

**KARNATAKA LOKAYUKTA**

Compt/Lok/BCD/3756/2014/ARE-2

M.S. Building,  
Bangalore,  
Date:29.04.2015.

**Report u/Sec. 12 (3) of Karnataka Lokayukta Act 1984**

Sub:- Complainant Sri. L.Nagarajmurthy S/o A.S.  
Laxminarayanappa aged about 64 years residing  
at No.406 Sriranga, Vialykaval, HCBS Layout,  
Vijayanagar, Bangalore-40.

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1. Complainant Sri. L. Nagarajmurthy S/o A.S. Laxminarayanappa aged about 64 years residing at No.406 Sriranga, Vialykaval, HCBS Layout, Vijayanagar, Bangalore-40. In his complaint dated 7.11.2014 against :

R-1 Sri. Channappagowda, Registrar of Co-Operative Societies

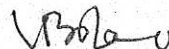
R-2 Sri. G.S. Hegde, Ex. Registrar of Co-operative Societies

R-3 Sri. Satish, Jt. Registrar of Co. Operative Societies

R-4 Sri. Sham Bhat, BDA Commissioner and

R-5 Sri. Mahadeva Prasad, Hon'ble Minister for Co-operation.

alleged that complainant became member of Vishwarathi House Building Cooperative Society(VHBCS for short), Basavanagudi Bangalore on 12.4.1972 and he was allotted site No.217 measuring 30 X 50 ft. in 4<sup>th</sup> phase of the layout formed by the said society, on 31.5.1995 and on account of realignment of sites a rectification deed was executed on 17.2.2005 by the said society mentioning the site number as 188. He further alleged that one Mudlappa and others filed W.P.18496/2007 against State, BDA, VHBCS and VHBCS Site Owners Association



and by order dated 16.11.2010 passed in the above Writ Petition and connected Writ petitions Hon'ble High Court of Karnataka directed :

- (a) **BDA to determine the amount payable by VHBCS for bulk allotment in terms of Government order dated 4.10.2007**
- (b) **VHBCS to prepare list of genuine members and the members who had applied for sites, according to seniority and submit it to BDA.**

The complainant further alleged that in mid January 2013 VHBCS furnished members list to BDA without strictly following the High Court guidelines. He also alleged that in the said list prepared and published by VHBCS his name was at Sl.No.3. Further he alleged that on 18.3.2013 the said society asked him to give written consent to take possession of site which was in unauthorized occupancy, on "as is where is" condition. He further alleged that on 15.7.2013 he submitted a representation before Hon'ble Minister for co-operation (R-5) for directing VHBCS to give him a free hold site in 4<sup>th</sup> phase, and the said representation was referred to Jt. Registrar of Co-operative Society (R-3) for doing needful. He further alleged that on 29.7.2013 VHBCS sent him a warning letter stating that legal action will be taken against him for putting pressure on the society. The complainant also alleged that on 2.8.2013 VHBCS sent letter of allotment to him in respect of site No.3137 in 4<sup>th</sup> phase Girinagar and in that site a house was already constructed by an unauthorized occupant and respondents failed to take action and Registrar of Co-operative Societies failed to submit report to the Government despite issue of 17 reminders by him.

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2. Upon approval of preliminary scrutiny note dated 12.11.2014 when comments of respondents were called, Respondents-1 to 5 furnished their comments on 10.12.2014, 9.1.2015, 11.12.2014, 6.3.2015 and 12.12.2014 respectively.
3. In his comments dated 10.12.2014, the 1<sup>st</sup> respondent who is Registrar of Cooperative societies pleaded that VHBCS is a co-operative society registered under the Karnataka Cooperative Societies Act, 1959, in the year 1979 with its area of operative within BBMP and BDA limits and the said society comes under the control and supervision of Jt. Registrar of Cooperative Societies, Bangalore. He further pleaded that on account of the acts of misconduct of former President Sri. B. Krishnappa Bhat, he was disqualified under Sec. 29(c) of the said Act and criminal cases were filed against him in CC.No.349/2011 and CC.No.172/2010 and the said criminal cases are pending. He also pleaded that an enquiry under Sec.64 of the said Act was held against said Sri. Krishna Bhat and an order was passed under Sec.68 of the Act, by Registrar of Cooperative Societies, against said Sri. Krishna Bhat and other Directors of the Managing Committee for recovery of 19.09 crores and surcharge proceedings have been initiated under Sec.69 of the Act against the above persons in JRB: surcharge:04:2012-13 and the said proceedings are still going on. He further pleaded that Order was also passed under Sec.103 of the Act, for the attachment of the immovable properties of the said persons. The 1<sup>st</sup> respondent further pleaded that the loss caused to the tune of 8 Crores by Sri. Krishna Bhat and his said associates to said society and a dispute under Sec.70 of the said Act is raised and it is registered as JRB:MD:144:2011-12 and the said dispute is still

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pending. The 1<sup>st</sup> respondent also pleaded that with regard to the illegalities committed by the said society in the matter of allotment of sites in 4<sup>th</sup> phase Girinagar W.P.18496 of 2007 and other batch of writ petitions came to be filed and the Writ petitions were all disposed off by a common order dated 16.10.2010 directing the said society to prepare the seniority list of members and the list of applicants for the sites and webhost the said list and send the same to the BDA for taking further steps and accordingly the society prepared the seniority list and also the list of the site depositors and sent them to the BDA and notified the same on its notice board. He further pleaded that one Smt. Nagamani and others challenged the propriety and legality of the said seniority list, by filing contempt cases in CCC 666/2013 (civil) connected with CCC 592-603 of 2013 and CCC 691-699 of 2013 (civil) on the ground that the said seniority list and the list of site applicants was not prepared as directed under the order dated 16.11.2010 passed in W.P 18496 of 2007 and that Hon'ble High Court dropped the contempt proceedings observing that the remedy of the petitioners is to raise dispute under Sec, 70 of the Cooperative Societies Act, before the Registrar of Cooperative Society and the questions relating to the correctness of seniority list had to be determined in the said proceedings. He also pleaded that the said Smt. A.S. Nagamani and others filed SLP (civil) 23854 of 2013 before Supreme Court and although the permission sought was granted by the Apex court, the SLP was withdrawn. He also pleaded that since the said list is prepared by the society as per the direction given by the High Court in the above mentioned writ petition the 1<sup>st</sup> respondent cannot approve it and in this regard endorsements

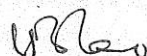
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have been issued to BDA and other complainants. With regard to site No.3137 in 4<sup>th</sup> phase the 1<sup>st</sup> respondent pleaded that said site was allotted to the complainant by VHBCS on 2.8.2013 and as per the order dated 16.11.10 passed in W.P. 18496 of 2007 the BDA has to evict the unauthorized occupant and hand over the said site no.3137 to VHBCS and thereafter the society can execute a supplementary deed in favour of the complainant and in this regard intimation has given to the complainant.

4. The complainant submitted a rejoinder to the comments of R-1 on 9.1.2014 stating that the respondents 1 and 3 have individually and collectively failed to act in accordance with law to protect the interest of senior and genuine members like the complainant and implement the government order without fear or favour. According to the complainant the 1<sup>st</sup> respondent has failed to perform his duty to examine the legality and priority of the seniority list sent by VHBCS, and he has pleaded helplessness in the matter deliberately.
5. The second respondent in his comments sent on 9.1.2015 pleaded that the complainant's sole grievance is against the Registrar of Co-op. societies for his failure to examine and determine the legality and propriety of the Seniority list sent by VHBCS, despite dispute being raised under Sec. 70 of the Co. Op. Societies Act. He further pleaded that he retired from service in February 2013 and as he can recollect he had taken all necessary action as per rules with regard to all matters pertaining to VHBCS.
6. No separate rejoinder is sent by the complainant in respect of the comments of R-2, in the light of the rejoinders submitted by in respect of comments of other respondents.

