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Annexure - B

KARNATAKA LOKAYUKTA

No. LOK/BCD/543/2015/ARE(2)

M.S.Building,
Bangalore,
Date:11-06-2015

**REPORT U/SEC. 12(1) OF KARNATAKA LOKAYUKTA ACT,
1984**

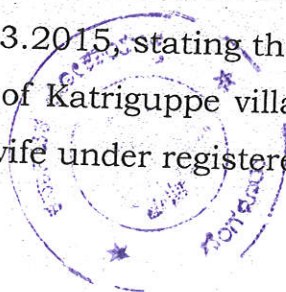
Sub:- Recommendation along with report u/Sec. 12(1) of
Karnataka Lokayukta Act, 1984 on the
Complaint of Dr. M. Ramakrishna, Bengaluru
against Sri Shivaramgowda, Former MLA,
Nagamangala Taluk, Mandya District.

Ref:- Complaint No. LOK/BCD/543/2015/ARE(2)

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In the complaint cited under reference, Complainant
Dr. M. Ramakrishna, S/o Late Muninagappa, No.1, 1st main,
9th cross, C.T.Bed, Sy.no.17, Banashankari 3rd stage,
Benagaluru-85, in his complaint filed on 04.02.2015 against
Sri Shivaramgowda, Former MLA, has alleged that
he(respondent) and his wife Smt. Sudha Shivaramgowda
have illegally constructed a big residential house in BDA
property in Banagiri extension, Banashankari 3rd stage,
Bengaluru and prayed for action being taken for the
demolition of illegal construction made by respondent and his
wife and their eviction.

2. During the Preliminary investigation, comments of the
respondent - Sri L. Shivaramgowda were called vide this
office notice dtd. 24.02.2015. He submitted his comments on
25.03.2015, stating that site Nos. 42, 43, 44 formed in Sy.No.
125 of Katriguppe village (old sy. no. 17) were purchased by
his wife under registered sale deed dated 22.07.1999 from



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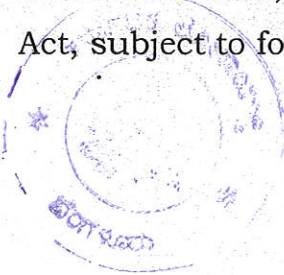
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Bhavani Housing Co-operative Society, that said society had been allotted 20 acres in Sy.No. 17, by BDA vide Chairman, C.I.T.B.'s order dated 21.05.1975, and order dated 11.10.1979 and 23.11.1995 of Under Secretary, Karnataka State Housing and Urban Development Department and order dated 17.05.1996 of Commissioner, BDA and order dtd. 15.03.1995 passed by Hon'ble High Court, in Writ Petition No. 29200/1994, that said society formed residential lay out in the said land and that his wife obtained approval of building plan from BBMP and constructed house. According to him, the complaint is frivolous and vexatious.

3. When copy of the comments of the respondent was sent to the complainant for his rejoinder, he submitted the same on 25.04.2015, reiterating his earlier stand.
4. According to the letter dtd. 20.05.1975 addressed by the office of Chairman, CITB, the CITB (City Improvement Trust Board) in its Meeting held on 30.04.1975 resolved to issue "No Objection Certificate" in favour of Bhavani Housing Co-operative Society for granting 40 acres of land for formation of residential lay out subject to the condition that (1) the layout should be got approved by the Board & (2) Layout work should be executed by the Board itself.
5. The Govt. of Karnataka issued order No. HUD 31 CEC 79 dated 11.10.1979 under Clause (b) of Sub Section (1) of Sec. 20 of Urban Land(Ceiling and Regulation)Act 1976 exempting 32 acres and 36 guntas of land in Sy.No. 17 of Katriguppe Bangalore South Taluk belonging to Sri Katappa and nine others, from the provisions of Chapter 3 of the said Act, subject to following conditions.

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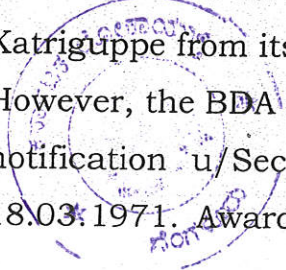
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- a) The entire transaction of sale and transfer of lands to the Bhavani Housing Co-operative Society Ltd. Bangalore should be completed within a period of six months from the date of this order.
- b) The said lands should be utilised for forming sites for residential purposes as per the regulations of BDA and allotted to the members of the said society after getting the conversion of the said lands for non-agricultural purposes from the Deputy Commissioner, Bangalore.
- c) That no site should be given to any one already owning a site or house in Bangalore and shall not be sold to persons other than the members of the society.
- d) The lay out charges are to be paid to the BDA if the layout is formed by the BDA or supervision charges are to be paid to the BDA if the layout is formed by the society.
- e) That this exemption order stands resolved if any of the conditions specified above are violated.

6.

As could be seen from the order dated 15.03.1995 passed in W.P. No. 29200/1994, the said society had applied to the BDA on 17.10.1973 for issue of "No objection Certificate" to purchase about 40 acres of land out of Sy.No. 17 of Katriguppe. The said land had been notified for acquisition by the BDA on 25.11.1971. The society applied to the State Govt. to permit it to purchase the lands from the owners on 20.05.1975. An endorsement was issued to the said society stating that the BDA at its meeting held on 30.04.1975 has decided to issue N.O.C. to the said Society subject to the condition that the layout should be got approved by BDA and layout work should be carried out by the BDA. Pursuant to the above permission, the society purchased 32 acres and 36 guntas of land in Sy. No.17 of Katriguppe from its owners and got possession of those lands. However, the BDA pursued the acquisition proceedings, and a notification u/Sec. 19(1) of the BDA Act was issued on 18.03.1971. Award was passed on 16.08.1976. The Society



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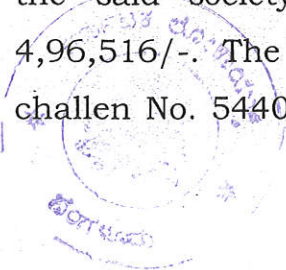
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thereafter moved BDA either for releasing the above land from acquisition or to make bulk allotment. The BDA resolved to make bulk allotment of 20 acres. Since Government's approval was necessary, the society moved the State Government for approval BDA's resolution. On 26.08.1988, the Government informed BDA Commissioner, conveying its approval on the condition that sites formed in the layout should be allotted to the members of the Society who belong to SC or ST and other backward communities and that the society has to pay the cost of the land on the basis of rates fixed for sites in the same layout. Thereafter BDA issued enforcement dated 06.10.1988 to the said society stating that Govt. has granted its approval subject to above conditions. While allowing the writ petition, Hon'ble High Court of Karnataka directed the Govt. as well as BDA to give effect to the endorsements dated 26.08.1988 and 06.10.1988.

7. As per G.O. No. HUD 590 MNX 88 dated 23.11.1995, Govt. accorded approval to the allotment of 20 acres of Land in Sy.No. 17 of Katriguppe, to said society as per BDA (Bulk allotment) Rules 1995, subject to condition that the value of Land should be fixed by BDA taking into consideration the land cost plus some reasonable amount of appreciation of the land between the period from 1988 to 1995 to be determined by BDA chairman and that BDA shall recover all the necessary charges like betterment levy, water cess, ring road cess, and all necessary charges from the society as per existing Rules and the orders for sanctioning the layout. and that sites should be allotted to the members belonging to SC/ST and other Backward class communities.

8. The BDA determined the amount to be recovered from the said society towards value of the land, to be Rs. 4,96,516/-. The Society remitted the said amount under challen No. 544035 dated 25.01.1996 in Canara Bank, BDA

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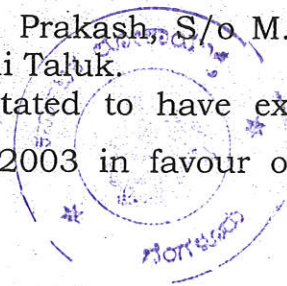
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Extension Counter. Considering that number of cases was pending in Courts, the BDA handed over extent of 10 acres and 29.25 guntas of litigation free land out of said 20 acres in Sy.No. 17 of Katriguppe to the said Society as per its order No. BDA/Commnr/EM/T-61/96-97 dated 17.05.1996. The remaining land was to be handed over to the society by the BDA after the disposal of the court cases. Subsequently, BDA issued similar order No. BDA/Commnr./EM/230/98-99 dtd. 13.10.1998 in favour of said society in respect of remaining - 09 acres 10 3/4 guntas of land.

