

The Commissioner vs the State of Karnataka

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Court : Karnataka

Decided On : Nov-03-2025

Judge : Anu Sivaraman,Vijaykumar a. Patil

Appeal No. : WA/320/2023

Appellant : The Commissioner

Respondent : The State of Karnataka

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 3RD DAY OF NOVEMBER, 2025 PRESENT THE HON'BLE MRS. JUSTICE ANU SIVARAMAN AND THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL WRIT APPEAL NO. 320 OF 2023 (LA-BDA) BETWEEN:

1. THE COMMISSIONER BANGALORE DEVELOPMENT AUTHORITY, T. CHOWDAIAH ROA, KUMARA PARK EAST, BENGALURU-560 020.
2. THE SPECIAL LAND ACQUISITION OFFICER BENGALURU DEVELOPMENT AUTHORITY, T. CHOWDAIAH ROAD, KUMARA

PARK EAST, BENGALURU-560 020. APPELLANTS (BY SRI. MURUGESH V CHARATI., ADVOCATE)

Digitally signed by RUPA V AND: Location: High Court 1. THE STATE OF KARNATAKA Of Karnataka REPRESENTED BY URBAN DEVELOPMENT DEPARTMENT, M.S. BUILDING, BENGALURU-560 001.

2. SRI. CHINNASWAMYRAJ

S/O LATE SRI PEDDARAJU, AGED ABOUT 70 YEARS, R/AT GOLLAHALLI, UTTARAHALLI HOBLI, -2- BANGALORE SOUTH TALUK. (SINCE THE RESPONDENT NO.2 DIED) 2(a) SRI. BASAVARAJU S/O LATE PEDDA RAJU AGED ABOUT 85 YEARS R/AT NO.20, 1ST CROSS, 8TH MAIN KENGERI, BENGALURU - 560060 AND ALSO R/AT NO.1936, 18TH MAIN ROAD JAYANAGAR, BENGALURU-560 041. 2(b) SMT. MEENAKSHI D/O VARADARAJU W/O VIJAY MURGAN AGED ABOUT 43 YEARS R/AT NO.219, 4TH MAIN ROAD 6TH CROSS, MTB AREA JAYANAGAR, 5TH BLOCK BENGALURU - 560 041. 2(c) SMT. POORNIMA W/O LATE DAMODAR RAJU AGED ABOUT 39 YEARS 2(d) HEMA D. D/O LATE DAMODAR RAJU AGED ABOUT 16 YEARS BEING MINOR, REPRESENTED BY HER MOTHER AND NATURAL GUARDIAN SMT. POORNIMA. 2(e) SHREYAS RAJU D.

S/O LATE DAMODAR RAJU AGED ABOUT 14 YEARS BEING MINOR, REPRESENTED BY HIS MOTHER AND NATURAL GUARDIAN SMT. POORNIMA NO.2(c) TO 2(e) ARE R/AT 390, 10 BLOCK, BDA FURTHER EXTENSION LAL BAHADUR SHAHSTRI NAGAR -3-

ANJINAPURA, BENGALURU - 560 108. RESPONDENTS (BY SMT. MAMATHA SHETTY, AGA FOR R1; SRI. DHYAN CHINNAPPA, SENIOR ADVOCATE FOR SRI. CHANDRASHEKAR C., ADVOCATE FOR R2(A TO E)) --- THIS WRIT APPEAL IS FILED U/S 4 OF THE

KARNATAKA HIGH COURT ACT PRAYING TO SET - ASIDE THE ORDER DATED IN WRIT PETITION NO.46501/2017(LA-BDA) AND ALLOW THE WRIT APPEAL BY DISMISSING THE WRIT PETITION AND ETC., THIS WRIT APPEAL HAVING BEEN HEARD AND RESERVED ON 29.10.2025, COMING ON FOR PRONOUNCEMENT OF JUDGMENT, THIS DAY VIJAYKUMAR A. PATIL J., DELIVERED THE FOLLOWING: CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN and

HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL) This appeal is filed by the Bangalore Development Authority (BDA) under Section 4 of the Karnataka High Court Act, 1961, challenging the order dated 07.11.2022 passed by the learned Single Judge in W.P.No.46501/2017 (LA-BDA). -4-

2. The brief facts leading to filing of the appeal are that the deceased respondent No.2 filed a writ petition seeking prayer to declare that the preliminary notification

dated 26.03.1999 and the final notification dated 11.09.2000 are lapsed insofar as the schedule property. It is averred that the deceased respondent No.2 was the owner of the lands in different survey numbers of Gollahalli Village, Uttarahalli Hobli, Bangalore South Taluk, including land in Sy.No.16/1A measuring 20 guntas of Anjanapura Village, Uttarahalli Hobli, Bangalore South

Taluk, which is the subject matter of this appeal. It is further averred that in the said property, the family members of the deceased respondent No.2 are residing from the last 30-35 years and out of the said extent, 20 guntas of the land has been notified for acquisition and the remaining extent of the said survey number has been sold

to third party. It is also averred that the appellant-BDA did not pass any award, possession was not taken and no layout was formed. Hence, he sought for a declaration -5-

that the acquisition proceedings are lapsed
the BDA.

