

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF AUGUST, 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MS. JUSTICE TARA VITASTA GANJU

WRIT APPEAL NO. 321 OF 2025 (LA-BDA)

C/W

WRIT APPEAL NO. 633 OF 2025 (LA-BDA)



IN WA No. 321/2025

BETWEEN:

1. THE COMMISSIONER
BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST
BANGALORE-560 020.
2. SPECIAL LAND ACQUISITION OFFICER
BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST
BANGALORE-560 020.

...APPELLANTS

(BY SRI. G.S.KANNUR, SENIOR COUNSEL FOR
SRI. MURUGESH.V.CHARATI, ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT,
M.S. BUILDING,
BENGALURU -560001
REPRESENTED BY ITS SECRETARY
2. SRI. PRAKASH N.BALDOTA
AGED ABOUT 75 YEARS



S/O N.R.BALDOTA
R/AT #2472, 25TH CROSS,
BSK II STAGE,
BANGALORE-560070
(SENIOR CITIZEN BENEFIT IS CLAIMED)

3. THE KARNATAKA INCOME TAX DEPARTMENT
HOUSE BUILDING CO-OPERATIVE SOCIETY LTD.,
CENTRAL REVENUE,
QUEENS ROAD,
SHIVAJINAGAR,
BANGALORE-560001
REPRESENTED BY ITS SECRETARY

...RESPONDENTS

(BY SRI. M.N.SUDEV HEGDE, AGA FOR R1;
SRI. A.RAVISHANKAR, FOR C/R2 (V/K FILED);
SRI. B.N.PRAKASH., ADVOCATE FOR R3;)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA
HIGH COURT ACT PRAYING TO SET-ASIDE THE ORDER DATED
27/01/2025 PASSED BY THE HON'BLE LEARNED SINGLE JUDGE
IN WP NO.16071/2021 AND ALLOW THE WRIT APPEAL BY
DISMISSING THE WRIT PETITION, ETC.

IN WA NO. 633/2025

BETWEEN:

1. KARNATAKA INCOME TAX
DEPARTMENT HOUSE BUILDING
CO OPERATIVE SOCIETY LIMITED
CENTRAL AVENUE,
QUEENS ROAD,
SHIVAJINAGAR,
BENGALURU AND
REPRESENTED BY ITS SECRETARY
MR. K.E.RAJAN.

...APPELLANT

(BY SRI. PRAKASH B N., ADVOCATE)

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF HOUSING AND

URBAN DEVELOPMENT,
M.S. BUILDING,
BENGALURU-560001
AND REPRESENTED BY ITS SECRETARY.

2. THE COMMISSIONER,
BENGALURU DEVELOPMENT AUTHORITY,
KUMARAPARK WEST,
BENGALURU-560 020.
3. SPECIAL LAND ACQUISITION OFFICER,
KUMARAPARK WEST,
BENGALURU DEVELOPMENT AUTHORITY,
BENGALURU-560020.
4. SRI. PRAKASH N. BALDOTA,
AGED 75 YEARS,
S/O SRI. N.R. BALDOTA,
NO.2472, 25TH CROSS,
BSK II STAGE,
BENGALURU-560 070.

...RESPONDENTS

(BY SRI A. RAVISHANKAR., ADVOCATE FOR C/R4;
SRI G.S. KANNUR, SENIOR COUNSEL FOR
SRI MURUGESH.V.CHARATI, ADVOCATE FOR R2 & R3;
SRI M.N. SUDEV HEGDE, AGA FOR R1)

THIS WRIT APPEAL IS FILED U/S 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO CALL FOR THE
RECORDS IN WP NO.16071/2021 AND SET ASIDE THE
IMPUGNED ORDER DATED 27/01/2025 PASSED IN WP
NO.16071/2021 BY THE LEARNED SINGLE JUDGE AND
DISMISS THE SAID WRIT PETITION, ETC.

