

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 20TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

WRIT PETITION NO.61154 of 2014 (LA-BDA)

C/W

WRIT PETITION NOS.50948 OF 2016, 14510 OF 2018,

1201 OF 2020, 8235 OF 2021 & 26090 OF 2022

IN WP NO.61154 OF 2014

BETWEEN

SMT. VANITHA M.
W/O LATE MAHALINGESH
AGED ABOUT 37 YEARS
R/AT NO.135, 'BAGLI'
SULIKERI POST
Kengeri Hobli
BENGALURU - 560 060.

....PETITIONER

(BY SRI. PADMANABHA V. MAHALE, SENIOR ADVOCATE FOR
SRI. ANANDRAJU, ADVOCATE)

AND

1. THE BANGALORE DEVELOPMENT AUTHORITY
DR. T. CHOWDAIAH ROAD
KUMARA PARK WEST
BENGALURU -560 020
REPRESENTED BY ITS COMMISSIONER.

2. THE STATE OF KARNATAKA
URBAN DEVELOPMENT DEPARTMENT
VIKASA SOUDHA
BENGALURU -560 001
BY ITS PRINCIPAL SECRETARY

3. LAND ACQUISITION OFFICER
BANGALORE DEVELOPMENT AUTHORITY
DR. T. CHOWDAIAH ROAD
KUMARA PARK WEST
BENGALURU -560 020.

...RESPONDENTS

(BY SRI. MANJUNATH K., HCGP FOR R2;
SRI. G.S. KANNUR, SENIOR ADVOCATE FOR
SRI. MURUGESH V. CHARATI, ADVOCATE FOR R1 AND R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE PRELIMINARY NOTIFICATION BEARING NO.BDA/COMMR/DC(LA)/SALAO/115/2005-06 DATED 12.12.2005 ISSUED BY THE RESPONDENT NO.1 VIDE ANNEXURE-D AND THE FINAL NOTIFICATION DATED 27.07.2011 BEARING NO.UDD/169/MNX/2011 ISSUED BY RESPONDENT NO.2 VIDE ANNEXURE-B, INsofar AS THE PETITIONER'S NOTIFIED LAND OF 5 ACRES 10 GUNTAS IN SY.NO.23 OF SULIKERE VILLAGE, KENGIERI HOBLI, BENGALURU SOUTH TALUK IS CONCERNED; AND ETC.

IN WP NO.50948 OF 2016

BETWEEN

SRI. C. BYRAPPA
S/O CHIKKANNA

AGED ABOUT 69 YEARS
R/AT MUNESHWARA ESTATE
PEENYA VILLAGE
YASHWANTPUR HOBLI
BENGALURU- 560 058.

...PETITIONER

(BY SRI. VINOD PRASAD, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
BY ITS SECRETARY TO
URBAN DEVELOPMENT DEPARTMENT
M.S. BUILDING
AMBEDKAR VEEDHI
BENGALURU -560 001.
2. THE BANGALORE DEVELOPMENT AUTHORITY
BY ITS COMMISSIONER
DR. T. CHOWDAIAH ROAD
KUMARA PARK WEST
BENGALURU -560 020
3. SPECIAL LAND ACQUISITION OFFICER
BANGALORE DEVELOPMENT AUTHORITY
DR. T. CHOWDAIAH ROAD
KUMARA PARK WEST
BENGALURU -560 020.

...RESPONDENTS

(BY SRI. MANJUNATH K., HCGP FOR R1;
SRI. G.S. KANNUR, SENIOR ADVOCATE FOR
SRI. MURUGESH V. CHARATI, ADVOCATE FOR R2 AND R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
PRELIMINARY NOTIFICATION BEARING NO.BDA/COMMR/DC(LA)

/SALAO/115/2005-06 DATED 12.12.2005 ISSUED BY THE RESPONDENT NO.2 VIDE ANNEXURE-A AND TO THE WRIT PETITION, AND THE FINAL NOTIFICATION DATED 27.07.2011 BEARING NO.UDD/169/MNX/2011 ISSUED BY RESPONDENT NO.2 VIDE ANNEXURE-A TO THE WRIT PETITION, INSOFAR AS IT RELATES TO THE PETITIONER'S LAND IN SY.NO.64/1 AND 65/1 NEW NO.65/5 OF KANNAHALLI VILLAGE IS CONCERNED.

IN WP NO.14510 OF 2018

BETWEEN

SRI. K.T. PRASANNA KUMAR
S/O DODDA THIMMARAYAPPA
AGED ABOUT 49 YEARS
R/AT KENCHANAPURA VILLAGE
SULIKERE POST, KENGERI HOBLI
BENGALURU SOUTH TALUK.

....PETITIONER

(BY SRI. H.C. SUNDARESH, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF URBAN DEVELOPMENT
M.S. BUILDING
BENGALURU -560 001.
2. THE COMMISSIONER
BANGALORE DEVELOPMENT AUTHORITY
T. CHOWDAIAH ROAD
KUMARA PARK WEST
BENGALURU -560 020.

3. THE SPECIAL LAND ACQUISITION OFFICER
BANGALORE DEVELOPMENT AUTHORITY
T. CHOWDAIAH ROAD
KUMARA PARK WEST
BENGALURU -560 020.

...RESPONDENTS

(BY SRI. MANJUNATH K., HCGP FOR R1;
SRI. G.S. KANNUR, SENIOR ADVOCATE FOR
SRI. MURUGESH V. CHARATI, ADVOCATE FOR R2 AND R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE PRELIMINARY NOTIFICATION BEARING NO.BDA/COMMR/DC(LA)/SALAO/80/2006-07 DATED 15.11.2006 PUBLISHED IN THE KARNATAKA GAZETTE DATED 16.11.2006 UNDER SEC.17(1) AND (3) OF THE BDA ACT AND FINAL NOTIFICATION BEARING NO.UDD/169/MNX/2011 BENGALURU DATED 27.07.2011 PUBLISHED IN THE KARNATAKA GAZETTE DATED 29.07.2011 UNDER SEC.19(1) OF THE BDA ACT, FOR ACQUISITION OF PETITIONER'S PROPERTY BEARING SY.NO.58/2, NEW NO.58/10, MEASURING 29 GUNTAS, SITUATED AT KANNALI VILLAGE, YESHWANTHAPURA HOBLI, BENGALURU SOUTH TALUK FROM THE SCHEME CALLED "FORMATION OF PERIPHERAL RING ROAD (PRR)" BETWEEN HOSUR ROAD, MYSORE ROAD AND TUMKUR ROAD (PART-II) AS SCHEME LAPSE UNDER SEC.27 OF THE BDA ACT AS PER ANNEXURE-G AND H RESPECTIVELY.

