IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 9TH DAY OF MARCH, 2023

BEFORE

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT PETITION NO. 20671 OF 2022 (BDA)

BETWEEN:

1. SMT JAYAMMA
   D/O VENKATARAMANAPPA,
   AGED ABOUT 72 YEARS,
   NO.1815, 2ND G M CROSS,
   18TH MAIN ROAD, 9TH BLOCK,
   JAYANAGAR, BANGALORE 560 041.

2. SMT. RUKMINI,
   W/O GANESH,
   AGED ABOUT 63 YEARS,
   NO.1837/8, 18TH MAIN ROAD,
   9TH BLOCK, JAYANAGAR,
   BANGALORE 560 069.

3. SRI. RAJENDRA,
   S/O LINGEGOWDA,
   AGED ABOUT 66 YEARS,
   NO.72, 1ST MAIN ROAD, 3RD CROSS,
   6TH BLOCK, 3RD STAGE,
   BANASHANKARI,
   BANGALORE 560 085.

4. SRI. G KRISHNA,
   S/O GUNDAPPA,
   AGED ABOUT 65 YEARS,
   NO.91, 21ST MAIN ROAD, 1ST B CROSS,
   MARENAHALLI, J.P. NAGAR,
   BANGLAORE 560 078.

5. SMT. RATHNAMMA,
   D/O LATE SHIVANNA,
   AGED ABOUT 59 YEARS,
   NO.27, BILEKAHALLI,
   BANNERGHATTA MAIN ROAD,
   BANGALORE 560 076.

6. SRI. MAHALINGESHWARA,
   S/O LATE NAGARAJU,
   AGED ABOUT 33 YEARS,
   NO.40/3, SWAGATH TALKIES,
   TILAKNAGAR SLUM, JAYANAGAR,
   BANGALORE 560 041.

7. SMT. BHAGYALAKSHMAMMA,
   D/O LINGAMMA,
   AGED ABOUT 63 YEARS,
   NO.41/1, YALLAPPA ROAD, MAVALLI,
   JAYANAGAR, BANGALORE 560 004

8. SMT. ARUNA KUMARI,
   D/O LATE MUNIYAPPA,
   AGED ABOUT 59 YEARS,
   NO.202/A, 6TH BLOCK,
   JAYANAGAR, BANGALORE 560 082.

9. SRI. HANUMANTHAIAH,
   S/O LATE NARASIMHAIAH,
   AGED ABOUT 69 YEARS,
   NO.197, TAVAREKERE,
   MAGADI LMAIN ROAD,
   PANCHAMUKHI GANAPATHI COLONY,
   BANGALORE 560 030.

10. SMT. LEELA,
    W/O TANARAM,
    AGED ABOUT 66 YEARS,
    NO.1837, 18TH MAIN ROAD,
    JAYANAGAR 9TH BLOCK,
    BANGALORE-560 069.

11. SRI A V CHIKKARAJU
    S/O VEERABHADREGOWDA,
    AGED ABOUT 62 YEARS,

NO.528, CORPORATION COLONY,
9TH BLOCK, JAYANAGAR,
BANGALORE-560 041.

12. SRI B BASAVARAJU,
S/O VIRATHAYYA,
AGED ABOUT 62 YEARS,
NO.184, SARABANDEPALYA,
KANAKAPURA ROAD, BANASHANKARI,
BANGALORE-560 082.

13. SRI. B N KRISHNAMURTHY,
S/O SUBRAMANI,
AGED ABOUT 81 YEARS,
C/O NO.266/B, 5TH C CROSS,
4TH MAIN ROAD, HAL 3RD STAGE,
BANGALORE-560 075.

14. SRI. KRISHNAMURTHY,
S/O PUTTALINGAIAH,
AGED ABOUT 89 YEARS,
NO.525, CP COLONY, 9TH BLOCK,
JAYANAGAR, BANGALORE-560 075.

15. SMT. B KALA,
W/O BALARAJ,
AGED ABOUT 64 YEARS,
NO.47, INDIRAPRIYA COLONY,
KODI CHIKKANAHALLI, GD MARA SLUM,
BTM 2ND STAGE, BANGALORE-560 076.

16. SMT. RAMADEVI,
D/O M NAGABHUSHAN,
AGED ABOUT 64 YEARS,
NO.5/4, 2ND MAIN ROAD,
PUTTAIANAPALYA, JAYANAGAR,
BANGALORE-560 069.

17. SMT RENUKAMMA,
W/O GUTHYAPPA,
AGED ABOUT 63 YEARS,
NO.77, BILIKI, SHANKARAGHATTA POST,
BHADRAVATI TALUK, SHIMOGA DISTRICT.

18. SRI. SHIVANANJAIAH,
S/O NANJAPPA,
AGED ABOUT 64 YEARS,
NO.108, ATTIGUPPE VILLAGE,
MARALAVADI HOBLI, KANAKAPURA TALUK,
RAMANAGARA DISTRICT.

19. SRI. PALANIYAPPA,
S/O SUBBAIAH,
AGED ABOUT 74 YEARS,
NO.12, 2ND MAIN ROAD, 4TH CROSS,
NEAR SHANESHWARA TEMPLE,
KODI CHIKKANAHALLI,BANGALORE SOUTH,
BANGALORE-560 068.

20. SMT. KAVERAMMA,
W/O VENKATAPPA,
AGED ABOUT 71 YEARS,
NO.89, 21ST MAIN ROAD, 20TH A CROSS,
MARENAHALLI J P, NAGAR 2ND PHASE,
BANGALORE-560 078.

21. SRI V SURESH
S/O LATE KRISHNAMURTHY,
AGED ABOUT 38 YEARS,
NO.217, MARENAHALLI, 2ND STAGE,
J P NAGAR, BANGALORE-560 078.

22. SMT. JAYAMMA,
W/O KRISHNAPPA,
AGED ABOUT 67 YEARS,
NO.7/6, 1ST CROSS, BHAIRASANDRA,
1ST BLOCK, JAYANAGAR,
BANGALORE-560 041.

23. SMT. REVATHI N KUMAR,
D/O LATE SAROJAMMA,
AGED ABOUT 39 YEARS,
NO.909, 28TH MAIN ROAD,
9TH BLOCK, JAYANAGARA,
BANGALORE-560 069.

24. SRI. DURGA BHASKAR PATAK,
S/O ANANTH PATAK,
AGED ABOUT 63 YEARS,
NO.6, IST CROSS, GAVIPURAM EXTENSION,
BASAVANAGUDI, BANGALORE-560 019.

25. SMT. PUTTATAYAMMA,
W/O ADIMURTHY,
AGED ABOUT 74 YEARS,
NO 91/16, KABIR MUTT ROAD,
HANUMANTHANAGARA,
BANGALORE- 560 019.

26. SMT. PUSHPA,
D/O LATE KRISHNAPPA,
AGED ABOUT 44 YEARS,
NO.716/57, 28TH A MAIN ROAD,
30TH A CROSS, TILAKNAGAR,
JAYANAGAR, BANGALORE-560 041.

27. SMT. MUNIYAMMA,
W/O MUNISWAMAPPA,
AGED ABOUT 74 YEARS,
JIGANI, ANEKAL TALUK,
BANGALORE URBAN DISTRICT-562 131.

28. SRI. VENKATESH,
S/O THIMMAIAH,
AGED ABOUT 64 YEARS,
NO.14, 6TH CROSS, YALACHENAHALLI,
KANAKANAGARA,
KANAKAPURA MAIN ROAD,
BANGALORE-560 078.

29. SRI. M CHANNAPPA,
S/O MAYAPPA,
AGED ABOUT 74 YEARS,
NO.312, NARASIMHA NILAYA,
35TH MAIN ROAD, 8TH CROSS,
6TH STAGE, J P NAGAR,
BANGALORE-560 078.

30. SRI. CHOWDAIAH,
S/O CHOWDAIAH,
AGED ABOUT 73 YEARS,
NO 120/7 24TH CROSS,
3RD MAIN ROAD, 6TH BLOCK,
JAYANAGARA, BANGALORE – 560 042.

31. SRI. S CHANDRAMOULI,
S/O S VARADARAJU,
AGED ABOUT 62 YEARS,
NO 5/4, 1ST FLOOR, 2ND MAIN,
PUTTAYYANA PALYA, 9TH BLOCK,
JAYANAGARA, BANGALORE – 560 069.

32. SRI. SUBRAMANI,
S/O KUPPASWAMY,
AGED ABOUT 62 YEARS,
NO.41, 7TH MAIN ROAD,
2ND CROSS, 2ND STAGE,
J.P.NAGAR BANGALORE-560 078.

33. SRI. SAMPANGIRAMASWAMY,
S/O.LATE THAMMAYAPPA,
AGED ABOUT 74 YEARS,
NO.228, 22ND CROSS,
6TH STAGE, JAYANAGAR,
BANGALORE-560 011.

34. SRI. RAMASWAMY,
S/O RAMAIAH,
AGED ABOUT 64 YEARS,
NO.87, 4TH CROSS, G ROAD,
CHANNAKKI PALYA,
KAMASKHI PALYA,
BANGALORE-560 079.

35. SMT. M M RANI,
D/O KAVERAPPA,
AGED ABOUT 66 YEARS,
NO.23/15, 2ND B CROSS,
HAL 2ND STAGE, INDIRANGARA,
BANGALORE-560 038.

36. SRI. KARIYAPPA,
S/O KABBALEGOWDA,
AGED ABOUT 76 YEARS,
NO. 13/1, CHIKKASOWDEHALLI,
KANAKAPURA TALUK,
RAMANAGARA DISTRICT.

37. SRI. MUNIKRISHNA,
S/O CHANGALRAYAPPA,
AGED ABOUT 70 YEARS,
NO. 1815, 18TH MAINROAD,
4TH T BLOCK, JAYANAGARA,
BANGLAORE 560 041.

38. SRI. T. VENKATARAMANAPPA,
S/O THIMMARAYAPPA,
AGED ABOUT 79 YEARS,
NO. 296, 1ST CROSS,
ANJANEYA TEMPLE ROAD,
YADIYUR, 6TH STAGE,
JAYANAGARA
BANGALORE 560 082.

39. SMT. MUNIYAMMA,
W/O LATE CHANNAPPA ,
AGED ABOUT 76 YEARS,
NO.30, SWAGATH COLONY
TILAK NAGAR, JAYANAGARA
BANGALORE 560 041.

40. SRI. PRASANNA KUMAR
S/O NARAYANA
AGED ABOUT 57 YEARS
NO. 877, 1ST E MAIN ROAD,
2ND STAGE, GIRINAGARA,
BANGALORE 560 085.

