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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 2ND DAY OF JUNE 1998

P R E S E N T

THE HON'BLE MR. R.P.SETHI, CHIEF JUSTICE

A N D

THE HON'BLE MR. JUSTICE K.R. PRASADA RAO

WRIT APPEAL NO.1237/1998

BETWEEN:

M.Ramaiah, Since dead by
his legal representatives:

1. Smt.Gowramma,
S/o late M.Ramaiah,
2. Shri R.Muniswamappa,
S/o late M.Ramaiah,

Both majors, R/at No.22,
2nd Cross, Deepanjalinagar,
Mysore Road, Bangalore.

... Appellants.

(By Sri A.N.Jayarama for Sri H.N.Narayan for Appls.)

AND:

1. Bangalore Development Authority,
Rep. by its Commissioner,
Sankey Road, Kumara Park,
Bangalore - 20. *D*

... 2/-

2. Govt. of Karnataka,
by its Secretary, Housing
& Urban Development Dept.,
M.S.Buildings, Bangalore-1.

3. M/s.Sushrutha Investments
Trust Ltd., No.19, Platform
Road, Bangalore, by its
Chairman, Shri M.K.Pandu-
ranga Chetty.

... Respondents.

(By Sri H.Thipperudrappa for C/R-1.)

This Writ Appeal filed u/s 4 of the Karnataka
High Court Act, praying to set aside the order dt.
9.2.98 in W.P.No.16257/87.

This Writ Appeal coming on for preliminary
hearing this day, the CHIEF JUSTICE delivered the
following:

J U D G M E N T

bsr(c.t.)

r.by: *18/2/98*

c.by: *L.*

CJ/KRPRJ:

WA 1237/98

2.6.1998.

JUDGMENT

The land measuring 671 acres is stated to have been acquired for formation of Chandra Layout as per the Scheme approved by the Government. The acquired land included the land of the appellant to the extent of 68 acres. A portion of the acquired land measuring 3 acres 19 guntas was allotted to the third respondent by Respondent No.1. Aggrieved by the action of the respondent in allotting the aforesaid land to R-3, the appellant herein filed a petition praying therein:

"(i) to quash the order dated 4.5.1987 made by the 1st respondent (BDA) and direct it to consider the plea of the petitioner for release in the same manner as it has granted releases to other persons whose lands had been acquired for the formation of the 'Chandra Layout';

...2/-

(ii) to set aside the allotment made by the 1st respondent (BDA) of the petitioner's land in Sy.Nos.38/1 and 39/1 of an extent of 3 acres 8 guntas in Deevatigeramanahalli, Bangalore South Taluk, stated to have been made in favour of the 3rd respondent as illegal and without the authority of law;

(iii) to direct the 3rd respondent not to exercise any rights in the petitioner's land to take any further steps in pursuance of the allotment which has been impugned in this petition; and

2. The learned Single Judge allowed the ^{aside} petition by setting ~~the~~ order of allotment made in favour of R-3 with direction that possession be recovered from him and sites be formed on the aforesaid land which may be distributed as per the Scheme approved by the Government. Not satisfied with the order of the learned Single Judge, the appellant owner has filed the present appeal mainly on the ground that, upon the cancellation of allotment made in favour of R-3,

the learned Single Judge should have ^{issued} directed ^{ions} with regard to prayer no.1 after holding ^{by} that the land had not been acquired for the purpose of layout. The learned counsel for the appellant has vehemently argued that as power had been exercised wfor an ulterior purpose and the acquired land had been diverted for a purpose other than the purpose for which it was acquired. ~~He submits that~~ ^{Mr.} his client was entitled to the restoration of the aforesaid land in his favour. He has relied upon Judgments reported in AIR 1989 BOM 156 and ILR 1991 (4) ^{Karnataka} 3556.

3. After hearing the arguments of the learned counsel for the parties and ~~after~~ ^{Mr.} perusing the record, we find no ground to interfere with the order of the learned Single Judge and are satisfied that major part of the land has ^{Mr.} not been diverted as alleged. The illegality found by way of allotment in favour of R-3 was rectified by the learned Single Judge by issuance of appropriate directions.

The public purpose conceived under the provisions of the Land Acquisition Act and Sec.17 of the BDA Act is such public purpose which existed at the time when the acquisition proceedings commenced and were concluded. It is not in dispute that at the time when the land was intended to be acquired and was actually taken possession for the purpose of formation of 'Chandra Layout' admittedly there existed a public purpose. It may also be noticed that, in his writ petition, the petitioner had nowhere prayed for quashing of the acquisition proceedings on the grounds urged before us. There is no merit in the appeal which is accordingly dismissed in limine.

Sd/-
Chief Justice

Sd/- JUDGE