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7. The 3<sup>rd</sup> respondent in his comments sent on 11.12.2014 pleaded that as could be seen from the Audit Report of the accounts of VHBCS for the year 2005-06, 2006-07 to 2013 -14, there are in all 9,707 members in VHBCS and the said society comes under jurisdiction of R-3. VHBCS formed 452 sites in 34 acres 14 guntas of land in 1<sup>st</sup> phase, 1200 sites in 64 acres 35 guntas of land in Girinagar 2<sup>nd</sup> phase, 250 sites in 12 acres 18 guntas of land in Girinagar 3<sup>rd</sup> phase, 1335 sites in 80 acres 13guntas of land, in Girinagar 4<sup>th</sup> phase and 920 sites, in 62 acres 21 guntas of land, in Sachidananda Nagar 5<sup>th</sup> phase as revealed by the audit reports for the period 2006-07 to 2010-11 and Managing Committee headed by Sri. D. Krishna Bhat did not hand over any documents pertaining to the formation of above layouts, to the subsequent Managing Committee. As regards 4<sup>th</sup> phase, in obedience to the direction given by Hon'ble High court in W.P. 18496 of 2007 and connected matters, the present Managing Committee members collected information from the members and prepared the seniority list of members and also the list of site allottees/owners. With regard to the acts of commission and omission and other illegalities committed by the previous management committee headed by Sri. B. Krishna Bhat for the period up to 17.8.2009 on which date Mr. B. Krishna Bhat was disqualified, Inquiry under Sec. 64 of Karnataka Cooperative Societies Act was instituted against Sri. B. Krishna Bhat and on account of failure of Sri. B. Krishna Bhat to produce the documents before the enquiry authority, criminal case has been registered in Cr. No. 0172 of 2010 under Sec. 109 of the Karnataka Cooperative Societies Act, against the said B. Krishna Bhat. The Jt. Registrar of Cooperative Societies, under order



things Hon'ble High Court passed an order on 16.11.2010 in W.P. No.18496/2007 and connected matters. In obedience to directions contained in the above order of Hon'ble High Court, the BDA approved the layout plan submitted by VHBCS on 30.9.2012. VHBCS identified 124 sites in unauthorized occupancy in the said 4<sup>th</sup> phase and submitted a representation to BDA for the removal of the said encroachments/unauthorized occupations. On 1.8.2011 the BDA carried out the operation of clearance of encroachment. Still 124 encroachers /unauthorized occupants are to be cleared from the above sites. In this regard although VHBCS has addressed several letters to BDA, the BDA did not take action. Hence, contempt proceedings in CC No.578 of 2014 (civil) were initiated. In the said proceedings the BDA represented by its advocate made a statement before Hon'ble High court that it is taking steps for the clearance of the unauthorized occupants of the above sites. Acting on the said submission Hon'ble High Court passed an order on 18.6.2014 as under:

**"ORDER OF HON'BLE HIGH COURT OF KARNATAKA**

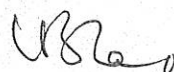
*It is submitted by the learned counsel for the accused that the action is being taken in accordance with law.*

*In view of his submission petition is closed.*

Sd/-

Judge."

8. The order of the High Court in W.P. 18496 of 2007 (LA-BDA) and other connected matters came to be passed on 16.11.2010. In Para 39 to 43 of the said order the matter relating to preparation of the seniority list of members has been dealt. VHBCS was directed to prepare seniority list of



No.JRB/Sec.64/03/2008-09 dated 23.3.2009 appointed the Asst. Registrar of Cooperative Societies-2, Bangalore Urban Dist. as Enquiry officer. The said enquiry officer has conducted the enquiry and submitted report dated 28.3.2012 against the said B. Krishna Bhat and on the basis of the said enquiry report the Jt. Registrar of Cooperative Societies passed an order on 3.5.2012 under Sec. 68 of the Act and for initiation of civil and criminal proceedings against Sri. B. Krishna Bhat and others. Surcharge proceedings are also initiated against B. Krishna Bhat and others for recovery of 19,09,54,267-66 and steps are also taken for the attachment of the properties of B. Krishna Bhat. In addition separate surcharge proceedings are initiated for recovery of 8 crores against the said Krishna Bhat and others by VHBCS and the properties of B. Krishna Bhat have been attached before judgment. As regards 4<sup>th</sup> phase out of 80 acres 13 guntas of land given by BDA to VHBCS by way of bulk allotment, an extent of 74 acres 27 guntas of land is fit for formation of layout. In remaining 5 acres 26 guntas there is Rajkaluve occupying an area of 1,03,775 sq.ft. The said bulk allotment was made as per G.O. No.UDD 267 ದೆಂಆಸೇ 2004 dated 4.10.2007 subject to the conditions that the sites formed in the said land have to be allotted to genuine members as per their seniority and that the society has to deposit the development charges determined by BDA and the sites are to be formed as per approved lay out plan. During B. Krishna Bhat regime the Managing Committee headed by him changed the layout plan pertaining to 4<sup>th</sup> phase thrice without getting them approved by BDA and proceeded to distribute those sites under the result disputes arose and the matter reached the court. In order to put an end to these

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genuine members in terms of Para 39 of the judgment. It was further directed to prepare a list of members who eligible for allotment of sites in accordance with para-40 and 41 of the judgment. Further the society was directed to publish both the list in their office, in a news paper and hand over the copies of the same to the BDA as well as to the Registrar of Cooperative societies. It was also required to open a website and host all these information on the web site for the information of members and public at large. In response to the advertisement issued through newspapers about 1900 members submitted their documents to the society and on the basis of those documents the society prepared the seniority list of members. The BDA issued intimation on 1.6.2011 to the said society to remit Rs.44,31, 58,201/- towards bulk allotment. The members of the society sent DDs directly to the BDA to the tune of 34 crores. The balance amount was made good by accepted temporary deposit from the members without interest. On 18.7.2012 the BDA directed the society to remit Rs.1,52,56,730/- for the approval of the layout plan and accordingly the said amount was remitted by the society. The society was also intimated to remit Rs.35,21,30,226/- towards stamp duty and registration fees by the department of Registration and Stamp and this amount was also paid by the society. Under sale deed dated 18.6.2012 executed in favour of society the extent of bulk allotment made was shown as 18 acres and 13 guntas. Thereafter, BDA deducted 1 acre and 12.25 guntas towards Rajkaluve and executed rectification deed in favour of the society on 22.6.2012 mentioning the extent of allotment as 79 acres 0.75 guntas and in respect of this extent BDA issued possession certificate to the society on 23.6.2012. The BDA also approved the layout plan submitted by the society 13.9.2012. As per this plan the total number of sites in 4<sup>th</sup> phase is 1335. Out of them, 124 sites are with unauthorized occupants. The management committee of the society has executed



supplemental deeds in respect of 1045 sites in the said 4<sup>th</sup> phase as on 30.11.2013. As found in the enquiry held under Sec. 64 of the cooperative Societies Act, against Sri. B.Krishna Bhat, Viswabharathi Housing Project and Viswabharathi Housing Complex which are not registered under law by any of the departments, collected Rs.51,77,38,107-30 and Rs.2,82,43,160-00, from several persons issued unauthorized receipts. Out of 9 persons who functioned as members of the Managing Committee of VHBCS from the year 2010-11 to 2014-15, 5 persons tendered their resignations citing personal reasons and on account of that the number of persons fell short of the required quorum and consequently Mr. N. Laxman (R-7). Senior Inspector of Co-Operative societies was appointed as Spl. Officer under Sec.31(1)of the Cooperative Societies Act vide order No.JRB/ಆಮಂರಾ/89/2013-14 dated 6.12.2013 passed by the Jt. Registrar of Cooperative Societies. R-7 took charge as Spl. Officer of VHBCS on 17.12.2013. The said society addressed several letters to the BDA for taking action for eviction of unauthorized occupants of certain sites in 4<sup>th</sup> phase Girinagar as per the direction issued by the Hon'ble High Court under the said order dated 16.11.2010 passed in WP 18496 of 2007 (LA-BDA) and connected matters. Since BDA did not show any response the Society issued another letter dated 10.2.2014 informing BDA that in case the said action is not taken it would amount to contempt of court and that a contempt petition will be moved before the High Court. Still the BDA did not respond thereby the Society filed CCC 578 of 2014 (Civil) before High Court. On 18.6.2014 Hon'ble High Court passed the following order:

*" this CCC is filed under Sec. 11 and 12 of the contempt of courts Act, by the complainant praying to initiate contempt proceedings against the accused for disobeying the order dated 16.11.2010 passed by this court in W.P. No.18496 of 2007 and order dated 4.9.2012 passed in W.A. 17320 – 347/2011.*

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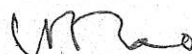
9. This CCC coming on order this day, K.L. Manjunath-J made the following:

**ORDER**

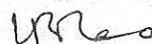
It is submitted by the learned counsel for the accused that the action is being taken in accordance with law. In view of this submission petition is closed.

