KARNATAKA LEGISLATURE

JOINT HOUSE COMMITTEE
ON ENCROACHMENTS IN
BANGALORE CITY / URBAN DISTRICT
INTERIM REPORT PART -II

Date of submission in the Legislative Assembly:

26 JUL 2007

Date of submission in the Legislative Council:

CONSTITUTION OF THE COMMITTEE

Chairman: Shri A.T. Ramaswamy

Member of the committee

From Legislative Assembly

Sriyuths

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2. N. Yogesh Bhatt
3. Vishveshwara Hegde Kageri
4. Raghu S.
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10. Mahima J. Patel (till 9.3.2007)
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1.	Shri D' Souza Robinson	- Principal Secretary
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4.	Shri N. Narasimhamurthy	- Section Officer

OFFICERS OF THE JOIG LEGISLATURE COMMITTEE

1.	Shri. V. Balasubramanian retired Additional Chief secretary	- Advisor
2.	Shri G.K. Bhat, Advocate	- Legal Advisor
3.	Shri K. Narasimhaiah, K.A.s (rtd)	- Special officer
4.	Shri Vinayak	- Special Officer II
5.	Shri H.G. Srivara, KAS, Additional Managing director, Karnataka Biotechnology & information technology Services	- On OOD
6.	Shri Syed llyas Ahmed, Joint Director of land records and DC (Estate), BBMP	- On OOD

PREFACE

The committee has so far received 1101 complaints, held meetings 40 times, visited 90 spots of encroachment-complaints on 20 days, conducted 200 internal review meetings and has submitted an Interim Report on 1 February2007 to the Legislature. All these complaints have been registered, acknowledged and enquired into. Twenty Eight departments and statutory Bodies have been summoned before the committee and they have explained the cases referred to them to varying degree of the satisfaction of the committee. The officers of the committee and the Secretary of Parliamentary Affairs and the Principal Secretary of the Revenue Department have also visited Hyderabad study the functioning of the Andhra Pradesh Land Grabbing (Prohibition) Act, the manner of preventing encroachments by the Hyderabad Urban Development Authority (HUDA) and the Municipal Corporation of Hyderabad (MCH). As a result, the Karnataka Land Grabbing (Prohibition) Bill 2007 has also been prepared and has been passed by the Karnataka legislature. (Annex1) Besides, the revenue department has also piloted a legislation to amend the Karnataka land revenue act to make land grabbing and its abettors liable for imprisonment and fine. (Annex2).

The Joint Legislature Committee has prepared its interim Report Part II and after discussing it in detail, has approved it in its meeting dated 12th July2007.

Bangalore.
Date : 12.07.2007

A.T. RAMASWAMY,
CHAIRMAN
JOINT HOUSE COMMITTEE

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ON LAND ENCROACHMENT IN

BANGALORE CITY/URBAN DISTRICT

INTERIM REPORT – II

INTRODUCTION

The area under encroachment of the different government departments and statutory bodies reported as in May 2007 is about 30000 acres in Bangalore Urban District as shown below (major departments):

Sl. No.	Dept./Organisation	Acres		No. of Encroachers	
1	Revenue Department		21,706.00		25,713
2	Forest Department				
	(a) Bang. Urban Division	1099		312	
	(b) Banneerghatta National Park	767		813	
	(c) Lakes under Forest Department	313	21,179.00	553	1,678
3	Bangalore Development Authority		2,878.00		4,595
4	Wakf Board		263.00		97
5	Co-operation Dept.		86.00		2
6	Animal Husbandary Dept.		48.00		248
7	Endowment Dept.		61.00		199
8	Karnataka Housing Board		34.00		302
9	Karnataka Industrial Area Development Board		32.00		601
10	Karnataka Slum Clearance Board		12.00		202
11	TMCs & CMCs		8.00	**Not available**	
12	Bruhat Bangalore Mahanagara Palike		13.09		124
13	NIMHANS		3.00		1
14	Bangalore University		13.00		50
		Total	**27,336.09**		**33,812**

Besides the above encroachments detected, there are lands under the categories of lands resumed under the Inam Abolition act, Urban Land Ceiling Regulation act and sections 79 A and 79 B of the Land Reforms Act, Etc. which comes to a total of 12.012. acres. The actual encroachments in these lands are being ascertained by the Revenue Department.