41. SRI. MUNISWAMY,
S/O DODDAVENKATAPPA ,
AGED ABOUT 62 YEARS,
NO.39, SWAGATH COLONY,
TILAKNAGAR, BANGALORE 560 041.

42. SMT. DODDAMMA,
W/O SAMPANGI,
AGED ABOUT 74 YEARS,
NO. 249/112, MARENAHALLI,
2ND STAGE, J.P NAGAR,
BANGALORE 560 078.

43. SRI. G. THIMMAIAH,
S/O GUJJAIAH,
AGED ABOUT 70 YEARS,
NO. 60/A, 2ND STAGE,
12TH BLOCK, NAGARABHAVI,
BANGALORE 560 072.

44. SRI.LAKSHMAMMA W/O PAPANNA,
AGED ABOUT 65 YEARS,
NO.22, SHAMBHU PALYA,
MARENAHALLI, J.P.NAGAR,
BANGALORE-560 078.

45. SRI.M.BALAN S/O MUNIYAN,
AGED ABOUT 64 YEARS,
NO.21, KODICHIKKANAHALLI,
BILEKAHALLI, MAIN ROAD, IIM POST,
BANNERGHATTA ROAD,
BANGALORE-560 076.

46. SRI.JAYAMMA W/O RAMANNA,
AGED ABOUT 72 YEARS,
NO.1719 40TH CROSS, 17TH MAIN ROAD,
4TH T BLOCK, JAYANAGAR,
BANGALORE-560 041.

47. SMT.ALUMELAMMA,
D/O H NARASIMHAIAH,
AGED ABOUT 34 YEARS,
NO.49, 14TH CROSS,
MARENAHALLI 9TH BLOCK,
JAYANAGARA, BANGALORE-560 069.

48. SMT. DHANALAKSHMI,
W/O G.KRISHNA,

AGED ABOUT 62 YEARS,
NO.109, 21ST MAIN ROAD,
MARENAHALLI JP NAGAR, 2ND STAGE,
BANGALORE-560 078.

49. SRI.N.NARASIMHAMURTHY,
S/O S.NARASIMAIAH,
AGED ABOUT 52 YEARS,
NO.9, ANCHEPALYA, KANAKAPURA TALUK,
RAMANAGARA DISTRICT – 562 159.

50. SRI. B. R. SRIDHARMURTHY
S/O RAMACHANDRA,
AGED ABOUT 74 YEARS,
NO.147, 2ND CROSS, OM SHAKTHI LAYOUT,
T.C.PALYA, K.R.PURAM,
BANGALORE-560 036.

51. SRI. BASAVARAJU
S/O GANGADHAR,
AGED ABOUT 62 YEARS,
NO.909 28TH MAIN ROAD, 9TH BLOCK,
JAYANAGARA, BANGALORE-560 041.

52. SRI. B. SINGAREDDY,
S/O LATE SIDDAREDDY,
AGED ABOUT 72 YEARS,
NO.L646, 5TH MAIN ROAD,
BHUVANESHWARI NAGARA,
BANGALORE-560 085.

53. SRI. DEVEGOWDA
S/O MARISWAMY GOWDA,
AGED ABOUT 69 YEARS,
NO.1492, 2ND MAIN ROAD,
MUNESHWARA BLOCK, AVALAHALLI,
BANGALORE-560 019.

54. SRI. GANGARAJU,
S/O VENAKTARAYAPPA,
AGED ABOUT 62 YEARS,
NO.65, AVALAHALLI VILLAGE,
BANGALORE SOUTH, BANGALORE - 560 026.

55. SRI. V LAKSHMAMMA,
W/O S PALANIYAPPA,
AGED ABOUT 63 YEARS,
NO. 116/79, 1ST CROSS,
NEHRU COLONY, BSK 2ND STAGE,
YARAB NAGAR, BANGALORE - 560 070.

56. SRI. MAHABALESHWARA BHAT,
S/O GANAPAATHI BHAT,
AGED ABOUT 59 YEARS,
NO. 359/A, 10TH MAIN ROAD, 2ND CROSS,
HANUMANTHANAGARA, BANGALORE - 560 019.

57. SRI. B M KRISHNAMURTHY,
S/O S R MUNIAYAPPA,
AGED ABOUT 62 YEARS,
NO. 502, 7TH MAIN ROAD,
HANUMANTHANAGARA, BANGALORE - 560 019.

58. SMT. VARADAMMA,
W/O K M RANGAPPA,
AGED ABOUT 74 YEARS,
NO. 2/82, 2ND CROSS, 2ND BLOCK,
JAYANAGAR, BANGALORE - 560 041.

59. SRI. P U NAGESH,
S/O GOWRAMMA,
AGED ABOUT 74 YEARS,
NO.1071, 8TH CROSS, BSK 1ST STAGE,
ASHOKANAGAR, BANGALORE - 560 050.

60. SMT. T SHARADAMMA,
W/O M D MUDDURANGAPPA,
AGED ABOUT 64 YEARS,
NO.1071, 8TH CROSS, BSK 1ST STAGE,
ASHOKANAGAR, BANGALORE - 560 050.

61. SRI. ARAVINDA,
S/O CHINNATHAMBI,
AGED ABOUT 63 YEARS,
NO.1003, 3RD CROSS, 3RD MAIN ROAD,
SHANTAVERI GOPALAGOWDA NAGARA,
HUCCHHAPPA LAYOUT, MUDALAPALYA,
BANGALORE - 560 072.

62. SMT. INDRAMMA,
D/O MUNIVENKATAPPA,
AGED ABOUT 74 YEARS,
NO. 171/A, 2ND CROSS,
SHIVASHANKARA BLOCK,
HEBBALA, BANGALORE - 560 024.

63. SRI. G JAYARAMAN,
S/O GIDDA GURRAPPA,
AGED ABOUT 79 YEARS,
NO.1337, 5TH CROSS, N R COLONY,
ASHOKANAGARA BSK 1ST STAGE,
BANGALORE - 560 050.

64. SRI. R GOPI,
S/O MUNITHAYAMMA,
AGED ABOUT 52 YEARS,
NO.24, 2ND MAIN ROAD,
K G NAGAR, BANGALORE - 560 019.

65. SRI. MAYAKRISHNA REDDY,
S/O MUNISWAMY REDDY,
AGED ABOUT 81 YEARS,
NO.1669, 41ST CROSS,
18TH MAIN ROAD, 4TH T BLOCK,
JAYANAGAR, BANGALORE - 560 041.

66. SRI. RAVIKUMARA,
S/O KRISHNAPPA,
AGED ABOUT 66 YEARS,
NO.528, C P COLONY 9TH CROSS,
JAYANAGARA, BANGALORE - 560 069.

67. SRI. MUNIYALLAPPA,
S/O RAMAIAH,
AGED ABOUT 62 YEARS,
NO.745, 10TH CROSS,
CHANNAKESHAVANAGARA,
BANGALORE - 560 100.

68. SMT. THIMMAKKA,
W/O BASAVAIAH,
AGED ABOUT 72 YEARS,

NO.577, 3RD STAGE,
4TH BLOCK, WC ROAD,
BASAVESHWARANAGARA,
BANGALORE-560 079.

69. SRI. N E BASAVARAJU,
S/O ESHWARAPPA,
AGED ABOUT 63 YEARS,
NO.35, 4TH CROSS, CAUVERY LAYOUT,
AMARAJYOTHI NAGARA, NAGARABHAVI,
BANGALORE-560 079.

70. SRI. SANGHADA MANE,
NO.909, 28TH MAIN ROAD,
9TH BLOCK, JAYANAGARA,
BANGALORE-560 069.

71. SRI. M NARASIMHAIAH
S/O MUNIVENKATAPPA
AGED ABOUT 64 YEARS
NO.E/19, 19TH CROSS
M S PALYA, BANGALORE-560 078.

72. SRI. Y RAMAIAH,
S/O YELLAPPA,
AGED ABOUT 81 YEARS,
NO.745, IST C CROSS,
CHANNAKESHAVANAGARA,
CENTRAL JAIL ROAD, HOSUR MAIN ROAD,
BANGALORE-560 100.

73. SMT. SUBBALAKSHMI,
W/O H R NARENDRANATH,
AGED ABOUT 75 YEARS,
NO.7, AJJAYYAPPA COMPOUND,
VITTALANAGARA, BANGALORE-560 027.

74. SRI. M MEENAKSHI,
D/O OMKARAPPA,
AGED ABOUT 62 YEARS,
NO.12, 4TH CROSS,
MARIYYAPPA PALYA,
BANGALORE-560 023.

75. SMT. SUGANDHAMMA,
D/O BHARAMAPPA,
AGED ABOUT 76 YEARS,
NALLAPPA COMPOUND
PUTTENAHALLI 7TH STAGE,
J P NAGAR, BANGALORE-560 078.

76. SMT. NANJAMMA,
D/O HONNAIAH THIMMAIAH,
AGED ABOUT 66 YEARS,
NO.462, 16TH CROSS,
J P NAGAR 4TH STAGE,
BANGALORE-560 078.

77. SMT. NAGARATHNA,
D/O NAGABHUSHANA,
AGED ABOUT 62 YEARS,
NO.12, 4TH CROSS,
MARIYAPPANA PALYA,
BANGALORE-560 023.

78. SMT. PRABHAVATHI,
D/O NARASAPPA,
AGED ABOUT 63 YEARS,
NO.909, 28TH MAIN ROAD,
9TH BLOCK, JAYANAGAR,
BANGALORE-560 069.

79. SRI. R RAMESH,
S/O R RANGASWAMY,
AGED ABOUT 63 YEARS,
NO.205, C J VENAKTESH DAS ROAD,
9TH CROSS, PADMANABHAGANAGARA,
BANGALORE-560 070.

80. SMT SHANTHAMMA
D/O HUCCHAPA,
AGED ABOUT 65 YEARS,
NO.DEVACHIKKANAHALLI MAIN ROAD,
BANNERGHATTA ROAD,
BANGALORE-560076.

81. SRI. M KUBERA,
S/O KRISHNAPPA,
AGED ABOUT 65 YEARS,
NO.63, 6TH CROSS,16TH MAIN ROAD,
B.T.M.2ND STAGE,
BANGALORE 560 076.

82. SMT. KAMALA BAI,
W/O PANDURANGA,
AGED ABOUT 75 YEARS,
NO.5, AREHALLI, 1ST CROSS,
4TH MAIN ROAD, AGS LAYOUT,
BANGALORE-560 061.

