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Reserved on : 12.09.2024
Pronounced on : 24.09.2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.22356 OF 2024 (GM – RES)

BETWEEN:

SHRI SIDDARAMAIAH
AGED ABOUT 78 YEARS
S/O SHRI SIDDARAME GOWDA
HON'BLE CHIEF MINISTER OF KARNATAKA
RESIDING AT NO.6, CAUVERY CRESCENT
BENGALURU – 560 001.

... PETITIONER

(BY DR. ABHISHEK MANU SINGHVI, A/W.,
PROF. RAVI VARMA KUMAR, SR. ADVOCATE FOR
SRI SHATHABISH SHIVANNA,
SRI SAMRUDH S.HEGDE, AND
SRI ABHISHEK J., ADVOCATES)

AND:

1 . THE STATE OF KARNATAKA
REPRESENTED BY ITS CHIEF SECRETARY
VIDHANA SOUDHA

BENGALURU – 560 001.

2 . THE SPECIAL SECRETARY
TO HIS EXCELLENCY
THE GOVERNOR OF KARNATAKA
RAJ BHAVAN, BENGALURU – 560 001.

3 . MR. ABRAHAM T. J.,
RESIDING AT ASHIRVAD 2326
2ND 'A' CROSS, 16 'B' MAIN
HAL 2ND STAGE, INDIRANAGAR
BENGALURU – 560 008.

4 . SRI SNEHAMAYI KRISHNA
AGED ABOUT 54 YEARS
S/O LATE SIDDAPPA
RESIDING AT NO.335, BANDIPALYA
GANAPATHY ASHRAMA POST
MYSURU – 570 025.

5 . PRADEEPKUMAR S.P.,
AGED ABOUT 42 YEARS
S/O S.N.PUTTASWAMY GOWDA
RESIDING AT NO.30, 1ST FLOOR,
2ND CROSS, NAGARBHAVI,
BENGALURU – 560 072.

... RESPONDENTS

(BY SRI K.SHASHIKIRAN SHETTY, ADVOCATE GENERAL A/W.,
SRI B.N.JAGADEESHA, ADDL. SPP
SRI S.ISMAIL ZABI ULLA, ADDITIONAL ADVOCATE GENERAL
SMT. ANUKANKSHA KALKERI, HCGP FOR R1;
SRI TUSHAR MEHTA, SOLICITOR GENERAL OF INDIA A/W.,
SRI ABHISHEK KUMAR,
SRI KANU AGARWAL,
SRI TANMAY MEHTA, AND
SRI KEERTHI REDDY, ADVOCATES FOR R2;

SRI RANGANATHA REDDY, ADVOCATE FOR R3;
SRI MANINDER SINGH, SENIOR ADVOCATE A/W.,
SRI K.G.RAGHAVAN, SENIOR ADVOCATE
SMT. LAKSHMY IYENGAR, SENIOR ADVOCATE FOR
SRI SUSHAL TIWARI N.,
SRI VASANTHA KUMARA,
SRI SKANDA ARUN KUMAR,
SRI PRABHAS BAJAJ,
SRI NISHANTH KUSHALAPPA,
SMT. ANITHA M.PATIL, ADVOCATES FOR R4;
SRI PRABHULING K.NAVADGI, SENIOR ADVOCATE A/W.,
SRI PRAKASH M. H., ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DTD 16.08.2024 PASSED THE HON'BLE GOVERNOR OF KARNATAKA AND FORWARDED BY THE R-2 TO THE PETITIONER ON 17.08.2024 BEARING NO. GS 40 ADM 2024 GRANTING PRIOR APPROVAL AND SANCTION AGAINST THE PETITIONER, A COPY OF WHICH IS HEREIN PRODUCED AS ANNEXURE-A AS BEING ILLEGAL AND AB INTIO VOID.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 12.09.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA

CAV ORDER

The petitioner is the Chief Minister of the State of Karnataka. He is knocking at the doors of this Court, calling in question a ***GUBERNATORIAL*** *order, which grants permission or approval under Section 17A of the Prevention of Corruption Act, 1988 ('the PC Act' for short) and sanction under Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ('BNSS' for short) against him.*

2. *Sans* details, introductory facts, as borne out from the pleadings, are as follows:-

The petitioner is the present Chief Minister of the State of Karnataka. Before embarking upon the present controversy, I deem it appropriate to notice the period of power of the present Chief Minister, at the relevant points in time, which forms the fulcrum of the *lis*. Between the years 1996 and 1999 and during 2004 and 2005, the petitioner was the Deputy Chief Minister. He served as a Leader of the Opposition on two occasions, between 2009 and 2013 and between 2019 and 2023 and as Chief Minister in two stints –

one, between 2013 and 2019 and the other, currently from 2023. Respondents 3, 4, and 5, who are hereinafter referred to as complainants, seek to register a complaint, initially before the jurisdictional police. The complaint was not acted upon. The 3rd respondent approaches the Commissioner of Police in registering the complaint both in compliance with Section 154(1) and 154(3) of the Cr.P.C. Again no action was taken. It then transpires that, he has knocked at the doors of the Special Court invoking Section 200 of the Cr.P.C. seeking registration of the crime. The concerned Court, noticing the law laid down by this Court in ***G.V. ASHOK v. LOKAYUKTA – Criminal Petition No.531 of 2022*** disposed of on ***04-04-2023*** keeps the proceedings in abeyance awaiting approval at the hands of the Competent Authority under Section 17A of the PC Act.

3. The respondents present their petitions before the Governor, in particular, the 3rd respondent – T.J.Abraham who appears before the Governor in person on 26-07-2024. Since the facts that led him to the doors of the Governor are completely narrated in the petition itself, I deem it appropriate to notice the

petiton that was placed before the Governor by the 3rd respondent seeking his approval/sanction for prosecuting the petitioner. It reads as follows:

"Dated 26th July 2024

To
His Excellency,
The Hon'ble Governor of Karnataka
Raj Bhavan,
Bengaluru 560 001

Respected Sir,

SUB: Request for the Sanction for prosecution of Sri. Siddaramiah, the incumbent Chief Minister of Karnataka, who is also MLA from No.219 Varuna Assembly Constituency, U/s. 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023, U/s 17A and S.19 of the Prevention of Corruption Act, 1988, for being actively involved in the Criminal Manipulations for Corrupt gains by Corrupt means, for himself & his family to enrich themselves illegitimately and illegally gaining Rs. Rs.55,80,00,700/-, at the cost of the State Exchequer.

A Complaint/Information was made/given to the Karnataka Lokayukta Police at Mysore on 18th July 2024 *and the same was followed up with additional information on 25-07-2024, for Cognizable offences under Section 173 of the Bharatiya Nagarik Suraksha Sanhita, 2023. (Copies attached).*

The illegal manipulations and corrupt steps taken at various stages, culminating in the Syphoning away and illegally gaining around ***Rs.55,80,00,700/****-, is enumerated herein, for a better understanding of the need to grant sanction for prosecution, of Sri. Siddaramiah the CM of Karnataka.*

PREAMBLE

On 25-08-2004, Sri.J.DEVARAJ Son of Sri. Ninga S/o Javara SOLD THE LANDS measuring 3 Acres & 16 Guntas, in Sy.No.464, of Kesere Village TO Sri. B.M. MALLIKARJUNASWAMY, the brother-in-law of Sri. Siddaramiah.

Sri.Ninga S/o Javara the erstwhile owner of the mentioned lands which were allegedly purchased by him in the year 1935, had Three Sons. (1) Mallaiah, (2) Mylaraiah and (3) Devaraju, Sri.Mallaiah and Sri.Mylaraiah were since dead.

SURRENDER OF SHARE & RIGHTS OVER PROPERTY

1. *The revenue records indicate that the rights of Sri. Ninga s/o Javara has been relinquished by him:*

On 29.10.1968 *the* ***eldest son*** *of Ninga-****Sri.Mallaiah*** *and 3rd son of Ninga-****Sri J.Devaraj*** *together* ***SURRENDER THEIR SHARE & RIGHTS****, [(ಸರ್ಕಾರಿ ಬೀಳು) ರಿಸ್ಟೋರ್,* ***ನಿಂಗ ಬಿನ್ ಜವರ*** *ಮೈಲಾರಯ್ಯ ಬಿನ್ ಹಕ್ಕು ಖುಲಾಸೆ ಮಾಡಲಾಗಿದೆ.]* *over the 3 Acres & 16 Guntas, in Sy.No.464, of Kesere Village AND also over the 37 Guntas in Sy.No.462 of Kesere Village****, to the Second son of Ninga Sri. Mylaraiah****, after receiving a sum of Rs.300/- from Sri. Mylaraiah, vide Registered Deed 1982/68-69, dated 29.10.1968.* ***As such, MYLARIAH BECAME THE SOLE OWNER of 3 Acres & 16 Guntas, in Sy.No.464, of Kesere Village.***

A copy of the revenue records indicating that the ***rights of Sri.Ninga S/o Javara has been relinquished****/turned over to one Sri. Mylariah is enclosed herewith and marked as* ***ANNEXURE-A*** *AND A copy of the* ***Registered Document Dated 29.10.1968*** *is enclosed herewith and marked as* ***ANNEXURE-A-1.***

2. The ***EC - Encumbrance Certificate*** *(Hand written/entered) since* ***01-01-1959 to 31-12-2003*** *indicates that:*

a. ***On 24.10.1970 Sri. Mylaraiah mortgaged*** *the 3 Acres & 16 Guntas of lands, in Sy.No.464, of Kesere*

*Village, to/with the **Mysore Taluk Primary Land Development Bank, Mysore**, for a loan of **Rs.4,700**/- Vide SF Vol 12/PP.131 in Sl.No.156/70-71.*

*b. **On 24.10.1970 itself**, as an additional guarantee for the mortgage of Rs.4,700/- **Sri.Mylaraiah executes a Contract Agreement** with the same Mysore Taluk Primary Land Development Bank, Mysore, Vide SF Vol 12/PP.132 in Sl. No.157/70-71.*

*C. **On 13.08.1973**, as per the available records, **Sri.Mylaraiah executes a Mortgage Deed in favour of Sri. Venketappa vide** Mortgage Deed No. 1899/1973-74 dated **13.08.1973**, against a **loan of Rs.1000/-.***

*A copy of the EC-Encumbrance Certificate (Hand written/entered) since 01-01-1959 to 31-12-2003 is enclosed herewith and marked as **ANNEXURE-A-2**, AND, a copy of the Registered document dated 13.08.1973 is enclosed herewith and marked as **ANNEXURE-A-3.***

*3. **The RTC** (Hand written/entered) **since 1981-82** indicates that the said lands were suddenly derived as ancestral property and**, ONCE AGAIN in the in ownership** & **possession of Sri. Ninga** S/o Javara**, until the year 90-91.***

*A copy of the RTC (Hand written/entered) since 1981-82 until the year 90-91 is enclosed herewith and marked **as ANNEXURE-A-4**.*

*4. **Since the year 1996-97 the RTC** (Hand written/entered) **up to 1998- 99 indicates** that the said lands were **in the ownership and possession of J. Devaraj** Son of Ninga alias Javara, **transferred to J. Devaraj** vide **IHR 8/92-93**. (ANNEX A-2).*

*A copy of the RTC (Hand written/entered) since **1996-97 up to 1998-99** is enclosed herewith and marked as **ANNEXURE-A-5.***

NOTIFICATION OF LANDS:

*5. **On 20.08.1997**, the lands measuring 3 Acres and 16 Guntas, in Sy.No.464, in Kesere Village, of Mysore District, claimed to be belonging to one **Sri. Ninga** S/o **Javara was Notified for Acquisition vide Order No.NaAaE 577, A.Pra.Vi 96 dated***

20.08.1997, for the formation of the 'Devanuru 3rd Stage'*, in Mysore, by the Mysore Urban Development Agency-MUDA.*

AWARD DECLARED:

6. ***On 30.03.1998****, subsequent to the Notification dated: 28.08.1997, the* ***Preliminary Award Notice dated 28.08.1997****, the* ***Award Decision Notice dated 12.03.1998****, AND* ***the Final Award Notice*** *indicating the Award of* ***Rs.3,24,700/- was issued on 30.03.1998*** *to Sri.* ***Ninga S/o. Javara***

A copy of the Preliminary Award Notice dated 28.08.1997, the Award, Decision Notice dated 12.03.1998 & the Final Award Notice dated 30.03.1998 are enclosed herewith and marked as ***ANNEXURE-B-1, B-2 & B-3****.*

POSSESSION WITH MUDA

7. As a consequence, of the Notification dated 20.08.1997, the entries for the year ***1998-99 in the RTC*** *(Hand written/entered) indicates that the said lands were in the* ***ownership and possession of MUDA*** *effectuated Vide. MR No. 17/98-99****, up to 2000-2001****, (ANNEX A-5)*

DE-NOTIFICATION

8. ***On 18.05.1998, when Sri.Siddaramiah was the DCM of Karnataka, within 45 days after the Final Award Notice*** *(30-03-1998)* ***was issued,*** *the lands bearing measuring 3 Acres and 16 Guntas, in Sy. No.464, in Kesere Village, Kasaba Hobli, Mysore Taluk, allegedly were* ***De-Notified in the name of Sri. Ninga S/o Javara*** *(who was since dead)* ***vide Order No.NaAaE 499, A.Pra. Vi 96 issued on 18.05.1998****, while the property was in the name of MUDA-Mysore.*

A copy of the De-Notification Order dated 18-05-1998, in the name of an allegedly a DEAD MAN is enclosed herewith and marked as ***ANNEXURE-C.***

LAND DEVELOPED BY MUDA

9. ***Since the ownership and possession of the lands*** *measuring 3 Acres and 16 Guntas, in Sy.No.464, in Kesere Village, Kasaba Hobli, Mysore Taluk* ***WAS WITH MUDA****,* ***from 1998-99*** *(as per the Hand written/entered in the RTC)* ***till 2000-2001, AND further since 2001-2003-04*** *(as per the Computerised RTC)* ***the ownership and possession of the lands was with MUDA. The said lands were rightfully developed by the Mysore Urban Development Authority-MUDA, into a residential layout, namely the 'DEVENUR BADAVANE 3rd STAGE', carving out Residential Sites forming Roads, Parks and Civic Amenities, etc., and the DEVELOPED SITES WERE ALREADY SOLD/DISTRIBUTED AND SALE DEEDS WERE ALSO EXECUTED IN FAVOUR OF ALLOTEES/BENEFICIARIES.***

Name of Allottee	***Site No.***	***Executed on***
Sri. Ramaswamy	*263*	*29.12.2003*
Sri. Ramaswamy	*284*	*05.11.2003*
Sri Puttalingiah	*287*	*06.01.2004*
Smt.Padma	*400*	*15.06.2004*
Sri.Shivakumar	*423*	*27.05.2004*

Sri.Siddaramiah was the DCM of Karnataka.

A copy of the Phani (Computerised land records), indicating the ownership of MUDA is enclosed herewith and marked as ***ANNEXURE-D.***

ILLEGAL SALE DEED

10. ***The EC-Encumbrance Certificate*** *(Computerised)* ***since 01-01-2004 to 10-07-2024 indicates that:***

> ***On 25-08-2004, MUCH AFTER THE SAID LANDS WERE DISTRIBUTED DEVELOPED AND SEVERAL SITES WERE ALREADY DISTRIBUTED by 27.05.2004 and A FRAUDULENT SALE DEED was Executed, FALSELY DECLARING THE SAID LANDS AS Kushki/Agricultural lands by Sri. J.Devaraju****, Smt.M.Sarojamma, Smt.D.Shoba, Sri.D.Dinakar Raj, Smt.D.Prabha, Smt.D.Prathiba D.Shashidhar which is*

Registered in Book 1, No.MYN-1-06088-2004-05, CD No.MYND22, Mysore North Sub-Registrar's office, ***in favour Sri. B.M. Mallikarjuna Swamy, the brother-in-law of Sri. Siddaramiah, for a Sale Consideration of Rs.5,95,000/- ONLY.***

11. The seller Sri. J.Devaraju is the one who along with his brother Mallaiah had already eliminated all his rights by executing a Registered Deed 1982/68-69, dated 29.10.1968, after receiving the consideration Rs.300/- from Sri. Mylaraiah. He cannot automatically become the owner of the transferred land merely because the legal heirs of the actual owner are unaware of the Registered Deed in their favour. The Illegal Sale has been executed by the Mysore North Sub-Registrar's office, in favour Sri.B.M.Mallikarjuna Swamy, the brother-in-law of Sri. Siddaramiah, allegedly ***without any original title deeds in the name of the Seller Sri.Devaraj and Family****, under the oral instructions from Sri.Siddaramiah.*

12. The then ***Sub-Registrar of the Mysore North Sub-Registrar's office (Sri.S.K.Siddiah*** *05-05-2003 to 18-11-2004, Sri.K.S.Madhaviah 06-03-2002 to 20-12-2004 and Sri Chickanna 21-07-2002 to 19-11-2004)* ***had connived with Sri.B.M.Mallikarjuna Swamy, the brother-in-law of Sri. Siddaramiah and family under instruction from Sri.Siddaramiah to execute a Document, for the already Developed Lands by calculating and collecting the Registration Fees as applicable to Agricultural lands, in Acreages, instead of calculating and collecting the applicable Registration Fees for the Developed Lands, in Sq.fts.***

A ***Certified copy*** *of the* ***SALE DEED dated 25-08-2004****, is enclosed herewith and marked as* ***ANNEXURE-E.***

Sri.Siddaramiah was the DCM of Karnataka.

13. ***The Registration of the SALE DEED WAS BASED ON FALSE and FRAUDULENT CLAIMS****:*

(a) THAT, ***the nature of the lands*** *measuring 3 Acres and 16 Guntas, in Sy. No.464, in Kesere Village,* ***was Kushki/Agricultural lands****. WHILE IN REALITY*

the said lands had already been developed into plots/Sites, with Roads, Parks, Civic Amenity areas, etc., by the Mysore Urban Development Authority-MUDA and several sites were already sold/dispersed to several beneficiaries, before 25-05-2004, itself.

(b) THAT, ***he J.Devaraju was paying all the taxes*** *for the Agricultural lands measuring 3 Acres and 16 Guntas, in Sy.No.464, in Kesere Village,* ***till 25.08.2004****, (for the lands already sold as sites by MUDA). WHILE IN REALITY the name of J.Devaraju s/o. Ninga is reflecting in the Revenue Records - Phani (land records) only between 1992-92 to 1998-99, as per the available records.*

Sri.Siddaramiah was the DCM of Karnataka.

(c) THAT, he ***J.Devaraju was handing over the possession of the MENTIONED AGRICULTURAL LANDS ON 05.08.2004 to Sri. B.M.Mallikarjuna Swamy****. WHILE IN REALITY THE POSSESSION OF THE SAID LANDS WERE WITH MUDA,* ***AND SEVERAL SITES WERE ALREADY SOLD/DISTRIBUTED and the SALE DEEDS were executed in favour of SEVERAL ALLOTTEES by MUDA, before 27.05.2004 itself.***

Name of Allottee	***Site No.***	***Executed on***
Sri. Ramaswamy	*263*	*29.12.2003*
Sri. Ramaswamy	*284*	*05.11.2003*
Sri Puttalingiah	*287*	*06.01.2004*
Smt.Padma	*400*	*15.06.2004*
Sri.Shivakumar	*423*	*27.05.2004*

Sri.Siddaramiah was the DCM of Karnataka.

<u>FRAUDULANT LAND CONVERSION</u>

14. On 15-07-2005, *after the Lands in question, were developed by the Mysore Urban Development Authority-MUDA, and* ***SITES were ALREADY DISTRIBUTED*** *to various* ***allottees,***

Name of Allottee	***Site No.***	***Executed on***
Sri. Ramaswamy	*263*	*29.12.2003*
Sri. Ramaswamy	*284*	*05.11.2003*
Sri Puttalingiah	*287*	*06.01.2004*
Smt.Padma	*400*	*15.06.2004*
Sri.Shivakumar	*423*	*27.05.2004*
Smt.Poornima	*366*	*20.09.2004*
Sri.Chennappa	*398*	*19.12.2004*
Sri.Shivanna	*399*	*12.01.2005*
Sri.Nischal Prakash	*368*	*28.03.2005*
Sri.Chotte Sab	*396*	*13.04.2005*
Sri.Purushotam Das	*285*	*21.05.2005*
Smt.Jayamma	*422*	*31.05.2005*

based on the Application dated 01-12-2004 for conversion of lands, that WERE FALSELY AND ILLEGALLY CLAIMED TO BE AGRICULTURAL LANDS by B.M.Mallikarjuna Swamy*, (intentionally avoiding the submission of the details of any utilisation of the said lands by MUDA)* ***the very same ALREADY DEVELOPED AND SOLD LANDS WERE FRAUDULENTLY CONVERTED vide CONVERSION ORDER ALN.(1) 190/2004-05 dated 15-07-2005, issued by the then DC of Mysore, Sri.S.Selvakumar-IAS.***

A copy of the List of beneficiaries, including sites allotted by 31.05.2005, is enclosed herewith and marked as ***ANNEXURE-F.***

15. The ***CONVERSION OF THE ALREADY DEVELOPED AND SOLD*** *lands measuring 3 Acres and 16 Guntas, in Sy.No.464, in Kesere Village,* ***CLAIMING THAT THEY WERE AGRICULTURAL LANDS WAS MANIFESTLY ILLEGAL BECAUSE****:*

Firstly*, a BOGUS LETTER was issued by the then Thazildar of Mysore Sri. Malige Shankar, vide No.LLN1CR134/2004-05 dated 05-03-2005 (as mentioned in the Conversion Order dated 15-07-2005) recommending the conversion of the lands for residential purpose, as THERE WAS NO OBJECTIONS from the villagers for the conversion, WHEN IN REALITY the said lands had already been developed into Sites, by MUDA and SITES*

WERE ALREADY sold to several beneficiaries, THERE WERE NO VILLAGERS THERE ON 05.03.2005.

Secondly, *the Mischievous and Misleading Letter of the Special Land Acquisition Officer of MUDA No.LLQ(6)CR.48/96-97 dated 03-09-98, falsely stating* ***THAT MUDA HAS NEVER NOTIFIED THE SAID LANDS*** *(measuring 3 Acres and 16 Guntas, in Sy.No.464, in Kesere Village, Kasaba Hobli, Mysore Taluk)* ***anytime earlier for the purpose of Acquisition by MUDA, WHEN IN REALITY*** *the said lands were actually* ***Notified for Acquisition on 18.09.1992****, acquiring lands measuring 3 Acres and 16 Guntas, in Sy.No.464, in Kesere Village, for the formation of the 'Devanur 3rd Stage' Layout, in Mysore.*

Thirdly*, the* ***FALSE CLAIM and A FRAUDULENT REPORT THAT*** *the Thazildar of Mysore* ***has conducted the Spot Inspection on 04-03-2005*** *(of the Kushki/Agricultural lands measuring 3 Acres and 16 Guntas, in Sy.No.464, in Kesere Village, Kasaba Hobli, Mysore Taluk)* ***along with the Revenue Inspector of Kasaba, Village Accountant and Surveyor, WHEN IN REALITY the SUPPOSED TO BE AGRICULTURAL LANDS for which conversion was sought for, HAD ALREADY BEEN DEVELOPED*** *into a Layout, namely the Devanur 3rd Stage* ***AND RESIDENTIAL SITES WERE ALREADY SOLD/DISTRIBUTED as early as 12.01.2005****.*

Fourthly, *the* ***FALSE and A FRAUDULENT SPOT INSPECTION REPORT submitted by the then DC of Mysore Sri.G.Kumara Nayak- IAS*** *(currently a MP from the Raichur Parliamentary Constituency),* ***stating that he had visited the spot on 17-06-2005*** *(of the Kushki/Agricultural lands measuring 3 Acres and 16 Guntas, in Sy.No.464, in Kesere Village, Kasaba Hobli, Mysore Taluk) before according the Conversion.*

A copy of the CONVERSION ORDER dated ***15-07-2005****, the Thazildar's Spot Inspection Report dated 04-03-2005 AND the DC's Spot Inspection Report of 17-06-2005 are enclosed*

herewith and marked as ***ANNEXURE-G-1, G-2*** *&* ***G-3*** *respectively.*

Sri.Siddaramiah was the DCM of Karnataka.

NULL & VOID REGISTERED GIFT DEED:

16. ***On 20-10-2010, A GIFT DEED*** *(dated 06-10-2010) was executed by* ***B.M.Mallikarjuna Swamy in favour of his younger sister Smt.B.M.Parvathi W/o. Sri.Siddaramiah, which is*** *entered in Book 1, No.MYN-1-12432-2010-11, CD No. MYND252, Mysore North Sub-Registrar's office, on 20-10-2010.*

17. The ***GIFT DEED WAS REGISTERED on 20-10-2010, after the LANDS WERE DEVELOPED by MUDA, into a residential layout, 'Devenaur Badavane 3rd Stage',*** *and* ***AFTER THE DEVELOPED SITES WERE ALREADY DISTRIBUTED*** *and* ***SALE DEEDS WERE ALREADY EXECUTED in favour the ALLOTTEES.***

Name of Allottee	***Site No.***	***Executed on***
Sri. Ramaswamy	*263*	*29.12.2003*
Sri. Ramaswamy	*284*	*05.11.2003*
Sri Puttalingiah	*287*	*06.01.2004*
Smt.Padma	*400*	*15.06.2004*
Sri.Shivakumar	*423*	*27.05.2004*
Smt.Poornima	*366*	*20.09.2004*
Sri.Chennappa	*398*	*19.12.2004*
Sri.Shivanna	*399*	*12.01.2005*
Sri.Nischal Prakash	*368*	*28.03.2005*
Sri.Chotte Sab	*396*	*13.04.2005*
Sri.Purushotam Das	*285*	*21.05.2005*
Smt.Jayamma	*422*	*31.05.2005*
Smt.Malathi Swarnabai	*391*	*19.08.2005*
Sri.Pradeep Kumar	*397*	*24.08.2005*
B.S.Govinde Gowda	*283*	*17.10.2005*
Smt.Annaporna	*264*	*07.02.2006*
Sri.K.B.Ponacha	*369*	*19.02.2006*

Sri.Jeevan	*367*	*19.02.2007*
Sri.Raghavendrachar	*392*	*30.07.2009*

*The Gift Deed dated **20-10-2010** was executed when **Sri.Siddaramiah was the Leader of the Opposition in the Karnataka Legislative Assembly**.*

*A copy of the REGISTERED GIFT DEED dated 06-10-2010, is enclosed herewith and marked as **ANNEXURE-H**.*

ILLEGAL CLAIM FOR ALTERNATIVE SITES and AN ALLOTMENT OF ALTERNATIVE COMPENSATORY SITES:

*18. **On 23.06.2014, when Sri.Siddaramiah was the Chief Minister of Karnataka**, Smt.B.M.Parvathi made an application to MUDA, (nearly 4 years after the Gift Deed) seeking Compensatory Alternative Sites, totally measuring (equal) 3.16 Acres in any other layout, developed by MUDA, in lieu of the 3 Acres & 16 Guntas, in Sy.No.464, of Kesere Village, belonging to Smt.B.M.Parvathi W/o. Sri.Siddaramiah, that was utilised for the formation of the Devanur 3rd Stage, developed and sites distributed to various beneficiaries since 2001 itself, **failing which she had sought the return the land that belonged to her, BACK TO HER.***

*A copy of the application by Smt. B.M.Parvathi to MUDA, dated **23.06.2014**, is enclosed herewith and marked as **ANNEXURE-J.***

*19. **On 25.07.2014, when Sri.Siddaramiah was the Chief Minister of Karnataka**, the Secretary UDD sent a communication to all the Urban Development Departments, regarding the decisions taken during the Meeting of all the Urban Development Authorities Progress Review held on 07.06.2014, that an understanding was arrived at for the resolution of disputes with the farmers, by offering them the 50:50 Ratio, instead of the prevailing 40:60 Ratio, as compensation.*

*A copy of the communication **dated 25.07.2014** Secretary UDD sent a communication to all the Urban Development Departments, is enclosed herewith and marked as **ANNEXURE-K.***

*20. **On 18.08.2014, when Sri.Sidaramiah was the Chief Minister of Karnataka**, MUDA in response to the application dated 23.06.2014 by Sri. Siddaramiah's wife Smt. B.M.Parvathi, MUDA replied stating that, it was decided to derive at a market rate for the lands belonging to Smt.B.M.Parvathi W/o. Sri.Siddaramiah, **OR IN THE ALTERNATIVE proposed to allot developed sites in a SIMILAR LAYOUT formed by MUDA, in a 40:60 Ratio**.*

*A copy of the reply by the Commissioner of MUDA to the applicant Smt. Parvathi on **18.08.2014**, is enclosed herewith and marked as **ANNEXURE-L**.*

*21. **On 11.02.2015, when Mr.Siddaramiah was the CM of Karnataka**, the Urban Development Department issued a **Notification Vide Order No: UDD 08 TTP 2014, Bangalore, Dated:11.02.2015**, for an Amendment to Rule 3 of the Karnataka Urban Development Authorities (Allotment of sites in lieu of compensation for land acquired) Rules, 2009, BY WHICH the compensation Ratio was changed from 40:60 to 50:50.*

*A copy of the Notification Vide Order No: UDD 08 TTP 2014, Bangalore, dated:**11.02.2015**, is enclosed herewith and marked as **ANNEXURE-M**.*

*22. **With the Notification Vide Order No: UDD 08 TTP 2014, Bangalore, Dated: 11.02.2015 the Quantum of the COMPENSATION GOT AUTOMATICALLY ENHANCED to a Ratio of 50:50, benefiting Smt.B.M.Parvathi W/o.Sri.Siddaramiah.***

*23. **On 15.12.2017 and 30.12.2017, during the Council Meetings of MUDA, when Mr.Siddaramiah was the CM of***

Karnataka**, a decision was taken BY MUDA, **THAT**, since MUDA has formed Sites + Roads + Parks formed on the 3 Acres & 16 Guntas, (13,759 Sq. Mts) in Sy.No.464, of Kesere Village, belonging to Smt.B.M.Parvathi W/o. Sri.Siddaramiah and the same has been already put to for public use, by transfer of Site Nos. 396, 397, 398, 399, 400, 421, 422 and 423 measuring 6 x 9 meters each AND Site Nos.386, 387, 388, 389, 390, 391, 366, 367, 368, 369, 365 and 392 measuring 9 x 12 meters each AND Site Nos. 262, 263, 264, 265, 287, 290, 291, 292, 288 and 289 measuring 12 x 18 meters each, **in lieu of the 13,759 Sq. Mts of land (1,48,104 Sq.fts) used by MUDA, the lands in possession of MUDA which HAD NOT BEEN DEVELOPED by the Authority, shall be handed over to the Applicant Smt.B.M.Parvathi W/o. Sri. Siddaramiah.

*A copy of the report of **MUDA Council Meetings held on 15.12.2017 and 30.12.2017**, is enclosed herewith and marked as **ANNEXURE-N**.*

*24. **On 20.03.2021 during the Council MEETING OF MUDA the subject regarding the Allotment of the Compensatory Sites to Smt. Parvathi was placed before the MUDA Council stating that**, ALTHOUGH it was decided in the Meetings of MUDA on 15.12.2017 and 30.12.2017 to provide the Applicant (Smt.B.M.Parvathi) with **lands in possession of MUDA that have NOT BEEN DEVELOPED by the Authority shall be handed over to the Applicant**. But, since AFTER THE Amendment to Rule 3 of the Karnataka Urban Development Authorities (Allotment of sites in lieu of compensation for land acquired) Rules, 2009 vide No: UDD 08 TTP 2014, Bangalore Dated: 11.02.2015, **there was a provision to provide compensation to the Farmers in a ratio of 50:50, the subject is placed before the MUDA Council, for discussion and appropriate orders.***

*A copy of the subject placed before the Council MEETING OF MUDA held on 20.03.2021, is enclosed herewith and marked as **ANNEXURE-O.***

*25. The minutes of the **Council Meeting of MUDA on 20.03.2021 discloses that**, after a detailed discussion and recalling the history of the file, the Council finally decided that, **"At the request of the Land Owner, the subject has been deferred/postponed".***

*26. **On 20.03.2021**, interestingly Sri.S.Yatindra - MLA from the Varuna Constituency and son of Sri.Siddaramiah was present and participated in the proceedings of MUDA held on 20.03.2021, which discussed the issue of the compensatory land/sites to be allotted to the **Applicant Smt.B.M.Parvathi** (W/o. former CM Sri. Siddaramiah), in lieu of the 13,759 Sq. Mts of land (1,48,104 Sq.fts) used by MUDA and as a request for the deferment/postponement of a decision on the subject relating to Smt. Parvathi **"was sought for by the land lord",** explicitly revealing that it was Mr. Yatindra the son of the alleged land lord, who has made the request as a member of the family. The family which also included the then former CM, Sri.Siddaramiah.*

*A copy of the subject discussed and decided by Council of MUDA held on 20.03.2021, is enclosed herewith and marked as **ANNEXURE-P**.*

*27. **On 25.10.2021**, when Mr.Siddaramiah was the Leader of the Opposition in the KLA, (and his son S.Yatindra was a MLA), his wife Smt.B.M.Parvathi ONCE AGAIN made an application to MUDA, seeking Compensatory Alternative Developed Sites, in lieu of the 3 Acres & 16 Guntas, in Sy.No.464, of Kesere Village, allegedly belonging to Smt.B.M.Parvathi W/o. Sri.Siddaramiah, that was utilised by MUDA for the formation of the 'Devanur 3rd Stage', AND MUDA distributing the developed sites to various beneficiaries since 2001 itself.*

*A copy of the Application dated 25.10.2021 by Smt. Parvathi for the allotment of Alternative Compensatory sites, is enclosed herewith and marked as **ANNEXURE-Q**.*

*28. **On 23.11.2021**, in response to the Application dated 25.10.2021 by Smt. Parvathi seeking the allotment of*

*Alternative Compensatory sites, the **Special Land Acquisition Officer of MUDA issued a Notice to Smt. Parvathi**, QUOTING THE DECISIONS of **MUDA Council meetings held on 15.12.2017, 30.12.2017 and 20.03.2021** AND referring to **the two applications/requests by Smt.Parvathi to MUDA dated 23.06.2014 and 25.10.2021**, requiring her **to execute a deed of release** of the title of the 3 Acres & 16 Guntas, in Sy.No.464, of Kesere Village, in favour of MUDA, within 3 days from the receipt of the communication dated 23.11.2021.*

*A copy of the Reply Notice issued by the SLAO of MUDA to Smt. Parvathi on 23.11.2021, is enclosed herewith and marked as **ANNEXURE-R**.*

*29. **On 25.11.2021**, responding to the direction of the SLAO of MUDA on 23.11.2021, within in two days Smt.Parvathi promptly got a Relinquishment/Release Deed Registered on 25.11.2021, by the Additional Registrar-Mysore Development Authority, transferring the title of the 3 Acres & 16 Guntas, in Sy.No.464, of Kesere Village, in favour of MUDA.*

*A copy of the relinquishment/renunciation Deed Registered on 25.11.2021, is enclosed herewith and marked as **ANNEXURE-S**.*

*30. **On 05.01.2022**, Subsequent to the submission of the Release Deed dated 25.11.2021, Smt. Parvathi W/o. Sri. Siddaramiah was ALLOTED **14 Compensatory Sites** (totally measuring 37,975 Sq.fts), **in the upmarket Vijayanagar, 3rd Stage, 'C', 'D', 'E' & 'G' Block AND in Vijayanagar 4th Stage, 2nd Phase, in Mysore District**, a layout that was formed as early as 1999, which according to the **Current Government Guideline Value itself was Rs.8,24,66,496/** AND **the MARKET VALUE for those sites** in Vijayanagar ranging between Rs. 12,000/- to Rs. 15,000/- per Sq. Feet's, **the total value of those 14 sites** at a (revised/reworked) **rate Rs.15,000/- per Sq. Feet would be Rs.55,80,00,700/-,** as being demanded by Sri.Siddaramiah publicly.*

A Revised Chart containing the reworked Market Value at the rate of Rs. 15,000/- per Sq.fts is enclosed herewith & marked as ***ANNEXURE-T****.*

31. ***Interestingly and most intriguingly,*** *the* ***Allotment Letters issued on 05.01.2022 to Smt.Parvathi W/o.Sri Siddaramiah*** *and Mother of Sri.S. Yatindra-MLA, mentions that* ***the Allotment is done in accordance with the decision taken during the Meeting of the MUDA Council, held on 20.11.2020****.*

A copy of the Allotment Letters, issued on 05.01.2022 is enclosed herewith and marked as ***ANNEXURE-U****.*

32. ***Interestingly and most intriguingly, Sri.S.Yatindra-MLA*** *and Son of both Sri.Siddaramiah and Smt.Parvathi* ***was present during the Council Meeting of MUDA held on 20.11.2020****. The Minutes of the Meeting of the MUDA Council, held on 20.11.2020 is allegedly signed by Sri.D.B.Natesh the Commissioner and Sri.H.V.Rajeev the Chairman of the MUDA.*

A copy of the Minutes of the Meeting of the MUDA Council, held on 20.11.2020 is enclosed herewith and marked as ***ANNEXURE-V.***

33. ***WHEN THE DECISION TO ALLOT THE COMPENSATORY SITES TO Smt. Parvathi HAD ALREADY BEEN TAKEN ON 20-11-2020:***

(a) ***WHERE WAS THE NEED FOR****, the subject regarding the Allotment of the Compensatory Sites to Smt. Parvathi being* ***placed*** *for consideration before the* ***MUDA Council meeting held on 20.03.2021****?*

(b) ***WHERE WAS THE NEED FOR****, the subject regarding the Allotment of the Compensatory Sites to Smt. Parvathi being* ***discussed*** *extensively during the* ***MUDA Council meeting held on 20.03.2021****?*

(c) ***WHERE WAS THE NEED FOR****, the decision regarding the Allotment of the Compensatory Sites to*

Smt. Parvathi, getting deferred/postponed TO ANOTHER DAY ***'At the request of the Land Owner'*** *on 20.03.2021?*

(d) ***WHERE WAS THE NEED FOR,*** *Smt.B.M.Parvathi W/o.Sri.Siddaramiah and Mother of Sri.S.Yatindar-MLA, TO ONCE AGAIN MAKE AN APPLICATION TO MUDA, ON 25-10-2021, seeking alternative compensatory developed sites, in lieu of the 3 Acres & 16 Guntas, Sy. No. 464, of Kesere Village?*

(e) ***WHERE WAS THE NEED FOR,*** *the* ***Special Land Acquisition Officer of MUDA to issue a Notice on 23.11.2021 to*** *Smt.B.M.Parvathi W/o.Sri.Siddaramiah and Mother of Sri.S.Yatindar-MLA, on 23.11.2021 QUOTING the decisions of the MUDA Council meetings held on 15.12.2017 30.12.2017 and 20.03.2021 AND referring to the two applications/requests by Smt.Parvathi to MUDA dated 23.06.2014 and 25.10.2021,* ***WITHOUT MENTIONING THE DECISION TO ALLOT COMPENSATORY SITES TO Smt.Parvathi ALREADY TAKEN ON 20-11-2020 by MUDA?***

34. It is not just doubts/questions that have risen regarding the complicity of Sri. Siddaramiah with his presence throughout as an influential entity in the family, as the events and details shown hereinabove demonstrates and establishes that there was a criminal conspiracy and a meticulously calculated fraudulent activity, that culminated into the allotment of ***the 14 sites to Smt.B.M.Parvathi W/o.Sri.Siddaramiah and Mother of Sri.S.Yatindar-MLA, issued on 05.01.2022, which has caused a loss of Rs.55,80,00,700/- to the State Exchequer AND at the same time causing an illicit enrichment of Sri.Siddaramiah, his wife Smt.Parvathi and his son Sri.Yatindra-MLA to an extent of Rs.55,80,00,700/-. As a result the Criminal Conspiracy, Cheating, Corruption, Criminal misconduct, dishonest and fraudulent misappropriation of the state's resources/funds,*** *with the involvement of everyone including* ***Sri.Siddaramiah, Smt.B.M.Parvathi*** *w/o Sri Siddaramiah****,***

Sri.S. Yatindar-MLA *S/o Smt. Parvathi and Sri.Siddaramiah, the Commissioner of MUDA* ***Sri.D.B.Natesh****, the Chairman of the MUDA* ***Sri.H.V.Rajeev****, the Special Land Acquisition Officer of MUDA as on 03-09-98, the Thazildar of Mysore as on 04-03-2005* ***Sri. Malige Shanker****, the then* ***Revenue Inspector*** *on 04.03.2005, the* ***Village Accountant*** *as on 04.03.2005, the* ***Surveyor*** *as on 04-03-2005, the then Sub-Registrar's of the Mysore North* ***Sri.S.K.Siddiah*** *from 05-05-2003 to 18-11-2004, Sri.K.S.Madhaviah from 06-03-2002 to 20-12-2004 and Sri.Chickanna from 21-07-2002 to 19-11-2004, the then DC Mysore as on 17-06-2005* ***Sri.G.Kumar Nayak-IAS*** *(currently the MP form Raichur District), and the then DC of Mysore as on 15-07-2005* ***Sri.S.Selvakumar-IAS, Sri. J.Devaraju****, Smt.M.Sarojamıma, Smt.D.Shoba, Sri.D.Dinakar Raj, Smt.D.Prabha, Smt.D.Prathiba and D.Shahidhar, along with other connected and involved persons, deserves to be investigated by a competent and independent Agency, such as the Lokayukta Police, to unravel the truth, in Public Interest.*

Wherefore*, it is requested of your good office,* ***to kindly Grant Sanction for the Prosecution of Sri.Siddaramiah,*** *for offences under* ***Section 7, Section 9, Section 11, Section 12 and Section 15 of the Prevention of Corruption Act, 1988*** *AND* ***Section 59, 61, 62, 201, 227, 228, 229, 239, 314, 316(5), 318(1), 318(2), 318(3), 319, 322, 324, 324(1), 324(2), 324(3), 335, 336, 338 and Section 340 - of the Bharatiya Nyaya Sanhita, 2023 and other applicable provisions of law, in the interest of enforcing probity in life and service of Public Servants AND upholding the law of the land.***

Yours faithfully,
Sd/-
Abraham T.J
President.
Anti-Graft/Corruption & Environmental Forum ®
'Ashirwad', 2326, 2nd 'A' Cross,
16th 'B' Main, H.A.L 2nd Stage,
Indiranagar, Bengaluru-560 008.
M-9379916625.
Abrahamtj15106@gmail.com."

The aforesaid is the petition in its entirety. The Governor, then issues a show cause notice to the petitioner, seeking to show cause as to why approval/sanction as is sought by the complainant should not be granted. The same is also sent to the Chief Secretary, to place it before the Cabinet, as necessary in law. The office of the Governor, thereafter, communicates the order of the Governor to the State on 17-08-2024. The decision is, according sanction against the petitioner/Chief Minister under Section 17A of the PC Act and Section 218 of the BNSS. The petitioner challenges the said order before this Court.

4. Heard Dr. Abhishek Manu Singhvi along with Prof. Ravi Varma Kumar, Senior Advocate for Sri Shathabish Shivanna, Sri Samrudh S.Hegde and Sri Abhishek J., Advocates appearing for petitioner and Sri K.Shashikiran Shetty, Advocate General along with Sri B.N.Jagadeesha, Additional State Public Prosecutor, Sri S.Ismail Zabi Ulla, Additional Advocate General, Smt. Anukanksha Kalkeri, High Court Government Pleader for R1; Sri Tushar Mehta, Solicitor General of India along with Sri Abhishek Kumar, Sri Kanu Agarwal, Sri Tanmay Mehta, and Sri Keerthi

Reddy, Advocates for R2; Sri Ranganatha Reddy, Advocate for R3; Sri Maninder Singh, Senior Advocate along with Sri K.G.Raghavan, Senior Advocate, Smt. Lakshmy Iyengar, Senior Advocate for Sri Sushal Tiwari N., Sri Vasantha Kumara, Sri Skanda Arun Kumar, Sri Prabhas Bajaj, Sri Nishanth Kushalappa, Smt. Anitha M.Patil, Advocates for R4 and Sri Prabhuling K. Navadgi, Senior Advocate along with Sri Prakash M. H., Advocate for R5.

SUBMISSIONS:

Petitioners':

5. The **learned senior counsel Sri Abhishek Manu Singhvi** representing the petitioner would contend that the order of the Governor suffers from blatant non-application of mind, inasmuch as at paragraph 2, two more petitions one from Snehamayi Krishna, a social activist, the 4th respondent and the other from Pradeep Kumar S.P., the 5th respondent have been received at his office with the same allegation. The show cause notice is issued only on the petition presented by the 3rd respondent/T.J.Abraham. The learned senior counsel would contend

that, this is in violation of the principles of natural justice, as the order makes reference to two petitions, but show cause notice is issued only on one petition.

5.1. The Governor receives the petition on 26-07-2024. He issues show cause notice to the Chief Secretary and the petitioner on the very same day. Therefore, it suffers from want of application of mind.

5.2. He would further contend that the Governor has completely ignored the reply given by the Cabinet – Council of Ministers while according sanction. He has completely ignored the reply given by the petitioner to the show cause notice and by one sentence, observes that he is not satisfied or it cannot be taken note of.

5.3. The Governor relies on a particular judgment of the Apex Court in the case of ***MADHYA PRADESH POLICE***

ESTABLISHMENT v. STATE OF MADHYA PRADESH[1] which, according to the learned senior counsel, has been considered and distinguished in a subsequent judgment in the case of ***NABAM REBIA v. DEPUTY SPEAKER, ARUNACHAL PRADESH LEGISLATIVE ASSEMBLY***[2].

5.4. On the facts of the case, the learned senior counsel would seek to emphasise that the petitioner throughout the period of allegations has not put a dot of ink on any paper concerning the issue; neither the file is placed before him at any time when he was in power. Therefore, he would submit that no decision is taken or recommendation made by the petitioner, for an approval to be granted under Section 17A of the Act. All the actions are pointed against the wife of the petitioner and the brother-in-law of the petitioner. For the acts of the wife or the brother-in-law, it is the submission of the learned senior counsel, that the petitioner cannot be dragged into the web of crime by granting approval/sanction for prosecution.

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[1] *(2004) 8 SCC 788*
[2] *(2016) 8 SCC 1*

5.5. On the facts as well he would contend that, every act right from 1992, till the date of grant of compensation or alternate 14 sites allotted in favour of the wife of the petitioner, are all acts done in accordance with law. It is not that the petitioner has been benefited out of any transaction nor the wife of the petitioner was the sole applicant for grant of compensatory sites. There are 120 people whose lands were taken over by the Mysore Urban Development Authority ('MUDA' for short), notwithstanding the lands have either been notified or de-notified or without notification for acquisition. This mistake of MUDA has resulted in the MUDA granting sites on compensation, in terms of a Rule that was in existence from 2015, to end all litigation against MUDA.

5.6. He would therefore contend that, the petitioner having not done anything, the political parties, inimical to the interest of the petitioner, have hatched a conspiracy to de-stabilize the Government. He would submit that if this action is allowed, there is no need for Article 356 of the Constitution. By this method, elected Government would get de-stablized.

Respondents':

6. Per-contra, the learned **Solicitor General of India Sri. Tushar Mehta**, appearing for the **Secretary to the Governor of the State of Karnataka**, would submit that the order of the Governor is not like an order of a Tahsildar granting sanction/approval to prosecute a Village Accountant. It is the order emanating from a high office. The order *per se*, need not contain elaborate reasons. The reasons in the order must be those which are culled out from the file. He would, therefore, place the entire file before the Court.

6.1. The order of the Governor did not spring like removing a rabbit from the hat. It bears complete application of mind. He would take this Court through the file notings in the original file to contend that the Governor's consideration prior to passing of the impugned order is threadbare. Every point which has been made in the reply to the show cause notice by the petitioner or by the Cabinet has been completely taken note of.

6.2. He would contend that the judgment on which the learned senior counsel for the petitioner relies on in ***NABAM REBIA***, has in fact affirmed ***M.P.POLICE ESTABLISHMENT*** *supra* and has not distinguished it.

6.3. He would contend that under Article 163 of the Constitution of Inida, no doubt the Governor has to act with the aid and advice of the Council of Ministers. Aid and advice, in the case at hand, cannot be that the Council of Ministers who are appointed by the Governor on the advice of the Chief Minister, would recommend anything against the Chief Minister, particularly setting of the criminal law into motion. It is, therefore, the Governor rejects the reply of both the petitioner and the Cabinet, takes an independent decision on complete application of mind and has accorded sanction.

6.4. He would contend that Governor's approval should be distinct from judicial review applicable to other prosecution sanctions. It is not necessary for the Governor to pass a detailed order on every aspect that has been put forth in the reply to the

show cause notice. It would suffice if the file contains details. He would seek to place reliance upon several judgments on the issue. Broadly speaking the learned Solicitor General of India, answering every point of the learned senior counsel for the petitioner would seek dismissal of the petition, on the score that after all what is ordered by the Governor is only an approval for conduct of investigation.

6.5. Merely because the petitioner is the Chief Minister, why should he fight shy of facing an investigation, into the allegations? There are allegations and those allegations have to be investigated into. The role of the petitioner of any kind, direct or indirect, would come into light only after the investigation. He would submit that his role was to answer to the submissions made against the order of the Governor and he would restrict his submission to the aforesaid.