SOME IMPORTANT AND FUNDAMENTAL MATTERS OF BE ATTENDED TO TACKLE LAND GRABBING EFFECTIVELY

On analyzing the complaints, court decisions and explanation of concerned Government officials, the Committee feels that there are certain basic matters to be attended to if the land grabbing has to be effectively controlled. It is well-known that the land value in Bangalore is next only to Mumbai and New Delhi. For instance, the BBMP reported that a 60"x40' plot near Jayanagar Shopping Complex was auctioned for Rs. 22,000 per square foot. This well be equivalent to Rs.96 core for one acre. While this may be an isolated instance, it is generally seen that even in the outskirts and suburban areas of Bangalore the land value is about Rs.1-4 crores per acre. There are at least two instances of day light Mafia-style murders of real estate agents in Bangalore city reported during March 2007. With the expansion of the Corporation area from 250 square kilometers to about 790 square kilometers including seven Municipal Council constituting the Bruhat Bangalore Mahanagara Palike (BBMP), there is no doubt that the land grabbing activities in Bangalore will increase manifold. It is therefore necessary to find basic solutions to control this menace.

It was explained in the first Report of the Committee that Bangalore has become a haven for land-grabbers. The Administrative machinery has utterly failed to take any action against the land-grabbers and their official abettors and promoters. Because of the creation of bogus records and fraudulent acts, many innocent persons who have relied upon

the government documents have been subjected to untold misery, losing their life's savings. Government should protect the interests of such innocent people who are the victims of the fraudulent acts of officials. That there is no punishment for the officials who have created bogus and fraudulent documents is indicative of a collapse of administration. The partnership of land grabbers and the officials and supporters has resulted in a legal spider's web of litigations. Only small persons and innocent citizens are caught in this web while land grabbers and powerful persons are able to pierce through this spider's web and escape.

Of the long list of erring HBCSs, the most notorious is the Judicial Employees Cooperative HBSC. Lofty principles such as Rule of Law, Equality before law, etc. are breached without any compunction by influential and powerful persons. People in authority vested with legal powers to enforce law have become mute speculators or, worse reluctant or even willing participants. While the common man is always caught in the spider's web of law and rules, the rich and the bold are powerful enough to break the web of law.

In the coming days the Committee will prepare reports Department-wise showing the names , addresses and extent of encroachment of the encroachers. In the paragraphs below the Committee has given some details of encroachments by powerful persons with the help of officials in respect of which Government should take serious action.

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EXECUTIVE SUMMARY

(1) Measures to Control Encroachments :

To prevent future land encroachments, certain basic and along-lasting measures have to be taken by Government. These are, criminal prosecution of land-grabbers and their abettors, accurate survey of all lands belonging to government and statutory bodies, evolving a reliable system of property titles by the Survey Department on the model of the Torrens System and activating legal Cells and the Law Department taking prompt action in defending government cases.

(2) Some Glaring Cases Requiring Criminal Prosecution :

Criminal prosecution of land grabbers and their abettors- officials and non-officials- is of utmost importance. Because of collusion of land-grabbers, officials and other powerful lobbies, there are many glaring cases of land-grabbing. Some of these examples are. Grabbing of 180 acres in BM Kaval village in Bangalore South Taluk by a leading business family, 11 ½ acres of tank bed in Pattandur Agrahara. Bangalore East Taluk by creating bogus records, 1,099 acres of forest, 313 acres of tank bed lands, 767 acres in Banneergahtta National Park temple lands of Dharmarayaswami temple and other temples, valuable landed property in Chanarajpet willed to Endowment Department but made over to land-grabbers by officials of Bruhat Bangalore Mahanagara Palike (BBMP), taking illegal possession of public roads by Purvankara Builders with the help of BBMP and Registration Department officials, enrolling bogus and ineligible members in Judicial Employees Housing Cooperative Society. Shantinagara HBCs, etc, are but a few examples of a large number of scandals observed by the Committee, some of which are described in detail in the body of this report.

(3) Land Grabbing in tank in Pattandur Agrahara East Taluk :

In the Pattandur Agrahara tank bed encroachment of 11 ½ acres near the International Technological Park. White Field, fraudulent and forge records were built for grant of tank bed land and the Hon'ble High Court itself observed that the. Government Advocate, Director of Prosecutions, law Department and even lok Ayukta failed to protect public interest and government was given wrong advice.

(4) Land Grabbing in B.M.Kaval, Bangalore South Taluk :

Bogus documents were created for grabbing 180 acres of government land in Bada Manavarathe Kaval, Bangalore South taluk, worth about Rs.180 crores, by officials to benefit the business House of Khodays.

(5) Grabbing of Landed Property of Muzrai Department :

Landed property worth Rs.15 crores in Chamarajpet which was endowed to the Muzrai Department in 1912, was made over to a private person by issuing Khatha in his name on the basis of a second concocted will submitted to the BBMP officials in 2002, after 91 years, and the Joint Commissioner of the BBMP rejected the appeal of the Endowments Department by a patently illegal order disregarding the documentary evidence of the right, title and possession of the department.