THESE APPEALS HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 24.07.2026, COMING ON FOR

PRONOUNCEMENT THIS DAY, **HON'BLE Ms. JUSTICE TARA VITASTA GANJU** PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
and
HON'BLE MS. JUSTICE TARA VITASTA GANJU

CAV JUDGMENT

(PER: HON'BLE Ms. JUSTICE TARA VITASTA GANJU)

I PREFACE:

1. The present intra-Court appeals arise out of the judgment and order dated 27.01.2025 passed by the learned Single Judge in W.P.No.16071/2021 allowing the writ petition, whereby the acquisition proceedings in respect of the petitioner's land, initiated for the formation of Banashankari V Stage Layout under the provisions of the Bangalore Development Authority Act, 1976 (for short, 'the BDA Act'), came to be quashed. Aggrieved by the said judgment, the Bangalore Development Authority (for short 'the BDA') has preferred appeal in W.A.No.321/2025 whereas the Karnataka Income Tax Department House Building Co-Operative Society Limited has preferred the appeal in W.A.No.633/2025.

2. The parties are referred to as per their ranking before the writ Court for the sake of convenience.

II FACTS OF THE CASE:

3. The BDA issued preliminary notification under Section 17(1) of the BDA Act on 29.12.1988 proposing to acquire land measuring 1851 acres 39 guntas and final notification under Section 19(1) of the BDA Act on 09.05.1994 proposing to acquire land measuring 1458 acres 21 guntas for formation of Banashankari V Stage Layout, a residential development scheme sanctioned under the provisions of the BDA Act. The acquisition proceedings were initiated with the object of implementing a planned residential layout for the benefit of the general public.

4. The petitioner is the owner of the land measuring 2 acres 21 guntas bearing Sy.No.89 of Uttarahalli Village, Bengaluru South Taluk forming part of the lands notified for acquisition under the aforesaid scheme. The records disclose that acquisition proceedings were initiated many years ago, however, the implementation of the Banashankari V Stage Layout did not proceed in the manner originally contemplated. Large extents of the notified lands remained under litigation, denotified or otherwise unavailable for execution of the sanctioned scheme. The material placed on record further indicates that only a limited extent of land was ultimately

developed for the purpose for which the acquisition had originally been undertaken.

5. The BDA had issued a New Housing Policy, wherein it is indicated that, in the event of incomplete acquisition made by the BDA, owner of the land, is permitted to develop 12% of the total built up area to be given to the BDA or handing over 30% of the developed sites to the BDA. It is also stated that, this Court in WP.No.21975/1994 and connected writ petitions disposed of on 19.09.1996, quashed the Final Notification dated 09.05.1994 on the ground that sanction of the Government had not been obtained, as contemplated under Section 18 of the BDA Act. Subsequently, after obtaining sanction, the Declaration came to be issued again on 16.09.1997 under Section 19 of the BDA Act.

6. The petitioner has made representation dated 15.10.1996, seeking approval of the layout plan and pursuant to the same the respondent-BDA has issued reply dated 06.11.1996, seeking certain clarification. It is further stated that, the representation was made by the petitioner to drop the acquisition proceedings insofar as the subject land was considered in the resolution dated 28.07.1997, vide subject

No.199/97 and it was resolved to grant approval for formation of layout subject to conditions.

7. The petitioner has thereafter challenged the acquisition proceedings in WP.No.3334/2000 and this Court vide order dated 08.07.2002 has dismissed the petition. Feeling aggrieved, the petitioner has filed W.A.No.4391/2002 however, the same was withdrawn on 12.06.2008, and a direction was given to the petitioner to work out his remedy in terms of the resolution dated 20.06.2000, passed by the respondent-BDA. The petitioner has once again approached this Court in W.P.No.10165/2008, in respect of the subject land and this Court disposed of the petition without interfering with the acquisition proceedings and the said order was assailed in W.A.No.336/2010 and vide order dated 02.04.2014 permitted the petitioner to withdraw the petition and to avail the remedy before the respondent No.2.

8. It is further case of the petitioner that though the petitioner is in possession of the land in question and no mahazar has been drawn as required under law, the respondent-BDA has executed Registered Sale Deed dated 31.07.2021, in favour of respondent No.4 and being

aggrieved by the same, the petitioner has filed the impugned writ petition i.e., W.P.No.16071/2021 wherein the petitioner has asserted that notwithstanding the acquisition proceedings, the actual physical possession of the lands was never taken by the BDA in accordance with law and that the petitioner has continued to remain in possession and enjoyment of the land, which fact was reflected in the revenue records. The petitioner further contended that the possession mahazar relied upon by the BDA was a cyclostyled document prepared without any witnesses on the spot and, therefore, could not be accepted as conclusive proof of lawful possession.

