IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF SEPTEMBER, 2025

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

REGULAR FIRST APPEAL NO.1589 OF 2023 (INJ)

C/W

REGULAR FIRST APPEAL NO.1580 OF 2023 (INJ),

REGULAR FIRST APPEAL NO.1597 OF 2023 (INJ),

REGULAR FIRST APPEAL NO.1600 OF 2023 (INJ),

REGULAR FIRST APPEAL NO.1604 OF 2023 (INJ)

IN RFA No.1589/2023

BETWEEN:

NINGANA GOWDA HOSAMANI
ALSO KOWN AS
CHANABASASAGOUDA POLIS PATIL @
NINGANAGOWDA HOSAMANI,
AGED ABOUT 74 YEARS,
S/O ADIVEPPAGOWDA HOSMANI,
RESIDING AT NO.50,
1ST STAGE, POSTAL COLONY,
SANJAY NAGAR,
BENGALURU-560050.

PRESENTLY RESIDING AT
NO.15, 'ARITE', 1ST CROSS,
10 'A' MAIN,
INDIRANAGAR 2ND STAGE,
BANGALORE-560038.

...APPELLANT

(BY SRI SAMPAT ANAND SHETTY, ADVOCATE)

Digitally signed by
MAHALAKSHMI B M
Location: HIGH
COURT OF
KARNATAKA

AND:

1. PALESH KARMOKAR
AGED ABOUT 37 YEARS,
S/O L.H. KARMOKAR,
RESIDING AT NO.3,
1ST MAIN ROAD, AMCP LAYOUT,
SAHAKARANAGARA,
BENGALURU-560092.

2. P.C. CHOWDAPPA
AGED ABOUT 58 YEARS,
S/O LATE P. CHANDRASEKESHAVAPA,
RESIDING AT NO.106,
4TH CROSS, 1ST STAGE,
2ND PHASE, MANJUNATHANAGAR,
WEST OF CHORD ROAD,
BENGALURU-560010.

3. C.V. SRINATH
AGED ABOUT 42 YEARS,
S/O V.N. CHOWDAPPA,
RESIDING AT NO.148,
9TH MAIN ROAD, KURUBARAHALLI,
NEAR CANARA SCHOOL, J.C. NAGAR,
MAHALAKSHMINAPURAM POST,
BENGALURU-560086.

4. MRS. ZEENATHUUISA
AGED ABOUT 52 YEARS,
W/O RAFIQUE AHMED,
RESIDING AT NO.227,
14TH MAIN ROAD,
GOKUL 1ST STAGE, 1ST PHASE,
HMT LAYOUT, MATHIKERE,
BENGALURU-560054.

…RESPONDENTS

(BY SMT. S. SUSHEELA, SENIOR COUNSEL FOR
SMT. DHANALAKSHMI Y., ADVOCATE FOR C/R-1; NOTICE TO
R-2 TO R-4 IS DISPENSED WITH V/O DATED 24/09/2025)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 01.04.2023 PASSED IN O.S.NO.407/2018 ON THE FILE OF THE VIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, DECREEING THE SUIT FOR INJUNCTION TIME BARRED.

IN RFA NO.1580/2023

BETWEEN:

NINGANA GOWDA HOSAMANI
ALSO KNOWN AS
CHANABASANAGOWDA POLIS PATIL @
NINGANAGOWDA HOSAMANI,
AGED ABOUT 74 YEARS,
S/O ADIVEPPAGOWDA HOSMANI,
R/AT NO.50, 1ST STAGE,
POSTAL COLONY, SANJAY NAGAR,
BENGALURU-560050.

PRESENTLY RESIDING AT
NO.15, 'ARITE', 1ST CROSS,
10 'A' MAIN,
INDIRANAGAR 2ND STAGE,
BANGALORE-560038.

...APPELLANT

(BY SRI SAMPAT ANAND SHETTY, ADVOCATE)

AND:

1. ANAND KARMOKAR
   AGED ABOUT 50 YEARS,
   S/O LATE VIJAY KARMOKAR,
   R/AT NO.3/11, 1ST MAIN ROAD,
   AMCP LAYOUT, SAHAKARNAGAR,
   BENGALURU-560092.