Sd/-  
Judge"

10. The special officer conducted General body meeting of the said society on 21.9.2014 and in the said meeting it was unanimously resolved that subject to the order passed in W.P.18946 of 2007 on 16.11.2010, excluding supplemental deeds executed by the society in 1045 cases up to 6.12.2013, the remaining supplemental deeds can be executed by the society. In furtherance of the said resolution the society addressed a letter to the Co-operative department on 20.10.2014 seeking permission for execution of such supplementary deeds. The said letter was forwarded by the Jt. Registrar of Cooperative societies on 8.11.2014 to the Registrar of Cooperative Societies for taking action. The permission from the Registrar of Cooperative society is awaited.
11. The complainant Sri. Nagaraj murthy remitted membership fees of Rs.11/- as per receipt No.725 dated 7.7.1973. He did not become member on 12.7.1972 as claimed by him. It is not known that the complainant was allotted site No.217 in Girinagar 4<sup>th</sup> phase and sale deed was registered on 31.5.1995 and that subsequently on 17.2.2005 a rectification deed was executed mentioning the site number as 188 and this information was given by the complainant to the said society as per checklist number 586 on 30.3.2011. The responsibility of preparing seniority list of members of VHBCS is on the said society and the society



prepared the same. But one Smt. A.N. Nagamani and others raised objections to the said list and they filed contempt petitions in CCC 667 of 2013 (civil) connected with CCC Nos.592-603 of 2013 and CCC 691-693 of 2013. But the said contempt proceedings came to be dismissed on 4.6.2013 with an observation that the dispute relating to the correctness of the said seniority list is to be raised and adjudicated before the Registrar of Cooperative Societies under Sec.70 of the Act. Though the said persons filed SLP (Civil) 23854 of 2013 before Apex court the same was withdrawn. The said A.S. Nagamani and others have raised dispute under Sec.70 of the Cooperative Societies Act, before the Registrar and the said dispute is pending. The representation which was given by the complainant to R-5 was forwarded to the Jt. Registrar for taking suitable action. On going through the said representation notice was issued to the Secretary of VHBCS on 13.8.2013 to appear before the Jt. Registrar on 17.8.2013 at 3.00 p.m. along with documents. With regard to the complaint of the complainant the Secretary of the Society gave explanation on 21.8.2013. On 27.11.2013 intimation was sent to the complainant stating that suitable action will be taken after the BDA evicts the unauthorized occupants. Similar applications are also received from Sriyuths: B.S. Umamaheshwara, Nagendrakumar and others. The office of VHBCS was visited by the 3<sup>rd</sup> respondent on 17.8.2013 after prior intimation. On that day the Secretary of VHBCS submitted his representation. There is no truth in the complaint allegations. There are 93 cases pertaining to the dispute in relation with the seniority list prepared by VHBCS. Out of them 13 cases have been decided. The remaining 80 cases are pending at the stage of enquiry. Since BDA has not cleared the encroachment made in 4<sup>th</sup> phase and the complainant is not prepared to accept the allotment of site number 3137 in 4<sup>th</sup> phase in "as is where condition is" and as is varies basis condition. The supplemental deed could not executed in his favour. According to the

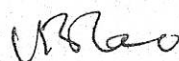


order dated 16.11.2010 passed in the above writ petitions, it is only after being satisfied that the sites have been allotted to genuine members as per seniority, the BDA/BBMP shall make out khatha in their respective name and BDA/BBMP shall sanction the plan. There is no direction given to the Jt. Registrar in the matter of approval of seniority list. One H. Srinivas who is cited as witness in the complaint of Sri. L. Nagarajmurthy, had filed W.P. 47730 of 2014 for a writ of mandamus against the Registrar of Cooperative Societies, to verify the seniority list executed by the VHBCS and take appropriate action in case there are any omissions and errors in the list and approve the same within a period of six weeks as provided under Sec.30(b) of Cooperative Societies Act and to ensure that the said society allots the sites to the senior, eligible and genuine members in the approved seniority list only and to declare the allotment made by the society based on the seniority list which was rigged and forged by the society and which was not verified and approved by the Registrar of Cooperative Societies, as null and void. The said W.P. came to be dismissed on 5.12.2014. The responsibility of approving the seniority list of members in relation to Girinagar 4<sup>th</sup> phase is that of Respondent No.1 only. The 3<sup>rd</sup> respondent cannot interfere in the said matter.

12. The complainant submitted rejoinder to the comments of 3<sup>rd</sup> respondent on 12.1.2015 stating that he was not aware that the Secretary of VHBCS and the special officer of the said society could made as respondent in the present complaint and thereby he had not included their names. He sought to include the names of Mr. Vadiraj, Secretary of VHBCS and Mr. N. Lakshmana, Spl. Officer appointed for VHBCS, as additional respondent No.6 and 7 on the allegation that the said Vadiraj did not follow the guide lines given by the Hon'ble High court in the above writ petitions, while preparing the seniority list; that he allowed construction of unauthorized building in the layout in contravention of the said judgment;

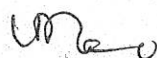
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that he failed to get approval by the Registrar of Cooperative Society for the seniority list before allotment and registration of site as per Government order No.CO/105/CLM/2010 dated 20.11.2010; that he deliberately delayed in publication of seniority list; that even though complainant is senior most member and should have been put in possession of free hold site, the Secretary has failed to allot such free hold site to the complainant; that the said Secretary has executed and registered supplementary deeds in favour of hundreds of persons in the month of November 2012 itself without ascertaining whether those persons are genuine and senior members eligible for allotment; that he has acted arbitrarily with a view to cheat genuine and senior members and to gain pecuniary benefits by giving away valuable sites to unauthorized persons; that he connived with the Spl. Officer and got allotted site No.3137 to one Sri. Nagarajgowda also for illegal benefit, although the said Nagarajgowda has sought site No.3376 in 4<sup>th</sup> phase; that he has executed number of supplemental deeds in favour of individuals with the benefit of multiple sites in contravention of rules and High Court orders; that he has given away five sites to the family members of Smt. Vijayalaxmi Director of the society and 3 sites to family members of Bairayya another Director of the said society; that he has caused financial loss to the said society by registering the sites double the size in favour of Smt. Nalina and Sri. K. Divakar without any consideration and committed an unbecoming of a public servant. The said Divakar was legal advisor to the then Chief Minister Sri. Yediruppa during BJP rule; that he has constantly failed to appear before the adjudicator to show that the society has complied with the orders of the High court; that he is involved in several illegal activities by handling unaccounted money. The complainant has also mentioned that the said Lakshmana Sr. Inspector of Cooperative Societies had been appointed as Spl. officer for VHBCS and he should have



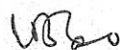
ensured the compliance with statutory requirements of rules and regulations and also the High Court order but he has failed to do so. The complainant also mentioned that the said Laxmana by misusing his powers issued a full page advertisement in Prajavani on 12.2.2014 allotting multiple sites to individual for pecuniary benefit in contravention of rules and various High Court orders and the expenditure incurred for such advertisement should be recovered from his salary besides initiating disciplinary proceedings against him for abuse of power and authority for financial benefit. He further mentioned that the said Laxman conducted General body on 29.1.2014 by devious means and managed to obtain the consent for seeking permission of R-1 for registration of remaining sites in the layout by writing letter on 20.10.2014 to the Jt. Registrar and in order to facilitate this process the said Laxman sought for extension of tenure as Spl Officer for a further period of 8 months in the guise of mobilizing resources for conduction of election without giving any action plan for the same.