IN WP NO.1201 OF 2020**BETWEEN**

1. SRI. G.R. GANGANNA
S/O LATE CHIKKAIAH
AGED ABOUT 62 YEARS
R/AT SULIKERE VILLAGE
KENGARI HOBLI
BENGALURU SOUTH TALUK
BENGALURU -560 060.
2. SRI. G.R. CHANDRASHEKAR
S/O LATE CHIKKAIAH
AGED ABOUT 59 YEARS
R/AT SULIKERE VILLAGE
KENGARI HOBLI
BENGALURU SOUTH TALUK
BENGALURU -560 060.

....PETITIONERS

(BY SRI. M. SREENIVASA, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT
VIKAS SOUDHA
BENGALURU -560 001.
2. BANGALORE DEVELOPMENT AUTHORITY
T. CHOWDAIAH ROAD
KUMARA PARK WEST
BENGALURU -560 020.
REPRESENTED BY ITS COMMISSIONER
3. THE SPECIAL LAND ACQUISITION OFFICER
BANGALORE DEVELOPMENT AUTHORITY
T. CHOWDAIAH ROAD

KUMARA PARK WEST
BENGALURU -560 020.

...RESPONDENTS

(BY SRI. MANJUNATH K., HCGP FOR R1;
SRI. G.S. KANNUR, SENIOR ADVOCATE FOR
SRI. MURUGESH V. CHARATI, ADVOCATE FOR R2 AND R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE NOTIFICATION BEARING NO.BDA/COMMR /DC(LA)/SALAO /115/2005-06 DATED 12.12.2005 ANNEXURE-A ISSUED UNDER SEC.17(1)(3) AND THE FINAL NOTIFICATION BEARING NO.UDD/169/MNX/2011 DATED 27.07.2011 ISSUED BY RESPONDENT NO.3 VIDE ANNEXURE-B CONSEQUENTLY PASSING THE CONSENT AWARD DATED 23.02.2018 PASSED UNDER SEC.23 OF THE RFCT IN LARR ACT, 2013, ANNEXURE-C, INsofar AS IT RELATES TO THE PETITIONERS LAND; AND ETC.

IN WP NO.8235 OF 2021

BETWEEN

1. SRI. PUTTARAJ
S/O LATE MARIYAPPA
AGED ABOUT 46 YEARS
2. SRI. M. CHENNAKESHA
S/O LATE MARIYAPPA
AGED ABOUT 51 YEARS

BOTH ARE R/AT
MACHOHALLI VILLAGE
KADABAGERE CROSS
DASANAPURA HOBLI

BENGALURU NORTH TALUK
BENGALURU DISTRICT - 560 037.

...PETITIONERS

(BY SRI. M. SHIVAPRAKASH, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY CHIEF SECRETARY
VIDHANA SOUDHA
BENGALURU -560 001.
2. THE PRINCIPAL SECRETARY
DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT
STATE OF KARNATAKA
M.S. BUILDING
BENGALURU - 560 009.
3. THE COMMISSIONER
BANGALORE DEVELOPMENT AUTHORITY
BENGALURU -560 020.
4. THE LAND ACQUISITION OFFICER
BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST
BENGALURU -560 020.

...RESPONDENTS

(BY SRI. MANJUNATH K., HCGP FOR R1 AND R2;
SRI. G.S. KANNUR, SENIOR ADVOCATE FOR
SRI. MURUGESH V. CHARATI, ADVOCATE FOR R3 AND R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND
227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH
THE NOTIFICATION BEARING NO.BDA/COMMR /DC(LA)/SALAO
/115/2005-06 DATED 12.12.2005 ANNEXURE-F AND THE FINAL

NOTIFICATION BEARING NO.UDD/169/MNX/2011 DATED 27.07.2011 AT ANNEXURE-G ISSUED BY RESPONDENTS NO.2 AND 3 RESPECTIVELY, IN RESPECT OF THE PETITIONERS LAND DESCRIBED IN THE NOTIFICATION, CONSEQUENTLY TO DECLARE THE ACQUISITION OF VAST EXTENT OF LAND FOR FORMATION OF PERIPHERAL RING ROAD-II TO VITIATES ON THE GROUND OF MALAFIDES AND OBTAINING ADMINISTRATIVE SANCTION FROM THE GOVERNMENT UNDER THE PROVISION OF BDA ACT; AND ETC.

IN WP NO.26090 OF 2022

BETWEEN

SRI. V. RAVI KUMAR
S/O LATE VENKATARAMANAPPA
AGED ABOUT 51 YEARS
R/AT NO.600, 8TH MAIN ROAD
4TH 'B' CROSS, VIJAYANAGAR II STAGE
BENGALURU - 560 040.

...PETITIONER

(SRI. UDAY, ADVOCATE FOR
SRI. C.M. NAGABUSHANA, ADVOCATE)

AND

1. THE STATE OF KARNATAKA
DEPARTMENT OF URBAN DEVELOPMENT
VIKAS SOUDHA
DR. AMBEDKAR VEEDHI
BENGALURU -560 001
BENGALURU BY ITS SECRETARY.
2. THE BENGALURU DEVELOPMENT AUTHORITY
T. CHOWDAIAH ROAD
KUMARA PARK WEST

BENGALURU -560 020.
REPRESENTED BY ITS COMMISSIONER

3. THE SPECIAL LAND ACQUISITION OFFICER
T. CHOWDAIAH ROAD
KUMARA PARK WEST EXTENSION
BENGALURU - 560 020.

...RESPONDENTS

(BY SRI. MANJUNATH K., HCGP FOR R1;
SRI. G.S. KANNUR, SENIOR ADVOCATE FOR
SRI. MURUGESH V. CHARATI, ADVOCATE FOR R2 AND R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE RESPONDENTS NOT TO UTILIZE THE LAND NOTIFIED AS PER THE ANNEXURES - B, C AND D OF THE PETITION SCHEDULE PROPERTY FOR THE PURPOSE OTHER THAN INDICATED IN THE NOTIFICATIONS AT ANNEXURE - B BEARING NO.BDA/COMMR/DC(LA)/SALAO /115/2005-06 DATED 12.12.2005 ANNEXURE-C BEARING NO. BDA/COMMR/DC(LA)/SALO/80/2006-07/ BANGALORE DATED 15.11.2006 AND ANNEXURE-D BEARING NO. UDD/169/MNX/2011 BANGALORE DATED 27.07.2011; AND ETC.