2. P.C. CHOWDAPPA
   AGED ABOUT 58 YEARS,
   S/O LATE P. CHANDRASEKESHAVAPA,
   R/AT NO.106, 4TH CROSS,
   1ST STAGE, 2ND PHASE,

MANJUNATHNAGAR,
WEST OF CHORD ROAD,
BENGALURU-560010.

3. C.V. SRINATH
AGED ABOUT 42 YEARS,
S/O V.N. CHOWDAPPA,
RESIDING AT NO.148,
9TH MAIN ROAD, KURUBARAHALLI,
NEAR CANARA SCHOOL, J.C. NAGAR,
MAHALAKSHMINAPURAM POST,
BENGALURU-560086.

4. MRS. ZENATHUUISA
AGED ABOUT 52 YEARS,
W/O RAFIQUE AHMED,
R/AT NO.227, 14TH MAIN ROAD
GOKUL 1ST STAGE,
1ST PHASE, HMT LAYOUT,
MATHIKERE, BENGALURU-560054.

...RESPONDENTS

(BY SMT. S. SUSHEELA, SENIOR COUNSEL FOR
SMT. DHANALAKSHMI Y., ADVOCATE FOR C/R-1; NOTICE TO R-2 TO R-4 IS DISPENSED WITH V/O DATED 24/09/2025)

THIS RFA IS FILED UNDER SECTION 96 R/W ORDER 41 RULE 1 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 01.04.2023 PASSED IN O.S.NO.405/2018 ON THE FILE OF THE VII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, DECREEING THE SUIT FOR PERMANENT INJUNCTION.

IN RFA NO.1597/2023

BETWEEN:

NINGANA GOWDA HOSAMANI
ALSO KNOW AS
CHANABASANAGOUDA POLIS PATIL @
NINGANAGOWDA HOSAMANI,
AGED ABOUT 74 YEARS,
S/O ADIVEPPAGOWDA HOSMANI,
RESIDING AT NO.50, 1ST STAGE,

POST COLONY, SANJAY NAGAR,
BENGALURU-560 050.

PRESENTLY RESIDING AT
NO.15, 'ARITE', 1ST CROSS,
10 'A' MAIN,
INDIRANAGAR 2ND STAGE,
BANGALORE-560 038.

...APPELLANT

(BY SRI SAMPAT ANAND SHETTY, ADVOCATE)

AND:

1. A.M. MANOHAR
AGED ABOUT 47 YEARS,
S/O A.N. MAHADEVA REDDY,
RESIDING AT NO.3, SURYA RESIDENCY,
63 AND 44, BALAJI LAYOUT,
6TH CROSS, KODIGEHALLI,
BENGALURU-560 097.

2. P.C. CHOWDAPPA
AGED ABOUT 58 YEARS,
S/O LATE P. CHANDRASEKESHAVAPA,
RESIDING AT NO.106,
4TH CROSS, 1ST STAGE,
2ND PHASE, MANJUNATHNAGAR,
WEST OF CHORD ROAD,
BENGALURU-560 010.

3. C.V. SRINATH
AGED ABOUT 42 YEARS,
S/O V.N. CHOWDAPPA,
RESIDING AT NO.148,
9TH MAIN ROAD, KURUBARAHALLI,
NEAR CANARA SCHOOL, J.C. NAGAR,
MAHALAKSHMINAPURAM POST,
BENGALURU-560 086.

4. MRS. ZEENATHUUISA
AGED ABOUT 52 YEARS,
W/O RAFIQUE AHMED,

RESIDING AT NO.227,
14TH MAIN ROAD,
GOKUL 1ST STAGE, 1ST PHASE,
HMT LAYOUT, MATHIKERE,
BENGALURU-560 054.

...RESPONDENTS

(BY SMT. S. SUSHEELA, SENIOR COUNSEL FOR
SMT. DHANALAKSHMI Y., ADVOCATE FOR C/R-1; NOTICE TO
R-2 TO R-4 IS DISPENSED WITH V/O DATED 24/09/2025)

THIS RFA IS FILED UNDER SECTION 96 OF CPC, AGAINST THE JUDGMENT AND DECREE DATED 01.04.2023 PASSED IN O.S.NO.404/2018 ON THE FILE OF THE VIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, DECREEING THE SUIT FOR INJUNCTION TIME BARRED.