9. BDA executed sale deeds in favour of Bhavani Housing Co-operative society Ltd. Bangalore as under.

Sl. No.	Sale Deed No.	Date	Extent	Survey No.
1	1619 Book No.1, Vol.2024 Pages 134-139 Dated 15.03.1997	02-08-1996	A 10-29 ^{1/4} G	Sy.No.17 & its sub numbers, 132, 133.
2	2476 Book No.1 Vol. 2186-1998-99 Pages 204-209 Dtd. 07.05.99 Sub Registrar's office, Basavanagudi	24-10-1998	A 09 -10 ^{3/4} G	Sy.No. 17 & its sub numbers 17/15, new no. 125, 126/1, 126/2

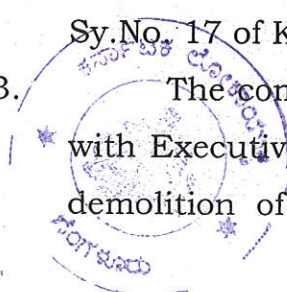
1. Smt. K.S. Pushpa D/o Shivanna - land in Sy.No. 27/7, 4th Block, 5th Main, Vasanthappa Block, Ganga nagar, Bengalur
2. Dr. G.N. Dhanapal S/o G.N.Nanjappa - land in Sy.No. 17/1 Venugopal Layout, Ananda nagar, Bangalore-24.
3. Mrs. K.R. Indu, W/o K.N. Ramakrishnaiah - Land in No. 1485, 1st floor, 7th main, I cross, RPC layout, Vijayanagar, 2nd stage.
4. Mr. E. Prakash, S/o M. Earappa - Land in Asappanapalya, Magadi Taluk. -are stated to have executed registered sale deed dated 05.11.2003 in favour of Mrs. Sudha Shivaramgowda, No.



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2369, K.R. Road, BSK 2nd stage , Bengaluru-70 in respect of vacant site No. 42, " T" Block, Katriguppe, vacant site No. 42/A, 43, 43/A for a total consideration of six lakhs. BBMP is stated to have changed katha of these sites to the name of the purchaser vide intimation No. ಡಿಎ:(ವಾ) 56:ಕೆಟಿಆರ್ 314/2003-04 ಎಂಟಿಆರ್ ಸಂ: 314/03-04 dated 28.11.2003.

10. The respondent has not produced copies of the sale deeds said to have been executed by Bhavani Housing Co-operative Society in favour of the vendors of respondent's wife Smt. Sudha Shivaramgowda. He has also not produced sanctioned plan and licence. On the other hand, Additional Director General of Police, Bengaluru Metropolitan Task Force, Bengaluru has addressed letter dated 21.07.2014 and reminder letter dated 25.09.2014 to Commissioner BBMP, requesting for providing information regarding action taken for the removal of encroachment of Govt. land in Sy.No. 17 of Katriguppe in Banagiri extension, Banashankari by the respondent.
11. When complainant applied under RTI Act for copies of documents pertaining to the above property, same was not provided by the Asst. Executive Engineer, Banashankari Sub division, BBMP.
12. On 14.01.2015 BDA addressed letter to the Executive Engineer, Ganesh Mandir Ward, Kumaraswamy layout, 1st stage, BBMP with reference to present complainant's letter dtd.13.01.2015 for taking action for the demolition of illegal structure for the reason that verification of BDA records has revealed that site Nos.42, 43, 44 were not released by the BDA. Further, compensation of Rs. 15,59,593.75 in respect of Sy.No. 17 of Katriguppe have not been paid to the owners.
13. The complainant lodged a complaint dated. 02.12.2014 with Executive Engineer, South division, BDA and sought for demolition of illegal structure constructed by respondent's



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wife Smt. Sudha in Sy.No. 17 of Katriguppe. No action seems to have been taken in this regard. **Under Section 33A of BDA Act 1976, an unauthorised occupier of BDA'S property will not only be liable for conviction but also for eviction.**

Under Section 299 r/w 314 of Municipal Corporations Act 1976, obtaining of licence from the local authority is mandatory for the construction of buildings in the corporation area. If the construction is commenced illegally, same can be ordered to be demolished u/Sec. 321 of the said Act.

The complaint allegations appear to be well founded. Hence, Under the above circumstances, this report under section 12 (1) of Karnataka Lokayukta Act 1984 is made, requiring the Competent Authority, namely Principal Secretary to Government of Karnataka, Urban Development Department to direct the Commissioner, BBMP to take action u/Sec. 321 of Karnataka Municipal Corporation Act, 1976 or the BDA Commissioner to take action u/Sec. 33-A & 34 of BDA Act, 1976, for the demolition of illegal structure and removal of encroachment made on Govt.'s property in Sy.No. 17 of Katriguppe referred in the complaint, and for reporting compliance as per Sec. 12(2) of the Karnataka Lokayukta Act, 1984.

The Government is required to examine this report and **within one month** of date of receipt of this report, intimate or cause to be intimated to me the action taken or proposed to be taken on the basis of this report.



Y. Bhaskar Rao
15/6/011

(Justice Dr. Y. Bhaskar Rao),
Lokayukta,
State of Karnataka

KARNATAKA LOKAYUKTA, BENGALURU

No. Compt/LOK/BCD-543/2015/ARE-2

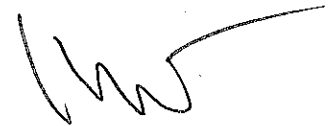
Date :01.12.2021

O R D E R

Sri C.L.Anand, Secretary, BDA, Bengaluru is present along with Sri Naveen Joseph.A, Deputy Secretary-2. Sri A.C.Mallesh, Advocate is present on behalf of Respondent No.1 and Sri D.C.Deepak is present on behalf of Respondent No.2 impleading applicant Smt.Sudha Shivaramgowda. Though notice has been served on the complainant, he has remained absent.

2) Few facts that may be relevant for disposal of this proceeding may be stated as hereunder –

Dr. M.Krishna of Banashankari 2nd Stage, Bengaluru has filed this complaint against Sri.Shivaramgowda, Former MLA, Nagamangala, Mandya District alleging that the respondent Sri. Shivaramgowda and his wife Smt. Sudha Shivaramgowda have illegally constructed a big residential house in Banagiri extension in the property belonging to BDA and prayed to take action for



demolition of illegal construction. A report under Sec.12(1) of Karnataka Lokayukta Act, 1984 was sent to the Additional Chief Secretary to Government, Urban Development Department on 11.06.2015 highlighting that under Sec.33A of BDA Act 1976, an unauthorized occupier of BDA's property will not only be liable for conviction but also for eviction; the obtaining license from the local authority is mandatory under Sec.299 r/w 314 of Municipal Corporations Act for the construction of building in the Corporation Areas and if the construction is commenced illegally, same can be ordered to be demolished under Sec. 321 of the said Act. The report under Sec.12(1) of Karnataka Lokayukta Act directs the Commissioner, BBMP to take action under Sec. 321 of Karnataka Municipal Corporation Act, 1976 or the BDA Commissioner to take action under Sec.33A and 34 of BDA Act 1976 for the demolition of illegal structure and removal of encroachment made on Government property in Survey No.17 of Katriguppe referred to in the complaint and for reporting compliance as per section 12(2) of the Karnataka Lokayukta Act 1984.



A reminder letter was sent to Government as well as Commissioner, BDA for furnishing of Action Taken Report on the report sent under Sec.12(1) of Karnataka Lokayukta Act, 1984.

- 3) Since the authorities had taken steps for demolition of the construction located in the marginal land of the second respondent Smt.Sudha Shivaramegowda, she filed an application before this Institution seeking permission to come on record in this proceeding as second respondent and also to hear. On the said application, a notice was issued to the Commissioner, BDA.
- 4) The application filed by Smt.Sudha Shivaramegowda to implead herself as second respondent was allowed and office was directed to show her name as second respondent in the cause title.
- 5) Pursuant to the notice issued in this proceeding to the BDA, a statement dated 08.11.2021 and additional statement dated 30.11.2021 has been filed by the Secretary, BDA, Bengaluru. It is useful to extract the relevant portion of the statement made by the



Commissioner and the Secretary, BDA, Bengaluru which reads as
under –



“ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ

ಕುಮಾರಪಾರ್ಕ್ ಪಶ್ಚಿಮ ಬಡಾವಣೆ, ೬೩.೫೦೬ಯ್ಯ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560 020

ಸಂಖ್ಯೆ: ಬೆಂಆಪಾ/ಉಕಾ-2/ಬನಶಂಕರಿ/ 95/2021-22

ದಿನಾಂಕ: 08.11.2021

ರವರಿಗೆ,

ಮಾನ್ಯ ಅಪರ ನಿಬಂಧಕರು, (ವಿಚಾರಣೆಗಳು-02)
ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ, ಬಹುಮಹಡಿಗಳ ಕಟ್ಟಡ,
ಡಾ|| ಬಿ.ಆರ್. ಅಂಬೇಡ್ಕರ್ ವೀಧಿ,
ಬೆಂಗಳೂರು-560001.

