

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 5th DAY OF NOVEMBER 2014

BEFORE

THE HON'BLE MR.JUSTICE HULUVADI G.RAMESH

WRIT PETITION Nos.9882 & 10341-355 / 2014 (BDA)

BETWEEN:

1. Classic Orchards Property Owners Association,
"Classic Orchards" Colony,
SOS Village Post,
Behind Meenakshi
Sundareshwara Temple,
Bannerghatta Road,
Bangalore, rep.by its
President Mr.Subbu Hegde,
2. Subbu Hegde, 60 yrs
s/o Mahabaleswar Hegde,
R/at No.216, Classic Orchards,
SOS Village P.O. Bannerghatta Road,
Bangalore.
3. B.Srinivasa Rao, 43 yrs
s/o B.Sambasiva Rao
R/at No.172, Phase 2, Classic Orchards,
SOS Village P.O. Bannerghatta Road,
Bangalore.
4. Ravi Kelagere
S/o K.Guddappa,
Aged 41 yrs,
R/at No.136, Classic Orchards,
SOS Village P.O. Bannerghatta Road,
Bangalore.

.. Petitioners

(By Sri Badri Vishal, Advocate for
Srinivas & Badri Associates)

AND:

1. State of Karnataka,
Rep.by its Principal Secretary
Urban Development Department,
Vikas Soudha, Bangalore.
2. Bangalore Development Authority,
Rep.by its Commissioner,
Kumarapark West,
T.Chowdaiah Road,
Bangalore.
3. M/s.Amalgamated Property Developers
A partnership Firm,
The Residency, 10th Floor, No.133/1,
Residency Road, Bangalore,
By its Partner. .. Respondents

(By Sri G.S.Kannur, Advocate for R-2
Smt.Anuparna Bovdli, Advocate for
Shetty & Hegde & Associates
And Smt.S.Susheela, AGA for R-1)

These Writ Petitions are filed under Articles 226 & 227 of the Constitution of India praying to direct R-2 to consider the representations dated 5.8.2012 and 16.12.2012 produced at Annexure-A and B respectively.

These Writ Petitions coming on for preliminary hearing `B' group this day, the Court made the following :

ORDER

Petitioners have sought for a mandamus directing the 2nd respondent to consider the representations dated 5.8.2012 and 16.12.2012 vide Annexures-A and B and to issue direction to the 2nd respondent to require the 3rd respondent to surrender the

roads, open spaces, parks and other amenities to the Planning Authority which in turn is to be entrusted to the 1st petitioner for maintenance.

2. It appears, the property was developed by the 3rd respondent as a developer by obtaining plan sanction from Gottigere Village Panchayath dated 13.5.1994. The members of the 1st petitioner have purchased the sites from the developer. The grievance of the petitioners is that the area reserved for civic amenity has to be handed over to the BDA as per the rules. Accordingly, they have sought for the above said relief.

3. The learned counsel appearing for 3rd respondent submitted that he had already relinquished the land in favour of BBMP. The stand of the 2nd respondent-BDA is that without the knowledge and consent of the BDA, such action has been taken by the 3rd respondent. Actually the BDA has to exercise its right and to take over the area earmarked for civic amenity and maintain the same. It is also submitted that neither the 3rd respondent nor anybody approached the 2nd respondent seeking for approval of plan as well as extending any other benefits. Accordingly, it is submitted that question of compliance of directions may not arise.

4. So far as the development of the property is concerned, whether such property falls within the corporation limits or forms part of the BDA has to be examined. In the event property falls within the BDA limits, then necessarily the BDA has to verify and consider it for taking over possession and maintenance of civic amenity. If the property falls within the corporation limit, then after verification, it is for the corporation to take this responsibility and to do the needful. Before that, it is for the BDA to examine whether the property falls within the jurisdiction of BDA or corporation and thereafter, the grievance of the petitioners could be met if it is legal, otherwise, BDA would take appropriate action in accordance with law.

With the above observation, Writ Petitions are disposed of.

**Sd/-
JUDGE**

**bk/-*