SUPREME COURT OF INDIA

Bangalore Development Authority

Vs.

State of Karnataka

C.A.No.7661-63 of 2018

(Arun Mishra and S.Abdul Nazeer,JJ.,)

03.08.2018

JUDGMENT

Arun Mishra,J.,

SLP(C)No.10216-10218/2018

1. Delay condoned.

2. Leave granted.

3. The Bangalore Development Authority (for short, "the BDA") has questioned the orders passed by the Division Bench of the High Court dismissing writ appeals vide judgment and order dated 28.04.2017, confirming the order passed by the Single Bench. The appeals have also been filed against the orders of the Single Bench directly before this Court as Division Bench has already dismissed the writ appeals arising out of the same scheme/orders.

4. The BDA is Town Planning Authority for the city of Bangalore, State of Karnataka and a notified developer. It is entrusted with the task of preparation of city development schemes and its execution. Section 15 of the Bangalore Development Authority Act, 1976 (for short referred to as "the BDA Act") confers power to draw up the development schemes. Section 16 of the BDA Act provides for the particulars to be included in the development scheme. The same is required to be published in terms of provisions contained in Section 17 of the BDA Act in the official gazette and in the manner prescribed therein. On 30.12.2008 the BDA published a scheme and notification under Section 17 of the BDA Act for the formation of the layout at as "Dr. K. Shivaram Karanth Layout" including link roads.

5. The scheme was approved by Government of Karnataka vide its orders dated 3.12.2008. 45% of the land covered under the scheme was to be used for the civic amenities, playgrounds, roads etc., and the residential sites would be formed by utilizing the remaining 55% of the land. Out of this 55% developed residential area i.e. 40% of 55% will be offered as

compensation to the farmers as specified in the scheme and the remaining 60% of 55% will be the share of BDA. The farmers were also given the option to accept either the developed eligible residential land or opt for compensation as per the Land Acquisition Act, 1894 (for short "the LA Act"). Notice to that effect was thereby given to all concerned in accordance with the provisions of sub-Sections 1 and 3 of Section 17 of the BDA Act and in accordance with Section 36 of the BDA Act. The Special Land Acquisition Officer, Bangalore Development Authority, Bangalore, his staff, and workmen were authorized to exercise the powers conferred under Section 4(2) of the LA Act and section 52 of the BDA Act. Objections were also invited from the interested persons to be filed within 30 days of the publication of the notification. It was also mentioned that any sale, mortgage, assignment, exchange or otherwise of any layout or improvements made therein without sanction of the Deputy Commissioner (Land Acquisition), Bangalore Development Authority, Bangalore after the date of publication of the notification shall under Section 24 of the LA Act be disregarded by the Officer assessing compensation for such parts of the said lands as will be finally acquired.

6. The BDA has to consider the objections to the preliminary notification and submit them to the Government as required under the BDA Act. Under section 18(3) of the BDA Act it is for the Government to sanction the scheme and under Section 19 of the said Act, it is for the Government to make a final declaration and publication.

7. The BDA received a large number of objections. State Government also issued a direction to withdraw the acquisition of the land to the extent of 257 acres and 20 guntas from various villages. Representations for deletion were also favourably considered for 446 acres and 7 guntas of the land. In the year 2012, with regard to the withdrawal of acquisition of 446 acres and 7 guntas, and action of State Government questions were raised in the Assembly and the State Government ultimately ordered an inquiry to be held in the year 14.11.2012 and yet another inquiry was ordered by the State Government into the matter pertaining to the same acquisition on 19.01.2013.

8. The writ petitions were then filed on the ground that Government and the BDA had not taken any steps to issue a final notification or to develop the land for the last 5 years. The BDA refused to give permission to develop the land on the ground of preliminary notification under Section 17 of the BDA Act. Thus, right to enjoy the property has been taken away without finalizing the acquisition. It was submitted that the preliminary notification shall be deemed to have lapsed. Now, Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 has come into force. Therefore, it was urged that the impugned notification issued under Section 17(1) and 17(3) of the BDA Act was liable to be quashed, and a prayer was made to direct the respondents to give permission to develop the land.