7. The learned counsel **Sri Ranganath Reddy** representing the **3rd respondent** would take this Court, threadbare to every document. It is his submission, that after the final notification in

the year 1997, what happens is formation of a layout by MUDA. The subject land was coming within Kesare Grama. Kesare Grama has been removed from the records in Mysore Taluk as MUDA acquired it, converted it, formed a lay-out and distributed sites, in the lay out. After distribution of sites to 19 people, the brother-in-law, of the petitioner purchases the land from one Devaraj. Who is Devaraj, how did he became the owner of the land, is still a mystery. He sells it to the brother-in-law of the petitioner through a sale deed showing the land as agricultural land, notwithstanding the fact that it had lost its status of being an agricultural land, long ago.

7.1. What is further shocking is the brother-in-law of the petitioner applies for conversion before the Deputy Commissioner. The Deputy Commissioner directs spot inspection and report. Two people are said to have inspected the property and given a report that agricultural status of the land still subsists.

7.2. He would submit that in the land that is converted and sites are formed where from the agricultural activities can spring.

The Deputy Commissioner also is said to have inspected the property, noted that it is an agricultural land and grants conversion.

7.3. After conversion is granted, the land is gifted to the wife of the petitioner in 2010. From here begins the process of claiming compensation. During the period of gift, the petitioner was the leader of the opposition. When the wife of the petitioner made a clam for compensation by submission of representation to MUDA in the year 2014 the petitioner was the Chief Minister. The resolution for grant of compensation is taken by the members of MUDA. Decision is taken therein to amend the Rule. The rule is amended. The rule is with regard to compensatory alternate site. Notings and correspondences galore and finally 14 sites are granted to the wife of the petitioner.

7.4. Immediately after the grant, the concerned Rule is withdrawn and an order is passed by Government that henceforth compensatory sites should be stopped. He would thus submit that if the petitioner was not involved at all points of time, who else could have done so. He might not have signed any document, but

he is behind all these, as compensatory sites are granted to his wife by way of grant of 14 sites. It is his submission, that the petitioner himself proclaims to the media, that if ₹62/- crores are given him, he would relinquish all sites.

7.5. He would, therefore, contend non-existent agricultural land is purchased; non-existent agricultural land is converted; non-existent agricultural land is made the subject matter of compensatory sites and for non-existent things ₹56/- crores compensatory sites are granted all out of public money. He would submit that the matter would require investigation in the least.

8. Learned **senior counsel Sri Maninder Singh** representing the **4th respondent/complainant** would take this court through the objections filed by the 4th respondent to contend that the subject land of 3.18 acres initially was granted at an offset price, in the year 1935 to one Ninga, a person belonging to Scheduled Caste. He had three sons. During his possession or holding of the family of Ninga, MUDA had issued a preliminary notification in the year 1992 seeking to acquire the land in Kesere

grama to form a lay-out. The subject land of 3.18 acres was also formed part of the notification.

8.1. Pursuant to issuance of the preliminary notification, in the year 1997 a final notification comes to be issued. After issuance of the final notification award amount was determined and deposited before the concerned Court in the year 1998. After determination of award Government issues a notification de-notifying the land. Noticing the fact that award had already been passed and amount had been determined and notified, MUDA went on to form the lay-out in the land. After forming the lay-out in the year 2014, it distributes sites.

8.2. After distribution of sites, it appears the land is purchased by the brother-in-law of the petitioner. He applies for conversion and an order of conversion is passed and the brother-in-law of the petitioner immediately after its conversion gifts it to the wife of the petitioner. Claiming that the wife of the petitioner steps into the shoes of the owner applications/representations were made contending that MUDA formed the sites in the lands belonging to

her and therefore, in terms of extant Rules she is entitled to compensation or alternate sites.

8.3. In the year 2015 a notification comes to be issued changing the Rule from 40'X60' to 50'x50'. 50% of the acquisition should be compensated by way of alternate sites. It is in this, the wife of the petitioner gets 14 sites worth ₹56/- crores, in the midst of prime land of Mysore. He would submit that the Court should take note of **three figures** – one ₹350/- offset price that is paid; ₹3,56,000/- compensation determined by way of an award and whooping ₹56/- crores worth property granted to the wife of the petitioner by way of 14 sites in an upscale area of Mysore.

8.4. With regard to the role of the petitioner, the learned senior counsel would submit that throughout, on and off the petitioner was in power or leader of the opposition. It is not that he was not knowing this even to yield any influence. He would emphatically submit that the beneficiary is not a stranger but the wife and brother-in-law of the petitioner.

9. Learned senior counsel **Sri K.G. Raghavan**, who took over from the learned senior counsel Sri Maninder Singh, *albeit* on a different date, would contend that facts are narrated by the learned senior counsel Sri Maninder Singh or the learned counsel representing the 3rd respondent. But, he would submit on legal aspect of the matter. He would re-read Section 17A of the Act, to contend that there need not be a recommendation or a decision made by the petitioner, but if it is relatable to any decision or recommendation that would suffice. He would emphasise on the word '**relatable**'. The relatability, according to him, would be known only through an investigation.

9.1. There is an allegation which should be investigated into as purity of administration of high office of Chief Minister would require such investigation. If there was no problem in the issue, the State would not have appointed a one man Commission of Inquiry or a Committee to go into the affairs of MUDA. The State is aware that there is illegality that is projected in the case at hand. Therefore, it must be investigated into.

10. The learned senior counsel **Smt. Lakshmi Iyengar** also representing the **4th respondent/complainant** would vehemently submit that the role of the petitioner should be assessed by drawing up a check period, like it is drawn while drawing up a source report, in corruption cases, particularly of disproportionate assets, to the known source of income.

10.1. It is her submission that she would paraphrase the term check period to the tenure for the timeline of power of the petitioner. The learned senior counsel would draw the time line. It is her submission that between 1996 and 1999 the petitioner was the Deputy Chief Minister; all activities happen at this period. Between 1999 and 2004 he was not in power as he had lost the election. This the learned senior counsel terms as a lull period. Again during 2004 and 2005 he was the Deputy Chief Minister. Therefore, the activities commenced again, is her submission. The learned senior counsel would further contend that all the resolutions that were passed and the road map towards benefits all have happened between 2013 and 2018 at which point in time, he was the Chief Minister. Certain resolutions of MUDA have taken place

when the son of the petitioner was an ex-officio Member of MUDA, being an MLA of the Constituency. She would therefore, contend that it is a matter that requires investigation.

11. The learned senior counsel **Sri Prabhuling Navadagi** representing the **5th respondent** would toe the lines of other learned counsel who have made their submissions. He would seek to place reliance on certain judgments apart from the ones that are relied upon by the respondents. Barring this, he would adopt the submissions insofar as application of mind is concerned to the submissions made by the learned Solicitor General and to the facts of both the learned senior counsel Sri Maninder Singh, the learned senior counsel Sri K.G.Raghavan and the learned counsel Sri Raghunatha Reddy.

REJOINDER SUBMISSIONS:

12. The learned senior counsel Sri Abishek Manu Singhvi appearing for the petitioner would trade lengthy rejoinder submissions. He would reiterate that the Governor has not applied

his mind at all to the facts, the decision of the cabinet that was conveyed to the Governor nor the reply of the petitioner to the show cause notice. He would take this Court again threadbare to the order passed by the Governor.

12.1. It is his submission that the Governor records that there is apparent bias on the part of the cabinet to have declined or recommended rejection of the approval or sanction that was sought against the petitioner. He would submit that imaginary apparent bias cannot lead to the Governor exercising discretion of taking a decision himself. He has to act with the aid and advice of the Council of Ministers.

12.2. He would submit that Section 17A of the Act clearly mandates that it is the Police Officer alone who should seek approval from the hands of the Competent Authority as the language in Section 17A is couched with the word "that no Police Officer shall conduct any enquiry or inquiry or investigation". He would elaborate this to contend that the complainant in the case at

hand has sought approval from the hands of the Competent Authority. This is impermissible in law.

12.3. It is his further contention that the time line that is shown for the acts of the petitioner can nowhere lead to either a decision taken by the petitioner or a recommendation made by the petitioner for him to be drawn into the web of crime by seeking an approval under Section 17A of the Act. Unless there is material to demonstrate that the petitioner is involved in the case at hand, granting of approval under Section 17A would run foul of the very language of the provision of law.

12.4. It is his contention that the Governor ought to have taken a decision only after arriving at a reasoned conclusion that the action of the Council of Ministers suffers manifest irrationality, as the Governor has used the words apparent bias, and manifest irrationality, to take the decision himself without the aid and advice of the Council of Ministers. He would take this Court to the judgment relied on by the Governor while according sanction to contend that, in the said judgment the argument of apparent bias

was not accepted, manifest irrationality did form the reason for the Apex Court to pass the said order. But, there is material for the Apex court to hold that it was irrational as the report of the Lokayukta was not taken note of by the Cabinet while declining to recommend sanction for prosecution.

12.5. The Governor therein had reversed the decision. The reversal of the decision was challenged before the Apex Court. The Apex Court found no fault with the Governor in according sanction. It is his submission that those factors cannot be paraphrased into the subject case as there is copious material here about the fact that the petitioner's involvement is only imaginary and not in real terms.

12.6. In all he would submit that the order which suffers from blatant non-application of mind eschewing relevant consideration and taking note of irrelevant consideration cannot but be termed to be perverse and on the said basis grant of an approval under Section 17A of the Act, that too for prosecution of the petitioner/Chief Minister is a frolicsome act on the part of the

Governor. For these reasons, he would seek quashment of according of approval. Insofar as sanction is concerned, the learned senior counsel would submit that the 2nd respondent has virtually conceded that the observation of sanction in the impugned order is an error. Therefore, he would not delve deep into the issue of sanction or the offence under the BNSS.

13. The learned senior counsel **Sri Ravivarma Kumar** again representing the **petitioner** would add that all the submissions made by the learned counsel for the respondents on the facts of the matter are completely erroneous. It is his submission that the land vested with Devaraju, one of the sons of Linga. Devaraju had applied for de-notification. De-notification was made. After de-notification, the land still remained with Devaraju. In the lay-out plan of Devanuru Badavane these lands are shown to be de-notified.

13.1. If they are shown to be de-notified and the land still vest with Devaraju, he would submit where from illegality would spring that too against the petitioner who is the popular Chief

Minister in the history of Karnataka. He would add that the petitioner has been in power for the last 40 years. He would not fight for the ಜುಜುಬಿ sites.

13.2. Insofar as the order of the Governor is concerned, he would only seek to add that the Governor has gone into irrelevant consideration in granting approval. It is his submission that the Governor should not have entertained the complainant. Hearing of the complainant at the stage of Section 17A is unknown. Therefore, with all these errors granting of approval under Section 17A would undoubtedly be an error. Both the learned senior counsel would project one fact of criminal antecedents of respondent No.3/complainant. They would reiterate the paragraph that is quoted in the body of the petition with regard to criminal antecedents of the 3rd respondent. In all, they would seek quashment of the order in its entirety.

13.3. The **learned Advocate General Sri K Shashikiran Shetty** would take this Court through the documents appended to the petition, contending that in terms of the judgment of the Apex

Court in the case of ***LALITA KUMARI V. GOVERNMENT OF UTTAR PRADESH*** reported in ***(2014)2 SCC 1*** that a preliminary enquiry was imperative. The conduct of a preliminary enquiry is to determine the commission of a cognizable offence. Therefore, it is a prerequisite for seeking approval under Section 17A of the PC Act. He would seek to elaborate upon the words obtaining in the statute i.e., Section 17A. Reliance is placed upon the judgment of the Apex Court in the case of ***N CHANDRABABU NAIDU***. He would further contend that a preliminary enquiry was directed to be held right from the judgment of the Apex Court in the case of ***P.SIRAJUDDIN V. STATE OF MADRAS*** reported in ***(1970) 1 SCC 575***. According to him, the appropriate authority to conduct a preliminary enquiry in terms of the judgment of the Apex Court in the case of ***LALITA KUMARI*** is the police officer, who investigates into information i.e., received prior to registration of a crime. He would contend that with these principles, it is only the police officer who can seek approval from the hands of the Competent Authority. He would also place reliance upon the Standard Operating Procedure notified by the Ministry of Home Affairs for conduct of preliminary enquiry, to buttress his submission that the

investigating officer should conduct a preliminary enquiry and then seek approval from the hands of the Competent Authority. In effect, he would seek the order of the Governor to be set aside for all the aforesaid reasons, as also the reasons projected by the learned senior counsel appearing for the petitioner.

CLARIFICATORY SUBMISSIONS BY THE LEARNED COUNSEL FOR RESPONDENT NO.3:

14. The learned counsel for respondent No.3 would vehemently submit that character assassination of the complainant cannot mask the real issue before the Court. Even on the antecedents of the 3rd respondent, he would contend, that the cost of ₹25/- lakhs that was imposed by the Apex Court did not remain the cost. It was reduced to ₹1,00,000/-. The petitioner projects as if the cost imposed is ₹25/- lakhs. Insofar as other complaint made by one D.Sudha, he would contend that the complainant had complained against corrupt activities of D. Sudha which led to registration of crime against her. As a counter-blast the complaint for offences punishable under Sections 384, 504 and 506 of the IPC is registered against the 3rd respondent.

14.1. The learned counsel would further clarify that if de-notification had happened and if the wife of the petitioner did not know what is happening in the land or if Devaraju was still in possession of the property, the sale deed or the representation be noticed. The representation of the wife of the petitioner is that in 2001 itself MUDA had formed lay-out and she should get compensation at the rate of 50:50 ratio which was not even in existence on that day. Therefore, it is clear that what would happen in future is known to the wife of the petitioner. After these representations comes the amendment to the Rule. Even before the amendment, the wife of the petitioner had projected that she is entitled to compensation in the ratio of 50:50 and not 60:40.

CLARIFICATORY SUBMISSIONS BY THE LEARNED SENIOR COUNSEL FOR RESPONDENT NO.4:

15. The learned senior counsel Smt. Lakshmi Iyengar would submit one glaring fact. Devanur Badavane is 40 Kms. away from Mysore Palace, centre of the City. In Devanur Badavane Kesare Grama exist. In Kesare Grama, the brother-in-law of the petitioner purchases 3 acres 16 guntas. Even assuming that MUDA had

formed a lay-out without acquisition of this land the brother-in-law or the wife of the petitioner who is donee are entitled to compensatory sites. But where they were entitled to is necessary to be noticed. It is area specific.

15.1. They should have been granted sites in Devanur Layout or in the adjacent lands of Devanur Layout. Where they have been granted sites is in the heart of Mysore city that is in Vijayanagar 3rd Stage. No common man can get this benefit of getting a property worth ₹55/- crores for the loss of land somewhere 20 kms. away from the city, which at best could be valued at ₹2/- crores.

15.2. This is the first illegality that requires investigation is her submission. The learned senior counsel would further submit the fraud of Devaraju himself. He is also an accused in a private complaint so registered. Devaraju gave a representation in the year 1998, seeks de-notification of the land on the ground that he has no other income; his life is dependent on the very land and therefore seeks de-notification. De-notification is granted. Devaraju played a fraud with MUDA or the State. Devaraju is a teacher

working in the Department of Public Instructions. He gives an affidavit that he is jobless. Therefore, since then the illegality sprung, the family of the Chief Minister might have come into the picture in 2004. Therefore, for the events from 1992 up to 2004 Devaraju is an accused.

16. All the learned senior counsel both for the petitioner and the respondents have relied on plethora of judgments rendered by the Apex Court and this Court. Noting them here and at the appropriate places would only bulk the judgment, as some of them overlap with the judgments placed on record by each of them. Therefore, they would all bear consideration qua their relevance at the appropriate stage of the order.

17. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record. In furtherance whereof, the following issues would arise for my consideration:

ISSUES:

(1) Whether the petitions before the Governor and the complaints before the concerned Court were justified in the fact situation?

(2) Whether the approval under Section 17A of the Act is mandatory in the teeth of facts?

(3) Whether Section 17A of the Act requires only a Police Officer to seek approval from the Competent Authority?

(4) Whether the order of the Governor suffers from want of application of mind?

(5) Whether it would suffice for reasons to be recorded in the file of the decision making authority and the same culled out in parts in the impugned order?

(6) Whether the decision taken by the Governor in alleged hottest haste of issuing a show cause notice on the same day of receipt of the petition has vitiated the entire decision?

(7) Whether reference to Section 218 of BNSS in the impugned order vitiates the entire order?

(8) Whether prima facie role of the petitioner is established?

<u>Issue No.1</u>:

Whether the petitions before the Governor and the complaints before the concerned Court were justified in the fact situation?

ACTUAL FACTS AND THE FACTUAL ACTS:

18. The consideration of this issue would require noticing and narration of certain facts, for which it is necessary to take a walk in history. 90 years ago, Kesare Grama came within the precincts of Mysore Taluk. In the village, a piece of land, measuring 3 acres 16 guntas in Sy.No.464 is granted to one Ninga, a person belonging to scheduled caste, at an offset price or a free grant is not necessary to be considered, but it was a grant. This is hereinafter referred to as the '**subject land**'. He was therefore in possession of the property. Ninga had three children. It would suffice if the story now fast forwarded to 1992. MUDA issues a preliminary notification under Section 17(1) of the Karnataka Urban Development Act, 1987 on 18-09-1992, seeking to acquire lands in Kesare Grama in which the subject land was situated, for the purpose of formation of a residential layout by name '*Devanuru badavane'*. After the issuance of the preliminary notification, Ninga dies. Ninga dies thereafter. Out of the three, two children relinquished their rights over the subject property in favour of Mylaraiah, the eldest son. Thus, Mylaraiah was the owner of the subject property. 5 years after the issuance of the preliminary notification, a final notification

on 20th August 1997 comes to be issued in which Sy.No.464 of Kesare Grama measuring 3 acres and 16 guntas is shown to be a part of the scheme Devanuru Badavane – 3rd stage. After the issuance of the final notification, award notice was issued to the khatedar – Ninga, though he was dead, since his name figured in the preliminary notification. The compensation for acquisition of the land of Ninga, in Sy.No.464 of Kesare Grama was determined at **₹3,24,700/-**. Since nobody came forward pursuant to the award notice, the award amount was deposited in the jurisdictional civil Court.

19. I now deem it appropriate to notice the preliminary notification and the award notice insofar as subject land is concerned. They read as follows:

Preliminary Notification

"ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ಸಾರ್ವಜನಿಕರ ಉಪಯೋಗಕ್ಕಾಗಿ ಈ ಕೆಳಕಂಡ ಸ್ವತ್ತನ್ನು ದೇವನೂರು 2ನೇ ಹಂತ 3ನೇ ಫೇಸ್ ಬಡಾವಣೆಗೋಸ್ಕರ ಕೆಸರೆ, ಹಂಚ್ಯಾ. ರಮ್ಮನಹಳ್ಳಿ ಜಮೀನುಗಳನ್ನು ಸ್ವಾಧೀನಪಡಿಸಿಕೊಳ್ಳು 1987ರ ಕರ್ನಾಟಕ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರಗಳ ಕಾಯ್ದೆಯ ಅಧಿನಿಯಮ 17(1) ರಂತೆ ಪ್ರಕಟಿಸಲು ಪ್ರಾಧಿಕಾರವು ತೀರ್ಮಾನಿಸಿದೆ.

ಸದರಿ ಬಡಾವಣೆಗೆ ಬೇಕಾಗುವ ಜಮೀನಿನ ವಿವರ ಹಾಗೂ ಯೋಜನೆಯನ್ನು ಝಾನ್ಸಿ ರಾಣಿ ಲಕ್ಷ್ಮೀಬಾಯಿ ರಸ್ತೆಯಲ್ಲಿರುವ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಕಛೇರಿಯಲ್ಲಿ ಕಛೇರಿ ವೇಳೆಯಲ್ಲಿ ಸಾರ್ವಜನಿಕ ವೀಕ್ಷಣೆಗಾಗಿ ಇಟ್ಟಿರುತ್ತಾರೆ.

ಮೇಲ್ಕಾಣಿಸಿದ ಬಡಾವಣೆ ನಿರ್ಮಾಣಕ್ಕೋಸ್ಕರ ಭೂಸ್ವಾಧೀನಗೊಳ್ಳುವ ಜಮೀನಿನಲ್ಲಿ ಹಿತಾಸಕ್ತಿಯುಳ್ಳವರು ತಮ್ಮ ತಕರಾರೇನಾದರೂ ಇದ್ದಲ್ಲಿ ಈ ಪ್ರಕಟಣೆ ಪ್ರಕಟಿಸಿದ ಮೂವತ್ತು (30) ದಿವಸಗಳ ಒಳಗಾಗಿ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಆಯುಕ್ತರಿಗೆ ಲಿಖಿತ ಮೂಲಕ ತಿಳಿಸಬಹುದು.

1983ನೇ ಭೂಸ್ವಾಧೀನ ಕಾಯ್ದೆಯ ಅಧಿನಿಯಮ 24ರ ವಿಧಿಯಂತೆ ಪ್ರಾಥಮಿಕ ಪ್ರಕಟಣೆ ಹೊರಡಿಸಿದ ನಂತರ ಸದರೀ ಜಮೀನನ್ನು ಕ್ರಯದ ಮೂಲಕ ವಿಲೇ ಮಾಡಲು ಅಥವಾ ಪರಭಾರೆ ಮಾಡಲು ಅಥವಾ ಇನ್ಯಾವುದೇ ರೀತಿಯ ದುರಸ್ಥಿ ಕೆಲಸವನ್ನು ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಆಯುಕ್ತರವರ ಪೂರ್ವಭಾವಿ ಮಂಜೂರಾತಿ ಇಲ್ಲದೆ ಮಾಡಿದಲ್ಲಿ ಅಂತಹ ವ್ಯವಹಾರಕ್ಕೆ ತಗಲುವ ಅಧಿಕ ವೆಚ್ಚವನ್ನು ಸದರಿ ಜಮೀನಿಗೆ ಪೂರ್ಣ ಅಥವಾ ಭಾಗಶಃ ಭೂಸ್ವಾಧೀನಕ್ಕೆ ಅಂತಿಮ ಪ್ರಕಟಣೆಯ ನಿರ್ಧರಿಸಬಹುದಾದ ಪರಿಹಾರದ ಹಣಕ್ಕೆ ಸೇರಿಸಲಾಗುವುದಿಲ್ಲ ಈ ಬಗ್ಗೆ ಹಿತಾಸಕ್ತಿಯುಳ್ಳವರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ವಿಶೇಷ ಕಂದಾಯ ಕಾಯುತ್ತ ಪರೀವೀಕ್ಷಕರು ಭೂಮಾಪಕರು ಅಥವಾ ಇನ್ನಿತರ ಯಾವುದೇ ಅಧಿಕಾರಿಗಳ ಸದರೀ ಜಮೀನಿನ ಭೂಸ್ವಾಧೀನದ ಬಗ್ಗೆ ಜಮೀನಿನೊಳಗೆ ಬರುವುದನ್ನು ತಡೆಯುವುದಾಗಲೀ ಅಥವಾ ಮಧ್ಯಪ್ರವೇಶಿಸುವುದಾಗಲೀ ಮಾಡಬಾರದೆಂದು ಈ ಮೂಲಕ ತಿಳಿಯಪಡಿಸಿದೆ.

			ಸ್ವತ್ತಿನ ವಿವರಗಳು					*ಚೌತರ್ಫು*				*ಜುಮ್ಲಾ ಬೇಕಾದ ವಿಸ್ತೀರ್ಣ*
ಕ್ರ ಸಂ	*ಸ. ಸಂ.*	*ಖಾತೆದಾರ/ ಅನುಭವದಾರರ ಹೆಸರು*	*ಖುಷ್ಕಿ ಎ.ಗುಂ.*	*ಬಾ/ತರಿ ಎ.ಗುಂ.*	*ಖರಾಬು ಎ.ಗುಂ.*	*ಜುಮ್ಲಾ ಎ.ಗುಂ.*	*ಕಂದಾಯ*	*ಪೂರ್ವ ಸ.ನಂ.*	*ಪಶ್ಚಿಮ ಸ.ನಂ.*	*ಉತ್ತರ ಸ.ನಂ.*	*ದಕ್ಷಿಣ ಸ.ನಂ.*	
1	*2*	*3*	*4*	*5*	*6*	*7*	*8*	*9*	*10*	*11*	*11*	*13*
40	***464***	*ನಿಂಗ ಉ॥ ಜವರ*	***3-16***		***0–16***	***3–32***	***2–59***	***460***	*ದೇವಸೂರು ಗಡಿ*	***467***	***461***	***3–32***

ಘೋಶ್ವಾರೆ

ಕ್ರಮ ಸಂಖ್ಯೆ	*ಗ್ರಾಮ*	*ವಿಸ್ತೀರ್ಣ*
1	*ಕೆಸರೆ*	*258–23*
2	*ಹಂಚ್ಯಾ*	*79–00*
3	*ರಮ್ಮನಹಳ್ಳಿ*	*125–07*
	ಒಟ್ಟು	*462–30*

ಭಾಗ 9–ಎ ಜನವರಿ 14 1993 *(ಸಹಿ) ಆಯುಕ್ತರು*

ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ.ಮೈಸೂರು"

After the issuance of the preliminary notification, it is an admitted fact that a final notification comes to be issued on 20-08-1997.

Pursuant to the final notification, the amount of compensation was determined. A general award was passed on 31-10-1997 which was approved by the Deputy Commissioner on 12-03-1998 and the award notice later was issued on 30-03-1998. The award notice reads as follows:

Award notice

"ಅವಾರ್ಡ್ ನೋಟೀಸ್
(ಭೂಸ್ವಾಧೀನ ಕಾಯ್ದೆಯ ವಿಧಿ 12(2) ರಂತೆ)

ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು
ಸ್ಪೆಷಲ್ ಲ್ಯಾಂಡ್ ಅಕ್ವಿಜಿಷನ್ ಆಫೀಸ್‌ರವರ ಆಫೀಸಿನಿಂದ

ಮೈಸೂರು ತಾಲ್ಲೋಕು ಕೆಸರೆ ಗ್ರಾಮದಲ್ಲಿರುವ ನಿಂಗ ಉ. ಜವರ ನಿಗೆ ತಿಳಿಯಪಡಿಸುವುದೇನೆಂದರೆ:–

ಮೈಸೂರು ತಾಲ್ಲೋಕು ಕಸಬ ಹೋಬಳಿ ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.464 ಬ್ಲಾಕಿನ ಈ ಕೆಳಗೆ ಕಂಡ ಸ್ವತ್ತಿಗೆ ತಾರೀಖು 31–10–97 ರಲ್ಲಿ ಮಾಡಿರುವ ಆವಾರ್ಡನ್ನು ನಿಮ್ಮ ತಿಳುವಳಿ ಬಗ್ಗೆ ಈ ಕೆಳಗೆ ನಮೂದು ಮಾಡಿರುತ್ತೆ.

ಸ್ವತ್ತಿನ ತಪಸೀಲು	*ಅಕ್ವೈರು ಮಾಡಿಕೊಂಡಿರುವ ವಿಸ್ತೀರ್ಣ*	*ಮೊಬಲಗು*	
		ರೂ.	*ಪೈ*
ಕೆಸರೆ ಗ್ರಾಮ	*ಎ – ಗು*	*3,24,700*	*00*
ಸರ್ವೆ ನಂ.464	*3 – 16*		

*ಮೇಲ್ಕಂಡ ಸ್ವತ್ತಿಗೆ ಆವಾರ್ಡಾಗಿರುವ 3,24,700–00 ರೂಪಾಯಿಗಳನ್ನು ನೀವು ಈ ಆಫೀಸಿಗೆ ತಾರೀಖು 15–4–98 ರಂದು ಬೆಳಿಗ್ಗೆ 11 ಘಂಟೆಗೆ ಈ ಜಮೀನಿನ ದಾಖಲಾತಿಗಳ ಸ್ವತ್ತಿನ ಮೇಲಿನ ಕಂದಾಯ ವಗೈರೆ ಪಾವತಿ ಮಾಡಿರತಕ್ಕ ದಾಖಲಾತಿಗಳು ಮತ್ತು ಈ ಸ್ವತ್ತಿನ ತಹಲ್‌ವರೆಗಿನ 13 ವರ್ಷಗಳ ಬಾಬ್ತು ಸಬ್ ರಿಜಿಸ್ಟ್ರಾರ್‌ರವರ ಎನ್ಕಂಬರೆನ್ಸ್ ಸರ್ಟಿಫಿಕೆಟ್ ಸಮೇತ ಹಾಜರಾಗಿ ಮೊಬಲಗು ಪಡೆಯತಕ್ಕದ್ದು. ಮೇಲ್ಕಂಡ ಸ್ವತ್ತು ಪ್ರಾಧಿಕಾರದ ಕೆಲಸಗಳಿಗೆ ಬೇಕಾಗಿರುವುದರಿಂದ ಅದನ್ನು ಈ ನೋಟೀಸ್ ತಲುಪಿದ ಕೂಡಲೆ ದಿನಗಳೊಳಗಾಗಿ ಖಲಾಸುಮಾಡಿ ಇಲಾಖೆ ಮಜಕೂರಿಗೆ ಒಪ್ಪಿಸಿಕೊಡತಕ್ಕದ್ದು. ತಪ್ಪಿದಲ್ಲಿ ಲ್ಯಾಂಡ್ ಅಕ್ವಿಜಿಷನ್ ಕಾಯ್ದೆ ವಿಧಿ 16ನೇ ಸೆಕ್ಷನ್ ಮೇಲೆ ಸ್ವತ್ತು ಸ್ವಾಧೀನಕ್ಕೆ ತೆಗೆದುಕೊಳ್ಳಾಗುತ್ತದೆ. ಅಲ್ಲದೆ ಇತ್ತೀಚಿನ 3 ವರ್ಷದ **RTC & E.C** ದೃಢೀಕರಣ ಪತ್ರ ಕುಟುಂಬ ಸದಸ್ಯರ ಧೃಢೀಕರಣ ಪತ್ರ ಇತರೆ ದಾಖಲಾತಿ ಸಲ್ಲಿಸುವುದು.*

ತಾರೀಖು:30/3/98

ಸಹಿ/-
ಸ್ಪೆಷಲ್ ಲ್ಯಾಂಡ್ ಅಕ್ವಿಜಿಷನ್ ಆಫೀಸರ್
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು"

The afore-quoted notice called upon the owner of the property to produce the RTC, E.C. for the previous 3 years and in the even of failure of such production, possession would be taken under Section 16 of the Land Acquisition Act, 1894. Therefore, 3 events happen. On 18-09-1992 the preliminary notification is issued in terms of law; on 20-08-1997 the final notification and on 30-03-1998 determination of compensation and the notice of award. None came forward claiming compensation for the acquisition in reply to the award notice. MUDA then deposits the compensation amount before the jurisdictional civil Court. All that is necessary for a land acquisition to get complete did happen on the deposit of the award amount before the jurisdictional civil Court. This was done after following all the parameters, as necessary in law.

20. Between the dates of preliminary notification and final notification, it transpires that one Devaraju claiming to be the son of Ninga submits a representation to MUDA to drop Sy.No.464

measuring 3 acres 16 guntas from the acquisition proceedings. The communication dated 13-08-1996 reads as follows:

"ದಿನಾಂಕ:13–8–96.

ಇಂದ:
ಜಿ.ದೇವರಾಜು
ಬಿನ್ ಲೇಟ್ ಜವರಯ್ಯ
ರೋಡ್ ನಂ.3406
4ನೇ ಮುಖ್ಯರಸ್ತೆ
ಲಷ್ಕರ್ ಮೊಹಲ್ಲಾ
ಉದ್ಯನಗರ, ಮೈಸೂರು.

ಇವರಿಗೆ:
ಮಾನ್ಯ ನಗರಾಭಿವೃದ್ಧಿ ಸಚಿವರು
ಕರ್ನಾಟಕ ಸರ್ಕಾರ
ವಿಧಾನಸೌಧ, ಬೆಂಗಳೂರು–1.

ಮಾನ್ಯರೇ,

ವಿಷಯ: ಮೈಸೂರು ತಾಲ್ಲೂಕು ಕಸಬಾ ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.462ರಲ್ಲಿ 0.37, ಸರ್ವೆ ನಂ.464ರಲ್ಲಿ 3–16 ಜಮೀನು 14.13 ಅನ್ನು ಭೂಸ್ವಾಧೀನ ಕ್ರಮದಿಂದ ಕೈಬಿಡುವ ಬಗ್ಗೆ.

ನನಗೆ ಮೈಸೂರು ತಾಲ್ಲೂಕು ಕಸಬಾ ಹೋಬಳಿ ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.462ರಲ್ಲಿ 0.37 ಮತ್ತು ಸರ್ವೆ ನಂ.464ರಲ್ಲಿ 3.16 ಗುಂಟೆ ಖುಷ್ಕಿ 4.13 ಗುಂಟೆ ಖುಷ್ಕಿ ಜಮೀನು ನನ್ನ ತಂದೆಯವರಿಂದ ಪಿತ್ರಾರ್ಜಿತವಾಗಿ ಬಂದಿದ್ದು, ಹಾಲಿ ನನ್ನ ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿದ್ದು, ನಾನು ಸದರೀ ಜಮೀನನ್ನು ನಂಬಿ ಕೃಷಿಯಿಂದ ಜೀವನ ನಿರ್ವಹಣೆ ಮಾಡುತ್ತಿದ್ದೇನೆ. ಮೇಲ್ಕಂಡ ಜಮೀನು ಬಿಟ್ಟು ನನಗೆ ಬೇರೆ ಎಲ್ಲಿಯೂ ಸಹಿತ ಯಾವುದೇ ವಿಧವಾದ ಜಮೀನು ವೆಗೈರೆ ಇರುವುದಿಲ್ಲ. ನನಗೆ ನಾಲ್ಕು ಜನ ಗಂಡು ಮಕ್ಕಳುಗಳಿದ್ದು ಅವರೆಲ್ಲರೂ ನಿರುದ್ಯೋಗಿಗಳಾಗಿರುತ್ತಾರೆ. ಪ್ರಸ್ತಾವಿತ ಖುಷ್ಕಿ ಜಮೀನನ್ನು ಸುಮಾರು 10 ಹುಣಸೇಮರ, ಮಾವಿನಮರಗಳು–12, ಹೊಂಗೆಮರ ಸುಮಾರು 25, ಹತ್ತು ವರ್ಷದ ತೆಂಗಿನ ಮರ ಸುಮಾರು 12 ಇರುತ್ತದೆ. ಸದರೀ ಜಮೀನನ್ನು ತಾವುಗಳೇನಾದರೂ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಬಡಾವಣೆಯ ಉದ್ದೇಶಕ್ಕಾಗಿ ಭೂ ಸ್ವಾಧೀನ ನಡವಳಿ ನಡೆದಿದ್ದು ಪತ್ರದಲ್ಲಿ ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಟ್ಟು ನಾವುಗಳು ಕೃಷಿ ಜೀವನವನ್ನು ಮುಂದುವರೆಸಲು ಅವಕಾಶ ಮಾಡಿಕೊಡಬೇಕೆಂದು ಪ್ರಾರ್ಥಿಸುತ್ತೇನೆ.

ವಂದನೆಗಳೊಂದಿಗೆ,

ತಮ್ಮ ವಿಶ್ವಾಸಿ,
ಸಹಿ/–
(ಜಿ.ದೇವರಾಜು)"

MUDA did not act on this, but went on with the acquisition process. After the final notification was over, it transpires MUDA on 30-08-1997 drew up some proceedings with regard to dropping of the subject land from acquisition. The proceedings dated 30-08-1997 reads as follows:

"ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು.

ನಂ.ಎಲ್ಎಕ್ಯೂ(4)ಸಿಆರ್:48:96–97 *ತಾ॥30–8–1997*

ಗೇ:

ಕಾರ್ಯದರ್ಶಿಯವರು
ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ,
ಕರ್ನಾಟಕ ಸರ್ಕಾರ,
ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ,
ಡಾ:ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ ವೀಧಿ,
ಬೆಂಗಳೂರು.

ಮಾನ್ಯರೇ,

ವಿಷಯ: ಮೈಸೂರು ತಾ:ಕೆಸರೆ ಗ್ರಾಮಕ್ಕೆ ಸೇರಿದ ಸರ್ವೆ ನಂ.462ರಲ್ಲಿ 37 ಗುಂಟೆ ಸರ್ವೆ ನಂ.464ರಲ್ಲಿ 3 ಎಕರೆ 16 ಗುಂಟೆ ಒಟ್ಟು 4 ಎಕರೆ 13 ಗುಂಟೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡುವ ಬಗ್ಗೆ.

:–:

ಉಲ್ಲೇಖ: 1. ತಮ್ಮ ಪತ್ರ ಸಂಖ್ಯೆ ನಆಇ 499: ಆಪ್ರಾನಿ 96 ದಿನಾಂಕ:3–9–96
2. ಪ್ರಾಧಿಕಾರದ ನಿರ್ಣಯ ಸಂಖ್ಯೆ 20, ದಿನಾಂಕ: 24–7–97

:–:

ದಿ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಈ ಪ್ರಕರಣವನ್ನು ಪ್ರಾಧಿಕರದ ಮುಂದೆ ಮಂಡಿಸಲಾಯಿತು. ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್ 462ರಲ್ಲಿ 37 ಗುಂಟೆ ಸರ್ವೆ ನಂಬರ್ 464ರಲ್ಲಿ 3 ಎಕರೆ 16 ಗುಂಟೆ ಒಟ್ಟು 4 ಎಕರೆ 13 ಗುಂಟೆ ಜಮೀನು ಪ್ರಾಧಿಕಾರದ ಬಡಾವಣೆಯ ಕೊನೆಯ ಭಾಗದಲ್ಲಿ ಬರುತ್ತದೆಂದು ಸದರಿ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಟ್ಟಲ್ಲಿ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಯಾವುದೇ ತೊಂದರೆ ಯಾಗದೆ ಇರುವುದನ್ನು ಮನಗಂಡು, ಹಾಗೂ ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ವಾಟರ್ ಸಪ್ಲೈ ಪೈಪ್‌ಲೈನ್‌ಗಳು ಹಾದು ಹೋಗುವ ಸಾಧ್ಯತೆ ಇದೆಯೇ, ಒಂದು ವೇಳೆ ಯಾವುದೇ ಯೋಜನೆಗೆ ದಕ್ಕೆ ಯಾಗದೆ ಇದ್ದಲ್ಲಿ ಅರ್ಜಿದಾರರ ಜಮೀನುಗಳನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡುವ ಬಗ್ಗೆ ಸರ್ಕಾರಕ್ಕೆ ಶಿಫಾರಸ್ಸು ಮಾಡಬಹುದೆಂದು ತೀರ್ಮಾನಿಸಲಾಗಿದೆ.

ಕರ್ನಾಟಕ ನಗರ ನೀರು ಸರಬರಾಜು ಮತ್ತು ಒಳಚರಂಡಿ ಮಂಡಳಿಯ ಸಂಬಂಧಪಟ್ಟ ಅಧಿಕಾರಿಗಳ ಜೊತೆಯಲ್ಲಿ ಸ್ಥಳ ತನಿಖೆ ಮಾಡಿದ್ದು, ಸ್ಥಳ ತನಿಖಾ ವರದಿಯನ್ನು ಈ ಕೂಡ ಲಗತ್ತಿಸಿದೆ. ಸದರಿ ಜಮೀನುಗಳು ಕೆ.ಯು.ಡಬ್ಲ್ಯೂ.ಎಸ್.ನ ಯಾವುದೇ ಮೇಜರ್ ಪ್ಲಾನ್ ಇನ್ನು ತಯಾರಾಗಿಲ್ಲವೆಂದು ಮತ್ತು ಮೇಳಾಪುರ ನೀರು ಸರಬರಾಜಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಈ ಭಾಗದಲ್ಲಿ ಇನ್ನೂ ಯವುದೇ ಯೋಜನೆಗಳಿಲ್ಲವೆಂದು ಹಾಗೂ ಇನ್ನು ಯಾವುದೇ ಯೋಜನೆಗಳು ತಯಾರಿಸಿಲ್ಲವೆಂದು ತಿಳಿಸಿರುತ್ತಾರೆ.

ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡುವ ಜಮೀನಿನ ವಿವರತೋರಿಸುವ ನಕ್ಷೆ ಅಂತಿಮ ಅಧಿಸೂಚನೆಗಳ ಪ್ರತಿಗಳು, ಜಂಟಿ ಸ್ಥಳ ತನಿಖೆ ವರದಿ ಎಲ್ಲಾ ಮಾಹಿತಿಗಳನ್ನು ನಿಯಮಿತ ನಮೂನೆಯಲ್ಲಿ ಸಲ್ಲಿಸಲಾಗಿದೆ. ಸದರಿ ಜಮೀನುಗಳನ್ನು ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಡಲು ಒಪ್ಪಿರುವುದರಿಂದ ಯೋಜನೆ ನಿರ್ಮಾಣಕ್ಕೆ ತೊಂದರೆಯಾಗುವುದಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯದೊಡನೆ ವರದಿಯನ್ನು ಸರ್ಕಾರಕ್ಕೆ ಮುಂದಿನ ಕ್ರಮಕ್ಕಾಗಿ ಸಲ್ಲಿಸಲಾಗಿದೆ.

ತಮ್ಮ ನಂಬುಗೆಯ
ಸಹಿ/–30/8"

"No.UDD 499 MIB 96

<u>Brief Note</u>

The Mysore Urban Dev. Authority has resolved in its meeting held on 24-7-97 to recommend to Govt., to drop the Acqn. Proceedings in r/o land measuring 0-37gt., in sy.no.462 and an extent of 3A-16gt., in sy.no.464 of Kesare village (total 4A-13 Guntas), This land is at one end of the layout.

2. In respect of sy.no.462 of Kesare village measuring an extent of 0-37gt., final notification under section 19(1) of KUDA Act-1987 has been issued vide No.UDD 719 MIB 93 dt.16-4-94. In respect of sy.no.464 measuring an extent of 3A-16gt., final notification has been issued vide No.UDD/557/MIB/96 dtd.20-8-1997.

3. The SLAO, MUDA along with the other officers of K.U.W.S.S.B., has visited the spot and found that KUWSSB has not prepared any major plan in these lands, No plans have been prepared for Melapura Water Supply Scheme. The Authority has also opined that if the land in question is denotified the scheme does not get affected.

4. It is intimated that in these cases the award has not been passed and possession of the land has not been taken U/S 16(2) of L.A.Act.

5. In view of the above facts, the matter is placed before the Committee to take a decision regarding denotification as recommended by the MUDA."

Based upon the said proceeding and notwithstanding the fact that the amount of award was also deposited before the jurisdicational civil Court, the land comes to be denotified. This is, on the face of it, an illegal act on the part of the State. The order of denotification dated 18-05-1998 reads as follows:

"ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರ
ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ 133 ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಜೂನ್ 4 1998 (ಜ್ಯೇಷ್ಠ 14, ಶಕ ವರ್ಷ 1920) ಸಂಚಿಕೆ 23

ಭಾಗ 3–ಸೆಕ್ಷನ್ 1
ಶಾಸನಬದ್ಧವಲ್ಲದ ಆದರೆ ಜಮೀನು ಸಂಗ್ರಹಣ ಶಾಸನದ ಮೇರೆಗೆ ಹೊರಡಿಸಿದ ಅಧಿಸೂಚನೆಗಳ ಸಹಿತವಾಗಿ
ಸರ್ಕಾರದ ಅಧಿಸೂಚನೆಗಳು ನಗರಾಭಿವೃದ್ಧಿ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ
ಸಂಖ್ಯೆ: ನಅಇ/499/ಅಪ್ರಾವಿ/96, ಬೆಂಗಳೂರು ದಿನಾಂಕ 18ನೇ ಮೇ 1998

ಕರ್ನಾಟಕ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರಿಗಳ ಕಾಯಿದೆ 1987ರ ಕಲಂ 19(7) ಮತ್ತು ಭೂ ಸ್ವಾಧೀನ ಕಾಯಿದೆ 1894ರ ಕಲಂ 48(1)ರಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರವನ್ನು ಚಲಾಯಿಸಿ, ಕರ್ನಾಟಕ ಸರ್ಕಾರವು ಕರ್ನಾಟಕ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ಕಾಯಿದೆ 1987ರ ಅಧಿನಿಯಮ 19(1)ರನ್ವಯ ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಯೋಜೆಗೆ (ದೇವನೂರು 3ನೇ ಹಂತ) ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಳ್ಳಲು ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ ನ.ಅ.ಇ. 557 ಅಪ್ರಾವಿ 96, ದಿನಾಂಕ: 20ನೇ ಆಗಸ್ಟ್ 1997ರಲ್ಲಿ ಪ್ರಕಟಿಸಲಾದ ಜಮೀನುಗಳ ಪೈಕಿ ಈ ಕೆಳಗಿನ ಅಧಿಸೂಚನೆಯಲ್ಲಿ ಸೂಚಿಸಿರುವ ಜಮೀನುಗಳನ್ನು ಭೂಸ್ವಾಧೀನ ಕ್ರಮದಿಂದ ಕೈಬಿಡಲಾಗಿದೆ.

ಅನುಸೂಚಿ

ಜಿಲ್ಲೆ: ಮೈಸೂರು ತಾಲ್ಲೂಕು: ಮೈಸೂರು ಗ್ರಾಮ: ಕೆಸರೆ

ಕ್ರಮ. ಸಂಖ್ಯೆ	ಸರ್ವೆ ನಂ.	ಖಾತೆದಾರರ ಹೆಸರು	ಮುಷ್ಕಿ ಎ. ಗುಂ	ದಾಗಾಯ್ತು	ಖರಾಬು ಎ. ಗುಂ	ಒಟ್ಟು ವಿಸ್ತೀರ್ಣ ಎ. ಗುಂ	ಚೆಕ್ಕುಬಂದಿ				ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಟ್ಟ ವಿಸ್ತೀರ್ಣ ಎ. ಗುಂ
							ಪೂರ್ವ	ಪಶ್ಚಿಮ	ಉತ್ತರ	ದಕ್ಷಿಣ	
1)	464	ನಿಂಗ ಉರುಫ್ ಜವರ	3–16	–	0–16	3–32	460	ದೇವನೂರು ಗ್ವಡಿ	467, 461	454	3–16

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ
ಸಿದ್ದರಾಮಯ್ಯ
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ."

Notwithstanding the aforesaid denotification, an individual award is determined in favour of the khatedar on 15-02-1999. The determination of individual awarded dated 15-02-1999 reads as follows:

"ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ಕಛೇರಿ
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು

ಸಂಖ್ಯೆ: ಎಲ್.ಎ.ಸಿ.40/97–98 ದಿನಾಂಕ:15.2.99

ವೈಯಕ್ತಿಕ ಅವಾರ್ಡ್ ನಿರ್ಣಯ

ವೈಯಕ್ತಿಕ ಅವಾರ್ಡ್ ನಿರ್ಣಯ ಸಂಖ್ಯೆ 40 ದಿನಾಂಕ 15.2.99 ಯೋಜನೆಯ ಹೆಸರು ದೇವನೂರು 3ನೇ ಹಂತದ ಬಡಾವಣೆಯ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆಯ ಸಂಖ್ಯೆ ಪುಭೂಸ್ವಾ 48/92–93 ದಿನಾಂಕ 18–9–92 ಅಂತಿಮ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ ನಆಇ 557 ಅಪ್ರವಿ 96 ದಿನಾಂಕ 20.8.97 ಸಾಮಾನ್ಯ ಆವಾರ್ಡ್ ನಿರ್ಣಯ ಸಂಖ್ಯೆ ಎಲ್ಎಕ್ಯೂ.ಕಾ.ಸಿ.ಆರ್.48/92–93 ದಿನಾಂಕ 31.10.97 ಸಾಮಾನ್ಯ ಆವಾರ್ಡ್ ನಿರ್ಣಯ ಸರ್ಕಾರ: ವಿಭಾಗಾಧಿಕಾರಿಯ:ಜಿಲ್ಲಾಧಿಕಾರಿಗಳ ಮಂಜೂರಾಧಿ ಆದೇಶ ಸಂಖ್ಯೆ ನಆಇ 21 ಎಂಐಟಿ 98 ದಿನಾಂಕ 12.3.98.

ಮೈಸೂರು ತಾಲ್ಲೂಕು ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.464 ವಿಸ್ತೀರ್ಣ 3 ಎಕರೆ 16 ಗುಂಟೆವುಳ್ಳ ಜಮೀನನ್ನು ದೇವನೂರು 3ನೇ ಹಂತ ಯೋಜನೆಗೆ ಭೂಸ್ವಾಧೀನಪಡಿಸುವ ನಡವಳಿಕೆ ನಡೆದಿದ್ದು, ಮೇಲಿನ ಆದೇಶದಂತೆ ಸಾಮಾನ್ಯ ಆವಾರ್ಡ್ ನಿರ್ಣಯ ತಯಾರಿಸಿ ಅನುಮೋದನೆಗೆ ಸರ್ಕಾರಕ್ಕೆ: ಜಿಲ್ಲಾಧಿಕಾರಿಯವರಿಗೆ: ವಿಭಾಗಾಧಿಕಾರಿಯವರಿಗೆ ಸಲ್ಲಿಸಲಾಗಿ ಸದರಿಯವರಿಂದ ಮೇಲಿನಂತೆ ಅವಾರ್ಡ್ ಮಂಜೂರಾಗಿರುತ್ತದೆ. ಅದರಂತೆ ಜಮೀನಿನ ಪರಿಹಾರಧನ ವಿವರ ಈ ಕೆಳಕಂಡಂತೆ ಇರುತ್ತದೆ.