13. The 4<sup>th</sup> respondent sent comments on 6.3.2015 stating that in the year 1973 itself VHBCS had entered into the then owners of lands in Sy. Numbers 16,17,18 and 19 of Gerahalli and Sy.Nos.101,103/1, 103/2,104/1,104/2,105 and 106 of Hoskerehalli (80 acres and 13 guntas) for formation of 4<sup>th</sup> phase layout after obtaining permission under Karnataka Land Reforms Act, and in respect of those lands preliminary notification was issued on 9.5.1968 and final notification was issued on 28.10.1971 stating that those lands are required for formation of layout in Banashankari 3<sup>rd</sup> stage. He further mentioned that VHBCS challenged the acquisition proceedings in WP 11973/1983 and the W.P. came to be allowed on 16.6.1991 quashing the above acquisition proceedings. He further mentioned that Writ Appeal 1368/1991 filed by BDA against the order passed in the said W.P. came to be allowed on 17.8.1995 upholding



the land acquisition proceedings and against this VHBCS filed SLP (Civil) 27838/1995 and the same came to be dismissed on 8.1.1996. He further mentioned that BDA as per subject 128/1999 passed a resolution for determination of market value of the above said lands and to make bulk allotment of the said lands in favour of VHBCS subject to suitable conditions, considering the same as a special case and to send a proposal to the Government in this regard. He further mentioned that VHBCS and land owners had filed WP 32295-299 of 1999 and in those W.Ps order was passed on 21.6.2002 to the effect that no development activity should be carried on in the above land pending completion of the proposal sent by BDA to the Government and against the said order VHBCS filed W.A. 3926 of 2002 which came to be disposed of on 11.10.2007 with a direction to the Government to consider the proposal sent by BDA regarding bulk allotment in favour of the said society in accordance with law. He further mentioned that since Government did not take any steps VHBCS filed W.P. 13917/2006 and other writ petitions and in the said writ petitions an interim order was passed on 29.11.2006 for not demolishing the existing building in the above lands. The 4<sup>th</sup> respondent further pleaded that under G.O. No.ನಅಇ 267 ಬೆಂಗಳೂರು 2004 dated 4.10.2007 Government accorded approval and issued direction to the BDA to determine the amount payable by the society, after considering land acquisition cost, actual development cost and supervision cost and thereafter make bulk allotment in favour of the society. He further pleaded that since bulk allotment was not made the society filed W.P. 18496 of 2007 and the said W.P. along with connected matters came to be transferred from single judge to division bench and the said matters came to be disposed of by a common order dated 16.11.2010 giving following directions:

- a) the BDA shall calculate the total amount payable by VHBCS for bulk allotment in terms of G.O. dated 4.10.2007 and thereafter inform





the society in writing calling upon them to pay the said amount to the BDA within 90 days from the date of receipt of said notice.

- b) Though the land in question is in possession of the society and some of its members and others, the BDA shall formally handover possession of the land in question on receipt of the payment referred to in clause (a).
- c) The society shall prepare the list of genuine members and the members who had applied for the site according to the seniority and submit the same to the BDA.
- d) In the seniority list prepared date of membership, the date on which application was filed for allotment of list, the dates on which amounts were paid by the society can be clearly mentioned.
- e) In the event of non-availability of list the society can give paper publication both in Kannada and English vernacular in local and south Indian edition calling upon the members of the society to furnish their membership number, the date on which day applied for the site, payments made if any in respect of the said site along with receipts and acknowledgments and the documents in support of the same within a period of 30 days from the date of publication of the notice.
- f) Thereafter, the society shall prepare:
  - i) The seniority list of genuine members in terms of para 39 of the judgment
  - ii) A list of members who are eligible for allotment of sites in accordance with para 40 and 41 of the judgment.
  - iii) Thereafter, they shall publish both the lists in the office, in the newspaper and handover the copies of the same to the BDA as well as to the Registrar of Cooperative Societies. The society shall also open website and host all these information on the web site for information of the members and public at large.



- g) All such members who have any objection for such genuine/seniority list are at liberty to approach the Registrar of Cooperative Societies for adjudication of their seniority.
- h) The Registrar of Cooperative Societies while adjudicating genuine and seniority of members shall here the society as well as the BDA and also take into consideration the observations made in this order as well as the order made in the Writ appeal No.1454 of 2008 at para-14 and eschew the observations in the order dated 11.10.2007.....

14. In the above order of the High Court it is nowhere stated that only after the preparation and approval of the seniority list of members and list of site applicants and after the demolition of unauthorized structure the land has to be handed over to the society by the BDA. The BDA issued letter dated 1.6.2011 to the society directing the society to remit Rs.44,31,58,201/-. The BDA as per its resolution 122/2012 dated 16.5.2012 resolved to receive the above amount from the society and execute the sale deed and also to sanction the layout plan and to issue khatha certificate. On 23.6.2012 BDA issued possession certificate. CCC 667 of 2013 was filed alleging non-implementation of High Court directions given in said W.P. 18496 of 2007 and connected matters the said contempt proceedings were dropped by Hon'ble High Court. The Jt. Registrar of Co. Op. Societies as per his order dated 9.6.2014 issued under Sec.31(1) of Cooperative Societies Act, appointed Spl. officer for VHBCS after taking over management of the said society. The complainant can bring these facts relating to the illegality committed by VHBCS to the notice of the Registrar of Cooperative Societies.

15. The complainant submitted his rejoinder on 16.3.2015 stating that the 4<sup>th</sup> respondent has conveniently and deliberately avoided reference to para-44 of the judgment in W.P. 18496 of 2007. While enclosing copy of the

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approved layout plan of 4<sup>th</sup> phase Girinagar the complainant has questioned as to how and why the BDA approved the said layout plan when there was no mention of the dimension of the site in the said plan. He mentioned that the same has done by the BDA with criminal intention to cheat the Government and Society members. He also questioned as to how katha in the names of allottees were issued by the BDA much before the issue of seniority list. He further mentioned that in the contempt proceedings in CCC 578 of 2014 (civil) filed by VBHCS against BDA Commissioner. Mr. Sham Bhat, BDA Commissioner (Respondent No.4), has filed affidavit dated 6.6.2014 mentioning that the seniority of members is still in dispute. The complainant also mentioned that the 4<sup>th</sup> respondent has approved the layout plan though the site dimensions were not given in the plan, and has released the sites and issued kathas before finalization of seniority list and allowed allotment of multiple sites and khathas to individuals despite High Court order, for pecuniary benefits and R-4 has misused his official position and connived with the managing committee members of the society to cheat the Government. He also produced copy of katha certificate issued in favour of one K. Boregowda in respect of two sites bearing Nos.3304 and 3305 in 4<sup>th</sup> phase Girinagar. He also referred to allotment of two sites each to one S.N. Giri on 7.1.2013, one Chandrasekhar L.A on 5.1.2013, one Mamatha. N on 30.1.2013, one Padma Sridharan on 12.2.2013 and one Sunilkumar G.R. on 14.2.2013.

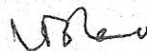
16. The 5<sup>th</sup> Respondent sent his remarks on 12.12.2014 stating that the complainant's representation through letter No.CO.Op/M/2013 dated 16.7.2013 submitted to the 5<sup>th</sup> respondent requesting for taking action in terms of the High Court Direction given in W.P. referred above and after being satisfied that action has to be taken, the 5<sup>th</sup> respondent forwarded the said representation of the complainant to the Jt. Registrar of Cooperative Societies (R-3) with direction to consider the said

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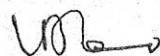
representation and do the needful. He further mentioned that based on the explanation given by the Secretary of VHBCS the Jt. Registrar of Cooperative Societies addressed letter dated 11.7.2013 to the complainant mentioning that as requested by the complainant explanation has been obtained by the Secretary of VHBCS. The 5<sup>th</sup> respondent further mentioned that the complainant was apprised of the fact that unauthorized constructions in 4<sup>th</sup> phase have to be erased. According to the 5<sup>th</sup> respondent the complainant allegations as against R-5 are not well founded.

17. The complainant sent his rejoinder on 9.1.2015 stating that R-5 has not sent parawise replies and has not responded to the allegations regarding dereliction of duties by respondents -1 and 3 who are directly in-charge of the said society and R-5 has tried to absolve himself of all the responsibilities as the political head of the department in the state by just narrating his action on complainant's letter dated 15.7.2013 and the reply sent by R-3. He further mentioned that the 5<sup>th</sup> respondent being Minister of the department of Co-operation has failed to act with sensitivity and responsibility although his departmental officers have remained in active to the directions given by the High Court.


