: the notification under Sections 17(1) and (3) of the Act was issued and gazetted on 3-2-2003 and the declaration under Section 19(1) was issued and published on 23-2-2004. Section 36 of the Act provides that the acquisition of land under the BDA Act within or outside the Bangalore Metropolitan Area, shall be regulated by the provisions of the LA Act, so far as they are applicable. Section 6 of the LA Act requires that no declaration shall be made, in respect of any land covered by a notification under Section 4 of the LA Act, after the expiry of one year from the date of the publication of such notification under Section 4 of the LA Act. As the provisions of the LA Act have been made applicable to acquisitions under the BDA Act, it*

*is necessary that the declaration under Section 19(1) of the BDA Act (which is equivalent to the final declaration under Section 6 of the LA Act) should also be made before the expiry of one year from the date of publication of notification under Sections 17(1) and (3) of the BDA Act [which is equivalent to Section 4(1) of the LA Act].*

*80. The BDA Act contains provisions relating to acquisition of properties, up to the stage of publication of final declaration. The BDA Act does not contain the subsequent provisions relating to completion of the acquisition, that is, issue of notices, enquiry and award, vesting of land, payment of compensation, principles relating to determination of compensation, etc. Section 36 of the BDA Act does not make the LA Act applicable in its entirety, but states that the acquisition under the BDA Act, shall be regulated by the provisions, so far as they are applicable, of the LA Act. Therefore it follows that where there are already provisions in the BDA Act regulating certain aspects or stages of acquisition or the proceedings relating thereto, the corresponding provisions of the LA Act will not apply to the acquisitions under the BDA Act. Only those provisions of the LA Act, relating to the stages of acquisition, for which there is no provision in the BDA Act, are applied to the acquisitions under the BDA Act.*

*81. The BDA Act contains specific provisions relating to preliminary notification and final declaration. In fact the procedure up to final declaration under the BDA Act is different from the procedure under the LA Act relating to acquisition proceedings up to the stage of final notification. Therefore, having regard to the scheme for acquisition under Sections 15 to 19 of the BDA Act and the limited application of the LA Act in terms of Section 36 of the BDA Act, the provisions of Sections 4 to 6 of the LA Act will not apply to the acquisitions under the BDA Act. If Section 6 of the LA Act is not made applicable, the question of amendment to Section 6 of the LA Act providing a time-limit for issue of final declaration, will also not apply.*

*We may notice that, in the above case, the Court declined to examine whether the provisions of Section 11-A of the*

*Central Act would apply to the acquisition under the BDA Act but categorically stated that Sections 4 and 6 of the Central Act were inapplicable to the acquisition under the BDA Act.*

*123. Accepting the argument of the appellant would certainly frustrate the very object of the State law, particularly when both the enactments can peacefully operate together. To us, there appears to be no direct conflict between the provisions of the Land Acquisition Act and the BDA Act. The BDA Act does not admit reading of provisions of Section 11-A of the Land Acquisition Act into its scheme as it is bound to debilitate the very object of the State law. Parliament has not enacted any law with regard to development the competence of which, in fact, exclusively falls in the domain of the State Legislature with reference to Schedule VII List II Entries 5 and 18.*

*124. Both these laws cover different fields of legislation and do not relate to the same List, leave apart the question of relating to the same entry. Acquisition being merely an incident of planned development, the Court will have to ignore it even if there was some encroachment of overlapping. The BDA Act does not provide any provision in regard to compensation and manner of acquisition for which it refers to the provisions of the Land Acquisition Act. There are no provisions in the BDA Act which lay down detailed mechanism for the acquisition of property, i.e. they are not covering the same field and, thus, there is no apparent irreconcilable conflict. The BDA Act provides a specific period during which the development under a scheme has to be implemented and if it is not so done, the consequences thereof would follow in terms of Section 27 of the BDA Act. None of the provisions of the Land Acquisition Act deals with implementation of schemes. We have already answered that the acquisition under the Land Acquisition Act cannot, in law, lapse if vesting has taken place. Therefore, the question of applying the provisions of Section 11-A of the Land Acquisition Act to the BDA Act does not arise. Section 27 of the BDA Act takes care of even the consequences of default, including the fate of acquisition, where vesting has not taken place under Section 27(3). Thus, there are no provisions under the two Acts which operate in the same field and have a direct irreconcilable conflict.*

125. *Having said so, now we proceed to record our answer to the question referred to the larger Bench as follows:*

*For the reasons stated in this judgment, we hold that the BDA Act is a self-contained code, Further, we hold that provisions introduced in the Land Acquisition Act, 1894 by Central Act 68 of 1984, limited to the extent of acquisition of land, payment of compensation and recourse to legal remedies provided under the said Act, can be read into an acquisition controlled by the provisions of the BDA Act but with a specific exception that the provisions of the Land Acquisition Act insofar as they provide different time-frames and consequences of default thereof, including lapsing of acquisition proceedings, cannot be read into the BDA Act. Section 11-A of the Land Acquisition Act being one of such provisions cannot be applied to the acquisitions under the provisions of the BDA Act."*