9. It was contended on behalf of the BDA that while the Land Acquisition Officer was considering the representations under Sections 18(3) of the BDA Act, the State Government has directed the BDA to withdraw to the extent of 270 guntas of land from various villages. In view of the large number of representations filed under Section 18(1) of the BDA Act,

time has been consumed. Ultimately deletion of 446 acres 7 guntas of land was favourably considered. In the meanwhile, the Board of BDA ordered an in-house inquiry to consider the findings of the Special Land Acquisition Officer regarding exclusion of land. The State Government also initiated suo moto inquiry vide Government Order dated 24.11.2012 and 19.1.2013 and constituted a Committee consisting of Additional Chief Secretary and Development Commissioner, based on the newspaper reports and questions raised at the Assembly pertaining to illegal and discriminatory proposals for withdrawal/deletion of the land from the acquisition. It was learnt that the Committee has completed the inquiry and issue was before the State Government. In view of the pendency of the inquiry report before the State Government and in view of the practical difficulty, final notification under Section 19 of the BDA Act could not be issued on time.

10. It was also contended by the BDA that notice dated 3.5.2014 was issued to the landowners as there was the need for fresh inquiry. Therefore, the further process would be taken pursuant to the notification. Thus, it was contended by the BDA that no interference was called for in the writ petitions.

11. The Single Bench allowed the writ application and quashed the notification with respect to the lands of the appellants. The Single Judge in Writ Petition No.9640 of 2014 decided on 26th November 2014 along with other writ applications has observed that the Division Bench of the High Court in the case of *H.N. Shivanna and Ors. vs the State of Karnataka, Department of Industries and Commerce, Bangalore, and Anr*[1]. considering similar aspect held that, even though under Karnataka Industrial Area Development Act, no time limit has been prescribed, the period of two years would be appropriate for the purpose of completing acquisition. The Single Judge observed that:

> "8. On the legal position as to whether the provisions as contained in the Land Acquisition Act insofar as the time period as fixed therein for passing the final notification and the award thereof could be imported into the BDA Act which has been raised by the respondents, a detailed consideration would not be necessary. This is due to the fact that the Hon'ble Division Bench of this Court while considering the matter in the case of Sri H.N. Shivanna and Others vs. State of Karnataka, Department of Industries and Commerce, Bangalore and Another reported in 2013 (4) KCCR 2793 (DB) has elaborately considered this aspect of the matter while taking note of the acquisition process which was being done under the KIAD Act wherein also no time limit has been prescribed. The Hon'ble Division Bench having accepted the position that there is no time limit fixed under the special enactment has also taken into consideration the observations made by the Hon'ble Supreme Court in the earlier cases under different circumstances and has declared the position that even though a time frame is not fixed in the special enactment under which the acquisition is being made, the reasonableness of the delay should be considered in the facts of a case and in that circumstance, a decision is to be taken, but unreasonable delay would not be permitted. While stating so, the Hon'ble Division bench has also kept in view the fact that the Land Acquisition Act prescribes a specific time frame even for the enactments, roughly the period of two years would be appropriate. Hence, on the legal

aspect, the said decision would settle the issue. In the light of the judgment as rendered by the Hon'ble Division Bench, the explanation as put forth in the instant case needs to be taken into consideration."

12. Being aggrieved by the aforesaid decision, the writ appeal was filed before the Division Bench, which has been dismissed. The Division Bench of the High Court in the writ appeal, observed thus:

> "3. Being aggrieved by the order Dt.26.11.2014 passed by the Hon'ble Learned Single Judge in Writ Petition No.9640/ 2014 the appellants beg to prefer this appeal.
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> 4. It is respectfully submitted that the respondent no.2 who was the appellant, filed the writ petition challenging the Preliminary notification issued by the Bangalore Development Authority for the formation of the "Dr. K. Shiarama Karanth Layout".
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> 5. The Petitioner was amongst the notified Khatedars of Sy. No.15 of and Sy.No.31 of Veerasagara Village, Yelahanka Hobli, Bangalore North Taluk, Bangalore. It was contended that after issuance of the Preliminary notification by the Bangalore Development Authority for the formation of the layout no steps have been taken by the Bangalore Development Authority for the completion of the acquisition proceedings. It was contended that their right to enjoy the property has been curtailed by the issuance of the Notification by the Bangalore Development Authority. It was contended that the action of Bangalore Development Authority in not proceeding further amounts to an abandonment of the acquisition proceedings and hence the preliminary Notification was sought to be quashed in so far as the property of the petitioner was concerned."