ಪರಿಹಾರವಿವರ

ಗ್ರಾಮ	ಕೆಸರೆ
ಸರ್ವೆ ನಂ.	464
ತರಹೆ	ಮಿಷ್ಕಿ
ಭೂಸ್ವಾಧೀನಪಡಿಸಿದ ವಿಸ್ತೀರ್ಣ	3 ಎಕರೆ 16 ಗುಂಟೆ
ಜಮೀನು ಬೆಲೆ ಎಕರೆ 1ಕೆ ರೂ.50,000=00ರೂ ನಂತೆ	3 ಎಕರೆ 16 ಗುಂಟೆಗೆ
ಒಟ್ಟು ಜಮೀನಿನ ಮೊಬಲಗು ರೂ.	1,70,000=00
ಶೇಕಡ 30ರ ಶಾಸನಬದ್ಧ ಭತ್ಯೆ ರೂ.	51,000=00
ಶೇಕಡ 12ರ ಅಧಿಕ ಬೆಲೆ ರೂ.	
ದಿನಾಂಕ 18.9.92 ರಿಂದ 18.10.97 ರವರೆವಿಗೆ	1,03,700=00
ಶೇಕಡ 9ರ ಬಡ್ಡಿ ದಿನಾಂಕ-----	
ರಿಂದ ರೂ.------ರವರೆಗೆ	–
ಶೇಕಡ 15ರ ಬಡ್ಡಿ ದಿನಾಂಕ-------	
ರಿಂದ ರೂ.------ರವರೆಗೆ	–
ಮಾಲ್ಕಿ ಬೆಲೆ ರೂ.	–

ಒಟ್ಟು ಜುಮ್ಲಾ ರೂ.3,24,700=00	

ರೂ.Three lakhs twenty four thousand seven hundred only

ಸಾಮಾನ್ಯ ಅವಾರ್ಡ್ ನಿರ್ಣಯದ ಪ್ರಕರಣದಲ್ಲಿ ಈ ಕೆಳಕಂಡವರು ಅವಾರ್ಡ್‌ದಾರರಾಗಿರುತ್ತಾರೆ.

ಸರ್ವೆ ನಂ.	ವಿಸ್ತೀರ್ಣ ಎ. ಗುಂ.	ಖಾತೆದಾರರು: ಅವಾರ್ಡ್‌ದಾರರು ಶ್ರೀ.ನಿಂಗ ಉ॥ ಜವರ
464	3–16	

ಮಲ್ಲಯ್ಯ ರವರು ದಿನಾಂಕ 18.4.98 ರಂದು ಅವಾರ್ಡ್ ನೋಟೀಸನ್ನು ಪಡೆದಿರುತ್ತಾರೆ. ಈವರೆವಿಗೂ ಯಾರೂ ಸಹ ದಾಖಲೆಗಳನ್ನು ಸಲ್ಲಿಸಿ ಹಕ್ಕು ದೃಢೀಕರಿಸಿ ಪರಿಹಾರ ಹಣ ಪಡೆದಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಭೂಸ್ವಾಧೀನ ಕಾಯ್ದೆ ಕಲಂ 31(2) ರ ಅನ್ವಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಠೇವಣಿ ಮಾಡಲು ತೀರ್ಮಾನಿಸಲಾಗಿದೆ.

ಸಹಿ/–
ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿ
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ
ಮೈಸೂರು."

The individual award notice would clearly indicate that despite Mallaiah or Mylaraiah who has received the notice on 18-04-1998 has not come forward to claim compensation, therefore in terms of

Section 31(2) of the Land Acquisition Act, the amount is deposited before the jurisdictional civil Court. Here lies the choke. If the land had been denotified, why at all did MUDA, after such denotification determine individual award. The MUDA does not stop at that, continues to form the layout and distributes sites in favour of allottees. From 1998 till 31-12-2003, the owner of Sy.No.464 is shown as MUDA. The Encumbrance Certificate also reflects the name of MUDA. Upto the date of acquisition, it reflected the name of Mylaraiah. Nowhere it reflected the name of Devaraju.

21. Here springs into the picture the family of the Chief Minister. One Devaraju who claiming to be the son of Ninga, executed a sale deed in favour of B.N. Mallikarjunaiah. B.N. Mallikarjunaiah is the brother-in-law of the petitioner. The sale deed is executed on 25-08-2004, by then, on 15-06-2004 sites were formed, areas were demarcated for park and other amenities and several sites had already been distributed to the allottees, they were 19 in number. The names of the allottees and the dates of distribution are as follows:

"ಕೆಳಕಂಡಂತೆ ನಿವೇಶನಗಳನ್ನು ಮಂಜೂರು ಮಾಡಿ ಕ್ರಯಪತ್ರಗಳನ್ನು ಈಗಾಗಲೇ ನೀಡಲಾಗಿದೆ.

ಕ್ರಮ ಸಂಖ್ಯೆ	ನಿವೇಶನ ಸಂಖ್ಯೆ	ಮಂಜೂರಾತಿದಾರರ ಹೆಸರು ಶ್ರೀ / ಶ್ರೀಮತಿ	ಕ್ರಯಪತ್ರ ನೀಡಿದ ದಿನಾಂಕ
1	263	ರಾಮಸ್ವಾಮಿ	29.12.2003
2	264	ಅನ್ನಪೂರ್ಣ	07.02.2006
3	283	ಬಿ.ಎಸ್.ಗೋವಿಂದಗೌಡ	17.10.2005
4	284	ರಾಮಸ್ವಾಮಿ	05.11.2003
5	285	ಪುರುಷೋತ್ತಮ ದಾಸ್	21.05.2005
6	287	ಪುಟ್ಟಲಿಂಗಮ್ಮ	06.01.2004
7	391	ಮಾಲತಿ ಸ್ವರ್ಣಬಾಯಿ	19.08.2005
8	392	ರಾಘವೇಂದ್ರಚಾರ್	30.07.2009
9	366	ಪೂರ್ಣಿಮಾ	20.09.2004
10	367	ಜೀವನ್	19.02.2007
11	368	ನಿಶ್ಚಲ ಪ್ರಕಾಶ್	28.03.2005
12	369	ಕೆ.ಬಿ.ಪುಣ್ಣಚ್ಚ	19.02.2006
13	396	ಚೋಟೋ ಸಾಬ್	13.04.2005
14	397	ಪ್ರದೀಪ್ ಕುಮಾರ್	24.08.2005
15	398	ಚನ್ನಪ್ಪ	19.12.2004
16	399	ಶಿವಣ್ಣ	12.01.2005
17	400	ಪದ್ಮ	15.06.2004
18	422	ಜಯಮ್ಮ	31.05.2005
19	423	ಶಿವಕುಮಾರ್	27.05.2004"

It now becomes interesting to notice the sale deed executed by one Devaraju, in favour of the brother-in-law of the petitioner on 25-08-2004. It reads as follows:

"ಸ್ಥಿರ ಸ್ವತ್ತಿನ ಶುದ್ಧ ಕ್ರಯ ಪತ್ರ

ದಿನಾಂಕ:25–08–2004

ಸನ್ ಎರಡು ಸಾವಿರದ ನಾಲ್ಕನೇ ಇಸವಿ ಆಗಸ್ಟ್ ಮಾಹೇ ತಾರಿಖು ಇಪ್ಪತ್ತೈದರಲ್ಲೂ ಮೈಸೂರು ಸಿಟಿ, ಚಾಮರಾಜ ಮೊಹಲ್ಲಾ, ಕುವೆಂಪುನಗರ, ಟಿ.ಕೆ.ಲೇಔಟ್ 4ನೇ ಹಂತ, 3ನೇ ಕ್ರಾಸ್, ಮನೆ ನಂ: 1245 ರಲ್ಲಿ ವಾಸವಾಗಿರುವ ಶ್ರೀ ಮರಿಲಿಂಗಯ್ಯರವರ ಮಗ ಶ್ರೀ ವಿ.ಎಂ ಮಲ್ಲಿ ಕಾರ್ಜುನಸ್ವಾಮಿ ರವರಿಗೆ,

ಬೆಂಗಳೂರು ಸಿಟಿ, ಕೆ.ಎಸ್. ಟೌನ್, 10ನೇ ಕ್ರಾಸ್, 1ನೇ ಮುಖ್ಯ ರಸ್ತೆ, ಮನೆ ನಂ.117ರಲ್ಲಿ ವಾಸವಾಗಿರುವ ಶ್ರೀ** ಜವರ ರವರ ಮಗ **ಶ್ರೀ. ಜೆ. ದೇವರಾಜು ಒಂದು ನನ್ನ ಧರ್ಮಪತ್ನಿ ಶ್ರೀಮತಿ ಎಂ. ಸರೋಜಮ್ಮ, ಮತ್ತು ನಮ್ಮಗಳ ಮಕ್ಕಳುಗಳಾದ ಒಂದನೇ ಮಗಳು ಡಿ. ಶೋಭಾ, ಎರಡನೇ ಮಗ ಡಿ. ದಿನಕರ್ ರಾಜ್, ಮೂರನೇ ಮಗಳು ಡಿ. ಪ್ರಭಾ, ನಾಲ್ಕನೇ ಮಗಳು ಡಿ. ಪ್ರತಿಭಾ,** ಐದನೇ ಮಗ **ಡಿ, ಶಶಿಧರ್ ಆದ ನಾವುಗಳು ಸೇರಿ ಬರೆಸಿಕೊಟ್ಟ ಶುದ್ಧ ಕ್ರಯಪತ್ರದ ಕ್ರಮವೇನೆಂದರೆ,

ಪೆಡ್ಯೂಲ್‌ನಲ್ಲಿ ನಮೂದು ಮಾಡಿರುವ ಸ್ವತ್ತು ನಮಗೆ ಪಿತ್ರಾರ್ಜಿತವಾಗಿ ಬಂದು, ನಮ್ಮಗಳ ಪೈಕಿ ಒಂದನೇ ಜೆ. ದೇವರಾಜು ಆದ ನನ್ನ ಹೆಸರಿನಲ್ಲಿ ಖಾತೆ ಹೊಂದಿದ್ದು, ಶಹಲ್‌ವರೆವಿಗಿನ ಕಂದಾಯವನ್ನು ಕಟ್ಟಿಕೊಂಡು ಹಾಲೀ ನಮ್ಮ ಸಂಪೂರ್ಣ ಮಾಲೀಕತ್ವ ಮತ್ತು ಹಕ್ಕು ಬಾಧ್ಯತೆಗೆ ಸೇರಿ ಸ್ವಾಧೀನಾಮಭವದಲ್ಲಿರುವ ಸ್ವತ್ತಾಗಿರುತ್ತದೆ.

ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ನಾವು ನಮ್ಮ ಇಷ್ಟಾನುಸಾರ ವಿಕ್ರಯಿಸಲು ಸಂಪೂರ್ಣ ಸ್ವತಂತ್ರರಾಗಿಯೂ ಕಾನೂನು ಪ್ರಕಾರ ಹಕ್ಕುಳ್ಳವರಾಗಿಯೂ ಸಹಾ ಇರುತ್ತೇವೆ. ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿಗೆ ನಾವಲ್ಲದೆ ಮತ್ತಾರು ವಾರಸುದಾರರು ಹಕ್ಕು ಪಡೆಯುವವರು ಸಹ ಇರುವುದಿಲ್ಲ.

ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ನಮ್ಮ ದರದು ನಿಮಿತ್ತ ಅಂದರೆ ನಮ್ಮ ಕೈಸಾಲ ತೀರಿಸಲು ಮತ್ತು ಗೃಹಕೃತ್ಯದ ಖರ್ಚಿಗಾಗಿ ಹಣದ ಅವಶ್ಯಕತೆ ಇರುವುದರಿಂದ ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಭಾರತ ಸರ್ಕಾರದಲ್ಲಿ ಚಲಾವಣೆಯಲ್ಲಿರುವ ನಗದು ಗೌರಮೆಂಟ್ ರೂ. 5,95,000/- (ಐದು ಲಕ್ಷದ ತೊಂಭತ್ತೈದು ಸಾವಿರ ರೂಪಾಯಿ) ಗಳಿಗೆ ಶುದ್ಧ ಕ್ರಮಕ್ಕೆ ಕೊಟ್ಟಿರುತ್ತೇವೆ.

ಕ್ರಯದ ಪ್ರತಿಫಲದ ಮೊಬಲಗು ರೂ. 5,95,000/- (ಐದು ಲಕ್ಷದ ತೊಂಭತ್ತು ಸಾವಿರ ರೂಪಾಯಿ) ಗಳನ್ನು ಈ ಕೆಳಕಂಡ ಸಾಕ್ಷಿಗಳ ಸಮಕ್ಷಮ ಪಡೆದುಕೊಂಡಿರುತ್ತೇವೆ. ಈ ರೀತಿಯಾಗಿ ಕ್ರಯದ ಪೂರ್ಣ ಮೊಬಲಗು ಸಂದಾಯವಾಗಿರುತ್ತದೆ. ಈ ಕ್ರಯದ ವ್ಯವಹಾರನ್ನಾಗಿ ಮತ್ಯಾವ ಪ್ರತಿಫಲ ಬಾಕಿ ಬರಬೇಕಾಗಿಸುವುದಿಲ್ಲ.

ಕ್ರಯದ ಸ್ವತ್ತಿನ ಸ್ವಾಧೀನವನ್ನು ಸರ್ವಮಾಲೀಕತ್ವದೊಡನೆ ಈ ದಿವಸದೇ ನಿಮ್ಮ ಸ್ವಾಧೀನಕ್ಕೆ ಬಿಟ್ಟು ಕೊಟ್ಟಿರುತ್ತೇವೆ. ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನಲ್ಲಿ ನಮಗಿರುವಂತಹ ಆಸಕ್ತಿ ವಿಶಿಷ್ಟ ಹಕ್ಕು ಬಾಧ್ಯತೆಗಳನ್ನು ಸಹಾ ವಹಿಸಿರುತ್ತೇವೆ. ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಪಟ್ಟ ಎಲ್ಲಾ ಅಸಲು ಕಾಗದಪತ್ರಗಳನ್ನು ನಿಮ್ಮ ವಶಕ್ಕೆ ಕೊಟ್ಟಿರುತ್ತೇವೆ.

ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿಗೆ ಈ ದಿನದ ಲಾಗಾಯ್ತು ನೀವೇ ಸಂಪೂರ್ಣ ಮಾಲೀಕರಾಗಿ ಹಕ್ಕುದಾರರಾಗಿ ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಎಲ್ಲಾ ವಿಧದ ಖಾತೆಗಳನ್ನು ನಿಮ್ಮ ಹೆಸರಿಗೆ ವರ್ಗಾಯಿಸಿಕೊಂಡು ನಿಮ್ಮ ಇಷ್ಟಾನುಸಾರ ಕ್ರಯ, ದಾನ. ಪರಿವರ್ತನೆಗಳೆಂಬ ವ್ಯವಹಾರಗಳಲ್ಲಿ ಸ್ವತಂತ್ರರಾಗಿ ವ್ಯವಹರಿಸಲು ಬಾಧ್ಯರಾಗಿ ನಿಮ್ಮ ಪುತ್ರ ಪೌತ್ರ ವಂಶಪಾರಂಪರಯವಾ ಎಲ್ಲಾ ಕಾಲಕ್ಕೂ ಸುಖವಾಗಿ ಅನುಭವಿಸಿಕೊಂಡು ಬರುವುದು.

ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತು ಪರಧಾರೆ, ಜೀವನಾಂಶ, ಭಾಗಾಂತ, ನ್ಯಾಯಾಲಯಗಳ ಜಪ್ತಿಗಳಿಗೆ ಇತರ ಹಕ್ಕುಗಳಿಗೆ ಮತ್ತು ಮೈನರ್ ಹಕ್ಕುಗಳಿಗೆ ಈಡಾಗಿರುವುದಿಲ್ಲವೆಂದು ಪೂರ್ಣ ನಂಬಿಕೆ ಮತ್ತು ಭರವಸೆಯನ್ನು ಕೊಟ್ಟಿರುತ್ತೇವೆ. ಶೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ವಿಚಾರದಲ್ಲಿ ಯಾವುದೇ ವಿಧವಾದ ತಂಟೆ ತಕರಾರುಗಳು ಕಂಡುಬಂದಲ್ಲಿ ಅದನ್ನು ನಾವೇ ನಮ್ಮ ಸ್ವಂತ ಖರ್ಚಿನಿಂದ ಪರಿಹರಿಸಿಕೊಡುತ್ತೇವೆ. ತಪ್ಪಿದಲ್ಲಿ, ಆದರಿಂದ ನಿಮಗೆ ಉಂಟಾಗ ಬಹುದಾದ ವಿಶಿಷ್ಟ, ಖರ್ಚು ವೆಚ್ಚ ನಷ್ಟ ಸಹಾ ನಮ್ಮಿಂದಲೂ ನಮ್ಮ ಇತರ ಚರ ಸ್ಥಿರ ಆಸ್ತಿಗಳಿಂದ ಸೂಲು ಮಾಡಿಕೊಳ್ಳಬಹುದು.

ಕ್ರಯದ ಸ್ವತ್ತಿನಲ್ಲಿ ಇಲ್ಲಿಂದ ಮುಂದೆ ನಮಗಾಗಲೀ ನಮ್ಮ ಪರ ಮತ್ತಾರಿಗೂ ಆಗಲಿ ಯಾವ ವಿಧವಾದ ಹಕ್ಕು ಬಾಧ್ಯತೆಗಳೂ ಸಹ ಇರುವುದಿಲ್ಲ ಎಂದು ಒಪ್ಪಿ ಬರೆಸಿಕೊಟ್ಟ ಸ್ಥಿರಸ್ವತ್ತಿನ ಶುದ್ಧ ಕ್ರಯಪತ್ರ ಸಹಿ.

-:ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ವಿವರ :-

ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮಕ್ಕೆ ಸೇರಿದ ಸರ್ವೆ ನಂ. 464 ರಲ್ಲಿರುವ 3-16 (ಮೂರು ಎಕರೆ ಹದಿನಾರು ಗುಂಟು) ಖುಷ್ಕಿ ಜಮೀನಿಗೆ ಚೆಕ್ಕು ಬಂದಿ.

ಪೂರ್ವಕ್ಕೆ : ಸರ್ವೆನಂ, 462 ರ ಜಮೀನು ***ಪಶ್ಚಿಮಕ್ಕೆ: ಸರ್ವೆನಂ, 467 ರ ಜಮೀನು***
ಉತ್ತರಕ್ಕೆ : ಸರ್ವೆ ನಂ. 466 ರ ಜಮೀಮ ***ದಕ್ಷಿಣಕ್ಕೆ: ಸರ್ವೆ ನಂ. 462 ರ ಜಮೀನು***

ಈ ಮಧ್ಯೆ ಇರುವ 3-16 (ಮೂರು ಎಕರೆ ಹದಿನಾರು ಗುಂಟೆ) ಖುಷ್ಕಿ ಹಕ್ಕುಗಳೊಡನೆ ಶುದ್ಧ ಕ್ರಯಕ್ಕೆ ಕೊಟ್ಟಿರುತ್ತೇವೆ. ಎಂದು ಒಪ್ಪಿ ನಮ್ಮ ಆತ್ಮ ಸಂತೋಷದಿಂದಲೂ ಮತ್ತು ಖುದ್ದು ರಾಜಿಯಿಂದಲೂ ಬರೆದು ಕೊಟ್ಟ ಶುದ್ಧ ಕ್ರಯಪತ್ರ ಸಹಿ ಸದರಿ ಸ್ವತ್ತು ಸಿದ್ಧಲಿಂಗಪುರ ಗ್ರಾಮ ಪಂಚಾಯ್ತಿ ವ್ಯಾಪ್ತಿಗೆ ಬರುತ್ತದೆ."

(Emphasis supplied)

What is discernible from the sale deed is, none of the factors that have happened from 1992 are even noticed. Devaraju was aware

that the subject land was included in the preliminary notification; he was award that final notification also included his lands, as he had submitted representation for denotification. Passing of the award is also within the knowledge of Devaraju. Deliberately all these factors are suppressed and a sale deed is executed as if it is free from all history. It is interesting to notice the schedule to the sale deed. 3 acres 16 guntas of land in Sy.No.464 is shown as agricultural land, whereas 7 years ago, MUDA had formed the layout and one year prior to the sale deed, MUDA had distributed sites after formation of layout. I fail to understand how the land still remained as agricultural land after all these events. But, agricultural land, which ceases to be agricultural land, is shown to be purchased by the brother-in-law of the petitioner. The narration in the sale deed is that the vendor G.Devaraju has been paying taxes till the date of sale deed. This is another blush of illegality. After the brother-in-law of the petitioner coming into possession of the property, the brother-in-law applies for conversion of the property. The aforesaid order of conversion is on the basis of two inspection reports of the Tahsildar dated 05-03-2005 and the

Deputy Commissioner himself on 17-06-2005. The report reads as follows:

"ಸ್ಥಳ ತನಿಖಾ ಟಿಪ್ಪಣಿ

ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 464 ರಲ್ಲಿ 3-16 ಗುಂಟೆ ಜಮೀನಿನಲ್ಲಿ, ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ ಭೂಪರಿವರ್ತನೆ ಕೋರಿ ಶ್ರೀ ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುಸ್ವಾಮಿ ಬಿನ್ ಮರಿಲಿಂಗಯ್ಯ, ಮೈಸೂರು ಇವರು ಸಲ್ಲಿಸಿರುವ ಅರ್ಜಿಯ ಬಗ್ಗೆ ತಾ: 17-06-2005 ರಂದು ಸ್ಥಳ ತನಿಖೆ ನಡೆಸಿರುತ್ತೇನೆ. ತಾಲ್ಲೂಕು ತಹಶೀಲ್ದಾರರು ಹಾಗೂ ಇತರೇ ಸಿಬ್ಬಂದಿಯವರು ಹಾಜರಿದ್ದರು.

ಮೈಸೂರು ತಾಲ್ಲೂಕು ತಹಸೀಲ್ದಾರ್ ರವರ ಪತ್ರದ ನಂ.ಎ ಎಲ್‌ಎನ್ 134/04-05, ದಿನಾಂಕ : 05-03-2005ರ ಪ್ರಕಾರ ಪ್ರಸ್ತಾವಿತ ಜಮೀನು ಅರ್ಜಿದಾರರಿಗೆ ಕ್ರಯದ ಮೂಲಕ ಬಂದಿದ್ದು ಖಾತೆ ಆಗಿ, ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿರುತ್ತಾರೆ.

ಸ್ಥಳ ಪರಿಶೀಲನೆ ಸಮಯದಲ್ಲಿ ಕಂಡು ಬಂದಂತೆ, ಪ್ರಸ್ತಾವಿತ ಜಮೀನಿನ ಮೇಲೆ ವಿದ್ಯುತ್ ವಾಹಕ ತಂತಿ ಹಾದು ಹೋಗಿರುವುದಿಲ್ಲ. ಸದರಿ ಪ್ರದೇಶದಲ್ಲಿ ಮರ ಮಾಲ್ಕಿಗಳು ಇರುವುದಿಲ್ಲ. ಜಮೀನಿನಲ್ಲಿ ಅನಧಿಕೃತ ಕಟ್ಟಡಗಳು ಇರುವುದಿಲ್ಲ. ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು ರವರ ಪತ್ರದ ನಂ.ಎಲ್ ಎ ಕ್ಯೂ(6)ಸಿಆರ್ 48/96-97, ದಿನಾಂಕ: 03.09.1998 ರಂತೆ ಭೂಸ್ವಾಧೀನ ಕ್ರಮದಿಂದ ಕೈಬಿಡಲಾಗಿದೆ ಎಂದು ಹಿಂಬರಹ ನೀಡಿರುತ್ತಾರೆ ಹಾಗೂ ಪತ್ರದ ನಂ.ಮೈನಪ್ರಾ/ ನಯೋಳಭೂಬ/566/05-06 ದಿನಾಂಕ : 29.04.2005 ರಂತೆ ವಸತಿ ವಲಯಕ್ಕೆ ಕಾಯ್ದಿರಿಸಲಾಗಿರುತ್ತದೆ.

ಸ್ಥಳ ತನಿಖಾ ಸಮಯದಲ್ಲಿ ಕಂಡುಬಂದಂತೆ, ಪ್ರಸ್ತಾವಿತ ಪ್ರದೇಶವು ಸಮತಟ್ಟಾಗಿದ್ದು ವಸತಿ ಉದ್ದೇಶಕ್ಕೆ ಯೋಗ್ಯವಾಗಿರುತ್ತದೆ.

ಸಹಿ/–
ಜಿಲ್ಲಾಧಿಕಾರಿ,
ಮೈಸೂರು ಜಿಲ್ಲೆ, ಮೈಸೂರು."

(Emphasis supplied)

The narration in the spot inspection report by the Deputy Commissioner is, that there are no electric lines passing, no trees are grown, no structures have come up and the land has been

dropped from acquisition. It is ununderstandable, what did they inspect, as the very existence of agricultural land then was in doubt as by then, MUDA had formed sites and distributed sites to the allottees. What conversion from agriculture to residential was inspected is a mystery. A spot inspection actually took place or the report was drawn sitting in the airconditioned chambers, is to be enquired into. Even then, an official memorandum is issued granting conversion on 15-07-2005 by the Deputy Commissioner. It reads as follows:

"ಜಿಲ್ಲಾಧಿಕಾರಿಗಳ ಕಾರ್ಯಾಲಯ, ಮೈಸೂರು ಜಿಲ್ಲೆ,, ಮೈಸೂರು

ಸಂಖ್ಯೆ: ಎ.ಎಲ್.ಎನ್(1)190/2004–05 *ದಿನಾಂಕ: 15.07.2005*

ಅಧಿಕೃತ ಜ್ಞಾಪನ

ವಿಷಯ: ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ನಂ. 464 ರಲ್ಲಿ 3.16 ಎಕರೆ ವಿಸ್ತೀರ್ಣದ ವ್ಯವಸಾಯ ಜಮೀನನ್ನು ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ ಭೂಪರಿವರ್ತನೆ ಮಂಜೂರಾತಿ ಕೋರಿ ಶ್ರೀ ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ಬಿನ್ ಮರಿಲಿಂಗಯ್ಯ, ನಂ.1245, ಟಿ.ಕೆ.ಬಡಾವಣೆ, ಮೈಸೂರು ರವರು ಸಲ್ಲಿಸಿರುವ ಅರ್ಜಿಯ ವಿಚಾರ

ಉಲ್ಲೇಖ: 1. ರಾಜ್ಯ ಸರ್ಕಾರದ ಸುತ್ತೋಲೆಯ ಸಂಖ್ಯೆ ಆರ್.ಡಿ.7 ಎಲ್. ಜಿ. ಪಿ 95 ದಿನಾಂಕ 7.6.1999 ಮತ್ತು 7.6.2000.

2. ತಹಶೀಲ್ದಾರರು, ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಮೈಸೂರು.ರವರ ಪತ್ರದ ಸಂಖ್ಯೆ: ಎ.ಎಲ್. ಎನ್.1.ಸಿಆರ್.134/2004-05 ದಿನಾಂಕ: 5.3.2005.

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ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ನಂ. 464 ರಲ್ಲಿ 3.16 ಎಕರೆ ವಿಸ್ತೀರ್ಣದ ವ್ಯವಸಾಯ ಜಮೀನನ್ನು ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ ಭೂಪರಿವರ್ತನೆ ಮಂಜೂರಾತಿ ಕೋರಿ ಜಮೀನಿನ ಖಾತೆದಾರರಾದ ಶ್ರೀ ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ರವರು ಅರ್ಜಿ ಸಲ್ಲಿಸಿದ್ದು, ಉಲ್ಲೇಖ 2 ರ ಪತ್ರದಲ್ಲಿ ತಹಶೀಲ್ದಾರ್ ರವರು ಪ್ರಸ್ತಾವನೆ ಸಲ್ಲಿಸಿ ಉಲ್ಲೇಖ 1 ರ ರಾಜ್ಯ ಸರ್ಕಾರದ ಸುತ್ತೋಲೆಯಲ್ಲಿ ತಿಳಿಸಿರುವ ಎಲ್ಲಾ ಅಂಶಗಳಿಗೆ ವಿವರ ನೀಡಿ ಪ್ರಕರಣದ ಸರ್ವೆ ನಂಬರಿಗೆ ಜಮೀನನ್ನು ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ

ಬಳಸಲು ಭೂಪರಿವರ್ತನೆಯನ್ನು ಮಂಜೂರು ಮಾಡಲು ಗ್ರಾಮಸ್ಥರಿಂದ ಯಾವುದೇ ಆಕ್ಷೇಪಣೆ ಇಲ್ಲದೆ ಇರುವುದರಿಂದ ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ ಬಳಸಲು ಯೋಗ್ಯವಾಗಿರುವುದರಿಂದ ಅರ್ಜಿದಾರರ ಕೋರಿಕೆಯಂತೆ ವಸತಿ ಉದ್ದೇಶಕ್ಕೆ ಭೂ ಪರಿವರ್ತನೆ ಮಂಜೂರು ಮಾಡಲು ಶಿಫಾರಸ್ಸು ಮಾಡಿರುತ್ತಾರೆ.

ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ನಗರ ಯೋಜನಾ ಸದಸ್ಯರ ಪತ್ರದ ಸಂ. ಮೈನಪ್ರಾ. ನಯೋ.ಭೂಉ. 566/2005-06 ದಿನಾಂಕ 29.4.2005 ರಂತೆ ಪ್ರಸ್ತಾಪಿತ ಜಮೀನನ್ನು ವಸತಿ ಮತ್ತು ಉದ್ದೇಶಿತ ರಸ್ತೆ ಉದ್ದೇಶಕ್ಕೆ ಕಾಯ್ದಿರಿಸಿರುವುದಾಗಿ ಕಂಡು ಬರುತ್ತದೆ. ಹಾಗೂ ಈ ಪತ್ರದಲ್ಲಿ ವ್ಯವಸಾಯೇತರ ಉದ್ದೇಶಗಳಿಗೆ ಭೂಪರಿವರ್ತನೆ ಪಡೆಯುವುದಕ್ಕೆ ಈ ಪತ್ರವನ್ನು ಬಳಸ ಬಾರದೆಂದು ತಿಳಿಸಲಾಗಿರುತ್ತದೆ.

ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿಗಳ ಪತ್ರ ಎಲ್ಎಕ್ಯೂ (6) ಸಿ ಆರ್ 48/96-97 ದಿನಾಂಕ 3.9.98 ರಂತೆ ಪ್ರಸ್ತಾಪಿತ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರವು ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿ ಕೊಳ್ಳಲು ಈವರೆವೆಗೂ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿರುವುದಿಲ್ಲವೆಂದು ತಿಳಿಯ ಪಡಿಸಿದೆ.

ಪ್ರಕರಣದ ಜಮೀನನ್ನು ತಹಶೀಲ್ದಾರ್, ಮೈಸೂರು ಇವರು ದಿನಾಂಕ 4.3.2005 ರಂದು ಕಂದಾಯ ನಿಬ್ಬಂದಿಗಳ ಜೊತೆ ಸ್ಥಳ ಪರಿಶೀಲನೆ ನಡೆಸಿರುತ್ತಾರೆ.

ಅರ್ಜಿದಾರರಿಗೆ ಈ ಪ್ರಕರಣಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ನಿಯಮಾನುಸಾರ ಜಮೀನು ಭೂ ಪರಿವರ್ತನೆ ಬಾಬ್ತು ಸರ್ಕಾರಕ್ಕೆ ಪಾವತಿಸಬೇಕಾದ ಶುಲ್ಕವನ್ನು ಪಾವತಿಸುವಂತೆ ತಿಳುವಳಿಕೆ ನೀಡಲಾಗಿದ್ದು ಅರ್ಜಿದಾರರು ಪಾವತಿಸಬೇಕಾಗಿದ್ದ ಪರಿವರ್ತನಾ ಶುಲ್ಕ ರೂ. 1,11,075.00 ಮತ್ತು ಪೋಷಿ ಫೀ ರೂ. 55.00 ಒಟ್ಟು ರೂ. 1,11,130.00 ನ್ನು ಪಾವತಿಸುವಂತೆ ತಿಳುವಳಿಕೆ ನೀಡಲಾಗಿದ್ದು, ಅರ್ಜಿಧಾರರು ಕ್ರಮವಾಗಿ ಜಲನ್ ನಂ. 23 ದಿನಾಂಕ 16.7.2005 ರಲ್ಲಿ ಸರ್ಕಾರಕ್ಕೆ ಜಮಾ ಮಾಡಿರುತ್ತಾರೆ ಮತ್ತು ಚಲನ್ ನೊಡನೆ ಭೂಪರಿವರ್ತನೆ ಯಾವ ಉದ್ದೇಶಕ್ಕೆ ಮಂಜೂರಾಗಿದೆಯೋ ಅದೇ ಉದ್ದೇಶಕ್ಕಾಗಿ ಉಪಯೋಗಿಸಿ ಕೊಳ್ಳುವುದಾಗಿ ಹಾಗೂ ಸರ್ಕಾರ ವಿಧಿಸುವ ಯಾವುದೇ ಷರತ್ತಿಗೆ ಬದ್ಧರಾಗಿರುವುದಾಗಿ ಕರಾರು ಪತ್ರವನ್ನು ಹಾಜರು ಪಡಿಸಿರುತ್ತಾರೆ. ಆದ್ದರಿಂದ ಈ ಆದೇಶ.

10 ಅರ್ಜಿದಾರರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಭೂ ಉಪಯೋಗದಂತೆ ನಕ್ಷೆ ಅನುಮೋದನೆ ಪಡೆಯತಕ್ಕದ್ದು. ಭೂ ಉಪಯೋಗದಂತೆ ಉದ್ದೇಶಿತ ರಸ್ತೆಗೆ ಕಾಯ್ದಿರಿಸಿರುವ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಬಿಟ್ಟುಕೊಡುವ ಪರತ್ತಿಗೆ ಒಳಪಟ್ಟಿರುತ್ತದೆ.

11. ಭೂ ಪರಿವರ್ತನೆ ಜಮೀನಿನ ವಿಚಾರದಲ್ಲಿ ಯಾವುದೇ ಸಿವಿಲ್ ವ್ಯಾಜ್ಯವಿದ್ದಲ್ಲಿ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ನಡೆದು ಕೊಳ್ಳಲು ಅರ್ಜಿದಾರರು ಬದ್ಧರಾಗಿರತಕ್ಕದ್ದು.

12. ಮೇಲ್ಕಂಡ ಯಾವುದೇ ಷರತ್ತುಗಳನ್ನು ಉಲ್ಲಂಘಿಸಿದಲ್ಲಿ ಹಾಗೂ ಪ್ರಸ್ತಾಪಿತ ಜಮಿನಿನ ಹಕ್ಕಿನ ಬಗ್ಗೆ 'ಯಾವುದೇ ಸಿವಿಲ್ ವ್ಯಾಜ್ಯಗಳಿದ್ದಲ್ಲಿ ಈ ಭೂಪರಿವರ್ತನೆ ಆದೇಶವನ್ನು ಯಾವುದೇ ಸೂಚನೆ ನೀಡದೆ ರದ್ದುಗೊಳಿಸಲಾಗುವುದು ಮತ್ತು ಕರ್ನಾಟಕ ಭೂ ಕಂದಾಯ ಕಾಯಿದೆಯ 1964ರ ಕಲಂ 96 ರಂತೆ ದಂಡ

ಶುಲ್ಕವನ್ನು ವಿಧಿಸಿ ಮುಂದಿನ ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳಲಾಗುವುದು. ಅಲ್ಲದೆ ಈ ಜಮೀನಿನಲ್ಲಿ ಅನಧಿಕೃತವಾಗಿ ಕಟ್ಟಿದೆ ಕಟ್ಟಡಗಳನ್ನು ಯಾವುದೇ ಪರಿಹಾರ ನೀಡದೆ ಕೆಡವಲು ಕ್ರಮ ತೆಗೆದುಕೊಳ್ಳಲಾಗುವುದು ಹಾಗೂ ಇದಕ್ಕೆ ತಗಲುವ ವೆಚ್ಚವನ್ನು ಭೂಕಂದಾಯ ಬಾಕಿ ಎಂದು ಖಾತೆದಾರರಿಂದ ವಸೂಲಿ ಮಾಡಲಾಗುವುದು.

ಷೆಡ್ಯೂಲ್ ವಿವರ

ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ನಂ. 464 ರಲ್ಲಿ 3.16 ಎಕರೆ ವಿಸ್ತೀರ್ಣದ ವ್ಯವಸಾಯದ ಜಮೀನನ್ನು ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ ಭೂಪರಿವರ್ತನೆ ಮಾಡಿರುವ ಜಮೀನಿನ ಚಕ್ಕುಬಂದಿ.(ರೆವಿನ್ಯೂ ಸ್ಕೆಚ್ ನಂತೆ)

ಕ್ರಸಂ	*ಸರ್ವೆ ನಂ*	*ವಿಸ್ತೀರ್ಣ*	*ಪೂರ್ವ*	*ಪಶ್ಚಿಮ*	*ಉತ್ತರ*	*ದಕ್ಷಿಣ*
1	*ಕೆಸರೆ ಸನಂ.464*	*3.16 ಎಕರೆ*	*ಸನಂ.464/ಎ ರ ಜಮೀನು*	*ಸನಂ.465 ರ ಜಮೀನು ಮತ್ತು ರಸ್ತ*	*ಸನಂ 466 ರ ಜಮೀನು*	*ಸನಂ.462 ರ ಜಮೀನು*

ಕೆ.ಟಿ.ಅ.ಮೇ.

ಸಹಿ/–

ಜಿಲ್ಲಾಧಿಕಾರಿಗಳ ಪರವಾಗಿ

ಮೈಸೂರು ಜಿಲ್ಲೆ.

ಪ್ರತಿಯನ್ನು:

1 ತಹಶೀಲ್ದಾರ್, ಮೈಸೂರು ಇವರಿಗೆ ಮೂಲ ಕಡತ ಹಾಗೂ ಚಲನ್ ನೊಂದಿಗೆ ಕಳುಹಿಸುತ್ತಾ (ಪುಟ 1 ರಿಂದ) ಈ ಆದೇಶದ ಪ್ರಕಾರ ಸಂಬಂಧಪಟ್ಟ ಸ.ನಂ. ಭೂಪರಿವರ್ತನೆಯಾಗಿದೆ ಎಂದು ಸಂಬಂಧಪಟ್ಟ ಆರ್.ಟಿ.ಸಿ.ಯಲ್ಲಿ ನಮೂದಿಸತಕ್ಕದ್ದು ಮತ್ತು ಈ ಜಮೀನಿಗೆ ಖಾತೆದಾರರ ಲೆಕ್ಕದಲ್ಲಿ ಸದರಿ ಜಮೀನಿನ ಭೂಕಂದಾಯವನ್ನು ಕಡಿಮೆಗೊಳಿಸುವುದು.

2. ಯೋಜನಾ ಸದಸ್ಯರು, ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು ಇವರಿಗೆ ಸೂಕ್ತ ಕ್ರಮಕ್ಕಾಗಿ ಕಳುಹಿಸಿದೆ.

3.ಉಪವಿಭಾಗಾಧಿಕಾರಿಗಳು, ಮೈಸೂರು ಉಪವಿಭಾಗ, ಮೈಸೂರು.

4.ಜಿಲ್ಲಾಧಿಕಾರಿಗಳ ಭೂಮಾಪನ ತಾಂತ್ರಿಕ ಸಹಾಯಕರು ಮತ್ತು ಪದನಿಮಿತ್ತ ಭೂದಾಖಲೆಗಳ ಉಪನಿರ್ದೇಶಕರು, ಜಿಲ್ಲಾಧಿಕಾರಿಗಳ ಕಾರ್ಯಾಲಯ, ಮೈಸೂರು.

5.ಅರ್ಜಿದಾರರಾದ ಶ್ರೀ ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ಬಿನ್ ಮರಿಲಿಂಗಯ್ಯ, ನಂ.1245, ಟೀಕೆ ಬಡಾವಣೆ, ಮೈಸೂರು '

Thus, the brother-in-law of the petitioner purchases the so called agricultural land and gets it converted from agricultural to non-

agricultural purposes on the score that the land was kept for residential purpose. It is necessary here to again observe that MUDA had already distributed sites to the allottees in this very property.

22. The story fast forwards by 4 years, comes 2010. On 06-10-2010 the brother-in-law of the petitioner executes a gift deed in favour of the wife of the petitioner. The Gift Deed reads as follows:

"ದಾನಪತ್ರ

ದಿನಾಂಕ: 06.10.2010

ಸನ್ ಎರಡು ಸಾವಿರದ ಹತ್ತನೇ ಇಸವಿ ಅಕ್ಟೋಬರ್ ಮಾಹೇ ತಾರೀಖು ಆರರಲ್ಲೂ ಬೆಂಗಳೂರು ಸಿಟಿ, ವಿಜಯನಗರ, ಎಂ.ಸಿ. ಲೇ ಔಟ್, 16ನೇ ಕ್ರಾಸ್, ಮನೆ ನಂ: 206 ರಲ್ಲಿ ವಾಸವಾಗಿರುವ ಹಾಗು ಹಾಲೀ ಮೈಸೂರು ತಾಲ್ಲೂಕು, ವರುಣಾ ಹೋಬಳಿ, ಸಿದ್ದರಾಮಯ್ಯನಹುಂಡಿ ಗ್ರಾಮದಲ್ಲಿರುವ ಶ್ರೀ. ಲೇಟ್. ಮರಿಲಿಂಗಯ್ಯ. ರವರ ಮಗಳು ಹಾಗೂ ಶ್ರೀ: ಸಿದ್ದರಾಮಯ್ಯ. ರವರ ಧರ್ಮಪತ್ನಿಯೂ ಆದ ಶ್ರೀಮತಿ. ಬಿ.ಎಂ. ಪಾರ್ವತಿ ರವರಿಗೆ,

ಮೈಸೂರು ಸಿಟಿ, ತೊಣಚಿಕೊಪ್ಪಲು, ಕಾಂತರಾಜ ಅರಸು ರಸ್ತೆ, 3ನೇ ಮೈನ್, ಮನೆ ನಂ. 1245ರಲ್ಲಿ ವಾಸವಾಗಿರುವ ಶ್ರೀ. ಲೇಟ್. ಮರಿಲಿಂಗಯ್ಯ. ರವರ ಮಗ ಹಾಗೂ ನಿನ್ನ ಒಡ ಹುಟ್ಟಿದ ಅಣ್ಣ ಶ್ರೀ ಬಿ.ಎಂ. ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ಆದ ನಾನು ಬರೆದುಕೊಟ್ಟ ದಾನಪತ್ರದ ಕ್ರಮವೇನೆಂದರೆ,

ಪಡ್ಯೂಲ್‌ನಲ್ಲಿ ನಮೂದು ಮಾಡಿರುವ ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 464ರಲ್ಲಿನ 3-16 ಎಕರೆ ವ್ಯವಸಾಯ ಜಮೀನನ್ನು ನಾನು ದಿನಾಂಕ 25-08-2004ರಂದು ಶ್ರೀ. ಜಿ. ದೇವರಾಜು ಮತ್ತು ಕುಟುಂಬ ವರ್ಗದವರಿಂದ ಶುದ್ಧ ಕ್ರಯಕ್ಕೆ ಪಡೆದಿರುತ್ತೇನೆ. ಸದರಿ ಕ್ರಯಪತ್ರವು ಅದೇ ದಿವಸ ಮೈಸೂರು ಉತ್ತರ ಉಪನೋಂದಣಾಧಿಕಾರಿಯವರ ಕಛೇರಿಯ 1ನೇ ಪುಸ್ತಕದಲ್ಲಿ ಎಂ.ವೈ.ಎನ್.ಡಿ. 22ನೇ ನಂಬರ್ ಸಿ.ಡಿ.ಯಲ್ಲಿ ಎಂ.ವೈ.ಎನ್. -1-06088ನೇ ನಂಬರ್ ಆಗಿ ನನ್ನ ಹೆಸರಿಗೆ ನೋಂದಣಿ ಆಗಿರುತ್ತದೆ. ಆನಂತರ ಸದರಿ ಈ ಜಮೀನಿನ ಆರ್.ಟಿ.ಸಿ., ಮ್ಯುಟೇಷನ್‌ನಗಳನ್ನು ನನ್ನ ಹೆಸರಿಗೆ ವರ್ಗಾಯಿಸಿಕೊಂಡು ನನ್ನ ಹೆಸರಿನಲ್ಲಿ ಕಂದಾಯವನ್ನು ಪಾವತಿಸಿರುತ್ತೇನೆ. ಪಡ್ಯೂಲ್ ಸ್ವತ್ತು ನನ್ನ ಸಂಪೂರ್ಣ

ಹಕ್ಕಿಗೂ, ಮಾಲೀಕತ್ವಕ್ಕೂ ಸಹಾ ಒಳಪಟ್ಟು, ಹಾಲೀ ನನ್ನ ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿರುವ ಸ್ವಯಾರ್ಜಿತ ಸ್ವತ್ತಾಗಿರುತ್ತದೆ.

ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತು ನನ್ನ ಸ್ವಯಂ ಸಂಪಾದನೆಯಿಂದ ಕ್ರಯಕ್ಕೆ ಪಡೆದಿರುವ ಸ್ವಯಾರ್ಜಿತ ಸ್ವತ್ತಾಗಿದ್ದು ಈ ಸ್ವತ್ತಿಗೆ ನಾನಲ್ಲದೇ ಬೇರೆ ಯಾರು ವಾರಸ್ಸು ಹಕ್ಕು ಪಡೆಯುವವರು ಇರುವುದಿಲ್ಲ. ಸದರಿ ಈ ನನ್ನ ಸ್ವಯಾರ್ಜಿತ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ನಾನು ನನ್ನ ಇಷ್ಟಾನುಸಾರ ದಾನ ಮಾಡಲು ಸಂಪೂರ್ಣ ಸ್ವತಂತ್ರನಾಗಿಯೂ, ಕಾನೂನು ಪ್ರಕಾರ ಹಕ್ಕು ಳ್ಳವನಾಗಿಯೂ ಸಹಾ ಇರುತ್ತೇನೆ.

ಮೇಲ್ಕಂಡ ಶ್ರೀಮತಿ. ಬಿ.ಎಂ. ಪಾರ್ವತಿ ಆದ ನೀನು ನನ್ನ ಒಡ ಹುಟ್ಟಿದ ತಂಗಿ ಆಗಿದ್ದು ನಿನ್ನ ಮೇಲೆ ನನಗಿರತಕ್ಕ ಪ್ರೀತಿ ವಿಶ್ವಾಸಗಳ ಸಲುವಾಗಿ ಷೆಡ್ಯೂಲ್‌ನಲ್ಲಿ ನಮೂದಿಸಿರುವ ಸ್ವತ್ತನ್ನು ನಿನಗೆ ದಾನವಾಗಿ ಕೊಡಬೇಕೆಂಬ ದೃಢ ಸಂಕಲ್ಪಮಾಡಿ ಈ ದಿನ ವಿಶಿಷ್ಟ ಹಕ್ಕುಗಳೊಡನೆ ನಾನು ಈ ಹಿಂದೆ ವಾಗ್ದಾನ ಮಾಡಿದಂತೆ ನಿನಗೆ ನಮ್ಮ ಕುಲದೇವರ ಪ್ರೀತ್ಯರ್ಥವಾಗಿ ದಾನವಾಗಿ ಕೊಟ್ಟಿರುತ್ತೇನೆ.

ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಸ್ವಾಧೀನವನ್ನು ಸರ್ವ ಮಾಲೀಕತ್ವದೊಡನೆ ಈ ದಿನವೇ ನಿನ್ನ ವಶಕ್ಕೆ ಬಿಟ್ಟುಕೊಟ್ಟಿರುತ್ತೇನ. ದಾಖಲೆ ಪತ್ರಗಳನ್ನು ನಿನ್ನ ವಶಕ್ಕೆ ಕೊಟ್ಟಿರುತ್ತೇನೆ. ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿಗೆ ಈ ದಿನಲಾಗಾಯ್ತು ನೀನೇ ಸಂಪೂರ್ಣ ಮಾಲೀಕಳಾಗಿ ಹಕ್ಕುದಾರಳಾಗಿ ಸ್ವತ್ತಿನ ಎಲ್ಲಾ ವಿಧದ ಖಾತೆಗಳನ್ನು ನಿನ್ನ ಹೆಸರಿಗೆ ವರ್ಗಾಯಿಸಿಕೊಂಡು ನಿನ್ನ ಇಷ್ಟಾನುಸಾರ ಕ್ರಯ, ದಾನ, ಪರಿವರ್ತನೆಗಳೆಂಬ ವ್ಯವಹಾರಗಳಲ್ಲಿ ಸ್ವತಂತ್ರಳಾಗಿ ವ್ಯವಹರಿಸಲು ಭಾದ್ಯಳಾಗಿ ಬ್ಯಾಂಕುಗಳಲ್ಲಿ ಹಾಗೂ ಇತರರಲ್ಲಿ ಸಾಲ ಪಡೆಯಲು ನಿನ್ನ ವಂಶ ಪಾರಂಪರ್ಯವಾಗಿ ಎಲ್ಲಾ ಕಾಲಕ್ಕೂ ಸುಖವಾಗಿ ಅನುಭವಿಸಿಕೊಂಡು ಬರತಕ್ಕದ್ದು.

ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತು ಪರಭಾರೆ, ಜೀವನಾಂಶ, ಭಾಗಾಂಶ ನ್ಯಾಯಾಲಯಗಳ ಜಪ್ತಿಗಳಿಗೆ ಈಡಾಗಿರುವುದಿಲ್ಲ ಎಂದು ಪೂರ್ಣ ನಂಬಿಕೆ ಮತ್ತು ಭರವಸೆಯನ್ನು ಕೊಟ್ಟಿರುತ್ತೇನೆ. ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನಲ್ಲಿ ಇಲ್ಲಿಂದ ಮುಂದೆ ನನಗಾಗಲೀ ನನ್ನ ಪರ ಮತ್ಯಾರಿಗೂ ಯಾವ ವಿಧದಲ್ಲೂ ಹಕ್ಕುಭಾದ್ಯತೆಗಳು ಇರುವುದಿಲ್ಲ ಎಂದು ಒಪ್ಪಿ ಬರೆಸಿಕೊಟ್ಟ ದಾನಪತ್ರ ಸಹಿ.

ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ವಿವರ

ಮೈಸೂರು ತಾಲ್ಲೋಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 464 ರಲ್ಲಿನ 3-16 ಗುಂಟೆ ಜಮೀನಿಗೆ ಚೆಕ್ಕುಬಂದಿ.

ಪೂರ್ವಕ್ಕೆ	*:*	*ಸರ್ವೆ ನಂ. 462 ರ ಜಮೀನು*
ಪಶ್ಚಿಮಕ್ಕೆ	*:*	*ಸರ್ವೆ ನಂ. 467 ರ ಜಮೀನು*
ಉತ್ತರಕ್ಕೆ	*:*	*ಸರ್ವೆ ನಂ. 466 ರ ಜಮೀನು*
ದಕ್ಷಿಣಕ್ಕೆ	*:*	*ಸರ್ವ ನಂ. 462 ರ ಜಮೀನು*

ಈ ಮಧ್ಯೆ. ಇರುವ 3-16 ಗುಂಟೆ (ಮೂರು ಎಕರೆ ಹದಿನಾರು ಗುಂಟೆ) ಜಮೀನು ಈ ದಾನಪತ್ರಕ್ಕೆ ಒಳಪಟ್ಟಿರುತ್ತದೆ. ಈ ದಾನಪತ್ರಕ್ಕೆ ನನ್ನ ತಾಯಿ ಶ್ರೀಮತಿ. ಮಹದೇವಮ್ಮ, ನನ್ನ ಧರ್ಮಪತ್ನಿ ಶ್ರೀಮತಿ, ಭುವನೇಶ್ವರಿ ಮತ್ತು ನನ್ನ ತಮ್ಮ, ಶ್ರೀ. ಬಿ.ಎಂ. ಜಗದೀಶ್ ಹಾಗು ಈತನ ಪತ್ನಿ ಶ್ರೀಮತಿ. ರಜನಿ ರವರುಗಳು ಸಾಕ್ಷಿ ಸಹಿ ಮಾಡಿರುತ್ತಾರ.

ಸಾಕ್ಷಿಗಳು :-

1) ಸಹಿ/– *ಸಹಿ/–*

ಶ್ರೀಮತಿ, ಮಹದೇವಮ್ಮ ಕೋಂ, ಲೇಟ್ ಮರಿಲಿಂಗಯ್ಯ. *ದಾನ ಕೊಡುವವರ ಸಹಿ*

2). ಸಹಿ/– *ಸಹಿ/–*

ಶ್ರೀಮತಿ. ಭುವನೇಶ್ವರಿ ಕೋಂ. ಬಿ.ಎಂ. ಮಲ್ಲಿಕಾರ್ಜುನ ಸ್ವಾಮಿ *ದಾನ ಸ್ವೀಕರಿಸುವವರ ಸಹಿ*

***3)** ಸಹಿ/–*

ಶ್ರೀ. ಬಿ.ಎಂ. ಜಗದೀಶ್ ಬಿನ್. ಲೇಟ್ ಮರಿಲಿಂಗಯ್ಯ

***4)** ಸಹಿ/–*

ಶ್ರೀಮತಿ. ರಜನಿ ಕೋಂ. ಬಿ.ಎಂ. ಜಗದೀಶ್

ಸಹಿ/–
ರಾಧಾಕೃಷ್ಣ ಆರ್., ಬಿ.ಎಸ್ಸಿ
ಜಿಲ್ಲಾ ಪತ್ರ ಬರಹಗಾರರು, ಲೈ.ನಂ. 02/2009-10
ಮೈಸೂರು ತಾಲ್ಲೂಕು ಮತ್ತು ಜಿಲ್ಲೆ,
ಮೊ: 94482–08178/9886014313".

The Gift Deed again narrates the history of the brother-in-law of the petitioner coming into possession of the property and him executing the Gift Deed after getting the lands converted agriculture to residential purposes.

23. After the Gift Deed is executed, begins the efforts of claiming compensation. A representation emanates from the wife of the petitioner on 23-06-2014, it reads as follows:

"ಇವರಿಗೆ
ಆಯುಕ್ತರು
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ
ಮೈಸೂರು.

ಮಾನ್ಯರೆ,

ವಿಷಯ:- ಮೈಸೂರು ತಾಲ್ಲೂಕು ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆನಂಬರ್ 464 ರ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಯಿಂದ ಸರ್ಕಾರ ಕೈಬಿಟ್ಟಿದ್ದರೂ ಕೂಡ ಪ್ರಾಧಿಕಾರವು ಸದರಿ ಜಮೀನಲ್ಲಿ ಬಡಾವಣೆ ರಚಿಸಿದ್ದು, ಈ ಬಾಬ್ತು ಇಷ್ಟೇ ವಿಸ್ತೀರ್ಣದ ಬದಲಿ ಜಮೀನು ನೀಡುವ ಬಗ್ಗೆ.

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ಮೈಸೂರು ತಾಲ್ಲೂಕು ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆನಂಬರ್ 464 ರಲ್ಲಿ 3-16 ಎಕರೆ ಜಮೀನಿಗೆ ನಾನು ಭೂಮಾಲೀಕಳಾಗಿದ್ದು, ಸದರಿ ಜಮೀನಿಗೆ ಪ್ರಾಧಿಕಾರವು ದಿನಾಂಕ 31.10.1992 ರಲ್ಲಿ ದೇವನೂರು 3ನೇಹಂತ ಬಡಾವಣೆ ರಚಿಸಲು ಭೂಸ್ವಾಧೀನಪಡಿಸಿಕೊಳ್ಳಲು ಅಂತಿಮ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿರುತ್ತದೆ. ಸದರಿ ಜಮೀನನ್ನು ಸರ್ಕಾರವು ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಯಿಂದ ಕೈಬಿಟ್ಟು, ಆದೇಶ ಸಂಖ್ಯೆ. ನಅಇ 499 ಅಪ್ರಾವಿ 96 ದಿನಾಂಕ 18.5.1998 ರಲ್ಲಿ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಲಾಗಿರುತ್ತದೆ.

ಸದರಿ ಜಮೀನಿಗೆ ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಂದ ಅನ್ಯಕಾಂತ ಆದೇಶವಾಗಿರುತ್ತದೆ (ಆದೇಶ ಸಂಖ್ಯೆ ಎ ಎಲ್ ಎನ್ (1) 190/2004-05 ದಿನಾಂಕ :15/07/2005). ಆದರೂ ಸರ್ಕಾರದಿಂದ ಅಧಿಸೂಚನೆಯಿಂದ ಕೈಬಿಟ್ಟ ಜಮೀನನ್ನು ಮತ್ತು ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಂದ ಅನ್ಯಕ್ರಾಂತವಾದ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರವು ದೇವನೂರು, 3ನೇ ಹಂತದ ಬಡಾವಣೆ ರಚಿಸಲು ಉಪಯೋಗಿಸಿಕೊಂಡು 3-16 ಎಕರೆ ಜಮೀನಿನಲ್ಲಿ ನಿವೇಶನ, ಬಡಾವಣೆ ರಸ್ತೆ ಮತ್ತು ಸಾರ್ವಜನಿಕ ಉದ್ಯಾನವನ್ನು ಅಭಿವೃದ್ಧಿಪಡಿಸಿ 2001ರಲ್ಲಿ ಸದರಿ ಬಡಾವಣೆಯಲ್ಲಿ ನಿವೇಶನ ಹಂಚಿಕೆ ಮಾಡಲಾಗಿರುತ್ತದೆ.

Sd/-
Parvathi"

It is interesting to notice the representation. The representation indicates few factors. They are, the MUDA had formed the layout and distributed the sites in the year 2001 itself. If the wife of the petitioner was aware that MUDA had distributed the sites in 2001 itself, how did her brother purchase a property which was already with MUDA and how it was accepted by way of a gift. It is here the needle of lurking suspicion about the transaction emanates. This representation is taken forward by a communication from Commissioner, MUDA to the Secretary, Urban Development Department. A communication then comes from the Commissioner, MUDA to the wife of the petitioner on 18-08-2004. The communication reads as follows:

"ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು

ನಂ.ಎ.ಸಿ40/1997-98 *ದಿನಾಂಕ:18.08.2014*

ತಿಳುವಳಿಕೆ ಪತ್ರ

ವಿಷಯ: ಮೈಸೂರು ತಾಲ್ಲೂಕು ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 464 ರ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಯಿಂದ ಸರ್ಕಾರ ಕೈಬಿಟ್ಟಿರುವ ಹಿನ್ನಲೆಯಲ್ಲಿ ಬದಲಿ ಜಮೀನು ಕೇಳಿರುವ ಕುರಿತು.

ಉಲ್ಲೇಖ: ದಿನಾಂಕ: 23.06.2014 ರ ನಿಮ್ಮ ಮನವಿ

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ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ದೇವನೂರು 3ನೇ ಹಂತದ ಬಡಾವಣೆಗಾಗಿ ಸರ್ಕಾರವು ದಿನಾಂಕ: 20.08.1997 ರಲ್ಲಿ ಅಂತಿಮ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿದ ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 464 ರ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಸರ್ಕಾರ ದಿನಾಂಕ: 18.05.1998 ರ ಅಧಿಸೂಚನೆ ಮೂಲಕ ಭೂಸ್ವಾಧೀನ

ಕ್ರಮದಿಂದ ಮೇಲ್ಕಂಡ ಜಮೀನನ್ನು ಕೈಬಿಟ್ಟು ಅಧಿಸೂಚನೆಯನ್ನು ಹೊರಡಿಸಲಾಗಿತ್ತು. ಆದರೆ ಸರ್ಕಾರದ 'ಡಿನೋಟಿಫಿಕೇಷನ್ ನಡವಳಿಯು ಪ್ರಾಧಿಕಾರದ ತಾಂತ್ರಿಕ ಶಾಖೆಯ ಗಮನಕ್ಕೆ ಬಾರದೆ ಇರುವುದರಿಂದ ಈ ಜಮೀನನ್ನು ಪೂರ್ಣ ಪ್ರಮಾಣದಲ್ಲಿ ಪ್ರಾಧಿಕಾರವು ಅಭಿವೃದ್ಧಿ ಪಡಿಸಲಾಗಿತ್ತು.

ತಮ್ಮ ಕೋರಿಕೆಯಂತೆ ತಮ್ಮ ಜಮೀನಿಗೆ ಬದಲಾಗಿ ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿದ ಜಮೀನನ್ನು ನೀಡಲು ಪ್ರಾಧಿಕಾರದ ವಶದಲ್ಲಿ ಹಾಲಿ ಜಮೀನು ಲಭ್ಯವಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ನಿಮ್ಮ ಜಮೀನಿಗೆ ಮಾರುಕಟ್ಟೆ ದರದಲ್ಲಿ ದರವನ್ನು ನಿಗಧಿಪಡಿಸಿ ಭೂಮಿಯ ಪರಿಹಾರ ನೀಡಲು ಅಥವಾ 60:40 ರ ಅನುಪಾತದಲ್ಲಿ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಿದ ನಿವೇಶನಗಳನ್ನು ತತ್ಸಮಾನ ಬಡಾವಣೆಗಳಲ್ಲಿ ನೀಡಲು ಪ್ರಾಧಿಕಾರವು ಪರಿಶೀಲಿಸಿ ನಿಮ್ಮ ಕೋರಿಕೆಯನ್ನು ಪರಿಗಣಿಸಲಾಗುವುದು. ಮೇಲ್ಕಂಡ ಎರಡು ಅಂಶಗಳ ವಿಚಾರದಲ್ಲಿ ತಮ್ಮ ಸ್ಪಷ್ಟ ಅಭಿಪ್ರಾಯವನ್ನು ಕೂಡಲೇ ತಿಳಿಸಬೇಕಾಗಿ ಕೋರಿದೆ."

ಸಹಿ/- 18/8/24
ಆಯುಕ್ತರು
ಮೈಸೂರುನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ,
ಮೈಸೂರು.

ಗೆ,

ಶ್ರೀಮತಿ ಪಾರ್ವತಿ
ಮನೆ ನಂ.206, 16ನೇ ಕ್ರಾಸ್
ಎಂ.ಸಿ.ಲೇಔಟ್,
ವಿಜಯನಗರ,
ಬೆಂಗಳೂರು.

ಸಹಿ/-
ವ್ಯವಸ್ಥಾಪಕರು ಹಾಗೂ
ಸಾರ್ವಜನಿಕ ಮಾಹಿತಿ ಹಕ್ಕು ಅಧಿಕಾರಿ
(ಭೂ ಸ್ವಾಧೀನ ಶಾಖೆ, ಮೈನಪ್ರಾ. ಮೈಸೂರು)."

Pending consideration of the application/representation of the petitioner, the Rule i.e., Karnataka Urban Development Authorities (Allotment of sites in lieu of compensation for land acquired) (Amendment)Rules, 2014, for grant of compensatory sites comes to be amended. The amendment Rule is as follows:

"URBAN DEVELOPMENT DEPARTMENT

NOTIFICATION
No.UDD 03 TTP 2014, Bangalore, Dated 11-02-2015

Whereas the draft of the Karnataka Urban Development Authorities (Allotment of sites in lieu of compensation for land acquired) (Amendment)Rules, 2014, was published as required by Section 112 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Central Act 30 of 2013) in notification No.UDD 08 TTP 2014, dated 1.12.2014 in part-IVA of Karnataka Extraordinary Gazette, dated 1-12-2014 inviting objections and suggestions from all persons likely to be affected within thirty days from the date of its publication in the official Gazette.

And whereas, the said Gazette was made available to public on 1-12-2014.

And whereas, no objections and suggestions have been received by the State Government.

Now, therefore, in exercise of the powers conferred by Section 71 of the Karnataka Urban Development Authorities Act, 1987 (Karnataka Act 34 of 1987), the Government of Karnataka hereby makes the following rules, namely:-

RULES

1. Title and commencement:- *(1) These rules may be called the Karnataka Urban Development (Allotment of sites in lieu of compensation for land acquired) (Amendment) Rules, 2015.*

(2) They shall come into force from the date of their final publication in official Gazette.

2. ***Amendment to Rule 3:-*** *In rule 3 of the Karnataka Urban Development Authorities (Allotment of sites in lieu of compensation for land acquired) Rules, 2009, -*

(i) The words and figures "Notwithstanding anything contained in the Karnataka Land Acquisition Rules, 1965 and" shall be omitted;

(ii) For the words and figures "Land Acquisition Act, 1984" occurring in two places, the words, figures and brackets "Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and

Resettlement Act, 2013 (Central Act 30 of 2013)" shall be respectively substituted; and

(iii) in clause (b), for the figures "40", the figures "50" shall be substituted.

By order and in the name of the Governor of Karnataka
R.RAJENDRA
Under Secretary to Government,
Urban Development Department."

(Emphasis supplied)

The compensation was earlier in the ratio of 60:40 i.e., 60% to the acquired authority and 40% to the land loser. The 40% of the total extent of land acquired was to become the determination for compensation. The aforesaid notification amends the Rule by making the ratio of 60:40 to 50:50.

24. After all these proceedings, MUDA passes a resolution. The agenda for the resolution of MUDA insofar as the subject land is concerned reads as follows:

ಈ ಜಮೀನನ್ನು ಶ್ರೀ.ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ಎನ್ ಮರಿಲಿಂಗಯ್ಯ ಇವರು ಖರೀದಿ ಮಾಡಿದ್ದು ಇವರ ಹೆಸರಿಗೆ ಕಂದಾಯ ದಾಖಲೆಗಳನ್ನು ಮರ್ಗಾಯಿಸಿಕೊಂಡು ದಿನಾಂಕ 15.07.2005 ರ ಅಧಿಕೃತ ಜ್ಞಾಪನಾದನ್ವಯ ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ ಈ ಜಮೀನಿನ ಭೂಪರಿವರ್ತನೆ ಮಾಡಿ ಆದೇಶ ***ಮಾಡಿರುತ್ತಾರೆ.(ಆದೇಶ ಪ್ರತಿ ಅನುಬಂಧ-2),***

ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ಮೆಲ್ಕಂಡ ಜಮೀನನ್ನು ಸರ್ಕಾರವು ಭೂಸ್ವಾಧೀನ ನಡುವಳಿಯಿಂದ ಕೈಬಿಡಲಾಗಿದ್ದರೂ ಕೂಡ ಈ ಜಮೀನನ್ನು ಅಭಿವೃದ್ಧಿ ಪಡಿಸಿರುವ ಸಮಯದಲ್ಲಿ ಮೇಲ್ಕಂಡ ಜಮೀನನ್ನು ಸಹ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಿಕೊಂಡು ಉದ್ಯಾನವನ, ರಸ್ತೆ ಹಾಗೂ ನಿವೇಶನಗಳನ್ನು ರಚಿಸಿ

ಫಲಾನುಭವಿಗಳಿಗೆ ನಿವೇಶನಗಳನ್ನು ವಿತರಣೆ ಮಾಡಲಾಗಿರುತ್ತದೆ. (ಬಡಾವಣೆ ನಕ್ಷೆ ಪ್ರತಿ ಅನುಬಂಧ-3 ಮತ್ತು ನಿವೇಶನಗಳ ಆಕಾಂಕ್ಷಿಗಳಿಗೆ ನಿವೇಶನಗಳನ್ನು ಮಂಜೂರು ಮಾಡಲಾಗಿರುವ ಮಾಹಿತಿ ಅನುಬಂಧ-4).

ಶ್ರೀ.ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ಇವರಿಂದ ಪರಿವರ್ತನೆಯಾದ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಖರೀದಿಸಿರುವ ಶ್ರೀಮತಿ.ಪಾರ್ವತಿ, ವಿಜಯನಗರ ವಾಸಿ ಬೆಂಗಳೂರು ಇವರು ದಿನಾಂಕ 23.03.2014 ರಂದು ಮನವಿ ಸಲ್ಲಿಸಿ ತಮಗೆ ಸೇರಿದ ಜಮೀನಿನಲ್ಲಿ ಪ್ರಾಧಿಕಾರ ಈಗಾಗಲೇ ಬಡಾವಣೆ ರಚಿಸಿ ನಿವೇಶನಗಳನ್ನು ಹಂಚಲಾಗಿದೆ ಹಾಗೂ ಉದ್ಯಾನವನ ಮತ್ತು ರಸ್ತೆಯನ್ನು ನಿರ್ಮಿಸಿರುವುದರಿಂದ ತಮ್ಮ ಜಮೀನಿನ ಬದಲಿಗೆ ಅಷ್ಟೇ ವಿಸ್ತೀರ್ಣದ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರದ ಸಮನಾಂತರದ ಬಡಾವಣೆಯಲ್ಲಿ ನೀಡಿರುವಂತೆ 'ಕೋರಿರುತ್ತಾರೆ.

ಅರ್ಜಿದಾರರಾದ ಶ್ರೀಮತಿ ಪಾರ್ವತಮ್ಮ, ಇವರಿಗೆ ಮಾರುಕಟ್ಟೆ ದರದಲ್ಲಿ ಜಮೀನಿನ ಪರಿಹಾರ ನೀಡುವುದಾಗಿಯೂ ಅಥವಾ 40:60ರ ಅನುಪಾತದಲ್ಲಿ ನಿವೇಶನ ನೀಡುವುದಾಗಿ ತಿಳಿಸಲಾಗಿತ್ತು. ಆದರೆ ಪ್ರಾಧಿಕಾರದ ಈ ಸಲಹೆಗೆ ಅವರು ಒಪ್ಪಿಗೆ ನೀಡದೆ ಇದ್ದು, ಬದಲಿ ಜಮೀನನ್ನು ನೀಡುವಂತೆ ಒತ್ತಾಯಿಸಿರುತ್ತಾರೆ.

ಮೇಲ್ಕಂಡ ಪ್ರಕಣರದಲ್ಲಿ ಪ್ರಾಧಿಕಾರವು ದೇವನೂರು 3ನೇ 'ಹಂತದ ಬಡಾವಣೆ ನಿರ್ಮಿಸುವ ಸಮಯದಲ್ಲಿ ಸರ್ಕಾರ ಕೈಬಿಟ್ಟಿರುವ ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ನರ.464 ರಲ್ಲಿ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರವು ಅಭಿವೃದ್ಧಿಪಡಿಸಿಕೊಂಡಿರುವುದರಿಂದ ಭೂಮಾಲೀಕರ ಕೋರಿಕೆಯನ್ನು ಪರಿಗಣಿಸುವ ವಿಚಾರದಲ್ಲಿ ಪ್ರಾಧಿಕಾರ ಸಭೆಯಲ್ಲಿ ಚರ್ಚಿಸಿ ತೀರ್ಮಾನ ತೆಗೆದುಕೊಳ್ಳುವ ಸಂಬಂಧ ವಿಷಯವನ್ನು ಸಭೆಗೆ ಮಂಡಿಸಲಾಗಿತ್ತು.

ದಿನಾಂಕ 10.11.2017ರಂದು ನಡೆದ ಸಭೆಯಲ್ಲಿ ವಿಸ್ತೃತ ಚರ್ಚೆ ನಡೆದು, ಸಂಪೂರ್ಣ ಮಾಹಿತಿಯೊಂದಿಗೆ ಮುಂದಿನ ಸಭೆಗೆ ಮಂಡಿಸಲು ಡಿಸಿ ವಿಷಯವನ್ನು ಮುಂದೂಡಲಾಗಿದೆ. ಮಾನ್ಯ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ತೀರ್ಮಾನದ ಪ್ರಕಾರ ಪ್ರಕರಣದಲ್ಲಿ ಸಮಗ್ರವಾಗಿ ಸ್ಥಳ ತನಿಖೆಯೊಂದಿಗೆ ಪರಿಶೀಲಿಸಿ ಈ ಕೆಳಕಂಡ ಮಾಹಿತಿಯನ್ನು ಸಲ್ಲಿಸಿದೆ.

ಕೆಸರೆ ಗ್ರಾಮ ಸರ್ವೆ ನಂ-464ರ 3-16 ಗುಂಟೆ ವಿಸ್ತೀರ್ಣದ ಜಮೀನನ್ನು ದೇವನೂರು 3ನೇ ಹಂತ ಬಡಾವಣೆಯ ನಿರ್ಮಾಣಕ್ಕೆ ಉಪಯೋಗಿಸಿಕೊಳ್ಳಲಾಗಿದೆ. ಸದರಿ ಪ್ರದೇಶದಲ್ಲಿ ರಚಿಸಿರುವ ನಿವೇಶನಗಳ ವಿವರ ಈ ಕೆಳಕಂಡಂತಿದೆ.

ಕ್ರಸಂ	*ನಿವೇಶನದ ಅಳತೆ*	*ರಚಿಸಿರುವ ಮಧ್ಯಂತರ ನಿವೇಶನಗಳ ವಿವರ*		*ರಚಿಸಿರುವ ಮೂಲೇ ನಿವೇಶನ ಸಂಖ್ಯೆಗಳು*		*ರಚಿಸಿರುವ ಒಟ್ಟು ನಿವೇಶನಗಳು*	*ಉಪಯೋಗಿಸಿಕೊಂಡಿರುವ ಒಟ್ಟು ವಿಸ್ತೀರ್ಣ (ಚ.ಮೀ*
		ನಿಸಂಖ್ಯೆಗಳು	*ಒಟ್ಟು*	*ನಿಸಂಖ್ಯೆಗಳು*	*ಒಟ್ಟು*		

ಗಳಲ್ಲಿ)

1	6x9	396, 397, 398, 399, 400, 421, 422, 423	08	-	-	08	432.00
2	9x12	386, 387, 388, 389, 390, 391, 366, 367, 368, 369	10	365,392	02	12	1296.00
3	12x18	262, 263, 264, 265, 287, 290, 291, 292	08	288, 289	02	10	2160.00
		ಒಟ್ಟು				30	3888.00

ಮೇಲಿನ ವಿಸ್ತೀರ್ಣದಲ್ಲಿ ಹಲವು ಪೂರ್ಣ ನಿವೇಶನಗಳು ಹಾಗೂ ಭಾಗಶಃ ನಿವೇಶನಗಳು ಸದರಿ ಸರ್ವೆ ನಂಬರ್ನಲ್ಲಿ ಸೇರಿರುತ್ತದೆ. ಮೇಲ್ಕಂಡ ಪ್ರಕಾರ ರಚಿಸಿರುವ ನಿವೇಶನಗಳನ್ನು ಮಂಜೂರು ಮಾಡಿದ್ದು ಈವರೆವಿಗೂ 15 ಪ್ರಕರಣಗಳಲ್ಲಿ ಕ್ರಯಪತ್ರ ನೀಡಲಾಗಿದೆ.

ಅದಲ್ಲದೆ, ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ-464ರಲ್ಲಿ ರಸ್ತೆ, ಉದ್ಯಾನವನ ರಚಿಸಿದ್ದು ಸದರಿ ವಿಸ್ತೀರ್ಣದ ವಿವರಗಳು ಈ ಕೆಳಕಂಡಂತಿದೆ.

ಕ್ರಸಂ	'ರಸ್ತೆಯ ವಿಸ್ತೀರ್ಣ	ಒಟ್ಟು ವಿಸ್ತೀರ್ಣ	ಉದ್ಯಾನವನದ ವಿಸ್ತೀರ್ಣ	ಒಟ್ಟು ವಿಸ್ತೀರ್ಣ
1	9x160ಮೀ	1440.00 ಚ.ಮೀ	100.00 x(35.00+90.00)/2	6255.00 ಚ.ಮೀ
2	12x125 ಮೀ	1500.00 ಚ.ಮೀ		
3	18x55 ಮೀ	990.00 ಚ.ಮೀ		
		3930.00 ಚ.ಮೀ	-	6255.00 ಚ.ಮೀ

ಕೆಸರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ-464ರಲ್ಲಿ ನಿವೇಶನ + ರಸ್ತೆ + ಉದ್ಯಾನವನಕ್ಕಾಗಿ <u>ಒಟ್ಟಾರೆ 13759.00 ಚ.ಮೀ</u> ವಿಸ್ತೀರ್ಣದ ಪ್ರದೇಶವನ್ನು ಉಪಯೋಗಿಸಿಕೊಳ್ಳಲಾಗಿದೆ.

ಆದುದರಿಂದ, ಪ್ರಾಧಿಕಾರವು ದೇವನೂರು 3ನೇ ಹಂತದ ಬಡಾವಣೆ ನಿರ್ಮಿಸುವ ಸಮಯದಲ್ಲಿ ಸರ್ಕಾರ ಕೈಬಿಟ್ಟಿರುವ ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ನಂ.464 ರಲ್ಲಿ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರವು ಉಪಯೋಗಿಸಿ ಅಭಿವೃದ್ಧಿಪಡಿಸಿ ಸಾರ್ವಜನಿಕ ಉಪಯೋಗಕ್ಕೆ ನೀಡಿರುವುದರಿಂದ ಭೂಮಾಲೀಕರ ಕೋರಿಕೆಯನ್ನು ಪರಿಗಣಿಸುವ ವಿಚಾರದಲ್ಲಿ ಪ್ರಾಧಿಕಾರ ಸಭೆಯಲ್ಲಿ ಚರ್ಚಿಸಿ ತೀರ್ಮಾನ ತೆಗೆದುಕೊಳ್ಳುವ ಸಂಬಂಧ ವಿಷಯವನ್ನು ಸಭೆಗೆ ಮಂಡಿಸಲಾಗಿದೆ.

ನಿರ್ಣಯ:

ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ, ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಯಿಂದ ಮೇಲ್ಕಂಡ ಜಮೀನನ್ನು ಕೈಬಿಡಲಾಗಿದ್ದರೂ, ಪ್ರಾಧಿಕಾರದ ವತಿಯಿಂದ ಅಭಿವೃದ್ಧಿಪಡಿ ಉಪಯೋಗಿಸಿಕೊಂಡಿದ್ದು ಪ್ರಾಧಿಕಾರದಿಂದ ತಪ್ಪಾಗಿರುವುದರಿಂದ ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ಸಂ 464 ರಲ್ಲಿ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರವು ಉಪಯೋಗಿಸಿ ಅಭಿವೃದ್ಧಿಪಡಿಸಿ ನಿವೇಶನ, ಉದ್ಯಾನವನ ರಸ್ತೆಗಳನ್ನು ಸಾರ್ವಜನಿಕ ಉಪಯೋಗಕ್ಕೆ ಮೇಲ್ಕಂಡಂತೆ ನೀಡಿರುವುದರಿಂದ ಪ್ರಾಧಿಕಾರದ ಸ್ವಾಧೀನದಲ್ಲಿದ್ದು ಅಭಿವೃದ್ಧಿಪಡಿಸದೆ ಇರುವ ಜಮೀನನ್ನು ಅರ್ಜಿದಾರರಿಗೆ ಬದಲಿಯಾಗಿ ನೀಡುವುದು ಎಂದು ತೀರ್ಮಾನಿಸಲಾಯಿತು."

"..... ....

- *ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ದೇವನೂರು 3ನೇ ಹಂತದ ಬಡಾವಣೆಗಾಗಿ ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ನಂ.464 ರಲ್ಲಿ ಶ್ರೀ.ನಿಂಗ ಬಿನ್ ಜವರ ಇವರ ಹೆಸರಿನಲ್ಲಿದ್ದ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನಪಡಿಸಲು ಪ್ರಾಧಿಕಾರವು ದಿನಾಂಕ 18.09.1992 ರಂದು ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆ ಹಾಗೂ ದಿನಾಂಕ 20.08.1997 ರಂದು ಸರ್ಕಾರವು ಅಂತಿಮ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿದ್ದು, ಈ ಜಮೀನಿಗೆ ರೂ.3,24,700/-ಗಳನ್ನು ಅವಾರ್ಡ್ ನಿಗಧಿಪಡಿಸಿ ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಳ್ಳಲಾಗಿತ್ತು.*

- *ನಂತರ ಸರ್ಕಾರದ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ..ನಅಇ 499 ಅಪ್ರಾವಿ 96, ದಿನಾಂಕ 18.05.1998 ರ ಪ್ರಕಟಣೆಯಂತೆ ಮೇಲ್ಕಂಡ 3-16 ಎಕರೆ -ಜಮೀನನ್ನು ಸರ್ಕಾರವು ಭೂಸ್ವಾಧೀನ ನಡವಳಿಯಿಂದ ಕೈಬಿಟ್ಟು ಪ್ರಕಟಣೆ ಹೊರಡಿಸಿರುತ್ತದೆ.*

- *ಪ್ರಶ್ನಿತ ಭೂಮಿಯನ್ನು ಶ್ರೀ.ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ಬಿನ್ ಮರಿಲಿಂಗಯ್ಯ. ಇವರು ಖರೀದಿ ಮಾಡಿದ್ದು, ದಿನಾಂಕ:15.07.2005 ರ ಅಧಿಕೃತ ಜ್ಞಾಪನಾದನ್ವಯ, ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಂದ ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ ಜಮೀನು ಭೂಪರಿವರ್ತನೆಯಾಗಿರುತ್ತದೆ.*

- *ಪ್ರಸ್ತಾಪಿತ ಭೂಮಿಯನ್ನು ಅಧಿಸೂಚನೆಯಿಂದ ರದ್ದುಪಡಿಸುವ ಪೂರ್ವದಲ್ಲಿ, ಬಡಾವಣೆ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಿರುವ ಸಮಯದಲ್ಲಿ ಮೇಲ್ಕಂಡ ಜಮೀನನ್ನು ಸಹ ಸೇರಿಸಿ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಲಾಗಿದ್ದು, ಉದ್ಯಾನವನ, ರಸ್ತೆ ಹಾಗೂ ನಿವೇಶನಗಳನ್ನು ರಚಿಸಿ, ಫಲಾನುಭವಿಗಳಿಗೆ ನಿವೇಶನಗಳನ್ನು ಹಂಚಿಕೆ ಮಾಡಲಾಗಿರುತ್ತದೆ.*

- *ಸದರಿ 3–16 ಎಕರೆ ಜಮೀನನ್ನು ಶ್ರೀ.ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ರವರು ಶ್ರೀಮತಿ.ಪಾರ್ವತಿ ರವರಿಗೆ ಮಾರಟ ಮಾಡಿದ್ದು, ಪ್ರಸ್ತುತ ಶ್ರೀಮತಿ ಪಾರ್ವತಿ ರವರು ಅರ್ಜಿಸಲ್ಲಿಸಿ ಭೂಸ್ವಾಧೀನದಿಂದ ಹೊರತು ಪಡಿಸಿರುವ ಭೂಮಿಯನ್ನು ಪ್ರಾಧಿಕಾರವು ಉಜಪಯೋಗಿಸಿಕೊಂಡಿರುವುದರಿಂದ ತಮ್ಮ ಜಮೀನಿನ ಬದಲಿಗೆ ಅಷ್ಟೇ ವಿಸ್ತೀರ್ಣದ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರವ ಸಮನಾಂತರ ಬಡಾವಣೆಯಲ್ಲಿ ನೀಡುವಂತೆ ಕೋರಿದ್ದರ ಮೇರೆಗೆ, ದಿ: 15.12.2017 ಮತ್ತು ದಿ::30.12.2017 ರ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯಲ್ಲಿ ಸದರಿ ಜಮೀನಿಗೆ*

ಬದಲಿಯಾಗಿ ಅಭಿವೃದ್ಧಿಪಡಿಸದೇ ಇರುವ ಜಮೀನನ್ನು ನೀಡುವುದೆಂದು ನಿರ್ಣಯಿಸಲಾಗಿರುತ್ತದೆ. ಕ.ನ.ಪ್ರಾ (ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಂಡಿರುವುದಕ್ಕೆ ಪರಿಹಾರಗಳ ಬದಲಿಗೆ ನಿವೇಶನಗಳ ಹಂಚಿಕೆ) (ತಿದ್ದುಪಡಿ) ನಿಯಮಗಳು 2015 ರಡಿಯಲ್ಲಿ ಶೇ:50:50 ಅನುಪಾತದಲ್ಲಿ ಪರಿಹಾರ ನೀಡಲು ಅವಕಾಶವಿದ್ದು, ಈ ಸಂಬಂಧ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯಲ್ಲಿ ವಿಸ್ತೃತ ಚರ್ಚೆ ಹಾಗೂ ಸೂಕ್ತ ನಿರ್ಣಯಕ್ಕಾಗಿ ವಿಷಯವನ್ನು ಸಭೆಗೆ ಮಂಡಿಸಿದೆ.

ಸಹಿ/–	*ಸಹಿ/–*	*ಸಹಿ/–*
ವಿಶೇಷ ಭೂಸ್ವಾಧಿನಾಧಿಕಾರಿ	*ಅಧೀಕ್ಷಕ ಅಭಿಯಂತರರು,*	*ಆಯುಕ್ತರು*
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ	*ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ/ಪ್ರಾಧಿಕಾರ,*	*ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ/ಪ್ರಾಧಿಕಾರ,*
ಮೈಸೂರು.	*ಮೈಸೂರು*	*ಮೈಸೂರು."*

It was resolved that in the ratio of 50:50 the compensation was to be given to the wife of the petitioner. Again the issue lies in cold storage for some time as after 2017 the next date on which it is decided to compensate the wife of the petitioner comes about on 20-03-2021. Proceedings on 20-03-2021 read as follows:

"ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು.

ದಿನಾಂಕ: 20.03.2021 ರಂದು ನಡೆದ ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಾಮಾನ್ಯ ಸಭೆಯ ನಡವಳಿಯ ಉದ್ಧರಣ (ಎಕ್ಸ್ ಟ್ರಾಕ್ಟ್).

XXXX XXXX XXXX

20. ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 464 ರಲ್ಲಿ 3-16 ಎಕರೆ ಭೂಮಿಯನ್ನು ಸರ್ಕಾರ ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಟ್ಟಿದ್ದರೂ ಪ್ರಾಧಿಕಾರವು ಉಪಯೋಗಿಸಿಕೊಂಡಿದ್ದು, ಭೂಮಾಲೀಕರು ಬದಲಿ ಭೂಮಿ ಕೋರಿರುವ ಬಗ್ಗೆ

- *ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ದೇವನೂರು 3ನೇ ಹಂತದ ಬಡಾವಣೆಗಾಗಿ ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ನಂ.464 ರಲ್ಲಿ ಶ್ರೀ.ನಿಂಗ ಬಿನ್ ಜವರ ಇವರ ಹೆಸರಿನಲ್ಲಿದ್ದ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನಪಡಿಸಲು ಪ್ರಾಧಿಕಾರವು ದಿನಾಂಕ 18.09.1992 ರಂದು ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆ ಹಾಗೂ ದಿನಾಂಕ 20.08.1997 ರಂದು ಸರ್ಕಾರವು ಅಂತಿಮ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿದ್ದು, ಈ ಜಮೀನಿಗೆ ರೂ.3.24,700/-ಗಳನ್ನು ಅವಾರ್ಡ್ ನಿಗಧಿಪಡಿಸಿ ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಳ್ಳಲಾಗಿತ್ತು.*

- *ನಂತರ ಸರ್ಕಾರದ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆನಅಇ 499. ಅಪ್ರಾವಿ 96, ದಿನಾಂಕ 18.05.1998 ರ ಪ್ರಕಟಣೆಯಂತೆ. ಮೇಲ್ಕಂಡ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಸರ್ಕಾರವು ಭೂಸ್ವಾಧೀನ ನಡವಳಿಯಿಂದ ಕೈಬಿಟ್ಟು ಪ್ರಕಟಣೆ ಹೊರಡಿಸಿರುತ್ತದೆ.*

- *ಪ್ರಶ್ನಿತ ಭೂಮಿಯನ್ನು ಶ್ರೀ.ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ಬಿನ್ ಮರಿಲಿಂಗಯ್ಯ. ಇವರು ಖರೀದಿ ಮಾಡಿದ್ದು, ದಿನಾಂಕ:15.07.2005 ರ ಅಧಿಕೃತ ಜ್ಞಾಪನಾದನ್ವಯ, ಮಾನ್ಯ. ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಂದ ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ ಜಮೀನು ಭೂಪರಿವರ್ತನೆಯಾಗಿರುತ್ತದೆ.*

- *ಪ್ರಸ್ತಾಪಿತ ಭೂಮಿಯನ್ನು ಅಧಿಸೂಚನೆಯಿಂದ ರದ್ದುಪಡಿಸುವ ಪೂರ್ವದಲ್ಲಿ, ಬಡಾವಣೆ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಿರುವ ಸಮಯದಲ್ಲಿ ಮೇಲ್ಕಂಡ ಜಮೀನನ್ನು ಸಹ ಸೇರಿಸಿ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಲಾಗಿದ್ದು, ಉದ್ಯಾನವನ ರಸ್ತೆ ಹಾಗೂ ನಿವೇಶನಗಳನ್ನು ರಚಿಸಿ, ಫಲಾನುಭವಿಗಳಿಗೆ ನಿವೇಶನಗಳನ್ನು ಹಂಚಿಕೆ ಮಾಡಲಾಗಿರುತ್ತದೆ.*

- *ಸದರಿ 3-16 ಎಕರೆ ಜಮೀನನ್ನು ಶ್ರೀ.ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ರವರು ಶ್ರೀಮತಿ.ಪಾರ್ವತಿ ರವರಿಗೆ ಮಾರಟ ಮಾಡಿದ್ದು, ಪ್ರಸ್ತುತ ಶ್ರೀಮತಿ.ಪಾರ್ವತಿ ರವರು ಅರ್ಜಿಸಲ್ಲಿಸಿ ಭೂಸ್ವಾಧೀನದಿಂದ ಹೊರತು, ಪಡಿಸಿರುವ ಭೂಮಿಯನ್ನು ಪ್ರಾಧಿಕಾರವು ಉಪಯೋಗಿಸಿಕೊಂಡಿರುವುದರಿಂದ ತಮ್ಮ ಜಮೀನಿನ ಬದಲಿಗೆ ಅಷ್ಟೇ ವಿಸ್ತೀರ್ಣದ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರದ ಸಮನಾಂತರ ಬಡಾವಣೆಯಲ್ಲಿ ನೀಡುವಂತೆ ಕೋರಿದ್ದರ ಮೇರೆಗೆ, ದಿ:15.12.2017 ಮತ್ತು ದಿ:30.12.2017 ರ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯಲ್ಲಿ ಸದರಿ ಜಮೀನಿಗೆ ಬದಲಿಯಾಗಿ ಅಭಿವೃದ್ಧಿಪಡಿಸದೇ ಇರುವ ಜಮೀನನ್ನು ನೀಡುವುದೆಂದು ನಿರ್ಣಯಿಸಲಾಗಿರುತ್ತದೆ. ಕ.ನ.ಪ್ರಾ. (ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಂಡಿರುವುದಕ್ಕೆ ಪರಿಹಾರಗಳ ಬದಲಿಗೆ ನಿವೇಶನಗಳ ಹಂಚಿಕೆ) (ತಿದ್ದುಪಡಿ) ನಿಯಮಗಳು 2015 ರಡಿಯಲ್ಲಿ ಶೇ.50:50 ಅನುಪಾತದಲ್ಲಿ ಪರಿಹಾರ ನೀಡಲು ಅವಕಾಶವಿದ್ದು, ಈ ಸಂಬಂಧ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯಲ್ಲಿ ವಿಸ್ತೃತ ಚರ್ಚೆ ಹಾಗೂ ಸೂಕ್ತ ನಿರ್ಣಯಕ್ಕಾಗಿ ವಿಷಯವನ್ನು ಸಭೆಗೆ ಮಂಡಿಸಿದೆ.*

ನಿರ್ಣಯ:

ಭೂ ಮಾಲೀಕರು ಪ್ರಕರಣದ ವಿಷಯವನ್ನು ಮುಂದೂಡುವಂತೆ ವಿನಂತಿಸಿರುವ ಮೇರೆಗೆ ವಿಷಯವನ್ನು ಮುಂದೂಡಲಾಯಿತು.

XXXX *XXXX* *XXXX*

"ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು.

<u>ದಿನಾಂಕ: 20.03.2021 ರಂದು ನಡೆದ ಪ್ರಾಧಿಕಾರದ ಸಾಮಾನ್ಯ ಸಭೆ ನಡಾವಳಿಗಳು</u>

ಹಾಜರಿದ್ದ ಸದಸ್ಯರು:

1. ಶ್ರೀ ಹೆಚ್.ವಿ.ರಾಜೀವ್	*ಅಧ್ಯಕ್ಷರು, ಮೈ.ನ.ಪ್ರಾ, ಮೈಸೂರು*
2. ಶ್ರೀ. ಮರಿತಿಬ್ಬೇಗೌಡ,	*ವಿಧಾನ ಪರಿಷತ್ ಸದಸ್ಯರು,*
3. ಶ್ರೀ ಜಿ.ಟಿ.ದೇವೇಗೌಡ,	*ವಿಧಾನ ಸಭಾ ಸದಸ್ಯರು,*
4. ಶ್ರೀ ಸಂದೇಶ್ ನಾಗರಾಜ್,	*ವಿಧಾನ ಪರಿಷತ್ ಸದಸ್ಯರು,*
5. ಶ್ರೀ ಕೆ.ಟಿ.ಶ್ರೀಕಂಠೇಗೌಡ,	*ವಿಧಾನ ಪರಿಷತ್ ಸದಸ್ಯರು,*
6. ಶ್ರೀ ಆರ್.ಧರ್ಮಸೇನ,	*ವಿಧಾನ ಪರಿಷತ್ ಸದಸ್ಯರು,*
7. ಶ್ರೀ ಎಲ್.ನಾಗೇಂದ್ರ,	*ವಿಧಾನ ಸಭಾ ಸದಸ್ಯರು,*
8. ಶ್ರೀ ರವೀಂದ್ರ ಶ್ರೀಕಂಠಯ್ಯ,	*ವಿಧಾನ ಸಭಾ ಸದಸ್ಯರು,*
9. ಶ್ರೀ ಹರ್ಷವರ್ಧನ.ಬಿ,	*ವಿಧಾನ ಸಭಾ ಸದಸ್ಯರು,*
10. ಡಾ ಯತೀಂದ್ರ ಎಸ್	***ವಿಧಾನ ಸಭಾ ಸದಸ್ಯರು,***
11. ಶ್ರೀ ಎಸ್.ಬಿ.ಎಂ, ಮಂಜು,	*ಸದಸ್ಯರು, ಮೈ.ನ.ಪ್ರಾ,*
12, ಶ್ರೀಮತಿ.ಲಕ್ಷ್ಮೀದೇವಿ,	*ಸದಸ್ಯರು, ಮೈ.ನ.ಪ್ರಾ,*
13. ಶ್ರೀ ನವೀನ್ ಕುಮಾರ್,	*ಸದಸ್ಯರು, ಮೈ.ನ.ಪ್ರಾ, ಮೈಸೂರು,*
14. ಶ್ರೀ ಜಿ.ಲಿಂಗಯ್ಯ,	*ಸದಸ್ಯರು, ಮೈ.ನ.ಪ್ರಾ, ಮೈಸೂರು,*
15. ಶ್ರೀ ಮಾದೇಶ,	*ಸದಸ್ಯರು, ಮೈ.ನ.ಪ್ರಾ, ಮೈಸೂರು,*
16. ಡಾ ನಟೇಶ್, ಡಿ.ಬಿ	*ಆಯುಕ್ತರು, ಮೈ.ನ.ಪ್ರಾ,*
17. ಶ್ರೀ ಜಯಸಿಂಹ,	*ನಗರ ಯೋಜನಾ ಸದಸ್ಯರು, ಮೈ.ನ.ಪ್ರಾ,*
18. ಶ್ರೀ ಶಂಕರ್	*ಅಭಿಯಂತ ಸದಸ್ಯರು, ಮೈ.ನ.ಪ್ರಾ.,*
19. ಶ್ರೀ ಹೆಚ್.ನಾಗೇಶ್,	*ಅಧೀಕ್ಷಕ ಅಭಿಯಂತರರು,(ಏ),ಚಾ.ವಿ.ಸ.ನಿ.ನಿ, ಮೈಸೂರು.*
20. ಶ್ರೀ ಟಿ ಜಯಣ್ಣ,	*ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಕ.ನ.ನೀ.ಸ. ಮತ್ತು ಒ.ಚ.ಮಂಡಳಿ, ಮೈಸೂರು.*

ಸಹಿ/–
ಆಯುಕ್ತರು
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ
ಮೈಸೂರು.

ಸಹಿ/–
ಅಧ್ಯಕ್ಷರು
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ
ಮೈಸೂರು.”

The son of the petitioner Dr. Yathindra.S who was an MLA of the very same constituency – Varuna participates in the said meeting, which resolves as aforequoted. The wife of the petitioner, after the

aforesaid resolution, again submits a representation seeking compensatory sites in lieu of usage of the lands as aforesaid, in terms of the Rules. The said representation dated 25-10-2021 reads as follows:

"ದಿನಾಂಕ: 25.10.2021

ಇಂದ:
ಶ್ರೀಮತಿ ಪಾರ್ವತಿ
ಮನೆ ನಂ.206, 16 ನೇ ಕ್ರಾಸ್,
ವಿಜಯನಗರ, ಬೆಂಗಳೂರು.

ರವರಿಗೆ
ಆಯುಕ್ತರು
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ
ಮೈಸೂರು.

ಮಾನ್ಯರೆ,

ವಿಷಯ: ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 464ರ 03 ಎಕರೆ 16 ಗುಂಟೆ ಜಮೀನನ್ನು ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಯಿಂದ ಸರ್ಕಾರ ಕೈಬಿಟ್ಟಿದ್ದರೂ ಕೂಡ ಪ್ರಾಧಿಕಾರವು ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ಬಡಾವಣೆ ರಚಿಸಿದ್ದು, ಈ ಬಾಬ್ತು ಶೇ 50:50 ರಷ್ಟು ನಿವೇಶನವನ್ನು ಬದಲಿಯಾಗಿ ನೀಡಲು ಕೋರಿ.

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ಮೇಲಿನ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ: 464ರ 03 ಎಕರೆ 16 ಗುಂಟೆ ಜಮೀನಿಗೆ ನಾನೂ ಭೂಮಾಲೀಕಳಾಗಿದ್ದು, ಸದರಿ ಜಮೀನಿಗೆ ಪ್ರಾಧಿಕಾರವು ದಿನಾಂಕ: 31.10.1992 ರಲ್ಲಿ ದೇವನೂರು 3ನೇ ಹಂತ ಬಡಾವಣೆ ರಚಿಸಲು ಭೂಸ್ವಾಧೀನಪಡಿಸಿಕೊಳ್ಳಲು ಅಂತಿಮ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿರುತ್ತದೆ. ಸದರಿ ಜಮೀನನ್ನು ಸರ್ಕಾರವು ಭೂಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಯಿಂದ ಕೈಬಿಟ್ಟು ಆದೇಶ ಸಂಖ್ಯೆ: ನಅಇ 499 ಅಪ್ರಾವಿ 96 ದಿನಾಂಕ 18.05.1998 ರಲ್ಲಿ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಲಾಗಿರುತ್ತದೆ.