83. SMT. ARATHI,
W/O BASAVARAJU,
AGED ABOUT 62 YEARS,
NO.909, 28TH MAIN ROAD,
9TH BLOCK, JAYANAGARA,
BANGALORE-560 069.

84. SRI. KOUSHIK PRASANTH,
S/O GOWRAMMA,
AGED ABOUT 34 YEARS,
NO.574, 9TH MAIN ROAD,
MC LAYOUT VIJAYANAGAR,
BANGALORE-560 040.

85. SMT. P U NIRMALA,
W/O PRASHANTH BABU,
AGED ABOUT 64 YEARS,
NO.529/A, 9TH MAIN ROAD,
MC LAYOUT, VIJAYANAGAR,
BANGALORE-560 040.

86. SMT. LAKSHMAMMA,
W/O NARASIMHAIAH,
AGED ABOUT 75 YEARS,
NO.95, 1ST CROSS,
PUTTENAHALLI,
BANGALORE-560 076.

87. SMT. V LAKSHMI,
W/O SHIVARUDRA,
AGED ABOUT 78 YEARS,
NO.6/92, 9TH CROSS,
J.P.NAGAR 1ST STAGE,
SARAKKI GATE,
BANGALORE-560 078.

88. SMT. SHARADAMMA,
W/O MUNIYAPPA,
AGED ABOUT 73 YEARS,
NO.17, HANKANAPALYA, SOLURU,
MAGADI TALUK,
BANGALORE-562 127.

89. SMT. M CHANNAMMA,
D/O MUNIYAPPA,
AGED ABOUT 73 YEARS,
NO.855, 6TH MAIN ROAD,
10TH CROSS, BTM 2ND BLOCK,
BANGALORE-560 076.

90. SMT. K S TULASIDEVI,
W/O DWARAKANTH,
AGED ABOUT 70 YEARS,
NO.55, 17TH MAIN ROAD,
1ST CROSS, BANK COLONY,
BANGALORE-560 050.

91. SMT. N LATHA,
D/O KALYAMURTHY,
AGED ABOUT 69 YEARS,
NO.73, ABBAYYAPPA ROAD, DODA MAVALLI,
PAVATHI PURA MAIN ROAD,
BASAVANAGUDI, BANGALORE-560 004.

92. SMT. SUCHITRA W/O HARISH ,
NO.3/2, RAM MANDIR ROAD,
BASAVANAGUDI, BANGALORE 560 004.

93. SMT. P NAGARATHNA D/O PAPAREDDY
AGED ABOUT 64 YEARS,

NO.17, 12TH MAIN ROAD, 12TH CROSS,
2ND STAGE, VENKATESHWARA LAYOUT,
BANGALORE 560 034.

94. SMT. HOMBALAMMA D/O MUTHAIAH,
AGED ABOUT 69 YEARS,
NO.499, 8TH B MAIN ROAD,
4TH BLOCK, KORAMANGALA
BANGALORE 560 034.

95. SMT. R KASHTURI D/O BALAPPA,
AGED ABOUT 67 YEARS,
NO.71914, 72ND CROSS, 5TH BLOCK,
RAJAJINAGAR, BANGALORE 560 010.

96. SMT. MAHADEVAMMA,
W/O MAHADEVAIAH,
AGED ABOUT 65 YEARS,
NO.27, SHAKMBARI NAGARA
KANAKAPURA MAIN ROAD,
BANASHANKARI, BANGALORE 560 078.

97. SRI. SHIVARUDRAIAH,
S/O LATE VEERABHADREGOWDAM
AGED ABOUT 57 YEARS,
NO.115, KAGGALIPURA VILLAGE,
AGARA, BANGALORE 560 102.

98. SMT. RENUKA D/O SHIVARUDRA,
AGED ABOUT 62 YEARS,
NO.2348, SANJEEVANAGARA MAIN ROAD,
SAHAKRANAGARA POST,
BANGALORE 560 092.

99. SMT. GOWRAMMA D/O KARIYAPPA,
AGED ABOUT 62 YEARS,
NO.528, CORPORATION COLONY,
27TH MAIN ROAD, 9TH BLOCK,
JAYANAGARA, BANGALORE 560 069.

100. SRI. HOMBALAIAH S/O C KARIYAPPA,
AGED ABOUT 63 YEARS,

NO.312, 4TH MAIN ROAD,
ARAKERE, BANNERGHATTA ROAD,
BANGALORE 560 076.

101. SRI. DINESH S/O VAJRAMMA,
AGED ABOUT 45 YEARS,
NO.165, MARENHALLI, JP NAGAR,
2ND STAGE, BANGALORE 560 078.

102. SMT. INDIRAMMA
D/O CHIKKAMMA,
AGED ABOUT 62 YEARS,
NO.165, MAREAHALLI,
JP NAGAR, 2ND STAGE,
BANGALORE 560 078.

103. SRI. ARASAIAH,
S/O GANGARASAIAH,
AGED ABOUT 59 YEARS,
NO.1706/1, 41ST CROSS,
18TH MAIN ROAD,
4TH BLOCK, JAYANAGARA,
BANGALORE 560 041.

104. SRI. MUNIYALLAPPA S/O YELLAPPA,
AGED ABOUT 64 YEARS,
NO.1774, 18TH B MAIN ROAD,
GRAPE GARDEN, 4TH T BLOCK,
JAYANAGAR, BANGALORE 560 041.

105. SMT. MUNIYAMMAL W/O RAMU S,
AGED ABOUT 72 YEARS,
NO. 78/2, MUNIRDDY BUILDING,
AMBEDKAR STREET, BOMMAHANALLI,
BEGUR HOBLI, BANGALORE 560 068.

106. SRI. V KRISHNAPPA,
S/O VEERAPPA,
AGED ABOUT 74 YEARS,
NO.14/1, YALLAPPA ROAD,
MAVALLI 1ST BLOCK, JAYANAGAR,
BANGALORE 560 004.

107. SMT. VIJAYALAKSHMI
D/O KRISHNAPPA
AGED ABOUT 74 YEARS,
FLATE NO.60, 5TH CROSS,
PANCHAVARAMA NAGAR,
PUNTRUTI, KADALUR DISTRICT,
TAMILNADU 607 108.

108. SRI. RAMESH,
S/O KRISHNAMURTHY,
AGED ABOUT 65 YEARS,
NO.60, 5TH CROSS,
PANCHAVARAM NAGAR,
PUNTRUTI, KADALUR,
TAMILNADU 607 108.

109. SRI. B M RAGHAVENDRA
S/O MELAPPA,
AGED ABOUT 47 YEARS,
NO.69, 2ND STAGE, YELAHANKA,
UPANAGARA, BANGALORE 560 064.

110. SMT. G H RAJESHWARI
D/O NARAYANAPPA,
AGED ABOUT 66 YEARS,
NO.18, 23RD MAIN ROAD,
J P NAGAR 2ND STAGE,
BANGALORE 560 078.

111. SRI. M MUNIVENKATAPPA S/O YELLAPPA,
AGED ABOUT 79 YEARS,
NO.14, 18 MAIN ROAD, 42ND CROSS,
MARENAHALLI KERE, 4TH BLOCK,
JAYANAGAR, BANGALORE 560 041.

112. SMT. PUTTALKSHMAMMA,
W/O KRISHNAPPA,
AGED ABOUT 67 YEARS,
NO.852, EAST END, B MAIN ROAD,
9TH BLOCK, JAYANAGARA,
BANGALORE 560 069.

113. SMT. KUMARI D/O NARASAPPA,
AGED ABOUT 64 YEARS,
SBG COLONY, MAGADI MAIN ROAD,
TAVAREKERE,
BANGALORE URBAN DISTRICT 560 029.

114. SMT. PILLAMMA W/O CHANDRAPPA,
AGED ABOUT 62 YEARS,
NO.97/2, PANDAVAPURA VILLAGE,
ANEKAL TALUK,
BANGALORE URBAN DISTRICT 560 029.

115. SRI. JAYANTH S R,
S/O RAMACHANDRAPPA,
AGED ABOUT 67 ERAS,
NO. LP 18/11, BDA FLAT, BTM 2ND STAGE,
BANGALORE 560 076.

116. SRI. MALLIKARJUNA SHETTY,
S/O LT R SATHYANARAYAN SHETTY,
AGED ABOUT 60 YEARS,
NO. 26 (OLD NO 27) SHOP STREET,
N R COLONY, BASAVANAGUDI,
BANGALORE 560 004.

117. SMT. VENKATAMMA D/O BHEEMAIAH
AGED ABOUT 69 YEARS,
NO.44/A, 22ND MAIN ROAD, MARENAHALLI,
J P NAGAR, 2ND STAGE, BANGALORE 560 078.

118. SRI. N RAJU S/O NARASAPPA,
AGED ABOUT 49 YEARS,
NO 909, 28TH MAIN ROAD, 9TH BLOCK
JAYANAGAR, BANGALORE 560 069.

119. SRI. VIJAYKUMAR,
S/O H R KRISHNAIAH,
AGED ABOUT 30 YEARS,
NO 852, EST END B MAIN ROAD,
CORPORATON COLONY, 27TH MAIN ROAD,
9TH BLOCK, JAYANAGAR, BANGALORE 560 069.

120. SRI. KRISHNAPPA S/O MADDURAPPA,
AGED ABOUT 64 YEARS,

NO 73, PNATAHUR DINNE,
VARTHUR HOBLI, BANGALORE 560 087.

121. SMT. KAMALAMMA,
W/O CHIKKARANGAPPA,
AGED ABOUT 63 YEARS,
NO 73/1, ANJANEYA TEMPLE,
6TH BLOCK, YADIYUR, JAYANAGARA,
BANGALORE 560 082.

122. SRI. M KRISHNAPPA,
S/O MUNISWAMAPPPA,
AGED ABOUT 69 YEARS,
NO. 20, 1ST CROSS, 1ST MAIN ROAD,
N S PALYA, BANNERGHATTA MAIN ROAD,
BANGALORE 560 076.

123. SRI. S RAMESH,
S/O H C SHIVARUDRAPPA,
AGED ABOUT 45 YEARS,
NO 6/92, 9TH CROSS, SBI COLONY,
SARAKKI GATE, 1ST STAGE, J P NAGARA,
BANGALORE 560 078.

124. SMT. PRABHAVATHI,
W/O SHIVAKUMAR,
AGED ABOUT 59 YEARS,
NO 852, 28TH MAIN ROAD,
CORPORATION COLONY, 9TH BLOCK,
JAYANGAR, BANGALORE 560 069.