ಮಾನ್ಯರೆ,

ವಿಷಯ: ಶ್ರೀಮತಿ. ಸುಧಾ ಶಿವರಾಮೇಗೌಡ ರವರು ಸಲ್ಲಿಸಿರುವ ದೂರಿಗೆ
ಸಂಬಂಧಿಸಿದ ಸಮಜಾಯಿಷಿ ಸಲ್ಲಿಸುವ ಬಗ್ಗೆ.

- ಉಲ್ಲೇಖ:** 1) ಮಾನ್ಯ ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ರವರ ಆದೇಶ ಸಂಖ್ಯೆ:
COMPT/LOK/BCD-543/2015 (ARE(2), ದಿನಾಂಕ:05.10.2021.
2) ಶ್ರೀಮತಿ.ಸುಧಾ ಶಿವರಾಮೇಗೌಡ ರವರು ಮಾನ್ಯ
ಲೋಕಾಯುಕ್ತರಲ್ಲಿ ಸಲ್ಲಿಸಿರುವ ಆಕ್ಷೇಪಣೆ ದಿನಾಂಕ:04.10.2021.
3) ತಮ್ಮ ಪತ್ರ ಸಂಖ್ಯೆ: COMPT/LOK/BCD-543/2015 (ARE(2),
ದಿನಾಂಕ:05.10.2021.
4) ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರ ಆದೇಶ ಸಂಖ್ಯೆ: COMPT/LOK/BCD-
543/2015 (ARE(2), ದಿನಾಂಕ:11.06.2015.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಬನಶಂಕರಿ 3ನೇ ಹಂತ
ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದ ಬಡಾವಣೆಯ ನಿವೇಶನ ಸಂಖ್ಯೆ
42 ಮತ್ತು 43 ರ ಹಂಚಿಕೆದಾರರಾದ ಶ್ರೀಮತಿ. ಸುಧಾ ಶಿವರಾಮೇಗೌಡ ರವರು
ಸದರಿ ನಿವೇಶನಗಳ ಹಿಂಭಾಗದಲ್ಲಿ ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರಕ್ಕೆ
ಸೇರಿದ ಹೆಚ್ಚುವರಿ ಜಾಗವನ್ನು ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡಿರುವ ಬಗ್ಗೆ ಮಾನ್ಯ

ಲೋಕಾಯುಕ್ತರಲ್ಲಿ ಡಾ. ರಾಮಕೃಷ್ಣ ಎಂ ಎಂಬುವವರು ದೂರು ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸದರಿ ದೂರನ್ನು ವಿಚಾರಣೆ ಮಾಡಿದ ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರವರು ದಿನಾಂಕ:11.06.2015 ರಂದು ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತ ಕಾಯ್ದೆ ಕಲಂ 12(1) ರಡಿಯಲ್ಲಿ ಆದೇಶ ಹೊರಡಿಸಿ, ಒತ್ತುವರಿಯಾಗಿರುವ ಪ್ರಾಧಿಕಾರದ ಸ್ವತ್ತನ್ನು ತೆರವುಗೊಳಿಸುವಂತೆ ನಿರ್ದೇಶಿಸಿರುತ್ತಾರೆ.

ಈ ಆದೇಶಕ್ಕೆ ಪ್ರತಿಯಾಗಿ ಶ್ರೀಮತಿ. ಸುಧಾ ಶಿವರಾಮೇಗೌಡ ರವರು ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರಿಗೆ ತಮ್ಮ ಆಕ್ಷೇಪಣಾ ಹೇಳಿಕೆಯನ್ನು ಉಲ್ಲೇಖ (2) ರಂತೆ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ಸದರಿ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ಶ್ರೀಮತಿ.ಸುಧಾ ಶಿವರಾಮೇಗೌಡ ರವರು ತಮಗೆ ಮಂಜೂರು ಮಾಡಲಾದ ಅಂಚಿನ ಜಾಗಕ್ಕೆ ಪ್ರಾಧಿಕಾರವು ಚದರ ಅಡಿಗೆ ರೂ. 2.300/- ರಂತೆ ದರ ವಿಧಿಸಿದ್ದು, ಆದರೆ ತಮ್ಮ ಪಕ್ಕದ ನಿವೇಶನ ಹಂಚಿಕೆದಾರರಾದ ಶ್ರೀ. ಕೆಂಪಯ್ಯ ಎಂಬುವವರಿಗೆ ಮಂಜೂರು ಮಾಡಲಾದ ಅಂಚಿನ ಜಾಗಕ್ಕೆ ಪ್ರತಿ ಚದರ ಮೀಟರ್ ಗೆ ರೂ.2,385/- ಗಳಂತೆ ನಿಗದಿ ಮಾಡಿದ್ದು ಇದು ತಾರತಮ್ಯ ನೀತಿಯಾಗಿರುತ್ತದೆ ಎಂದು ಪ್ರಾಧಿಕಾರದ ವಿರುದ್ಧ ಆಪಾದನೆ ಮಾಡಿರುತ್ತಾರೆ.

ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರವರು ಈ ಆಕ್ಷೇಪಣಾ ಹೇಳಿಕೆಯನ್ನು ಪರಿಗಣಿಸಿ ಉಲ್ಲೇಖ (1) ರಂತೆ ದಿನಾಂಕ:05.10.2021 ರಂದು ಮತ್ತೊಂದು ಆದೇಶವನ್ನು ಹೊರಡಿಸಿರುತ್ತಾರೆ. ಸದರಿ ಆದೇಶದ ಕಂಡಿಕ (9) ರಲ್ಲಿ ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ನಿರ್ದೇಶನವನ್ನು ನೀಡಿ, ದೂರುದಾರರ ಈ ಆಪಾದನೆಗೆ ಉತ್ತರ ಸಲ್ಲಿಸುವಂತೆ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಸೂಚಿಸಿರುತ್ತಾರೆ.

ಶ್ರೀಮತಿ. ಸುಧಾ ಶಿವರಾಮೇಗೌಡರ ಆಪಾದನೆಗೆ ಕೆಳಕಂಡ ಅಂಶಗಳನ್ನು ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರ ಅವಗಾಹನೆಗೆ ಸಲ್ಲಿಸಿದೆ.

- 1) ಶ್ರೀಮತಿ. ಸುಧಾ ಶಿವರಾಮೇಗೌಡರವರಿಗೆ ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದಿಂದ ನೇರವಾಗಿ ಯಾವುದೇ ನಿವೇಶನ ಹಂಚಿಕೆಯಾಗಿರುವುದಿಲ್ಲ. ಅವರು ಖಾಸಗಿ ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದಿಂದ ಹಂಚಿಕೆಯಾದ ನಿವೇಶನಗಳನ್ನು ಖರೀದಿ ಮೂಲಕ ಅರ್ಜಿಸಿರುತ್ತಾರೆ.
- 2) ಆದರೆ, ದೂರುದಾರರು ತಮ್ಮ ನಿವೇಶನದ ಹಿಂಭಾಗದಲ್ಲಿ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಸೇರಿದ್ದ ಜಾಗವನ್ನು ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡು ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮಾಡಿರುತ್ತಾರೆ.
- 3) ಬನಶಂಕರಿ 3ನೇ ಹಂತ 4ನೇ ಫೇಸ್ 7ನೇ ಬ್ಲಾಕ್ ಬಡಾವಣೆಯಲ್ಲಿರುವ ಪ್ರಾಧಿಕಾರದಿಂದ ಹಂಚಿಕೆಯಾದ ನಿವೇಶನ ಸಂಖ್ಯೆ:179 ರಿಂದ 190/ಬಿ ರ ನಡುವೆ ಇದ್ದ ಅಂಚಿನ ಜಾಗವನ್ನು ಪ್ರಾಧಿಕಾರದ ಹಂಚಿಕೆದಾರರಿಗೂ ಮತ್ತು ಭವಾನಿ



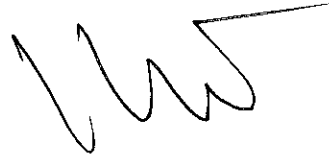
ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದಿಂದ ಹಂಚಿಕೆ ಮಾಡಿದ್ದ ನಿವೇಶನ ಸಂಖ್ಯೆ 40 ರಿಂದ 59 ರ ಮಧ್ಯದಲ್ಲಿ ಲಭ್ಯವಿದ್ದ ಪ್ರಾಧಿಕಾರದ ಅಂಚಿನ ಜಾಗವನ್ನು ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದ ಹಂಚಿಕೆದಾರರಿಗೂ ಹಂಚಿಕೆ ಮಾಡುವ ಬಗ್ಗೆ ಸರ್ಕಾರದಿಂದ ದಿನಾಂಕ:02.09.2002 ರಂದು ನಿರ್ದೇಶನ ಬಂದಿರುತ್ತದೆ. (ಪತ್ರದ ಪ್ರತಿಯನ್ನು ಅನುಬಂಧ-1 ಎಂದು ಲಗತ್ತಿಸಿದೆ).