13. Aggrieved by the aforesaid decisions, the appeals have been preferred by the BDA in this Court. The decisions of the Division Bench in H.N. Shivanna (supra) has been followed by the Single Judge.

14. The BDA in the appeals has urged that decision of the Constitution Bench of this Court interpreting the provisions of Bangalore Development Authority Act, 1976 has been totally ignored and overlooked. This Court has decided the same issue in *Offshore Holdings Private Limited v. Bangalore Development Authority and Others*[2]*, after consideration of the previous judgments of this Court in Munithimmaiah v. State of Karnataka*[3] *and Bondu Ramaswamy v. Bangalore Development Authority & Ors*[4]. It was held that the BDA Act is a self-contained code and the time frame of two years provided under Section 11A of the Land Acquisition Act is not applicable to the BDA Act. The High Court has failed to consider the judgment. This Court has held that the period of five years as prescribed under Section 27 of the BDA Act start from the date of publication of the declaration under sub-Section (1) of Section 19 of the BDA Act in the Official Gazette. The High Court has grossly erred in law in holding otherwise. The learned counsel appearing on behalf of the BDA has relied upon the Constitution Bench decision of this Court in the case of Offshore Holdings (supra). The High Court has totally ignored the said decision and had flouted the same. In the facts and

circumstances of the case, there was no delay as a large number of objections were filed. The Land Acquisition Officer considered deletion of certain land in an illegal manner. The Government had also issued a direction in regard to approx. 257 acres of the land. Ultimately, there was a question raised about the proposed exclusion of the land in an illegal manner, in the Assembly and the State Government has ordered an inquiry in the year 2012. Yet another inquiry was ordered in January, 2013. The in-house inquiry was also conducted by the BDA and ultimately notice was issued in May 2014 that the entire matter has to be considered afresh. Thereafter, the writ petitions were filed to quash the initial notification and the notification was illegally quashed by the High Court. Writ appeals were also dismissed. They have also been illegally dismissed by a laconic order without considering the decision of this Court and also the facts and circumstances. The land was required for the planned development of Bangalore city. Thus, the impugned orders are liable to be quashed.

15. It was contended on behalf of the landowners that there was undue delay in completion of the land acquisition procedure, as for more than five years the final notification was not issued. The writ petitions were filed. There was an undue delay, even if the period of two years of time frame provided under the LA Act, does not apply for issuance of final notification under Section 19, there cannot be undue delay in taking the steps. The acquisition could not have been kept in lurch for such an unreasonable period as done in the instant case. Thus, the High Court was fully justified in quashing the final notification. When no time has been fixed under the BDA Act to complete the issuance of final notification under Section 19, it would not mean that with an unreasonable delay such steps can be taken, as there was restraint put upon the owners by issuance of initial notification under Section 17. Right to enjoyment of the property could not have been denied for an unreasonable period. As there was a proposal to exclude the land, and after High Court has quashed the preliminary notification, certain developments have been made and the property has exchanged hands. Thus, it would not be appropriate to interfere in the matter owing to the delay on the part of the BDA in approaching before the High Court as well as this Court.

16. First, we take up the question as to whether the High Court was legally justified on merits in quashing the preliminary notification issued under Section 17. The Constitution Bench of this Court in Offshore Holdings (supra) has decided the question affirmatively. The BDA has issued preliminary notification for acquisition of the lands. Non¬finalization of the acquisition proceedings resulted in the filing of the writ petitions before the High Court of Karnataka by the owners in the year 1987. Certain lands were de-notified and the permission which was granted earlier was withdrawn. The denotification of the land was also withdrawn. It was urged that the timeframe which was prescribed under section 6 and 11A of the LA Act would form an integral part of the BDA Act. This Court considered the scheme under the BDA Act and has observed thus:

> "33. The provisions of the Land Acquisition Act, which provide for timeframe for compliance and the consequences of default thereof, are not applicable to acquisition under the BDA Act. They are Sections 6 and 11A of the Land Acquisition Act. As per Section 11A, if the award is not made within a period of two years from the date of declaration under Section 6, the acquisition proceedings will lapse. Similarly, where

declaration under Section 6 of this Act is not issued within three years from the date of publication of notification under Section 4 of the Land Acquisition Act [such notification being issued after the commencement of the Land Acquisition (Amendment and Validation) Ordinance, 1967 but before the commencement of Central Act 68 of 1984] or within one year where Section 4 notification was published subsequent to the passing of Central Act 68 of 1984, no such declaration under Section 6 of the Land Acquisition Act can be issued in any of these cases.

35. Be that as it may, it is clear that the BDA Act is a self-contained code which provides for all the situations that may arise in planned development of an area including acquisition of land for that purpose. The scheme of the Act does not admit any necessity for reading the provisions of Sections 6 and 11A of the Land Acquisition Act, as part and parcel of the BDA Act for attainment of its object. The primary object of the State Act is to carry out planned development and acquisition is a mere incident of such planned development. The provisions of the Land Acquisition Act, where the land is to be acquired for a specific public purpose and acquisition is the sum and substance of that Act, all matters in relation to the acquisition of land will be regulated by the provisions of that Act. The State Act has provided its own scheme and provisions for acquisition of land.

50. Applying the above principle to the facts of the case in hand, it will be clear that the provisions relating to acquisition like passing of an award, payment of compensation and the legal remedies available under the Central Act would have to be applied to the acquisitions under the State Act but the bar contained in Sections 6 and 11A of the Central Act cannot be made an integral part of the State Act as the State Act itself has provided specific time-frames under its various provisions as well as consequences of default thereto. The scheme, thus, does not admit such incorporation.

55. The principle stated in Munithimmaiah's case (supra) that the BDA Act is a self-contained code, was referred with approval by a three Judge Bench of this Court in the case of Bondu Ramaswamy (supra). The Court, inter alia, specifically discussed and answered the questions whether the provisions of Section 6 of the Land Acquisition Act will apply to the acquisition under the BDA Act and if the final declaration under Section 19(1) is not issued within one year of the publication of the notification under Section 17(1) of the BDA Act, whether such final declaration will be invalid and held as under:

“79. This question arises from the contention raised by one of the appellants that the provisions of Section 6 of the Land Acquisition Act, 1894 ("the LA Act", for short) will apply to the acquisitions under the BDA Act and consequently if the final declaration under Section 19(1) is not issued within one year from the date of publication of the notification under Sections 17(1) and (3) of the BDA Act, such final declaration will be invalid. The appellants' submissions are as under: the notification under Sections 17(1) and (3) of the Act was issued and gazetted on 3-2-

2003 and the declaration under Section 19(1) was issued and published on 23-2-2004. Section 36 of the Act provides that the acquisition of land under the BDA Act within or outside the Bangalore Metropolitan Area, shall be regulated by the provisions of the LA Act, so far as they are applicable. Section 6 of the LA Act requires that no declaration shall be made, in respect of any land covered by a notification under Section 4 of the LA Act, after the expiry of one year from the date of the publication of such notification under Section 4 of the LA Act. As the provisions of the LA Act have been made applicable to acquisitions under the BDA Act, it is necessary that the declaration under Section 19(1) of the BDA Act (which is equivalent to the final declaration under Section 6 of the LA Act) should also be made before the expiry of one year from the date of publication of notification under Sections 17(1) and (3) of the BDA Act [which is equivalent to Section 4(1) of the LA Act].

80. The BDA Act contains provisions relating to acquisition of properties, up to the stage of publication of final declaration. The BDA Act does not contain the subsequent provisions relating to completion of the acquisition, that is, issue of notices, enquiry and award, vesting of land, payment of compensation, principles relating to determination of compensation, etc. Section 36 of the BDA Act does not make the LA Act applicable in its entirety, but states that the acquisition under the BDA Act, shall be regulated by the provisions, so far as they are applicable, of the LA Act. therefore it follows that where there are already provisions in the BDA Act regulating certain aspects or stages of acquisition or the proceedings relating thereto, the corresponding provisions of the LA Act will not apply to the acquisitions under the BDA Act. Only those provisions of the LA Act, relating to the stages of acquisition, for which there is no provision in the BDA Act, are applied to the acquisitions under the BDA Act.