3. Sri.Murugesh V.Charati, learned counsel

appearing for the appellants submits that the learned Single Judge ought to have dismissed the writ petition solely on the ground that the earlier writ petition filed by the petitioner challenging the acquisition proceedings was rejected and liberty was reserved to seek de-notification and without doing so, filing of the present petition seeking a declaration that the acquisition is lapsed, is not

maintainable. It is submitted that the deceased respondent No.2 had consented for the acquisition which is evident from the communication dated 07.06.1999 at Document No.1 produced along with the statement of objections filed by the appellants. Once the consent is given to the acquisition, they are estopped from - 6- challenging the acquisition. It is further submitted that the appellants have alienated the land in favour of

Sri.K.Venkataraman as per Document No.2. Hence, he has no locus standi to maintain the writ petition. It is also submitted that the filing of the writ petition in the year 2017 seeking the relief of lapsing is hit by delay and laches and there cannot be lapsing of acquisition of small extent. In support of his contentions, he placed reliance on the decision of the co-ordinate Bench in the cases of

BANGALORE DEVELOPMENT AUTHORITY AND ANOTHER Vs. STATE OF KARNATAKA AND ANOTHER¹ and THE BANGALORE DEVELOPMENT AUTHORITY AND ANOTHER Vs. THE PRINCIPAL SECRETARY, REVENUE DEPARTMENT, GOVERNMENT OF KARNATAKA AND OTHERS². Hence, he seeks to allow the appeal. WA No.754/2023 dt. 18.9.25 WA No.4121/2017 dt. 24.5.22 -7-

4. Per contra, Sri.Dhyan Chinnappa, learned

Senior counsel for the respondent Nos.2(a to e) supports the impugned order of the learned Single Judge and submits that in the earlier writ petition filed by the

wife of the petitioner challenging the preliminary and final notifications issued by the BDA mainly on the ground that the adjacent survey numbers are not included in the acquisition proceedings was dismissed on the ground of delay and laches. This Court reserved liberty to the

petitioner to seek deletion of the property from acquisition. It is submitted that the prayer in the present petition is seeking a declaration that the acquisitions are lapsed and abandoned which is again pursuant to the liberty granted by this Court in W.P.No.34067/2017. It is further submitted that the total extent of the land in Sy.No.16/1A was measuring 1 acre 6 guntas. Out of the said extent, 25 guntas was sold and with regard to the

remaining extent, a prayer was sought seeking a declaration that the acquisition is lapsed. It is also -8-

submitted that insofar as the alienated property of the respondent, the BDA has considered the request of the purchaser, collected betterment charges which clearly establishes that the BDA has abandoned the acquisition proceedings insofar as the suit schedule property as well as the alienated portion of the same survey number. It is contended that the learned Single Judge, taking note of the fact that the BDA has failed to pass any award and had failed to take possession of the land and failed to implement the scheme insofar as suit schedule property, has rightly held that the acquisition proceedings have

lapsed which does not call for any interference. Hence, he seeks to dismiss the appeal.

5. We have heard the arguments of the learned counsel for the appellants, the learned Additional Government Advocate for the respondent No.1, the learned Senior counsel for the respondent Nos.2(a to e) and perused the material available on record. We have -9- given our anxious consideration to the submissions made on both sides.

6. The deceased respondent No.2 filed a writ

petition seeking prayer to issue a writ in the nature of certiorari or any other writ or an order declaring the notifications issued for acquisition of scheduled land by the Government of Karnataka under the preliminary notification dated 26.03.1999 and the final notification dated 11.09.2000 at Annexures-B and C, as lapsed mainly on the ground that the acquisition is for the benefit of the appellants-BDA and they have failed to pass award and to

take possession of the land.

The landowners have contended

respondents are residing in the said premises for more than 30 years which came to be accepted by the learned Single Judge by allowing the writ petition. The wife of the respondent No.2 Smt.Saraswathamma filed - 10 - W.P.No.32360/2010 challenging the acquisition notifications insofar as various extents of lands in different survey numbers referred in the petition. The said writ petition came to be rejected on the ground of delay and laches vide order dated 18.03.2011. The order of this Court indicates that the liberty was granted to the petitioner therein to seek for deletion of land of 25 guntas in Sy.No.16/1A which is the schedule property in the present proceedings. However, it was specifically contended by the petitioner therein that the surrounding lands have been de-notified from the acquisition proceedings and considering the various aspects, the Court has reserved liberty to submit a representation seeking for deletion of 25 guntas of land in Sy.No.16/1A on the ground that the family members of the present respondents are residing and structures have come up.

7. Be that as it may, the deceased respondent No.2 has filed W.P.No.34067/2017 challenging the - 11 - acquisition notifications which came to be withdrawn. The

learned Single Judge vide order dated 11.09.2017 dismissed the said writ petition as withdrawn with liberty to file a fresh petition seeking appropriate declaration within 30 days from the date of order and thereafter, the present writ petition is filed seeking the relief of declaration that the acquisition proceedings are lapsed. In view of the sequence of events narrated supra, the appellants cannot contend that the filing of the writ petition is hit by delay and laches.