- 4) ಸರ್ಕಾರದ ನಿರ್ದೇಶನದಂತೆ ಅಂಚಿನ ಜಾಗವನ್ನು ಮಂಜೂರು ಮಾಡುವ ಬಗ್ಗೆ ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ದಿನಾಂಕ:16.05.2006 ರ ಸಭೆಯಲ್ಲಿ ವಿಷಯ ಮಂಡಿಸಿ, ವಿಷಯ ಸಂಖ್ಯೆ:71/2006 ರಂತೆ ನಿರ್ಣಯ ಕೈಗೊಳ್ಳಲಾಗಿರುತ್ತದೆ. ಸದರಿ ನಿರ್ಣಯದಂತೆ ಪ್ರಾಧಿಕಾರದ ಹಂಚಿಕೆದಾರರಿಗೆ ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಹಂಚಿಕೆ ದರದ 1 ½ ಪಟ್ಟು ದರವನ್ನು ವಿಧಿಸಿ ಅಂಚಿನ ಜಾಗವನ್ನು ಹಂಚಿಕೆ ಮಾಡಲು ತೀರ್ಮಾನಿಸಲಾಗಿರುತ್ತದೆ. (ಸದರಿ ತೀರ್ಮಾನದ ಪ್ರತಿಯನ್ನು ಅನುಬಂಧ-2 ಎಂದು ಲಗತ್ತಿಸಿದೆ)
- 5) ದೂರುದಾರರು ತಮ್ಮ ಆಕ್ಷೇಪಣೆಯಲ್ಲಿ ಉಲ್ಲೇಖಿಸಿರುವ ಶ್ರೀ.ಕೆಂಪಯ್ಯ ರವರಿಗೆ ಪ್ರಾಧಿಕಾರದಿಂದ ನಿವೇಶನ ಸಂಖ್ಯೆ 180 ಅನ್ನು ದಿನಾಂಕ:28.10.1986 ರಲ್ಲಿ ಹಂಚಿಕೆ ಮಾಡಲಾಗಿದ್ದು, ದಿನಾಂಕ:07.11.1987 ರಲ್ಲಿ ಗುತ್ತಿಗೆ ಮತ್ತು ಮಾರಾಟ ಒಪ್ಪಂದ ಪತ್ರವನ್ನು ನೋಂದಾಯಿಸಿ ದಿನಾಂಕ:11.12.1987 ರಂದು ಸ್ವಾಧೀನ ಪತ್ರವನ್ನು ನೀಡಲಾಗಿರುತ್ತದೆ. ಮಾನ್ಯ ಅಧ್ಯಕ್ಷರ ಆದೇಶ ಸಂಖ್ಯೆ:F.221 ದಿನಾಂಕ:08.01.2002 ರ ಆದೇಶದಂತೆ ಚಾಲ್ತಿ ಹಂಚಿಕೆ ದರದ 1 ½ ಪಟ್ಟು ದರವನ್ನು ಅಂದರೆ ಪ್ರತಿ ಚದರ ಮೀಟರ್ ಗೆ ರೂ. 2385/- ಮತ್ತು ದಂಡ ಚದರ ಮೀ ಗೆ ರೂ. 100/- ರಂತೆ ವಿಧಿಸಿ ಅಂಚಿನ ಜಾಗವನ್ನು ಹಂಚಿಕೆ ಮಾಡಲಾಗಿರುತ್ತದೆ. ದಿನಾಂಕ:24.01.2005 ರಲ್ಲಿ ಶುದ್ಧಕ್ರಯಪತ್ರವನ್ನು ನೀಡಲಾಗಿದೆ. (ಸದರಿಯವರಿಗೆ ನೀಡಲಾದ ಹಂಚಿಕೆ ಪತ್ರದ ಪ್ರತಿ, ನೋಂದಾಯಿಸಲಾದ LCSA ಪ್ರತಿಯನ್ನು ಲಗತ್ತಿಸಿ ಕ್ರಮವಾಗಿ ಅನುಬಂಧ-3 ಮತ್ತು 4 ಎಂದು ಗುರುತಿಸಿದೆ)
- 6) ಮೇಲ್ಕಂಡ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ತೀರ್ಮಾನದಂತೆ ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದಿಂದ ಹಂಚಿಕೆ ಮಾಡಲಾದ ಹಂಚಿಕೆದಾರರಿಗೆ ಸರ್ಕಾರವು ನಿರ್ಧರಿಸಿರುವ ಮಾರುಕಟ್ಟೆ ದರವನ್ನು ವಿಧಿಸಿ ಅಂಚಿನ ಜಾಗವನ್ನು ಮಂಜೂರು ಮಾಡಲು ತೀರ್ಮಾನಿಸಲಾಗಿರುತ್ತದೆ.
- 7) ದೂರುದಾರರಾದ ಶ್ರೀಮತಿ. ಸುಧಾ ಶಿವರಾಮೇಗೌಡರವರಿಗೆ ಖಾಸಗೀ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದಿಂದ ನಿವೇಶನ ಹಂಚಿಕೆಯಾಗಿರುವುದರಿಂದ, ಅವರಿಗೆ ವಿಧಿಸಿರುವ ದರವನ್ನು ಪ್ರಾಧಿಕಾರದ ಹಂಚಿಕೆದಾರರ ದರಕ್ಕೆ ಹೋಲಿಸುವುದು ಸೂಕ್ತವಾಗಿರುವುದಿಲ್ಲ.

- 8) ಅಲ್ಲದೇ, ದೂರುದಾರರು ಪ್ರಾಧಿಕಾರದ ಸ್ವತ್ತನ್ನು ಮಂಜೂರಾತಿ ಇಲ್ಲದೇ ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡು ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮಾಡಿದ್ದರಿಂದ, ಅವರಿಗೆ ಮಾರುಕಟ್ಟೆ ದರವನ್ನು ವಿಧಿಸಲಾಗಿರುತ್ತದೆ. ಅದರಂತೆ ಇವರಿಗೆ ದಿನಾಂಕ:08.08.2007 ರಂದು ಅಂಚಿನ ಜಾಗದ ದರ ರೂ. 2300/- (ಪ್ರತಿ ಚದರ ಅಡಿ) ರಂತೆ 1036.60 ಚ.ಅಡಿಗೆ ಒಟ್ಟು ರೂ. 23,84,180/- ಮತ್ತು ದಂಡ ರೂ.103660/- ಒಟ್ಟು ರೂ. 24,87,840/- ಗಳನ್ನು ಪಾವತಿಸಲು ಸೂಚಿಸಲಾಗಿತ್ತು. (ಈ ಸೂಚನಾ ಪ್ರತಿಯನ್ನು ಲಗತ್ತಿಸಿ **ಅನುಬಂಧ-5** ಎಂದು ಲಗತ್ತಿಸಿದೆ)
- 9) ಮೇಲ್ಕಂಡ ಸೂಚನಾ ಪತ್ರದಂತೆ ದೂರುದಾರರಾದ ಶ್ರೀಮತಿ.ಸುಧಾ ಶಿವರಾಮೇಗೌಡ ರವರು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಪೂರ್ಣ ಮೌಲ್ಯವನ್ನು ಪಾವತಿಸಿರುವುದಿಲ್ಲ. ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರ ಉಲ್ಲೇಖ(4) ರ ಆದೇಶದಂತೆ ಒತ್ತುವರಿ ಮಾಡಿದ್ದ ಪ್ರಾಧಿಕಾರದ ಸ್ವತ್ತನ್ನು ತೆರವುಗೊಳಿಸಲು ಮುಂದಾದ ಸಂದರ್ಭದಲ್ಲಿ ಸದರಿಯವರಿಗೆ ದಿನಾಂಕ:04.10.2019 ರಂದು ಮತ್ತೊಂದು ಅಂತಿಮ ನೋಟೀಸ್ ಅನ್ನು ನೀಡಲಾಗಿರುತ್ತದೆ. ಸದರಿ ನೋಟೀಸ್ ನಲ್ಲಿ ಈ ಹಿಂದೆ ಪಾವತಿಸಬೇಕಾದ ಒಟ್ಟು ರೂ. 24,87,840/- ಗಳನ್ನು ಪಾವತಿಸದೇ ಇದ್ದುದರಿಂದ, ವಿಳಂಬಕ್ಕೆ ಬಡ್ಡಿ ರೂ.55,08,828/- ಸೇರಿಸಿ, ಒಟ್ಟು ರೂ.79,96,668/- ಗಳನ್ನು ಪಾವತಿಸಲು ಸೂಚಿಸಲಾಗಿತ್ತು. (ಸದರಿ ಪ್ರತಿಯನ್ನು ಲಗತ್ತಿಸಿ **ಅನುಬಂಧ-6** ಎಂದು ಲಗತ್ತಿಸಿದೆ)
- 10) ದೂರುದಾರರು ಇದುವರೆವಿಗೂ ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿದ ಮೌಲ್ಯವನ್ನು ಪಾವತಿಸಿರುವುದಿಲ್ಲ.