ಸದರಿ ಜಮೀನಿಗೆ ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಂದ ಅನ್ಯಕ್ರಾಂತ ಆದೇಶವಾಗಿರುತ್ತದೆ. (ಆದೇಶ ಸಂಖ್ಯೆ: ಎಎಲ್ಎನ್(1)190/2004-05, ದಿನಾಂಕ 15.07.2005) ಆದರೂ ಸರ್ಕಾರದಿಂದ ಕೈಬಿಟ್ಟ ಜಮೀನನ್ನು ಮತ್ತು ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಂದ ಅನ್ಯಕ್ರಾಂತವಾದ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರವು ದೇವನೂರು

3ನೇ ಹಂತ ಬಡಾವಣೆ ರಚಿಸಲು ಉಪಯೋಗಿಸಿಕೊಂಡು 3-16 ಎಕರೆ ಜಮೀನಿನಲ್ಲಿ ನಿವೇಶನ, ಬಡಾವಣೆ ರಸ್ತೆ ಮತ್ತು ಸಾರ್ವಜನಿಕ ಉದ್ಯಾನವನ್ನು ಅಭಿವೃದ್ಧಿಪಡಿಸಿ 2001 ರಲ್ಲಿ ಸದರಿ ಬಡಾವಣೆಯಲ್ಲಿ ನಿವೇಶನ ಹಂಚಿಕೆ ಮಾಡಲಾಗಿರುತ್ತದೆ.

ನನ್ನ ಜಮೀನನ್ನು ಪ್ರಾಧಿಕಾರವು ಉಪಯೋಗಿಸಿಕೊಂಡಿರುವ ಬಾಬ್ತು ಇದೂವರೆವಿಗೂ ಯಾವುದೇ ಪರಿಹಾರವನ್ನು ನೀಡಿರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ನನಗೆ ಮೇಲಿನ ಜಮೀನಿಗೆ ಪರಿಹಾರವಾಗಿ ಪ್ರಸ್ತುತ ಶೇ 50:50 ರ ಅನುಪಾತದಲ್ಲಿ ಲಭ್ಯವಾಗುವ ಅಭಿವೃದ್ಧಿಪಡಿಸಿದ ಬಡಾವಣೆಯಲ್ಲಿನ ಶೇ 55% ವಸತಿ ನಿವೇಶನಗಳನ್ನು ನೀಡಬೇಕೆಂದು ತಮ್ಮಲ್ಲಿ ಕೋರುತ್ತೇನೆ.

ಸಹಿ/–

ತಮ್ಮ ವಿಶ್ವಾಸಿ"

After the said representation, a communication is made on 23-11-2021 directing the wife of the petitioner to submit all the documents and also execute a relinquishment deed. It reads as follows:

"ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು

ಸಂಖ್ಯೆ: ಎಲ್ಎಸಿ40/97–98 *ದಿನಾಂಕ:23.11.2021*

<u>ತಿಳುವಳಿಕೆ ಪತ್ರ</u>

ವಿಷಯ: ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ನಂ.464 ರ 3–16 ಎಕರೆ ಜಮೀನನ್ನು ಸರ್ಕಾರ ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಟ್ಟಿದ್ದರೂ ಕೂಡ ಪ್ರಾಧಿಕಾರವು ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ಬಡಾವಣೆ ರಚಿಸಿದ್ದು, ಈ ಬಾಬ್ತು ಶೇ 50:50 ರಷ್ಟು ನಿವೇಶನ ನೀಡುವಂತೆ ಕೋರಿರುವ ಬಗ್ಗೆ

ಉಲ್ಲೇಖ: 1. ಪ್ರಾಧಿಕಾರದ ನಿರ್ಣಯ ದಿ:15.12.2017, 30.12.2017 ಮತ್ತು 20.03.2021.
2. ಮಾನ್ಯ ಆಯುಕ್ತರ ಆದೇಶ ದಿ:29.10.2021.
3. ಅರ್ಜಿದಾರರ ಕೋರಿಕೆ ದಿ:23.06.2014 ಮತ್ತು ದಿ:25.10.2021

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ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮದ ಸ.ನಂ.464 ರಲ್ಲಿ 3–16 ಎಕರೆ ಜಮೀನನ್ನು ಸರ್ಕಾರ ಭೂಸ್ವಾಧೀನದಿಂದ ಕೈಬಿಟ್ಟಿದ್ದರೂ ಕೂಡ ಪ್ರಾಧಿಕಾರವು ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ಬಡಾವಣೆ ರಚಿಸಿದ್ದು, ಈ ಬಾಬ್ತು 50:50 ರಷ್ಟು ನಿವೇಶನ ನೀಡುವಂತೆ ಅರ್ಜಿದಾರರು ಕೋರಿರುತ್ತೀರಿ.

ಭೂಸ್ವಾಧೀನ ಕ್ರಮದಿಂದ ಕೈಬಿಟ್ಟ ಪ್ರಸ್ತಾಪಿತ ಸರ್ವೆ ನಂಬರ್ ಜಮೀನಿನ ಪೂರ್ಣ ವಿಸ್ತೀರ್ಣವನ್ನು ದೇವನೂರು 3ನೇ ಹಂತ ವಸತಿ ಬಡಾವಣೆ ನಿರ್ಮಾಣ ಉದ್ದೇಶಕ್ಕಾಗಿ ರಸ್ತೆ, ಉದ್ಯಾನವನ ಹಾಗೂ ವಿವಿಧ ನಿವೇಶನಗಳನ್ನು ನಿರ್ಮಾಣ ಮಾಡಲು ಉಪಯೋಗಿಸಿ ಕೊಳ್ಳಲಾಗಿರುವುದರಿಂದ ಉಲ್ಲೇಖ(3)ರ ನಿಮ್ಮ ಮನವಿಯನ್ನು ಪರಿಶೀಲಿಸಲಾಗಿದ್ದು, ಉಪಯೋಗಿಸಿಕೊಳ್ಳಲಾಗಿರುವ ಪ್ರಶ್ನಿತ ಜಮೀನಿನ ವಿಸ್ತೀರ್ಣಕ್ಕೆ ಅನುಗುಣವಾಗಿ ಉಲ್ಲೇಖ (1)ರ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯದಂತೆ ಮತ್ತು ಉಲ್ಲೇಖ(2)ರ ಅನುಮೋದನೆಯಂತೆ ಕ್ರಮ ಕೈಗೊಳ್ಳುವ ಸಲುವಾಗಿ ಸ.ನಂ.464 ರ 3–16 ಎಕರೆ ಜಮೀನಿಗೆ ಸಂಬಂಧಿಸಿದ ಹಕ್ಕು ದಾಖಲಾತಿಗಳನ್ನು ಹಾಜರುಪಡಿಸಿ ಪ್ರಾಧಿಕಾರದ ಹೆಸರಿಗೆ ಈ ಪತ್ರ ತಲುಪಿದ 03 ದಿನಗಳೊಳಗಾಗಿ ಪರಿತ್ಯಾಜನ ಪತ್ರ ಮಾಡಿಕೊಡುವಂತೆ ಹಾಗೂ ಮೂಲ ದಾಖಲಾತಿಗಳನ್ನು ಹಾಜರುಪಡಿಸಿ ಪ್ರಾಧಿಕಾರದ ಸುಪರ್ದಿಗೆ ಸಲ್ಲಿಸುವಂತೆ ತಿಳಿಸಿದೆ.

ಸಹಿ/–
ವಿಶೇಷ ಭೂಸ್ವಾಧೀನಾಧಿಕಾರಿ
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ,
ಮೈಸೂರು.

ರವರಿಗೆ,
ಶ್ರೀಮತಿ ಪಾರ್ವತಿ
#206, 16ನೇ ಕ್ರಾಸ್
ವಿಜಯನಗರ, ಬೆಂಗಳೂರು.”

(Emphasis supplied)

In terms of the aforesaid representation, the relinquishment deed is executed immediately on 25-11-2021. The relinquishment deed reads as follows:

“ಪರಿತ್ಯಾಜನ ಪತ್ರ

ಸನ್ ಎರಡು ಸಾವಿರದ ಇಪ್ಪತ್ತೊಂದನೇ ಇಸವಿ ನವೆಂಬರ್ ಮಾಹೆ ದಿನಾಂಕ ಇಪತ್ತೈದರಲ್ಲಿ (25.11.2021)

ಘನತೆವೆತ್ತ ರಾಜ್ಯಪಾಲರು, ಕರ್ನಾಟಕ ರಾಜ್ಯ ಸರ್ಕಾರದ ಪರವಾಗಿ ಆಯುಕ್ತರು, ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಜೆ.ಎಲ್.ಬಿ. ರಸ್ತೆ, ಮೈಸೂರು, ಇವರನ್ನು ಪ್ರತಿನಿಧಿಸುವವರು ಶ್ರೀ ಕೆ.ಸಿ.ಉಮೇಶ್, ಪ್ರ.ದ.ಸ. ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು (ಈ ಅಭಿವ್ಯಕ್ತಿಯು ಅದರ ಪದದಲ್ಲಿನ ಉತ್ತರಾಧಿಕಾರಿಗಳನ್ನು ಹಾಗೂ ಇವರ ಕಾನೂನುಬದ್ಧ ಪ್ರತಿನಿಧಿಗಳನ್ನು ಒಳಗೊಂಡಂತೆ ಸ್ವತ್ತಿನ ಹಸ್ತಾಂತರಿಸಿಕೊಳ್ಳುವವರು)

ಬೆಂಗಳೂರು ಸಿಟಿ, ವಿಜಯನಗರ, 16ನೇ ಕ್ರಾಸ್, ಮನೆ ನಂ. 206ರಲ್ಲಿ ವಾಸವಾಗಿರುವ & ಶ್ರೀ ಸಿದ್ದರಾಮಯ್ಯ. ರವರ ಧರ್ಮಪತ್ನಿ ಯಾದ ಸುಮಾರು 58 ವರ್ಷ ವಯಸ್ಸಿನ ಶ್ರೀಮತಿ ಪಾರ್ವತಿ

(ಆಧಾರ್ ಸಂಖ್ಯೆ: 9577 0592 7480)

(ಈ ಅಭಿವ್ಯಕ್ತಿಯು ಅವರ ವಾರಸುದಾರರು, ನಿರ್ವಾಹಕರು, ಆಡಳಿತಗಾರರು, ಹಸ್ತಾಂತರಕಾರರು, ಉತ್ತರಾಧಿಕಾರಿಗಳನ್ನು ಹಾಗೂ ಇವರ ಕಾನೂನು ಬದ್ಧ ಪ್ರತಿನಿಧಿಗಳನ್ನು ಒಳಗೊಂಡಂತೆ ಸ್ವತ್ತನ್ನು ಹಸ್ತಾಂತರಿಸುವವರು) ಆದ ನಾನು ಬರೆದುಕೊಟ್ಟ ಪರಿತ್ಯಾಜನ ಪತ್ರದ ಕ್ರಮವೇನೆಂದರೆ.

ಮೊದಲನೇ ಪಕ್ಷಕಾರರು ಮತ್ತು ಎರಡನೇ ಪಕ್ಷಕಾರರು ಸಂಭೋಧಿಸಲ್ಪಡುವಾಗ ಅರ್ಥ, ಸಂಧರ್ಭಾನುಸಾರವಾಗಿ, ಅರ್ಥ ಆಭಾಸವಾಗದಿದ್ದ ಪಕ್ಷದಲ್ಲಿ ಈ ದಾಖಲೆಯ ಪಕ್ಷಕಾರರು, ಅವರ ವಾರಸುದಾರರು ಅವರು ನೇಮಕಾತಿಗೊಳಿಸಿದ ಆಡಳಿತಾಧಿಕಾರಿಗಳು, ಅವರು ಅನುಮೋದಿಸಿರುವ ಪಕ್ಷಕಾರರು ಅವರ ಹಕ್ಕುಗಳನ್ನು ಜಾರಿಗೊಳಿಸುವಂತಹವರು, ಅಥವಾ ಅವರವರ ಹಾದಿಯಲ್ಲಿ ಕಾನೂನಾತ್ಮಕ ಹಕ್ಕು ಳ್ಳವರಾಗಿರುವಂತಹವರು ಸಹಾ ಸೇರ್ಪಡೆ ಯಾಗುವಂತಹವರೆಂದು ಧೃಢೀಕರಿಸಲಾಗಿದೆ.

ಈ ಹಸ್ತಾಂತರಣ / ಪರಿತ್ಯಾಜ/ ಪತ್ರದ ಷೆಡ್ಯೂಲ್‌ನಲ್ಲಿ ವಿವರಿಸಿರುವ ಸ್ವತ್ತು ಅಂದರೆ ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮಕ್ಕೆ ಸೇರಿದ ಸರ್ವೆ ನಂ.464 ರಲ್ಲಿರುವ 3.16 ಗುಂಟೆ ಖುಷ್ಕಿ ಜಮೀನು ಮೂಲತ: ಶ್ರೀ. ನಿಂಗ ಬಿನ್ ಜವರ ಮೃತರಾಗಿರುತ್ತಾರೆ. ಸದರಿ ಜಮೀನನ್ನು ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ಕೆಸರೆ 3ನೇ ಹಂತ ಬಡಾವಣೆ ನಿರ್ಮಾಣ ಮಾಡುವುದಕ್ಕಾಗಿ ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಳ್ಳಲು ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ. ನ.ಅ.ಇ 557 ಅ.ಪ್ರಾ ಇ 96 ದಿನಾಂಕ 20.8.1997 ರಂತೆ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿ ಭೂ ಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಂಡು ಅವಾರ್ಡ್ ನಿರ್ಣಯಿಸಿರುತ್ತಾರೆ. ಆನಂತರ ಭೂ ಮಾಲೀಕರು ಸರ್ಕಾರಕ್ಕೆ ಮನವಿ ಸಲ್ಲಿಸಿ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿಗೆ ಹೊರಡಿಸಿರುವ ಭೂ ಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಯನ್ನು ರದ್ದುಗೊಳಿಸಿ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ವಾಪಸ್ ಭೂ ಮಾಲೀಕರಿಗೆ ನೀಡಬೇಕೆಂದು ಮನವಿ ಸಲ್ಲಿಸಿದ್ದು ನಗರಾಭಿವೃದ್ಧಿ ಸಚಿವಾಲಯವು ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ. ನ.ಆ.ಇ/499/ಆ.ಪ್ರಾ.ವಿ./96. ಬೆಂಗಳೂರು ದಿನಾಂಕ 18.5.1998 ರಂದು ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಭೂ ಸ್ವಾಧೀನ ಕ್ರಮದಿಂದ ಕೈ ಬಿಟ್ಟು ಆದೇಶಿಸಿರುತ್ತದೆ.

ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಮೂಲ ಮಾಲೀಕರಾದ ನಿಂಗ ಬಿನ್ ಜವರ ಮೃತರಾಗಿದ್ದು ಅವರ ಕಾಲಾ ನಂತರ ಅವರ ಒಬ್ಬನೇ ಮಗನಾದ ಶ್ರೀ ಚೆ. ದೇವರಾಜು ರವರು ತಮ್ಮ ಹೆಸರಿಗೆ ಖಾತಾ ವರ್ಗಾವಣೆ ಮಾಡಿಕೊಂಡು ಕಂದಾಯ ಪಾವತಿಸಿ ಅವರ ಸಂಪೂರ್ಣ ಹಕ್ಕು ಮಾಲೀಕತ್ವಕ್ಕೆ ಒಳಪಟ್ಟ ಸ್ವತ್ತಾಗಿದ್ದು ಸದರಿ ಶ್ರೀ ಜೆ. ದೇವರಾಜು ಮತ್ತು ಅವರ ಕುಟುಂಬದವರು ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ದಿನಾಂಕ 25.8.2004 ನೊಂದಾಯಿತ ಕ್ರಯಪತ್ರದ ಮೂಲಕ ಶ್ರೀ ಬಿ.ಎಂ. ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ಬಿನ್ ಮರಿಲಿಂಗಯ್ಯ. ರವರಿಗೆ ಮಾರಾಟ ಮಾಡಿದ್ದು ಸದರಿ ಕ್ರಯಪತ್ರವು ಮೈಸೂರಿನ ಉತ್ತರ ಉಪನೋಂದಣಾಧಿಕಾರಿಯವರ ಕಛೇರಿಯಲ್ಲಿ 1ನೇ ಪುಸ್ತಕದ ದಸ್ತಾವೇಜು ನಂ, MYN-1-06088-2004-05 CD NANDE No.MYND2 ದಿನಾಂಕ 25.8.2004 ರಂದು ನೊಂದಣಿಯಾಗಿರುತ್ತದೆ. ಅನಂತರ ಸದರಿ ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ

ತಮ್ಮ ಹೆಸರಿಗೆ ಖಾತೆ ವರ್ಗಾಯಿಸಿಕೊಂಡು ಅವರ ಸಂಪೂರ್ಣ ಹಕ್ಕು ಮಾಲೀಕತ್ವ ಮತ್ತು ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿರುವ ಸ್ವತ್ತಾಗಿರುತ್ತದೆ.

ಪೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಮೇಲ್ಕಂಖ ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ವ್ಯವಸಾಯ ಉದ್ದೇಶದಿಂದ ವ್ಯವಸಾಯೇತರ ಅಂದರೆ ವಸತಿ ಉದ್ದೇಶಕ್ಕೆ ಅನ್ಯಕ್ರಾಂತ ಮಾಡಿಕೊಡುವಂತೆ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಗೆ ಮನವಿ ಸಲ್ಲಿಸಿದ್ದು ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು ದಿನಾಂಕ 15.7.2005 ರಂದು ವಸತಿ ಉದ್ದೇಶಕ್ಕಾಗಿ ಭೂ ಪರಿವರ್ತನೆ ಮಾಡಿ ಅನ್ಯಕ್ರಾಂತ ಆದೇಶ ಹೊರಡಿಸಿರುತ್ತಾರೆ. ಆ ಮೂಲಕ ಷೆಡ್ಯೂಲ್ ಸತ್ತಿಗೆ ಮಾನ್ಯ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳ ಆದೇಶದಂತೆ ನಿಗದಿತ ಶುಲ್ಕ ಪಾವತಿಸಿ ಅನ್ಯಕ್ರಾಂತ ಆದೇಶವನ್ನು ಪಡೆದುಕೊಂಡಿರುತ್ತಾರೆ.

ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಸದರಿ ಬಿ.ಎಂ.ಮಲ್ಲಿಕಾರ್ಜುನಸ್ವಾಮಿ ರವರು ದಿನಾಂಕ 6.8.2010 ರಂದು ನೊಂದಾಯಿತ ದಾನ ಪತ್ರದ ಮೂಲಕ ಮೇಲ್ಕಂಡ ಬಿ.ಎಂ. ಪಾರ್ವತಿ ರವರಿಗೆ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಅವರ ಮೇಲಿನ ಪ್ರೀತಿ ಮತ್ತು ವಿಶ್ವಾಸಗಳ ಸಲುವಾಗಿ ದಾನ ಪತ್ರದ ಮೂಲಕ ನೀಡಿದ್ದು ಸದರಿ ದಾನ ಪತ್ರವು ಮೈಸೂರು ಉತ್ತರ ಉಪನೋಂದಣಾಧಿಕಾರಿಯವರ ಕಛೇರಿಯಲ್ಲಿ ಪುಸ್ತಕದ ದಸ್ತಾವೇಜು ಸಂಖ್ಯೆ MYN-1-12432-2010-11 CD No.MYND252 ದಿನಾಂಕ:20.10.2010 ರಂದು ನೊಂದಾಯಿಸಲ್ಪಟ್ಟಿರುತ್ತದೆ. ಆ ಮೂಲಕ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಖಾತೆಯನ್ನು ತಮ್ಮ ಹೆಸರಿಗೆ ವರ್ಗಾಯಿಸಿಕೊಂಡು ಸಂಪೂರ್ಣ ಕಂದಾಯ ಪಾವತಿಸಿ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಸಂಪೂರ್ಣ ಮಾಲೀಕತ್ವ ಹಕ್ಕುಬಾಧ್ಯತೆ ಮತ್ತು ಸ್ವಾಧೀನಾನುಭವದಲ್ಲಿರುವ ಸ್ವಯಾರ್ಜಿತ ಸ್ವತ್ತಾಗಿರುತ್ತದೆ. ಆ ರೀತ್ಯಾ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ತಮ್ಮ ಇಚ್ಛಾನುಸಾರ ವಿಲೇವಾರಿ ಮಾಡುವ ಸಂಪೂರ್ಣ ಹಕ್ಕು ಳ್ಳವರಾಗಿರುತ್ತಾರೆ.

ಈ ಹಂತದಲ್ಲಿ ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ಅಂದಿನ ವಿಶ್ವಸ್ಥಮಂಡಳಿ ಯವರು ಮೈಸೂರು ತಾಲ್ಲೂಕು ಕಸಬಾ ಹೋಬಳಿ ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.464 ರಲ್ಲಿ 3.16 ಗುಂಟೆ ಪೂರ್ಣ ಜಮೀನನ್ನು ಅಂದರೆ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಈಗಾಗಲೇ ಭೂ ಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆಯಿಂದ ನಗರಾಭಿವೃದ್ಧಿ ಸಚಿವಾಲಯ ಭೂಸ್ವಾಧೀನ ಕ್ರಮದಿಂದ ಕೈ ಬಿಟ್ಟಿದ್ದರೂ ಸಹ ಮತ್ತು ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ಪ್ರಾಧಿಕಾರದ ಯೋಜನಾ ನಕ್ಷೆಯಲ್ಲಿ ಮೇಲ್ಕಂಡ ಜಮೀನನ್ನು ಕೈಬಿಡಲಾಗಿದ್ದರೂ ಕೂಡ ಜಮೀನನ್ನು ಅಭಿವೃದ್ಧಿ ಪಡಿಸುವ ಸಮಯದಲ್ಲಿ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಸಹ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಿ ಉದ್ಯಾನವನ, ರಸ್ತೆ ಹಾಗೂ ಬಡಾವಣೆ ರಚಿಸಿ ನಿವೇಶನಗಳನ್ನು ಪಲಾನುಭವಿಗಳಿಗೆ ಹಂಚಲಾಗಿರುತ್ತದೆ. ಸದರಿ ನಿವೇಶನಗಳಲ್ಲಿ ಮಂಜೂರಾತಿದಾರರು ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮಾಡಿ ವಾಸವಾಡುತ್ತಿದ್ದು, ಸದರಿ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತು ಈಗಾಗಲೇ ಪ್ರಾಧಿಕಾರದ ಬಡಾವಣೆಯಾಗಿ ಮಾರ್ಪಾಡಾಗಿರುತ್ತದೆ.

ತದನಂತರ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಮಾಲೀಕರಾದ ಶ್ರೀಮತಿ ಬಿ.ಎಂ.ಪಾರ್ವತಿ ರವರು ದಿನಾಂಕ 23.6.2014 ರಂದು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಅರ್ಜಿ ಸಲ್ಲಿಸಿ ಷೆಡ್ಯೂಲ್ ನಲ್ಲಿ ವಿವರಿಸಿರುವ 3 ಎಕರೆ 16 ಗುಂಟೆ ಜಮೀನನ್ನು ಭೂ ಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆ ಯಿಂದ ಕೈಬಿಟ್ಟು ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿದ್ದರೂ ಸಹ ಮೇಲ್ಕಂಡ ಕೆಸರೆ

3ನೇ ಹಂತ ಬಡಾವಣೆ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಉಪಯೋಗಿಸಿಕೊಂಡಿರುವುದರಿಂದ ಸದರಿ ಜಮೀನಿಗೆ ಬದಲಾಗಿ 50 : 50 ಅನುಪಾತದಲ್ಲಿ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಿದ ಸ್ಥಳದಲ್ಲಿ ನಿವೇಶನಗಳನ್ನು ಮಂಜೂರು ಮಾಡಿಕೊಡಬೇಕೆಂದು ಮನವಿ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಅದರಂತೆ ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ಸದರಿ ವಿಷಯವನ್ನು ವಿಷಯ ಸಂಖ್ಯೆ 30 ರ ರೀತ್ಯಾ ದಿನಾಂಕ 15.12.2017 ಮತ್ತು ದಿನಾಂಕ 30.12.2017 ರ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯಲ್ಲಿ ಮಂಡಿಸಿದ್ದು, ಪ್ರಾಧಿಕಾರ ಸಭೆಯ ನಿರ್ಣಯದಂತೆ ಪ್ರಾಧಿಕಾರವು ಉಪಯೋಗಿಸಿಕೊಂಡಿರುವ ಅಂದರೆ ಷೆಡ್ಯೂಲ್ ನಲ್ಲಿ ನಮೂದಿಸಿರುವ ಸ್ವತ್ತನ್ನು ಭೂ ಮಾಲೀಕರಿಂದ ಪಡೆದುಕೊಂಡು 50 :50 ರ ಅನುಪಾತದಲ್ಲಿ ಅರ್ಜಿದಾರರಿಗೆ ಅಭಿವೃದ್ಧಿ ಪಡಿಸಿರುವ ಬಡಾವಣೆಯಲ್ಲಿ ನಿವೇಶನದ ರೂಪದಲ್ಲಿ ನೀಡಲು ಬಹುಮತದಿಂದ ನಿರ್ಣಯವಾಗಿರುತ್ತದೆ. ಈ ನಿರ್ಣಯವು ಪ್ರಾಧಿಕಾರದ ವಿಷಯ ಸಂಖ್ಯೆ 29ರ ದಿನಾಂಕ 20.11.2020ರಲ್ಲಿ ಇಂತಹ ಪ್ರಕರಣಗಳಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಹೊರಡಿಸಿರುವ ನಿರ್ಣಯವನ್ನು ಪರಿಗಣಿಸಿ, ಪ್ರಾಧಿಕಾರದ ನಿರ್ಣಯದಂತೆ ಜಮೀನಿನ ಮಾಲೀಕರು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಸದರಿ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನಲ್ಲಿ ತಮಗಿರುವಂತಹ ಹಕ್ಕನ್ನು ಪರಿತ್ಯಾಜನ ಪತ್ರದ ಮೂಲಕ ಬಿಟ್ಟುಕೊಟ್ಟಿರುತ್ತಾರೆ. ಷೆಡ್ಯೂಲ್ ಸ್ಥತಿನಲ್ಲಿ 2ನೇ ಪಾರ್ಟಿದಾರರಿಗೆ ಇರತಕ್ಕಂತಹ ಹಕ್ಕನ್ನು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಈ ದಿನವೇ ಬಿಟ್ಟುಕೊಟ್ಟಿರುತ್ತಾರೆ.

ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಿಸಿದ ಎಲ್ಲಾ ಮೂಲ ದಾಖಲಾತಿ ಪತ್ರಗಳನ್ನು ಹಾಗೂ ಕಾಗದ ಪತ್ರದ ಸಮೇತ ಸರ್ವ ಮಾಲೀಕತ್ವದೊಡನೆ ಫೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಸ್ವಾಧೀನವನ್ನು ನಿಮಗೆ ಈ ದಿನವೇ ವಹಿಸಿರುತ್ತೇನೆ. ಇಲ್ಲಿಂದ ಮುಂದೆ ಷಡ್ಯೂಲ್ ಸ್ವತ್ತಿನಲ್ಲಿರಬಹುದಾದ ಜಲ,ತರುಪಾಷಾಣಾದಿ ಅಷ್ಟ ಭೋಗ ತೇಜ ಸೌಮ್ಯಂಗಳಿಗೂ ನೀವೇ ಹಕ್ಕುದಾರರಾಗಿ, ಅವುಗಳ ಆದಿ ಭೋಗ, ಪರಾಧೀನ, ದಾನ, ಚತುಷ್ಪಯಂಗಳಿಗೂ ನೀವೇ ಸಂಪೂರ್ಣ ಹಕ್ಕು ಬಾಧ್ಯತೆಗಳೊಡನೆ ಮಾಲೀಕತ್ವವನ್ನು ಹೊಂದಿ ನಿಮ್ಮ ಇಚ್ಛಾನುಸರ ಅನುಭವಿಸಿಕೊಂಡು ಹೋಗುವ ಸಂಪೂರ್ಣ ಹಕ್ಕು ಳ್ಳವರಾಗಿರುತ್ತೀರಿ. ಈ ದಿನದವರೆವಿಗೂ ಎಲ್ಲಾ ರೀತಿಯ ಕಂದಾಯ ಪೆನಾಲ್ಟಿ ವಗೈರೆಗಳನ್ನು ಸಂಬಂಧಪಟ್ಟ ಕಛೇರಿಗಳಿಗೆ ಪಾವತಿಸಲಾಗಿದೆ. ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಯಾವುದೇ ಋಣಭಾರರಹಿತವಾಗಿ ಎಲ್ಲಾ ಪೂರ್ವಾಧಿಗಳನ್ನು ತೆರಿಗೆ ಹಾಗೂ ಇತರೆ ಬಾಕಿಗಳು ಮತ್ತು ಯಾವುದೇ ಕ್ಲೈಮುಗಳಿಂದ ಅವರ ವೈಯಕ್ತಿಕ ಹಾಗೂ ನಿರುಪಾಧಿಕವಾಗಿ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಹಾಲಿ ನಿಮಗೆ ನೀಡೀರುವುದೇ ವಿನಃ ಈ ಹಿಂದೆ ಸದರಿ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಯಾವುದೇ ವಿಧವಾದ ಕ್ರಯ, ಕ್ರಯದ ಕರಾರು, ಆಧಾರ, ಪರಭಾರೆ, ಭೋಗ್ಯ ಪರಾಧೀನ. ವಗೈರೆಗಳಿಗೆ ಈಡು ಮಾಡಿರುವುದಿಲ್ಲ.

ಫೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ನನ್ನನ್ನು ಹೊರತು ಪಡಿಸಿ ಬೇರೆಯಾರಿಗೂ ಸಹ ಯಾವುದೇ ವಿಧವಾದ ಹಕ್ಕು, ಹಿತಾಸಕ್ತಿ, ಭಾಗಾಂಶ ವಗೈರೆ ಇರುವುದಿಲ್ಲ. ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತು ನನ್ನ ಸ್ವಯಾರ್ಜಿತ ಸ್ವತ್ತಾಗಿರುತ್ತದೆ. ಇನ್ನು ಮುಂದೆ ಷಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಖಾತೆ ಹಾಗೂ ಇತರೆ ರೆವಿನ್ಯೂ ದಾಖಲಾತಿಗಳನ್ನು ತಮ್ಮ ಹೆಸರಿಗೆ ಮಾಡಿಸಿಕೊಳ್ಳಲು ಸಂಪೂರ್ಣ ಒಪ್ಪಿಗೆ ಇರುತ್ತದೆ. ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತನ್ನು ಉತ್ತಮ ರೀತಿಯಲ್ಲಿ

ಅನುಭವಿಸಲು ಬೇಕಾಗುವ ಯಾವುದೇ ಕಾಗದಪತ್ರ, ಕ್ರಮವಗೈರೆಗಳನ್ನು ನಿರ್ವಹಿಸಿಕೊಡಲು ಬದ್ಧರಿರುತ್ತಾರೆಂದು ಈ ಮೂಲಕ ಒಪ್ಪಿರುತ್ತಾರೆ.

ಈ ಪರಿತ್ಯಾಜನ ಪತ್ರವು ಕರ್ನಾಟಕ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ (ಭೂಮಿಯನ್ನು ಸ್ವ ಇಚ್ಛೆಯಿಂದ ಬಿಟ್ಟುಕೊಡುವುದಕ್ಕಾಗಿ ಪ್ರೋತ್ಸಾಹದಾಯಕ ಯೋಜನೆ) ನಿಯಮಗಳ 1991 ರಲ್ಲಿ ನಿರ್ದಿಷ್ಟಪಡಿಸಿರುವ ಮತ್ತು ಷರತ್ತುಗಳಿಗೆ ಒಳಪಟ್ಟಿರುತ್ತದೆ. ಮತ್ತು ಸದರಿ ನಿರ್ಭಂಧಗಳು ಮತ್ತು ಷರತ್ತುಗಳು ಈ ಪರಿತ್ಯಾಜನ ಪತ್ರದ ಒಂದು ಭಾಗವಾಗಿರುವುದು ಎಂದು ಭಾವಿಸತಕ್ಕದ್ದು.

ಒಂದು ವೇಳೆ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಮೇಲೆ ಇರುವ ವಿಶಿಷ್ಟ ಹಕ್ಕು ಭಾದ್ಯತೆಗಳೇನಾದರೂ ದೋಷಪೂರಿತವಾಗಿದ್ದು, ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಮೇಲೆ ಪೂರ್ಣ ಅಥವಾ ಭಾಗಶಃ ಹಕ್ಕು ಭಾದ್ಯತೆಗೆ ಧಕ್ಕೆಯುಂಟಾದರೆ ನಷ್ಠವನ್ನು ತುಂಬಿಕೊಡಲು ಬದ್ಧರಾಗಿರುತ್ತಾರೆ. ಹಾಗೂ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಮೇಲೆ ಯಾವುದೇ ಋಣಭಾರಗಳಾಗಲೀ, ತಂಟೆತಕರಾರುಗಳಾಗಲೀ, ಮೈನರ್ ಹಕ್ಕು ಭಾದ್ಯತೆಗಳಾಗಲೀ ನ್ಯಾಯಾಲಯದ ಜಪ್ತಿ ಅಥವಾ ಕ್ಲೈಮುಗಳಾಗಲೀ ಇರುವುದಿಲ್ಲವೆಂದು ಭರವಸೆ ನೀಡಿರುತ್ತಾರೆ. ಒಂದು ವೇಳೆ ಮುಂದೇನಾದರ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ತಂಟೆ ತಕರಾರುಗಳು ಕಂಡುಬಂದಂತಹ ಪಕ್ಷದಲ್ಲಿ ನಾವೇ ಖುದ್ದು ಮುಂದೆ ನಿಂತು ಬಗೆಹರಿಸಿಕೊಡುವುದಾಗಿ ಒಪ್ಪಿರುತ್ತೇವೆ. ಹಾಗೊಂದು ವೇಳೆ ಅಂತಹ ಯಾವುದೇ ತಂಟೆ ತಕರಾರು ಉದ್ಭವಿಸಿದಲ್ಲಿ ಅದನ್ನು ಪರಿಹರಿಸಿಕೊಡುವುದಾಗಿ ಒಪ್ಪಿರುತ್ತಾರೆ ಹಾಗೂ ಅಂತಹ ತಕರಾರು ಬಂದಲ್ಲಿ ನಮ್ಮ ಇತರ ಚರ ಮತ್ತು ಸ್ಥಿರ ಸ್ವತ್ತುಗಳಿಂದ ಸದರಿ ನಷ್ಟವನ್ನು ವಸೂಲಿ ಮಾಡಿಕೊಳ್ಳಲು ನಮ್ಮಿಂದ ಯಾವುದೇ ರೀತಿಯ ತಂಟೆ ತಕರಾರುಗಳು ಇರುವುದಿಲ್ಲ. ಇಲ್ಲಿಂದ ಮುಂದೆ ಷೆಡ್ಯೂಲ್ ಸ್ವತ್ತಿನ ಮೇಲೆ ನಮಗಾಗಲೀ ನಮ್ಮ ಪರ ವಾರಸುದಾರರಿಗಾಗಲೀ ಇಲ್ಲವೇ ಇತರ ಬೇರೆ ಯಾರಿಗೂ ಯಾವುದೇ ವಿಧವಾದ ಹಕ್ಕು ಬಾಧ್ಯತೆ, ಹಿತಾಸಕ್ತಿ, ಮಾಲೀಕತ್ವ ವಗೈರೆಗಳಿರುವುದಿಲ್ಲವೆಂದು ಒಪ್ಪಿ ಬರೆದುಕೊಟ್ಟ ಪರಿತ್ಯಾಜನ ಪತ್ರದ ಸಹಿ.

<u>- : ಷೆಡ್ಯೂಲ್ :-</u>

ಮೈಸೂರು ತಾಲ್ಲೂಕು, ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮಕ್ಕೆ ಸೇರಿದ ಸರ್ವೆನಂ. 464 ರ 3 ಎಕರೆ 16 ಗುಂಟೆ ಖುಷ್ಕಿ ಜಮೀನಿಗೆ ಚಕ್ಕುಬಂದಿ :-

ಪೂರ್ವಕ್ಕೆ : ಸರ್ವೆ ನಂ. 462 ರ ಜಮೀನು
ಪಶ್ಚಿಮಕ್ಕೆ: ಸರ್ವೆ ನಂ. 467 ರ ಜಮೀನು
ಉತ್ತರಕ್ಕೆ: ಸರ್ವೆ ನಂ. 466 ರ ಜಮೀನು
ದಕ್ಷಿಣಕ್ಕೆ : ಸರ್ವೆ ನಂ. 462 ರ ಜಮೀನು

ಮೇಲ್ಕಂಡ ಎಲ್ಲಾ ಅಂಶಗಳನ್ನು ಓದಿಸಿ, ಕೇಳಿ ಸರಿಯಾಗಿದೆ ಎಂದು ಒಪ್ಪಿ, ನಮ್ಮಗಳ ಆತ್ಮ ಸಂತೋಷದಿಂದಲೂ ಮತ್ತು ಖುದ್ದು ರಾಜಿಯಿಂದಲೂ ಮೈಸೂರು ನಗರದಲ್ಲಿ ಮೇಲ್ಕಂಡ ದಿನಾಂಕದಂದು ಕೆಳಕಂಡ ಸಾಕ್ಷಿಗಳ ಸಮಕ್ಷಮದಲ್ಲಿ ಒಪ್ಪಿ ಸಹಿ ಮಾಡಿರುತ್ತೇವೆ.

ಸಾಕ್ಷಿಗಳು: 1. ಸಹಿ/-

ಸಹಿ/-

2. ಸಹಿ/- *ಹಸ್ತಾಂತರಿಸುವವರು*

ಸಹಿ/-

ಹಸ್ತಾಂತರಿಸಿಕೊಳ್ಳುವವರು."

The MUDA then orders allotting 38,284 sq. ft. to the petitioner. The same was determined by way of 14 sites on 05-01-2022. The order dated 05-01-2022 and what was appended to it, both read as follows:

"ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು

ದೇವನೂರು 3ನೇ ಹಂತ ಬಡಾವಣೆ ನಿರ್ಮಾಣಕ್ಕಾಗಿ ಭೂಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಂಡ ಜಮೀನಿನ ಪರಿಹಾರಕ್ಕೆ ಬದಲಾಗಿ ನೀಡಿರುವ ನಿವೇಶನ ಮಂಜೂರಾತಿ ಪತ್ರ

ಎಲ್ ಪಿ ಎ ಎ ಎಲ್ ಎಲ್ *ದಿನಾಂಕ: 05.01.2022*

ಶ್ರೀಮತಿ ಪಾರ್ವತಿ ಬಿ.ಎಂ.
ಕೋಂ.ಶ್ರೀ ಸಿದ್ದರಾಮಯ್ಯ
ನಂ.206, 16ನೇ ಕ್ರಾಸ್
ವಿಜಯನಗರ, ಬೆಂಗಳೂರು ಸಿಟಿ.

ಮೈಸೂರು ನಗರ ಕಸಬಾ ಹೋಬಳಿ, ಕೆಸರೆ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.464 ರ 3–16 ಎಕರೆ ಪ್ರದೇಶವನ್ನು ಪ್ರಾಧಿಕಾರವು ಉಪಯೋಗಿಸಿಕೊಂಡಿರುವುದರಿಂದ ಸರ್ಕಾರದ ಅಧಿಸೂಚನೆ ಸಂಖ್ಯೆ ಯುಡಿಡಿ/08 ಟಿಟಿಪಿ/2014 ದಿನಾಂಕ 11.02.2015 ರಂತೆ ಭೂ ಮಾಲೀಕರಿಗೆ 50:50 ರ ಅನುಪಾತದಲ್ಲಿ ನಿವೇಶವನ್ನು ಮಂಜೂರು ಮಾಡಬೇಕಾಗಿರುತ್ತದೆ. ಅದರಂತೆ, ದಿನಾಂಕ:20.11.2020ರ ಪ್ರಾಧಿಕಾರದ ನಿರ್ಣಯದಂತೆ ತಾಂತ್ರಿಕ ಶಾಖೆಯಿಂದ ಭೂ ಮಾಲೀಕರ ವಿಸ್ತೀರ್ಣಕ್ಕನುಗುಣವಾಗಿ ಮಂಜೂರು ಮಾಡಬೇಕಾಗಿರುವುದರಿಂದ ಈ ಕೆಳಗೆ ನಮೂದಿಸಿರುವ ವಿವರ ಮತ್ತು ಷರತ್ತುಗಳನ್ನು ಒಳಗೊಂಡಂತೆ ನಿವೇಶನ ಮಂಜೂರು ಮಾಡಲಾಗಿದೆ.

1. ಜಮೀನು ಕಳೆದುಕೊಂಡ ಭೂ ಮಾಲೀಕರ ಹೆಸರು	*ಶ್ರೀಮತಿ ಪಾರ್ವತಿ ಬಿ.ಎಂ.*
2. ಜಮೀನು ಬಿಟ್ಟುಕೊಟ್ಟ ಗ್ರಾಮ	*ಕೆಸರೆ ಗ್ರಾಮ*
3. ಕಳೆದುಕೊಂಡ ಜಮೀನಿನ ವಿಸ್ತೀರ್ಣ ಸರ್ವೆ ನಂ.	*464 ರಲ್ಲಿ 3–16 ಎಕರೆ*

4. ಮಂಜೂರಾದ ನಿವೇಶನದ ಸಂಖ್ಯೆ	*5*
5. ನಿವೇಶನ ಮಂಜೂರಾದ ಬಡಾವಣೆ ಮತ್ತು ಬ್ಲಾಕ್	*ವಿಜಯನಗರ, 3ನೇ ಹಂತ 'ಜಿ' ಬ್ಲಾಕ್*
6. ನಿವೇಶನದ ಅಳತೆ (ಮೀಟರ್‌ಗಳಲ್ಲಿ)	*12.00 X 18.00 ಮೀಟರ್*
7. ನಿವೇಶನದ ಬಾಬ್ತು	*ಶೇಕಡ 50:50 ರ ಅನುಪಾತದಲ್ಲಿ ದರ ರಹಿತವಾಗಿ*
8. ಸಾಂಕೇತಿಕ ದರ	*1000/-*

1. ಕಾಲಂ – 8ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಹಣವನ್ನು ಮಂಜೂರಾತಿ ಪತ್ರ ಸ್ವೀಕರಿಸಿದ 90 ದಿನಗಳೊಳಗಾಗಿ ಪ್ರಾಧಿಕಾರದ ಚಲನ್ ಮೂಲಕ ಬ್ಯಾಂಕ್ ಆಫ್ ಬರೋಡ, ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಕಟ್ಟಡ, ಮೈಸೂರು ಇಲ್ಲಿ ಪಾವತಿಸತಕ್ಕದ್ದು ಅಥವಾ ಆಯುಕ್ತರು, ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ಮೈಸೂರು ಇವರಿಗೆ ಯಾವುದಾದರೂ ರಾಷ್ಟ್ರೀಕೃತ ಬ್ಯಾಂಕಿನಿಂದ ಪಡೆದ ಡ್ರಾಫ್ಟ್ ಅಥವಾ ಪೇ ಆರ್ಡರ್ ಮೂಲಕ ಪಾವತಿ ಮಾಡಬಹುದು. ತಪ್ಪಿದಲ್ಲಿ ಯಾವ ತಿಳುವಳಿಕೆಯನ್ನೂ ನೀಡದೆ ಮಂಜೂರಾತಿಯನ್ನು ರದ್ದುಪಡಿಸಲಾಗುವುದು.

2. ಈ ನಿವೇಶನವನ್ನು ವಾಸದ ಉದ್ದೇಶಕ್ಕೆ ಮಾತ್ರ ಉಪಯೋಗಿಸತಕ್ಕದ್ದು. ನಿವೇಶನವನ್ನು ವಿಭಾಗ ಮಾಡಲಾಗುವುದಿಲ್ಲ. ಭೂಮಿಯ ಉಪಯೋಗದ ಯಾವುದೇ ಬದಲಾವಣೆಗಾಗಿ ಕರ್ನಾಟಕ ಪಟ್ಟಣ ಮತ್ತು ನಗರ ಯೋಜನೆ ಅಧಿನಿಯಮ 1961 ರ ಮೇರೆಗೆ ಪ್ರಾಧಿಕಾರದ ಪೂರ್ವಾನುಮತಿಯು ಅವಶ್ಯಕವಾಗಿರುತ್ತದೆ.

3. ಕ್ರಯಪತ್ರವನ್ನು ಪಡೆಯುವುದಕ್ಕಾಗಿ ತಗಲುವ ನೋಂದಣಿ ವೆಚ್ಚಗಳನ್ನು ಹಂಚಿಕೆ ಪಡೆದವರೆ ಭರಿಸತಕ್ಕದ್ದು.

ಮಂಜೂರಾತಿದಾರರ ರುಜು

ಸಹಿ/- 05.01.2022
ಆಯುಕ್ತರು
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ
ಮೈಸೂರು."

The relinquishment deed narrates entire history as to how the wife of the petitioner becomes the owner of the property. After relinquishment deed dated 25-11-2021 MUDA determines number of sites to be granted in favour of the wife of the petitioner. The alternate sites in lieu of 3 acres 16 guntas of land in terms of Government order dated 5-01-2022 which was to be in terms of the prevailing market value is as follows:

"Guidelines Value in the year 2018, *for the Alternative Sites allotted in lieu of the 3 Acres & 16 Guntas, in Sy.No.464, of Kesere Village, belonging to* ***Smt.B.M.Parvathi*** *W/o Sri.Siddaramiah, utilised by MUDA, for the formation of the Devanur 3rd Stage, Mysore, in accordance with the GO dated UDD/TTP/2014 dated 05-01-2022 and the decision of the MUDA dated 20-11-2020.*

Although the prevalent Market Value in Vijayanagar is between 10 & 12 thousand, calculating the MARKET RATE at a rate of approximately Rs.15,000/- Per Sq. Feet, as being demanded Mr.Siddaramiah in public.

Sl. No.	***Allottee***	***Site No.***	***Measuring***	***Location***	***Guidelines Value / & total cost for total Sq.Mts***	***Market Rate/Sq.fts & Total cost for total Sq.Fts***
1	***Smt.Parvathi B.M***	***25***	*15 X 24=360 Mts* ***3875.01 Sq.Fts***	*Vijaynagar, 3rd Stage, 'C' Block*	*Rs.24,000/-* ***Rs.86,40,000/-***	***Rs.5,81,25,150/-***
2	***Smt.Parvathi B.M***	***331***	*12 x 18 =216 Mts* ***2325 Sq.Fts***	*Vijaynagar, 3rd Stage, 'D' Block*	*Rs.24,000/-* ***Rs.51,84,000/-***	***Rs.3,48,75,000/-***
3	***Smt.Parvathi B.M***	***332***	*12 x 18 =216 Mts* ***2325 Sq.Fts***	*Vijaynagar, 3rd Stage, 'D' Block*	*Rs.24,000/-* ***Rs.51,84,000/-***	***Rs.3,48,75,000/-***
4	***Smt.Parvathi B.M***	***213***	*15 X 24=360 Mts* ***3875.01 Sq.Fts***	*Vijaynagar, 3rd Stage, 'E' Block*	*Rs.24,000/-* ***Rs.86,40,000/-***	***Rs.5,81,25,150/-***
5	***Smt.Parvathi B.M***	***214***	*15 X 24=360 Mts* ***3875.01 Sq.Fts***	*Vijaynagar, 3rd Stage, 'E' Block*	*Rs.24,000/-* ***Rs.86,40,000/-***	***Rs.5,81,25,150/-***
6	***Smt.Parvathi B.M***	***215***	*15 X 24=360 Mts* ***3875.01 Sq.Fts***	*Vijaynagar, 3rd Stage, 'E' Block*	*Rs.24,000/-* ***Rs.86,40,000/-***	***Rs.5,81,25,150/-***
7	***Smt.Parvathi B.M***	***5***	*12 x 18 =216 Mts* ***2325 Sq.Fts***	*Vijaynagar, 3rd Stage, 'G' Block*	*Rs.25,000/-* ***Rs.54,00,000/-***	***Rs.3,48,75,000/-***
8	***Smt.Parvathi B.M***	***5108***	*09 x 12= 108 Mts* ***1162.5 Sq.Fts***	*Vijaynagar, 4th Stage, 2nd Phase*	*Rs.23,312/-* ***Rs.25,17,696/-***	***Rs.1,74,37,500/-***
9	***Smt.Parvathi B.M***	***5085***	*09 x 12= 108 Mts* ***1162.5 Sq.Fts***	*Vijaynagar, 4th Stage, 2nd Phase*	*Rs.23,312/-* ***Rs.25,17,696/-***	***Rs.1,74,37,500/-***
10	***Smt.Parvathi***	***11189***	*12 x 18 =216*	*Vijaynagar,*	*Rs.23,312/-*	***Rs.3,48,75,000/-***

	B.M		*Mts* ***2325 Sq.Fts***	*4th Stage, 2nd Phase*	***Rs.50,35,392/-***	
11	***Smt.Parvathi B.M***	***10855***	*12 x 18 =216 Mts* ***2325 Sq.Fts***	*Vijaynagar, 4th Stage, 2nd Phase*	*Rs.23,312/-* ***Rs.50,35,392/-***	***Rs.3,48,75,000/-***
12	***Smt.Parvathi B.M***	***12065***	*12 x 15=180 Mts* ***1937.5 Sq.Fts***	*Vijaynagar, 4th Stage, 2nd Phase*	*Rs.23,312/-* ***Rs.41,96,160/-***	***Rs.2,90,62,500/-***
13	***Smt.Parvathi B.M***	***12068***	*12 x 15=180 Mts* ***1937.5 Sq.Fts***	*Vijaynagar, 4th Stage, 2nd Phase*	*Rs.23,312/-* ***Rs.41,96,160/-***	***Rs.2,90,62,500/-***
14	***Smt.Parvathi B.M***	***216***	*15 X 24=360 Mts* ***3875.01 Sq.Fts***	*Vijaynagar, 3rd Stage, 'E' Block*	*Rs.24,000/-* ***Rs.86,40,000/-***	***Rs.5,81,25,150/-***

GUIDELINE VALUE Rs.12,000/- Per Sq.Feet. ***MARKET VALUE at the rate of***

Rs.86,40,000/-x5=Rs.4,32,00,000/- ***Rs.5,81,25,150/-***
*X5=**Rs.29,06,25,750/-***
Rs.51,84,000/-x2=Rs.1,03,68,000/- ***Rs.3,48,75,000/-***
*X5=**Rs.17,43,75,000/-***
Rs.54,00,000/-x1=Rs. 54,00,000/- ***Rs.1,74,37,500/-****X2=**Rs. 3,48,75,000/-***
Rs.25,17,696/-x2=Rs. 50,35,392/- ***Rs.2,90,62,500/-****X2=**Rs. 5,81,25,000/-***
Rs.50,35,392/-x2=Rs.1,00,70,784/-
Rs.41,96,160/-x2=Rs. 83,92,320/-
Total Rs.8,24,66,496/- Total Rs.55,80,00,750/-"

The guidance value for entire sites that are allotted is ₹ 8,24,000/- but the market value is ₹55,80,00,000/-. The total market value of 14 sites is ₹55,80,00,750/-, close to ₹56/- crores. Therefore, the figures would go like this. The purchase of the property on an offset price in the year 1935 was at ₹300/-; the determined compensation amount in favour of the owner of the land is at

₹3,56,000/- in the year 1997 and in 2021 this becomes ₹56 crores as compensation to the owner; the owner is wife of the petitioner. On 5-01-2022 sites are allotted in favour of wife of the petitioner by issuance of 14 allotment letters and khatas are changed by MUDA in favour of the wife of the petitioner for all 14 sites. Therefore, the wife of the petitioner becomes the owner of 14 sites value. Its value is as indicated hereinabove. Then comes 14 sale deeds registered in faovur of the petitioner on 12-01-2022. The aforesaid facts are all borne out of records. All these things have happened between 1996 to 2022. This is the period in which the petitioner was at the helm of affairs twice; a law maker twice; the Chief Minister once.