IN RFA NO.1600/2023

BETWEEN:

NINGANA GOWDA HOSAMANI
ALSO KNOWN AS
CHANABASANAGOUDA POLIS PATIL @
NINGANAGOWDA HOSAMANI,
AGED ABOUT 74 YEARS,
S/O ADIVEPPAGOWDA HOSMANI,
RESIDING AT NO.50, 1ST STAGE
POSTAL COLONY,
SANJAY NAGAR,
BENGALURU-560050.

PRESENTLY RESIDING AT
NO. 15, 'ARITE', 1ST CROSS,
10 'A' MAIN,
INDIRANAGAR 2ND STAGE,
BANGALORE-560038.

...APPELLANT

(BY SRI SAMPAT ANAND SHETTY, ADVOCATE)

AND:

1. S. SHIVASWAMY
AGED ABOUT 54 YEARS,
S/O SOMBAIAH,
RESIDING AT 99, 6TH 'B' CROSS,
MARUTHI LAYOUT, VIRUPAKSHAPURA,
BENGALURU-560097.

2. P.C. CHOWDAPPA
AGED ABOUT 58 YEARS,
S/O LATE P. CHANDRASEKESHAVAPA,
RESIDING AT NO.106,
4TH CROSS, 1ST STAGE,
2ND PHASE, MANJUNATHNAGAR,
WEST OF CHORD ROAD,
BENGALURU-560010.

3. C.V. SRINATH
AGED ABOUT 42 YEARS,
S/O V.N. CHOWDAPPA,
RESIDING AT NO.148,
9TH MAIN ROAD, KURUBARAHALLI,
NEAR CANARA SCHOOL, J.C. NAGAR,
MAHALAKSHMINAPURAM POST,
BENGALURU-560086.

4. MRS. ZEENATHUUISA
AGED ABOUT 52 YEARS,
W/O RAFIQUE AHMED,
RESIDING AT NO.227
14TH MAIN ROAD,
GOKUL 1ST STAGE, 1ST PHASE,
HMT LAYOUT, MATHIKERE,
BENGALURU-560054.

...RESPONDENTS

(BY SMT. S. SUSHEELA, SENIOR COUNSEL FOR
SMT. DHANALAKSHMI Y., ADVOCATE FOR C/R-1; NOTICE TO
R-2 TO R-4 IS DISPENSED WITH V/O DATED 24/09/2025)

THIS RFA IS FILED UNDER SECTION 96 ORDER 41 RULE 1 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED

01.04.2023 PASSED IN O.S.NO.403/2018 ON THE FILE OF VIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU., DECREEING THE SUIT FOR PERMANENT INJUNCTION.

IN RFA NO.1604/2023

BETWEEN:

NINGANA GOWDA HOSAMANI
ALSO KNOWN AS
CHANABASANAGOUDA POLIS PATIL @
NINGANAGOWDA HOSMANI,
AGED ABOUT 74 YEARS,
S/O ADIVEPPAGOWDA HOSMANI,
RESIDING AT NO.50,
1ST STAGE, POSTAL COLONY,
SANJAY NAGAR,
BENGALURU-560050.

PRESENTLY RESIDING AT
NO.15, 'ARITE', 1ST CROSS,
10 'A' MAIN,
INDIRANAGAR 2ND STAGE,
BANGALORE-560038.

...APPELLANT

(BY SRI SAMPAT ANAND SHETTY, ADVOCATE)

AND:

1. BASANTHI RANI PAUL
   AGED ABOUT 69 YEARS,
   W/O R.N. PAUL,
   RESIDING AT NO.76, 2ND CROSS,
   DINNUR AJIAPPA BLOCK,
   R.T. NAGAR, BANGALORE NORTH,
   BENGALURU-560032.

2. P.C. CHOWDAPPA
   AGED ABOUT 58 YEARS,
   S/O LATE P. CHNADRASEKESHAVAPA,
   RESIDING AT NO.106,
   4TH CROSS, 1ST STAGE,

2ND PHASE, MANJUNATHNAGAR,
WEST OF CHORD ROAD,
BENGALURU-560010.

3. C.V. SRINATH
AGED ABOUT 42 YEARS,
S/O V.N. CHOWDAPPA,
RESIDING AT NO.148,
9TH MAIN ROAD, KURUBARAHALLI,
NEAR CANARA SCHOOL, J.C. NAGAR,
MAHALAKSHMIAPURAM POST,
BENGALURU-560086.