9. The BDA asserted that awards had been passed and possession of the schedule property had been taken through the drawing of a possession mahazar on 02.08.1999 whereupon the land vested absolutely in the State Government and thereafter in the BDA free from all encumbrances. According to the BDA, once such vesting had taken place, neither the continued entries in the revenue records nor the alleged physical occupation of the petitioner could disentitle the legal effect of vesting under the land Acquisition Act, 1894.

10. The acquisition relating to Banashankari V Stage Layout has been the subject matter of several rounds of litigation before this Court over a considerable period of time. In several of those proceedings, this Court has examined the extent of implementation of the Scheme, the applicability of Section 27 of the BDA Act and the legal consequences flowing from the failure of the Authority to substantially execute the sanctioned development scheme within the prescribed period. The learned Single Judge has referred extensively to those earlier decisions while adjudicating the impugned writ petition. Consequently, the writ petition came to be allowed quashing the acquisition proceedings insofar as the petitioner's land is concerned.

III FINDINGS OF THE LEARNED SINGLE JUDGE:

11. The learned Single Judge, upon consideration of the acquisition records, the possession mahazar, the revenue documents, the official resolutions of the BDA concerning the Banashankari V Stage Scheme and the submissions advanced by the learned counsel, has examined the validity of the acquisition proceedings in view of the provisions of the BDA Act.

12. At the outset, the learned Single Judge addressed the preliminary objection regarding the maintainability of the writ petition. The contention of the BDA that the writ petition was barred on account of the earlier proceedings instituted by the petitioner was rejected. It was held that the challenge raised in the writ petition was not directed against the acquisition notifications on grounds that had already been adjudicated in the previous rounds of litigation, but was founded upon the alleged failure of the Authority to substantially implement the sanctioned development scheme, the dispute relating to lawful taking of possession and the subsequent execution of the registered sale deed in favour of the fourth respondent. The learned Single Judge was therefore of the opinion that the writ petition disclosed a fresh cause of action.

13. The learned Single Judge while examining the scope and effect of Section 27 of the BDA Act and analysing the statutory provisions and the decisions rendered by the Supreme Court as well as this Court, held that the legislative intent underlying Section 27 of the BDA Act is to ensure that lands compulsorily acquired for a sanctioned development scheme are utilised within a reasonable period and that the Authority does not indefinitely retain private property without substantially

implementing the scheme for which the acquisition was undertaken. Upon considering the extent of land acquired, the land actually developed, the lands denotified, those involved in litigation and the undeveloped parcel of land, the learned Single Judge held that only a small portion of the acquired land had been utilised for the sanctioned Scheme. It was accordingly held that the Scheme had not been substantially implemented within the statutory period, thereby attracting the consequences contemplated under Section 27 of the BDA Act.

14. The learned Single Judge further held that the mahazar had been made in the printed-cyclostyle form, which does not indicate the name and address of witnesses and the revenue entries continued to reflect in the name of the petitioner. Thus, the learned Single Judge held that possession cannot be said to have been taken. The learned Single Judge also examined the Resolution Nos.67/2000 and 199/1997 correspondence and other official records of the BDA. These documents were found to indicate that the Scheme had not been fully implemented and that the Authority's own records did not support its claim that the acquisition had been completely acted upon.

15. The learned Single Judge further referred to the earlier decisions of this Court concerning lands acquired under the very same Banashankari V Stage Scheme and held that those decisions had already considered the implementation of the Scheme and the applicability of Section 27 of the BDA Act. As no distinguishing feature was shown by the BDA, the learned Single Judge held that the present case was governed by the principles laid down in the earlier judgments.

16. Having held that the Scheme had not been substantially implemented and that lawful possession had not been established, the learned Single Judge concluded that the registered sale deed executed by the BDA in favour of the fourth respondent could not be sustained. It was held that the validity of the conveyance was dependent upon the legality of the acquisition proceedings and the continued subsistence of the public purpose underlying the acquisition. In view of the same, the learned Single Judge held that the acquisition proceedings, insofar as they related to the petitioner, were liable to be quashed.