THESE WRIT PETITIONS HAVING BEEN RESERVED FOR ORDERS, COMING FOR PRONOUNCEMENT THIS DAY, **E.S. INDIRESH J.**, MADE THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

CAV ORDER

(PER: HON'BLE MR. JUSTICE E.S.INDIRESH)

In these writ petitions, the petitioners are questioning the Preliminary Notification dated 12.12.2005 and 15.11.2006 as well as Final Notification dated 27.07.2011 issued by the respondent-authorities, sought to acquire the land in question for the purpose of formation of Peripheral Ring Road-II, between Hosur Road-Mysore Road and Tumakur Road (Part II) as per the notification referred to above as lapsed in terms of Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013.

2. In W.P.No.61154 of 2014, it is the case of the petitioner that, the petitioner is the owner of the land bearing Sy.No.23 of Sulikere Village, Kengeri Hobli, Bangalore, measuring to an extent of 05 acres, 10 guntas and the respondent-authorities have issued Preliminary Notification dated 12.12.2005 and Final Notification dated

27.07.2011, sought to acquire the schedule land for the purpose of formation of Peripheral Ring Road (PPR-II).

3. It is the case of the petitioner that, the petitioner is in actual physical possession of the property and no award has been passed by the respondent-authorities pursuant to the impugned notifications and further no possession has been taken by the respondent-authorities and accordingly, petitioner has questioned the impugned notifications.

4. In W.P.No.50948 of 2016, the petitioner claims to be the owner in possession of land bearing Sy No.64/1 to an extent of 02 acres, 21 guntas and Sy No.65/1 (New Sy No.65/5) to an extent of 02 acres, 16 guntas of Kannahalli Village, Yashwanthpura Hobli, Bangalore North Taluk, has questioned the validity of Preliminary Notification dated 12.12.2005 and Final Notification dated 27.07.2011 on the ground that the respondent-BDA cannot utilize the

aforementioned lands for the purpose of formation of the Peripheral Ring Road (PPR-II) and no award has been passed till date and therefore, it is contended that, the scheme has been lapsed by virtue of operation of law. Hence, the petitioner has presented this writ petition.

5. In W.P.No.14510 of 2018, it is the case of the petitioner that, the petitioner is owner in possession of the land bearing Sy No.58/2 (New Sy No.58/10), measuring 28 guntas situate at Kannahalli Village, Yashwantpura Hobli, Bangalore North Taluk and has challenged the Preliminary Notification dated 15.11.2006 and Final Notification dated 27.07.2011 issued by the respondent-authorities for the purpose of formation of Peripheral Ring Road (Part II) between Hosur Road, Mysore Road and Ring Road (Part II). It is the case of the petitioner that, the respondent-authorities have not implemented the scheme and no award has been passed by the respondent-authorities. Accordingly, it is the case of the petitioner that the

respondent-authorities have abandoned the scheme of formation of Road.

6. In W.P.No.1201 of 2020, it is the case of the petitioners that, the petitioners claim to be the owners of the land bearing Sy No.30 and Sy No.23 of Sulikere Village, Kengeri Hobli, Bangalore South Taluk, measuring 05 acres, 27 guntas and 02 guntas, respectively, along with 'A' Kharab land. It is further averred in the petition that, the source of Income for the petitioners is agriculture and livelihood of the family is based on the cultivation made in the aforementioned land and accordingly, sought for quashing the impugned notifications on the ground that, the petitioners were unaware about the acquisition proceedings and no award notice has been issued as required under law. It is contended by the petitioners that, no award has been passed by the respondent-authorities and accordingly, the petitioners have questioned the impugned notifications stating that, the same have become lapsed.

7. In W.P.No.8235 of 2021, it is contended by the petitioners that, the petitioners are the owners of the land bearing Sy No.134/1, to an extent of 03 acres, 30 guntas; Sy No.135/1, to an extent of 02 acres, 13 guntas; Sy No.136/1, to an extent of 05 acres, 15 guntas and Sy No.137/1 to an extent of 04 acres, 22 guntas, situate at Machohalli Village, Dasanapura Hobli, Bangalore North Taluk and the petitioners are challenging the impugned acquisition proceedings on the ground that the respondent-authorities have not implemented the scheme as required under Section 27 of the Bangalore Development Act, 1976 (for short, BDA Act), and accordingly, challenged the impugned notifications passed by the respondent-authorities.

8. In W.P.No.26090 of 2022, it is the case of the petitioner that, petitioner is the absolute owner in possession of the land bearing Sy No.78 to an extent of 03

acres, 22 guntas and an extent of 17 guntas was notified for acquisition out of total extent of land of the petitioner situate at Kenchanapura village, Kengeri Hobli, Bangalore South Taluk, having purchased the same as per the registered Sale Deed dated 18.04.2005 (Annexure-A). It is also stated that, the petitioner is also the owner of the land bearing Sy Nos.79/1, 79/2, 79/4, 79/5, 79/6 and 79/7 of Kenchanapura Village, Bangalore South Taluk and the respondent-authorities have notified 17 guntas of land on the eastern side of the petition schedule property as per the impugned notifications and it is contended that, respondent-authorities are diverting the use of the land for other purpose despite the land has been acquired for the purpose of Peripheral Ring Road (Part-II) and the same is contrary to Article 300A of the Constitution of India. It is also contended by the petitioner that the scheme formulated by the respondent-Bangalore Development Authority (for short, BDA) and approved by the respondent-

State is for formation of Peripheral Ring Road (PPR-II) and therefore, acquisition proceedings are lapsed on account of not issuing the award and taking possession in a manner known to law. Accordingly, sought for interference of this Court.

9. I have heard Sri. Padmanabha V. Mahale, learned Senior Counsel appearing on behalf of learned counsel, Sri. Anandraju, for the petitioner in W.P.No.61154 of 2014; Sri. Vinod Prasad, learned counsel appearing for the petitioner in W.P.No.50948 of 2016; Sri. H.C. Sundaresh, learned counsel appearing for the petitioner in W.P.No.14510 of 2018; Sri. M. Srinivasa, learned counsel appearing for the petitioners in W.P.No.1201 of 2020; Sri. M. Shivaprakash, learned counsel appearing for the petitioners in W.P.No.8235 of 2021 and Sri. Uday, learned counsel appearing on behalf of learned counsel, C.M. Nagabhushana, appearing for the petitioner in W.P.No.26090 of 2022; Sri. G.S. Kannur, learned Senior

Counsel appearing on behalf of learned counsel Sri. Murugesh V. Charati, for the respondent-BDA and Sri. Manjunath K., learned High Court Government Pleader appearing for the respondent-State.