4. MRS. ZEENATHUUISA
AGED ABOUT 52 YEARS,
W/O RAFIQUE AHMED,
RESIDING AT NO.227,
14TH MAIN ROAD,
GOKUL 1ST STAGE, 1ST PHASE,
HMT LAYOUT, MATHIKERE,
BENGALURU-560054.

...RESPONDENTS

(BY SMT. S. SUSHEELA, SENIOR COUNSEL FOR
SMT. DHANALAKSHMI Y., ADVOCATE FOR C/R-1;
NOTICE TO R-2 IS H/S V/O/D 25/06/2024;
SRI S. SHAKER SHETTY, ADVOCATE FOR R-4;
NOTICE TO R-3 IS DISPENSED WITH V/O. DATED 24/09/2025)

THIS RFA IS FILED UNDER SECTION 96 OF CPC., AGAINST THE JUDGMENT AND DECREE DATED 01.04.2023 PASSED IN O.S.NO.406/2018 ON THE FILE OF THE VIII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU, DECREEING THE SUIT FOR PERMANENT INJUNCTION.

THESE APPEALS COMING ON FOR ORDER, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA

ORAL JUDGMENT

All these regular first appeals arise from the judgments and decrees dated 01.04.2023 passed by the VIII Additional City Civil and Sessions Judge, Bengaluru (hereinafter referred to as 'Trial Court' for short) in the following original suits.

a. O.S. No.403/2018 – site No.702

b. O.S. No.404/2018 – site No.697

c. O.S. No.405/2018 - Site No.695,

d. O.S. No.406/2018 - Site No.713

e. O.S. No.407/2018 - Site No.694

carved out of Sy. No.11 of Kodigehalli Village, Yelahanka Hobli, Bengaluru North Taluk.

2. In each of the above suits, the plaintiffs had sought a decree of permanent injunction to restrain the defendants from interfering with their possession over their respective sites carved out in Survey No.11, which were allotted by the National Technological Institutions Housing Cooperative Society Ltd ('NTI Society' for short)

pursuant to the acquisition notification issued between 1985 and 1991. By the impugned judgment and decree, the trial Court decreed all the suits for bare injunction holding that the plaintiff has proved his lawful possession of the suit schedule Site Nos.694, 695, 697, 702 and 713. The defendants, particularly Ningana Gowda Hosamani, had failed to establish valid title after the acquisition of Survey No.11 by the Government for NTI Society. The alleged interference by the defendants was found to be established.

3. The Counterclaim filed by defendant No.4 (Zeenathuuisa) in Survey No.222 and Survey No.10/4 was rejected for want of evidence of interference by plaintiff. The trial Court in all the five suits permanently restrained the defendants from interfering with the plaintiff's possession. Aggrieved by the said judgments and decrees, the defendant-Ningana Gowda Hosmani has preferred the present regular first appeals.

4. Heard learned counsel appearing for the appellant and learned Senior Counsel Smt. S. Susheela on behalf of Smt. Dhanalakshmi .Y, learned counsel for respondent No.1.

5. Learned counsel appearing for the appellant would urge the following grounds:

i. That the appellant is a lawful owner in possession of Survey No.11 by virtue of the registered sale deed dated 10.08.1983, the alleged acquisition proceedings under the Land Acquisition Act, 1894 ('Land Acquisition Act' for short) and the Urban Land (Ceiling and Regulation) Act, 1976 ('ULC Act' for short) are riddled with inconsistencies. The parallel proceedings and a different statute created a situation, where two separate layouts were claimed, one by the appellant and another by the NTI Society. It is submitted that mere issuance of acquisition notification is not sufficient, the crucial requirement is proof of actual possession being taken over and handed over to the beneficiary society and in the present case,

there is no material on record to show when and in what manner, possession of the acquired land was taken by the Government and subsequently handed over to NTI Society. It is submitted that reliance on possession certificate and internal documents of NTI society is insufficient unless corroborated by official records of taking possession. It is further submitted that the Trial Court erred in rejecting the request for appointment of a Court Commissioner and the said order rejecting Commissioner's appointment is assailable in the present appeals, as such rejection deprived the defendants of an opportunity to establish factual aspects of possession on ground. It is contended that the trial Court failed to consider the factual matrix regarding,

a. Whether possession was actually taken by the Government;

b. Whether such possession was legally handed over to NTI Society;

c. Whether the Bangalore Development Authority (BDA) or other statutory authorities, in subsequent proceedings, ever confirmed that NTI society was in possession of the land;

d. It is argued that the documents placed by the plaintiff only establish a paper transaction and not actual possession.

ii. It is averred that the primary question for consideration in appeal is:

> '*Whether, in the absence of proof that possession was taken by the Government and handed over to the beneficiary society, the trial Court was justified in decreeing the suit for bare injunction in favour of the plaintiffs?'*

iii. The appellant contends that title and possession remained with him, as NTI society never proved actual delivery of possession of the acquired land. Hence, the decree of bare injunction is unsustainable.