*(emphasis supplied)*

**16.** *This Court has emphasised that the primary object of the BDA Act is to carry out planned development. The State Act has provided its own scheme. The time constraints of the land acquisition are not applicable to the BDA Act. Making applicable the time-frame of Section 11-A of the LA Act would debilitate the very object of the BDA Act. It is apparent that the decision of the Single Judge as well as the Division Bench is directly juxtaposed to the decision of the five-Judge Bench of this Court in Offshore Holdings in which precisely the question involved in the instant cases had been dealt with. By indirect method by making applicable the time period of two years of Section 11-A of the LA Act mandate of BDA Act has been violated. However, it is shocking that various decisions have been taken into consideration particularly by the Single Judge, however, whereas the decision that has set the controversy at rest, has not even been noticed even by the Single Judge or by the Division Bench. If this is the fate of the law of the land laid down by this Court that too the decision by the Constitution Bench, so much can be said but to exercise restraint is the best use of the power. Least said is better, the way in which the justice has been dealt with and the planned development of Bangalore City has*

*been left at the mercy of unscrupulous persons of the Government and the BDA.*

**17.** *It is apparent from the fact that the Single Judge has relied upon the decision in H.N. Shivanna 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 has been blatantly violated by the Single Judge and that too in flagrant violation of the provisions and intendment of the Act.*

**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.*

**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."*

**13.** In view of the enunciation of law laid down by the Apex Court in the aforesaid judgment, the decision relied on by the learned counsel for the land owner on the issue of limitation would not help them in any way. The Hon'ble Supreme Court in the aforesaid decision has clearly held that the provisions of the Land Acquisition Act, 1894 which provides time frame



would not apply to the acquisition made under the BDA Act, 1976. The present acquisition is under the provisions of KUDA Act. The provisions of the KUDA Act are in *pari materia* with the provisions of the BDA Act, 1976 and no limitation is provided in the scheme of KUDA Act for issuance of Final Notification and passing of the award. Hence, the aspect of delay in issuing the final notification cannot be a ground to quash the acquisition proceeding or to declare that the acquisition has been abandoned. We have also perused the additional statement of objections filed by the BUDA, wherein BUDA has detailed the reasons for delay in issuing Final Notification. We are satisfied with the reasons stated in the additional statement of objections with regard to delay. We are of the view that in the absence of any statutory mandate for issuance of Final Notification within the particular time, the argument advanced by the learned counsel for the land owners has no merit consideration.

**14.** The contention of the land owners that the acquisition is required to be declared as abandoned in view of 7 years' delay in issuing Final Notification and the surrounding

lands are developed, has also no merit consideration in view of law laid down by the Hon'ble Supreme Court in the case of **Bangalore Development Authority** referred supra. If any development or alienation as claimed by the land owners has taken place in the acquired land after Preliminary Notification, it would be at the risk of the land owners in view of specific provisions under the Karnataka Land (Restrictions on Transfer) Act, 1991 and if the surrounding lands are illegally developed as claimed by the land owners, the same cannot be a ground to seek for dropping of the acquisition proceedings or seeking declaration that the acquisition proceedings are abandoned. In view of our finding on the issue of development of surrounding land supra, an application in IA No.1/2024 filed by the land owner under Order XXVI Rule 9 of CPC seeking appointment of Court Commissioner is also rejected.

**15.** Another specific contention that no notice is served on the land owner in WP No.111632/2015 is concerned, admittedly, no notice was issued by the BUDA to the land owner as the survey number of the subject land was missing from the Preliminary Notification, which was subsequently rectified by the Corrigendum dated 12.08.2013. Now the said

contention need not be adverted to in view of the fact that the learned Single Judge has remanded the matter back to the BUDA for fresh consideration of objections of the land owners. It is open for the land owner in WP No.111632/2015 to file his objections to the subject Preliminary Notification in view of the remand by the learned Single Judge. The land owner in WP No.111632/2015 is permitted to file objections. However, such objections shall not narrate the facts or development taken place subsequent to the preliminary notification dated 28.03.2007. If any subsequent development is brought in the objections, the BUDA is not required to consider such objections. The present liberty is reserved only to the petitioner in WP No.111632/2015, as he was not provided with an opportunity to file objections by the BUDA at an initial stage. Insofar as issuance of NOC dated 2.2.2013 at Annexure-D to the petitioner in the said writ petition has no bearing in considering the prayer of the writ petitioner in challenging the acquisition proceedings, in view of the issuance of subsequent Corrigendum dated 12.8.2013 by the BUDA. The BUDA has taken specific stand before the learned Single Judge that the petitioner does not have any other land than the land at

Sy.No.492/4B measuring 36 guntas. The Preliminary Notification dated 28.3.2007 indicates the name of the petitioner. However, the correct survey number and extent was missing, which was corrected by the BUDA vide Corrigendum dated 12.8.2013 by such inadvertent mistake, no prejudice is caused to the petitioner as now he is permitted to file the objections. The contrary argument of the land owner has no merit consideration and accordingly rejected.