10. It is the contention of Sri. Padmanabha V. Mahale learned Senior Counsel and other learned counsel representing the writ petitioners that, though the Preliminary Notifications have been issued on 12.12.2005 and 15.11.2006 followed by Final Notification on 27.07.2011, however, no award has been passed till date and therefore, the entire acquisition proceedings requires to be quashed. It is also contended by the learned counsel representing the petitioners that, the respondent-authorities have not taken possession of the land in question nor compensation has been deposited before the Civil Court and that apart, the land in question is not vested with the respondent-BDA and therefore, the entire acquisition proceedings is contrary to Section 36(3) of the

BDA Act and therefore, they sought for interference of this Court.

11. It is further contended by the learned counsel representing the petitioners that, the acquisition proceedings has been abandoned by the respondent-BDA and further, the respondent-BDA has not completed the project for which the land in question is said to have been acquired as per the notifications referred to above and therefore, the acquisition proceedings has become lapsed under Section 27 of the BDA Act. In addition to this, it is the contention of Sri. H.C. Sundaresh that, the respondent-authorities have acquired the land more than the requisite land, for the purpose of construction of ring road and therefore, he argued on feasibility of the land in question.

12. Sri. M. Shivaprakash, learned counsel further argued that, the petitioners in W.P.No.8235 of 2021 have

constructed industrial unit in their schedule property. Accordingly, sought for interference of this Court.

13. Sri. C.M. Nagabhushana and Sri. Uday, learned counsels appearing for the petitioner in W.P.No.26090 of 2022, contended that, the petitioner intends to form private layout and thereby, respondent-BDA had issued the layout plan, work order and commencement certificate as per Annexure-E series to the writ petition and therefore, it is contended that, the respondent-BDA has abandoned the land from the acquisition proceedings and accordingly, sought for interference of this Court.

14. In order to buttress their arguments, learned counsel appearing for the petitioners referred to the Judgment of this Court in W.P.No.7848 of 2021 disposed of on 17.04.2021 and contended that, the very same Preliminary Notification dated 12.12.2005 passed by the respondent-authorities has been quashed by this Court in

respect of the subject land in the above writ petition, which came to be confirmed by the Division Bench in W.A. No.215 of 2022 disposed of on 19.10.2022. The said Judgment of this Court is confirmed by the Hon'ble Supreme Court in SLP (Civil) Dairy No.12708 of 2023 dated 04.05.2023 and accordingly, sought for allowing these writ petitions.

15. Per contra, Sri. G.S. Kannur, learned Senior Counsel appearing on behalf of learned counsel Sri. Murugesh V. Charati, for the respondent-BDA submitted that, the writ petitions have to be dismissed on the sole ground of delay and laches as the petitions have been filed beyond three years. It is further contended that, award notices have been already issued in favour of some of the owners of the lands in question, however, concedes that award has not yet been passed. It is also contended by the learned Senior Counsel that possession mahazar has been drawn and handed over to Engineering Section. It is further contended by learned Senior Counsel that, Hon'ble

Supreme Court in the case of ***BDA and Another Vs. State of Karnataka and Others*** in C.A. No.7661-7663 of 2018 (Dr. Shivaram Karanth Layout case) decided on 20.01.2022 upheld the acquisition proceedings for the purpose of formation of peripheral road. It is contended by the learned Senior Counsel that, as per Section 69(2) of the Karnataka Town and Country Planning Act, 1961, in the matter of construction of road, proceedings will not be lapsed and the said aspect has been considered by the Division Bench of this Court in W.A.No.2679 of 2018, decided on 10.03.2021. It is the categorical submission of the learned Senior Counsel that the land of the petitioners would form part of the scheme and a road passes through the property of the petitioners which is a connecting road. It is submitted by the learned Senior Counsel that, an extent of 2716 acres, 10 guntas of land has been acquired for the purpose of formation of Peripheral Ring Road (Part-II), a road which connects from Hosur road to Mysuru Road and Tumakuru

Road in the outskirts of Bengaluru City and the entire scheme has been approved under 18(3) of BDA Act and as large extent of land has been acquired for the purpose of ring road. It is the submission of the learned Senior Counsel appearing for the respondent-BDA that, it cannot be accepted to say that the acquisition proceedings has become lapsed in respect of land belonging to the petitioners.

16. It is also contended by the learned Senior Counsel for the respondent-BDA that the major arterial road is for 10.35 Kms, out of the said extent, an extent of 8.53 Kms of road, has already been formed by the respondent-BDA and remaining 1.8 Kms is pending for formation of the road in view of the litigation. It is also submitted that the major arterial road is part of Master Plan road which passes through the Nadaprabhu Kempegowda Layout and connects the various parts of Bengaluru and accordingly, sought for dismissal of the writ petitions.

17. Nextly, Sri. G.S. Kannur, learned Senior Counsel submitted that, the Government of Karnataka has approved scheme for allotment of developed sites in the form of compensation in the ratio of 50:50, taking into consideration the grievance of the petitioners and other land losers, despite the fact that BDA prescribes 40:60 compensation insofar as other acquisition proceedings are concerned. It is also contended by the learned Senior Counsel that, the contention raised by the petitioners that excess land is being notified by the respondent -BDA is incorrect as substantial land is being required for providing other allied services like transportation, parking of heavy transport vehicles, truck terminals, BMTC depots in the area notified etc., and therefore, taking into such consideration during the deliberations held at the high level officers of the respondent-BDA and the Government, the respondent-BDA was compelled to issue the impugned notifications.

18. It is also contended by the learned Senior Counsel that as the land is being acquired for the purpose of formation of road for general public and taking into consideration the interest of the public at large, the interference of this Court is very limited to quash the impugned notifications at this stage and further the contentions with regard to lapse of the scheme under Section 24 of the Right to Fair Compensation and Transparency in Land Acquisition Rehabilitation and Resettlement Act, 2013 is not applicable to the case on hand. It is also emphasised that the petitioners have made an attempt before the Government to delete the land in question from the acquisition proceedings under Section 48 of the Land Acquisition Act, 1894 and they have failed in their efforts and as such, filed the present writ petitions to stop the scheme in respect of the Peripheral Ring Road (Part-II), which has been substantially implemented by the respondent-BDA. In this regard, he refers to the Judgment

of the Hon'ble Supreme Court in Misc. Application No.1614-1616 of 2019 in C.A. No.7661-7663 of 2018 dated 25.11.2021 and argued that, the Hon'ble Supreme Court at paragraph 10 has made an observation relating to completion of Peripheral Ring Road (Part-II) at the earliest to enable the respondent-BDA to complete the scheme at the earliest.