25. From 1996 to 1999 the petitioner was the Deputy Chief Minister of Karnataka State. Again in 2004 and 2005 he was the Deputy Chief Minister; from 2013 to 2018 he was the Chief Minister and between 2018 and 2023 son of the petitioner was an MLA. Therefore, intermittently on and off, the petitioner has been at the helm of affairs. Notwithstanding the aforesaid period of the petitioner at the helm of affairs, the vehement contention of the petitioner is that he made no recommendation nor has signed any

document nor has any connection to the transaction. It is rather difficult to accept that the beneficiary of the entire transaction to which compensation is determined at ₹3.56 lakhs to become ₹56/- crores is not the family of the petitioner. In the decision making process at certain time son of the petitioner was a party to the meeting which took a decision finally to allot 14 sites. It is too bleak contention meriting any acceptance albeit prima facie that the petitioner was not behind every thing standing just behind the curtain. It is not behind the smoke screen but behind the curtain even.

26. If events or the link in the chain of events are noted, there are few dots to be connected. It is that connection of dots that would require an inquiry or an investigation in the least. I say so for the reason that immediately after 14 sale deeds were registered in favour of the wife of the petitioner, the Urban Development Department issues directions to the Commissioner, MUDA to stop allocation of compensatory sites till guidelines are formulated. Therefore, the law was completely towards prima facie illegality only to favour the wife of the petitioner as the very

allotment of sites as compensation is said to be contrary to the Compensation for Land Acquired Rules 2009 and Incentive Scheme of Voluntary Surrender of Land Rules,1991. In the Assembly elections of 2023, the petitioner swings back as Chief Minister. On 27.10.2023 the Government cancels the resolution dated 14.09.2020. What is the resolution dated 14-09-2020 is the one that led to a decision for allotment of 14 sites in favour of the wife of the petitioner in which the son of the petitioner was a participant.

27. After cancelling the resolution it appears that a Technical Committee was appointed by Government to go into the illegalities of MUDA. The Technical Committee is said to have submitted its report highlighting huge corruption and fraud played by MUDA officials. When all these inquiries were going on a complaint comes to be registered by 3rd and 4th respondents before the jurisdictional police on 3-07-2024. The jurisdictional Police though acknowledged the complaint, did not take it further. On 12-07-2024 both the 3rd and 4th respondents register complaints before the Commissioner of Police. This was in compliance with clause (1) of sub-section (2) of Section 154 of the Cr.P.C.. Even then, no action is taken. The 4th

respondent then approaches the Lokayukta on 26-07-2024 to register a complaint against the petitioner. When things stood thus, the 3rd and 4th respondents file their respective private complaints before the Special Court constituted exclusively to deal with criminal cases against MPs and MLAs. It is then, the 3rd respondent knocks at the doors of the Governor seeking approval/sanction to prosecute the petitioner as obtaining under Section 17A of the Act. **The facts narrated would clearly justify the complaints/petitions by the complainants.** The issue is answered accordingly.

<u>Issue Nos.2 & 3</u>:

(2) Whether the approval under Section 17A of the Act is mandatory in the teeth of facts?

&

(3) Whether Section 17A of the Act requires only a Police Officer to seek approval from the Competent Authority?

Since issues 2 and 3 are intertwined, the two are considered together. It therefore becomes necessary to go back to the genesis of Section 17A of the PC Act.

GENESIS OF SECTION 17A OF THE PC ACT:

28. The Prevention of Corruption Act (Amendment Bill) when it was first introduced in the year 2014, it did not contain any clauses akin to Section 17A. The Standing Committee of Rajya Sabha on Personnel, Public Grievances, Law and Justice and the Law-Commission had proposed certain amendments. Amongst them was a new Section 17A. A question arose as to who should grant approval. It was initially envisaged that the Lokpal or the Lokayukta should be empowered to grant approval, on a requisition or application under Section 17A as Section 17A was thought of a protective filter or an entry check point. It is then the bill was referred to the select committee which presented its report in the month of August 2016. The bone of contention as to who should grant approval, was changed from Lokpal or Lokayukta, to the Competent Authority who is empowered to grant sanction under Sectiion 19 of the PC Act for prosecution, to be the authority to grant approval under Section 17A. The present statute as it stands today is what is chiseled after 4 years of deliberation. The purport of Section 17A need not detain this Court for long or delve deep

into the matter. This Court in ***W.P.200356 of 2021*** disposed on ***26-03-2021*** while considering the importance of Section 17A, has held as follows:

> *"13. The amendment dated 26.07.2018 introduced several changes to the Prevention of Corruption Act, 1988. One such amendment was introducing Section 17A with an object of giving protection to public servants who have done or ordered or approved certain actions as public servants in the bonafide discharge of their official functions without any dishonesty or malafide intentions. The amendment in the form of this new Section was necessitated owing to certain unfortunate circumstances where even honest officers were prosecuted under the Prevention of Corruption Act.*
>
> *14. Since the **marrow** of the **lis** lies in consideration and interpretation of the newly introduced Section 17A of the Prevention of Corruption Act, 1988 which was brought into force on 26.07.2018, Section 17A is extracted for the purpose of quick reference:*
>
> > *"**17-A. Enquiry or inquiry or investigation of offences relatable to recommendations made or decision taken by public servant in discharge of official functions or duties**.—(1) No police officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under this Act, where the alleged offence is relatable to any recommendation made or decision taken by such public servant in discharge of his official functions or duties, without the previous approval -*
>
> *(a) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of the Union, of that Government;*
>
> *(b) in the case of a person who is or was employed, at the time when the offence was alleged to have been committed, in connection with the affairs of a State, of that Government;*

(c) in the case of any other person, of the authority competent to remove him from his office, at the time when the offence was alleged to have been committed:

Provided that no such approval shall be necessary for cases involving arrest of a person on the spot on the charge of accepting or attempting to accept any undue advantage for himself or for any other person:

Provided further that the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month."

In terms of the above extracted provision of law introduced by an amendment, no Police Officer shall conduct any enquiry or inquiry or investigation into any offence alleged to have been committed by a public servant under the Prevention of Corruption Act, where the alleged offence is relatable to any recommendation made or decisions taken by such public servant in discharge of his official functions or duties without the previous approval of the officer or authority concerned.

*15. Clause **(a)** thereof provides that in case of public servant who is or was employed in connection with the affairs of the Union at the time when the offence alleged to have been committed, the previous approval of the Central Government shall be obtained. Clause **(b)** likewise provides that in case of a public servant who is or was an employee in connection with the affairs of the State at the time when the offence was alleged to have been committee, the approval of the State Government shall be obtained before proceeding. Clause **(c)** provides that in case of any other person who comes within the definition of public servant previous approval of the competent authority to remove him from office at the time when the offence alleged to have been committee should be obtained. The narrative hereinabove cannot but indicate that the object of the Section was to protect public servants from malicious, vexatious or baseless prosecution. However, if enquiry into the circumstances in which the alleged administrative or official act was done by the public servant or where malfeasance committed by the public servant which would involve an*

element of dishonesty or impropriety is to be proceeded against, the approval of the competent authority is required.

16. In my considered view Section 17A and its purport must be observed with complete strictness bearing in mind public interest and protection available to such officers against whom offences are alleged, failing which many a time it would result in a malicious prosecution. Section 17A is clearly a filter that the prosecution must pass in order to discourage or avoid vexatious prosecution, though cannot be considered as a protective shield for the guilty, but a safeguard for the innocent.

17. The provision (supra) was also considered by the Apex Court in the case of ***YESHWANTH SINHA v. CENTRAL BUREAU OF INVESTIGATION*** *reported in (2020) 2 SCC 338. The Apex Court though did not consider as to how the previous approval of the competent authority has to be taken, but considered the amendment and its importance in the following paragraphs:*

> *"**117.** In terms of Section 17-A, no police officer is permitted to conduct any enquiry or inquiry or conduct investigation into any offence done by a public servant where the offence alleged is relatable to any recommendation made or decision taken by the public servant in discharge of his public functions without previous approval, inter alia, of the authority competent to remove the public servant from his office at the time when the offence was alleged to have been committed. In respect of the public servant, who is involved in this case, it is clause (c), which is applicable. Unless, therefore, there is previous approval, there could be neither inquiry or enquiry or investigation. It is in this context apposite to notice that the complaint, which has been filed by the petitioners in Writ Petition (Criminal) No. 298 of 2018, moved before the first respondent CBI, is done after Section 17-A was inserted. The complaint is dated 4.10.2018. Para 5 sets out the relief which is sought in the complaint which is to register an FIR under various provisions. Paras 6 and 7 of the complaint are relevant in the context of Section 17-A, which read as follows:*

"6. We are also aware that recently, Section 17-A of the Act has been brought in by way of an amendment to introduce the

requirement of prior permission of the Government for investigation or inquiry under the Prevention of Corruption Act.

7. We are also aware that this will place you in the peculiar situation, of having to ask the accused himself, for permission to investigate a case against him. We realise that your hands are tied in this matter, but we request you to at least take the first step, of seeking permission of the Government under Section 17-A of the Prevention of Corruption Act for investigating this offence and under which, "the concerned authority shall convey its decision under this section within a period of three months, which may, for reasons to be recorded in writing by such authority, be extended by a further period of one month".

(emphasis supplied)

118. *Therefore, the petitioners have filed the complaint fully knowing that Section 17-A constituted a bar to any inquiry or enquiry or investigation unless there was previous approval. In fact, a request is made to at least take the first step of seeking permission under Section 17- A of the 2018 Act. Writ Petition (Criminal) No. 298 of 2018 was filed on 24.10.2018 and the complaint is based on non-registration of the FIR. There is no challenge to Section 17-A. Under the law, as it stood, both on the date of filing the petition and even as of today, Section 17-A continues to be on the statute book and it constitutes a bar to any inquiry or enquiry or investigation. The petitioners themselves, in the complaint, request to seek approval in terms of Section 17-A but when it comes to the relief sought in the writ petition, there was no relief claimed in this behalf.*

119. *Even proceeding on the basis that on petitioners' Complaint, an FIR must be registered as it purports to disclose cognizable offences and the Court must so direct, will it not be a futile exercise having regard to Section 17-A. I am, therefore, of the view that though otherwise the petitioners in Writ Petition (Criminal) No. 298 of 2018 may have made out a case, having regard to the law actually laid down in Lalita Kumari [Lalita kumari v. State of U.P., (2014) 2 SCC 1: (2014) 1 SCC (Cri) 524], and more importantly, Section 17-A of the Prevention of corruption Act, in a review petition, the petitioners cannot succeed. However, it is my view that the judgment sought to be reviewed, would not stand in the way of the first respondent in Writ Petition (Criminal) No. 298 of 2018 from taking action on Ext. P-1, complaint in accordance with law and subject to first respondent obtaining previous approval under Section 17-A of the Prevention of Corruption Act."*

The Apex Court has considered the importance of previous approval of the competent authority in the afore-extracted judgment.

> *18. Section 17A casts an obligation of application of mind on the part of the Competent Authority in three situations. The Section makes it clear that no officer shall conduct any* ***enquiry or inquiry or investigation*** *without previous approval. Therefore, the approving authority will have to look into the materials, apply its mind in all the three contingencies i.e., enquiry or inquiry or investigation. Though, enquiry and inquiry are often used interchangeably, there exists a difference between the two. Etymologically, the source of both enquiry and inquiry could be the same as* ***'en'*** *is derived from French and* ***'in'*** *is from Latin. Inquiry has a formal and official ring to it. Enquiry is informal and can be unofficial. Enquiry could even mean, to question; Inquiry is a formal investigation; investigation is a search. Therefore, the act casts an obligation of application of mind upon the authority to consider whether approval is sought for an enquiry, inquiry or an investigation. It becomes imperative for the authority to apply its mind to what is brought before it, as application of mind is the bedrock of any order that an authority passes, failing which, it would be contrary to the principles of natural justice, as non-application of mind is in itself violative of principles of natural justice."*

This Court considered the importance and purport of Section 17A. The petitioner is a public servant and the allegations against him are wanting to be investigated into. If investigation has to ensue, it must pass through the gates of 17A. Therefore, an approval under Section 17A from the hands of the Competent Authority is imperative, as it is the mandate of the statute. Without an approval under Section 17A, no enquiry, inquiry or investigation can

commence against a public servant. The who of it, I mean, who should seek approval, has become the bone of contention.

29. The submission of the learned senior counsel for the petitioner that only a Police Officer is required to seek approval for enquiry or inquiry and nobody else is noted only to be rejected. In a complaint so registered under Section 154(1) of the Cr.P.C. against a public servant or even a complaint to the higher ups under Section 154(3) are taken or acted upon, there would be no problem. It is only those officers will have to seek approval under Section 17A for commencement of enquiry, inquiry or investigation. It is trite that the criminal law can be set into motion by any person, concept of *locus* is alien to criminal law. If the criminal law can be set into motion by any person which is inclusive of offences under the Act, the vacuum emerges when a private citizen would knock at the jurisdictional police or the Lokayukta seeking to register a complaint and if no action is taken on the complaint both at the level of Section 154(1) and Section 154(3) of the Cr.P.C., the complainant would be left with no choice but to approach the learned Magistrate invoking Section 200 of the Cr.P.C. or the

Special Court. Here the Police is yet to come into picture, as the concerned Court would not have referred the matter for investigation under Section 156(3) of the Cr.P.C. or Section 175(3) of the BNSS. The police would come into picture only after referring the matter for investigation. If the matter is referred for investigation, the jurisdictional Police or to whom the reference is made, would have no choice but to register the crime and once the crime is registered, investigation has to commence. Section 17A, in these circumstances, would be rendered redundant. Therefore, it is necessary that whoever complains against a public servant by registering a private complaint, it is his burden to seek approval from the hands of the Competent Authority before the matter is referred under Section 156(3) of the Cr.P.C. or Section 175 of the BNSS, failing which the protective filter to a public servant would have no meaning. It is the aforesaid concept that led this Court to pass an order in ***DR. ASHOK V. v. STATE.*** It is for this reason the complainant would approach the Competent Authority, in the case at hand the Governor seeking approval under Section 17A of the Act so that the private complaint would be referred for investigation. Therefore, no fault can be found with the complainant

approaching the Governor/Competent Authority seeking approval prior to any reference being made by the concerned Court.

30. This Court, in ***DR. ASHOK V. v. STATE***[3] has held as follows:

> *"In the light of Section 17A creating a protective filter for vexatious and frivolous prosecution and complaints to pass muster to the rigors of Section 17A, I am of the considered view that it must be observed with complete strictness bearing in mind public interest, and protection available to such officers against whom offences are alleged, failing which many a time it would result in a vexatious prosecution. This cannot however, be considered as a protective shield for the guilty, but a safeguard for the innocent. Therefore, its observance becomes mandatory … … ……*
>
> *…..**What would unmistakably emerge is, forum be it any; proceedings be it any; if offences punishable under the Prevention of Corruption Act, 1988 / 2018 is alleged, approval under Section 17A of the Prevention of Corruption Act for registration of the crime and investigation is mandatory, except in circumstances which do not require such approval. The case at hand involves registration of a private complaint invoking Section 200 of the Cr.P.C. It is not registered before the police wing of the Investigating Agency, but before the concerned Court and the concerned Court refers the matter for investigation, which results in immediate registration of a FIR. The offences alleged are an amalgam of offences punishable under the Prevention of Corruption Act, 1988 and the IPC. This Court has come across several cases where private complaints are preferred by the complainants where, they do not approach the Investigating Agency like the Karnataka Lokayukta, but choose an alternate route of knocking at the doors of the Magistrate or the Sessions Judge. At that stage, what the Magistrate/Sessions Judge would do, is refer the matter***

[3] *Criminal Petition No.531 of 2022 decided on 4th July 2023*

under Section 156 (3) for investigation. Once the matter is referred for investigation, the Police/Lokayukta would have no choice but to register a crime. What happens in this process is the protective filter for vexatious, frivolous or malicious prosecution against the public servants created by the Parliament by the amendment in the year 2018 bringing in Section 17A to the Act is rendered illusory. Therefore, such complaints, which do not accompany with prior approval under Section 17A with the private complaint or before referring the matter for investigation, should not be entertained by the Magistrate/Sessions Judge, as the case would be.

14. The case at hand forms a classic illustration of misuse and abuse of law by the 2nd respondent/ complainant. If the 2nd respondent had preferred a complaint before the Karnataka Lokayukta, the complaint would have been forwarded to the competent authority seeking permission under Section 17A to register a crime and crime would have been then registered only after prior approval from the competent authority. Invoking Section 200 of the Cr.P.C., the complainants or complainant in the case at hand are seeking to circumvent the rigor of Section 17A of the Act. If this practice is permitted, it would only open gates for frivolous and vexatious litigation by the complainants.

15. In the light of the aforesaid analysis and the unfolding of issues, it becomes necessary to direct the learned Sessions Judges/Special Court who would entertain complaints against public servants filed by private persons alleging offences punishable under the provisions of the Prevention of Corruption Act, 1988 even if it is an amalgam not to entertain such complaints if they do not comply with the following:

(i) The complaint should narrate that the complainant has made his efforts to register a crime before the Karnataka Lokayukta and no action is taken by the police on the complaint. Mere statement in the complaint would not suffice but documentary evidence to demonstrate such fact should be appended to the private complaint.

(ii) The private complaint should also append prior approval granted by the competent authority to register a private complaint, akin to a prior approval for an FIR to be registered by the Investigating Agency as obtaining under Section 17A of the Act. This would become a prerequisite to the concerned Court to refer the matter for investigation under Section 156(3) of the Cr.P.C.

(iii) The aforesaid direction (ii) would be applicable only if the offences alleged would be the ones punishable under the Prevention of Corruption Act or the allegation would be an amalgam of offences both under the Prevention of Corruption Act and the Indian Penal Code. This direction at (ii) will not be applicable if the alleged offences are only of the Indian Penal Code.

(Emphasis supplied)

These directions become necessary in the light of the fact that once the matter is referred for investigation the Police will have no choice but to register the crime. Therefore, such approval being appended to the private complaint is sine qua non for maintainability of the complaint, except in cases concerning disproportionate assets. Such complaints shall bear scrutiny at the hands of the Magistrate or the Sessions Judge as the case would be, for compliance with the aforesaid directions. The private complaint shall also be accompanied by an affidavit of the complainant, not a verifying affidavit, but an affidavit as obtaining under the Oaths Act, 1969. It is only then the learned Sessions Judge can entertain a private complaint against public servants."

(Emphasis supplied)

31. The aforesaid were the directions issued by this Court in ***ASHOK.V.*** *supra*. Pursuant to the said directions, the High Court has issued a circular to all the concerned Court, for implementation

of the said directions. In the light of the preceding analysis, I answer issue No.2 holding that approval under Section 17A of the PC Act is mandatory to be obtained, in the teeth of the obtaining facts, *qua* Issue No.3, I hold that it is not necessary for the police officer to seek approval from the hands of the Competent Authority, in a private complaint. It is the complainant, whomsoever it is, should discharge the duty of seeking approval from the hands of the Competent Authority, ***a caveat***, only in a private complaint registered under Section 200 of the Cr.P.C. or under Section 223 of the BNSS.

Issue Nos.4 & 5:

(4) Whether the order of the Governor suffers from want of application of mind?

&

(5) Whether it would suffice for reasons to be recorded in the file of the decision making authority and the same culled out in parts in the impugned order?

Since both the issues are intertwined, they are considered together.

PROCEEDINGS BEFORE THE GOVERNOR:

32. As observed hereinabove, the complainant/3rd respondent approaches the jurisdictional Police, no action is taken for 7 days, approached the Commissioner, no action is taken, then he seeks to knock at the doors of the Governor and simultaneously files a private complaint before the Special Court invoking Section 200 of the Cr.P.C. In terms of law laid down by this Court in **ASHOK** *supra* and the circular issued by this Court, the 3rd respondent submits a petition before Governor on 26-07-2024 seeking approval to prosecute the petitioner. The petition submitted by the 3rd respondent is quoted hereinabove. What happens in the aftermath is what is required to be considered. On receipt of the petition from the 3rd respondent, on 26-07-2024 what action is taken is borne out from the records. The proceedings of the day are as follows:

"File No.GS 40 ADM 2024

Subject: ***Sanction for prosecution of Sri Siddaramaiah, Hon'ble Chief Minister of Karnataka.***

Reference: *Petition submitted 1) Sri T.J.Abraham dated 26-07-2024.*

01. Kindly peruse the petition submitted by Sri T.J. Abraham dated 26-07-2024 placed in the file.

02. Wherein, the petitioner has requested for sanction for offences under Section 7, 9, 11, 12 & 15 of t he Prevention of Corruption Act, 1988 and Sections59, 61, 62, 201, 227, 228, 229, 239, 314, 316(b), 318(1)(2)(3), 319, 322, 324, 324(1)(2)(3), 335, 336, 338 & 340 of Bharatiya Nyaya Sanhita, 2023 and other applicable provisions of law, in the interest of enforcing probity in life and service of Public Servants and upholding the law of land.

03. Further, he has submitted an addendum requesting Not to shield the corrupt and brought to the notice that the Sanctioning Authority has to only see, whether a prima facie case for commission of offence is made out or not, and that the allegation scan be proved beyond reasonable doubt only after appreciation of evidence by the trial Court at the conclusion of the trial. In support of the above, he has submitted a circular issued by the Hon'ble High Court of Karnataka on 23-09-2023 vide No.R(J) No.188/2023 and Office order No.31/05/05 issued by the Central Vigilance Commission on 21-05-2005.

04 On account of grave charges being presented by the petitioner against the sitting Chief Minister and Hon'ble Governor being the Appointing Authority and in the background of the circular of the High Court and the office order of the CVC, the file may kindly be placed before the Hon'ble Governor for further orders.

For perusal and orders. Sd/- 26/07

(O5) W.S.) - on training.

(O6) Special Secretary)

Please peruse preparas. The complaint and addendum submitted by Shri T.J. Abraham may be perused in the file. He has requested sanction of prosecution against the sitting Chief Minister Sri Siddaramaiah under

various provisions quoted in para-2 n/f. With this fact, the file is submitted for further orders.

Sd/- (R.Prabhushankar)

(07) Hon'ble Governor]

(08) ***I have heard Sri T.J.Abraham in person and gone through the petition and supporting documents submitted by him. Prima facie, I am of the view that there might be irregularities and misuse of power. Hece, issue show cause notice to Sri Siddaramaiah, Chief Minister calling explanation within 7 days.***

Sd/- (Thaawarchand Gehlot)

Sanction for prosecution

(08) As per the order of the Hon'ble Governor, draft copy of the letter is placed in the file for kind perusal and approval.

Sd/- 26/07

(09) (W.S) – On training.

(10) Special Secretary Sd/- 26/07/2024

(11) Hon'ble Governor

Sd/-26-07-2024.

(12) As per the above approval, fair copies are submitted for kind signature.

Sd/- 26-07-2024

(13) Hon'ble Governor Sd/- 26-07-2024

(Emphasis supplied)

Noticing that the allegations were grave and on hearing the 3rd respondent and having gone through the petition and the supporting documents, the Governor was of the prima facie view that there may be irregularities and misuse of power. Therefore, directs issuance of show cause notice to the petitioner calling for explanation within 7 days from 26-07-2024. The show cause notice resulted in two replies - one submitted by the petitioner and the

other by the Cabinet, which is communicated by the Chief Secretary. On 1-08-2024 the Council of Ministers resolved to advice the Governor to withdraw the notice issued to the petitioner and reject the petition seeking sanction so filed by the 3rd respondent. The Cabinet was presided over by Sri D.K. Shivakumar, Deputy Chief Minister of the State of Karnataka as he was nominated to do so by the Chief Minister. The preamble reads as follows:

> ***"Show cause notice issued by the Hon'ble Governor of Karnataka to the Chief Minister to respond within 7 days as to why sanction for prosecution should ot be granted as requested by one Shri T.J. Abraham in his application dated 26-07-2024 – reg.***
>
> *CABINET DECISION*
>
> ***The Cabinet meeting was presided over by Shri D.K. Shivakumar, Deputy Chief Minister and the Minister for Bengaluru Development and Water Resources, as he was nominated to do so by the Chief Minister vide his note dated 27-07-2024, under Rule 28(1) of the Karnataka Government (Transaction of Business) Rules, 1977, in view of the conflict of interest. The Cabinet perused the cabinet note, the show cause notice dated 26-07-2024 issued by the Hon'ble Governor to the Chief Minister, the petition filed by Shri T.J.Abraham before the Hon'ble Governor on 26-07-2024, along with the annexure and the legal opinion given by the learned Advocate General, along with the list of case laws. Thereafter the Cabinet discussed the matter in detail. The Secretary, Urban Development Department briefed the Cabinet about the facts of the case based on the records available with the Department. The following issues were discussed more specifically."***

The petitioner does not participate in the deliberations. Proceedings of the Council of Ministers headed by the Deputy Chief Minister, results in a detailed narration. What was ultimately deduced by the Cabinet, is as follows:

> ***"The cabinet/council of ministers, after having threadbare discussed the issue of issuance of show cause notice to the Hon'ble Chief Minister, Government of Karnataka, dated 26-07-2024, by the Hon'ble Governor of Karnataka on taking note of the entire factual matrix as well as the well settled legal position and for the reasons herein mentioned, unanimously resolved to advise the Hon'ble Governor as follows:***
>
> ***i. The Hon'ble Governor ought to have, under the present set of facts and circumstances, acted only on the aid and advise of the council of ministers and not in his discretion.***
>
> *ii. The Hon'ble Governor while proceeding to issue the show cause notice has failed to consider the material available on record. The Governor ought to have taken into consideration the reply submitted by the Chief Secretary dated 26-07-2024, received by him at around 6.30 p.m. in person on the same day. It is to be noted that the Chief Secretary in his reply has, inter alia, highlighted that direction contained in Governor's letter dated 15-07-2024 was already acted upon by way of constitution of a Judicial Commission of Enquiry under the Chairmanship of Justice P.N.Desai, vide Government order of 14.07.2024. The issuance of show cause notice, without consideration of these and all other relevant material available on the record, suffers from total non-application of mind.*
>
> *iii. The Hon'ble Governor has failed to take note of the fact that the application for sanction dated 26.07.2024 suffers from serious legal infirmities and was not maintainable on a reading of the provision is of Section 17A, 19 of the*

Prevention of Corruption Act, 1988 and Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 along with settled legal position, as envisaged under the judgments referred to in the cabinet note. An application for previous approval under Section 17A of the Prevention of Corruption Act, 1988 can be made only by Police Officer and not private person.

iv. *The Hon'ble Governor failed to take note of the fact that the application for sanction was also premature since the applicant had filed a complaint to the Lokayukta Police on 18-07-2024 and thereafter had also not followed the mandatory procedure as laid down by the Hon'ble Supreme Court in Priyanka Srivastava in (2015) 6 SCC 287 and Lalitha Kumari (2014) 2 SCC 1.*

v. *The Hon'ble Governor failed to take note of the fact that the entire allegations made by the applicant do not reveal any offence punishable under the provisions of the Prevention of Corruption Act, 1988 or the BNSS 2023.*

vi. The Hon'ble Governor failed to take note of the fact that T.J. Abraham comes with criminal antecedents having criminal cases of blackmail and extortion registered against him and his conduct in misusing the public interest jurisdiction has also been frowned upon by the Hon'ble Supreme Court, levyig costs on him. His acts are motivated and lacks bona fides and suffers from factual and legal mala fides.

vii. *The Hon'ble Governor in issuing the show cause notice has acted in undue haste, throwing to wind all procedural requirements. The fact that the Governor has proceeded to issue the notice on the very same day as he received the petition and on a petition by a person with criminal antecedents and without examining the records, relevant material as well as the reply of the Chief Secretary dated 26-07-2024,added to the fact that several applications, such as the proposal for prior approval under Section 17Aof the Prevention of Corruption Act, 1988 against Smt. Shashikala Jolle, former Minister, dated 9.12.2021, the proposal dated 26-02-2024 against Shri Murugesh Nirani, former Minister, and the application for sanction under Section 19 of the Prevention of Corruption Act, dated 13-05-2024 against Shri Janardhana Reddy, MLA and former Minister, before him are*

long pending., is therefore an act that suffers from legal mala fides as laid down by the Hon'ble Supreme Court in a catena of judgments including the ones referred to supra.

viii. A reading of the show cause notice, more so the finding by the Governor that "on perusal of the request, it is seen that the allegations against you are of serious nature and prima facie seem plausible" leads to an undeniable conclusion that there is pre-judging of the issue, disregarding the report of the Chief Secretary dated 26-07-2023.

ix. The entire sequence of events and the admitted facts and circumstances based on the available records lead to an unequivocal conclusion that there is gross misuse of the constitutional office of the Governor and a concerted effort is being to destabilize a lawfully elected majority government in Karnataka for political considerations.

Therefore, under Article 163 of the Constitution, the Council of Ministers, for all the aforesaid facts and reasons, strongly advises the Hon'ble Governor to withdraw the notice dated 26-07-2024 issued by him to the Hon'ble Chief Minister, based on the petition and addendum dated 26-07-2024, filed by one T.J. Abraham, and to proceed forthwith to reject the said application by denying prior approval and sanction as requested by the petitioner Abraham.

Sd/- (D.K.Shivakumar)
Deputy Chief Minister
1-08-2024."

(Emphasis supplied)

On 3-08-2024, the petitioner also submits his reply. The reply of the petitioner refers to the cabinet decision of 1-08-2024. The preamble of the reply reads as follows:

"SIDDARAMAIAH VIDHANA SOUDHA,

CHIEF MINISTER *BENGALURU-560 001*
Date: 3-08-2024.

D.O.Letter No.UDD/248/MUD/2024(E)

Dear Sir,

1. *With reference to the show cause notice bearing No.GS 40 ADM 2024, dated 26-07-2024, issued to and addressed to me, I would like to bring to your notice as follows:-*

2. *The notice was received by my office at around 3.00 p.m. on 27-07-2024. The notice was accompanied with a copy of the petition dated 26-07-2024 and all annexures filed by one Sri T.J. Abraham, seeking sanction for prosecution against me, under Section 17A and 19 of the Prevention of Corruption Act, 1988 and Section 218 of BNSS (Section 197 Cr.P.C.), to proceed against me for the offences punishable under Sections 7, 9, 11, 12 and 15 of the Prevention of Corruption Act, 1988 and Sections 59, 61, 62, 201, 227, 228, 229, 239, 314, 316(5), 318(1), 318(2), 318(3), 319, 322, 324, 324(1), 324(2), 324(3), 335, 336, 338 and Section 340 of the Bharatiya Nyaya Sanhita, 2023 (hereinafter referred to as BNS).*

3. *On perusal of the 'show cause notice' along with the enclosed petition of one Shri T.J. Abraham and all the annexed documents, keeping in mind the mandate of Article 163 of the Constitution and underlying constitutional principles of a parliamentary form of democracy, I thought it fit to place the matter before the council of ministers to take a decision in the matter. Since the issue relates to me, I, recused myself from the meeting and in terms of rule 28 of the Transaction of Business Rules nominated Sri D.K. Shivakumar, Deputy Chief Minister to chair the meeting. Accordingly, the Urban Development Department placed the matter before the Council of Ministers with all records, opinion of Advocate General and Cabinet Note. The Council of Ministers met on 1-08-2024, and after detailed discussion for the reasons mentioned therein resolved to advice you as hereunder:*

   "The Council of Ministers advise the Hon'ble Governor to withdraw the notice dated 26-07-2024, issued to the Hon'ble

Chief Minister based on the petition and addendum dated 26-07-2024, filed by one T.J. Abraham and proceed to forthwith reject the said application for sanction".

The decision of the Council of Ministers and the entire file was placed before me for my information, by the Urban Development Department since I had recommended to place the matter before the Council of Ministers. I have gone through the entire records as well as the detailed decision of the Cabinet.

4. *I would to categorically establish, for your kind perusal and judicious action, as to why the notice issued by you is grossly illegal, unconstitutional, patently lacking in jurisdiction, suffers from total non-application of mind and ultra vires the provisions of Section 17A, 19 Prevention of Corruption Act and Section 218 BNSS.*

5. *That, being the competent authority to grant sanction under the provisions of the Prevention of Corruption Act, 1988, insofar as the Ministers and the Chief Minister is concerned, the fundamental question that would arise is whether the Governor in such matters would totally bypass the mandate of Article 163 of Constitution of India and the various judgments of the Hon'ble High Courts and the Hon'ble Supreme Court of India. Is the Hon'ble Governor jurisdictionally competent to directly receive application is for sanctions in the Raj Bhavan and without ensuring suitable enquiry including examination of official records available with the concerned department, proceed further on such application or decide such application.* ***The fact remains, that the application filed by Sri T.J. Abraham was received by you on 26-07-2024 and, within few hours of receipt of such application you have proceeded to issue me with the show cause notice in question. It is rather ironical that a constitutional office required to discharge its functions in the manner provided under the Constitution, has chosen to, iin extreme urgency, proceed in the matter, bypassing all known constitutional requirements and procedures in this context, please take note of the following:"***

The reminder portion of the reply is verbatim similar to what the Cabinet decision was. The crux of the reply contains from paras 128 onwards and it reads as follows:

> *"128. It is necessary to also point out that apart from all these legal infirmities in the manner and the issuance of the show cause notice, the entire action suffers from legal mala fides. In light of all this, it is my view as well that –*
>
> *i. You ought to have under the present set of facts and circumstances acted only on the aid and advise of the council of ministers and not in his discretion.*
>
> ***ii. You, while proceeding to issue the show cause notice, have failed to apply his mind to the facts of the case and not considered the material available on record. The Governor ought to have taken in to consideration the reply submitted by the Chief Secretary dated 26.07.2024, received by him at 7.00 p.m. on the same day. The issuance of show cause notice without consideration of the relevant material available on record suffers from total non-application of mind.***
>
> *iii. You have failed to take note of the fact that the application for sanction dated 26-07-2024, suffers from serious legal infirmities and was not maintainable on a reading of the provisions of Section 17A, 19 of the Prevention of Corruption Act, 1988 and Section 218 of the BNS 2023 along with settled legal position as envisaged from the judgments referred to in the cabinet note. An application for previous approval under Section 17A of the Prevention of Corruption Act, 1988, can be made only by police officer and not anyone else.*
>
> *iv. You have failed to take note of the fact that the application for sanction was also premature since the*

applicant had filed a complaint to the Lokayukta Police on 18-07-2024 and thereafter had also mot followed the mandatory procedure as laid down by the Hon'ble Supreme Court in Priyanka Srivastava in (2015) 6 SCC 287 and Lalitha Kumari (2014) 2 SCC 1.

v. You have failed to take note of the fact that the entire allegations made by the applicant does not reveal any offence punishable under the provisions of the Prevention of Corruption Act, 1988 or the BNS 2023.

vi. You have Governor failed to take note of the fact that T.J. Abraham comes with criminal antecedents having criminal case of blackmail and extortion registered against him and his conduct in misusing the public interest jurisdiction has also been frowned upon by the Hon'ble Supreme Court, levying ₹25 lakh as costs on him. His acts are politically motivated and lacks bona fides and suffers from factual and legal mala fides.

vii. You, in issuing the show cause notice, have acted in undue haste, throwing to wind all procedural requirements. The fact that the Governor has proceeded to issue the notice on the very same day as he received the petition and on a petition by a person with criminal antecedents and without examining the records, relevant material as well as the reply of the Chief Secretary dated 26-07-2024, added to the fact that several applications for sanction before him are long pending, such as proposal for prior approval u/s 17A of the Prevention of Corruption Act, 1988, dated 9.12.2021 against one Shashikala Jolle, former Minister and another proposal dated 26.02.2024 against Murgesh Nirani, former Minister and a permission for sanction under Section 19 of the Prevention of Corruption Act, 1988, dated 13-05-2024 against Janardhana Reddy, Member of Legislative Assembly and Former Minister. Therefore, the issuance of the show cause notice, is an act that suffers from legal mala fides as laid down by the Hon'ble Supreme

Court in a catena of judgments including the ones referred to supra.

viii. *The entire sequence of events and the admitted facts and circumstances based on the available records lead to an unequivocal conclusion that a concerted attempted is being made to destabilize the lawfully elected majority Government in Karnataka for political consideration.*

130. In a democracy those entrusted with constitutional authority ought to exercise the same in accordance with law. Upon consideration of the 'notice' I am constrained to point out that the same has been issued in a hurried manner and I am sure that if the allegations in the complaint are looked into with due consideration for the facts, the show cause notice would not have been issued, as there is no material for grant of sanction.

131. I, therefore, request you to peruse my reply, as well as the advice rendered by the Cabinet, vide its resolution dated 1-08-2024, which I presume has been sent to you by the Chief Secretary, and withdraw the notice to me and deny prior approval and sanction sought by the petitioner by rejecting his application.

Warm regards,

Yours sincerely,
Sd/-
(SIDDARAMAIAH)"

(Emphasis supplied)

Both the Cabinet decision or the resolution and the reply of the petitioner are placed before the Governor. This happens on 6-08-2024. On 6-08-2024 when the reply was received, the file notings are as follows:

"14. Kindly peruse the letter dated 3-08-2024 received from Sri Siddaramaiah, Hon'ble Chief Minister and letter dated 1-08-2024 received from Chief Secretary to Government placed in the file.

15. The Chief Secretary has submitted the Cabinet decision dated 1-08-2024 along with enclosures. The Cabinet note is of 91 pages long with relevant copies of the judgments and legal opinion in reply to the show cause notice dated 26-07-2024 issued to Hon'ble Chief Minister (Received at 10-00 p.m. on 1.08.2024 in this secretariat).

16. Further, Hon'ble Chief Minister has submitted his reply to the show cause notice dated 26-07-2024 along with legal opinion and relevant records which runs through 60+ odd pages. (Received at 3.00 p.m. on 04-08-2024).

17. The State Cabinet for the facts and reasons mentioned in the Cabinet decision has strongly advised the Hon'ble Governor to withdraw the notice dated 26-07-2024 issued to the Hon'ble Chief Minister based on the petition and addendum dated 26-07-2024, filed by one T.J. Abraham, and to proceed forthwith to reject the said application by denying prior approval and sanction as requested by the petitioner Abraham.

18. The Hon'ble Chief Minister in his reply has requested to peruse his reply, as well as the advice rendered by the Cabinet, vide its resolution dated 1-08-2024, and to withdraw the notice issued to him and to deny prior approval and sanction sought by the petitioner by rejecting his application.

19. With the above details and along with records submitted, the file is placed before the Hon'ble for kind perusal and orders.

Sd/- (R.Prabhushankar)
Special Secretary to Governor
6-08-2024

20. Hon'ble Governor]

Put up along with comparative statements of petitions, Chief Minister reply and cabinet decision.

Sd/- 8-08-2024."

(Emphasis supplied)

It appears that the Governor perused the file, directs putting of comparative statements of the objections – Chief Minister's reply and the Cabinet decision. This is complied with and placed before the Governor on 14-08-2024. The notings made on 14-08-2024 in the file read as follows:

> ***"21. As directed at para-20, comparative statement of petitions received, from (1) Sri T.J.Abraham, (2) Sri Snehamayi Krishna and (3) Sri Pradeepkumar S.P and Chief Minister's reply and Cabinet decision are placed in the file for kind perusal of the Hon'ble.***
>
> ***Sd/- 14-08-2024***
>
> *22. Hon'ble Governor]*
>
> *Perused the file, discussed the issues, hence re-submit the file along with notes/analysis points as dictated, based on the comparative statement and available documents and petitioins.*
>
> *Sd/- 14-08-2024*
>
> *(23) Spl.Secy] Sd/- 14-08-2024*
> *(24) US (A) Sd/- 14-08-2024."*

On 16-08-2024 the Governor peruses the entire papers and then passes the order, which reads as follows:

"25. Prepara's may kindly be perused. The petitions received from:

1. Sri T.J.Abraham dated 26-07-2024 (page Nos: 01-240) & clarification dated 29-07-2024 (page No: 247-275) and petition with additional documentation daed 06-08-2024 (page Nos. 694-824).

2. Petition from Sri Pradeep Kumar S.P. dated 14.08.2024 (page Nos. 686-1150), and

3. Petition from Sri Snehamayi Krishna dated 05.07.2024 (page Nos.826-866)

Requesting grant of sanction for prosecution in respect of irregularities conducted and corrupt practices adopted by Shri Siddaramaiah, Hon'ble Chief Minister of Karnataka.

4. the reply to the show cause notice dated 3.08.2024 along with the annexures (page Nos. 443-693),

5. the opinion of Ld.Advocate General and the resolution of Council of Ministers dated 1-08-2024 placed in file at pages 276-442 may kindly be perused.

and also, the petitions from various persons both requesting expediting and opposing the proposal seeking sanction for prosecution is placed below the file

26. As directed, the file along with the above details, documents and comparative statements, dictated notes by Hon'ble, is placed before the Hon'ble for further necessary orders.

Sd/- (R.Prabhushankar)
Special Secretary to Governor
16-08-2024

Hon'ble Governor.

27. Petitions received from Sri T.J. Abraham dated 26.07.2024 (page Nos. 01-240) & clarification dated 29-07-2024 (page nos. 247-275) and petition with additional documentation dated 06-08-2024 (page nos.694-824), petition from Sri Pradeep Kumar S.P. dated 14-08-2024(page Nos. 686-1150), and petition

from Snehamayi Krishna dated 5-07-2024 (page nos. 826-866) requesting grant of sanction for prosecution in respect of irregularities conducted and corrupt practices adopted by Shri Siddaramaiah, Hon'ble Chief Minister of Karnataka concerning allotment of alternative sites by Mysore Urban Development Authority ("MUDA") under various sections of PC, Act, 1988 and BNSS, 2023 has been perused.

28. In view of the allegations and on prima facie perusal of the petitions for grant of sanction for prosecution and materials in support of the allegations, a show cause notice dated 26-07-2024 along with the copy of the petition by T.J. Abraham and materials in support of the allegations was issued to Sri Siddaramaiah, Hon'ble Chief Minister of Karnataka. The reply to the show cause notice dated 3-08-2024 along with the annexures was received at the office of His Excellency the Governor of Karnataka on 4.08.2024.

29. It appears from the materials annexed to the reply to the show cause notice that vide note dated 27.07.2024 Sri Siddaramaiah, Hon'ble Chief Minister of Karnataka requested the Chief Secretary to place the show cause notice along with the copy of the petition and the materials in support of the allegations before the Council of Ministers for further consideration and examination. The Chief Secretary on 31-07-2024 took the opinion of Ld. Advocate General and the Council of Ministers vide resolution dated 1-08-2024 concluded as follows:

> ***"Therefore, under Article 163 of the Constitution, the council of Ministers, for all the aforesaid facts and reasons, strongly advises the Hon'ble Governor to withdraw the notice dated 26-07-2024, issued by him to the Hon'ble Chief Minister, based on the petition and addendum dated 26-07-2024, filed by one T.J. Abraham, and to proceed forthwith to reject the said application by denying prior approval and sanction as requested by the petitioner Abraham".***

30. It is pertinent to note that that the Council of Ministers in reaching the aforesaid decision vide meeting dated 1-08-2024 considered and relied upon the following assertions:

30.1 The Hon'ble Governor ought to have, under the present set of facts and circumstances, aced only on the aid and advice fo the council of ministers and not in his discretion.

30.2 The Hon'ble Governor while proceeding to issue the show cause notice has failed to consider the material available on record. The Governor ought to have taken into consideration the reply submitted by the Chief Secretary dated 26-07-2024, received by him at around 6.30 p.m. in person on the same day. It is to be noted that the Chief Secretary in his reply ha, inter alia, highlighted that direction contained in Governor's letter dated 15-07-2024 was already acted upon by way of constitution of a Judicial Commission of enquiry under the Chairmanship of Justice P.N. Desai, vide Government Order of 14.07.2024. The issuance of show cause notice, without consideration of these and all other relevant material available on the record, suffers from total non-application of mind.

30.3 The Hon'ble Governor has failed to take note of the fact that the application for sanction dated 26.07.2024 suffers from serious legal infirmities and was not maintainable on a reading of the provision is of Section 17A, 19 of the Prevention of Corruption Act, 1988 and Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 along with settled legal position, as envisaged under the judgments referred to in the cabinet note. An application for previous approval under Section 17A of the Prevention of Corruption Act, 1988 can be made only by Police Officer and not private person.

30.4 The Hon'ble Governor failed to take note of the fact that the entire allegations made by the applicant do not reveal any offence punishable under the provisions of the Prevention of Corruption Act, 1988 or the BNSS 2023.

30.5 A reading of the show cause notice, more so the finding by the Governor that "on perusal of the request, it is seen that the allegations against you are of serious nature and prima

facie seem plausible" leads to an undeniable conclusion that there is pre-judging of the issue, disregarding the report of the Chief Secretary dated 26-07-2023.

31. In view of the averments made in the aforementioned petitions seeking grant of sanction for prosecution and the materials in support of the same, the subsequent issuance of show cause notice dated 26-07-2024, reply to the show cause notice by Shri Siddaramaiah, Hon'ble Chief Minister of Karnataka dated 3-08-2024, legal opinion of the Ld. Advocate General dated 31-07-2024 and the decision of the Council of Ministers dated 1-08-2024, I am of the opinion, that, in exercise of my powers under Article 163(1) of the Constitution of India considering aforesaid materials placed before me and the facts and circumstances of the present matter, as a matter of propriety, I shall exercise my discretion by independently examining the aforesaid materials for following reasons:

31.1 It is seen from the resolution of Council of Minister that the <u>conclusion has been arrived at by the Council of Ministers by non-consideration of relevant facts and materials.</u> For instance, the Council of Ministers has taken into considerations that absence of 'possession notification' and/or a mahzar taking possession was mandatory. However, the Revenue Transfer Certificate as provided under Annexure-A-5 of the petition by T.J. Abraham clearly stated that the possession of the alleged land (3 acres and 16 guntas) was with MUDA. Further, the fact that the alleged land was developed by MUDA and the same was allotted to private beneficiaries and subsequently registration of the same was also completed. These aforesaid aspects have not been examined and considered by the Council of Ministers.

31.2 The Chief Minister is the head of the Council of Ministers. The Council of Ministers is normally required to act fairly and in a bona fide manner. However, the Council of Ministers is appointed on the recommendation of the Chief Minister, it is but natural that the stance of the Council of Ministers is in support

of the Chief Minister. Hence, in such extraordinary circumstances, it is hard to ascertain that the Council of Ministers have acted fairly and in a bona fide manner.

31.3 The Governor under Article 163 of the Constitution of India is required to act under the aid and advice of the Council of Ministers.. However, an exception may arise when consideration is being done for grant of sanction for prosecution of the Chief Minister and the decision of Council of Ministers is affected by the apparent bias. As regards the application of doctrine of aid and advise is concerned, this has been conclusively settled in the State of Maharashtra v. R.S. Naik AIR 1982 SC 1249 that sanction to prosecute the Chief Minister is the exclusive function of the Governor to be exercised by him in his discretion followed by the decision in Dr. J.Jayalalitha v. Dr. Channa Reddy (1995) 2 MLJ 187, wherein it was further amplified that it is erroneous to say that the view of the Supreme Court was based on a concession made by counsel and a perusal of the relevant part of the judgment shows that the Court has expressed its opinion that such concession was rightly made.