6. Learned Senior Counsel appearing for respondent No.1 Smt. S. Susheela would urge the following grounds:

i. It is submitted that the entire land in Survey No.11 measuring 1 acre 28 guntas, was duly acquired by the Government for the benefit of NTI Society under preliminary notification dated 03.01.1985 and final notification dated 23.09.1986. The appellant/defendant repeatedly challenged the said acquisition in successive rounds of litigation before this Court and the Apex Court. Each of those proceedings came to be dismissed, thereby confirming the validity of the acquisition.

ii First round: W.P. No.292/1987, the appellant assailed the acquisition notification dated 04.01.1985 and 22.09.1986. The writ petition was dismissed on 11.10.1993, and this order attained finality.

iii. Second round: W.P. No.12784/2002. Again, the appellant sought to quash the same acquisition notification. By order dated 24.06.2002, the writ petition

was dismissed as withdrawn with liberty granted only to approach the Government for de-notification and no such de-notification was ever granted for.

iv. Third round:

a. W.P. No.12758/2008 was filed through the GPA Holder Smt. Prabhavathi Chandapur, praying to declare that the acquisition had lapsed under Section 11A of the Land Acquisition Act. The said writ petition was dismissed on 14.06.2011 (Ex.P11 in O.S. No. 407/2018).

b. Review Petition No.470/2011 in W.P. No.12758/2008 was filed and dismissed on 09.12.2011 (Ex.P12 in O.S. No.407/2018).

c. W.A. No.56/2012, was preferred against the order in the writ petition, which came to be dismissed on 10.09.2013.

d. Special Leave to Appeal (C) No.702/2014 was also dismissed on 04.11.2015 (Ex.P15), thus, the validity of acquisition stood finality upheld by the Apex Court

v. Fourth round:

a. W.P. No.23389/2011 once again, the appellant attempted to challenge the acquisition. The writ petition was dismissed on 15.06.2012 (Ex.P13 in O.S. No.407/2018).

b. W.A. No.1993/2013 was preferred by the appellant was dismissed on 15.06.2016 (Ex.P16).

vi. Fifth round:

a. During the pendency of the present suits, the appellant filed W.P. No.4470/2019 raising a fresh challenge under Section 27 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, alleging that the acquisition had lapsed. The writ petition was dismissed on 02.02.2022 (Ex.P27).

b. Review Petition No.394/2022 was dismissed on 21.04.2022 (Ex.P28).

c. Writ Appeal No.426/2022 was dismissed on 29.09.2022.

d. SLP Diary No.12316/2023 was dismissed as withdrawn and liberty was reserved to file a fresh representation for release of the acquired land.

vii. **Criminal proceedings parallel**

The appellant initiated criminal complaint against the respondents. This Court, in Criminal Petition No.2776/2022, by an order dated 08.07.2022, held that even if the possession of the property is under serious dispute, continuation of criminal proceedings would amount to abuse of process of law. Consequently, the proceedings were quashed. The said order is marked as Ex.P29 in O.S. No.407/2018. Thus, it is contended that from 1987 upto 2023, the appellant has indulged in repeated rounds of litigation, all of which have uniformly confirmed the acquisition of Survey No.11.

viii. The plea that the NTI Society has not been put in possession is untenable, as the possession follows valid

acquisition, and the repeated dismissal of challenge upto the Apex Court has attained finality and sealed the issue.

viii. The present appeals, which are directed only against the decrees of bare injunction cannot be converted into another round of collateral attack on long settled acquisition proceedings. Learned Senior Counsel for the respondent further submits that the question repeatedly raised by the appellant regarding whether the possession of acquired land was in fact taken and handed over to NTI Society already stands answered in earlier proceedings. In particular, in W.P. No.23389/2011, this Court while dismissing the writ petition recorded a categorical finding that the Special Land Acquisition Officer had certified that taking possession of the two items of land, and the same had been duly handed over to respondent No.3, namely the NTI Society. This finding, rendered in the judicial proceedings between the same parties, squarely addresses and resolves the present contention of the appellant. Once it is judicially recorded that the possession was taken

and delivered to NTI Society, the appellant cannot be permitted to re-agitate the issue in the present appeal arising only out of the decree of injunction. Therefore, it is contended that the plea of want of possession raised by the appellant is wholly untenable.