125. SMT N PUSHPA,
W/O GANGARAJU,
AGED ABOUT 63 YEARS,
NO. 852, 28TH MAIN ROAD,
CORPORATON COLONY, 9TH BLOCK,
JAYANAGAR, BNGALORE 560 069.

126. SMT. RASHMI,
D/O LT RAJAGOPAL,
AGED ABOUT 36 YEARS,
NO 182/3, PUTTENAHALLI,
BANGALORE 560 078.

127. SMT. SHIVAMMA,
W/O KARIYAPPA,
AGED ABOUT 72 YEARS,
NO 13/1, CHIKKASONDENALHALL,
MARALAWADI HOBLI, KANAKAPURA TALUK,
RAMANGARA DSITRICT 562 159.

128. SMT. R AMARAVATHI,
W/O MALLAPPA,
AGED ABOUT 74 YEARS,
NO. 2/5, MARUTHI NILAYA,
NEAR COOL LAND BOYS HOSTEL,
PIPELINE ROAD, MATHIKERE,
BANGALORE 560 054.

129. SMT. G VIJAYA,
W/O JAGANNATH,
AGED ABOUT 64 YEARS,
NO. 146, PANATHUR DINNE,
VARTHUR HOBLI, BANGALORE 560 087.

130. SRI. BHARATH KUMAR B,
S/O LATE N MADAPPA,
BANASHANKARI TEMPLE QUARTERS,
KANAKAPURA ROAD, BANGALORE 560 082.

131. SRI. B ARAVINDA,
S/O LATE D GOVINDARAJU,
AGED ABOUT 52 YEARS,
NO.855, 6TH MAIN ROAD, 10TH CROSS,
BTM MICO LAYOUT, BANGALORE 560 076.

132. SRI. B R SURESH
S/O LATE RAMAIAH,
AGED AOBUT 45 YEARS,
NO 1719, 40TH CROSS, 18TH MAIN ROAD,
4TH B BLOCK, JAYANAGAR, BANGALORE 560 041.

133. SRI. R J PATIL,
S/O JYOTHI PATIL,
AGED ABOUT 74 YEARS,
NO 152, NEELADASANAHALLI,
BANGALORE EAST, BANGALORE 560 041.

134. SRI.DODDA SAMPANGI,
S/O BETTEGOWDA,
AGED ABOUT 94 YEARS,
NO 112/1 18TH C MAIN ROAD,
MARENAHALLI J P NAGAR,
2ND STAGE, BANGALORE 560 078.

135. SMT. N PREMALATHA,
D/O Y V NARASIMAIAH,
AGED ABOUT 62 YEARS,
NO. 268, 7TH MAIN ROAD,
MARENAHALLI TANK BUND AREA,
5TH BLOCK, JAYANAGAR,
BENGALURU - 560 041.

136. SRI. RAJU,
S/O LATE OMKARAPPA,
AGED ABOUT 42 YEARS,
NO 182/3, PUTTENAHALLI,
KOTTANUR DINNE MAIN ROAD,
J P NAGAR, 7TH BLOCK, BANGALORE 560 078.

137. SMT. DEEPA,
D/O LATE LAKSHMAMMA,
AGED ABOUT 52 YEARS,
NO 245, 2ND MAIN,
MARENEHALLI TANK BUND AREA,
5TH BLOCK, JAYANAGAR,
BANGALORE 560 041.

138. THE PRESIDENT,
MARENAHALLI VASATHIHENARA SANGHA ®
@ MARENAHALLI, BANASHANKARI POST,
JAYANAGARA 5TH BLOCK,
BANGALORE 560 041

(THE PETITIONERS WHO ARE CROSSED THE AGE OF 60 ARE NOT CLAIMING THE BENEFIT OF SENIOR CITIZENSHIP)

...PETITIONERS

(BY SRI.D L JAGADEESH, SENIOR COUNSEL A/W
SMT. LEELA P, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
   BY ITS CHIEF SECRETARY,
   VIDHANA SOUDHA,
   BANGALORE – 560 001.

2. THE COMMISSIONER,
   BRUHAT BANGALORE MAHANAGARA PALIKE,
   BANGALORE 560 002.

3. THE COMMISSIONER,
   BANGALORE DEVELOPMENT AUTHORITY,
   KUMARAPARK WEST, GUTTAHALLI,
   BANGALORE 560 020.

4. THE DEPUTY COMMISSIONER
   (LAND ACQUISITION & TDR)
   BRUHAT BANGALORE MAHANAGARA PALIKE,
   N.R CIRCLE, BANGALORE 560 002.

5. THE ESTATE OFFICER AND TDR
   BANGALORE DEVELOPMENT AUTHORITY
   KUMARAPARK WEST, GUTTAHALLI,
   BANGALORE 560 020.

…RESPONDENTS

(BY SRI.R SRINIVASA GOWDA, AGA FOR R1;
SMT.CHAITRAVATHI, ADVOCATE FOR R2 & R4;
SRI. B S SACHIN, ADVOCATE FOR R3 & R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THEE IMPUGNED ORDER DTD.17.3.2022 BEARING NO.BDA/EO/TDR/PLO NO.125088/117/2021-22 PASSED BY THE R-3 A COPY OF WHICH IS HEREIN PRODUCED AS ANNEXURE-AD AND DIRECT THE RESPONDENTS TO ISSUE NECESSARY TRANSFERABLE DEVELOPMENT RIGHTS CERTIFICATES IN FAVOUR OF THE PETITIONERS FORTHWITH AND ETC.,

THIS PETITION HAVING BEEN HEARD AND RESERVED FOR ORDER, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

ORDER

Petitioners – the poor allotees of *Hakku Patraas* of small bits of land which they have given up on the assurance of being granted '*Transferable Development Rights'* (hereafter TDR) are knocking at the doors of Writ Court for assailing the order dated 17.03.2022 issued by the Respondent - BDA (Annexure AD) whereby, the recommendation of the Respondent - BBMP for issuing the TDR Certificates to them has been negatived. Learned Sr. Advocate appearing for the petitioners insists that in view of the chequered history, this case should be taken up for hearing on a priority basis sine it involves the interest of poor persons.

2. Learned Sr. Advocate appearing for the petitioners argues that: the impugned order is contrary to law, i.e., section 14B of Karnataka Town and Country Planning Act, 1961; petitioners in recognition of their lawful occupancy of the land in question were issued individual *Hakku Patraas* and on being asked the same having been surrendered *sans* compensation, denial of TDR Certificate

is unsustainable. What happened in earlier rounds of litigation i.e., in W.P.Nos.25898-26035/2019 & C.C.C.No.696/2020, coupled with the specific assurance of the concerned, further strengthen their case on estoppel & promissory estoppel qua the authorities; the grounds on which the impugned order is structured are demonstrably untrue and *prima facie* untenable. Respondents who answer the definition of State under Article 12 of the Constitution could not have given a rough deal to the petitioners; their action falls militantly short of fairness standards legitimately expected of them.

3. After service of notice, the State has entered appearance through the learned AGA; the answering Respondents namely, the BDA & BBMP are represented by their Panel Advocates. BDA has filed the Statement of Objections & Addl. Statement of Objections opposing the Writ Petition. Petitioners have filed their Rejoinder to the same. Learned Panel Advocates appearing for the authorities resist the Petition making vehement

submission in justification of the impugned order, essentially contending that: grant of TDR is governed by statutory scheme; unless conditions of scheme are complied with, there cannot be justiciable claim for TDR certificates in the absence of strict compliance. Petitioners not being the *'owners'* of the subject land, have no right to seek TDR Certificates. The *Proviso* to section 14B of 1961 Act introduced by way of 2020 Amendment renders their claim legally untenable. So contending, they seek dismissal of the Writ Petition.

4. **FACTS IN BRIEF**:

(a) There were 180 persons including the Petitioners herein who had admittedly been in the long & continuous occupation of land in Sy.No.40 of Marenahalli village. The said land was acquired/utilized by the Government for the public purpose, i.e., formation of roads, drainage, etc. The BBMP Commissioner vide endorsement dated 03.07.1976 had directed their shifting to the lands in Sy.Nos.17 & 18 of the same village. In

terms of the said endorsement, the Deputy Revenue Officer of BBMP vide letter dated 09.07.1976 (Annexure-B) asked these occupants to take possession of their sites at the rate of Rs.2 per square yard. Relevant portion of said endorsement reads as under:

> *"…You are hereby informed that the Commissioner is pleased to allot the site No…… measuring 30-'0' x 40-'0'/25'0' x 40-'0' at Sy. No. 17 & 18 of Marenahalli village, Uttarahalli Hobli, Bangalore South Taluk…at the rate of Rs. 2/- per square yard… "*

The endorsement provided for the rehabilitation of these dispossessed occupants. These lands were notified for acquisition vide Final Notification No.HMA-19-MNJ-70 dated 27.5.1970 published in Karnataka gazette dated 23.7.1970 under section 18(1)(a) of the City Improvement Act, 1945 for the formation of Sarakki layout. However, land in Sy.No.18 was dropped from acquisition vide Notification dated 07.06.1996 issued u/s 48(1) of the erstwhile Land Acquisition Act, 1894.

(b) The above came to be followed by another letter dated 31.07.1976 (Annexure-C) addressed to the Secretary of Petitioners Association informing that the sites have been provisionally allotted. Relevant portion of the said letter reads as under:

> *"Sub:- Allotment of site at Maranahalli Tank Bed, Jayanagar.*
>
> *With reference to the above subject, I write to state that the site measuring 30-'0' x 40-'0' is provisionally allotted to you. The spot will be shown to you by the Assistant Engineer No. 1 Sub – Division. (Project)…"*

Accordingly, *Hakku Patraas* came to be issued by the Block Development Officer during the period 29.12.1979 and 08.02.1980. Despite all this, the Petitioners were not given actual possession of the sites in question, though the upset price was paid by them at the prescribed rate. In fact, the jurisdictional Panchayat had also collected the property tax from the allottees.