IV SUBMISSIONS ON BEHALF OF THE BDA:

17. Sri. G. S. Kannur, learned Senior Counsel, assisted by Sri. Murugesh V. Charati, learned counsel appearing for the respondent-Bangalore Development Authority, submitted that the acquisition proceedings culminating in the acquisition of the petitioner's land were conducted strictly in adherence to the provisions of the BDA Act and the Land Acquisition Act, 1894. It was submitted that the acquisition forms part of the Banashankari V Stage Layout Scheme, which was conceived for a public purpose, namely, the planned development of the city of Bengaluru by formation of a residential layout with the necessary civic amenities and infrastructure.

18. The learned Senior Counsel appearing for the appellant-BDA submitted that the learned Single Judge has proceeded on an erroneous premise by examining the implementation of the Banashankari V Stage Scheme with reference to the petitioner's individual parcel of land. It was submitted that Section 27 of the BDA Act requires consideration of whether the Scheme, as a whole, has been substantially executed and not whether every individual parcel comprised in the Scheme has been developed. The Banashankari V Stage Scheme covered a large extent of land spread over several villages and had, in fact,

been substantially implemented, resulting in the formation of a full-fledged residential layout. Therefore, the fact that certain parcels, including that of the petitioner, remained undeveloped or were subject to litigation could not lead to the conclusion that the entire Scheme had lapsed.

19. It was further submitted that the learned Single Judge failed to give due effect to the earlier judgments of the Coordinate Benches concerning the very same Banashankari V Stage Scheme, wherein the Scheme had been held to have been executed and substantially implemented. Learned Senior Counsel placed reliance upon the judgment in W.A.No.391/2019 and submitted that the Court had specifically held that merely because acquisition proceedings in respect of some parcels had been quashed, the entire Scheme would not lapse. It was therefore contended that the said finding could not have been disregarded while examining the petitioner's claim under Section 27 of the BDA Act.

20. On the question of possession, learned Senior Counsel submitted that the acquisition proceedings in respect of the petitioner's land had proceeded in accordance with law and that an award had been passed, possession had been taken and a

notification under Section 16(2) of the Land Acquisition Act, 1894 had been published on 02.08.1999. The possession mahazar, read with the other contemporaneous records, was relied upon to contend that possession had been duly taken.

21. Learned Senior Counsel therefore submitted that the learned Single Judge had conflated the question of substantial execution of the Scheme with the question of possession of the petitioner's individual land. According to him, even if there were any dispute regarding possession of the individual parcel, such dispute could not constitute a ground for holding that the Banashankari V Stage Scheme itself had lapsed under Section 27 of the BDA Act. The impugned judgment was accordingly sought to be set aside.

V SUBMISSIONS ON BEHALF OF THE KARNATAKA INCOME TAX DEPARTMENT HOUSE BUILDING CO OPERATIVE SOCIETY LIMITED:

22. Sri. Uday Holla, learned Senior Counsel assisted by Sri. Prakash B N, learned counsel appearing for the appellant-Society submitted that the learned Single Judge erred in allowing the writ petition without appreciating the earlier rounds of litigation concerning the very same acquisition. It was submitted that the writ petition was barred by the

principles of *res judicata*, as the petitioner had earlier challenged the acquisition of Sy.No.89 in W.P.No.3334/2000, which was dismissed on 08.07.2002 after recording a specific finding that possession had been taken, as evidenced by the notification under Section 16(2) of the Land Acquisition Act. The subsequent W.A.No.4391/2002 filed by the petitioner was withdrawn. The petitioner once again approached this Court in W.P.No.10165/2008 which was also dismissed and the appeal arising therefrom in W.A.No.336/2010 was withdrawn. Thus, the acquisition proceedings had attained finality and could not be reopened in the present proceedings.

23. It was further submitted that the learned Single Judge erred in holding that the doctrine of *res judicata* was inapplicable on the ground of liberty allegedly reserved in W.A.No.336/2010. The learned counsel submitted that no such liberty was granted to reopen the acquisition proceedings which had already been upheld. The learned Single Judge also erred in relying upon the BDA resolution dated 20.06.2000 to hold that possession had not been taken, since the said resolution related to lands other than the subject land, proceedings concerning which were then subject to an order of stay.