31.4 In the present matter, the allegations and the materials in support of the allegations would prima facie indicate that the said land was given to SC person by due course of law. The records of the said land was transferred from the father to childrens and again from childrens to father, this mystery was not considered by the State Cabinet. When the notification for land acquisition issued and the de-notification order was issued, Sri Siddaramaiah was the Member of Legislative Assembly from Chamundeshwari Constituency as well as Member of Mysuru Urban Development Authority, and further, this land was purchased by the brother-in-law of Sri Siddaramaiah, wherein, the seller was from the constituency of Chamundeshwari, and later on after getting the lnd converted in to the residential purpose gifted it to the wife of Sri Siddaramaiah, who became the owner of the property and the application for allocation of alternative sites come to be moved on the basis of

relinquishment of agriculture land. On the basis of this application MUDA passed a resolution pursuant to the amendment to allot alternative sites. It has been specifically averred that the Rule was specifically amended from 40:60 to 50:50 to aid this transaction when Sri Siddaramaiah was the Chief Minister. Further, the petition seeking grant of sanction for prosecution and the materials provided clearly indicate that Sri Yateendra, son of Sri Siddaramaiah participated in MUDA meeting which resulted in allotment of alternative site in very prima layout called Vijayanagar. These facts were placed before the Council of Ministers. The aforesaid brief facts when co-related with the material in support of grant of sanction clearly establish that there is apparent bias in the decision taken by the Council of Ministers in favour of Sri Siddaramaiah. Due to the apparent bias, the present matter requires my independent application of mind to the petitions seeking grant of sanction for prosecution and the materials in support of the same.

31.5 It is seen from the decision taken by the Council of Ministers that a committee under the chairmanship of Shri Venkatachalapathy, IAS was constituted to look into the present matter. However, the Government upon considering the facts of the present matter as reported in the media/newspapers appointed a high-level single member inquiry committee under the 'Commission of Inquiry Act 1952' . It appears from the terms of reference of the high-level single member inquiry committee that there are serious allegation involving illegal allotment of alternative sites, illegal allotment of land and irregularities in allocation of land. Further, the constituting of a committee under an IAS officer and immediately constituting one more committee under a retired Judge of the High Court and the Governments own acceptance that there is a potential big ticket scam in the allotment of sites by MUDA does not inspire much confidence. ***It is well settled legal principle that the person against who, allegations are made, should not be empowered to decide the course of action. Even after such grave allegations being involved in the present matter and the fact that the materials prima facie support the allegations,***

<u>therefore, the decision taken by the Council of Ministers is irrational</u> as even after the appointment of high-level single member inquiry committee on such serious allegation the council of Ministers do not consider the entire material in support of the allegation.

31.6 The subject of binding of the advice of the Council of Ministers for Governor and discretionary power of the Governor during special circumstances is well discussed and decided in the case of Madhya Pradesh Police Establishment v. State of Madhya Pradesh, (2004) 8 SCC p.788 at pages 802, 805, the five Judges bench of Supreme Court has held that "If on these facts and circumstances, the Governor cannot act in his own discretion there would be a complete break-down of rule of law inasmuch as it would then be open for Governments to refuse sanction in spite of overwhelming material showing that a prima facie case is made out. If, in cases where prima facie is clearly made out, sanction to prosecute high functionaries is refused or withheld, democracy itself will be at stake. It would then lead to a situation where people in power may break the law with impunity safe ini the knowledge they will not be prosecuted as the requisite sanction will not be granted.

31.7 On the point raised by the Council of Ministers that an application for previous approval under Section 17A of the Prevention of Corruption Act, 1988, can be made only by Police Officer and not private person, Section 17A of Prevention of Corruption Act, 11988 provides that no enquiry or inquiry or investigation shall be conducted by a police officer into any offence alleged to have been committed by a public servant under the PC Act without prior approval from appropriate authority. However, either it is said that private person cannot request for the prior approval from the competent authority, nor only the Investigating Agency will seek the sanction from the Competent Authority. The only thing is to understand that the Police will not inquire without prior sanction. It is important that Police should start the investigation process only after getting the sanction from the

Competent Authority, it is immaterial who does the effort to get the sanction. The decision of the Hon'ble High Court of Karnataka in Criminal Petition No.531 of 2022 in Dr. Ashok V v. The state by Lokayuktha Karnataka and the various high Courts, the High Court of Karnataka has issued guidelines to be followed in the cases related to prosecution of public servants for the alleged offences during the discharge of duties vide circular dated 23-09-2023. This circular stipulates the procedure and pre-requisites for registering the cases of prosecution against the public servants. Point No.(ii) of the circular reads as "The private complaint should also append prior approval granted by the competent authority to register a private complaint, akin to a prior approval for an FIR to be registered by the Investigating Agency as obtaining under Section 17A of the Act. This would become a prerequisite to the concerned court to refer the matter for investigation under Section 156(3) of the Cr. Prevention of Corruption". Hence,, the above circular of the Hon'ble Court makes it compulsory that the previous sanction is necessary to file a private complaint in the Court of Law by private persons.

31.8. In view of the aforesaid it emerges that the present situation amounts to peril to democratic principles and therefore, requires independent application of mind and my subjective satisfaction and objective assessment of the facts and materials provided.

31.9 Since the sanction is sought against the Chief Minister himself, the surrounding circumstances of placing the show cause notice dated 26-07-2024 before the Cabinet and the decision of the Cabinet advising me to withdraw the notice, would not inspire confidence to act on such advice of the Cabinet.

31.10 Upon perusal of the petition along with the materials in support of the allegations in the petitions and subsequent reply of Sri Siddaramaiah and the advice of the State Cabinet along with the legal opinion, it seems to be that there are two versions in relation to the same set of facts. It is very necessary that a neutral, objective and non-partisan investigation should be conducted, I am prima facie satisfied that

the allegations and the supporting materials disclose commission of offences.

31.11 In view of the above facts and circumstances, I am satisfied that sanction can be accorded against the Chief Minister Shri Siddaramaiah on the allegations of having committed the offences as mentioned in the petitions of Sri T.J.Abraham, Sri Pradeep Kumar S.P. and Sri Snehamayi Krishna.

32. Hence, I hereby accord sanction against Chief Minister Sri Siddaramaiah, under Section 17A of the Prevention of Corruption Act, 1988 and Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for the commission of the alleged offences as mentioned in the petitions.

Sd/- (Thaawarchand Gehlot)
16-08-2024."

(Emphasis supplied)

The aforesaid decision of the Governor is communicated to the Chief Secretary, Government of Karnataka on 17-08-2024. The communication encloses the decision of the Competent Authority. The decision that is communicated reads as follows:

"<u>Decision of the competent authority under Section 17A of Prevention of Corruption Act, 1988 and218 of Bharatiya Nagarik Suraksha Sanhita, 2023.</u>

01. Petition from Sri T.J.Abraham seeking grant of sanction for prosecution of Shri Siddaramaiah, Hon'ble Chief Minister of Karnataka for commission of offences under Sections 7, 9, 11, 12 and 15 of the Prevention of Corruption Act, 1988 ("PC Act") ad Sections 59, 61, 62, 201, 227, 228, 229, 239, 314 316(5), 318(1), 318(2), 318(3), 319, 322, 324, 324(1), 324(2), 324(3), 335, 336, 338 and 340 of the Bharatiya

Nyaya Sanhita ("BNS". The said petition seeks grant of sanction for investigation under Section 17A of the PC Act and grant of sanction for prosecution under Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") and Section 19 of the PC Act. The petitioner has also annexed 29 documents in support of the allegations.

02. Two more petitions from Sri Pradeep Kumar S.P., and from Sri Snehamayi Krihna, Social Activist, have been received at my office in respect of the same allegations.

03. Upon perusal of the petitions and the materials in support of the allegations in the petitions, I had issued Show Cause Notice dated 26-07-2024 to Shri Siddaramaiah to show cause as to why permission for prosecution should not be granted. Upon receipt of the said Show Cause Notice dated 26-07-2024, the Chief Minister, Shri Siddaramaiah vide reply dated 3-08-2024 denied the allegations as made against him in the petition dated 26-07-2024. My office has received the resolution of the Cabinet dated 1-08-2024 on 1-08-2024. My office has also received the reply of Shri Siddaramaiah dated 3.08.2024, denying the allegations along with certain documents on 4-07-2024.

04. It is seen from the decision taken by the Council of Ministers that a committee under the chairmanship of Shri Venkatachalapathy, IAS was constituted to look into the present matter. However, the Government upon considering the facts of the present matter as reported in the media/newspapers appointed a high-level single member inquiry committee under the 'Commission of Inquiry Act, 1952'. It appears from the terms of reference of the high-level single member inquiry committee that there are serious allegation involving illegal allotment of alternative sites, illegal allotment of land and irregularities in allocation of land. Further, the constituting of a committee under an IAS officer and immediately constituting one more committee under a retired Judge of the High Court and the Governments own acceptance that there is a potential big ticket scam in the allotment of sites by MUDA does not inspire much confidence. It is well settled legal principle that the person against who, allegations are made, should not be empowered to decide the course of action. Even after such

grave allegations being involved in the present matter and the fact that the materials prima facie supports the allegations, therefore, the decision taken by the Council of Ministers is irrational.

05. *The operative part of the Resolution of the Cabinet dated 1-08-2024 reads as follows:*

> *"Therefore, under Article 163 of the Constitution, the Council of Ministers, for all the aforesaid facts and reasons, strongly advises the Hon'ble Governor to withdraw the notice dated 26-07-2024, issued by him to the Hon'ble Chief Minister, based on the petition and addendum dated 26-07-2024, filed by one T.J. Abraham and to proceed forthwith to reject the said application by denying prior approval and sanction as requested by the petitioner Ahraham."*

06. *I have considered the decision of the Cabinet dated 1-08-2024 and the file in relation to the issue at hand. It is noticed from the said file that Shri Siddaramaiah had asked the Chief Secretary to convene a meeting of the Cabinet and to place the show cause notice dated 26-07-2024 and all other materials before the Cabinet. Accordingly, the Cabinet meeting was convened on 1-08-2024, wherein the show cause notice dated 26-07-2024 and other materials were discussed and the aforesaid Resolution dated 1-08-2024 came to be passed. I have also taken note of the fact that the said Cabinet meeting was not presided over by Shri Siddaramaiah the Chief Minister.*

07. ***In the present case, the petitions have been filedseeking grant of sanction against Shri Siddaramaiah. The resolution dated 1-08-2024 of the Cabinet has been passed by the Cabinet colleague of Shri Siddaramaiah who have been appointed on his advice. In view of the above and considering the fact that the petitions have been filed seeking sanction for investigation and prosecution against Shri Siddaramaiah, Chief Minister, I have independently examined the petitions and documents submitted in support of the same.***

08. ***Since the sanction is sought against the Chief Minister himself, the surrounding circumstances of placing the show cause notice dated 26-07-2024 before the Cabinet and the decision of the Cabinet advising me to withdraw the notice, would not inspire confidence to act on such advice of the Cabinet.***

09. ***The subject of binding of the advice of the Council of Ministers for Governor and discretionary power of the Governor during special circumstances is well discussed and decided in the case of Madhya Pradesh Police Establishment v. State of Madhya Pradesh, (2004)8 SCC p.788 at pages 802, 805, the five Judges Bench of Supreme has held that "If on these facts and circumstances, the Governor cannot act in his own discretion there would be a complete break- down of Rule of law inasmuch as it would then be open for Governments to refuse sanction in spite of overwhelming material showing that a prima facie case is made out. If, in cases where prima facie is clearly made out, sanction to prosecute high functionaries is refused or withheld, democracy itself will be at stake. It would then lead to a situation where people in power may break the law with impunity safe in the knowledge they will not be prosecuted as the requisite sanction will not be granted."***

10. *Upon perusal of the petition along with the materials In support of the allegations in the petitions and subsequent reply of Sri Siddaramaiah and the advise of the State Cabinet along with the legal opinion, it seems to me that there are two versions in relation to the same set of facts. It is very necessary that a neutral, objective and non-partisan investigation should be conducted. I am prima facie satisfied that the allegations and the supporting materials disclose commission of offence.*

11. *In view of the above facts and circumstances, I am satisfied that sanction can be accorded against Chief Minister Shri Siddaramaiah on the allegations of having committed the offences as mentioned in the petitions of Sri T.J.Abraham, Sri Pradeep Kumar S.P. and Sri Snehamayi Krishna.*

12. Hence, I hereby accord sanction against Chief Minister Sri Siddaramaiah under Section 17A of the Prevention of Corruption Act, 1988 and Section 218 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for the commission of the alleged offences as mentioned in the petitions.

Sd/- (Thaawarchand Gehlot)
16-08-2024"

(Emphasis supplied)

This brings the petitioner to this Court.

THE CONTENTIONS OF THE PETITIONER ON THE PROCEEDINGS OF THE GOVERNOR:

33. The learned senior counsel appearing for the petitioner would raise 5 fold submissions against the order of the Governor:

(i) The Governor ought not to have rejected the Cabinet decision as he is bound by the aid and advice of the Council of Ministers under Article 163 of the Constitution;

(ii) The Governor has presumed apparent bias of the Cabinet to exercise independent discretion. This is contrary to law;

(iii) The Governor refers to a decision of the Apex Court in the case of M.P. SPECIAL POLICE ESTABLISHMENT v. STATE OF M.P. – (2004) 8 SCC 788 which is subsequently distinguished in NABAM REBIA & BAMANG FELIX v. DEPUTY SPEAKER – (2016) 8 SCC 1;

(iv) The order of the Governor suffers from blatant non-application of mind;

(v) The order should be tested on what is communicated to the petitioner and not on what the notings in the file are to arrive at a conclusion whether the Governor has applied his mind before according approval as obtaining under Section 17A;

I deem it appropriate to unfold the said folds.

34. Article 163 of the Constitution reads as follows:

> ***"163. Council of Ministers to aid and advise Governor.—(1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.***
>
> *(2) If any question arises whether any matter is or is not a matter as respects which the Governor is by or under this Constitution required to act in his discretion, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have acted in his discretion.*
>
> *(3) The question whether any, and if so what, advice was tendered by Ministers to the Governor shall not be inquired into in any court."*

Article 163 deals with Council of Ministers to aid and advice the Governor. It reads that there shall be a Council of Ministers with the Chief Minister at the head to aid and advice the Governor in exercise of his functions except insofar as he is required to exercise

his functions or any of them in his discretion. Article 164 of the Constitution reads as follows:

> *"**164. Other provisions as to Ministers**.—(1) **The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor:***
>
> *Provided that in the States of Chhattisgarh, Jharkhand, Madhya Pradesh and Odisha, there shall be a Minister in charge of tribal welfare who may in addition be in charge of the welfare of the Scheduled Castes and backward classes or any other work.*
>
> *(1-A) The total number of Ministers, including the Chief Minister, in the Council of Ministers in a State shall not exceed fifteen per cent of the total number of members of the Legislative Assembly of that State:*
>
> *Provided that the number of Ministers, including the Chief Minister, in a State shall not be less than twelve:*
>
> *Provided further that where the total number of Ministers, including the Chief Minister, in the Council of Ministers in any State at the commencement of the Constitution (Ninety-first Amendment) Act, 2003 exceeds the said fifteen per cent or the number specified in the first proviso, as the case may be, then, the total number of Ministers in that State shall be brought in conformity with the provisions of this clause within six months from such date as the President may by public notification appoint.*
>
> *(1-B) A member of the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council belonging to any political party who is disqualified for being a member of that House under Paragraph 2 of the Tenth Schedule shall also be disqualified to be appointed as a Minister under clause (1) for duration of the period commencing from the date of his disqualification till the date on which the term of his office as such member would expire or where he contests*

any election to the Legislative Assembly of a State or either House of the Legislature of a State having Legislative Council, as the case may be, before the expiry of such period, till the date on which he is declared elected, whichever is earlier.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly of the State.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the forms set out for the purpose in the Third Schedule.

(4) A Minister who for any period of six consecutive months is not a member of the Legislature of the State shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of the State may from time to time by law determine and, until the Legislature of the State so determines, shall be as specified in the Second Schedule."

(Emphasis supplied)

Article 164 deals with the other provisions as to Ministers. The Chief Minister will be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister. A question arose before the Apex court with regard to granting of sanction for prosecution of Ministers. Whether the Governor should act on the aid of the Council of Ministers or can take his independent decision in the matter. The Apex Court in ***M.P. SPECIAL POLICE ESTABLISHMENT*** *supra* holds as follows:

"…. …. …

8. The question for consideration is whether a Governor can act in his discretion and against the aid and advice of the Council of Ministers in a matter of grant of sanction for prosecution of Ministers for offences under the Prevention of Corruption Act and/or under the Penal Code, 1860.

…. …. …

12. Mr Sorabjee relies on the case of Samsher Singh v. State of Punjab [(1974) 2 SCC 831 : 1974 SCC (L&S) 550] . A seven-Judge Bench of this Court, inter alia, considered whether the Governor could act by personally applying his mind and/or whether, under all circumstances, he must act only on the aid and advice of the Council of Ministers. *It was inter alia held as follows: (SCC pp. 848-49, paras 54-56)*

> *"54. The provisions of the Constitution which expressly require the Governor to exercise his powers in his discretion are contained in articles to which reference has been made. To illustrate, Article 239(2) states that where a Governor is appointed an administrator of an adjoining Union Territory he shall exercise his functions as such administrator independently of his Council of Ministers. The other articles which speak of the discretion of the Governor are paragraphs 9(2) and 18(3) of the Sixth Schedule and Articles 371-A(1)(b), 371-A(1)(d) and 371-A(2)(b) and 371-A(2)(f). The discretion conferred on the Governor means that as the constitutional or formal head of the State the power is vested in him. In this connection, reference may be made to Article 356 which states that the Governor can send a report to the President that a situation has arisen in which the Government of the State cannot be carried on in accordance with the provisions of this Constitution. Again Article 200requires the Governor to reserve for consideration any Bill which in his opinion if it became law, would so derogate from the powers of the High Court as to endanger the position which the High Court is designed to fill under the Constitution.*
>
> *55. In making a report under Article 356 the Governor will be justified in exercising his discretion even against the aid and advice of his Council of Ministers. The reason is that the failure of the constitutional machinery*

may be because of the conduct of the Council of Ministers. This discretionary power is given to the Governor to enable him to report to the President who, however, must act on the advice of his Council of Ministers in all matters. In this context Article 163(2) is explicable that the decision of the Governor in his discretion shall be final and the validity shall not be called in question. The action taken by the President on such a report is a different matter. The President acts on the advice of his Council of Ministers. In all other matters where the Governor acts in his discretion he will act in harmony with his Council of Ministers. The Constitution does not aim at providing a parallel administration within the State by allowing the Governor to go against the advice of the Council of Ministers.

56. Similarly Article 200 indicates another instance where the Governor may act irrespective of any advice from the Council of Ministers. In such matters where the Governor is to exercise his discretion he must discharge his duties to the best of his judgment. The Governor is required to pursue such courses which are not detrimental to the State."

The law, however, was declared in the following terms: (SCC p. 885, para 154)

"154. We declare the law of this branch of our Constitution to be that the President and Governor, custodians of all executive and other powers under various articles shall, by virtue of these provisions, exercise their formal constitutional powers only upon and in accordance with the advice of their Ministers save in a few well-known exceptional situations. Without being dogmatic or exhaustive, these situations relate to (a) the choice of Prime Minister (Chief Minister), restricted though this choice is by the paramount consideration that he should command a majority in the House; (b) the dismissal of a Government which has lost its majority in the House, but refuses to quit office; (c) the dissolution of the House where an appeal to the country is necessitous, although in this area the head of State should avoid getting involved in politics and must be advised by his Prime Minister (Chief Minister) who will eventually take the responsibility for the step. We do not examine in detail the constitutional proprieties in these predicaments except to utter the caution that even here the action must be compelled by the peril to democracy and the

appeal to the House or to the country must become blatantly obligatory. We have no doubt that de Smith's statement (Constitutional and Administrative Law — by S.A. de Smith — Penguin Books on Foundations of Law) regarding royal assent holds good for the President and Governor in India:

> *'Refusal of the royal assent on the ground that the Monarch strongly disapproved of a Bill or that it was intensely controversial would nevertheless be unconstitutional. The only circumstances in which the withholding of the royal assent might be justifiable would be if the Government itself were to advise such a course — a highly improbable contingency — or possibly if it was notorious that a Bill had been passed in disregard to mandatory procedural requirements; but since the Government in the latter situation would be of the opinion that the deviation would not affect the validity of the measure once it had been assented to, prudence would suggest the giving of assent.' "*

Thus, as rightly pointed out by Mr Sorabjee, a seven-Judge Bench of this Court has already held that the normal rule is that the Governor acts on the aid and advice of the Council of Ministers and not independently or contrary to it. But there are exceptions under which the Governor can act in his own discretion. Some of the exceptions are as set out hereinabove. ***It is, however, clarified that the exceptions mentioned in the judgment are not exhaustive. It is also recognised that the concept of the Governor acting in his discretion or exercising independent judgment is not alien to the Constitution. It is recognised that there may be situations where by reason of peril to democracy or democratic principles, an action may be compelled which from its nature is not amenable to Ministerial advice. Such a situation may be where bias is inherent and/or manifest in the advice of the Council of Ministers.***

…. …. …

16. *In the case of A.K. Kraipak v. Union of India [(1969) 2 SCC 262] the question was whether a selection made by the Selection Board could be upheld. It was noticed that one of the candidates for selection had become a member of the Selection Board. A Constitution Bench of this Court considered the*

question of bias in such situations. This Court held as follows: (SCC pp. 270-71, paras 15-16)

> *"15. It is unfortunate that Naqishbund was appointed as one of the members of the Selection Board. It is true that ordinarily the Chief Conservator of Forests in a State should be considered as the most appropriate person to be in the Selection Board. He must be expected to know his officers thoroughly, their weaknesses as well as their strength. His opinion as regards their suitability for selection to the all-India service is entitled to great weight. But then under the circumstances it was improper to have included Naqishbund as a member of the Selection Board. He was one of the persons to be considered for selection. It is against all canons of justice to make a man judge in his own cause. It is true that he did not participate in the deliberations of the committee when his name was considered. But then the very fact that he was a member of the Selection Board must have had its own impact on the decision of the Selection Board. Further admittedly he participated in the deliberations of the Selection Board when the claims of his rivals particularly that of Basu was considered. He was also party to the preparation of the list of selected candidates in order of preference. At every stage of his participation in the deliberations of the Selection Board there was a conflict between his interest and duty. Under those circumstances it is difficult to believe that he could have been impartial. The real question is not whether he was biased. It is difficult to prove the state of mind of a person. Therefore what we have to see is whether there is reasonable ground for believing that he was likely to have been biased. We agree with the learned Attorney General that a mere suspicion of bias is not sufficient. There must be a reasonable likelihood of bias. In deciding the question of bias we have to take into consideration human probabilities and ordinary course of human conduct. It was in the interest of Naqishbund to keep out his rivals in order to secure his position from further challenge. Naturally he was also interested in safeguarding his position while preparing the list of selected candidates.*
>
> *16. The members of the Selection Board other than Naqishbund, each one of them separately, have filed affidavits in this Court swearing that Naqishbund in no manner influenced their decision in making the selections. In a group deliberation each member of the group is bound*

to influence the others, more so, if the member concerned is a person with special knowledge. His bias is likely to operate in a subtle manner. It is no wonder that the other members of the Selection Board are unaware of the extent to which his opinion influenced their conclusions. We are unable to accept the contention that in adjudging the suitability of the candidates the members of the Board did not have any mutual discussion. It is not as if the records spoke of themselves. We are unable to believe that the members of Selection Board functioned like computers. At this stage it may also be noted that at the time the selections were made, the members of the Selection Board other than Naqishbund were not likely to have known that Basu had appealed against his supersession and that his appeal was pending before the State Government. Therefore there was no occasion for them to distrust the opinion expressed by Naqishbund. Hence the Board in making the selections must necessarily have given weight to the opinion expressed by Naqishbund."

17. On the basis of the ratio in this case Mr Sorabjee rightly contends that bias is likely to operate in a subtle manner. Sometimes members may not even be aware of the extent to which their opinion gets influenced.

…. …. …

19. Article 163 has been extracted above. Undoubtedly, in a matter of grant of sanction to prosecute, the Governor is normally required to act on aid and advice of the Council of Ministers and not in his discretion. However, an exception may arise whilst considering grant of sanction to prosecute a Chief Minister or a Minister where as a matter of propriety the Governor may have to act in his own discretion. Similar would be the situation if the Council of Ministers disables itself or disentitles itself.

…. …. …

23. Mr Tankha is not right when he submits that the Governor would be sitting in appeal over the decision of the Council of Ministers. However, as stated above,

unless a situation arises as a result whereof the Council of Ministers disables or disentitles itself, the Governor in such matters may not have any role to play. *Taking a cue from Antulay [**Ed.**: See R.S. Nayak v. A.R. Antulay, (1984) 2 SCC 183. Other connected Antulay cases are reported at (1984) 2 SCC 500; (1984) 3 SCC 86; (1986) 2 SCC 716; 1986 Supp SCC 510; (1988) 2 SCC 602] , it is possible to contend that a Council of Ministers may not take a fair and impartial decision when their Chief Minister or other members of the Council face prosecution. But the doctrine of "apparent bias", however, may not be applicable in a case where a collective decision is required to be taken under a statute in relation to former Ministers. In a meeting of the Council of Ministers, each member has his own say. There may be different views or opinions. But in a democracy the opinion of the majority would prevail.*

…. …. …

32. If, on these facts and circumstances, the Governor cannot act in his own discretion there would be a complete breakdown of the rule of law inasmuch as it would then be open for Governments to refuse sanction in spite of overwhelming material showing that a prima facie case is made out. If, in cases where a prima facie case is clearly made out, sanction to prosecute high functionaries is refused or withheld, democracy itself will be at stake. It would then lead to a situation where people in power may break the law with impunity safe in the knowledge that they will not be prosecuted as the requisite sanction will not be granted.

33. *Mr Tankha also pressed into play the doctrine of necessity to show that in such cases of necessity it is the Council of Ministers which has to take the decision. In support of this submission he relied upon the cases of J. Mohapatra and Co. v. State of Orissa [(1984) 4 SCC 103] , Institute of Chartered Accountants v. L.K. Ratna [(1986) 4 SCC 537 : (1986) 1 ATC 714] , Charan Lal Sahu v. Union of India [(1990) 1 SCC 613] , Badrinath v. Govt. of T.N. [(2000) 8 SCC 395 : 2001 SCC (L&S) 13] , Election Commission of India v. Dr. Subramaniam Swamy [(1996) 4 SCC 104] , Ramdas Shrinivas Nayak [(1982) 2 SCC 463 : 1982 SCC (Cri) 478] and State of*

> *M.P. v. Dr. Yashwant Trimbak [(1996) 2 SCC 305 : 1996 SCC (L&S) 510 : (1996) 33 ATC 208].* ***In our view, the doctrine of necessity has no application to the facts of this case. Certainly, the Council of Ministers has to first consider grant of sanction. We also presume that a high authority like the Council of Ministers will normally act in a bona fide manner, fairly, honestly and in accordance with law. However, on those rare occasions*** *where on facts the bias becomes apparent and/or the decision of the Council of Ministers is shown to be irrational and based on non-consideration of relevant factors, the Governor would be right, on the facts of that case, to act in his own discretion and grant sanction."*
>
> *(Emphasis supplied)*

The Constitution Bench of the Apex Court considers this very issue and holds that normally the Governor is required to act on the aid and advice of the Council of Ministers, but if it is a matter of sanction to prosecute, it may carve out an exception whilst considering the grant of prosecution of Chief Minister or a Minister whether as a matter of propriety the Governor may have to act on his own discretion. Similar would be the situation if the Council of Ministers disable itself or disentitles itself. The Apex Court also considers what would be apparent bias, though the plea of apparent bias is held to be an exception to the general rule.

35. The learned counsel appearing for the petitioner has strenuously contended that a 9 Judge Bench in the case of ***NABAM REBIA*** *supra* has distinguished the said judgment, *alas*, it has not. The Apex Court in the case of ***NABAM REBIA*** has held as follows:

> ***"155.*** *We may, therefore, summarise our conclusions as under:*
>
> ***155.1.*** *Firstly, the measure of discretionary power of the Governor, is limited to the scope postulated therefor, under Article 163(1).*
>
> ***155.2.*** *Secondly, under Article 163(1) the discretionary power of the Governor extends to situations, wherein a constitutional provision expressly requires the Governor to act in his own discretion.*
>
> ***155.3.*** *Thirdly, the Governor can additionally discharge functions in his own discretion, where such intent emerges from a legitimate interpretation of the provision concerned, and the same cannot be construed otherwise.*
>
> ***155.4.*** *Fourthly, in situations where this Court has declared that the Governor should exercise the particular function at his own and without any aid or advice because of the impermissibility of the other alternative, by reason of conflict of interest.*
>
> ***155.5.*** *Fifthly, the submission advanced on behalf of the respondents, that the exercise of discretion under Article 163(2) is final and beyond the scope of judicial review cannot be accepted. Firstly, because we have rejected the submission advanced by the respondents, that the scope and extent of discretion vested with the Governor has to be ascertained from Article 163(2), on the basis whereof the submission was canvassed. And secondly, any*

discretion exercised beyond the Governor's jurisdictional authority, would certainly be subject to judicial review.

155.6. *Sixthly, in view of the conclusion drawn at fifthly above [para 155.5], the judgments rendered in Mahabir Prasad Sharma case [Mahabir Prasad Sharma v. Prafulla Chandra Ghose, (1968) 72 CWN 328 : 1968 SCC OnLine Cal 3] , and Pratapsingh Raojirao Rane case [Pratapsingh Raojirao Rane v. Governor of Goa, AIR 1999 Bom 53 : 1998 SCC OnLine Bom 351] , by the High Courts of Calcutta and Bombay, respectively, do not lay down the correct legal position. The constitutional position declared therein, with reference to Article 163(2), is accordingly hereby set aside.*

… … …

Conclusions

361. Under Article 163(1) of the Constitution, the Governor is bound by the advice of his Council of Ministers. There are only three exceptions ["except insofar as"] to this:

(i) The Governor may, in the exercise of his functions, act in his discretion as conferred by the Constitution;

(ii) The Governor may, in the exercise of his functions, act in his discretion as conferred under the Constitution; and

(iii) The Governor may, in the exercise of his functions, act in his individual judgment in instances specified by the Constitution.

362. The development of constitutional law in India and some rather peculiar and extraordinary situations have led to the evolution of a distinct category of functions, in addition to those postulated or imagined by the Constitution and identified above. These are functions in which the Governor acts by the Constitution and of constitutional necessity in view of the peculiar and extraordinary situation such as that which arose in M.P. Special Police

Establishment [M.P. Special Police Establishment v. State of M.P., (2004) 8 SCC 788 : 2005 SCC (Cri) 1] and as arise in situations relating to Article 356 of the Constitution or in choosing a person to be the leader of the Legislative Assembly and the Chief Minister of the State by proving his majority in the Legislative Assembly."

(Emphasis supplied)

Nowhere the Apex Court in ***NABAM REBIA*** has distinguished the judgment in the case of ***M.P.SPECIAL POLICE ESTABLISHMENT.*** In fact is it more than once discussed and reiterated in the afore-quoted paragraph-paragraph 362 of ***NABAM REBIA***. The learned senior counsel for the petitioner has taken this Court through the judgment in ***SAMSHER SINGH v. STATE OF PUNJAB – (1974) 2 SCC 831*** and the judgment in the case of ***STATE OF MAHARASHTRA v. RAMDAS SHRINIVAS NAIK – (1982) 2 SCC 463.*** There can be no qualm about the principles laid down therein. They were dealing with the role of the Governor in certain circumstances and not the circumstance which has emanated in the case at hand. Noticing the judgment of the Apex Court in ***M.P. SPECIAL POLICE ESTABLISHMENT***'s case *supra* what would unmistakably emerge is that in certain situation the Governor has

to take an independent decision exercising his independent discretion for the reason that it could be any kind of bias.

36. Bias has different hues and forms. They are depicted in various ways. Unconscious bias and apparent bias are two facets of bias. Apparent bias is judged upon what would a common citizen think of a particular action. In the case at hand, the entire **sheet anchor** of the submission of the learned senior counsel is that the Governor should not have declined to accept the Cabinet decision or the resolution of the Council of Ministers as the petitioner did not participate in the deliberations, but nominated the Deputy Chief Minister, to preside over the said meeting. It need not bear scientific accumen to *prima facie* hold that the Council of Ministers who are appointed on the advice of the Chief Minister would go against the Chief Minister and pass a resolution that permission should be accorded for grant of approval by the Governor for prosecution . Such a situation cannot be contemplated today as, if such a situation emerges, it would be an ***utopian land,*** while it is not. Therefore, testing the decision of the Cabinet on the bedrock of bias, I find no fault in the discretion exercised by the Governor, on

the foundation of law, as laid down by the Apex Court in the case of ***M.P. SPECIAL POLICE ESTABLISHMENT***'s case.

37. It becomes apposite to refer to the judgment of the Apex Court wherein the Apex Court has delineated the concept of bias or likelihood of bias. In the case of ***S. PARTHASARATHI v. STATE OF ANDHRA PRADESH***[4], it is held as follows:

> ***"14.*** *The test of likelihood of bias which has been applied in a number of cases is based on the "reasonable apprehension" of a reasonable man fully cognizant of the facts. The courts have quashed decisions on the strength of the reasonable suspicion of the party aggrieved without having made any finding that a real likelihood of bias in fact existed (see R. v. Huggins [(1895) 1 QB 563] ; R. v. Sussex, JJ., ex. p. McCarthy [(1924) 1 KB 256] ; Cottle v. Cottle [(1939) 2 All ER 535] ; R. v. Abingdon, JJ. ex. p. Cousins [(1964) 108 SJ 840].) But in R. v. Camborne, JJ. ex. p Pearce [(1955) 1 QB 41 at 51]* ***the Court, after a review of the relevant cases held that real likelihood of bias was the proper test and that a real likelihood of bias had to be made to appear not only from the materials in fact ascertained by the party complaining, but from such further facts as he might readily have ascertained and easily verified in the course of his inquiries.***
>
> ***15. The question then is: whether a real likelihood of bias existed is to be determined on the probabilities to be inferred from the circumstances by court objectively, or, upon the basis of the impressions that might reasonably be left on the minds of the party aggrieved or the public at large.***

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[4] *(1974) 3 SCC 459*

> ***16. The tests of "real likelihood" and "reasonable suspicion" are really inconsistent with each other. We think that the reviewing authority must make a determination on the basis of the whole evidence before it, whether a reasonable man would in the circumstances infer that there is real likelihood of bias. The Court must look at the impression which other people have. This follows from the principle that justice must not only be done but seen to be done. If right minded persons would think that there is real likelihood of bias on the part of an inquiring officer, he must not conduct the enquiry; nevertheless, there must be a real likelihood of bias. Surmise or conjecture would not be enough. There must exist circumstances from which reasonable men would think it probable or likely that the inquiring officer will be prejudiced against the delinquent. The Court will not inquire whether he was really prejudiced. If a reasonable man would think on the basis of the existing circumstances that he is likely to be prejudiced, that is sufficient to quash the decision*** *[see per Lord Denning, H.R. in Metropolitan Properties Co. (F.G.C.) Ltd. v. Lannon [(1968) 3 WLR 694 at 707]] We should not, however, be understood to deny that the Court might with greater propriety apply the "'reasonable suspicion" test in criminal or in proceedings analogous to criminal proceedings."*
>
> *(Emphasis supplied)*

The Apex Court holds that the likelihood of bias which has been applied in number of cases is based upon reasonable apprehension of a reasonable man, fully cogzinent of the facts. The Apex Court holds that the question whether real likelihood of bias existed is to be determined on the probabilities to be inferred from the circumstance. If the rightminded person would think that there is

real likelihood of bias it would be enough to annul the decision. A little later the Apex Court in the case of ***RANJIT THAKUR v. UNION OF INDIA***[5] has held as follows:

> ***"15.*** *The second limb of the contention is as to the effect of the alleged bias on the part of Respondent 4.* ***The test of real likelihood of bias is whether a reasonable person, in possession of relevant information, would have thought that bias was likely*** *and is whether Respondent 4 was likely to be disposed to decide the matter only in a particular way.*
>
> … … …
>
> ***17. As to the tests of the likelihood of bias what is relevant is the reasonableness of the apprehension in that regard in the mind of the party. The proper approach for the Judge is not to look at his own mind and ask himself, however, honestly, "Am I biased?"; but to look at the mind of the party before him."***
>
> *(Emphasis supplied)*

Considered on the touchstone of the principles of bias, as laid down by the Apex Court and on the perusal of the preamble of the Cabinet note *supra* what would unmistakably emerge it that the decision of the Cabinet – the cabinet nominated by the Chief Minister, would not be free from bias or being partisan towards their leader. It is in such exceptional circumstance, independent discretion is imperative; the Governor has thus taken an

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[5] *(1987) 4 SCC 611*

appropriate decision to independently assess the matter, exercise his independent discretion and pass the order. I find no fault with the discretion exercised by the Governor acting on the Aid and advice of the Council of Ministers is normal imder Article 163 and exceptionally the Governor need not be bound by it – one such exception is the sanction/approval against the Chief Minister.

38. Whether the order of the Governor suffers from non-application of mind. The order that is communicated to the petitioner is quoted supra. Complete proceedings in the file maintained in the Secretariat of the Governor are also quoted supra. The Secretary of the Governor has communicated the decision of the Governor which thus contains all the material though excerpts of the decision. The decision runs into several pages. I have perused the entire file; the documents that are in the file run into 1200 pages. The comparative chart of the complaint, replies and the analysis are in great elaboration. This Court is not testing the order passed by the Disciplinary Authority or an Officer of the State. It is testing the order passed by the high functionary. The high functionary in the case on hand is the Governor. Though the

order that is communicated does not suffer from any want of application of mind, since elaborate submissions are made with regard to the order of the Governor not being reasoned at all, it becomes apposite to notice the judgment of the Apex Court in the case of ***UNION OF INDIA v. E.G. NAMBUDRI***[6] wherein it is held as follows:

> ***"6.*** *Entries made in the character roll and confidential record of a government servant are confidential and those do not by themselves affect any right of the government servant, but those entries assume importance and play vital role in the matter relating to confirmation, crossing of efficiency bar, promotion and retention in service. Once an adverse report is recorded, the principles of natural justice require the reporting authority to communicate the same to the government servant to enable him to improve his work and conduct and also to explain the circumstances leading to the report. Such an opportunity is not an empty formality, its object, partially, being to enable the superior authorities to decide on a consideration of the explanation offered by the person concerned, whether the adverse report is justified. The superior authority competent to decide the representation is required to consider the explanation offered by the government servant before taking a decision in the matter. Any adverse report which is not communicated to the government servant, or if he is denied the opportunity of making representation to the superior authority, cannot be considered against him. See: Gurdial Singh Fijji v. State of Punjab [(1979) 2 SCC 368 : 1979 SCC (L&S) 197 : (1979) 3 SCR 518].* ***In the circumstances it is necessary that the authority must consider the explanation offered by the government servant and to decide the same in a fair and just manner. The question then arises whether in considering and deciding the representation against adverse report, the authorities are duty bound to record***

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[6] ***(1991) 3 SCC 38***

reasons, or to communicate the same to the person concerned. Ordinarily, courts and tribunals, adjudicating rights of parties, are required to act judicially and to record reasons. Where an administrative authority is required to act judicially it is also under an obligation to record reasons. But every administrative authority is not under any legal obligation to record reasons for its decision, although, it is always desirable to record reasons to avoid any suspicion. Where a statute requires an authority though acting administratively to record reasons, it is mandatory for the authority to pass speaking orders and in the absence of reasons the order would be rendered illegal. But in the absence of any statutory or administrative requirement to record reasons, the order of the administrative authority is not rendered illegal for absence of reasons. If any challenge is made to the validity of an order on the ground of it being arbitrary or mala fide, it is always open to the authority concerned to place reasons before the court which may have persuaded it to pass the orders. Such reasons must already exist on records as it is not permissible to the authority to support the order by reasons not contained in the records. Reasons are not necessary to be communicated to the government servant. If the statutory rules require communication of reasons, the same must be communicated but in the absence of any such provision absence of communication of reasons do not affect the validity of the order.

… … …

10. *There is no dispute that there is no rule or administrative order for recording reasons in rejecting a representation. In the absence of any statutory rule or statutory instructions requiring the competent authority to record reasons in rejecting a representation made by a government servant against the adverse entries the competent authority is not under any obligation to record reasons. But the competent authority has no licence to act arbitrarily, he must act in a fair and just manner. He is required to consider the questions raised by the government servant and examine the same, in the light of the comments made by the officer awarding the adverse entries and the officer countersigning the same.* ***If the representation is rejected after its consideration in a fair and just manner,***

the order of rejection would not be rendered illegal merely on the ground of absence of reasons. In the absence of any statutory or administrative provision requiring the competent authority to record reasons or to communicate reasons, no exception can be taken to the order rejecting representation merely on the ground of absence of reasons. No order of an administrative authority communicating its decision is rendered illegal on the ground of absence of reasons ex facie and it is not open to the court to interfere with such orders merely on the ground of absence of any reasons. However, it does not mean that the administrative authority is at liberty to pass orders without there being any reasons for the same. In governmental functioning before any order is issued the matter is generally considered at various levels and the reasons and opinions are contained in the notes on the file. The reasons contained in the file enable the competent authority to formulate its opinion. If the order as communicated to the government servant rejecting the representation does not contain any reasons, the order cannot be held to be bad in law. If such an order is challenged in a court of law it is always open to the competent authority to place the reasons before the court which may have led to the rejection of the representation. It is always open to an administrative authority to produce evidence aliunde before the court to justify its action."

(Emphasis supplied)

The Apex Court observes that perusal of the file is a permissible mode of examination by the constitutional courts in judicial review, to arrive at a conclusion as to whether actual reasons behind the order are found or not. As quoted hereinabove, the order that is communicated though is not bald, laconic or cryptic, as is alleged,

the file contains elaborate reasons. The gist of these reasons is also quoted hereinabove. Therefore, it is not a case where there is no reason, in the file, or even in the order. There are elaborate reasons in the order, and there is abundant reasoning in the file. Therefore, it does fall within the test of ***E.G. NAMBUDRI***'s case *supra*. Painstaking submissions are made that the order of the Governor does not have semblance of reasoning. If what is quoted hereinabove is noticed **'it is not semblance, but abundance of reasoning'**. The Governor is not acting on any material of investigation, to direct prosecution against the petitioner, it is at the threshold as to whether approval should be granted under Section 17A of the Act. Approval is only for the purpose of beginning of investigation, enquiry or inquiry. In the considered view of this Court, it is not a stage where any galivent would become necessary by the Competent Authority by going deep into the facts of the case.

39. Placing reliance upon the judgment of the Apex Court in the case of ***MOHINDER SINGH GILL V. CHIEF ELECTION***

COMMISSIONER[7] strenous contentions are advanced by the learned senior counsel for the petitoner that reasons that are absent in the order cannot be supplemented by reasons in the statement of objections. Que is drawn from paragraph 8 of the aforesaid judgment of the Apex Court, wherein the Apex Court has held as follows:

> ***"8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji [Commr. of Police, Bombay v. Gordhandas Bhanji, 1951 SCC 1088 : AIR 1952 SC 16] :***
>
> *"Public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."*
>
> *Orders are not like old wine becoming better as they grow older."*
>
> *(Emphasis supplied)*

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[7] *(1978) 1 SCC 405*

There can be no qualm about the principles laid down therein. It is no doubt true that reasons cannot be supplied by way of statement of objections. That would be a situation where there are no reasons even in the file. Therefore, the said judgment would not become applicable to the facts of the case. Copious reasons are found in the file and even in the impugned order. I have no hesitation to hold that it does bear application of mind. Therefore, the submission of the learned senior counsel for the petitioner *qua* application of mind would tumble down like a pack of cards. Issue Nos.4 and 5 are accordingly answered.

Issue No.6:

Whether the decision taken by the Governor in alleged hottest haste of issuing a show cause notice on the same day of receipt of the petition has vitiated the entire decision?

40. It is submitted that decision was taken in undue haste as the 3rd respondent submits his petition on 26-06-2024; on the same day proceedings are drawn and show cause notice is issued. Therefore, it is in undue haste and this undue haste would vitiate the proceedings. This submission is again noted only to be rejected

as the decision taken in undue haste would not vitiated the decision unless the decision suffers from non-application of mind. The complainant is heard, petition and the documents produced are perused and a show cause notice is issued. What else is required in law is ununderstandable. The allegations in the complaint were, according to the Governor, grave. Therefore, immediate action was taken in issuing the show cause notice. This cannot be imagined to result in vitiating the entire order itself. It is apposite to refer to the judgment of the Apex Court in this regard in the case of ***B.P.L.LIMITED v. S.P. GURURAJA***[8] wherein it is held as follows:

> ***"34. Undue haste also is a matter which by itself would not have been a ground for exercise of the power of judicial review unless it is held to be mala fide. What is necessary in such matters is not the time taken for allotment but the manner in which the action had been taken. The court, it is trite, is not concerned with the merit of the decision but the decision-making process. In the absence of any finding that any legal malice was committed, the impugned allotment of land could not have been interfered with. What was only necessary to be seen was as to whether there had been fair play in action.***
>
> ***35.*** *The question as to whether any undue haste has been shown in taking an administrative decision is essentially a question of fact. The State had developed a policy of single-window system with a view to get rid of red tapism generally prevailing in the bureaucracy.* ***A decision which has been taken after due deliberations and upon due application of***

[8] *(2003) 8 SCC 567*

> ***mind cannot be held to be suffering from malice in law on the ground that there had been undue haste on the part of the State and the Board. (See Bangalore Medical Trust v. B.S. Muddappa [(1991) 4 SCC 54] and Pfizer Ltd. v. Mazdoor Congress [(1996) 5 SCC 609 : 1996 SCC (L&S) 1286].)"***
>
> *(Emphasis supplied)*

The Apex Court holds that undue haste is a matter which by itself would not have been a ground for exercise of judicial review unless it is mala fide. The decision taken after due deliberation and application of mind if it is taken in undue haste would not vitiate the proceedings. Therefore, the contention that it is in undue haste is also repelled, as the gubernatorial act of issuing show cause notice on the same day, has not vitiated the proceedings. The issue is accordingly answered.

41. A feeble attempt is made by the learned senior counsel for the petitioner that the Governor refers to two other petitions, but no show cause notices were issued on those two petitions. Those petitions are of respondents 4 and 5. The Governor though in three lines of a particular paragraph observes that there are petitions of other petitioners also; he does not deliberate upon the contents of those petitions and it is no law that prior to grant of an

approval under Section 17A the person against whom the approval is sought should be heard in the matter. If natural justice is stretched to the extent of hearing the person against whom a complaint is registered prior to registration of the crime it would be stretching it to an unimaginable extent. If the submission of the learned senior counsel for the petitioner is to be accepted, every person against whom approval is sought, a notice will have to be issued to the person against whom such approval is sought under Section 17A of the act. It is akin to hearing an accused before registering the FIR. This is not the purpose of law. Merely because the Governor has in the case at hand issues a show cause notice only to seek a reply from the hands of the petitioner or the Cabinet, it does not mean that it must comply with the principles of natural justice. The Governor has issued a notice to elicit reply only on the allegations that were found in enormity in the file. Therefore, the bleak plea of failure of principles of natural justice is also *sans* countenance. Refence being made to the judgment of the Apex Court in the case of ***THE CHAIRMAN, BOARD OF MINING***

EXAMINATION AND CHIEF INSPECTOR OF MINES V. RAMJEE[9]

wherein the Apex Court has held as follows:

> ***"13.*** *The last violation regarded as a lethal objection is that the Board did not enquire of the respondent, independently of the one done by the Regional Inspector. Assuming it to be necessary, here the respondent has, in the form of an appeal against the report of the Regional Inspector, sent his explanation to the Chairman of the Board. He has thus been heard and compliance with Regulation 26, in the circumstances, is complete.* ***Natural justice is no unruly horse, no lurking landmine, nor a judicial cure-all. If fairness is shown by the decision-maker to the man proceeded against, the form, features and the fundamentals of such essential processual propriety being conditioned by the facts and circumstances of each situation, no breach of natural justice can be complained of. Unnatural expansion of natural justice, without reference to the administrative realities and other factors of a given case, can be exasperating.*** *We can neither be finical nor fanatical but should be flexible yet firm in this jurisdiction. No man shall be hit below the belt — that is the conscience of the matter."*
>
> *(Emphasis supplied)*

The Apex Court holds that natural justice is no unruly horse, no lurking land mine nor a judicial cure-all. It cannot be stretched to an unnatural extent. If the submission of the learned senior counsel for the petitoner is accepted, it would undoubtedly be stretching natural justice to an unnatural extent, as prior to

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[9] *(1977)2 SCC 256*

registration of the crime, every accused will have to be heard. Likewise, prior to approval being granted, the person against whom approval is sought will have to be heard. This is turning the law topsy-turvy. Therefore, the multi-pronged attack on the order of the Governor, on the aforesaid contention/s, does not hold water, as none of the submissions of the learned senior counsel for the petitioner against the order of the Governor *qua* the approval under Section 17A are acceptable.

Issue No.7:

Whether reference to Section 218 of BNSS in the impugned order vitiates the entire order?