18. Having regard to the rejoinders dated 9.1.2015 and 12.1.2015 to the comments of R-3 the complainant requested for inclusion of the names of Mr. Vadiraj, Secretary, VHBCS and Sri. M. Lakshman, Inspector of Cooperative Societies as additional respondents. The said persons being public servants as defined under Sec. 2(12) of Karnataka Lokayukta Act, 1984 they were arraigned as Respondents 6 and 7 and their comments were called. The 6<sup>th</sup> respondent Vadiraj, Secretary of VHBCS sent his remarks on 9.2.2015 that there are 9,707 members in VHBCS as per the audit report of the year 2005-06 and subsequent years. He has further mentioned that the previous records being not handed over by Sri. Krishna



Bhat who was the President of the said society, the audit of accounts of the said society for the earlier period has not taken place. He has further mentioned that in Girinagar 1<sup>st</sup> stage 452 sites have formed in an area of 34 acres and 14 guntas; in Girinagar 2<sup>nd</sup> phase 1200 sites have been formed in 64 acres 35 guntas of land; in Girinagar 3<sup>rd</sup> phase 250 sites have been formed in an area of 12 acres 18 guntas; in Girinagar 4<sup>th</sup> phase 1335 sites are formed in area of 80 acres 13 guntas; and in Sachidanandanagar-5<sup>th</sup> phase -920 sites have formed in 62 acres and 21 guntas and records pertaining to formation of sites in the above land were not handed over by the Managing Committee headed by Sri. B. Krishna Bhat. With regard to the implementation of directions given in W.P. 18496/2007 and connected matters the 6<sup>th</sup> respondent pleaded that the Management Committee which was in existence during the period up to 6.12.2013 collected information and documents from the members and prepared list of eligible site holders and submitted the said list on 10.10.2012 to Jt. Registrar of Cooperative Societies (R-3) and the BDA Commissioner- R-4 and also uploaded the said list in the website of the society. He pleaded that except documents pertaining to Girinagar 4<sup>th</sup> phase no other record is available at present with the Society. He has referred to various illegalities expressed by the President Sri. B. Krishna Bhat, his removal from President ship of the said society under Sec.29(c) of the Cooperative Societies Act, his disqualification as Director of the Society initiation of Criminal Proceedings and also enquiry under Sec.64 of the Act, against the said B. Krishna Bhat, initiation of surcharge proceedings and attachment of properties of said B. Krishnabhat and unauthorized occupants in the layout etc. According to 6<sup>th</sup> respondent in 4<sup>th</sup> phase out of 80 acres 13 guntas an extent of 74 acres 27 guntas only was suitable for formation of sites and in the remaining 5 acres 22 guntas there is Rajkaluve running over an extent of 103775 sq. ft. The work relating to the formation of layout in 4<sup>th</sup> phase




commenced in 1972 but there are no documents available in this regard at present. The said Sri. B. Krishna Bhat changed the layout of plan of said phase No.4 thrice without the approval of BDA and made allotments to several persons and as a result dispute arose in the matter of allotment and with a view to plug all these illegalities Hon'ble High Court of Karnataka entered in the matter and issued directions under its order dated 16.11.2010 in W.P.18496 of 2007. The BDA has approved the layout plan submitted by VHBCS on 13.9.2012. As per this plan 1335 sites have been formed in 4<sup>th</sup> phase. In the said 4<sup>th</sup> phase more than 124 sites have been identified as being in unauthorized occupation of persons. VHBCS submitted a representation to the BDA to take action to evict the unauthorized occupants. On 1.8.2011 BDA evicted few unauthorized occupants. Still 124 unauthorized occupants are to be evicted. In this regard several letters have been addressed to BDA by the VHBCS. In obedience to the direction given by the Hon'ble High Court in the above W.P. the society prepared the seniority list of members after giving wide publicity through news papers. In response to the said newspaper notices about 1900 members submitted their documents to the society and on the basis of those documents the seniority list and site allottees list are prepared. The BDA through letter dated 1.6.2011 called upon the BHBCS to remit Rs.44,31,58,201/- towards bulk allotment of sites. The said amounts were individually deposited with BDA by the members of the Society by way of DDs to the tune of 34 crores. The remaining amount was made good by way of temporary interest free deposits. As required by BDA the Society remitted Rs.1,52,56,730/- towards layout approval and Rs.2,94,70,050/- towards stamp duty and registration fee. In respect of 4<sup>th</sup> phase no amount is due to BDA or any other department. The BDS executed registered sale deed dated 18.6.2012 in respect of 4<sup>th</sup> phase mentioning the extent as 80 acres 13 guntas. However, on 22.6.2012 a



rectification deed was executed by BDA mentioning the extent as 79 acres and 0.75 guntas after excluding 1 acre 12 1/4<sup>th</sup> guntas towards Rajkaluve. The possession certificate was issued by BDA to the Society 23.6.2012. The layout plan submitted by VHBCS in respect of 1335 sites was approved by BDA on 13.9.2012. On the basis of the seniority list of the members supplemental deeds have been executed in favour of 1045 members. The number of members who furnished information as per High Court order, was 1921 where as the number of sites formed in the 4<sup>th</sup> phase was 1,335. The number of sites in unauthorized occupation of persons is 124. The number of persons, who are not provided with sites in 4<sup>th</sup> phase and those whose names are found in the seniority list of members, is 195. The number of members who have not made full payment and who have made part payment in respect of the sites and have not been allotted sites in 4<sup>th</sup> phase is 364. If the complainant's grievance is that the seniority list is not proper he has to raise dispute under Sec.70 of Cooperative Societies Act. The complainant was allotted site No.3137 in 4<sup>th</sup> phase. The said site is in unauthorized occupation of another person. The BDA has not cleared the said unauthorized occupancy. The complainant did not agree to accept this site on 'as is where is' basis. The complaint allegations are not well founded. The Managing Committee which was in existence up to 6.12.2013 executed supplemental deeds in respect of site No.3131 and 3132 in 4<sup>th</sup> phase in favour of S.N. Giri. Site No.193/61 and 193/62 had been allotted to the said Giri prior to the High Court's order. The said sites were given new numbers 3131 and 3132.

19. In his rejoinder dated 25.2.2015 the complainant while reiterating his stand has brought out the instances of allotment of more than one site in favour of the kith and kin of the Managing Committee members. One Byrayya who was the Director of VHBCS has been given site No.3671 as per the supplemental deed dated 8.11.2012 and another site bearing



No.3665 in 4<sup>th</sup> phase under Supplemental deed dated 3.12.2012, his daughter Gauthami has been given site No.3713 in 4<sup>th</sup> phase as per supplemental deed 8.11.2012; his wife Smt. Manjula was given site No.3782 in 4<sup>th</sup> phase under absolute sale deed dated 23.04.2002 by VHBCS and in turn the said Manjula sold the said site to one Smt. Asha under registered sale deed dated 11.12.2003 and in respect of this site VHBCS executed supplementary deed dated 15.11.2012 in favour of said Asha. The same Manjula was given site 3611 by the society under supplemental deed dated 3.11.2012 by changing her description with a view to hush up her identity. The same Manjula was also given site No.4273 under supplemental deed dated 8.11.2012 by VHBCS by mentioning her different address. The complainant has mentioned the following illegalities and irregularities committed by R-6:

- a) R-6 did not follow the guide lines issued by HSKC in its order dated 16.11.2010, while preparing seniority list of members,
- b) R-6 allowed construction of unauthorized buildings in the layout in contravention of above judgment of High Court,
- c) R-6 failed to get approval of Registrar of Cooperative Societies to the said seniority list before allotment and registration of site as per G.O. No.CO/105/CLM/2010 dated 20.11.2019.
- d) R-6 executed number of supplemental deeds to individuals with the benefit of multiple sites and in contravention of the High Court directions.