24. Learned counsel further submitted that the finding regarding possession was contrary to the earlier judgments of this Court. The notification under Section 16(2), the possession mahazar and the other acquisition records established that possession had been taken on 02.08.1999, resulting in vesting of the land. The subsequent revenue entries in the petitioner's name could not override the findings already recorded by this Court. It was therefore contended that the learned Single Judge could not have reopened the question of possession by undertaking a fresh examination of the mahazar and revenue records.

25. Learned counsel further submitted that the writ petition was liable to be dismissed on the ground of delay and laches. The final notification was issued on 16.09.1997, the earlier appeal was withdrawn on 05.01.2010, whereas the present writ petition was filed only in 2021. It was therefore submitted that the petitioner, having repeatedly challenged the same acquisition proceedings, could not be permitted to reopen the matter after such prolonged delay. The impugned judgment is accordingly sought to be set aside.

VI SUBMISSIONS ON BEHALF OF THE PETITIONER-LANDOWNER:

26. Sri. A. Ravi Shankar learned Counsel appearing for the petitioner/landowner has supported the judgment and order passed by the learned Single Judge and submitted that no ground whatsoever is made out warranting interference in the present appeal.

27. The learned counsel submitted that the BDA had failed to establish that the acquisition proceedings had culminated in taking of actual and effective possession of the petitioner's land. It was contended that the petitioner continued to remain in possession of the land and that the land had never been utilised for formation of the Banashankari V Stage Layout Scheme. According to the learned counsel, the mere preparation of a possession mahazar or the issuance of a notification under Section 16(2) could not, in the facts of the present case, substitute actual taking of physical possession.

28. The learned counsel further submitted that the material relied upon by the BDA to establish possession was inadequate and that the possession mahazar did not establish that the petitioner had been dispossessed or that the BDA had assumed effective physical control over the land. The continued reflection

of the petitioner's name in the revenue records was also relied upon as a circumstance supporting the petitioner's case that possession had never been taken.

29. The learned counsel further submitted that the Banashankari V Stage Scheme, insofar as the petitioner's land was concerned, had not been implemented within the statutory period contemplated under Section 27 of the BDA Act. It was submitted that the BDA could not rely upon development undertaken in other portions of the Scheme to defeat the petitioner's claim when the petitioner's land itself had neither been taken into effective possession nor utilised for the purpose for which it was acquired.

30. Reliance was also placed upon the earlier judgments concerning the acquisition of lands forming part of the Banashankari V Stage Scheme to contend that the acquisition proceedings in respect of the petitioner's land had not been validly completed. It was therefore submitted that the learned Single Judge had correctly appreciated the material on record and had rightly concluded that the acquisition could not be sustained. The learned counsel accordingly sought dismissal of the appeal.

VII POINT FOR DETERMINATION:

31. We have heard the learned Senior Counsel appearing for the appellant-BDA, the learned Senior Counsel appearing for the appellant-Society and the learned counsel appearing for the respondent-landowner and have carefully perused the records placed before us. The only question that arises for our consideration is:

"Whether the Banashankari V Stage Layout Scheme, as a whole, can be said to have been lapsed under Section 27 of the BDA Act on the ground that the land of the petitioner forming part of the said Scheme was not developed or that possession thereof was not established to have been taken in the manner contended by the BDA."

VIII ANALYSIS AND FINDINGS:

32. The land of the petitioner forms part of the larger Banashankari V Stage Layout Scheme sanctioned by the BDA. The question, therefore, is not merely whether the petitioner's individual parcel of land was developed or possession of that particular parcel was taken within the period prescribed under Section 27 of the BDA Act. The principal question is whether

the Banashankari V Stage Layout Scheme, considered as a whole, was substantially executed within the meaning of Section 27 of the BDA Act.