19. Sri. Manjunath K., learned High Court Government Pleader appearing for the respondent-State argued on the similar lines with the learned Senior Counsel appearing for the respondent-BDA.

20. In the light of the submission made by the learned counsel appearing for the parties, it is not in dispute that, the respondent-authorities have issued the Preliminary Notification and Final Notification dated 12.12.2005 and 15.11.2006 and 29.07.2011, under Section 17 and Section 19 of the BDA Act, sought to acquire an

extent of 1862 acres, 10 guntas and 854 acres of land for the purpose of formation of Peripheral Ring Road (Part-II) as major arterial road. It is also not in dispute that, State Government has accorded sanction under Section 18(3) of the BDA Act on 23.04.2007. It is also not in dispute that, an extent of 321 acres, 10 guntas, was notified under Section 19 of the BDA Act, on 27.07.2011, connecting the road from Magadi and Mysore Road. It is also to be noted that respondent-authorities have issued award to an extent of 290 acres 08 guntas of land out of 301 acres 23 guntas of land available in the notified survey numbers. No award is passed in respect of the land in which, the interim stay has been granted by this Court to an extent of 7 acres 15 guntas in Kambipura village and 04 acres in Sulikere village. It is the case of the respondent-authorities that, the respondent-authorities had taken possession in respect of the 290 acres 08 guntas of land to complete the scheme of forming Peripheral Ring Road (Part-II). Though learned

Senior Counsel, Sri. Padmanabha V. Mahale and other counsels representing the petitioners contended that respondent-BDA has not completed the project and no award is passed in respect of the subject land, and further, learned counsel, Sri. M. Shivaprakash and M. Srinivasa, learned counsel appearing for the petitioners argued that, there is change in alignment of road by the respondent-authorities, I am of the opinion that, this aspect relating to feasibility of the land cannot be interfered with under Article 226 of Constitution of India. It is also to be noted from the order dated 26.10.2021 passed by the Hon'ble Supreme Court in the case of ***Bangalore Development Authority and Another vs. State of Karnataka and others*** in Misc. Application No.1614-1616 of 2019 in CA No.7661-7663 of 2018, the Hon'ble Supreme Court categorically directed the respondent-BDA to pass awards and take possession of the lands notified for Peripheral Ring Road (Part-II) Scheme and the State Government was directed to take possession

of the notified land for the purpose of completion of Peripheral Ring Road (Part-II) in favour of respondent-BDA. It is also pertinent to mention here that, Hon'ble Supreme Court categorically observed that, there is no progress made except notifying the lands for acquisition by the respondent-authorities to complete the scheme of Peripheral Ring Road (Part-II). In this regard, it is relevant to refer to the observation made by the Hon'ble Supreme Court at paragraph Nos. 12 to 15 which reads under:

"12. A peripheral ring road (PRR) was proposed encircling the Bangalore City for a length of 116 km vide Letter No.BDA/Vi.A.BhuSwaA/C4/PR/619/2006-07 dated 27.11.2006 by the BDA. A true translated copy of BDA letter dated 27.11.2006 is produced herewith marked as Annexure 3. The scheme was sanctioned by the Government of Karnataka vide Government order No. UDD 399 MNX 2006 Bangalore dated 23.04.2007. A true copy of the Government order dated 23.04.2007, is produced herewith marked as Annexure 4. Peripheral Ring Road is to provide connectivity to various destinations in all directions for onward traffic without entering the city of Bengaluru and thus minimising the congestion on the outer ring road and

internal roads of the city roads. Part of this PRR commencing from Tumkur Road NH44 (old NH4) near Madanayakanahalli and ending on Hosur Road NH48 (old NH7) near Huskur passing in the eastern side of City was called as PRR Part-1. The remaining part on the western side of the city as PRR Part-2. Concentric to PRR part as Part-2, as part of Bangalore-Mysore Infrastructure Corridor, connecting roads were formed by Nandi Infrastructure Corridor Enterprises (NICE) connecting Hosur road (NH 44) to Mysore road and Tumakuru road (NH 44) to Mysore road. In view of this, PRR Part-2 has not progressed further (except for the portion from Mysore road to Magadi road which is now passing through Nadaprabhu Kempegowda Layout), though Preliminary Notification was issued for PRR Part-2 also.

13. 1st Preliminary Notification was done to an extent of 1962 Acre 26 Gun Guntas in Preliminary Notification No: BDA/Commr/DC(LA)/ SALAO/ 79/2005- 06/ Bangalore dated 23.09.2005 for PRR Part-1. 2nd Preliminary Notification was done to an extent of 989 Acre 32.25 Guntas vide Notification No: BDA/ Commr/ DC(LA)/ SALAO/ 79/ 2006-07 Bangalore dated: 15.11.2006 for PRR Part-1. Final Notification for PRR Part-1 was done for an extent of 1810 Acre 18.5 Guntas vide order No. UDD 399 MNX 2006 Bangalore dated 29.06.2007. Additional Preliminary Notification

was done for Toll Plaza, Missing Links to an extent of 372 Acre 26 Guntas wide order No. BDA/ Commr/ DC(LA)/ SALAO/ 37/2010-11 Bangalore dated 16.08.2010 in PRR part-1.

14. Out of 1810 Acre 18.5 Guntas, awards have been framed for 948 acres and awards have been approved for 569 acres and 16.5 guntas and compensation is paid in 3 (three) cases only as per the provisions of Land Acquisition Act, 1894 in the months of June and July 2011 ie., (1) Kachamarnahalli Village Sy No.100 extent of 1 Acre 28 Guntas, award passed for Rs.21,27,608/-. (2) Aduru village Sy No.25/6 extent of 0-28 Guntas, award passed for Rs.8,15,782/- (3) Aduru village Sy No.32/10 extent of 1 Acre 5 Guntas, award passed for Rs. 11,78,552/-. Thus, an extent of only 3 acres 21 guntas has been taken possession of and handed over to the engineering division.

H LITIGATIONS/PERIPHERAL RING ROAD

15. Several Writ Petitions had been filed before the Hon'ble High Court of Karnataka challenging the acquisition proceedings. Smt. A.Gowramma and two others had challenged the Preliminary Notification dated 16/08/2010 issued under Section 17(1) of the BDA Act 1976 in Writ Petition Nos.21920 to 21922/2011. The above writ petitions were allowed in

entirety by the Hon'ble High Court of Karnataka on 8/9/2011 by quashing the notifications in its entirety pertaining to the scheme of PRR. The relevant portion of the order is in paragraph 36 at page 32 of the order dated 8/9/2011 and is reproduced below.