7. This Court has carefully considered the rival contentions urged by the learned counsel for the parties and perused the material on record. On hearing them, the points that arise for consideration are:

> *"i. Whether the plaintiff has established the lawful possession of the respective sites and whether the trial Court has rightly relied upon the acquisition proceedings to hold that the entire land in Survey No.11 was acquired for NTI Society?*
>
> *ii. Whether the judgments and decrees of the trial court warrant any interference?"*

8. Both the points are taken up together in order to avoid repetition of facts.

9. Undisputed proceedings initiated by the appellant/defendant are:

i. W.P. No.292/1987 was filed seeking to quash the preliminary notification dated 04.01.1985 and final notification dated 22.09.1986 concerning Survey No.11 measuring 1 acre 28 guntas.

The prayer sought in the writ petition is as under:

> *"Praying for quashing notification published in Karnataka Gazette dated 4.1.1985 and 22.09.1986."*

The said writ petition came to be dismissed on 11.10.1993, the same has attained finality.

ii. W.P. No.12784/2002 was filed seeking to quash the final notification dated 22.09.1986 by the defendant/appellant after a lapse of almost 10 years and the prayer sought in the writ petition is as under:

> *"Praying to quash notification dated 22.09.1986 issued by Respondent No.2 vide Annexure-B, only in so far as the Petitioner's land bearing Sy.No.11, measuring to an extent of 1-28*

guntas, situate at Kodigehalli Village, Yelahanka Hobli, Bangalore North Taluk, is concerned, etc."

The said writ petition came to be dismissed as withdrawn on 24.06.2002, with liberty to seek de-notification from the Government. However, no de-notification was ever granted and the acquisition remained intact.

iii. W.P. No.12758/2008 was preferred by the GPA holder Prabhavathi Chandapur after again a lapse of 6 years on behalf of Ninganna Gowda Hosamani seeking for the following prayer:

"Praying to declaring that the acquisition proceedings initiated by issuing the preliminary notification dated 03.01.1985 (Gazette on 04.01.1985) issued by the 2nd Respondent produced at Annexure-B and Final Notification dated 22.09.1986 (gazetted on 25.09.1986), by the Respondent No.1 produced at Annexure-C, insofar as the land of the Petitioner bearing Sy.No.11, of Kodigehalli Village, Yelahanka Hobli, Bangalore North Taluk, measuring to an extent of 1-28 guntas

is concerned, have lapsed under section 11-A of the Land Acquisition Act, 1894 etc."

The said writ petition came to be dismissed on 14.06.2011 (Ex.P11 in O.S. No.407/2018). R.P. No.470/2011 was filed in WP No.12758/2008, which came to be dismissed on 09.12.2011 (Ex.P12 in O.S. No.407/2018).

iv. Writ Appeal No.56/2012 was preferred against the order passed in WP No.12758/2008, which came to be dismissed on 10.09.2013, confirming the order in W.P. No.12758/2008.

v. Special Leave to Appeal (C) No.702/2014 was preferred which came to be dismissed by the Apex Court on 04.11.2015 (Ex.P15). The acquisition proceedings was upheld upto the Apex Court and the same has attained finality.

vi. WP No.23389/2011 was again filed by Ningana Gowda Hosamani seeking to quash the acquisition

proceedings insofar as Survey No.11 measuring 1 acre 28 guntas purchased under the sale deed dated 10.08.1983 with the following prayer:

> *"Praying to quash the acquisition for the purpose of the R3 in so far as it relates to the property purchased by him being 1 Acre 28 guntas of land in Sy.No.11 of Kodigehalli, Yelahanka Hobli, Bangalore North Taluk, under a deed of sale deed dated 10.08.1983 and etc."*

Writ petition was dismissed on 15.06.2012 (Ex.P13). This Court specifically recorded that the Special Land Acquisition Officer certified the possession of land was taken and handed over to NTI Society.