33. Section 27 of the BDA Act provides that where, within a period of five years from the date of publication in the Official Gazette of the declaration under Section 19(1), the Authority fails to execute the Scheme substantially, the Scheme shall lapse and the provisions of Section 36 shall become inoperative. The expression “execute the Scheme substantially” is therefore the statutory test. The provision does not state that every parcel comprised in the Scheme must be developed, nor does it prescribe that every acquisition forming part of the scheme must culminate in possession and development within the stipulated period.

34. The expression “substantially” necessarily imports an assessment of the scheme in its entirety. A development scheme cannot be dissected into individual parcels and its validity cannot be determined with reference to one such parcel. The nature, extent, object and manner of implementation of the scheme have to be considered before arriving at a conclusion as to whether there has been

substantial execution. This principle was considered by the Division Bench of this Court in the case of **M. MARIDEV AND OTHERS V. STATE OF KARNATAKA AND OTHERS [2009 SCC OnLine Kar 219]** while considering the implementation of the Nagarabhavi II Stage Housing Scheme, it examined the extent of the Scheme, the area over which the layout had actually been formed and the allotment of sites and held that, having regard to the magnitude of the housing Scheme, the Scheme had been substantially implemented. It was specifically held that Section 27 of the BDA Act operates only where there is no substantial implementation of the Scheme.

35. The aforesaid principle has been reiterated by the Division Bench of this Court in the case of **BANGALORE DEVELOPMENT AUTHORITY vs STATE OF KARNATAKA [W.A.No.914/2024]** wherein it was held that the implementation of the Scheme has to be considered from the perspective of the entire Scheme and not a particular piece of land. It was further held that where a substantial portion of the Scheme had been implemented, the fact that the particular land which was the subject matter of the proceedings had not been developed could not, by itself, result in the scheme being

treated as having lapsed. The relevant paragraph is extracted hereunder:

"19. It is pertinent to notice that in the case of M. Maridev and others Vs. State of Karnataka and others, 2009 SCC OnLine Kar 219 a Coordinate Bench of this Court considered as to whether the acquisition proceedings in respect of the "Nagarabhavi II Stage Layout " is vitiated due to non-formation of the layout vis-a-vis the property which was the subject matter of the said writ proceedings. Considering the said contention, this Court held that the acquisition proceedings had not lapsed as implementation of scheme of acquisition is required to be considered from the perspective of the entire scheme and not a piece of land. The relevant portion of the said judgment reads as under: -

45. Section 27 of the BDA Act operates only where there is no substantial compliance or implementation of the scheme. But in the instant case, when the fact remains that out of 604 acres and 23 guntas, the 2nd respondent had already formed a layout over an extent of 564 acres and 39 guntas of land and house sites have been distributed to various allottees, which establishes that the scheme is substantially executed, in our considered opinion, it is not permissible for the appellants/petitioners to contend that the scheme had lapsed, particularly, when the award had already been passed and that the owners/occupants had already been dispossessed from the

impugned land in question. Considering the magnitude of the housing scheme, we are satisfied that the scheme is substantially implemented and therefore, Section 27 is not attracted."

36. The principle is also consistent with the decisions of earlier Division Bench in the case of **BANGALORE DEVELOPMENT AUTHORITY vs DR. H.S. HANUMANTHAPPA [ILR 1996 KAR 542]** and **A. KRISHNAMURTHY (since deceased) by LRs. vs BANGALORE DEVELOPMENT AUTHORITY [1996 (3) Kar LJ 306]**, which recognise that substantial implementation of a development scheme has to be examined with reference to the scheme and the extent of its implementation, and not by treating the development of an isolated parcel as determinative of the fate of the entire scheme.

37. This interpretation also accords with the nature of a development scheme under the BDA Act. A scheme for formation of a residential layout over a large extent of land necessarily involves several interdependent activities, including acquisition, formation of roads, development of civic amenities, and formation of sites and allotment of the sites thereof. Such activities cannot necessarily be completed simultaneously in

respect of every parcel. The Legislature, while enacting Section 27, has consciously used the expression “substantially”, and not “completely” or “entirely”. The distinction is important. If every individual parcel were required to be developed within the statutory period, the expression “substantially” occurring in Section 27 would lose much of its meaning. A single parcel remaining undeveloped, could then be relied upon to contend that the entire development scheme had failed. Such an interpretation would not only be inconsistent with the language of Section 27 but would also ignore the very nature of a large-scale development Scheme.