"Therefore, these writ petitions are allowed. All the notifications in its entirety pertaining to the scheme of 'peripheral ring road' are hereby quashed by issue of a writ of certiorari. Rule made absolute".

While allowing the writ petitions, the Hon'ble High court of Karnataka had ordered for a detailed scrutiny and investigating investigation agency by the with regard competent to the implementation of the project by increasing large amount of public funds, A direction had been given to send a copy of this order to Lokayukta."

21. It is also to be noted that, the Hon'ble Supreme Court in respect of the petitions relating to Dr. K. Shivaram Karath Layout, considered the status report filed by the respondent-BDA in relation to Peripheral Ring Road (PRR) and paragraph 12 reads as under;

"12. A peripheral ring road (PRR) was proposed encircling the Bangalore City for a length of 116 km vide Letter No.BDA/Vi.A.BhuSwaA/C4/PR/619/2006-07 dated 27.11.2006 by the BDA. A true translated copy of BDA letter dated 27.11.2006 is produced herewith marked as Annexure 3. The scheme was sanctioned by the Government of Karnataka vide Government order No. UDD 399 MNX 2006 Bangalore dated 23.04.2007. A true copy of the Government order dated 23.04.2007, is produced herewith marked as Annexure 4. Peripheral Ring Road is to provide connectivity to various destinations in all directions for onward traffic without entering the city of Bengaluru and thus minimising the congestion on the outer ring road and internal roads of the city roads. Part of this PRR commencing from Tumkur Road NH44 (old NH4) near Madanayakanahalli and ending on Hosur Road NH48 (old NH7) near Huskur passing in the eastern side of City was called as PRR Part-1. The remaining part on the western side of the city as PRR Part-2. Concentric to PRR part as Part-2, as part of Bangalore-Mysore Infrastructure Corridor, connecting roads were formed by Nandi Infrastructure Corridor Enterprises (NICE) connecting Hosur road (NH 44) to Mysore road and Tumakuru road (NH 44) to Mysore road. In view of this, PRR Part-2 has not progressed further (except for the portion from Mysore road to Magadi road which is

now passing through Nadaprabhu Kempegowda Layout), though Preliminary Notification was issued for PRR Part-2 also."

22. It is also relevant to mention here that the observation made by the Hon'ble Supreme Court by its order dated 25.11.2021 in Misc. Application No. 1614-1616 of 2019 in CA No.7661-7663 of 2018 at paragraphs 10 and 11 has held as under:

"PERIPHERAL RING ROAD (PRR)

10. On 26.10.2021, this Court had directed the State Government to file an affidavit clarifying its stand in relation to the PRR. In response to this order, the State Government has filed an affidavit dated 09.11.2021, the relevant portion of which is as under:

*"AFFIDAVIT OF STATUS REPORT ON BEHALF OF STATE OF KARNATAKA REGARDING PERIPHERAL RING ROAD
IN TERMS OF THE ORDER DATED 26.10.2021*

I, RAKESH SINGH, S/o Bharat Prasad Singh, aged 57 years, working as Additional Chief Secretary, Government of Karnataka, Urban Development Department, Bengaluru, Karnataka State, do hereby solemnly affirm and state as under:

1. I am working Additional as Government of Karnataka, Chief Secretary, Urban Development Department, the records Bengaluru and I am aware of the facts from placed before me.

PROJECT NECESSITY

2. At the outset it as Ring Road the City needs the Peripheral Ring Road (PRR) more thanaluru in view of the phenomenal growth of the directions. city in The geographical extent of the city has grown to 2196 sq. kms. The vehicle count as of 2019 was over 80 lakhs. Bengaluru being the capital city, thousands of vehicles come in every day from various parts of the state as well as outside the state. There is enormous pressure on city roads and public transport system is overstressed. The PRR will greatly reduce the stress and congestion in the city roads. The Government is very keen to facilitate the early execution of the PRR.

FUNDING

3. As per Government Order dated 03.10.2019, the cost of acquisition was stated as Rs.8,100.00 crores and cost of Road making was stated as 3850 crores. Subsequent to GO dated 03.10.2019, the Bangalore Development Authority submitted that the land acquisition cost is calculated by adopting Right to Fair Compensation Act with a multiplication factor of 1.5 for

lands outside BBMP area and a factor of one within BBMP, over that, Solatium of 100% and additionally interest at 12% per annum from the date of Preliminary Notification till the date of award. The cost of acquisition has been estimated as Rs.15,475.00 crore as on December 2020 as per 2013 Act. (The cost will increase upwardly due to the interest component). The cost of construction is estimated to be Rs.5,616 crore. Thus, the total cost as at end of December 2020 is Rs.21,091 crores.

4. In view of the steep revision of the cost of project, the earlier proposals and decisions require reconsideration and new ways to finance may have to be worked out. Due to two years of Covid related shutdowns and Covid related relief measures, the Government finances are also under stress. The Bangalore Development Authority has now proposed to implement the PRR project fully funded (cost of land acquisition and construction maintenance and operation) by the concessionaire under PPP-DBFOT (Public Private Partnership Design, Build, Finance, Operate and Transfer) mode. It has proposed to call for Global tenders finalise to the concessionaire offering lowest concession period. It has also proposed to merge the Special Purpose Vehicle with KUIDFCL (Karnataka Infrastructure Development & Finances Corporation Ltd.) as it will have no role this process.

These are under consideration before the Government and proposals placed before the next Cabinet meeting.

5. The PPP route through global tenders will be first explored and concluded in a short the time as possible. If there be no effective bidder, then Government will consider viability gap funding. The Bangalore Development Authority may also raise funds from auction route and other possible avenues.

6. The Special Purpose Vehicle (SPV) was registered as a company in the name of BENGALURU PRR DEVELOPMENT CORPORATION LIMITED. It held its meeting on 7th October, 2021. In this meeting it was decided to merge this company with KUIDFCL (Karnataka Urban Infrastructure Development & Finance Corporation Ltd.). The Govt. of Karnataka also has sought opinion for the merger of the Company. It is recorded in the said meeting that 1% share of the company has to be transferred to KUIDFCL and become its subsidiary. PPP mode. The PRR project will be done on PPP mode.

LAND ACQUISITION

7. The Bangalore Development Authority has sought the State Government's approval to notify additional lands to implement the PRR project. This approval was held up in view of the observation of the High Court

that additional lands for toll plaza may be acquired after the completion of the PRR. Now, the approval will be issued immediately in view of the directions of this Hon'ble Court dated 26/10/2021 directing the Bangalore Development Authority to notify these lands immediately.