ಮೇಲ್ಕಂಡ ಎಲ್ಲಾ ಅಂಶಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಈ ಪ್ರಕರಣದಲ್ಲಿ ಪ್ರಾಧಿಕಾರವು ತೆಗೆದುಕೊಂಡಿರುವ ನಿರ್ಣಯದಂತೆ ದೂರುದಾರರು ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡು ಅಕ್ರಮವಾಗಿ ಕಟ್ಟಡ ನಿರ್ಮಾಣ ಮಾಡಿಕೊಂಡಿರುವ ಪ್ರಾಧಿಕಾರದ ಸ್ವತ್ತಿಗೆ ಪ್ರಾಧಿಕಾರವು ವಿಧಿಸಿರುವ ದರವು ಕ್ರಮಬದ್ಧವಾಗಿರುತ್ತದೆ ಎಂಬ ಅಂಶವನ್ನು ಮಾನ್ಯರ ಅವಗಾಹನೆಗೆ ಸಲ್ಲಿಸಿದೆ.

ಆಯುಕ್ತರು,
ಬೆಂ.ಅ.ಪ್ರಾ.
ಬೆಂಗಳೂರು."





“ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ

ಕುಮಾರಪಾರ್ಕ ಪಶ್ಚಿಮ ಬಡಾವಣೆ, ಟಿ.ಚೌಡಯ್ಯ ರಸ್ತೆ, ಬೆಂಗಳೂರು-560 020

ಬೆಂಅಪ್ರಾ/ಉಕಾ-2/ಬನಶಂಕರಿ/ /2021-22

ಆಯುಕ್ತರವರ ಕಛೇರಿ
ಬೆಂ.ಅ.ಪ್ರಾ, ಬೆಂಗಳೂರು.
ದಿನಾಂಕ:30/11/2021

ಅಪರ ನಿಬಂಧಕರು, (ವಿಚಾರಣೆಗಳು-02),
ಕರ್ನಾಟಕ ಲೋಕಾಯುಕ್ತರ,
ಬಹುಮಹಡಿ ಕಟ್ಟಡ,
ಡಾ|| ಬಿ.ಆರ್.ಅಂಬೇಡ್ಕರ್ ವೀಧಿ,
ಬೆಂಗಳೂರು-560 001.

ಮಾನ್ಯರೆ,

ವಿಷಯ:- ದೂರಿನ ಸಂಖ್ಯೆ:LOK/BCD-543/2015/ARE-2 ರಲ್ಲಿ
ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರ ದಿನಾಂಕ:12/11/2021 ರ ಆದೇಶಕ್ಕೆ
ಅನುಪಾಲನ ವರದಿ ಸಲ್ಲಿಸುವ ಬಗ್ಗೆ.

ಉಲ್ಲೇಖ:- 1. ತಮ್ಮ ಕಛೇರಿಯ ಪತ್ರ ಸಂಖ್ಯೆ:COMPT/LOK/BCD-
543/2015/ARE-2 ದಿನಾಂಕ:12/11/2021
2. ಈ ಕಛೇರಿ ಪತ್ರದ ಸಂಖ್ಯೆ:ಬೆಂಅಪ್ರಾ/ಉಕಾ-
2/ಬನಶಂಕರಿ/95/2021-22 ದಿನಾಂಕ:08/11/2021

ಮೇಲ್ಕಂಡ ವಿಷಯ ಹಾಗೂ ಉಲ್ಲೇಖದ ದೂರಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ದಿನಾಂಕ:12/11/2021 ರ ಮಾನ್ಯ
ಲೋಕಾಯುಕ್ತರ ಆದೇಶದಂತೆ ಖಾಸಗಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘಗಳಿಂದ ನಿರ್ಮಾಣವಾದ ಬಡಾವಣೆಗಳಲ್ಲಿ
ಹಾಗೂ ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದಿಂದ ನಿರ್ಮಾಣವಾದ ಬಡಾವಣೆಗಳಲ್ಲಿನ ಅಂಚಿನ ಜಾಗ
ಮಂಜೂರಾತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಇರುವ ನಿಯಮ ಮತ್ತು ಮಾರ್ಗ ಸೂಚಿಗಳನ್ನು ಸಲ್ಲಿಸಲು ಉಲ್ಲೇಖ (1)ರ
ಪತ್ರದಲ್ಲಿ ಸೂಚಿಸಲಾಗಿರುತ್ತದೆ.

ಅದರಂತೆ ಪರಿಶೀಲಿಸಲಾಗಿ, ಪ್ರಾಧಿಕಾರದಿಂದ ನಿರ್ಮಾಣವಾದ ಅಥವಾ ಖಾಸಗಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘಗಳಿಂದ ರಚಿಸಲಾದ ಬಡಾವಣೆಗಳಲ್ಲಿನ ಅಂಚಿನ ಜಾಗಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ನಿರ್ದಿಷ್ಟವಾದ ನಿಯಮಗಳು ಇರುವುದಿಲ್ಲ. ಆದರೆ BDA (Disposal of Corner Sites & Commercial Sites) Rules 1984 ರ ನಿಯಮ 5 ಮತ್ತು ಕಾಲ ಕಾಲಕ್ಕೆ ಆಯುಕ್ತರು ಹೊರಡಿಸಿರುವ ಸುತ್ತೋಲೆ, ಆದೇಶ ಹಾಗೂ ಕೆಲವು ನಿರ್ದಿಷ್ಟ ಪ್ರಕರಣಗಳಲ್ಲಿ ಪ್ರಾಧಿಕಾರವು ಸಭೆಯಲ್ಲಿ, ತೆಗೆದುಕೊಂಡ ತೀರ್ಮಾನಗಳನ್ನು ಆಧಾರವಾಗಿಟ್ಟುಕೊಂಡು ಅಂಚಿನ ಜಾಗವನ್ನು ಮಂಜೂರು ಮಾಡಲಾಗುತ್ತಿದೆ.

ಅಂಚಿನ ಜಾಗ ಮಂಜೂರಾತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಕೆಳಕಂಡ ದಾಖಲಾತಿ ಪ್ರತಿಗಳನ್ನು ಮಾನ್ಯ ಲೋಕಾಯುಕ್ತರ ಅವಗಾಹನೆಗೆ ಸಲ್ಲಿಸಿದೆ.