38. The Banashankari V Stage Layout Scheme was sanctioned for formation of a residential layout over an extent of 1458 acres 21 guntas, covering several villages. The material placed before us does not indicate that no developmental activity took place pursuant thereto. On the contrary, the scheme resulted in the formation of a residential layout and substantial development of the area covered by it. This factual position assumes significance in view of the earlier judgment of the Division Bench of this Court in the case of **SMT. MADDURAMMA AND OTHERS vs STATE OF KARNATAKA AND OTHERS [W.A.No.391/2019]** which held that the

Banashankari V Stage Layout Scheme had been executed and had become a full-fledged residential layout and further rejected the contention that merely because acquisition proceedings in respect of some portions of the land had been quashed, the entire Scheme would consequently lapse. The relevant paragraph has been extracted hereunder:

"30. As far as submissions made by the learned counsel for the appellant that as per Section 27 of BDA Act, 2013, the scheme has lapsed is concerned, same cannot be accepted for the reason that the Banashankari 5th Stage scheme is executed and it is a full fledged residential layout. Therefore, just because the acquisition proceedings of some portion of lands in writ petitions filed before this Court are quashed, that does not mean that the entire scheme has lapsed. It is an undisputed fact that Banashankari 5th Stage layout is executed. The acquisition proceedings might have been quashed insofar as some portion of lands is concerned in respect of some landowners but it cannot be said that the entire scheme has lapsed. Therefore, even under Section 27 of Act, 2013 also, the appellants cannot seek the benefit of the said contention that the entire scheme has lapsed. Thus, the appellants are not entitled for reverting of the lands to them. It is an undisputed fact that the land of the appellants was also utilized under the scheme and sites were formed and was

allotted in favour of respondent No.4 subsequently it was sold to respondent Nos. 5 and 6. Undisputed factual matrix depicts that the scheme has already been executed. Therefore, under the circumstances the writ appeal being found devoid of merits, it is liable to be dismissed."

39. The significance of **MADDURAMMA** (*supra*) lies not merely in the result of that appeal but the manner in which this Court approached the Section 27 of the BDA Act. The Division Bench did not examine the implementation of the Banashankari V Stage Scheme as to whether each individual parcel forming part of the scheme had been developed. The finding was with reference to the Scheme as a whole, viz., the Banashankari V Stage Layout Scheme had been executed and was a full-fledged residential layout.

40. The earlier decisions relied upon by the learned Single Judge arose out of proceedings concerning particular parcels of land forming part of the Banashankari V Stage Scheme. However, the factual findings recorded in those proceedings concerning the particular parcels cannot be elevated into a declaration that the entire Banashankari V Stage Scheme was never substantially executed. The distinction between an

individual acquisition and the execution of the scheme as a whole is fundamental.

41. Applying the aforesaid principle to the facts before us, the circumstance that the petitioner's land was not developed cannot be treated as conclusive of the question whether the Banashankari V Stage Scheme was substantially executed. The petitioner's land constituted only a parcel forming part of a scheme extending over 1458 acres 21 guntas. The implementation of the Scheme must therefore be assessed by considering the development actually undertaken pursuant to the sanctioned Scheme as a whole.

42. The material placed before us has been considered cumulatively. The extent of the Scheme, the formation of the Banashankari V Stage layout, the development of substantial portions thereof, the allotment of sites and the findings already recorded by Coordinate Benches of this Court concerning the very same scheme are all relevant and when considered together, they do not support the conclusion arrived at by the learned Single Judge that the Scheme remained substantially unexecuted.

43. The distinction between the development Scheme and the acquisition proceedings has been authoritatively explained by the Supreme Court in the case of **OFFSHORE HOLDINGS PVT. LTD. vs BANGALORE DEVELOPMENT AUTHORITY [(2011) 3 SCC 139]**. The Supreme Court held that the acquisition stands on a footing distinct from the Scheme formulated under the BDA Act. On a conjunctive reading of Sections 27 and 36, the Supreme Court held that even where a Scheme lapses, the acquisition does not necessarily lapse and that the consequence depends upon the stage reached in the acquisition proceedings. The principle assumes significance here because the learned Single Judge proceeded from the finding regarding possession of the petitioner's land to the conclusion that the Scheme had lapsed and thereafter treated the acquisition as having consequently failed. Once the premise that the scheme itself had lapsed is found to be unsustainable, the consequential conclusion regarding lapse of acquisition cannot survive on that basis.