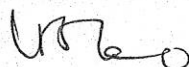
20. Respondent No.7 sent his comments on 10.2.2015 stating that he was not the Spl. Officer for VBHCS during the period when seniority list of members was to be prepared as per the directions given by Hon'ble High Court in its order dated 16.11.2010 passed in W.P. 18496 of 2010 and connected matters, He further mentioned that based on the seniority list prepared by VBHCS rectification deeds were issued up to 5.12.2013 and





that he functioned as special officer for a period up to 23.1.2015 and in his place one H.V. Basavarajappa, Registrar of Cooperative Societies, North Range, Bangalore Urban Dist. was appointed as Spl. Officer by VBHCS by the Jt. Registrar of Cooperative Societies.

21. The complainant submitted his rejoinder to the above comments of R-7, on 25.2.2015 stating that the 7<sup>th</sup> respondent has not given parawise reply to the allegations contained in the complaint and he has attempted to absolve himself of all his responsibilities. He further mentioned that the 7<sup>th</sup> respondent functioned as Spl. officer for VBHCS during the period from 7.12.2013 to 23.01.2015 and he was in-charge of the management of the said society for 1 year and 45 days and during this period the 7<sup>th</sup> respondent had sufficient time to review the seniority list prepared by the society and to ensure compliance with the statutory requirements of the rules and regulations. But he failed in his duties to appear before the enquiry officer along with the Secretary of the Society and further he failed to demonstrate that society had followed the orders of High Court and this failure on his part is a very serious lapse. The complainant has further mentioned that the 7<sup>th</sup> respondent addressed a letter on 10.2.2014 to the BDA allotting multiple sites to individuals of his choice and requested to BDA to demolish unauthorized structure on those sites, so that, the site allottees can occupy those sites. The complainant also mentioned that the 7<sup>th</sup> respondent misused his power by issuing a full page advertisement in Prajavani on 12.2.2014 allotting multiple sites to individuals for pecuniary benefits in contravention of rules and various High Court orders and the expenditure incurred for the said advertisement should be recovered from his salary besides initiating disciplinary proceedings against him. The complainant also mentioned that during his tenure as Spl. Officer the 7<sup>th</sup> respondent ought to have facilitated election to the Management committee as per the mandate given by the 3<sup>rd</sup> respondent. But on the




other hand, the 7<sup>th</sup> respondent conducted General Body meeting on 21.9.2004 and by devious means managed to obtain the consent for seeking permission of R-1 for registration of remaining sites in the layout. The complainant further mentioned that R-7 colluded with R-6 in depriving the complainant of a free hold site in 4<sup>th</sup> phase Girinagar.

22. Copy of the common order dated 16.11.2010 passed in W.P.18406/2007-BDA and connected matters would reveal that VBHCS was registered a society under Karnataka Cooperative Societies Act, 1959 during the year 1972-73 with the object of obtaining lands to form layouts and sites and allot them to its members, most of whom are salaried employees belonging to middle and lower middle of the society. There were 9000 members on the roll of the society aspiring for allotment of sites in their favour. On the date of filing the W.P. the layout work was being carried on 4<sup>th</sup> phase comprising lands bearing Sy.Nos. 16, 17, 18 and 19 of Gerahalli and Sy.No. 101,103/1,103/2,104/1,104/2 and 106 of Hoskerehalli, in all measuring about 80 acres and 13 guntas. The Government of Karnataka by its order dated 4.10.2007 directed bulk allotment of the above lands in favour of VBHCS subject to conditions mentioned in that order. The BDA was required to fix the price for bulk allotment taking into consideration the cost incurred by BDA for acquisition of the lands. Under order dated 11.10.2007 passed in W.P. 12236 of 2006 HHCK directed the BDA to implement the said Govt. order dated 4.10.2007 within 3 months. A division bench of Hon'ble High Court of Karnataka by order dated 22.10.2007 passed in W.P. 13228/2007 directed VBHCS to remove the debris, filth, garbage and other waste materials stocked on the above lands. BDA having not fixed the price for bulk allotment, the said society issued legal notice dated 24.3.2008 calling upon the BDA to fix the price for bulk allotment and intimate the same so that the society could make the payment and thereafter the bulk allotment

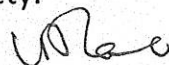
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could be made. For this there was no response by BDA. Hence the society filed the writ petition. Under common order dated 16.11.12 passed in the above writ petition i.e., WP 18496/2007 and connected matters HHCK gave the following directions to the BDA as well as VBHCS.

- a) The BDA shall calculate the total amount payable by VHBCS for bulk allotment in terms of G.O. dated 4.10.2007 and thereafter inform the society in writing calling upon them to pay the said amount to the BDA within 90 days from the date of receipt of said notice.
- b) Though the land in question is in possession of the society and some of its members and others; the BDA shall formally handover possession of the land in question on receipt of the payment referred to in clause(a).
- c) The society shall prepare the list of genuine members and the members who had applied for the site according to the seniority and submit the same to the BDA.
- d) In the seniority list prepared date of membership, the date on which application was filed for allotment of list, the dates on which amounts were paid by the society can be clearly mentioned.
- e) In the event of non-availability of list the society can give paper publication both in Kannada and English vernacular in local and south Indian edition calling upon the members of the society to furnish their membership number, the date on which day applied for the site, payments made if any in respect of the said site along with receipts and acknowledgments and the documents in support of the same within a period of 30 days from the date of publication of the notice.
- f) Thereafter, the society shall prepare:
  - i) The seniority list of genuine members in terms of para 39 of the judgment
  - ii) A list of members who are eligible for allotment of sites in accordance with para 40 and 41 of the judgment



- iii) Thereafter, they shall publish both the lists in the office, in the newspaper and handover the copies of the same to the BDA as well as to the Registrar of Cooperative Societies. The society shall also open website and host all these informations on the web site for information of the members and public at large.
- g) All such members who have any objection for such genuine/seniority list are at liberty to approach the Registrar of Cooperative Societies for adjudication of their seniority.
- h) The Registrar of Cooperative Societies while adjudicating genuine and seniority of members shall hear the society as well as the BDA and also take into consideration the observations made in this order as well as the order made in the Writ appeal No.1454 of 2008 at para-14 and eschew the observations in the order dated 11.10.2007 passed in Writ Petition No.12236 to 2006, as directed in the said appeal. The decision of the Registrar of Co-operative Societies is subject to the remedies provided under the Registration of Society's Act and other provisions of law. However, the said finding if it attains finality, is binding both on the society as well on the BDA.
- i) In the meanwhile, the society shall prepare a layout plan submit the same to the BDA for its approval and also list out number of sites for allotment to its members according to the seniority list.
- j) Already a private layout is formed in the said land and number of persons has put up constructions and is living there. If those persons are eligible for allotment of site according to seniority list and the allotment and sale deeds had already been executed in their favour, such sale deeds shall be confirmed by the society. If there is no dispute regarding seniority in the matter of allotment of sites.
- k) Similarly, all those persons to whom sites have been allotted, who have not put up construction or who have enclosed their sites with compound walls, if they are eligible for allotment of sites in terms of the seniority, which is not disputed by anyone and such sale deeds have been executed, such sale deeds shall be confirmed by the society.



- l) If the persons who are not eligible for allotment of sites according to seniority or not even members. If they are in possession of the sites and have put up constructions, the said sale deeds and allotment orders shall have no legal effect and if such persons are parties to these proceedings, no further steps need be taken against them. If they are not parties to these proceedings who are in possession by virtue of such allotment or sale deeds, appropriate proceedings have to be initiated against them in accordance with law for cancellation of their allotment and sale deed and for recovery of possession.
- m) Till this process is completed, BDA and the society are directed to maintain status quo and no demolition of structure shall take place.
- n) It is made clear that no one who is a party to these proceedings shall put up any construction in the land in question after pronouncement of this order. If any attempt is made to put up any construction. BDA is at liberty to take immediate steps to demolish such construction.
- o) If any person has put up construction after Government order till today under the cover of any interim orders granted by this Court in various petitions, such persons cannot plead equity in their favour and the validity of such construction depends upon their eligibility to get the site allotted based on their seniority. Otherwise, those constructions are liable to be demolished.
- p) It is only after being satisfied that the sites have been allotted to genuine members and according to seniority, SDA/BBMP shall make out khatha in their respective names and BDA/BBMP shall sanction the plan.
- q) The process of bulk allotment by the BDA shall be completed within a period of five months from today if payment is made by the Society.
- r) The Registrar of Co-operative Society shall ensure that these disputes regarding genuineness of the membership or the seniority of such members for allotment of site. If necessary, be entrusted to one official who shall take up these matters on day to day basis and try to dispose it of expeditiously as some of them have already invested huge amount for acquiring site, put up construction and living with their family and also in order to



give effect to the Government Order where the only consideration was the human suffering.