(c) The jurisdictional Asst. Revenue Officer of the BBMP vide endorsement dated 29.11.1985 (Annexure-H)

had directed all the allottees to produce the original *Hakku Patraas/Svadinapatra* for authentication, so that they can be granted the *khata* in their names. Relevant portion of the said endorsement reads as under:

> *"…With reference to their application dated 1-8-79 requesting for registering sites in their names the applicants, whose names are noted below are hereby informed to produce Hakkupathra/Saadinapatra issued by Block Development Officer to get katha in their names within seven days from the date of this endorsement…"*

Though Petitioners abided by this, nothing turned out. Therefore, the registered Association of the Petitioners vide representation made their grievance before the jurisdictional officer of the BBMP & BDA and requested for the grant of TDR certificates so that they can make use of the same by way of compensation. The BDA Commissioner vide letter dated 10.12.2018 (Annexure-M) informed the BBMP Commissioner to take the decision as to TDR claim at its own level and inform him the action taken in this regard. Relevant portion of the said letter reads as under:

"ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು ಮಾರೇನಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.17 ಮತ್ತು 18ರ ನಿರ್ವಸತಿ ಹೀನರಿಗೆ ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು ಕ್ಷೇತ್ರಾಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಗಳು (ಬಿ.ಡಿ.ಓ) ರವರು ನೀಡಿರುವ 180 ವಸತಿ ನಿವೇಶನ ಹಕ್ಕುಪತ್ರ ಜಾಗ ಅಲಭ್ಯವಿರುವ ಕರಣ ಟಿ.ಡಿ.ಆರ್ ನೀಡುವಂತೆ ಶ್ರೀ ಜಿ.ಪ್ರಸಾದ್ (ನೋಂದಾಯಿತ ಜಿಪಿಎ ಹೋಲ್ಡರ್) ರವರು ಕೋರಿರುತ್ತಾರೆ.

ಪರಿಶೀಲಿಸಲಾಗಿ, ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು ಮಾರೇನಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.17/1,17/2 ಮತ್ತು 18ರ ಜಮೀನುಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಸರ್ವೆ ನಂ.17/1 ರಲ್ಲಿ 01 ಎಕರೆ --39 ಗುಂಟೆ ಸರ್ವೆ ನಂ.17/2 ರಲ್ಲಿ 07 ಎಕರೆ –07 ಗುಂಟೆ ಹಾಗೂ ಸರ್ವೆ ನಂ.18ರಲ್ಲಿ 01 ಎಕರೆ –34 ಗುಂಟೆ ಜಮೀನು ಸೂರಕ್ಕಿ ಬಡಾವಣೆ ಮಧ್ಯೆ ಕನಕಪುರ ರಸ್ತೆಯಿಂದ ಬನ್ನೇರುಘಟ್ಟ ರಸ್ತೆ ಯೋಜನೆಗೆ ಭೂಸ್ವಾಧೀನಪಡಿಸಿಕೊಳ್ಳಲು ಪ್ರಾರಂಭಿಕ ಮತ್ತು ಅಂತಿಮ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿದ್ದು ದಿನಾಂಕ:27.5.1970ರ ಅಂತಿಮ ಅಧಿಸೂಚನೆಯಂತೆ ಸರ್ವೆ ನಂ.17/1 ಮತ್ತು 17/2ರ ಜಮೀನಿಗೆ ಕ್ರಮವಾಗಿ ದಿನಾಂಕ:4.9.1972 ಮತ್ತು 3.2.1973 ರಂದು ಐತೀರ್ಮ ಅನುಮೋದನೆಯಾಗಿದ್ದು ಜಮೀನುಗಳನ್ನು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಪಡೆದು ಅಭಿಯಂತರರ ವಿಭಾಗಕ್ಕೆ ಹಸ್ತಾಂತರಿಸಲಾಗಿರುತ್ತದೆ. ಸರ್ವೆ ನಂ.17/1 ರ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಭೂಪರಿಹಾರ ಹಣವಾದ ರೂ. 77,457.10 ಗಳನ್ನು ಭೂಮಾಲೀಕರಾದ ಶ್ರೀ ಕೆ.ವೆಂಕಟಸ್ವಾಮಿ ರಾಜು ರವರು ಚೆಕ್ ನಂ.730478 ದಿನಾಂಕ: 6.12.1972 ರಂದು ಪ್ರಾಧಿಕಾರದಿಂದ ಪಡೆದುಕೊಂಡಿರುತ್ತದೆ. ಸರ್ವೆ ನಂ.17/2 ರ 07 ಎಕರೆ– 07 ಗುಂಟೆ ಪೈಕಿ 0–04 ಗುಂಟೆ ಖರಾಬು ಜಮೀನಾಗಿದ್ದು ಭೂಮಾಲೀಕರುಗಳಾದ (1) ಶ್ರೀಮತಿ ಲಕ್ಷ್ಮಿನರಸಮ್ಮ ರವರು ರೂ.68,025.60 ಪೈಸೆ ಗಳನ್ನು ಚೆಕ್ ನಂ.733025 ದಿನಾಂಕ: 27.02.1973 ರಂದು (2) ಶ್ರೀ ರಾಮರಾಜು ರವರು ರೂ.90,031.43 ಪೈಸೆ ಗಳನ್ನು ಚೆಕ್ ನಂ.733026 ದಿನಾಂಕ: 27.02.1973 ರಂದು (3) ಶ್ರೀ ಮುನಿಸ್ವಾಮಿ ರಾಜು ರವರು ರೂ.77,582.68 ಪೈಸೆ ಗಳನ್ನು ಚೆಕ್ ನಂ.733024 ದಿನಾಂಕ: 27.02.1973 ರಂದು (4) ಶ್ರೀ ಗುರುವರಾಜು ರವರು ರೂ.59,240.18 ಪೈಸೆ ಗಳನ್ನು ಚೆಕ್ ನಂ.733023 ದಿನಾಂಕ: 27.02.1973 ರಂದು (5) ಶ್ರೀ ವೆಂಗಮರಾಜು ರವರು ರೂ.75,403.43 ಪೈಸೆ ಗಳನ್ನು ಚೆಕ್ ನಂ.733022 ದಿನಾಂಕ: 27.02.1973 ರಂದು

ಪ್ರಾಧಿಕಾರದಿಂದ ಪರಿಹಾರವಾಗಿ ಪಡೆದು ಕೊಂಡಿರುತ್ತಾರೆ ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು ರವರಿಗೆ ಕಳುಹಿಸಕೊಡಲಾಗಿದೆ.

ಮುಂದುವರೆದು ಮಾರೇನಹಳ್ಳಿ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.18ರ 01 ಎಕರೆ –34 ಗುಂಟೆ ಜಮೀನು ಸರ್ಕಾರಿ ಹುಲ್ಲುಬನ್ನಿ ಆಗಿದ್ದು ಸದರಿ ಜಮೀನು ಭೂಸ್ವಾಧೀನ ಕಾಯ್ದೆ ಕಲಂ 48(1) ರನ್ವಯ ಸರ್ಕಾರದ ಅಧಿಸೂಚನೆ ದಿನಾಂಕ 7.6.1996 ರಂತೆ ಭೂಸ್ವಾಧೀನದಿಂದ ಹೊರತುಪಡಿಸಿರುವ ಅಧಿಸೂಚನೆಯಲ್ಲಿ ಒಳಗೊಂಡಿರುತ್ತದೆ. ಅರ್ಜಿದಾರರು ತಮ್ಮ ಮನವಿಯಲ್ಲಿ ಸರ್ವೆ ನಂ.17 ರಲ್ಲಿ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆ ಉಪ ಆಯುಕ್ತರು 137 ಕುಟುಂಬದ ಜನರಿಗೆ ನಿವೇಶನಗಳನ್ನು ಹಂಚಿಕೆ ಮಾಡಿ ಹಕ್ಕುಪತ್ರಗಳನ್ನು ವಿತರಿಸಿರುವುದಾಗಿ ತಿಳಿಸಿರುವುದರಿಂದ ಅರ್ಜಿದಾರರು ಪರಿಹಾರವಾಗಿ ಟಿ.ಡಿ.ಆರ್. ನೀಡುವಂತೆ ಕೋರಿರುತ್ತಾರೆ. ಅರ್ಜಿದಾರರ ಕೋರಿಕೆಯಂತೆ ಟಿ.ಡಿ.ಆರ್. ನೀಡುವ ಬಗ್ಗೆ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆಯ ಹಂತದಲ್ಲಿಯೇ ತೀರ್ಮಾನಿಸಿ ಕ್ರಮ ಕೈಗೊಂಡು ಈ ಕಛೇರಿಗೆ ಮಾಹಿತಿ ನೀಡಬೇಕೆಂದು ಕೋರಲಾಗಿದೆ."

(d) Accordingly, proceedings were drawn to the effect that since the lands in respect of which allotment of sites were made in favour of the occupants including the Petitioners herein on the payment of upset price, have been utilized for the formation of KSRTC Employees Cooperative Society and the Slum Area Development Board, these occupants may be compensated by issuing the TDR. This submission of the subordinate official came to be approved by the Commissioner & Addl.

Commissioners of BBMP vide Note Nos.43 & 44 (Annexure-R) dated 23.1.2019.

(e) Since the papers were moving at snail's pace, Petitioners had filed W.P.Nos.25898-26035/2019 (LB-BMP) which came to be disposed off by a Coordinate Bench of this Court vide judgment dated 5.8.2019 (Annexure-W) directing the BBMP to consider the claim of Petitioners for recommending to the BDA to issue the TDR certificates within four weeks. The operative portion of the order reads as under:

> *"9. In view of the above, the Corporation is directed to consider the case of the petitioners for recommending their names to the BDA for issuing TDR certificates along with necessary information and clarification as sought by the BDA within four weeks from the date of receipt of copy of this order.*
>
> *If the Corporation has sent recommendations along with information and clarification as sought by the BDA as per Annexure T, the BDA is directed to consider the case of the petitioners for issuing the TDR certificates in favour of the petitioners in accordance with law within four weeks from the date of receipt of the recommendations from the Corporation.*

With the above observations and direction, the writ petitions are disposed off."

Learned Judge also directed the BDA to consider the recommendation after clarifications as sought for that were issued by the BBMP, within four weeks. Strangely, BBMP issued an endorsement dated 15.6.2021 to the effect that the decision for issuance of the TDR certificate should be taken at the hands of the BDA itself in terms of the clarifications contained therein. There were certain observations in the said endorsement that were prejudicial to the interest of the Petitioners.

(f) Since nothing happened in terms of the direction issued by the Coordinate Judge in the subject Writ Petition, Petitioners moved CCC No.696/2020. The BBMP Commissioner was arrayed as accused No.1 and the BBMP Deputy Commissioner was arrayed as accused No.2. This case came to be disposed off by the Division Bench vide order dated 4.10.2021 (Annexure-Z) with the following text:

"10. In view of the above, we pass the following:

> *(i) Accepting the submission made by Sri. D.N. Nanjunda Reddy, learned Senior Counsel for Accused Nos. 1 and 2 that the Corporation has already recommended to the BDA for issue of TDR certificates, the contempt proceedings are* ***dropped****, subject to payment of costs of Rs.25,000/- by the accused persons to the complainants within a period of four weeks from today.*
>
> *(ii) However, liberty is reserved to accused Nos.1 and 2 to recover the said amount from the erring officers/officials who are responsible for causing the delay of more than tow year in passing orders."*

It is relevant to mention that at Paragraph 5 of the order, the withdrawal of BBMP endorsement dated 15.06.2021 has also been recorded.