ಕ್ರಮ ಸಂಖ್ಯೆ	ವಿವರ
1	BDA (Disposal of Corner Sites & Commercial Sites) Rules 1984 ರ ನಿಯಮ 5
2	ಮಾನ್ಯ ಸರ್ಕಾರದ ಅಪರ ಮುಖ್ಯ ಕಾರ್ಯದರ್ಶಿಗಳು, ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ ರವರ ಟಿಪ್ಪಣಿ ಸಂಖ್ಯೆ:UDD/ACS/31/2020 ದಿನಾಂಕ:05/03/2020
3	ಆಯುಕ್ತರು ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ರವರ ಆದೇಶ ಸಂಖ್ಯೆ:ಬಿಡಿಎ/ಆಯುಕ್ತರು/ಆಸ/ಅಂಚಿನ ಜಾಗ/111/2012-13 ದಿನಾಂಕ:31/05/2012
4	ಆಯುಕ್ತರು ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ರವರ ಕಛೇರಿ ಆದೇಶ ಸಂಖ್ಯೆ:ಬೆಂಆಪ್ರಾ/ಆಯುಕ್ತರು/ಆಸ/411/2009-10 ದಿನಾಂಕ:27/10/2009
5	ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯ ಸಂಖ್ಯೆ:116/09 ದಿನಾಂಕ:08/05/2009
6	ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯ ಸಂಖ್ಯೆ:20/07 ದಿನಾಂಕ:28/02/2007
7	ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯ ಸಂಖ್ಯೆ:123/06 ದಿನಾಂಕ:16/09/2006
8	ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯ ಸಂಖ್ಯೆ: 71/06 ದಿನಾಂಕ:16/05/2006
9	ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯ ಸಂಖ್ಯೆ: 135/2005

	ದಿನಾಂಕ:18/10/2005
10	ಸರ್ಕಾರದ ಪತ್ರ ಸಂಖ್ಯೆ:ನಅಇ/279/ಬೆಂಆಸೆ/2002 ದಿನಾಂಕ:02/09/2002
11	ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯ ಸಂಖ್ಯೆ: 45/01 ದಿನಾಂಕ:23/03/2001
12	ಮಾನ್ಯ ಆಯುಕ್ತರ ಸುತ್ತೋಲೆ ಸಂಖ್ಯೆ:BDA/Commr/311/97-98 ದಿನಾಂಕ:25/03/1999
13	ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯ ಸಂಖ್ಯೆ: 23/97 ದಿನಾಂಕ:18/01/1997
14	ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯ ಸಂಖ್ಯೆ: 249/96 ದಿನಾಂಕ:11/12/1996 & 13/12/1996
15	ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ನಿರ್ಣಯ ಸಂಖ್ಯೆ: 21/96 ದಿನಾಂಕ:13/02/1996

ಅಡಕ: ಮೇಲ್ಕಾಣಿಸಿದಂತೆ

ತಮ್ಮ ವಿಶ್ವಾಸಿ

ಕಾರ್ಯದರ್ಶಿ

ಬೆಂಆಪ್ರಾ, ಬೆಂಗಳೂರು."

6) In substance, it is the contention of the BDA that the BDA has fixed the market rate of the marginal land allotted to the second respondent in the light of the Government Order dated 02.09.2002. In this connection it is brought to my notice the Government Order dated 02.09.2002 and a resolution dated 16.05.2006 passed by the BDA. It is useful to extract the

relevant portion of the Government Order dated 02.09.2002

which reads as hereunder –

“ವಿಷಯ: ಭವಾನಿ ಸೊಸೈಟಿ ಸಂಘದ ಹಂಚಿಕೆದಾರರುಗಳಿಗೆ ಹಂಚಿಕೆಯಾದ ನಿವೇಶನಗಳ ಹಿಂಬದಿಯಲ್ಲಿ ಖಾಲಿ ಇರುವ 20 ಅಡಿ ಜಾಗವನ್ನು ಒಂದೇ ಬದಿಯಲ್ಲಿರುವವರಿಗೆ ಮಂಜೂರು ಮಾಡಿರುವುದನ್ನು ರದ್ದು ಮಾಡಿ ಎರಡು ಬದಿಯವರಿಗೆ ಸಮನಾಗಿ ಹಂಚಿಕೆ ಮಾಡುವ ಬಗ್ಗೆ.

ಉಲ್ಲೇಖ: ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಯವರು ಪ್ರಧಾನ ಕಾರ್ಯಗಳಿಗೆ ಬರೆದ ಪತ್ರದ ಸಂಖ್ಯೆ: ಬೆಂಪ್ರಾ:ಆಯುಕ್ತರು:ಉಕಾ-2:224:2002-03.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಉಲ್ಲೇಖಿತ ಪತ್ರದಲ್ಲಿ ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಯವರಿಗೆ ನೀಡಲಾಗಿದ್ದ ವರದಿಯನ್ನು ಸರ್ಕಾರ ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿದೆ. ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ಕಾಯ್ದೆ 1976 ಕಲಂ 38ರನ್ವಯ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಸೇರಿದ ಯಾವುದೇ ಚರ ಮತ್ತು ಸ್ಥಿರಾಸ್ತಿಯನ್ನು ಗುತ್ತಿಗೆಗೆ ಮಾರಾಟಕ್ಕೆ ಅಥವಾ ವರ್ಗಾವಣೆ ಮಾಡಲು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಅಧಿಕಾರವಿದೆ.

ಮೇಲಿನ ಈ ಆಸ್ಪದದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಬಡಾವಣೆ ಮತ್ತು ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದ ಬಡಾವಣೆ ಈ ಮಧ್ಯದಲ್ಲಿರುವ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಸೇರಿದ 20 ಅಡಿ ಜಾಗವನ್ನು ಸಮನಾಗಿ ಎರಡೂ ಕಡೆಯ ನಿವೇಶನ ಹಂಚಿಕೆದಾರರಿಗೆ ಪ್ರಾಧಿಕಾರ ನಿಗದಿಪಡಿಸುವ ಮಾರುಕಟ್ಟೆ ಬೆಲೆಗೆ ಹಂಚಿಕೆ ಮಾಡುವಂತೆ ತಿಳಿಸಲು ನಾನು ನಿರ್ದೇಶಿಸಲಾಗಿದ್ದೇನೆ.

ತಮ್ಮ ನಂಬುಗೆಯ,

ಸಹಿ

(ಎಚ್.ಆರ್. ನಾಗೇಂದ್ರ)

ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,

ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ.”

(ii) Resolution dated:16.05.2006 which reads as under:

“ವಿಷಯ: ಸಂಖ್ಯೆ:71/06 ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ನಿವೇಶನ ಸಂಖ್ಯೆ: 40/ಎ, 42, 42/ಎ, 43 ಮತ್ತು 43/ಎ ರ ಹಂಚಿಕೆದಾರರುಗಳಿಗೆ, ನಿವೇಶನಗಳ ಹಿಂಭಾಗದಲ್ಲಿರುವ ಹೆಚ್ಚುವರಿ ಜಾಗವನ್ನು ಅಂಚಿನ ಜಾಗವನ್ನಾಗಿ ಹಂಚಿಕೆ ಮಾಡುವ ಬಗ್ಗೆ.

ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ಮುಂದೆ ಮಂಡಿಸಲಾದ ಟಿಪ್ಪಣಿಯನ್ನು ಪರಿಶೀಲಿಸಲಾಯಿತು. ಚರ್ಚೆಯ ನಂತರ, ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರವು ಬನಶಂಕರಿ 3ನೇ ಹಂತ 4ನೇ ಫೇಸ್ 7ನೇ ಬ್ಲಾಕ್ ಬಡಾವಣೆಯಲ್ಲಿ ಹಂಚಿಕೆ ಮಾಡಿರುವ ನಿವೇಶನ ಸಂಖ್ಯೆ:179 ರಿಂದ 190ಬಿ ಮತ್ತು ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದ ವತಿಯಿಂದ ಹಂಚಿಕೆ ಮಾಡಿರುವ ನಿವೇಶನ ಸಂಖ್ಯೆ:40ರಿಂದ 59ರ

ಮಧ್ಯದಲ್ಲಿ ಲಭ್ಯವಿರುವ ಅಂಚಿನ ಜಾಗವನ್ನು ಪ್ರಾಧಿಕಾರದ ಹಂಚಿಕೆದಾರರಿಗೂ ಮತ್ತು ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದ ಹಂಚಿಕೆದಾರರಿಗೂ ಸಮನಾಗಿ ಹಂಚಿಕೆ ಮಾಡಲು ನಿರ್ಣಯಿಸಲಾಯಿತು.

ಪ್ರಾಧಿಕಾರದ ಹಂಚಿಕೆದಾರರಿಗೆ ಚಾಲ್ತಿಯಲ್ಲಿರುವ ಹಂಚಿಕೆ ದರದ ಒಂದೂವರೆ ಪಟ್ಟು ದರವನ್ನು ವಿಧಿಸಿ ಅಂಚಿನ ಜಾಗವನ್ನು ಹಂಚಿಕೆ ಮಾಡಲು ತೀರ್ಮಾನಿಸಲಾಯಿತು. ಹಾಗೂ ಈಗಾಗಲೇ ಅಂಚಿನ ಜಾಗವನ್ನು ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡಿರುವ ಪ್ರಕರಣಗಳಲ್ಲಿ ದಿನಾಂಕ:18.10.2005ರ ಪ್ರಾಧಿಕಾರದ ಸಭೆಯ ವಿಷಯ ಸಂಖ್ಯೆ. 135/05 ರಲ್ಲಿನ ತೀರ್ಮಾನದಂತೆ ಮಾರುಕಟ್ಟೆ ದರವನ್ನು ಸಹಾ ವಿಧಿಸಲು ತೀರ್ಮಾನಿಸಲಾಯಿತು.

ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದ ವತಿಯಿಂದ ಹಂಚಿಕೆ ಮಾಡಿರುವ ಹಂಚಿಕೆದಾರರುಗಳಿಗೆ ಸರ್ಕಾರವು ನಿರ್ಧರಿಸುವ ದರವನ್ನು ಅಂಚಿನ ಜಾಗಕ್ಕೆ ವಿಧಿಸಲು ತೀರ್ಮಾನಿಸಲಾಯಿತು.

(ಕ್ರಮ: ಕಾರ್ಯದರ್ಶಿ)

ಸಹಿ

ಅಧ್ಯಕ್ಷರು

ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ, ಬೆಂಗಳೂರು.”

7) The BDA resolution dated 16-05-2006 extracted above clearly indicates that the price of Rs.2,385/- per sq.mtr. was fixed not only to said Sri Kempaiah but to all the other allottees of the BDA who are located in the same row. The only difference between them and the second respondent is that the second respondent is the owner of the land located adjacent to the marginal land located on the eastern portion of the BDA layout.

8) Sri D.C.Deepak, Advocate appearing for the second respondent submitted that in an identical circumstances since one Sri Kempaiah was allotted marginal land located in between the sites purchased by the second respondent from M/s.Bhavani Housing Society Ltd., and the site allotted by the BDA to Sri Kempaiah at the rate of Rs.2,385/- per Sq. Mtr. it was not permissible for the BDA to demand a sum of Rs.2,300/- per Sq. ft. as it has been done in the notice dated 3.8.2007 from the second respondent. Further, he pointed out that a sum of Rs.2,39,105/- calculated at the rate of value fixed to Sri Kempaiah was deposited by the second respondent by means of a demand draft dated 07.09.2015 before the BDA. It is also his submission that the order dated 11.06.2015 passed by the then Lokayukta directing the demolition of the building located on the marginal land is totally unsustainable and void in law as the said order came to be passed without hearing the second respondent, though the first respondent who was made as a party to the proceedings, has made a statement before the



Hon'ble Lokayukta that he has no right over the site in question and the second respondent was the owner of the property. He also pointed out that since the said order also came to be passed without either impleading the BDA or the second respondent as a party to the proceeding or issuing notice to the BDA and hearing the BDA, the said order is required to be recalled. He further contended that Rule 5 of BDA disposal of corner sites Rules -1984, provides for allotment of marginal land. Since the marginal land allotted to the second respondent was less than $1/3^{\text{rd}}$ of the site belonging to her, the BDA was required to fix a fair rate at a reasonable price and in this case, since the price at Rs.2,385/- per Sq. mtr. has been fixed in respect of the marginal land allotted to Sri Kempaiah, the same rate is required to be fixed. According to him, it is not permissible for the BDA to fix different price; and in the instant case in respect of the marginal land allotted to Sri Kempaiah has been fixed at Rs.2,385/- per Sq. mtr., the said rate is



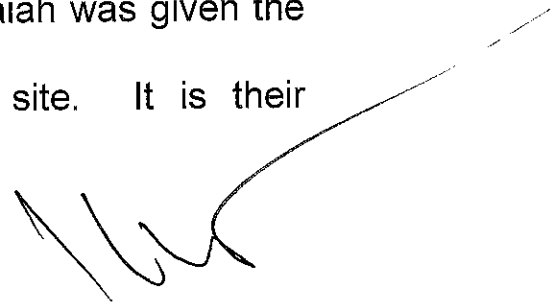
required to be considered as a reasonable price in terms of Rule-5 of BDA Disposal of Corner site Rules – 1984.

9) Elaborating the submission, he pointed out that, it is not permissible for the BDA which is an authority and instrumentality of the State to fix different rates for allotment of marginal lands on identical circumstances, especially in the same proceedings. He pointed out that in the proceedings dated 16.5.2006, different rates were fixed in respect of the marginal lands allotted to Sri Kempaiah and to the second respondent. The said action of the BDA was highly arbitrary, unreasonable, and discriminatory in nature and violation of the right to equality guaranteed to the petitioner. He also drew my attention to the Government Order dated 02.09.2002, wherein Government has categorically stated that the marginal land is required to be allotted between the two adjacent site owners and at the same price to be fixed. Therefore, for all these reasons, the Learned Counsel submits that the order dated: 11.06.2015 passed by the then Hon'ble Lokayukta may be



recalled and BDA may be directed to affirm the allotment made in favour of the second respondent by accepting a sum of Rs. 2,39,105/- paid by means of a demand draft No.905372 dated 07.09.2015 drawn on the Allahabad Bank Branch as proper and valid payment towards the value of the site allotted.

10) However, the Secretary and the Deputy Secretary appearing on behalf of the BDA strongly countered the submission made by the counsel for the second respondent. They pointed out that the BDA by means of its resolution dated 16.05.2006 has determined the allotment price of the marginal site allotted to the second respondent at Rs.2385/- per Sq.mtr. as the Government in its communication dated 02.09.2002 has authorized the BDA to fix the price keeping in mind the market rate. According to them, the second respondent was the owner of the site adjacent to the marginal land had purchased the same from the original allottee i.e., M/s.Bhavani Housing Co-operative Society and the said Sri Kempaiah was given the marginal land being allottee of the BDA site. It is their



submission that the second respondent belongs to a different category and they are not similarly situated and therefore, it is not permissible for the second respondent to insist on fixing the allotment price on marginal land at the rate fixed for Sri Kempaiah. They also pointed out that in the light of the Government Order authorizing the BDA to fix the penalty to such of those adjacent owners of the marginal land, the penalty was also fixed. The market rate was fixed taking in to account the penalty required to be levied.

11) In the light of the rival contention urged, the questions that arises for consideration are –

(i) Whether the order dated 11.06.2015 passed by the then Hon'ble Lokayukta is required to be recalled as the said order came to be passed without hearing the second respondent who is the owner of the site adjacent to the marginal land.

(ii) Whether the BDA was justified in fixing the market value of the marginal land allotted to

the second respondent at Rs. 2300/- per sq. ft. while a sum of Rs.2,385/- per sq.mtr was fixed in respect of the marginal land allotted to Sri Kempaiah in the same resolution.

12) Regarding the first question, it is not in dispute that neither the BDA nor the State Government was made as party to this proceeding. The second respondent who is undisputedly the owner of the site located adjacent to the marginal land was also not heard, though the first respondent who was made as party to the proceeding by the complainant brought to the notice of this authority that the second respondent is the owner of the land and is required to be heard. It is well established principle of law, if any order is made in disregard of the principles of natural justice, such an order is void in law. In this connection it is useful to refer to the decision of Hon'ble Supreme Court in the case of **Nawab Khan Abbas Khan V/s State of Gujarat [AIR 1974 SC 1471]** wherein it is held as here under:-



“an order which infringed a fundamental freedom passed in violation of the audi alteram partem rule was a nullity. A determination is no determination if it is contrary to the constitutional mandate of Art.19. On this footing the extermment order was of no effect and its violation was no offence. Any order made without hearing the party affected is void and ineffectual to bind parties from the beginning if the injury is to a constitutionally guaranteed right. May be that in ordinary legislation or at common law a Tribunal having Jurisdiction and failing to hear the parties may commit an illegality which may render the proceedings voidable when a direct attack was made thereon by way of appeal, revision or review, but nullity is the consequence of unconstitutionality and so the order of an administrative authority charged with the duty of complying with natural justice in the exercise of power before restricting the fundamental right of a citizen is void ab initio and of no legal efficacy. The duty to hear menacles his jurisdictional exercise and any act is, in its inception, void except when performed in accordance with the conditions laid down in regard to hearing”.....

“Emphasis supplied”

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Therefore, in the light of the discussion made above, the order dated 11.06.2015 made by the then Lokayukta is required to be re-called and accordingly it is re-called.

13) The Government Order dated: 02.09.2002 relied upon by Sri D.C.Deepak, the learned advocate for second respondent, makes it clear that while allotting the marginal land, the same price has to be fixed while allotting the two portions to the nearby allottees. It is useful to extract the said Government Order which reads as hereunder –

“ವಿಷಯ: ಭವಾನಿ ಸೊಸೈಟಿ ಸಂಘದ ಹಂಚಿಕೆದಾರರುಗಳಿಗೆ ಹಂಚಿಕೆಯಾದ ನಿವೇಶನಗಳ ಹಿಂಬದಿಯಲ್ಲಿ ಖಾಲಿ ಇರುವ 20 ಅಡಿ ಜಾಗವನ್ನು ಒಂದೇ ಬದಿಯಲ್ಲಿರುವವರೆಗೆ ಮಂಜೂರು ಮಾಡಿರುವುದನ್ನು ರದ್ದು ಮಾಡಿ ಎರಡು ಬದಿಯವರಿಗೆ ಸಮನಾಗಿ ಹಂಚಿಕೆ ಮಾಡುವ ಬಗ್ಗೆ.

