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IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 17TH DAY OF SEPTEMBER 1996

BEFORE

THE HON'BLE MR.JUSTICE CHANDRASHEKARAIH

WRIT PETITION No.6060-61/91

and W.P.No.10968/91

Between:

1. Krishnappa,  
major,  
S/o Muniyellappa  
R/a Bilekanahalli,village,  
Begur Hobli, Bangalore South Tq,  
Bangalore 560 076.

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..Petitioner

in W.P.No.6060/91

2. Muniyellappa,  
major,  
S/o late Chinnappa  
Residing at Bilekanahalli village,  
Begur Hobli, Bangalore south Tq,  
Bangalore 560 086.

..Petitioner

in W.P.No.6061/91

(By Sri.A.K.Subbaiah, advocate)

And:

1. The State of Karnataka  
by its Secretary,  
Housing and Urban Development  
Department, M.S.Building  
Dr.B.R.Ambedkar Veedhi,  
Bangalore.

2. The Bangalore Development  
Authority,  
Bangalore by its Commissioner.

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3. The Additional Land  
Acquisition Officer,  
Bangalore Development Authority,  
Bangalore.

..Respondents.

(By Sri.K.P.Ashok kumar,GP for R-1  
Sri.N.S.Srinivasan for R2.  
Sri.R.Sreedhar for R2 & R3)

This Writ petition is filed under  
Articles 226 and 227 of the Constitution  
of India praying to quash Annexure-A&C  
dt 6.8.88 and 3.11.90 respectively.

WRIT PETITION No.10968/91

Between:

P.Narayana Navada,  
aged about 59 years,  
S/o P.Venkappaiah Navada,  
r/o Devarachikkanhalli,  
Regur Hobli,  
Bangalore South Taluk.

..Petitioner

By Sri.B.Neelakanta, advocate)

And:

1. State of Karnataka,  
represented by its Revenue  
Secretary, M.S.Building  
(Annexe II) Bangalore 560001.

2. Bangalore Development Authority,  
reptd, by its Commissioner,  
Kumara Park West,  
Bangalore 560 020.

..Respondents.

(By Sri.K.Lakshminarayana Rao for R2)

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This writ petition is filed under Article 226 of the constitution of India praying to quash Annexure-G dt 6.8.88 and Annexure K dt 3.11.90 bearing No.HUD 334:MNX 90.

These writ petitions coming on for hearing this day, the Court made the following:-

O R D E R

The petitioners in all these writ petitions have challenged the notifications issued under Sections 17(1) and 19(1) of the Bangalore Development Authority Act (hereinafter referred to as 'the Act').

2. Petitioners are the owners of certain lands which were proposed for formation of Byrasandra Tavarakere Madival IV Stage layout (for short B.T.M. layout) in a notification issued under Section 17(1) of the Act. This notification was followed by a final notification dt 3-11-90 issued under Section 19(1) of the Act. The facts of these cases are that the BDA framed a scheme for the purpose of formation of the B.T.M. layout and to implement that scheme to an extent of 241 acres *241 acres*.

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3. The grievance of the petitioners in all these petitions is almost common and identical. Some petitioners raised the contention that they were not served with any notice pursuant to the notification issued under Section 17(1) of the Act, and others contended that though they were not served with any notice they have filed objections pursuant to the public notice and the said objections were not considered by the authorities before recommending to the Government to issue the final notification. It is also contended that though they have filed objections they were not heard before submitting the report to the State Government. It is also contended that they have constructed the residential building and they are residing therein and in view of this fact as the land has been utilised for development there is no need for the State Government to acquire the said land under the BDA Act. The learned counsel appearing for the BDA contended that under the BDA Act no personal hearing be given to the land owners. However, in all the cases

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wherever the objections are filed the said objections were considered and reports were submitted to the State Government to issue final notification u/s 19(1) of the Act. Under the provisions of the BDA Act, personal hearing need not be given. The requirement under the law is objections if any filed must be considered by the authorities. In all these petitions wherever the objections are filed by the land owners the said objections have been considered. Thereafter the report was submitted and on the basis of the said report the Government issued the final notification u/s 19(1) of the Act. Therefore, it cannot be said that there is any illegality in the matter of acquisition. It is also noticed wherever the names of the land owners appeared in the revenue records the notices have been issued to the Kathedars. Therefore, it cannot be said there is any illegality even on this ground also. From the records it is seen that there is a public notice in the locality and also there is a publication of the preliminary notification in the newspaper. Therefore, it cannot be said that the petitioners are prevented from filing objections. Assuming

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in certain cases no individual notices have been issued, the non-issuance of such notice will not be a ground to interfere with the acquisition, as it comes in the way of implementation of the scheme by the BDA. In the instant case, the State Government has acquired an extent of 241 acres for the purpose of implementation of the scheme framed by the BDA. At the instance of these petitioners if the acquisition of the lands were to be interfered with it would come in the way of implementation of the scheme. The impugned acquisition proceedings are for a public purpose and for public benefit. Individual interest shall always yield to public interest. Therefore, I find no substance in the contentions raised by the petitioners.

4. It appears that some petitioners have constructed residential buildings and they are residing therein and some petitioners have established the industry on the lands which are the subject matter of these petitions. On these facts, it is just and necessary to issue certain directions to the BDA., otherwise

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the owners of the residential buildings and industries will be left with no residence and avocations. If there are any such constructions and such constructions are being used for a residential purpose or for industrial purpose it is open to such of the petitioners to make their representations in respect of the built area to seek for allotment of the said land in their favour. If such applications are made within two months from today, the BDA shall consider their applications for allotment of the said area in their favour for the price to be fixed by the BDA, on the basis of the price fixed in respect of other similar sites or lands. The BDA is directed not to take steps to demolish the existing buildings till it considers and disposes of the representations of the land owners. The petitioners are also directed not to put up any new constructions on their lands.

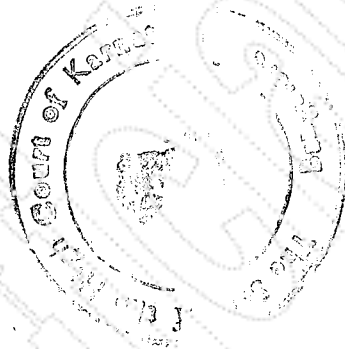
5. With the above observations and

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and directions these writ petitionss  
are dismissed.

Sd/-  
Judge



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