81. The BDA Act contains specific provisions relating to preliminary notification and final declaration. In fact the procedure up to final declaration under the BDA Act is different from the procedure under the LA Act relating to acquisition proceedings up to the stage of final notification. therefore, having regard to the scheme for acquisition under Sections 15 to 19 of the BDA Act and the limited application of the LA Act in terms of Section 36 of the BDA Act, the provisions of Sections 4 to 6 of the LA Act will not apply to the acquisitions under the BDA Act. If Section 6 of the LA Act is not made applicable, the question of amendment to Section 6 of the LA Act providing a time-limit for issue of final declaration, will also not apply."

We may notice that, in the above case, the Court declined to examine whether the provisions of Section 11A of the Central Act would apply to the acquisition under the BDA Act but categorically stated that Sections 4 and 6 of the Central Act were inapplicable to the acquisition under the BDA Act.

123. Accepting the argument of the appellant would certainly frustrate the very object of the State law, particularly when both the enactments can peacefully operate together. To us, there appears to be no direct conflict between the provisions of the

Land Acquisition Act and the BDA Act. The BDA Act does not admit reading of provisions of Section 11A of the Land Acquisition Act into its scheme as it is bound to debilitate the very object of the State law. The Parliament has not enacted any law with regard to development the competence of which, in fact, exclusively falls in the domain of the State Legislature with reference to Entries 5 and 18 of List II of Schedule VII.

124. Both these laws cover different fields of legislation and do not relate to the same List, leave apart the question of relating to the same Entry. Acquisition being merely an incident of planned development, the Court will have to ignore it even if there was some encroachment or overlapping. The BDA Act does not provide any provision in regard to compensation and manner of acquisition for which it refers to the provisions of the Land Acquisition Act. There are no provisions in the BDA Act which lay down detailed mechanism for the acquisition of property, i.e. they are not covering the same field and, thus, there is no apparent irreconcilable conflict. The BDA Act provides a specific period during which the development under a scheme has to be implemented and if it is not so done, the consequences thereof would follow in terms of Section 27 of the BDA Act. None of the provisions of the Land Acquisition Act deals with implementation of schemes. We have already answered that the acquisition under the Land Acquisition Act cannot, in law, lapse if vesting has taken place. therefore, the question of applying the provisions of Section 11A of the Land Acquisition Act to the BDA Act does not arise. Section 27 of the BDA Act takes care of even the consequences of default, including the fate of acquisition, where vesting has not taken place under Section 27(3). Thus, there are no provisions under the two Acts which operate in the same field and have a direct irreconcilable conflict.

125. Having said so, now we proceed to record our answer to the question referred to the larger Bench as follows: For the reasons stated in this judgment, we hold that the BDA Act is a self-contained code. Further, we hold that provisions introduced in the Land Acquisition Act, 1894 by Central Act 68 of 1984, limited to the extent of acquisition of land, payment of compensation and recourse to legal remedies provided under the said Act, can be read into an acquisition controlled by the provisions of the BDA Act but with a specific exception that the provisions of the Land Acquisition Act in so far as they provide different time frames and consequences of default thereof, including lapsing of acquisition proceedings ,cannot be read into the BDA Act. Section 11A of the Land Acquisition Act being one of such provisions cannot be applied to the acquisitions under the provisions of the BDA Act."

(emphasis supplied)

17. This Court has emphasized that the primary object of the BDA Act is to carry out planned development. The State Act has provided its own scheme. The time constraints of the land acquisition are not applicable to the BDA Act. Making applicable the time frame of Section 11A of LA Act would debilitate very object of the BDA Act. It is apparent that the decision of the Single Judge as well as the Division Bench is directly juxtaposed to the

decision of Five Judge Bench of this Court in Offshore Holdings (supra) in which precisely the question involved in the instant cases had been dealt with. By indirect method by making applicable the time period of two years of 11A of LA Act mandate of BDA Act has been violated. However, it is shocking that various decisions have been taken into consideration particularly by the Single Judge, however, whereas the decision that has set the controversy at rest, has not even been noticed even by the Single Judge or by the Division Bench. If this is the fate of the law of the land laid down by this Court that too the decision by the Constitution Bench, so much can be said but to exercise restraint is the best use of the power. Least said is better, the way in which the justice has been dealt with and the planned development of Bangalore city has been left at the mercy of unscrupulous persons of Government and the BDA.