42. What was sought before the Governor in the petition filed by the 3rd respondent was in fact approval under Section 17A of the Act. Though the petition was worded sanction, it was in fact not a sanction, but an approval under Section 17A of the Act. The operative portion of the order of the Governor is indicative of the fact that both approval and sanction under Section 218 are granted. The crime is yet to be registered and investigated into. Therefore,

granting of sanction under Section 218 of BNSS would not arise at this juncture as investigation itself is yet to take place. The learned Solicitor General has admitted that observation or grant of sanction under Section 218 of BNSS at this juncture was erroneous. The order could be considered only as an order under Section 17A of the Act. Therefore, no submissions are made qua Section 218 of BNSS by any of the counsel representing the parties. It is, therefore, I deem it appropriate to restrict and read the order only as an approval under Section 17A of the Act and not an order for grant of sanction under Section 218 of BNSS. The issue is answered accordingly.

Issue No.8:

Whether prima facie role of the petitioner is established?

THE NUCLEUS OF THE CONUNDRUM - Alleged role of the petitioner

Answer to this issue would be a sequel to what is answered qua issue No.1.

- Timeline of power:

43. The petitioner has been in political life spanning over 40 years. He comes to the helm of affairs, for the first time, when he becomes the Deputy Chief Minister, in the State of Karnataka and holds the said post for three years between 1996 and 1999, being an MLA from Chamundeswari Constituency, in whose precincts MUDA functions. After 1999, the petitioner was not a law maker, as he had lost the elections. He swings back, as a law maker and again becomes a Deputy Chief Minister during 2004-2005. He continued to be a Member of the Legislative Assembly upto 2013. In 2013, he becomes the Chief Minister of the State of Karnataka and continued to be the Chief Minister, upto 2018. From 2018 to 2023, he continues to be a law maker, as also the Leader of Opposition. From 2023, he is again the Chief Minister of the State. This is the tenure of the petitioner. The tenure of the son of the petitioner is also necessary to be noticed. The son of the petitioner Dr. S. Yathindra, was an MLA of Varuna constituency between 2018 and 2023, under whose precincts as well, the MUDA comes. Therefore, the

allegations against the family are built up by the respondents between 1996 to 2023.

44. The genesis of the problem, to iterate, what is quoted hereinabove and as vehemently submitted by the learned counsel appearing for the respondents, dates back to 1992 when the subject land - 3 acres 16 guntas existing in Kesare grama became subject matter of acquisition for the purpose of development of Devanur Badavane scheme. The preliminary notification issued in the year 1992 contained the said land. The final notification was issued in the year 1997 including the subject land. Thereafter, award amount is determined and amount of award is deposited in the civil Court.

45. Devaraju submits a representation contending that he is dependant on the land and has no other income and therefore, the land be dropped from acquisition. MUDA recommends for dropping of the land and Government issues notification accordingly. Devaraju at the time when he submits the representation, is said to be working as a Teacher, in the Department of Public Instructions.

Therefore, it was on a false pretext that Devaraju sought de-notification of the land and the land is de-notified. The de-notification itself is contrary to law, as the land is de-notified after the deposit of the award in the civil Court. Notwithstanding this, the land is de-notified owing to falsehood of Devaraju. Devaraju could not have claimed the land being son of the original owner, as he has already relinquished his rights over the land in favour of his brother Mylarappa. Mylarappa does not apply for de-notification. It is Devaraju who applies. Nonetheless the land is de-notified. Notwithstanding de-notification, MUDA shows the land as one acquired, forms sites, in the aforesaid Devanur Badavane and also distributes the sites. Even after distribution of sites, on forming layout, to the allottees, Devaraju sells the land in favour K.B. Mallikarjunaswamy, brother of the wife of the petitioner and brother-in-law of the petitioner. It is surprising how he buys the subject land in which MUDA had already formed the layout. It is here, the family of the petitioner comes into the story.

46. The brother-in-law of the petitioner applies for conversion of the land from agriculture to residential. The Revenue Inspector,

the Tahsildar and the Deputy Commissioner visit the spot and prepare reports that there is not development in the land and it is entitled for conversion from agriculture to residential purposes. The land is converted. The allegation is, that the land in which sites had already been formed and distributed to the allottees could not have been converted from agriculture to residential purpose. It cannot but be prima facie construed that the reports were prepared by the Revenue Inspector, Tahsildar or the Deputy Commissioner sitting in the respective chambers. After conversion comes the gift in the year 2010 in favour of the wife of the petitioner. The petitioner was in power, has been in power, from 2004 till date. In 2010, a gift deed is executed by the brother of the wife of the petitioner in favour of his wife.

47. The petitioner then in 2013 becomes the Chief Minister. On becoming the Chief Minister, the wife of the petitioner submits representation to MUDA contending that MUDA had already acquired and formed sites in her lands in 2001 itself and, therefore, she is entitled to compensation or compensatory sites in the ratio of 50:50. The application/representation dated 23.06.2014 submitted

by the wife of the petitioner, during which time the petitioner was the Chief Minister. After the representation a communication is sent by the Secretary, Urban Development Department to all Commissioners of Urban Development Department to identify the development made without acquisition and make them eligible for compensatory sites in the ratio of 50:50 in terms of the Rules. This is communicated to the wife of the petitioner. By that time, 50:50 ratio compensatory sites had not yet been notified and the rule that was existing, when the representation was made or communications were sent, was 60:40. The Rule then comes to be amended in the year 2015. Resolutions were passed by MUDA in 2017 and thereafter, upon the representation/s submitted by the wife of the petitioner claiming compensatory sites. During the deliberation of MUDA, wherein MUDA resolves to grant sites at 50:50 ration, the son of the petitioner participated as a part of the deliberations, as he was the MLA of a constitutency under which MUDA functioned.

48. The submission is that the son of the petitioner was a silent spectator in the deliberations and did not utter a word. This

submission, to say the least, is *preposterous*. It can hardly be justified that a law maker, son of the former Chief Minister and the present leader of the opposition, would be a silent spectator in the deliberations. Nonetheless, the beneficiary of the deliberations is his mother, the wife of the petitioner. After the resolution, the wife of the petitioner was asked to execute a relinquishment deed. The relinquishment deed is executed by the wife of the petitioner. The allotment letter is issued in favour of the wife of the petitioner. One such allotment letter is dated 05-01-2022.

49. What is discernible from the allotment letter is the land that is relinquished is in Kesare grama. The sites that are allotted in favour of the wife of the petitioner are in Vijayanagar III Stage 'G, block, in the heart of Mysore City. Kesare grama is said to be 15 Kms. away from the Mysore city. If compensatory sites had to be granted, it could be either in the very land or in adjacent lands of Kesere grama or any layout that is subsequently formed by MUDA and not in a layout that had already been formed in the year 1991, as Vijaynagar, III stage was a layout that was formed

wayback in the year 1991, or at best prior to Devanuru Badavane. It exists in the upscale area of the City of Mysore.

50. The sale deed is executed by MUDA of 14 sites. It now becomes necessary to notice one of the sale deeds. The sale deed 12-01-2022 reads as follows:

''ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು'

<u>ಕ್ರ ಯ ಪ ತ್ರ</u>

2022 ರ ಜನವರಿ 12ನೇ ದಿನಾಂಕದಂದು. ಇದರಲ್ಲಿ ಇನ್ನು ಮುಂದೆ ಮಾರಾಟಗಾರರೆಂದು ಕರೆಯಲಾಗುವ ಆಯುಕ್ತರು/ವಿಶೇಷ ತಹಸೀಲ್ದಾರ್, ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, (ಈ ಅಭಿವ್ಯಕ್ತಿಯು 'ಅದರ ಪದದಲ್ಲಿನ ಉತ್ತರಾಧಿಕಾರಿಗಳನ್ನು ಒಳಗೊಳ್ಳುತ್ತದೆ ಎಂದರ್ಥ) ಇವರು ಒಂದು ಕಡೆ ಮತ್ತು ನಂ: 208, 16ನೇ ಕ್ರಾಸ್, ವಿಜಯನಗರ, ಬೆಂಗಳೂರು, ರಲ್ಲಿ ವಾಸಿಸುವ ಶ್ರೀ ಸಿದ್ದರಾಮಯ್ಯ ರವರ ಪತ್ನಿಯಾದ 58 ರ ವಯೋಮಾನದ ಶ್ರೀಮತಿ ಪಾರ್ವತಿ ಬಿ.ಎಂ.(ಆಧಾರ್ ಸಂಖ್ಯೆ: 9577 0592 7480) ಈ ವ್ಯಕ್ತಿಗಳು' (ಆವನ, ಅವಳ ವಾರಸುದಾರರು, ನಿರ್ವಾಹಕರು, ಆಡಳಿತಗಾರರು ಮತ್ತು ಹಸ್ತಾಂತರಕಾರಕರನ್ನು ಒಳಗೊಳ್ಳುತ್ತದೆ 'ಎಂದರ್ಥ) ಇವರು ಮತ್ತೊಂದು ಕಡೆ ಸಾಕ್ಷಿಯಾಗಿ ಉಪನೊಂದಣಾಧಿಕಾರಿಯವರ ಕಛೇರಿಯಲ್ಲಿ' 'ಈ ಕ್ರಯಪತ್ರವನ್ನು ಮಾಡಿಕೊಂಡಿದ್ದಾರೆ.

ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, (ಭೂಮಿಯನ್ನು ಸ್ವಇಚ್ಛೆಯಿಂದ ಬಿಟ್ಟುಕೊಡುವುದಕ್ಕಾಗಿ ಪ್ರೋತ್ಸಾಹದಾಯಕ ಯೋಜನೆ) ನಿಯಮಗಳು 1991 ರ ಮೇರೆಗೆ ದಿನಾಂಕ: 05.01.2022 ರ ಹಂಚಿಕೆ ಪತ್ರ ಸಂಖ್ಯೆಯ ಮೇರೆಗೆ ಈ ಕೆಳಗಿನ ಅನುಸೂಚಿಯಲ್ಲಿ ಪೂರ್ಣವಾಗಿ ವಿವರಿಸಲಾಗಿರುವ *332 ಆ ನಿವೇಶನವನ್ನು ಮಾರಾಟಗಾರರು ಖರೀದಿದಾರರಿಗೆ ಪೂರ್ಣವಾಗಿ ಮಾರಾಟದಲ್ಲಿ ಹಂಚಿಕೆ ಮಾಡಿರುವುದರಿಂದ ಖರೀದಿದಾರರು ರೂ.1,000=00 (ಒಂದು ಸಾವಿರ ರೂಪಾಯಿಗಳು ಮಾತ್ರ) ರೂಪಾಯಿಗಳನ್ನು ನಿವೇಶನದ ಪೂರ್ಣ ಮೌಲ್ಯವನ್ನು ಸಂದಾಯ ಕೊಂಡಿರುವುದರಿಂದ ಮಾಡಿದ್ದು, ಮಾರಾಟಗಾರರು ಅದನ್ನು ಸ್ವೀಕರಿಸುವುದಕ್ಕೆ ಒಪ್ಪಿ ಈಗ ಈ ಕರಾರುನಾಮೇಯ, ಮಾರಾಟಗಾರರು ನಿರುಪಾಧಿಕ ಮಾಲೀಕನಾಗಿ ಖರೀದಿದಾರರಿಂದ ರೂ.1,000=00 ರೂಪಾಯಿಗಳ ಮೌಲ್ಯದ ಪ್ರತಿಫಲವನ್ನು ಸ್ವೀಕರಿಸಿದುದಕ್ಕೆ ಸಾಕ್ಷಿಯಾಗಿದ್ದು, ಈ ಮೂಲಕ ಖರೀದಿದಾರರನ್ನು ಅನುಸೂಚಿತ ನಿವೇಶನದ ವಾಸ್ತವ ಸ್ವಾಧೀನಕ್ಕೆ ಒಳಪಡಿಸುತ್ತದೆ ಮತ್ತು ಎಲ್ಲಾ ಸ್ವತಂತ್ರ್ಯ ವಿಶೇಷಾಧಿಕಾರಿಗಳು. ಅನುಭೋಗ ಮತ್ತು ಸದರಿ*

ಸ್ವತ್ತಿಗೆ ಸೇರಿಕೊಂಡಿರುವ ಯಾವುದಾದರೊಂದಿಗೆ ಎಲ್ಲಾ ಪೂರ್ವಾಧಿಗಳು, ಕಾನೂನುಬದ್ಧ ಹೊರದೂಡಿಕೆ, ತೆರಿಗೆ, ಬಾಕಿಗಳು ಇತರೆ ಬಾಕಿಗಳು ಮತ್ತು ಯಾವುದೇ ರೀತಿಯ ಕ್ಲೇಮುಗಳಿಂದ ಮುಕ್ತವಾಗಿಸಿ, ಅವನ/ಅವಳ ವೈಯಕ್ತಿಕ ಮತ್ತು ನಿರುಪಾದಿಕ ಸ್ವತ್ತು ಎಂಬಂತೆ ಖರೀದಿದಾರರಿಗೆ ಅನುಸೂಚಿತ ನಿವೇಶನದ ಎಲ್ಲಾ ಮುಖ್ಯ ಭಾಗವನ್ನು ಪಡೆಯಲು, ಧಾರಣ. ಮಾಡಲು ಮತ್ತು ಅದನ್ನು ಸದಾಕಾಲ ಶಾಂತಿಯುತವಾಗಿ ಅನುಭವಿಸಲು ಒಪ್ಪಿಸುತ್ತದೆ.

ಮಾರಾಟಗಾರರು, ಈ ಕೆಳಗೆ ವಿವರಿಸಲಾಗಿರುವ ಅನುಸೂಚಿತ ಭೂಮಿಯನ್ನು ಯಾರೊಬ್ಬರಿಗೂ ಯಾವುದೇ ರೀತಿಯಲ್ಲಿ ಪರಭಾರೆ ಮಾಡುವುದಿಲ್ಲವೆಂದು ಮತ್ತು ಮಾರಾಟಗಾರರಿಂದಾಗಲಿ ಅಥವಾ ನ್ಯಾಸದಲ್ಲಿರುವುದರ ಮೂಲಕ ಕ್ಲೇಮು ಮಾಡುವ ಯಾರಿಂದಾಗಲೀ ಎಲ್ಲಾ ಪೂರ್ವಾಧಿಗಳಿಂದ ಸದರಿ ನಿವೇಶನಗಳು ಮುಕ್ತವಾಗಿದೆಯೆಂದು ಭರವಸೆ ನೀಡುತ್ತಾರೆ.

ಅಲ್ಲದೆ ಮಾರಾಟಗಾರರು ಸಂದರ್ಭಗಳು ಅಗತ್ಯಪಡಿಸಿದಾಗಲೆಲ್ಲ ಅಂಥ ಎಲ್ಲಾ ಕೃತ್ಯಗಳನ್ನು ಮಾಡಲು ಅಥವಾ ಮಾಡುವಂತೆ ಮಾಡಲು ಮತ್ತು ಮಾರಾಟದ ಬಗ್ಗೆ ಹೆಚ್ಚು ನಿಷ್ಕೃಷ್ಟವಾಗಿ ಭರವಸೆ ನೀಡಲು ಅಥವಾ ದೃಢಪಡಿಸಲು ಮತ್ತು ಖರೀಧಿದಾರರನ್ನು ಎಲ್ಲಾ ಕೃತ್ಯಗಳು ದಾವೆಗಳು ಕ್ಲೇಮುಗಳು, ತಗಾದೆಗಳು: ಮತ್ತು ಸದರಿ ಒಡಂಬಡಿಕೆಗಳ ಅಥವಾ ಅವುಗಳ ಪೈಕಿ ಯಾವುದೊಂದರ ಯಾವುದೇ ಉಲ್ಲಂಘನೆಯ ಕಾರಣದಿಂದ ಅಥವಾ ಅದಕ್ಕಾಗಿ ಗುರಿಯಾದ ನಷ್ಟಗಳು ಮತ್ತು ಉಂಟಾದ ಹಾನಿಯ ವಿರುದ್ಧ ಖರೀದಿದಾರರಿಗೆ ನಷ್ಟಭರ್ತಿ ಮಾಡಿಕೊಡಲು ಹೊಣೆಗಾರರಾಗಿರುತ್ತಾರೆ.'

ಈ ಕ್ರಯಪತ್ರವು ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ (ಭೂಮಿಯನ್ನು ಸ್ವಇಚ್ಛೆಯಿಂದ ಬಿಟ್ಟುಕೊಡುವುದಕ್ಕಾಗಿ ಪ್ರೋತ್ಸಾಹದಾಯಕ ಯೋಜನೆ) ನಿಯಮಗಳು 1991ರಲ್ಲಿ ನಿರ್ದಿಷ್ಟ ಪಡಿಸಿರುವ ನಿಬಂಧಗಳು ಮತ್ತು ಷರತ್ತುಗಳಿಗೆ ಒಳಪಟ್ಟಿರುತ್ತದೆ. ಮತ್ತು ಸದರಿ ನಿಬಂಧಗಳು ಮತ್ತು ಷರತ್ತುಗಳು. ಕ್ರಯಪತ್ರದ ಒಂದು ಭಾಗವಾಗಿರುವುದು ಎಂದು ಭಾವಿಸತಕ್ಕದ್ದು.

ಅನುಸೂಚಿ

ಮೈಸೂರು ನಗರದ ವಿಜಯನಗರ 3ನೇ ಹಂತ 'ಡಿ' ಬ್ಲಾಕ್ ಬಡಾವಣೆಯಲ್ಲಿರುವ 332 ನೇ ಸಂಖ್ಯೆಯಲ್ಲಿ ಹೊಂದಿರುವ ಅಳತೆ ಪೂರ್ವದಿಂದ ಪಶ್ಚಿಮಕ್ಕೆ 12.00 ಮೀಟರ್ ಉತ್ತರದಿಂದ ದಕ್ಷಿಣಕ್ಕೆ 18.00 ಮೀಟರ್ ಅಳತೆಯ ಒಟ್ಟು 216.00 ಚದರ ಮೀಟರ್‌ಗಳ ಈ ನಿವೇಶನದ ಚೆಕ್ಕುಬಂದಿ ಈ ಮುಂದಿನಂತಿದೆ ಎಂದರೆ:-

ಪೂರ್ವಕ್ಕೆ : ನಿವೇಶನ ಸಂಖ್ಯೆ 333	*ಪಶ್ಚಿಮಕ್ಕೆ : ನಿವೇಶನ ಸಂಖ್ಯೆ 331*
ಉತ್ತರಕ್ಕೆ : ರಸ್ತೆ	*ದಕ್ಷಿಣಕ್ಕೆ : ನಿವೇಶನ ಸಂಖ್ಯೆ. 328 & 327*

ಇದಕ್ಕೆ ಸಾಕ್ಷಿಯಾಗಿ ಮಾರಾಟಗಾರರು ಮೇಲೆ ಸೂಚಿಸಿರುವ ವರ್ಷ, ತಿಂಗಳು ಮತ್ತು ದಿನಾಂಕದಂದು ಈ ಕ್ರಯಪತ್ರದಲ್ಲಿ ತನ್ನ ಮುದ್ರೆ ಮತ್ತು ಸಹಿಯನ್ನು ಹಾಕಿರುತ್ತಾರೆ.

ಸಾಕ್ಷಿದಾರರು:

ಸಹಿ/–
ಸಹಿ/–

ಸಹಿ/–
ವಿಶೇಷ ತಹಸೀಲ್ದಾರರು,
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ
ಮೈಸೂರು."

What is perceptible from the sale deed is, that it is executed in terms of the incentive scheme rules, namely Mysore Urban Development Authorities (Incentive Scheme for Voluntary Surrender of Land) Rules, 1991. A perusal at the said Rules would indicate that a citizen who relinquishes the property in MUDA would be entitled to 2 sites measuring 40x60' which would amount to 4,800 sq.ft. for relinquishing more than 3 acres. It shocks the conscience of the Court as to how much is given to the petitioner as against 4,800 sq.ft., it is 38,284 sq.ft. 2 sites become 14 sites. The wife of the petitioner is now the proud owner of 14 sites worth ₹56/- crores.

51. How and why the Rule was bent in favour of the family of the Chief Minister is what is required to be investigated into. If this

does not require investigation, I fail to understand what other case can merit investigation, as the beneficiary is the family of the petitioner and the benefit is by leaps and bounds, it is in fact a windfall. If the beneficiary were to be a stranger, this Court would have shown the complainants their door of exit, while it is not. The beneficiary is, the family of the petitioner, not today, right from 2004, the day on which the Brother-in-law purchases the property and more so, from 2010 when he gifts the property to the wife of the petitioner. Even if it is taken that there are allegations from 2010, it would suffice for an investigation, in the light of the preceding analysis/findings.

52. The issue now would be whether there is any act of the petitioner that would pin him down not for sanction for prosecution but for investigation. The learned Solicitor General of India has submitted that there is an allegation. The allegation is required to be investigated into. The allegations are as afore-narrated. The learned counsel Sri K.G. Raghavan would submit that there is needle of suspicion with regard to the role of the petitioner, it needs investigation. The learned counsel Sri Ranganatha Reddy appearing

for the 3rd respondent has also vehemently projected that fraud is played by the family of the petitioner as non-existent land is now projected to be loss of land and ₹55/- crores worth compensatory sites are granted. The learned senior counsel Smt. Lakshmi Iyengar contends that but for the wife of the petitioner being an applicant the files would not have moved so fast and compensatory sites are granted in the heart of the city when relinquishment of land is 15 kms. away from Mysore city.

53. All the aforesaid allegations, in the considered view of the Court, would require investigation in the least, for the reason that if the petitioner was not in the seat of power, helm of affairs, the benefit with such magnitude would not have flown. It has highterto never flown to any common man, nor can it, in future flow. It is unheard of for a common man to get these benefits in such quick succession bending the rule from time to time. Therefore, the petitioner may not have put his signature, made a recommendation or taken a decision, for bringing him into the offence against him under the Act, but the beneficiary is not a stranger. The beneficiary of these acts is the wife of the petitioner. It is the open

proclamation which is in public domain by the petitioner himself that if MUDA gives him ₹62 crores, he would give back the property. Therefore, merely because the wife of the petitioner has indulged in all these acts, legal or illegal, the petitioner cannot be said to be completely ignorant of what is happening in the life of his wife, *qua* these factors. It, ***prima facie***, depicts stretching of the arms of undue influence and portrays abuse of power of the seat of the Chief Minister or any other post held by the petitioner.

54. It now becomes germane to notice the provisions under which approval is sought. They are under Sections 7, 9, 11, 12 and 15 of the Act. They read as follows:-

> *"**7. Offence relating to public servant being bribed**.—Any public servant who,—*
>
> *(a) obtains or accepts or attempts to obtain from any person, an undue advantage, with the intention to perform or cause performance of public duty improperly or dishonestly or to forbear or cause forbearance to perform such duty either by himself or by another public servant; or*
>
> *(b) obtains or accepts or attempts to obtain, an undue advantage from any person as a reward for the improper or dishonest performance of a public duty or for forbearing to perform such duty either by himself or another public servant; or*

(c) performs or induces another public servant to perform improperly or dishonestly a public duty or to forbear performance of such duty in anticipation of or in consequence of accepting an undue advantage from any person,

shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

Explanation 1.—For the purpose of this section, the obtaining, accepting, or the attempting to obtain an undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper.

Illustration.—A public servant, 'S' asks a person, 'P' to give him an amount of five thousand rupees to process his routine ration card application on time. 'S' is guilty of an offence under this section.

Explanation 2.—For the purpose of this section,—

(i) the expressions "obtains" or "accepts" or "attempts to obtain" shall cover cases where a person being a public servant, obtains or "accepts" or attempts to obtain, any undue advantage for himself or for another person, by abusing his position as a public servant or by using his personal influence over another public servant; or by any other corrupt or illegal means;

(ii) it shall be immaterial whether such person being a public servant obtains or accepts, or attempts to obtain the undue advantage directly or through a third party.

… … …

***9. Offence relating to bribing a public servant by a commercial organisation**.—(1) Where an offence under this Act has been committed by a commercial organisation, such organisation shall be punishable with fine, if any person associated with such commercial organisation gives or promises to give any undue advantage to a public servant intending—*

(a) to obtain or retain business for such commercial organisation; or

(b) to obtain or retain an advantage in the conduct of business for such commercial organisation:

Provided that it shall be a defence for the commercial organisation to prove that it had in place adequate procedures in compliance of such guidelines as may be prescribed to prevent persons associated with it from undertaking such conduct.

(2) For the purposes of this section, a person is said to give or promise to give any undue advantage to a public servant, if he is alleged to have committed the offence under Section 8, whether or not such person has been prosecuted for such offence.

(3) For the purposes of Section 8 and this section,—

(a) "commercial organisation" means—

(i) a body which is incorporated in India and which carries on a business, whether in India or outside India;

(ii) any other body which is incorporated outside India and which carries on a business, or part of a business, in any part of India;

(iii) a partnership firm or any association of persons formed in India and which carries on a business whether in India or outside India; or

(iv) any other partnership or association of persons which is formed outside India and which carries on a business, or part of a business, in any part of India;

(b) "business" includes a trade or profession or providing service;

(c) a person is said to be associated with the commercial organisation, if such person performs services for or on behalf of the commercial organisation irrespective of any promise to give or giving of any undue advantage which constitutes an offence under sub-section (1).

Explanation 1.—The capacity in which the person performs services for or on behalf of the commercial organisation shall not matter irrespective of whether such person is employee or agent or subsidiary of such commercial organisation.

Explanation 2.—Whether or not the person is a person who performs services for or on behalf of the commercial organisation is to be determined by reference to all the relevant circumstances and not merely by reference to the nature of the relationship between such person and the commercial organisation.

Explanation 3.—If the person is an employee of the commercial organisation, it shall be presumed unless the contrary is proved that such person is a person who has performed services for or on behalf of the commercial organisation.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 (2 of 1974), the offence under Sections 7-A, 8 and this section shall be cognizable.

(5) The Central Government shall, in consultation with the concerned stakeholders including departments and with a view to preventing persons associated with commercial organisations from bribing any person, being a public servant, prescribe such guidelines as may be considered necessary which can be put in place for compliance by such organisations.

… … …

11. Public servant obtaining [11]***[undue advantage], without consideration from person concerned in proceeding or business transacted by such public servant****.—Whoever, being a public servant, accepts or obtains or attempts to obtain for himself, or for any other person, any undue advantage without consideration, or for a*

consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions or public duty of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punishable with imprisonment for a term which shall be not less than six months but which may extend to five years and shall also be liable to fine.

*"**12. Punishment for abetment of offences**.—Whoever abets any offence punishable under this Act, whether or not that offence is committed in consequence of that abetment, shall be punishable with imprisonment for a term which shall be not less than three years, but which may extend to seven years and shall also be liable to fine.*

***15. Punishment for attempt**.—Whoever attempts to commit an offence referred to in [20][clause (a)] of sub-section (1) of Section 13 shall be punishable with imprisonment for a term [21][which shall not be less than two years but which may extend to five years] and with fine."*

Section 7 deals with offence relating to public servant being bribed. Section 9 deals with offence relating to bribing of public servant by a commercial organization. Section 11 deals with a public servant obtaining undue advantage without consideration from a person concerned in a proceeding or a business transaction by the public servant. Section 12 deals in abetment of offence. Section 15 deals with punishment for all the aforesaid. Section 7 is the soul of the allegation. Clause (c) of Section 7 has two explanations. The first

explanation deals with obtaining, accepting or attempt to obtain undue advantage shall itself constitute an offence even if the performance of a public duty by public servant, is not or has not been improper. Explanation-2 deals with expression to obtain or accept or attempt to obtain shall cover cases where a person being a public servant attempts to obtain any undue advantage for himself or for any other person by abusing his position as a public servant or using his personal influence over another public servant or by any other corrupt or illegal means. The explanations are very clear. Even if the act of the public servant is not improper or cannot be held to be illegal, if any undue advantage is obtained for himself or for any other person by abusing his position as a public servant, he would attract the wrath of the section. The words 'for himself or any other person' found in the explanation is imperative. All the facts narrated hereinabove would touch on the ingredients of these allegations as *prima facie,* the family of the petitioner obtained undue advantage. 'Undue advantage' I deem it appropriate to use for the reason that relinquishment of land happens 40 kms. away but compensatory land spring within the heart of Mysore city. This is enough circumstance for undue influence by a public servant to

benefit his own family. For usage of undue influence there need not be any recommendation or any order being passed by a public servant. The petitioner, is undoubtedly, behind the smoke screen for every benefit that has flown to the wife of the petitioner. If the benefit had flown to a stranger outside the family, the petitioner could not have been alleged of any offence. The benefit in fact has flown to the family and the benefit is to the family *prima facie* due to the power of the petitioner. Not a single instance is shown where a person who has relinquished land in Kesare Grama, has been granted compensatory land in the upscale area of Mysore City. It is no doubt true that it is not only in the case of the petitioner that compensatory land by way of sites is granted. But it is only in the case of the wife of the petitioner that it is granted in Vijaynagar, III Stage.

55. What is further surprising is, the moment benefit is flown to the hands of the wife of the petitioner proceedings begin to withdraw the Rule of grant of compensatory land in the ratio of 50:50. A direction is issued by the Urban Development department

on 14-03-2023 to stop allocation of compensatory sites. This reads as follows:

"ಕರ್ನಾಟಕ ಸರ್ಕಾರ

ಸಂಖ್ಯೆ: ನಅಇ 71 ಮೈಅಪ್ರಾ 2023(ಇ) *ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ಸಚಿವಾಲಯ*
ವಿಕಾಸ ಸೌಧ
ಬೆಂಗಳೂರು,ದಿನಾಂಕ:14.03.2023

ಇವರಿಂದ:-
ಸರ್ಕಾರದ ಕಾರ್ಯದರ್ಶಿ,
ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ.
ವಿಕಾಸ ಸೌಧ, ಬೆಂಗಳೂರು.

ಇವರಿಗೆ:
ಆಯುಕ್ತರು,
ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ,
ಮೈಸೂರು.

ಮಾನ್ಯರೆ,

ವಿಷಯ: ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದಲ್ಲಿ ವಿವಿಧ ಸಭೆಗಳಲ್ಲಿನ ವಿಷಯಗಳಲ್ಲಿ ಬದಲಿ ನಿವೇಶನಗಳನ್ನು ಮಂಜೂರು ಮಾಡಲು ಪ್ರಾಧಿಕಾರವು ತೀರ್ಮಾನಿಸಿರುವುದು/ಕ್ರಮವಹಿಸಿರುವ ಬಗ್ಗೆ. .

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ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ದಿನಾಂಕ 10-05-2019 ಮತ್ತು ದಿನಾಂಕ: 20-05-2019, ದಿನಾಂಕ 14-09-2020, ದಿನಾಂಕ 06-11-2020, ದಿನಾಂಕ 27-08-2021, ದಿನಾಂಕ:22-06-2022 ರ ಪ್ರಾಧಿಕಾರದ ಸಭೆಗಳ ವಿವಿಧ ವಿಷಯಗಳಲ್ಲಿ ಬದಲಿ ನಿವೇಶನಗಳನ್ನು ಮಂಜೂರು ಮಾಡಲು ಪ್ರಾಧಿಕಾರವು ತೀರ್ಮಾನಿಸಿರುತ್ತದೆ/ಕ್ರಮವಹಿಸಿರುತ್ತದೆ ಹಾಗೂ ಪ್ರಾಧಿಕಾರದ ಸದರಿ ಸಭೆಗಳಲ್ಲಿ ಮಾತ್ರವಲ್ಲದೇ ಹೆಚ್ಚಿನ ಎಲ್ಲಾ ಸಭೆಗಳಲ್ಲೂ ಇದೇ ರೀತಿ ನಿರ್ಣಯಗಳನ್ನು ಕೈಗೊಂಡಿರುವುದು ಸರ್ಕಾರದ ಗಮನಕ್ಕೆ ಬಂದಿರುತ್ತದೆ.

ಕರ್ನಾಟಕ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ (ನಿವೇಶನಗಳ ಹಂಚಿಕೆ) ನಿಯಮಗಳು, 1991ರ ನಿಯಮ 16 ರಲ್ಲಿ ಬದಲಿ ನಿವೇಶನಗಳನ್ನು ಹಂಚಿಕೆ ಮಾಡಲು ಅವಕಾಶ ಕಲ್ಪಿಸಲಾಗಿದೆ. ಆದರೆ ಪ್ರಾಧಿಕಾರವು ಸದರಿ ನಿಯಮಕ್ಕೆ ವ್ಯತಿರಿಕ್ತವಾಗಿ ಹಲವಾರು ಪ್ರಕರಣಗಳಲ್ಲಿ ಪ್ರಾಧಿಕಾರ ಹಾಗೂ ಆಯುಕ್ತರು, ಮೇಲ್ಕಂಡ ನಿಯಮ 16(1)ರ ಅವಕಾಶಗಳನ್ನು ಉಲ್ಲಂಘಿಸಿ ಬದಲಿ ನಿವೇಶನ ಮಂಜೂರು ಮಾಡುವ ಬಗ್ಗೆ, ಕ್ರಮವಹಿಸಿರುವುದು ಕಂಡು ಬಂದಿರುತ್ತದೆ.

ಹಲವಾರು ಪ್ರಕರಣಗಳಲ್ಲಿ ಭೂ ಮಾಲಿಕರಿಗೆ ಪರಿಹಾರ ನೀಡಿಲ್ಲವೆಂದು ಬದಲಿಯಾಗಿ ಅಭಿವೃದ್ಧಿ ಹೊಂದಿದ ಜಾಗೆಯಲ್ಲಿ ಬೆಲೆ ಬಾಳುವ ಆಸ್ತಿಗಳನ್ನು ಹಂಚಿಕೆ ಮಾಡುತ್ತಿರುವುದು ಹಾಗೂ ಶೇ.50:50ರ ಅನುಪಾತವನ್ನು ಅನುಸರಿಸಿರುವುದು ಕಂಡು ಬಂದಿದ್ದು, ಯಾವ ನಿಯಮಗಳಡಿ ಕ್ರಮ ಕೈಗೊಳ್ಳಲಾಗಿದೆ ಎಂಬ ವಿವರಗಳನ್ನು ಸಭೆಯ ವಿಷಯಗಳ ಟಿಪ್ಪಣಿಗಳಲ್ಲಿ ಉಲ್ಲೇಖಿಸಿರುವುದಿಲ್ಲ. ತುಂಡು ಭೂಮಿ ಹಂಚಿಕೆ, ಭೂ ಪರಿಹಾರವಾಗಿ ಬದಲಿ ಜಾಗ ನೀಡಿರುವ ಪ್ರಕರಣಗಳಲ್ಲಿ ಕಾಯ್ದೆ ಮತ್ತು ನಿಯಮಗಳಿಗೆ ವ್ಯತಿರಿಕ್ತವಾಗಿ ಕ್ರಮ ಕೈಗೊಂಡಲ್ಲಿ ಪ್ರಾಧಿಕಾರಕ್ಕೆ, ಆರ್ಥಿಕ ನಷ್ಟ ಉಂಟಾಗುವ ಸಂಭವ ಇರುತ್ತದೆ. ಹಾಗಾಗಿ ಹಿಂದಿನ ಪ್ರಕರಣಗಳಿಗೆ ಪ್ರಾಧಿಕಾರವೇ ಜವಾಬ್ದಾರಿಯಾಗಿರುತ್ತದೆ.

ತುಂಡು ಭೂಮಿ ಹಂಚಿಕೆ, ಭೂ ಪರಿಹಾರವಾಗಿ ಜಾಗ ನೀಡುವ ಕುರಿತು ಮಾರ್ಗಸೂಚಿ ತಯಾರಿಸುವುದು ಅವಶ್ಯಕತೆ ಇರುತ್ತದೆ. ಸದರಿ ಮಾರ್ಗಸೂಚಿಯು ತಯಾರಿಸುವವರೆಗೂ ಇಂತಹ ಪ್ರಕರಣಗಳಲ್ಲಿ ಯಾವುದೇ ನಿರ್ಣಯಗಳನ್ನು ಕೈಗೊಳ್ಳದಂತೆ ತಮಗೆ ತಿಳಿಸಲು ನಿರ್ದೇಶಿಸಲ್ಪಟ್ಟಿದ್ದೇನೆ.

ತಮ್ಮ ನಂಬುಗೆಯ

ಸಹಿ/– 14.03.2023
(ಸತೀಶ್ ಕಬಾಡಿ)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
(ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ಮತ್ತು ನ.ಯೋ. ಸೇ)
ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ"

The Urban Development department issues directions to the Commissioner, MUDA to stop allocation of compensatory sites till guidelines are formulated. As an icing on the cake, on 27-10-2023 when the petitioner is again the Chief Minister, the Government withdraw the resolution of MUDA, which was for grant of

compensatory land at 50:50 ratio, in which the son of thepetitoner had participated. The Government Order dated 27-10-2023 reads as follows:

"ಕರ್ನಾಟಕ ಸರ್ಕಾರದ ನಡವಳಿಗಳು

ವಿಷಯ: *ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ದಿನಾಂಕ 14.09.2020ರ ಸಭಾ ನಡವಳಿಯ ವಿಷಯ ಸಂಖ್ಯೆ:18ರಲ್ಲಿ ಕೈಗೊಂಡಿರುವ ನಿರ್ಣಯವನ್ನು ರದ್ದುಗೊಳಿಸುವ ಬಗ್ಗೆ.*

ಓದಲಾಗಿದೆ: *1. ಆಯುಕ್ತರು, ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ರವರ ಪತ್ರ ಸಂಖ್ಯೆ: ಮೈನಪ್ರಾ/ಸಭೆ1/176/2020-21: ದಿನಾಂಕ :17.10.2020..*

2. ಜಿಲ್ಲಾಧಿಕಾರಿ, ಮೈಸೂರು ಜಿಲ್ಲೆ ರವರಿಗೆ ಬರೆಯಲಾದ ಪತ್ರ ಸಂಖ್ಯೆ:ನಅಇ 296 ಮೈಅಪ್ರಾ 2021 ದಿನಾಂಕ: 18.06.2021, 18.03.2022

3. ಜಿಲ್ಲಾಧಿಕಾರಿ, ಮೈಸೂರು ಜಿಲ್ಲೆ ರವರಿಗೆ ಬರೆಯಲಾದ ಅರೆ ಸರ್ಕಾರಿ ಪತ್ರ ಸಂಖ್ಯೆ:ನಅಇ 296 ಮೈಅಪ್ರಾ 2021 ದಿನಾಂಕ: 22.09.2022 ಮತ್ತು 03.03.2023

ಪ್ರಸ್ತಾವನೆ:

ಮೇಲೆ ಓದಲಾದ ಕ್ರಮ ಸಂಖ್ಯೆ(1)ರ ಪತ್ರದಲ್ಲಿ ಆಯುಕ್ತರು, ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು ರವರು, ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ದಿನಾಂಕ 14.09.2020ರ ಸಭೆಯ ನಡವಳಿಯನ್ನು ಸರ್ಕಾರದ ಅನುಮೋದನೆಗೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ.

ಸದರಿ ಸಭೆಯ ವಿಷಯ ಸಂಖ್ಯೆ:18ರಲ್ಲಿ ಪ್ರಾಧಿಕಾರದ ಬಡಾವಣೆ ಮತ್ತು ಇತರೆ . ಉದ್ದೇಶಗಳಿಗೆ ಭೂ ಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆ ಪೂರ್ಣಗೊಳಿಸದೇ, ಪರಿಹಾರ ನೀಡದೇ ಜಮೀನನ್ನು ಉಪಯೋಗಿಸಿದ ಪ್ರಕರಣಗಳಲ್ಲಿ ಶೇ. 50:50 ಅನುಪಾತದಲ್ಲಿ ನಿವೇಶನ ನೀಡುವ ಕುರಿತು ಕ್ರಮ ಜರುಗಿಸಲು ಪ್ರಾಧಿಕಾರದ ಸಭೆಯಲ್ಲಿ ನಿರ್ಣಯಿಸಲಾಗಿರುತ್ತದೆ. ಮೇಲೆ ಓದಲಾದ ಕ್ರಮ ಸಂಖ್ಯೆ(2) ಮತ್ತು (3)ರ ಪತ್ರಗಳು ಮತ್ತು ಅರೆ ಸರ್ಕಾರಿ ಪತ್ರಗಳಲ್ಲಿ ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ದಿನಾಂಕ 14.09.2020ರ ಸಭೆಯ ವಿಷಯ ಸಂಖ್ಯೆ 18ರಲ್ಲಿನ ನಿರ್ಣಯದ ಜಿಲ್ಲಾಧಿಕಾರಿ ಮೈಸೂರು ಜಿಲ್ಲೆ ರವರಿಂದ ಅಭಿಪ್ರಾಯ/ವರದಿಯನ್ನು ಕೋರಲಾಗಿದ್ದು, ಯಾವುದೇ ಅಭಿಪ್ರಾಯ/ವರದಿಯು ಜಿಲ್ಲಾಧಿಕಾರಿ, ಮೈಸೂರು ಜಿಲ್ಲೆ ರವರಿಂದ ಸ್ವೀಕೃತವಾಗಿರುವುದಿಲ್ಲ.

ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಗಳಲ್ಲಿ ಕೈಗೊಳ್ಳುವ ನಿಯಮಬಾಹಿರ ನಿರ್ಣಯಗಳನ್ನು ಪ್ರಾಧಿಕಾರದ ಆಯುಕ್ತರು ಕರ್ನಾಟಕ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರಗಳ ಕಾಯ್ದೆ, ' 1987ರ ಕಲಂ 13(2)(ಎ)ರ ಪ್ಯಾರಾ-2ರನ್ವಯ ಅಂತಹ ನಿರ್ಣಯ ಕೈಗೊಂಡ 15 ದಿವಸಗಳೊಳಗೆ ಸರ್ಕಾರಕ್ಕೆ, ಮುಂದಿನ ಆದೇಶಕ್ಕಾಗಿ ಕಳುಹಿಸಬೇಕಾಗಿರುತ್ತದೆ. ಇಂತಹ ಪ್ರಕರಣಗಳಲ್ಲಿ ಸರ್ಕಾರದಿಂದ ಸೂಕ್ತ ಆದೇಶ ಸ್ವೀಕೃತವಾಗುವವರಗೆ ಅಂತಹ ನಿರ್ಣಯವನ್ನು ಜಾರಿಗೊಳಿಸಲು ಪ್ರಾಧಿಕಾರದ ಆಯುಕ್ತನು ಬದ್ಧನಾಗಿರತಕ್ಕದಲ್ಲ ಎಂಬ ಅವಕಾಶವನ್ನು ಕಲ್ಪಿಸಲಾಗಿರುತ್ತದೆ. ಆದರೆ ಆಯುಕ್ತರು, ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಮೈಸೂರು ರವರು ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ದಿನಾಂಕ 14.09.2020ರ ಸಭೆಯ ವಿಷಯ ಸಂಖ್ಯೆ:18ರಲ್ಲಿನ ನಿಯಮಬಾಹಿರ ನಿರ್ಣಯದ ಬಗ್ಗೆ ಯಾವುದೇ ಕ್ರಮ ವಹಿಸಿರುವುದಿಲ್ಲ.

ಅದರಂತೆ ಪುಸ್ತಾವನೆಯನ್ನು ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿ, ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿದೆ.

<u>ಸರ್ಕಾರದ ಆದೇಶ ಸಂಖ್ಯೆ: ನಅಇ 296 ಮೈಅಪ್ರಾ 2020,</u>
<u>ಬೆಂಗಳೂರು, ದಿನಾಂಕ:27.10.2023</u>

ಪುಸ್ತಾವನೆಯಲ್ಲಿ ವಿವರಿಸಿರುವ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಮೈಸೂರು ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ದಿನಾಂಕ:14.09.2020ರ ಸಭೆಯ ವಿಷಯ ಸಂಖ್ಯೆ:18ರಲ್ಲಿ ಪ್ರಾಧಿಕಾರದ ಬಡಾವಣೆ ಮತ್ತು ಇತರ ಉದ್ದೇಶಗಳಿಗೆ ಭೂ ಸ್ವಾಧೀನ ಪ್ರಕ್ರಿಯೆ ಪೂರ್ಣಗೊಳಿಸದೇ, ಪರಿಹಾರ ನೀಡದೇ ಜಮೀನನ್ನು ಉಪಯೋಗಿಸಿದ ಪ್ರಕರಣಗಳಲ್ಲಿ ಶೇ.50:50 ಅನುಪಾತದಲ್ಲಿ ನಿವೇಶನ ನೀಡುವ ಕುರಿತು ಕೈಗೊಂಡಿರುವ ನಿಯಮಬಾಹಿರ ನಿರ್ಣಯವನ್ನು ಕರ್ನಾಟಕ ನಗರಾಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರಗಳ ಕಾಯ್ದೆ, 1987ರ ಕಲಂ 67ರಡಿಯಲ್ಲಿ ಪ್ರದತ್ತವಾದ ಅಧಿಕಾರದನ್ವಯ ರದ್ದುಪಡಿಸಿ ಆದೇಶಿಸಿದೆ.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ
ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ

ಸಹಿ/–
(ಲತಾ ಕೆ.)
ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ
(ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ಮತ್ತು ನಯೋಸೇ)
ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ."

It is sought to be withdrawn on the ground that while so resolving, the opinion of the Deputy Commissioner or his report is not

forthcoming. Therefore, if the grant of sites, as compensatory to usage was under the resolution, is itself withdrawn to be contrary to law, what happens to the 14 sites that is granted on the basis of an illegal resolution, is a matter that requires investigation.

56. If this were to be a case of common man, he would not have fought shy of facing the investigation. In the opinion of the Court, the Chief Minister, a leader of the ***proletariat,*** the ***bourgeois*** and of any citizen, should not fight shy of any investigation. There is lurking suspicion, looming large allegations, and the beneficiary of ₹56 crores, is the family of the Chief Minister – the petitioner. **Judged from these spectrums and analyzed from the aforesaid premises, the irresistible conclusion is, an investigation becomes necessary**. The issue is answered accordingly.

57. There are **plethora** or **glut** of judgments relied on by the learned senior counsel for the petitioner, the learned Solicitor General of India, the learned senior counsel representing the respondents and the learned Advocate General. All of them run into

volumes. Most of them overlap, but all of them would become inapplicable to the facts of the case at hand, except the ones that are referred to in the course of the order. They are all rendered in different fact circumstances that were obtaining before the Apex Court or this Court in those cases. There can be no qualm about the principles laid down therein. In that light, considering every judgment and making them part of this order would only bulk the judgment. Therefore, those judgments are not quoted in the order, for them to be observed to be not applicable to the facts of the case on hand. The judgments which the learned counsel for the petitioner and the respondents contended to be their ***sheet anchor*** have been noted and considered. *None of the armoury that sprang from the arsenal of the learned senior counsel for the petitioner did lend any assistance, that would lead to quashment of the order impugned.*

58. Much is spoken about the criminal antecedents of the 3rd respondent, while all that has been contended are contrary to records. The submission of criminal antecedents of the 3rd respondent cannot and can never mask the real issue that he has

brought before the Governor. Even otherwise, all the allegations are absolutely unfounded and deliberate mudslinging upon the 3rd respondent. I deem it appropriate to observe that, whistleblowers would sometimes face such allegations, particularly when they blow the whistle of corruption.

58. On the last day of the conclusion of the submissions, certain contentions are advanced with regard to discriminatory treatment at the hands of the Governor. Quoting an illustration of another law maker Smt. SHASHIKALA JOLLE whose approval under Section 17A is rejected and two of their approvals pending are sent back to the State, to swing back to the original submission of violation of Article 14 in the act of the Governor. The case of Smt. SHASHIKALA JOLLE is not before this Court to consider as to why approval under Sectiion 17A is denied in that case and it is granted in this case. This case has been decided or a decision in the case at hand is arrived at, on the material available before the Court.

SUMMARY OF FINDINGS:

i. The complainants were justified in registering the complaint or seeking approval at the hands of the Governor.

ii. The approval under Section 17A of the PC Act is mandatory in the fact situation.

iii. Section 17A nowhere requires Police Officer to seek approval in a private complaint registered under Section 200 of the Cr.P.C./223 of BNSS against a public servant for offences punishable under the provisions of the Act. It is the duty of the complainant to seek such approval.

iv. The Governor in the normal circumstance has to act on the aid and advice of the Council of Ministers as obtaining under Article 163 of the Constitution of India, but can take independent decision in exceptional circumstances and the present case is one such exception.

v. *No fault can be found in the action of the Governor exercising independent discretion to pass the impugned order.*

vi. *It would suffice if the reasons are recorded in the file of the decision making authority, particularly of high office, and those reasons succinctly form part of the impugned order. A **caveat**, reasons must be in the file. Reasons for the first time cannot be brought before the constitutional Court, by way of objections.*

vii. *The Gubernatorial order nowhere suffers from want of application of mind. It is not a case of not even a semblance of application of mind, by the Governor, but abundance of application of mind.*

viii. *Grant of an opportunity of hearing prior to approval under Section 17A is not mandatory. If the authority chooses to do so, it is open to it.*

ix. *The decision of the Governor of alleged hottest haste has not vitiated the order.*

x. *The order is read to be restrictive to an approval under Section 17A of the Act and not an order granting Sanction 218 of BNSS.*

xi. *The facts narrated in the petition would undoubtedly require an investigation. In the teeth of the fact that the beneficiary of all these acts is not anybody outside, but the wife of the petitioner.*

Before I say *omega*, I deem it appropriate to quote what ***BENJAMIN DISRAELI*** had to say:

> ***"I repeat… that all power is a trust – that we are accountable for its exercise – that, from the people, and for the people, all springs, and all must exist".***

59. For the ***praefatus*** reasons, the petition lacking in merit, would necessarily meet its dismissal, and is accordingly ***dismissed.***

Interim order of any kind subsisting today, shall stand dissolved.

The applications, if any, stand disposed as unnecessary.

Sd/-
(M. NAGAPRASANNA)
JUDGE

bkp
CT:SS