(g) In the light of the undertaking given to the Division Bench in the contempt proceedings, the BBMP furnished requisite information to the BDA which has issued the impugned endorsement returning the recommendation to the BBMP again. Petitioners claim for issuance of TDR certificates essentially on the grounds that: the judicial & quasi judicial orders coupled with CID report dated 18.5.2012 put the *Hakku Patraas* under a

cloud of doubt. No allotment of the sites could have been made by the BBMP on behalf of the BDA; the BBMP has not authenticated certain information requisite for processing the claim for TDR certificates; the amendment to section 14B of the 1961 Act brought about from 12.8.2021 gives more power to the BBMP which has to take the decision; the information furnished by the BBMP is deficient & defective and therefore, there is no scope for issuance of TDR certificates.

Order dated 17.03.2022 in BDA/EO/TDR/PLO No. 125088/117/2021-22 passed by the 3rd Responded – Commissioner is now put in challenge in the Writ Petition at hands.

5. Having heard the learned counsel for the parties and having perused the petition papers, this Court is inclined to grant indulgence in the matter for the following reasons:

A. AS TO PETITIONERS NOT BEING OWNERS OF LAND IN QUESTION:

(i) Petitioners along with other were in the occupation of land in Sy.No.40 of Marenahalli village and

were asked to shift to Sy.Nos.17 & 18 of the same village. Accordingly, petitioners quit their lands in Sy.No.40 and obtained the *Hakku Patraas* by paying the offset price at the rate of Rs.2/- per square yard. Transfer of *khata* also came to be made in the Property Registers of the Local Body. All this happened way back in 1979-80, pursuant to the orders of the BBMP Commissioner, Revenue Officer, Block Development Officer and Deputy Commissioner of the district. This is authenticated by the proceedings of the BBMP which bear the signatures of Commissioner and Addl. Commissioner, in addition to lower rung officials.

(ii) Letter No HID329HLA70 dated 28.12.1979 issued by the Secretary, Department of Housing and Urban Development, Govt. of Karnataka, which authorized the Block Development Officers to issue the possession certificate/*Hakku Patraas,* makes it clear that the State Government too had a role to play in the unfolding of these events. This was followed by Memo dated 19.01.1980 in DRP:BHS:116/79-80 issued by the Deputy

Commissioner of Bangalore District. It is a settled position of law that *Hakku Patraas* are title deeds, and therefore, there is recognition of the right/interest of the occupants by the statutory authorities. This assumes significance inasmuch as the TDR facility avails as *a matter of right* not only to the owners of the land but also to the persons having interest therein. This view gains support from the very text of the Section 14B of the 1961 Act which at several places employs the expression: "…*claims of the land owner or interested person*".

> *In light of the above reasoning, the first contention of learned Sr. Panel Counsel appearing for the Respondent – BDA that Petitioners were not the owners of the land in question, does not come to his rescue.*

B. AS TO PETITIONERS' CLAIM FOR GRANT OF TRANSFERABLE DEVELOPMENT RIGHTS CERTIFICATE:

(i) The BBMP after conducting the inquiry & verification records has drawn up the proceedings to the effect that the land in Sy.No.40 was retrieved from the occupation of the Petitioners for the purpose of putting it to public use such as formation & widening of road,

underground drainage, etc and therefore, the *Hakku Patraas* and Possession Certificates were given to the occupants in respect of lands in Sy.Nos.17 & 18 of the same village namely Marenahalli. The Government vide letter dated 28.12.1979 had authorized the BDA to issue these *Hakku Patraas.* However, as the conspiracy of circumstances would have it, these allottees could not get any site on the ground in Sy.No.17, the land in Sy.No.18 having been denotified from acquisition. The proceedings of the BBMP specifically mention about the land in Sy.No.17 also being put to public use. That is why the Special Commissioner (Project), BBMP vide note dated 23.1.2019 recommended for the grant of TDR. The same reads as under:

> "ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಮಾರೇನಹಳ್ಳಿ ಮುಖ್ಯರಸ್ತೆ, ಸರ್ವೆ ನಂ.17 ಮತ್ತು 18 ರ ವಸತಿಹೀನರಿಗೆ ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಕ್ಷೇತ್ರಾಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಗಳು (ಬಿ.ಡಿ.ಓ) ರವರು ನೀಡಿರುವ 180 ವಸತಿ ನಿವೇಶನಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಹಕ್ಕು ಪತ್ರಗಳನ್ನು ನೀಡಿದ್ದು, ಸದರಿ ಜಾಗವು ಅಲಭ್ಯವಿರುವ ಕಾರಣ ಟಿ.ಡಿ.ಆರ್ ನೀಡುವಂತೆ ಶ್ರೀ ಪ್ರಸಾದ್ (ನೋಂದಾಯಿತ ಜಿ.ಪಿ.ಎ ಹೋಲ್ಡರ್)ರವರು ಕೋರಿರುವ ಹಿನ್ನಲೆಯಲ್ಲಿ ಕಂಡಿಕೆ –(28) ರಿಂದ (42)ರವರೆಗೆ ಉಪ ಆಯುಕ್ತರು (ಭೂ–ಸ್ವಾಧಿನ ಮತ್ತು ಟಿ.ಡಿ.ಆರ್) ರವರು ವರದಿ ಮಂಡಿಸಿ, ಪಾಲಿಕೆಯಿಂದ ಮಾರೇನಹಳ್ಳಿ ಮುಖ್ಯರಸ್ತೆ ಅಭಿವೃದ್ಧಿಪಡಿಸಲು ಸರ್ವೆ ನಂ.40 ರಿಂದ ಸ್ಥಳಾಂತರಗೊಂಡ

137 ವಸತಿಹೀನರಿಗೆ ಸರ್ವೆ ನಂ.17 ಕ್ಕೆ ಅಂದಿನ ಕ್ಷೇತ್ರಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಗಳು, ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು ರವರು ನೀಡಿರುವ ಮೂಲ ಹಕ್ಕು ಪತ್ರ ಮತ್ತು ಸ್ವಾಧೀನ ಪತ್ರವನ್ನು ಪಡೆದುಕೊಂಡು, ಸರ್ವೆ ನಂ.40 ಕ್ಕೆ ಟಿ.ಡಿ.ಆರ್ ನೀಡಲು ಕೋರಿರುವ ಕುರಿತು ಅಂದಿನ ಕ್ಷೇತ್ರಾಭಿವೃದ್ಧಿ ಅಧಿಕಾರಿಗಳು, ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು ರವರು ನೀಡಿರುವ ಮೂಲ ಹಕ್ಕು ಪತ್ರ ಮತ್ತು ಸ್ವಾಧೀನ ಪತ್ರವನ್ನು ಪಾಲಿಕೆಯ ವಶಕ್ಕೆ ಪಡೆದುಕೊಂಡು ಸರ್ವೆ ನಂ.40 ಕ್ಕೆ ಟಿ.ಡಿ.ಆರ್ ನೀಡಲು ಬೆಂಗಳೂರು ಅಭವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಸಲ್ಲಿಸಲು ಆದೇಶ ಕೋರಿದ್ದು, ಪ್ರಸ್ತಾವನೆ ಕುರಿತಂತೆ ಸೂಕ್ತ ನಿರ್ದೇಶನ ಕೋರಿದೆ."

The above Note came to be approved by the Commissioner of BBMP on the very same day, without any reservation, whereby it was stated that the *Hakku Patraas* and Possession Certificates would be taken back from the allottees and TDR certificates be issued to them in *lieu* of compensation in respect of the land in Sy.No.40. Therefore, the second contention of BDA Panel Counsel that no claim can be laid by the Petitioners for the TDR in respect of this land, does not merit acceptance, more particularly when it is nobody's contention that these allottees have been paid compensation either in respect of this land or in respect of land in Sy.No.17.

(ii) Though fundamental right to property guaranteed under Article 19(1)(f) no longer avails, after 44th Amendment of 1978 hardly needs to be stated that the Right to Property continues to be constitutionally guaranteed under Article 300A. This guarantee is not confined to the right of ownership but extends to a much larger bundle of rights wherein interest in the property short of ownership too, finds place. It would be relevant to advert to D.D.Basu's '*Shorter Constitution of India*[1] wherein it is stated as under:

> *'The word 'property' connotes everything which is subject of ownership, corporeal or incorporeal, tangible or intangible, visible or invisible, real or personal; everything that has an exchangeable value or which goes to make up wealth or estate or status. It embraces every possible interest recognized by law…"*

Similarly, in *ENETERATINMENT NETWORK INDIA LIMITED VS. SUPER CASETTE INDUSTRIES LIMITED*[2], the Apex Court has observed that an owner of a copyright has a right akin to the right to property constitutionally

[1] D.D.Basu, Shorter Constitution of India, 15th Edition, Lexis Nexis Publication, p. 1501 – 02, (2019)
[2] (2008) 13 SCC 30

protected in terms of Article 300A and therefore, if the same is acquired, compensation needs to be paid. That being the expanse of *right to property*, it cannot be gainfully contended that the petitioners did not have any interest in the lands in Sy. No. 40 & 17, more particularly when in recognition of that right/interest they have been issued *Hakku Patraas* that too on payment of a certain offset price.

In light of the above reasoning, the second contention of learned Sr. Panel Counsel appearing for the Respondent – BDA that Petitioners do not have any claim for grant of TDR Certificates with regard to the land in question, does not merit acceptance.