44. In the present case, the learned Single Judge has principally relied upon the fact that the petitioner's land remained undeveloped, the possession mahazar was not valid and the revenue records continued to reflect the petitioner's

name. However, Section 16(2) of the Land Acquisition Act, 1894, expressly provides that a notification published in the Official Gazette regarding taking of possession shall be the evidence of such fact. The statutory evidentiary effect of such notification, therefore, cannot be overlooked.

45. The Supreme Court in the case of ***P.K. KALBURQI vs STATE OF KARNATAKA [(2005) 12 SCC 489]*** has held that a notification under Section 16(2) constitutes evidence of the fact of taking possession. The same principle has been reiterated in ***N.A.L. LAYOUT RESIDENTS ASSOCIATION vs BANGALORE DEVELOPMENT AUTHORITY [(2018) 12 SCC 400]***. In the present case, the notification issued under Section 16(2), read with the possession mahazar establishes that possession of the petitioner's land was taken on 02.08.1999. Consequently, the land stood vested in the State free from all encumbrances in terms of Section 16(1) of the Land Acquisition Act.

IX CONCLUSION:

46. The litigation history of the present case assumes considerable significance. The petitioner has repeatedly approached this Court challenging the acquisition of the subject

land. The petitioner specifically sought deletion of Sy.No.89 of Uttarahalli Village from the acquisition proceedings and also challenged the final notification issued under Section 19(1) of the BDA Act by filing writ petition in W.P.No.3334/2000. The said writ petition was dismissed on 08.07.2002, wherein this Court recorded a specific finding that the possession of the land had been taken, as evidenced by the notification issued under Section 16(2) of the Land Acquisition Act. The petitioner thereafter carried the matter in W.A.No.4391/2002, which came to be withdrawn on 12.06.2008. The petitioner again approached this Court in W.P.No.10165/2008, which was also dismissed, and the writ appeal arising therefrom in W.A.No.336/2010, was again withdrawn. Thus, there has already been multiple rounds of litigation questioning the very acquisition of the subject land by the petitioner himself and the findings recorded in the said proceedings had remained undisturbed. Despite the above, the petitioner instituted the impugned writ petition in the year 2021, seeking to reopen substantially the same acquisition proceedings and to reagitate the same question which had already been considered in the earlier proceedings. The aforesaid litigation history is therefore not a mere incidental circumstance, but a material aspect

bearing directly upon the maintainability of the subsequent challenge and the finality attaching to the earlier findings.

47. The learned Single Judge, however, proceeded to reconsider the question of possession and the validity of the acquisition without giving due weight to the earlier rounds of litigation and the findings already recorded therein. The subsequent proceedings could not be permitted to become a means of reopening issues which had already been heard and decided. The repeated invocation of the jurisdiction of this Court, after the earlier proceedings having been concluded, is a circumstance which required consideration while examining the maintainability of the present case, particularly when the challenge was directed against an acquisition dating back to the year 1997.

48. The learned Single Judge also erred in treating the petitioner's individual land as determinative of the question whether the Banashankari V Stage Scheme had substantially been executed. The Coordinate Benches of this Court have already held that the Scheme had been substantially and comprehensively implemented. Consequently, the statutory consequence contemplated under Section 27 of the BDA Act

could not have been invoked to declare that the Banashankari V Stage Scheme had lapsed. The finding of the learned Single Judge is therefore liable to be set aside. Accordingly, the appeals filed by the BDA and the Society are allowed and the judgment and order dated 27.01.2025 passed by the learned Single Judge is set aside.

49. The BDA is directed to take appropriate steps, in accordance with law, for removal of the encroachment by the National Public School upon the land acquired for the purposes of the BDA, at the cost of the owners of the said school, if not already removed.

50. Pending interim applications if any, do not survive for our consideration and are accordingly disposed.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(TARA VITASTA GANJU)
JUDGE

NG/KS
CT:SN