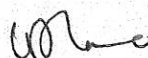
s) Writ Petition No.18496 of 2007 dismissed.

t) All other writ petitions are disposed of in the above terms.

Sd/-

Judge.

23. According to direction (c) of the above order the VBHCS had to prepare list of genuine members and the members who had applied for sites according to the seniority and submit the same to the BDA. In the said seniority list the membership number date of membership, date on which application was filed for allotment and the date of which amounts were paid to the society had to be clearly mentioned. In the event of non availability of the list, the society had to give paper publication calling upon the members to furnish their membership number, the date on which they applied for the sites, payments made if any, in respect of said site along with receipts and acknowledgements and supporting documents within 30 days from the date of publication of notice. In Para 39 of the above judgment, it was clearly stated that the Government order regarding bulk allotment in favour of the society was conditional and it was made keeping in mind the interest of genuine members of the society who had applied for sites at the earliest point of time. It was made clear that BDA should ensure the bulk allotment of land made to the society is not misused and benefit of that order should go to genuine senior members of the society. BDA was required to apply its mind and prevent any such illegality the society was required to furnish the seniority list of members and also the list of members who are eligible for



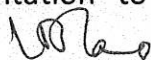
allotment of sites, to the BDA as well to the Registrar of Cooperative Societies. The society was also required to upload the said list on its website. Any member of the society having objections to the correctness of the said list could raise dispute under Sec.70 of the Cooperative Societies of the Act, for adjudication of their seniority. The Registrar of Cooperative Societies was required to hear the society as well as the BDA and also take into consideration the observations made in the above order of the High Court, while adjudicating the genuine membership and seniority of the members. The decision of the Registrar of Cooperative societies was subject to the remedies provided under the Cooperative Societies Act and on the said seniority list attaining finality the same was binding on the society as well as BDA. The Society was also required to prepare layout plan and submit the same to the BDA for approval and along with list of number of sites for its allotment according to the seniority list. If persons, who were not eligible for allotment of sites, are in possession of sites and have put up construction, their sale deeds and allotment orders were declared to have no legal effect. Such persons were liable to be evicted in accordance with law. BDA/BBMP was directed to make out khatha of sites only after being satisfied that the sites have been allotted to genuine members and according to seniority. Subject to this the BDA/BBMP could sanction the building plans. The process of bulk allotment by BDA was required to be completed within five months from 16.11.2010 if payment is made by the society. The Registrar of Cooperative Societies was directed to ensure that the dispute regarding genuines of the membership or the seniority of such members for allotment of sites, if



necessary be entrusted to an official who shall take up those matters on day to day basis and try to dispose off such matters expeditiously.

24. According to Respondent No.6 there are in all 92 disputes till date relating to the seniority list, raised by the aggrieved, members of the society under Sec. 70 of the Cooperative Societies Act and out of them 13 cases have been decided and the remaining 80 disputes are pending adjudication. On their own showing even though the said disputes relating to the seniority of members eligible for allotment of sites in phase No.4 have not reached finality, the BDA has proceeded to act on the list submitted by Respondent No.6. Secondly, in the layout plan which was submitted by the society for approval by BDA though the site numbers are mentioned the dimension of those sites is not indicated. Still the BDA has proceeded to approve the said layout plan as per its resolution dated 7.8.2012 at its meeting No.163/2012. A copy of the said layout plan is produced by the complainant along with its rejoinder with the comments of Respondent No.4.

25. Even according to the seniority list prepared by the Society the complainant's seniority is at Sl.No.3 and he is eligible for site. Although several free hold sites are available in phase No.4, the society has allotted him site No.3137 which is in unauthorized occupation of a 3<sup>rd</sup> party and in which an unauthorized building has come up. The society has issued a notice on 18.3.2013 to the complainant requiring him to give written consent to take possession of the said site which is in unauthorized occupancy, on "as is where is" condition. Being aggrieved by this the complainant gave representation to the 1<sup>st</sup> respondent on





15.7.2013. The 1<sup>st</sup> respondent who is Minister for the department of cooperation has simply transmitted the representation of the complainant to the 3<sup>rd</sup> respondent without application of mind and without understanding the grievance of the complainant, instead of calling the concerned officers of the Co-operation department and pulling them up for not adjudicating the above said disputes pertaining to the seniority of members expeditiously under Sec. 70 of Karnataka Co-operative Societies Act, despite a specific direction contained under the order dated 16.11.2010 passed in WP 18496/2007 (BDA) and connected matters. Instead of attending the grievance of the complainant the 6<sup>th</sup> respondent has caused notice on 29.7.2013 to the complainant threatening to take legal action against the complainant for putting pressure on the society.

26. The documents produced by the complainant prima facie show the illegalities committed by the 6<sup>th</sup> respondent in allotting sites and executing supplemental deeds in favour of the family members of Ex. Director Sri. Byrappa and also allotting more than one site to each to various other persons as under:

Sl. No.	Name & Address	Site No. in 4 <sup>th</sup> Phase	Documents
1.	Sri. Byraiah S/o Muddalingaiah, 52 years, No.240/M, 2 <sup>nd</sup> 'C' cross, BSK 3 <sup>rd</sup> stage, Bangalore-85	3671	Document No.BNG(U) BSK 7733/2012-13 dated 08.11.2012
2.	Sri. Byraiah S/o Muddalingaiah, 52 years, No.240/M, 2 <sup>nd</sup> 'C' cross, BSK 3 <sup>rd</sup> stage, Bangalore-85	3665	Document No.BNG(U) BSK 8890/2012-13 dated 03.12.2012

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3.	Gauthami D/o Byraiah, No.215, 4 <sup>th</sup> cross, Avalahalli Extension, BSK 3 <sup>rd</sup> stage, Bangalore-85	3713	Document No.BNG(U) BSK 7728/2012-13 dated 08.11.2012. <b>Note:</b> Earlier sale deed dated 22.12.2001 had been executed by the society in favour of said Gauthami during her minority.
4.	Smt. Asha N.S. D/o Siddappa No.250/S-19, 2 <sup>nd</sup> 'A' Cross, Cauvery Road, Girinagar.	3782	Document No.BNG(U) BSK 8609/2012-13 dated 15.11.2012 Note: This site was purchase by said Asha from Smt. J. Manjula W/o Byraiah(allottee from society as per document No. BNG(U)KNGR 24671/2003-04 dt.23.4.2002).
5.	J. Manjula D/o Javaraiah, 44 years 249/S, 2 <sup>nd</sup> stage, Bangalore-85	3611	Document No.BNG(U) BSK 8886/2012-13 dated 03.12.2012
6.	J. Manjula D/o late Javaraiah, 44 years ,No.316, 11 <sup>th</sup> main,2 <sup>nd</sup> Block, BSK 1st stage, Bangalore-50	4273	Document No.BNG(U) BSK 7763/2012-13 dated 08.11.2012 Note: While properties are purchased from same persons Smt. Manjula two different addresses are deliberately given without indicating husband's name.
7.	K. Boregowda No.29, 7 <sup>th</sup> main, 6 <sup>th</sup> cross, Avalahalli BDA layout, Bangalore-85	3304 and 3305	-
8.	S.N. Giri	3131 and 3132	-
9.	Chandrasekhar L.A.	3403 and 3404	-
10.	Mamatha N	3989 and 3990	-
11.	Padma Sridharan	4054 and 4055	-

27. Under supplemental deed dated 7.11.2012 (document No. BNG(U) BSK 7660/2012-13) executed by VHBCS represented by its Secretary (R-6), though site No.528/2 measuring 625 sq. ft. in 4<sup>th</sup> phase was stated to have been allotted and given possession to Smt. Nalina after collecting consideration, she being subsequently found to be in physical possession of 1200 sq. ft. area, the said excess 575 sq. ft. has been conveyed to her without obtaining consideration in respect of the excess area.