C. AS TO INTERPRETATION OF SECTION 14B OF KARNATAKA TOWN AND COUNTRY PLANNING ACT, 1961 AND RULES PROMULGATED THEREUNDER:

(i) The third contention of learned Sr. Panel Counsel appearing for the BDA that the *TDR* scheme as envisaged under Section 14B of the 1961 Act, read with the Rules promulgated by the Government has to be construed strictly, and in cases which do not *stricto sensu* fit into the same, no relief can be granted to the litigants,

is bit difficult to countenance. To fully appreciate this stand of the BDA, it is profitable to examine the very TDR concept. '*Transferable Developmental Rights, Guidelines For Implementing of TDR Tools for Achieving Urban Infrastructure Transition in India*' (2020) published by the NITI AYOG reads as under:

> *"TDR means an award specifying the Built-Up Area (BUA) an owner of a site or plot can either sell or utilize – in-situ/ elsewhere, in lieu of the land foregone on account of surrendering / gifting land free of cost to the ULB's (Municipal Body, Urban Improvement Trust, Urban Development Authority), required to be set apart for public purpose as per the Master Plan or for road widening, recreational use zone, etc. The award is in the form of a TDR Certificate issued by the Competent Authority. The TDR Certificate inter-alia should mention the area surrendered and the cost of that area as per the circle rate. These certificates are regulated under the building Bye-Laws or in conjunction with TDR guidelines framed by State Governments from time-to-time…"*

The U.S. Supreme Court in *PENN CENTRAL TRANSPORT COMPANY vs. NEW YORK CITY*[3] addressed TDR as a *flexible alternative to the payment of compensation to the*

[3] 438 U.S. 104 (1978)

persons who give up their properties and thereby get Enhanced Developmental Rights in some other property belonging to them. This idea was evolved on the premise of balancing landowners' interest with public interest. What a great Judge of US Supreme Court, Justice Antonin Scalia observed in *SUITUM vs. TAHOE REGIONAL PLANNING AGENCY*[4] is profitably reproduced below:

> *"TDR, of course, have nothing to do with the use or development of the land to which they are (by regulatory decree) attached. The right to use and develop one's own land is quite distinct from the right to confer upon someone else an increased power to use and develop his land. The latter is valuable, to be sure, but it is a new right conferred upon the landowner in exchange for the taking, rather than a reduction of the taking… so also the marketable TDR, a peculiar type of chit which enables a third party not to get cash from the government but to use his land in ways the government would otherwise not permit, relates not to taking but to compensation.."*

(ii) The Apex Court deliberating on the nature of *TDR* in *JANHIT MANCH vs. STATE OF MAHARASHTRA*[5] at paragraphs 2, 3 & 4 has instructively observed:

> *"2…transferable development right (TDR) is voluntary, incentive based program allowing*

[4] 529 U.S. 725 (1997)
[5] (2019) 2 SCC 505

landowners to sell developmental rights from their land to a developer or to other interested parties, who can use these rights to increase the density of development at another designated location…3.In order to understand this concept, we would like to further elucidate that the object is to give compensation in a different way, to private landowners who have transferred a portion of their land to the Government as and when the Government has required such private land to build or expand public utilities like grounds, gardens, bus stands, roads, etc. The alternate mode of compensation, instead of payment of money is TDR, which is nothing but a development potential, in terms of increased floor space index (hereinafter referred to as "FSI") awarded in lieu of the area of land given, conferred in the form of a Development Rights Certificate (hereinafter referred to as "DRC"), by the Government. Such TDR or DRC is negotiable and can be transferred for consideration, leaving it open for the owner of the acquired land to either use the TDR for himself or to sell it in the open market…4.The other concept which would have to be dealt with in the context of the present dispute is that of floor area ratio (hereinafter referred to as "FAR"), which is the ratio of a building's total floor area (gross floor area) to the total area of the plot. The concept of FAR can be utilised in the zoning process, to limit urban density. It may be noted that often FAR and FSI are used as interchangeable terminologies and what is taken into account is the carrying capacity/infrastructure and amenities of an area, which would, in turn,

have a direct impact on public health, safety and the right to life of the occupants of the area."

(iii) The Govt. of Karnataka vide Notifications dated 03.02.2005 & 15.03.2012 has promulgated certain terms & conditions for regulating the grant of Transferable Development Rights by the Municipal Corporations. These are referable to the provisions of Sec.14B of the 1961 Act and they recognize justiciable rights of owners of land or of persons interested therein. The Apex Court while treating more or less a similar circumstance in *GODREJ & BOYCE MFG. CO. LTD. vs. STATE OF MAHARASHTRA*[6] observed as under:

"The conditions, that is to say, the mutual rights and obligations subject to which the landowner may offer to surrender the designated plot to municipal authority and the latter may accept the offers are enumerated in detail in the statutory provisions. Beyond those conditions there can be no negotiations for surrender of the land, particularly in derogation to the landowner's statutory rights."

[6] (2009) 5 SCC 24

(iv) It hardly needs to be stated that Schemes of the kind are beneficial to the persons who have given up their lands to the State in consideration of TDR Certificates in *lieu* of compensation. It is not only beneficial to such persons but also to the State since it does not shell out anything from the Exchequer, though it takes the private land of the citizens. Such schemes having been enacted to further the development and Welfare objectives of the State, such goals must be borne in mind while effectuating the statutory schemes of the kind. The Constitution guaranteeing the right to property, the exercise of power of eminent domain is normally conditioned by payment of adequate compensation. Where private land is utilized by the State & its authorities for the public purpose, without following due process of acquisition, this Court has frowned upon the same and has directed payment of compensation, at times with interest & penalty vide *SRI. P. G. BELLIAPPA vs. THE COMMISSIONER, BANGALORE DEVELOPMENT AUTHORITY*[7]. This has been affirmed by

[7] 2019 (3) Kar.LJ 795

the Division Bench in *P. G. BELLIAPPA vs. THE COMMISSIONER, BANGALORE DEVELOPMENT AUTHORITY*[8] (W.A.No.2535/2019 disposed off vide judgment dated 5.11.2019). Therefore, while treating the claims for TDR certificates, essentially what the authorities have to examine is:

> Whether private property acquired is put to public use, i.e., formation of roads, drainage, etc. notwithstanding acquisition process due, provided that the persons interested in the property have not been given recompense, despite being entitled to the same.

(v) In fact, the BBMP Proceedings Note 43 prepared by the Special Commissioner (Project) has been approved by the Commissioner on 23.01.2019 at Annexure-R which mentions about the subject land in Survey No.40 having been put to use for the widening of the main road after the occupants vacated the same on solicitation. The other property namely the land in Sy.No.40 also having been put to public use such as formation of the road, development of layout and the like does not avail for allotment in terms

[8] 2020 (1) Kar.LJ 504

of *Hakku Patraas* & Possession Certificates. In fact, the BDA by its letter dated 10.12.2018 had asked the BBMP to take the decision at its own level for the allotment of TDR certificates. That being the position, the respondent-BDA is not justified in negativing petitioners' claim for TDR Certificates for want of acquisition notifications. It virtually amounts to saying petitioners are not entitled to recompense, despite the *Hakku Patraas* having been granted to them for off-set price.

D. Amendment Act of 2021 and relaxing of the rigors concerning the grant of TDR:

(i) Learned Sr. Advocate appearing for the petitioners is right in contending that the rigors which obtained earlier in the matter of granting of TDR Certificates have been to a great extent progressively diminished by the Legislature by inserting Clause (4A) after sub-section 10 of sec.14B of the 1961 Act vide Karnataka Act No.31 of 2021 gazetted on 07.10.2021. The said Act is called the Karnataka Town and Country

Planning (Amendment) Act, 2021. The subject proviso reads as under:

> "Provided that in cases where land has been procured and possession has been taken by the Public Authority five years or more prior to the date of commencement of the Karnataka Town and Country Planning (Amendment) Act, 2021, for the purpose specified above but no Development Right Certificate has been issued till the commencement of the said amendment Act, in such procurement process land owners shall be eligible for benefit of Development Rights as per the said Amendment Act".

The text of the proviso should be a complete answer to the contention of learned BDA Panel Counsel that under the proviso to sub-section (1) of sec. 14B as amended by the 2021 Act, there cannot be any grant of TDR Certificates, unless the land was formally acquired under the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013. The thirst of matter is not the legislation under which acquisition takes place but the fact that the private land is put to public use, regardless of due acquisition process. It does not stand to logic that the persons who

have lost land under a particular statute alone are entitled to TDR facility and others are not. If the State has appropriated the private property of a citizen without due process of acquisition, denying TDR facility to him makes it more illogical than otherwise. A contra contention spurns at reason, at law & at justice.

(ii) A perusal of several amendments brought about to the Principal Provisions of the 1961 Act providing for the grant of TDR rights shows that there has been progressively a marked legislative liberalization of the rigors that otherwise obtained at various levels & stages during the pre-amendment regime. There is abundant scope for the view that the proviso reproduced above should be treated as an island provision regard being had to its text & context and also its apparent intent to benefit the owners/persons interested in the lands that are put to use for public purpose, five years or more before the 2021 Act is brought on the statute book, whether or not, the private lands are taken by due acquisition process. It

cannot be gainfully controverted that although a proviso functions as an exception to the main section that preceedingly concerns it, the same can be treated as an island provision creating substantive rights, too, as is the case with the subject proviso. This view gains support from the juristic writings. An argument to the contrary would render the aforesaid proviso otiose and therefore, cannot be countenanced. Thus, the impugned order is vulnerable for challenge for not being animated with the new position of law as brought about by legislative amendment in October, 2021.

(iii) In the light of the proviso afore reproduced, there is yet another reason for repelling the contention of the learned BDA counsel that no TDR facility can be accorded in the absence of strict adherence to the Scheme envisaged u/s.14B of the 1961 Act and therefore for entertaining the claim for TDR Certificates, proof of formal acquisition is a *sine qua non:* it is always open to the State to acquire private property to put it to use for a public purpose, of course subject to payment of

compensation. However, where the private property is taken and put to a public purpose *sans* due process of acquisition, courts have held that the State should pay damages/compensation for the same in recognition of property rights guaranteed under Article 300A vide *P.G.BELLIAPPA VS. THE COMMISSIONER, BANGALORE DEVELOPMENT AUTHORITY,* 2019 (3) KAR.L.J 795. Since the TDR facility avails to the land owner in lieu of compensation, the same cannot be denied merely on the ground of absence of formal acquisition since that cannot be a justification for not paying the compensation. It accords with the reason & justice that the citizens whose property has been made use of for a public purpose *sans* a formal acquisition process can be justifiably treated on a higher pedestal *qua* those whose property is taken by due process of acquisition, whilst treating the claim for grant of TDR Certificates.

In light of the above reasoning, the third contention of learned Sr. Panel Counsel appearing for the Respondent – BDA that provisions of Sec.14B of the 1961 Act relating to grant of TDR should be strictly construed and if so construed, the petitioners are disentitled to grant, does not merit acceptance.