vii. Writ Appeal No.1993/2013 preferred against the said order in WP No.23389/2011 came to be dismissed on 15.06.2016 (Ex.P16). While dismissing the writ petition on 15.06.2012, this Court made the following observation:

> *"12. It is to be noted here that the endorsement at Annexure-H dated 25.10.2003 was issued by the Special Land Acquisition Officer. But*

> *the Special Land Acquisition Officer has not been made a party to the writ petition. Even otherwise when the acquisition proceedings have been concluded and the challenge to the acquisition proceedings has been negativated by this Court, there was no impediment for the land Acquisition Officer to take possession of the land and handover the same to the 3rd respondent. As noticed above, even the writ petition filed by the petitioner for declaring that the land acquisition proceedings has lapsed under Section 11-A of the Land Acquisition Act has also been dismissed. For the aforesaid reasons, I decline to entertain this writ petition. It is accordingly dismissed. No costs."*

viii. WP No.4470/2019 was filed to declare the acquisition as lapsed under Section 27 (2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 by the appellant again during the pendency of suit in O.S. No.1354/2018. The prayer sought in the writ petition is as under:

> *"i. Issue a writ of appropriate nature to declare that the acquisition proceedings initiated as per the preliminary notification dated 04.01.1985 at Annexure-G and the final notification dated*

25.09.1986 at Annexure-H, in so far as it relates to Survey No.11 of Kodigehalli Village, Yelahanka Hobli, Bangalore North Taluk, Bangalore, measuring 1 acre 28 guntas has stood lapsed in view of Section 27(2) of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013;

or in the alternative

ii. Issue a writ of certiorari to quash the notification dated 25.09.1986 at Annexure-H in so far as it relate to Survey No.11 of Kodigehalli Village, Yelahanka Hobli, Bangalore North Taluk, Bangalore measuring 1 acre 28 guntas.

ii. Pass such other order as deemed fit by this Hon'ble Court in the circumstances of the case, in the ends of justice."

The writ petition came to be dismissed on 02.02.2022 (Ex.P27 in O.S. No.407/2018).

ix. Review Petition No.394/2022 was filed in W.P. No.4470/2019, came to be dismissed on 21.04.2022 (Ex.P28 in O.S. No.407/2018).

x. W.A. No.426/2022 preferred against the order passed in WP No.4470/2019 came to be dismissed on 29.09.2022.

xi. SLP Diary No.12316/2023, preferred against the order in the W.A. No.426/2022, was dismissed. Though liberty was granted to file a fresh representation, even under the new Act, the plea of lapse was negatived and the acquisition stood confirmed.

10. Criminal proceedings

a. Appellant initiated criminal proceedings alleging wrongful acts by the respondent.

b. In Criminal Petition No.2776/2022, this Court held that even if the possession itself is doubt, continuation of criminal proceedings would amount to abuse of process of law.

c. The proceedings were quashed on 08.07.2022 marked as Ex.P29 in O.S. No.407/2018. This reinforce

that the dispute in civil nature and appellant cannot use criminal law to reopen the settled issues.

11. From the above narrated facts, it is clear that the validity of acquisition was consistently upheld from 1986 to 2023. In W.P. No.23389/2011, this Court judicially recorded, that the Special Land Acquisition Officer had taken possession and handed it over to the NTI Society. The Apex Court's dismissal of SLP foreclosed further challenge to the acquisition. The multiple rounds of litigation demonstrate an abuse of process of law, the acquisition has attained finality through dismissal of writ petitions, writ appeals and SLPs and the appellant cannot re-open the said issue. The acquisition of Survey No.11 stands concluded in favour of the NTI society. The plaintiffs proved lawful possession of their respective sites.

12. For the foregoing reasons, the points framed for consideration are answered accordingly and the impugned judgments and decrees of the trial Court does not suffer

from any perversity or illegality warranting any interference and this Court pass the following:

ORDER

i. All the regular first appeals are ***dismissed with costs***.

ii. The judgments and decrees dated 01.04.2023 in O.S. Nos.403/2018, 404/2018, 405/2018, 406/2018 and 407/2018 passed by the VIII Additional City Civil and Sessions Judge, Bengaluru are hereby ***affirmed***.

Sd/-

JUSTICE K.S. HEMALEKHA

MBM
List No.: 1 Sl No.: 21