8. In respect of Government lands required for the PRR project, 216 acres and 18 guntas of Government lands were notified by BDA vide Final Notification dated 29/6/2007. Out of this, Joint Measurement of the land required for the carriage way of the PRR has been done by the Revenue Department and BDA and it has been found that an extent of 141 acres and 34% guntas of Government land required for the carriageway of the PRR can be transferred by the Revenue Department to BDA. The transfer process is underway and Revenue Department will deliver possession of 141 acres and 34% guntas of Government land required for the carriageway of the PRR to BDA within eight weeks. The Urban Development Department is coordinating with the Revenue Department for completing the transfer process within this timeline. Joint measurement of the remaining areas will be undertaken and completed as early as possible

DEPONENT"

11. BDA and the State Government, as the case may be, are directed to acquire the lands for the formation of PRR in accordance with law and proceed to implement the PRR Project as indicated in this affidavit."

23. It is also relevant to extract the observation made by the Hon'ble Supreme Court by its order dated 20.01.2022 in Civil Appeal No.7661-63 of 2016 reported in **2022 SCC online SC 69** paragraphs 1, 5, 7, 13, 21 to 24 reads as under:

"1. A peripheral ring road (for short 'PRR) encircling Bangalore City for the length of 116 Kms, was proposed vide Letter dated 27.11.2006 by the Bangalore Development Authority ('BDA' for short) to the State Government. The scheme was sanctioned by the Government of Karnataka vide UDD 399 MNX 2006 Bangalore dated 23.04.2007. This PRR is to provide connectivity to various destinations in all the directions for onward traffic without entering the city of Bangalore and thus minimising the congestion on the outer ring road as well as on the internal roads of the city. The affidavit filed by the Additional Chief Secretary before

this Court dated 09.11.2021 highlights the importance of construction of PRR as under:

"PROJECT NECESSITY

2. At the outset it is submitted that the Bengaluru City needs the Peripheral Ring Road (PRR) more than ever in view of the phenomenal growth of the city in all directions. The geographical extent of the city has grown to 2196 sq.kms. The vehicle count as of 2019 was over 80 lakhs. Bengaluru being the capital city, thousands of vehicles come in every day from various parts of the state as well as outside the state. There is enormous pressure on city roads the public transport system is overstressed. The PRR will greatly reduce the stress and congestion in the city roads. The Government is very keen to facilitate the early execution of the PRR"

** * * **

5. BDA has filed the above application contending that the direction in the above cases has totally upset the budget calculation of the project. It is further contended that the High Court has failed to refer and to consider the Constitution Bench judgment of this Court in Offshore Holdings (P) Ltd. v. BDA . It is also contended that Section 36 of the BDA Act clearly mandates legislation by incorporation. BDA has filed this application seeking mainly the following relief:

"Hold that the 2013 Act is not applicable to the BDA Act and the judgment of the learned Single Judge dated 22-7-2014 in Sudhakar Hegdev. State of Karnataka and connected matters is per in-curium, otiose and unenforceable."

* * * *

7. The BDA Act was enacted by the legislature of the State of Karnataka to provide for the establishment of a development authority for the development of city of Bangalore and the areas adjacent thereto and for matters connected therewith. The Objects and Reasons for enacting the Bangalore Development Authority Act, 1976 are as under:

"STATEMENT OF OBJECTS AND REASONS

KARNATAKA ACT, NO. 12 of 1976

Karnataka Gazette, Extraordinary, dated 5-2-1976

At the conference of the Ministers for Housing and Urban Development held at Delhi in November, 1971, it was agreed that a common Authority for the development of metropolitan cities should be set up.

Bangalore City with its population (as per last census) is a Metropolitan City. Different Authorities like the City of Bangalore Municipal Corporation, the City Improvement Trust Board, the Karnataka Industrial Area Development Board, the Housing Board and the

Bangalore City Planning Authority are exercising jurisdiction over the area. Some of the functions of these bodies like development, planning, etc. are overlapping creating thereby avoidable confusion, besides hampering co-ordinated development. It is, therefore, considered necessary to set up a single authority like the Delhi Development Authority for the city areas adjacent to it which in course of time will become part of the city.

For the speedy implementation of the above said objects as also the 20-point programme and for establishing a coordinating Central Authority, urgent action was called for. Moreover, the haphazard and irregular growth would continue unless checked by the Development Authority and it may not be possible to rectify or correct mistakes in the future.

It was therefore necessary to issue the measure in the form of an Ordinance.

The Bill seeks to replace the said Ordinance."

** * * **

13. Incorporation of an earlier Act into the later Act is a legislative device for the sake of convenience in order to avoid verbatim reproduction of the provisions of the earlier Act into the later Act. Once the incorporation is made, the provisions of incorporated statute become

an integral part of the statute in which it is transferred and thereafter there is no need to refer to the statute from which incorporation is made and any subsequent amendment made in it has no effect on the incorporating statute. (See C.N. Paramasivam v. Sunrise Plaza.)

* * * *

21. Recently, a Division Bench of the Karnataka High Court in L. Ramareddy v. State of Karnataka has considered identical questions in great detail and has concluded as under : (SCC OnLine Kar para 49)

"49. In the circumstances, it is concluded and held that Section 24 does not take within its scope nor does it apply to acquisitions which have been initiated under the provisions of any other enactment particularly, State enactment, such as, the BDA Act. The said section is restricted to only those acquisitions which have been initiated under the provisions of the LA Act, 1894 only. Subject to compliance with the conditions mentioned under sub-section (2) of Section 24, the landowner would be entitled to the deeming provision regarding lapse of acquisition and not otherwise."

22. We are in complete agreement with this judgment of the High Court.

23. We may also notice here that the learned Single Judge of the High Court has not followed the judgment in Offshore Holdings wherein it was clearly held that the provisions of the LA Act are applicable to the BDA Act by incorporation.

24. In view of the above, the learned Judge of the High Court in Sudhakar Hegde was not justified in holding that the provisions of the LA Act that are made applicable to the BDA Act are in the nature of legislation by reference. The learned Judge has also erred in holding that in view of the repeal of the LA Act by coming into force of the 2013 Act, the corresponding provisions of the 2013 Act would regulate acquisition proceedings under the BDA Act and that this would include determination of compensation in accordance with the 2013 Act. It is hereby clarified that since the LA Act has been incorporated into the BDA Act so far as they are applicable, the provisions of the 2013 Act are not applicable for the acquisitions made under the BDA Act. Therefore, the judgment of the learned Single Judge of the High Court in Sudhakar Hegde and other connected matters is hereby overruled."