8. The contention of the appellant-BDA that the

deceased respondent No.2 having failed in challenging the acquisition proceedings in W.P.No.32360/2010, cannot maintain the present writ petition, is also required to be rejected on the ground that the earlier writ petition filed by the wife of the deceased respondent No.2 in W.P.No.32360/2010 was a challenge to the acquisition proceedings and the same came to be negated on the - 12 -

ground of delay and laches granting liberty to seek de- notification of the present schedule property and the present writ petition is filed pursuant to the liberty granted by this Court in W.P.No.34067/2017 seeking the relief of declaration that the acquisition proceedings are lapsed and abandoned insofar as the schedule property is concerned on the ground that the acquisition is not completed by the appellant-BDA. The right to seek the relief of declaration that the acquisition proceedings are lapsed or abandoned continued to remain in view of non-passing of the award by the appellant-BDA and non-taking possession of the

schedule property. Admittedly, the appellant-BDA has neither passed award nor taken possession of the schedule property for more than 25 years as the preliminary notification was issued on 26.03.1999 and the final notification was issued on 11.09.2000. The schedule property is not vested with the State as well as the BDA and considering the aforesaid aspect, the learned Single Judge allowed the writ petition. Though the learned Single - 13 - Judge in the operative portion has quashed the said notifications insofar as the petition schedule property, the

order should be read and understood as the declaration

that the acquisition proceedings are abandoned by the appellant-BDA insofar as the schedule property.

9. The further contention of the appellant-BDA

that the deceased respondent No.2 has no locus to maintain the writ petition as he had sold the property in favour of K.Venkataraman vide registered sale deed produced at Document No.2 to the statement of objections of the appellant is untenable. A perusal of the sale deed executed by the wife of the respondent No.2

produced at Document No.2 indicates that the land measuring 25 guntas out of 1 acre 6 guntas and 4 guntas of kharab in Sy.No.16/1A of Anjanapura Village was alienated in favour of K.Venkataraman and the remaining extent of the said

survey number is the schedule property which is measuring 20 guntas. It is to be noticed that the - 14 - purchaser pursuant to the sale deed referred supra, approached the appellant-BDA requesting for regularization and the appellant-BDA accepted the betterment charges from K.Venkataraman as is evident from Annexure-P. Such an act of the appellant-BDA clearly demonstrates that the BDA has given up the acquisition proceedings insofar as the land purchased by

K.Venkataraman. The contention of the learned counsel for the appellant-BDA with regard to the locus has no merit in view of the aforesaid finding recorded by us. The appellant-BDA, having accepted that they do not intend to continue the acquisition proceedings insofar as 25 guntas of the land in Sy.No.16/1A of Anjanapura Village, as they

have accepted the betterment charges from K.Venkataraman, now they cannot contend that they would develop the small piece of land of 20 guntas of the same survey number which is the schedule property. - 15 -

10. Another contention of the learned counsel for

the appellant-BDA that the respondent-land owner has sent a communication dated 07.06.1999 at Annexure-D1 consenting for acquisition, now cannot turn around and challenge the acquisition proceedings, is also required to

be rejected. A perusal of the communication indicates that the land owner had requested payment of the compensation to the trees and also to the land in Sy.No.16/1A of Anjanapura Village with an incentive site measuring 40 x 60 ft. at a nominal rate fixed by the BDA. The said letter refers to the meeting convened by the Commissioner with the farmers on 05.05.1999 in the

Village Panchayat. The BDA is silent with regard to the consent offered by the deceased respondent No.2-land owner. It is not forthcoming from the record as to whether the appellant-BDA agreed to pass the award and whether any incentive

site is allotted to the deceased respondent No.2. Learned counsel for the appellant-BDA fairly concedes that no award is passed and no incentive

- 16 - site is allotted to the deceased respondent No.2-land owner. In view of the aforesaid stand, the contention that the deceased respondent No.2 is estopped from challenging the acquisition proceedings has no merit and is accordingly rejected. The decision relied on by the appellant in the case of BANGALORE DEVELOPMENT

AUTHORITY AND ANOTHER Vs. THE PRINCIPAL SECRETARY in W.A.No.4121/2017 referred supra has no application to the facts of the case. The said writ appeal of the BDA was allowed on the ground that the petitioner therein was guilty of suppression of material facts. In the case of BANGALORE DEVELOPMENT AUTHORITY AND ANOTHER Vs. STATE OF KARNATAKA in W.A.No.754/2023 referred supra, has no application to the

facts of the present case as the aforesaid judgment was

rendered taking note of the peculiar facts.

11. The learned Single Judge, considering the pleading and the material on record has recorded the - 17 -

finding that the appellant-BDA and the State have failed to complete the acquisition proceedings by passing an award and taking possession of the land in question. We do not find any error or perversity in the finding recorded by the learned Single Judge. Accordingly, the appeal is rejected. No order as to costs. Sd/- (ANU SIVARAMAN) JUDGE Sd/- (VIJAYKUMAR A. PATIL) JUDGE RV List No.: 1 Sl No.: 2

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