E. AS TO AUTHENCITY OF PETITIONERS' TITLE DOCUMENTS AND CONDUCT OF STATUTORY AUTHORITIES:

(i) The next contention of BDA Panel Counsel that there is a thick ring of doubt as to the genuineness of *Hakku Patraas* and Possession Certificates, is absolutely untenable, to say the least. There is not even a whisper as to which expert opinion was obtained to come to such a conclusion. The version of BDA that the difference in the quality of papers on which the *Hakku Patraas* have been drawn, raises the doubt as to their authenticity, is absolutely ridiculous. Some stray pleadings as to age of grantees not tallying or improbable, is hardly a leg to stand on. On the contrary, learned Sr. Advocate appearing for the petitioners is more than justified in pointing out the report of the C.I.D. dated 08.05.2012 did not inculpated any of the petitioners although it did qua others. What happened to criminal cases founded on the C.I.D. report although against others, remains to be a mystery wrapped in enigma. There is a wealth of contemporaneous material supporting the circumstances that resulted into issuance of

Hakku Patraas/Possession Certificates in favour of the petitioners after extracting the price, howsoever small it was. Throughout the proceedings, till after the impugned order is made, the BBMP had maintained the specific stand that the Petitioners have been given the *Hakku Patraas* in respect of subject land which does not avail for the grant and therefore, TDR facility should be extended to them. However, after the judgment of the Coordinate Bench, all of a sudden it feigned ignorance of the authenticity of the *Hakku Patraas*. What prevented it from certifying the authenticity of *Hakku Patraas* is bit difficult to guess. Therefore, the subject reason assigned by the BDA for negativing the claim for TDR Certificates is unsustainable.

(ii) What irks the conscience of the Court is, the recalcitrant attitude of two statutory authorities, namely: the BDA and the BBMP. They fail to note that all the petitioners treated as *slum dwellers* were accordingly granted *Hakku Patraas* & Possession Certificates in respect of land in Sy. No. 17 in recognition of their occupancy qua

the one in Sy. No. 40. Offset price was also extracted from them. They were impressed that *khata* transfer would be effected and *khata* certificates would be issued in their names. They were assured of formation of the layout with the water & power supply. However, the authorities could not keep their assurance, the subject land having been utilized for some other public purpose such as formation & widening of main road, housing layout of KEB Employees, etc. In fact, that was the reason, the petitioners were promised off TDR facility as a viable alternative. The conduct of the respondents in now turning around and denying the TDR certificates is liable to be met with by the *doctrine of promissory estoppel* in vide *MOTILAL PADAMPAT SUGAR MILLS VS. STATE OF UTTAR PRADESH*[9]. The relevant portion of the said ruling reads as under:

> *"It would, therefore, be correct to say that in order to invoke the doctrine of promissory estoppel it is enough to show that the promisee has acting in reliance of the promise, altered his position and it is not necessary for him to further show that he has acted to his detriment… It is true that taxation is a sovereign or governmental*

[9] AIR 1979 SC 621

> *function, but, for reasons which we have already discussed, no distinction can be made between the exercise of a sovereign or governmental function and a trading or business activity of the Government so far as the doctrine of promissory estoppel is concerned. Whatever be the nature of the function which the Government is discharging, the Government is subject to the rule of promissory estoppel and if the essential ingredients of this rule are satisfied, the Government can be compelled to carry out the promise made by it."*

(iii) This Court in a case concerning denial of TDR facility in *SRI D.V.VENKATESHAPPA vs. THE COMMISSIONER, BBMP AND OTHERS*[10] structured the relief to the land losers on the basis of the *doctrine of promissory estoppel.* What is observed at 4(g) being pertinent is reproduced as under:

> *"4.(g). In relation to Bhopal Gas Tragedy, there was a case in a District Court in New York i.e., Un IN RE: UNION CARBIDE CORPORATION GAS LEAK DISATER AT BHOPAL, INDIA IN DECEMBER 1984. The MNC was seeking adjudication of the claims only in American Court alleging that Indian legal system is inadequate. A great jurist of yester decades Mr. N.A. Palkhivala in his personal Affidavit dated 18.12.1985 filed in the said court extolled the efficacy & greatness of Indian*

[10] ILR 2022 KAR 4465

Judiciary, inter alia by referring to MOTILAL PADAMPAT supra. A part of what he said is worth reproducing:

"In Motilal Padampat Sagar Mills v. Uttar Pradesh (AIR 1979 SC 621) the Supreme Court took the doctrine of Promissory estoppel (which estops the government from pleading executive necessity and going back on its earlier promise) an important step further, and held that it was not merely available as a defence but could supply a cause of action for institution of legal proceedings."

"I have seen the Memoranda and Affidavits filed in opposition to Union Carbide's Motion regarding Forum Non Conveniens. In those papers its has been stated that the Indian legal system is "deficient: and "inadequate". I am constrained to say that it is gratuitous denigration to call the Indian system deficient or inadequate."

"The Indian judiciary is wholly competent to deal with any dispute in any field of law, in the 35 years of the history of our Republic, ably dealt with far more complex issues than those arising from the gas plant disaster at Bhopal."

(See:'Mass Disasters and Multinational Liability: The Bhopal Case' by Upendra Baxi and Thomas Paul, Indian Law Institute, pages 223-225)

That being the position, petitioners are more than justified in seeking redressal of their grievance in constitutional jurisdiction by placing reliance on this decision."

It is also relevant to note that the said judgment came to be affirmed by the Division Bench in Writ Appeal No. 428/2022 between COMMISSIONER AND D. V. VENKATESHAPPA disposed off on 26.09.2022

In light of the above reasoning, the fourth contention of learned Sr. Panel Counsel appearing for the Respondent – BDA that title documents are not authentic is absolutely untenable. This apart, the conduct of Respondent - BDA and BBMP apart from being irksome is met with the doctrine of promissory estoppel.

F. AS TO EARLIER ROUNDS OF LITIGATION:

(i) Petitioners were before this Court earlier in W.P.Nos.25898-26035/2019 between JAYAMMA AND THE COMMISSIONER (LB-BMP) disposed off on 05.08.2019. A Co-ordinate Bench handing the judgment on 05.08.2019 at paragraphs 5 & 7 had observed as under:

> *"…5. Sri Ramanjaneya Gowda, the learned counsel appearing for the BDA has submitted that earlier the Corporation has sent the proposal dated 23.01.2019 to the BDA. But the BDA has returned the recommendations and sought some additional information and clarification from the Corporation vide Annexure-T dated 22.02.2019. He has*

further stated that if such additional information and clarification is furnished by the Corporation and sent for recommendations, the BDA will reconsider the same for issuing the TDR certifies in favour of the petitioners.

7. Detailed narration of facts would not call for reiteration. The corporation has taken a decisions to compensate the petitioners by issuing TDR certificates. Subsequently, on 23.01.2019 and 01.02.2019, the corporation has taken a decision to recommend the petitioners' case to the BDA for issuing TDR certificates. The BDA in turn returned the recommendations to the Corporation and has sought for additional information and clarification vide Annexure-T dated 22.02.2019. Now the matter is before BBMP for consideration of the case of the petitioners…"

(ii) However, nowadays the authorities being what they are, the mandate of the learned Single Judge was not obeyed and therefore petitioners had moved CCC No.696 of 2020 (Civil), wherein the Commissioner of BBMP was Accused No.1 and the Deputy Commissioner of BBMP was Accused No.2. The said case was disposed off imposing a cost of Rs.25,000/- on the accused persons payable to the petitioners. The operative portion is reproduced *supra.* The BBMP submitted the file to the BDA on 20.09.2021.

The contempt proceedings having been instituted in 2020 itself, there is scope for the argument that the officials of the BBMP were a bit inimical qua the petitioners and therefore they had structured their stand before the BDA a little unfavorable to them. It is the poor and hapless petitioners who are complaining before the Constitutional Courts in the third round of litigation, which has a chequered history.

(iii) Our Constitution which has ushered in a Welfare State ordains that Government & its authorities shall conduct themselves fairly, justly & reasonably while treating the grievance of the citizens who are unable to fend for themselves. Our Constitution having been founded on human values, the State and its authorities should adopt a humane approach to the problems of those in need of socio-economic aid. A bare perusal of the impugned order gives an impression that it is texted with the mindset of a Draftsman of East India Company of the bygone era and not by the one whose heart is at the right

place. A few reasons amongst others that are assigned for denying relief to the petitioners are ridiculous, not to state more.

G. AS TO WHY MATTER CANNOT BE REMITTED BACK FOR FRESH CONSIDERATION:

(i) As a norm, this Court would have quashed the impugned order and remitted the matter for consideration afresh at the hands of the authorities, because of arguable complexities of facts. However, the checkered history on which the case at hands is structured, the bureaucratic approach of the authorities in shuttling the poor petitioners between one another and the circumstances narrated hereinabove do not leave such an option with this court.

(ii) All the Petitioners are *slum-dwellers*; they gave up their occupation of the land in Sy.No.40 decades ago on the assurance of the BBMP of providing them some shelter in the land in Sy.No.17; they were given *Hakku Patraas* & Possession Certificates way back in 1979 – 1980. They had paid offset price at the rate of Rs.2/- per

square yard in those days. All their efforts to secure a small piece of house site, ended in vain. Having realized that they would never get any such site, they opted for the TDR facilities in *lieu* of compensation.

(iii) This is the 3rd round of litigation. In the contempt case, the Commissioner & Deputy Commissioner of BBMP were levied costs of Rs.25,000/-. The Petitioners had a rough deal at the hands of both the BDA & the BBMP, whose conduct does not generate confidence in the mind of the Court that they would ever grant relief to the deserving litigants, on their own. Repeated remand is not desirable in matters involving grievances of the poor & disadvantaged. Remitting the matter of the kind back to the portals of the authorities, by quoting some theories of law would not do real justice to the deserving litigants that hail from '*have-not*' segment of the society. After all, it is the constitutional responsibility of Courts to individualize justice according to law.

In the above circumstances, I make the following:

O R D E R

(i) The Writ Petition is allowed; a Writ of Certiorari issues quashing the impugned order;

(ii) a Writ of Mandamus issues to the Respondent – Bangalore Development Authority to grant to the Petitioners TDR Certificates and report compliance to the Registrar General of this Court within a period of three months;

(iii) should delay be brooked, the Commissioner of BDA shall pay to each of the Petitioners a sum of Rs.1,000/- per day which may be recovered from the erring officials in accordance with law;

(iv) the Respondent – BBMP and other public offices on requisition by the BDA shall furnish all necessary information/records to facilitate issuance of TDR Certificates, as mandated above.

Now, no costs.

Sd/-
JUDGE

Snb/Bsv/cbc