**16.** The BUDA has issued notification to acquire an extent of 160 acres of land for the purpose of formation of layout and out of the said extent, few land owners are before the Court challenging the acquisition proceedings. In such a circumstance, the Court should be more careful in interfering with the acquisition proceedings, unless acquisition is vitiated by colourable exercise of power or malafide. Our view gains support from paragraph-46 of decision of the Apex Court in the case of **M.S.P.L. Limited Vs. State of Karnataka & Others**<sup>7</sup>.

**17.** Another contention urged by the land owner that the Resolution dated 7.1.2010 is not by the BUDA i.e., the Authority, as provided under the KUDA Act. It is the Chairman

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<sup>7</sup> 2023(1) Kar.L.J. 561 (SC)

& the Commissioner, who have signed the Resolution and on this ground alone, the entire acquisition is required to be interfered with. The said grievance of the land owner does not merit consideration. Section 2(a) defines the 'Authority'; Section 3(3) specifies the Authority which shall consist of Chairman and other members specified in Section 3(3) (a) to (n) of the KUDA Act. Section 8 speaks about meeting of the Authority. On comparative reading of the above provisions, it is clear that the Authority consists of 14 members as provided under Section 3(3) of the KUDA Act. Section 8 does not mandate that each of the members of the Authority requires to sign the resolution. Section 13(2)(h) reads as under:

**"13. Powers and duties of the Commissioner.-**

(1) & (2) xxxxxxxxx

(h) Authenticate by his signature all permissions, orders, decisions, notices and other documents of the authority and the orders of the authority."

A mandate of law is that the decision of the Authority can be authenticated by the Signature of the Commissioner.

**18.** The material available on record indicates that 10 members have attended the meeting dated 7.1.2010 and participated in the proceedings and pursuant to such participation, Resolution dated 7.1.2010 was passed. All the

members, who have attended the meeting dated 7.1.2010, have signed the attendance of the proceedings. Hence, non-signing of the Resolution by the other members, as contended by the learned counsel for the land owners, has no merit consideration and accordingly, rejected. The judgment relied upon by the learned counsel for the land owners in the case of **Ameer Khan** referred supra would not help them, as the ratio laid down in the said case has no application to the facts and circumstances of the case on hand. In the said case, the Commissioner has considered the objections of the land owners and in the instant case, it is the Authority, who has to consider the objections of the land owners.

**19.** Learned Senior Counsel appearing for the BUDA takes us to the plan of the proposed layout for the Scheme No.61, which is produced as Annexure-R38-1 along with additional statement of objections filed by the BUDA dated 9.2.2021 and points out that the subject land in the proceedings are required for the purpose of formation of main road, it is required for the construction of sewage treatment plant, as the lands are low-lying area, where they proposed to construct sewage treatment plant and in some of the lands,

high tension lines are proposed to be laid and portion of the area is earmarked for civic amenities. Considering the specific stand of the BUDA and also keeping in mind the fact that the subject lands are in the centre of the layout and not in the periphery of layout, we are of the considered view that this is not a case to quash the entire acquisition proceedings. However, our observation of requirement of land for scheme shall not be construed by BUDA as a finding and rejected the objections of land owner. These observations are made only for the purpose of rejecting the case of land owner's prayer seeking to quash the entire acquisition proceedings. Ultimately, it is the Authority, which is required to consider the representation/objections of the land owners on its merits and take appropriate decision in accordance with law.

**20.** In view of the foregoing reasons, we do not find any merit in the contentions urged by the land owner to quash the entire acquisition proceedings and we also do not find any merit in the contentions urged by the BUDA calling for interference in the appeals filed by them. For the aforementioned reasons, we proceed to pass the following:

**ORDER**

- a)** All the above appeals are ***dismissed***.
- b)** The land owner in WP No.111632/2015 is permitted to file objections before the BUDA within a period of thirty days from today.
- c)** If such objections/representation is filed by the land owner as stated supra, the BUDA shall consider the same on merit and pass appropriate orders in accordance with law.
- d)** No order as to costs.

Pending applications, if any, are disposed off as not surviving for consideration.

**Sd/-  
(KRISHNA S.DIXIT)  
JUDGE**

**Sd/-  
(VIJAYKUMAR A.PATIL)  
JUDGE**

JTR/ct-an