24. Having taken note of the factual aspects on record, as well as the observation made by the Hon'ble

Supreme Court with a clear indication to complete the entire project, at the earliest, to facilitate the public at large, in Bangalore, I am of the view that, no interference is called for in respect of nullifying the acquisition proceedings. In view of the judgment of the Hon'ble Supreme Court in the case of ***Ramaniklal N. Butta and Another vs. State of Maharashtra and Others*** reported in ***AIR 1997 SC 1236***, wherein Hon'ble Supreme Court at paragraph 10 held as follows:

"10. Before parting with this case, we think it necessary to make a few observations relevant to land acquisition proceedings. Our country is now launched upon an ambitious programme of all-round economic advancement to make our economy competitive in the world market. We are anxious to attract foreign direct investment to the maximum extent. We propose to compete with China economically. We wish to attain the pace of progress achieved by some of the Asian countries, referred to as "Asian tigers", e.g., South Korea, Taiwan and Singapore. It is, however, recognised on all hands that the infrastructure necessary for sustaining such a pace of progress is woefully lacking in our country. The means of

transportation, power and communications are in dire need of substantial improvement, expansion and modernisation. These things very often call for acquisition of land and that too without any delay. It is, however, natural that in most of these cases, the persons affected challenge the acquisition proceedings in courts. These challenges are generally in the shape of writ petitions filed in High Courts. Invariably, stay of acquisition is asked for and in some cases, orders by way of stay or injunction are also made. Whatever may have been the practices in the past, a time has come where the courts should keep the larger public interest in mind while exercising their power of granting stay/injunction. The power under Article 226 is discretionary. It will be exercised only in furtherance of interests of justice and not merely on the making out of a legal point. And in the matter of land acquisition for public purposes, the interests of justice and the public interest coalesce. They are very often one and the same. Even in a civil suit, granting of injunction or other similar orders, more particularly of an interlocutory nature, is equally discretionary. The courts have to weigh the public interest vis-à-vis the private interest while exercising the power under Article 226 — indeed any of their discretionary powers. It may even be open to the High Court to direct, in case it finds finally that the acquisition was vitiated on

account of non-compliance with some legal requirement that the persons interested shall also be entitled to a particular amount of damages to be awarded as a lump sum or calculated at a certain percentage of compensation payable. There are many ways of affording appropriate relief and redressing a wrong; quashing the acquisition proceedings is not the only mode of redress. To wit, it is ultimately a matter of balancing the competing interests. Beyond this, it is neither possible nor advisable to say. We hope and trust that these considerations will be duly borne in mind by the courts while dealing with challenges to acquisition proceedings."

25. It is also to be noted that, this Court, vide order dated 02.12.2024 directed the respondent-BDA to file necessary particulars as well as status relating to project is concerned and as such, the Commissioner of Bangalore Development Authority, has filed affidavit dated 07.12.2024 and stated that, the total length of the road to be constructed by the respondent-BDA is to an extent of 10.35 kms, out of which, the respondent-BDA has already laid road to an extent of 8.35 kms and the remaining length of

the road to be formed is only to an extent of 1.82 kms and therefore, I am of the view that, as the respondent-BDA has laid road in Peripheral Ring Road (Part-II) for more than 80% of the project and as such, taking into consideration the difficulties arises in respect of the construction of metro station, service road to enable the nearby habitants to reach main roads as well as taking necessary precaution of the safety of the vehicles and public in general, I am of the view that, no interference be called for in respect of the quashing the impugned notifications issued by the respondent-authorities for the purpose of formation of Peripheral Ring Road (Part-II) and therefore, contention raised by the learned counsel appearing for the petitioners that the respondent-BDA has deviated from the original plan as well as excess land is being acquired cannot be accepted.

26. In respect of the submission made by the learned counsel appearing for the petitioners, with regard

to delay in passing award as well as in some writ petitions, award has not been passed, I am of the view that, the respondent-BDA shall take necessary steps to pass award insofar the land utilized for the said project at the earliest and to pay the compensation to the land losers, taking into consideration Article 300A of Constitution of India. It is also to be noted that, since the respondent-authorities had taken report of technical and traffic of vehicles from the competent authorities (Transport Department) before marking the road, as it is evident from the large number of photographs annexed along with the affidavit dated 07.12.2024, I am of the view that, there is acceptable substance in the arguments advanced by the learned counsel appearing for the respondent-BDA, with regard to change in alignment of the Road. It is also to be noted that, while acquiring the land for the purpose of construction of the road, acquisition of the land is to be made for other incidental purpose including providing facilities for the truck

terminals, fuel station, sky walk, bus depots and other general facilities etc., to be used by the pedestrians, since, the road is being laying outskirts of the Bangalore City, and that apart, the internal transport facility to the commuters/passengers traveling inter-city as well as connecting intra-city and as such, if such facilities have to be provided by the respondent-authorities under such conditions there would be chances of minimum change of alignment which could be ignored by taking into consideration the larger interest of the public, which cannot be faulted for which land is required for the respondent-authorities. It is also to be noted that, in W.P.No.26090 of 2022, it is argued that, a private layout has been formed and work order has been issued by the respondent-BDA as per Annexure-E1 to the writ petition. It is pertinent to mention here that, action of the respondent-BDA, issuing such work order during the year 2015 knowing fully well that the impugned notifications are issued for the purpose

of formation of Peripheral Ring Road (Part-II) is deprecated and such action of the officers of the respondent-BDA, issuing work order cannot be accepted under the circumstance of case, however, I do not find merits in the arguments advanced by the learned counsel appearing for the petitioners in these writ petitions, challenged the acquisition proceedings. In the result, I pass the following:

ORDER

- i) The writ petitions are ***allowed in part.***
- ii) Preliminary Notifications dated 12.12.2005 and 15.11.2006 and Final Notification dated 27.07.2011 issued by the respondent-authorities, sought to acquire the land in question for the purpose of formation of Peripheral Ring Road (Part II), between Hosur Road-Mysore Road and Tumakur Road are hereby upheld.

iii) Direction is issued to the respondent-authorities to pass award in respect of the acquired land, within a period of six months from the date of receipt of certified copy of this order and to pay compensation to the petitioners/land losers, in accordance with law.

iv) Respondent-BDA is directed to take possession of the land in question, if not taken till date, and to pass the award if not passed, within six months from the date of receipt of certified copy of this order in accordance with law and to complete the project in terms of the observation made by the Hon'ble Supreme Court referred to above.

**SD/-
(E.S.INDIRESH)
JUDGE**

SB