18. It is apparent from the fact that the Single Judge has relied upon the decision in H.N. Shivanna (supra) in which it was observed by the Division Bench that scheme to be completed in 2 years otherwise it would lapse. It was precisely the question of time period which was dwelt upon and what was ultimately decided by this Court in Offshore Holdings (supra) has been blatantly violated by the Single Judge and that too in flagrant violation of the provisions and intendment of the Act.

19. It is also apparent from the facts and circumstances of the case that there were a large number of irregularities in the course of an inquiry under Section 18(1) of the BDA Act. Government had nothing to do with respect to the release of the land at this stage, as the stage of final notification had not reached but still the landowners in connivance with the influential persons, political or otherwise, managed the directions in respect of 251 acres of the land and Special Land Acquisition Collector also considered exclusion of 498 acres of the land against which the question was raised in the Assembly and eyebrows were raised in public domain. Two inquiries were ordered on 24.11.2012 and 19.1.2013 by the State Government and based upon that inquiry, it was ordered and a public notice was issued on 3rd May, 2014 that the BDA will consider the entire matter afresh. In the aforesaid backdrop of the facts, the writ petitions came to be filed, it would not be termed to be the bona fide litigation, but was initiated having failed in attempt to get the land illegally excluded at the hands of Special Land Acquisition Collector and the State Government and after the inquiries held in the matter and the notice was issued to start the proceedings afresh. At this stage, the writ petitions were filed. In the aforesaid circumstances, it was not at all open to the High Court to quash the preliminary notification issued under Section 17, as the land owners, State Government and BDA were responsible to create a mess in the way of planned development of the Bangalore city.

20. The scheme which was framed was so much benevolent scheme that 40% of the 55% of the land reserved for the residential purpose was to be given to the landowners at their choice and they were also given the choice to obtain the compensation, if they so desire, under the provisions of the LA Act. Thus, it was such a scheme that there was no scope for any exclusion of the land in the ultimate final notification.

21. It is apparent from the circumstances that the matter cannot be left at the mercy of unscrupulous authority of the BDA, the State Government or in the political hands. Considering the proper development and planned development of Bangalore city, let the Government issue a final notification with respect to the land which has been notified in the initial notification and there is no question of leaving out of the land in the instant case as option has been given to land owners to claim the land or to claim the compensation under the relevant LA Act which may be applicable in the case.

22. It was contended on behalf of the landowners that certain developments have taken place after the orders were passed regarding exclusion of the land and when Section 27 provides a limitation of five years after final notification, in case development was not undertaken within five years, even the final scheme would lapse. Thus, the principle enunciated in Section 27 should be followed by this Court with respect to the lapse of preliminary notification as well. We find that there is a vast difference in the provisions and action to be taken pursuant to the preliminary notification and the final notification under Section 19. In the instant case, the facts indicated that it was in the interest of the public, landowners, BDA and State Government. The scheme had prior approval of State Government however at the cost of public interest yet another scheme was sought to be frustrated by powerful unforeseen hands and the issuance of final notification had been delayed. Three inquiries were ordered, two by the State Government and one by the BDA as the release of the land was being proposed in an illegal manner. Hue and cry has been raised about their illegalities in the Assembly as well as in the public. Thus, for the delay, owners cannot escape the liability, they cannot take the advantage of their own wrong having acted in collusion with the authorities. Thus, we are of the considered opinion that in the facts of the case the time consumed would not adversely affect the ultimate development of Bangalore city. The authorities are supposed to carry out the statutory mandate and cannot be permitted to act against the public interest and planned development of Bangalore city which was envisaged as a statutory mandate under the BDA Act. The State Government, as well as Authorities under the BDA Act, are supposed to cater to the need of the planned development which is a mandate enjoined upon them and also binding on them. They have to necessarily carry it forward and no dereliction of duty can be an escape route so as to avoid fulfilment of the obligation enjoined upon them. The courts are not powerless to frown upon such an action and proper development cannot be deterred by continuing inaction. As the proper development of such metropolitan is of immense importance, the public purpose for which the primary notification was issued was in order to provide civic amenities like laying down roads etc. which cannot be left at the whim or mercy of the concerned authorities. They were bound to act in furtherance thereof. There was a clear embargo placed while issuing the notification not to create any charge, mortgage, assign, issue or revise any improvement and after inquiry, it was clear that the notice had been issued in May, 2014, thus, no development could have been made legally. Notification dated 3rd May, 2014 was issued that re-inquiry was necessary in the matter. The development made, if any, would be at the peril of the owners and it has to give way to larger welfare schemes and the individual interest and cannot come in the way of the larger public interest. The acquisition was for the proper and planned development that was an absolute necessity for the city of Bangalore.