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28. The complainant has produced copy of the membership receipts No.90 to show that he became member of VHBCS on 12.04.1972. The said receipt is issued by All Karnataka Young Writers and Artists Association, No.35 Rathnavilas Road, Basavanagudi, Bangalore-34. He has also produced copy of Receipt No.84 dated 12.4.1972 for having paid Rs.100/- towards site advance to the said society. These documents are referred in paras 1 and 2 of complainant's affidavit. The 6<sup>th</sup> respondent who is the Secretary of VHBCS has mentioned in his comments at page 13 that he has no comments regarding points 1 and 2 referred in the complaint (complainant's affidavit). Still the 6<sup>th</sup> respondent mentions that the complainant paid Rs.11/- on 7.7.1973 to the said society whereas the persons at Sl.No.1 and 2 of the seniority list became members on 25.4.1972 and 25.2.1973, and for that reason the complainant's name is mentioned at sl.No.3 of the seniority list. This prima facie supports the complainant allegation that the said seniority list was not properly prepared by R-6. Copy of the order dated 6.2.2013 in W.P. 39718 to 39729 (BDA) (Smt. Gowramma and others V/s BDA and VHBCS) produced by the complainant would indicate that the said society filed a memo stating that in compliance with the order of Karnataka High Court in W.P No.18496/2007 dated 16.11.2010 the society prepared seniority list of members and furnished the same to BDA and Registrar of Cooperative Societies. With reference to this memo division Bench of Hon'ble High Court ordered as under:

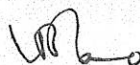
***"We are of the view that the Registrar of Co-operative Societies has to consider the said list. It should ensure that no double allotment is made to any of the members. It should pass an order keeping in mind the direction of this court in W.P. 18496/2007 dated 16.11.2010"***

29. The complainant has also produced copy of Government order No. CO 105 CLM 2010 dated 20.11.2010 issued in relation to the Housing



societies with a view to effectively implement the development programmes of the Government. This order has been issued under Sec.30(b) of Cooperative Societies Act. According to this G.O. before the sites are registered in the name of members the housing society concerned has to prepare seniority list of genuine members and site depositors and get the list compulsorily approved by the Registrar of Cooperative Societies. Even while the dispute regarding seniority list is pending adjudication before the Registrar of Cooperative Societies under Sec.70 of the Act, the 6<sup>th</sup> respondent has proceeded to issue supplemental deeds in favour of several persons. The complaint allegations regarding R-6 are prima facie made out.

30. Respondent No.1 who is the present Registrar of Cooperative Societies. R-2 who was Registrar of Cooperative Societies till his retirement in February 2013 has failed to comply with the directions issued by division Bench of Hon'ble High Court in its order dated 16.11.2010 in W.P. No. 18496/2007 and connected cases, with regard to expeditious adjudication of the disputes raised under Sec. 70 of the Karnataka Cooperative Societies Act, with regard to the seniority list of members prepared by VBHCS, raised by several members.
31. Respondent No.1 and 2 and 3<sup>rd</sup> respondent namely Jt. Registrar of Cooperative Societies have remained negligent to control the illegal activities of the management of VBHCS.
32. The 4<sup>th</sup> respondent namely the Commissioner, BDA has failed to Act with responsibility in complying with the directions given by the division Bench of Hon'ble High Court in its order dated 16.11.2010 in W.P. No. 18496/2007 and connected cases, in as much as he has blindly approved the plan submitted by the 6<sup>th</sup> respondent, Secretary of VBHCS, though the dimension of the sites are not at all mentioned in the said layout plan. The Commissioner, BDA has also failed to take effective action in the matter of

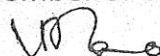


demolition of illegal structures which have come up in 4<sup>th</sup> phase. Further the Commissioner has acted illegally in allowing the VBHCS to issue supplemental deeds in favour of various persons in 4<sup>th</sup> phase Girinagar, even while Although the dispute regarding seniority list of members is still pending adjudication in about 80 cases before the Registrar of Co-operative societies and the matter has not reached finality. The BDA Commissioner has also acted illegally in the matter of opening of khathas in respect of various sites in 4<sup>th</sup> phase without adhering the directions given by division Bench of Hon'ble High Court in its order dated 16.11.2010 in W.P. No. 18496/2007 and connected cases, and also order dated 6.2.2013 in W.P. 39718 to 39729 (BDA) (Smt. Gowramma and others V/s BDA and VHBCS).

33. The 5<sup>th</sup> respondent, who is responsible Minister of the department of co-operation having statutory duty under Sec. 108 of Co-operative Societies Act, has failed to pull up the erring officials of Co-operative department despite the representation given by the complainant.

34. The 6<sup>th</sup> respondent who is the Secretary of VBHCS has prima facie committed the following irregularities/illegalities:

- (a) Not following the orders of Hon'ble High Court in preparing the seniority list of members
- (b) Allotting more than one site to Directors, Members and their relatives,
- (c) Executing supplementary deeds just few days before the seniority list,
- (d) Executing and registering supplementary deeds in favour of non-members of the society
- (e) Causing financial loss to the society by executing the supplementary deeds in respect of larger areas than the actual dimensions of the sites mentioned in those documents, without collecting the additional consideration in respect of the larger area found to be in possession of the persons in whose favour those supplementary deeds are executed.
- (f) Not allotting free hold site to the complainant though the complainant became member of VBHCS on 12.4.1972

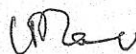


35. The 7<sup>th</sup> respondent who was the Spl. Officer appointed for VBHCS as per dated 6.12.2013 passed by 3<sup>rd</sup> respondent and who functioned as such, up to 23.1.2015 failed to act in the interest of the genuine members of VBHCS. He by his following acts and omissions caused loss to the said society.

- a) Not taking appropriate action to review the seniority list and ensure compliance with statutory requirements and the High court orders.
- b) Not attending the cases pertaining to the seniority of members before the authority under Sec. 70 of the Karnataka Cooperative Societies Act, to effectively represent the said society.
- c) Misusing his powers and issuing full page advertisement in Prajavani Newspaper on 12.2.2014 allotting multiple sites to individuals in contravention of rules and High court orders.
- d) Not taking effective steps for conducting elections to the Managing Committee as per the mandate given to him by 3<sup>rd</sup> respondent.

36) Hence a report under Sec. 12(3) of Karnataka Lokayukta Act, 1984 is sent herewith along with xerox copies of connected documents to take action against:

1. **Respondent No.5 – Sri. Mahadeva Prasad, Hon'ble Minister for Co-operation**, who being a responsible Minister of the department of co-operation having statutory duty under Sec. 108 of Co-operative Societies Act, has failed to pull up the erring officials of Co-operation department despite the representation given by the complainant.
2. **Respondent No.4 – Sri. Sham Bhat, IAS., Commissioner, Bangalore Development Authority, Bangalore** who has failed to act with responsibility in complying with the directions given by the division Bench of Hon'ble High Court in its order dated 16.11.2010 in W.P. No. 18496/2007 and connected cases, in as much as he has blindly approved the lay out plan submitted by the 6<sup>th</sup> respondent, Secretary of VBHCS, though the dimension of the sites are not at all mentioned in the said layout plan and



3. R-1 Sri. Channappagowda, Registrar of Co-Operative Societies,  
R-2 Sri. G.S. Hegde, Ex. Registrar of Co-operative Societies  
R-3 Sri. Satish, Jt. Registrar of Co. Operative Societies have remained negligent by not controlling the illegal activities of the management of VBHCS.
4. R-6 the Secretary of VBHCS and  
R-7 Spl. Officer appointed for VBHCS

for their irregularities and illegalities committed by them in their capacity as Secretary of VBHCS & Special Officer as discussed in Para 34 & 35 of the report.

37. It is recommended to the Competent Authority – i.e. Principal Secretary to Government, Co-operation Department to go through this report and to initiate departmental enquiry against respondent No. 6 & 7 for their illegalities and direct them to allot free hold site to the Complainant in 4<sup>th</sup> phase of the layout formed by the said society.
- 38 It is also recommended to the Government- concerned Competent Authority, to examine this report and **within three months** 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 as provided under Sec. 12(4) of Karnataka Lokayukta Act, 1984.

*Y. Bhaskar Rao*  
29/4/05  
(Justice Dr. Y. Bhaskar Rao),  
Lokayukta,  
Karnataka State.