ಉಲ್ಲೇಖ: ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಯವರು ಪ್ರಧಾನ ಕಾರ್ಯಗಳಿಗೆ ಬರೆದ ಪತ್ರದ ಸಂಖ್ಯೆ: ಬೆಂಗಳೂರು:ಆಯುಕ್ತರು:ಉಕಾ-2:224:2002-03.

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ, ಉಲ್ಲೇಖಿತ ಪತ್ರದಲ್ಲಿ ಮಾನ್ಯ ಮುಖ್ಯಮಂತ್ರಿಯವರಿಗೆ ನೀಡಲಾಗಿದ್ದ ವರದಿಯನ್ನು ಸರ್ಕಾರ ಕೂಲಂಕಷವಾಗಿ ಪರಿಶೀಲಿಸಿದೆ. ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರ ಕಾಯ್ದೆ 1976 ಕಲಂ 38ರನ್ವಯ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಸೇರಿದ ಯಾವುದೇ ಚರ ಮತ್ತು ಸ್ಥಿರಾಸ್ತಿಯನ್ನು ಗುತ್ತಿಗೆ ಮಾರಾಟಕ್ಕೆ ಅಥವಾ ವರ್ಗಾವಣೆ ಮಾಡಲು ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಅಧಿಕಾರವಿದೆ.

ಮೇಲಿನ ಈ ಆಸ್ಪದದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ, ಬೆಂಗಳೂರು ಅಭಿವೃದ್ಧಿ ಪ್ರಾಧಿಕಾರದ ಬಡಾವಣೆ ಮತ್ತು ಭವಾನಿ ಗೃಹ ನಿರ್ಮಾಣ ಸಹಕಾರ ಸಂಘದ ಬಡಾವಣೆ ಈ ಮಧ್ಯದಲ್ಲಿರುವ ಪ್ರಾಧಿಕಾರಕ್ಕೆ ಸೇರಿದ 20 ಅಡಿ ಜಾಗವನ್ನು ಸಮನಾಗಿ ಎರಡೂ ಕಡೆಯ ನಿವೇಶನ ಹಂಚಿಕೆದಾರರಿಗೆ ಪ್ರಾಧಿಕಾರ ನಿಗದಿಪಡಿಸುವ ಮಾರುಕಟ್ಟೆ ಬೆಲೆಗೆ ಹಂಚಿಕೆ ಮಾಡುವಂತೆ ತಿಳಿಸಲು ನಾನು ನಿರ್ದೇಶಿಸಲಾಗಿದ್ದೇನೆ.

ತಮ್ಮ ಸಂಜುಗೆಯ,
 ಸಹಿ
 (ಎಚ್.ಆರ್. ನಾಗೇಂದ್ರ)
 ಸರ್ಕಾರದ ಅಧೀನ ಕಾರ್ಯದರ್ಶಿ,
 ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆ.”

14) In the instant case, admittedly Sri Kempaiah was allotted with the marginal land measuring 72.78 Sq.mtr. in the year 2007. When the Government in its order dated:02.09.2002 referred to above has specifically stated that the two neighboring land owners are required to be allotted the marginal land at the same price, it was not permissible for the BDA to fix different rates of allotment of marginal land one at a sum of Rs.2385/- per sq.mtr. to Sri Kempaiah and another at Rs. 2300/- per Sq.ft. to the second respondent. On the face of it, the price of the marginal land allotted to the second respondent at Rs. 2300/- sq.ft. while fixing the similar and identical marginal land allotted to the neighboring site owner which is located within few feet away from the marginal land allotted to the second respondent at Rs.2385/- per Sq.ft, appears to me is highly arbitrary, unreasonable and



discriminatory in nature and as rightly contended by the counsel for the second respondent, it is violative of the Right to equality guaranteed to the parties under Article 14 of the Constitution of India. The BDA being the instrumentality of the State, it is not permissible to take a different yard stick for the same set of facts while allotting the marginal land to neighboring site owners. Under these circumstances, I have no doubt in my mind that the price fixed at Rs. 2300/- per sq.ft. in respect of the marginal land allotted to the second respondent is liable to be set aside. The price is fixed to the value of the marginal land and not depending upon who are the allottees. On this short ground, the resolution of the BDA fixing the market price at Rs.2,300/- per sq. ft. in respect of the marginal land allotted to the second respondent is required to be declared as null and void and unenforceable in law.

15) It is not in dispute that both the sites allotted to Sri Kempaiah and the one belonging to the second respondent are in the same road facing each other with few feet distance.




The only difference is that, the site was allotted to Sri Kempaiah by BDA and the site was purchased by the second respondent, which was allotted to her predecessor by the Bhavani Housing Society. Therefore, they are similarly and identically situated. The only distinction sought to be made out by the Secretary and the Deputy Secretary of the BDA is while the site was allotted to Sri Kempaiah by the BDA, the second respondent has acquired the site from the allottee of a Housing Society. In my considered view, the said distinction is of no use to support the stand of the BDA. As noticed by me earlier, the fixation of the rate by the BDA in its resolution referred to above, runs counter to the Government Order dated 02.09.2002 extracted above. Further, the object of the allotment of marginal land/site to the adjacent site owner is that the said marginal land cannot be disposed of as an independent site. The background of the allottee is through whom he has acquired the site has no bearing to the object sought to be achieved. The object of disposal of the marginal site is to allot the same to the



neighbouring site owner at a reasonable price to be fixed, as the said site cannot be independently/separately disposed of and cannot be enjoyed by any other third party. In the instant case, a classification made on the basis of allotment made appears to me is neither reasonable nor fair. The said classification is highly arbitrary and unreasonable.

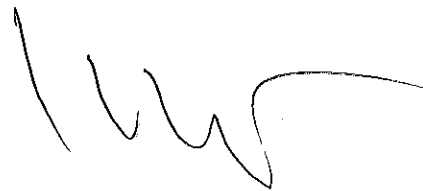
16) It is also pointed out by the BDA that, the complainant deposited a sum of Rs.2,39,105/- being the value fixed for Sri Kempaiah for payment of marginal price in the year 2007, only on 07.09.2015 by means of a demand draft. Since ~~that~~ the second respondent had the benefit of Rs.2385/- per sq.mtr from 03.08.2007 till 07.09.2015 the date of deposit made by means of a demand draft, I am of the view, it is fair and reasonable to direct the second respondent to pay interest on Rs.2,39,105/- from the date of demand made by the BDA till the date of payment @ 18% per annum. The second respondent is given



two weeks time to deposit the interest rate that may be determined by the BDA from the date of receipt of this order.

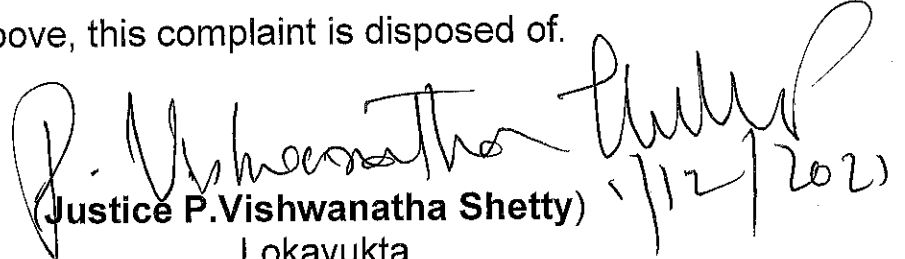
17) In the light of the discussion made above, an order is made in exercise of the powers conferred on me under Section 12(1) of the Karnataka Lokayukta Act, declaring that the fixation of the price of marginal land allotted to the second respondent at Rs.2,300/- per sq. ft. is illegal and void in law and further direction is issued to the BDA to fix the allotment price of the marginal land located adjacent to the site of the second respondent at Rs.2,385/- per sq. mtr. as has been done in the case of Sri Kempaiah referred to above.

18) Since the second respondent is given two weeks time to pay the interest as directed to be paid in terms of the observation made by me at para 16, from the date of receipt of this order and on the second respondent depositing the interest rate as directed above, the BDA is given eight weeks time to



execute the sale deed and comply with all the formalities required under law.

In terms stated above, this complaint is disposed of.


(Justice P. Vishwanatha Shetty) 1/12/2021
Lokayukta
State of Karnataka

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