23. In the circumstances, we have no hesitation in condoning the delay. Though, it is apparent that the authorities had come with certain delay, in the certain matters and the writ appeals were also filed belatedly with the delay in the High Court, however, considering the provisions of the scheme and the method and manner wrong has been committed, it has compelled us not only to condone the delay but also to act in the matter so as to preserve the sanctity of the legal process and decision of this Court in Offshore Holdings (supra).

24. We, therefore, direct the State Government as well as the BDA to proceed further to issue final notification without any further delay in the light of the observations made in the order. The impugned orders passed by the Single Judge and the Division Bench are hereby quashed and set aside. The scheme and notification under Section 17 of the BDA Act are hereby upheld with the aforesaid directions.

25. As noticed above, the Land Acquisition Officer proposed exclusion of 251 acres of land from acquisition on being asked by the Government after the preliminary notification was issued. The Land Acquisition Officer, has considered another 498 acres of land to be excluded from being acquired. In connection to this, several questions were raised in the Karnataka Legislative Assembly, as a result of which two inquiries were ordered by the State Government i.e on 24.11.2012 and 19.01.2013. However, result of the inquiry is not forthcoming. Further, it appears that the exclusion of the lands from acquisition was proposed in connivance with influential persons; political or otherwise. We are of the view that the BDA and the State Government have to proceed with the acquisition of these lands. We are also of the view that it is just and proper to hold an inquiry for fixing the responsibility on the officials of the BDA and the State Government for trying to exclude these lands from acquisition.

26. Therefore, we appoint Hon'ble Mr. Justice K.N. Keshavanarayana, former Judge of the Karnataka High Court as the Inquiry Officer for fixing the responsibility on the officials of the BDA and the State Government who were responsible for the aforesaid. The Commissioner, BDA is hereby directed to consult Inquiry Officer and pay his remuneration. Further, we direct BDA to provide appropriate secretarial assistance and logistical support to the Inquiry Officer for holding the inquiry. In addition, we authorize the Inquiry Officer to appoint requisite staff on temporary basis to assist him in the inquiry and to fix their salaries. Further, the BDA is directed to pay their salaries. The State Government and the BDA are directed to produce the files/documents in relation to the aforesaid lands before the Inquiry Officer within a period of four weeks from today. We request the Inquiry Officer to submit his report to this Court as expeditiously as possible.

27. The State Government and the BDA are further directed to proceed with the acquisition of the aforementioned lands without excluding land from acquisition and submit a report to this Court the steps taken by them in this regard within a period of three months from today.

28. In addition, it was submitted at the Bar that several cases where similar orders of exclusion in relation to lands notified for acquisitions for the formation of ‘Dr. K. Shivarama Karantha Layout’ have been passed by the High Court and that BDA has failed to challenge

those orders in connivance with the landowners and influential persons. We hereby direct the BDA to challenge all such orders/seek review of the said orders in accordance with law within a period of three months from today.

29. The appeals are disposed of in the aforesaid terms leaving the parties to bear their own costs.

Judgment Referred.

[1] *(2013) 4 KCCR 2793 (DB)*
[2] *(2011) 3 SCC 0139*
[3] *(2002) 4 SCC 0326*
[4] *(2010) 7 SCC 0129*