(6) Grabbing of NIMHANS Land :

The National institute of Mental Health and Neuro-sciences (NIMHANS), had in its possession 3 acres 26 grunts of land which was acquired by the Government under the Land Acquisition Act as early as 1944 and compensation was paid to the land holders. In spite of this illegal sale deeds were created in favour of some builders and the BBMP registered the Khatha for the land in their favour flouting all procedural norms and helping builders to grad government land worth Rs.127 crores.

(7) Illegal Acquisition of Forest Land :

In Uttarahalli Mnavarathe Kaval Minor Forest Turahalli village in Bangalore South taluk, real estate agents including some builders from Hyderabad created bogus records for "sale" of forest land and grab 344 acres. Out of this area, the BDA proceeded to "acquire" 42 acres as Banashankari VI stage and also passed award for Rs.3.6 crores in favour of persons claiming to be unauthorized cultivators. This land lies within 15 kilorneters from the BMP limits and therefore under the Karnataka Land Revenue Act, there is an absolute prohibition for regularizing any such unauthorized occupied land. Even though it was well-known that this piece of land lies well within the 15 Km limit. The BDA and the Land Tribunal disregarded this. The BDA passed award in respect of Forest Land in favour of private persons. The Land Tribunal did not dispose of the applications as directed by the Hon'ble High Court on the first and basic ground that the land cannot be regularized at all. The forest Department did not use its immense powers under the Karnataka Forest Act.1963 to bring to punishment these land grabbers. The then Commissioner. BDA in spite of the Chief secretary writing to him not to proceed with acquiring land if it is forest land, nevertheless proceeded with acquisition and the BDA spent Rs. 113 lakhs in "developing" the layout formed in the forest land . Hence, while officers of the forest department and the members of the Land Tribunal headed by the then sitting Members of the Legislative Assembly were all responsible for acts of omission, the BDA is particularly responsible for acts of commission. Therefore, the amount of Rs.113 lakhs spent wastefully by the BDA on the illegal layout. Should be recovered from the three BDA officers responsible. Namely Shri Jayakar Jerome, former Commissioner, Shri Channagange Gowada, the then special Deputy Commissioner who passed the award and Shri. Dwarakinath, the then law Officer who justified it. In equal amounts.

(8) Encroachments in Forest Land and in Banneerghatta National park :

An area of 1,099 acres of forest land is encroached by 312 persons in Banaglore Urban District forest Division besides 313 acres of tank bed land by 553 persons. In Banneerghatta National Park covering 7.374 acres,813 persons have encroached 767 acres. These encroachers include many rich and powerful persons like industrialists. Elected representatives of Zilla Panchayat, Saw and Timber Mill owners. Apartment Builders, Companies. Resort Owners, etc. In spite of the supreme court's decision in 1996 prohibiting the use of forest land for any other purpose and government of India direction in 2002 to all the state forest department to remove all encroachment in forest lands . the forest department in Karnataka has not taken any serious action. apart from issuing notices- often as a ruse to enable the encroacher to approach courts and obtain stay orders to remove any of these encroachment. The forest department officers should realize that merely chanting the japa and Bhajan of Godavarman case will not scare away the encroachers of forest and tank bed land under their control. Not using the immense powers given under the Karnataka forest act leads in an inevitable conclusion that they have failed in their duties and are in fact colluding with encroachers by sparing them.

(9) Illegal use of acquired land by house building co-operative societies:

There are 305 house building cooperative societies in Banglore urban district of which 72 are defunct. Out of the balance,137 have formed layouts and distributed sites. In most of these HBCSs, there are many irregularities such as not providing fifty percent of land for the required number sites for civic amenities , parks and roads colluding with builders and parting with government acquired lands for public purpose to builders in the name of joint development creating bogus and

benami members distributing to individuals sites meant for public purpose and amenities admitting openly by paid advertisement in newspapers of giving bribes to officials and non officials for getting illegalities regularized. Etc.

Of the long list of erring HBSCs the most notorious is the judicial employees cooperative HBSE. Instead of being a model for others HBCSs. This society has created an all India record for being a Mother of illegalities, unleashing a tsunami of scandals. Judges of High Court itself, cannot be any6 stretch of imagination agree to be members of HBCS, have become members and have secured sites, flouting al norms. The HBCS has taken possession of agricultural land violating the provisions of the Land reforms Act. The society's Secretary and Manager has distributed a large number of sites to his close relation. Its layout was not approved by the BDA as required under the law. It has not left 50% of the area for civic amenities. Parks and roads as required under the Rules. Thus. The Judicial Employees Cooperative HBC, which should have been a model and example for other HBCSs to emulate, has beco9me a cesspool of corruption and lawlessness.

(10) Need for Stringent Action:

To prevent further deterioration leading to a total breakdown of land use in Bangalore, it is necessary to take stringent action against officials and their protectors, Mere disciplinary action against avaricious officials is of no use. Only criminal prosecution under the existing provisions of the Indian Penal Code, the recent amendment to the Land Revenue Act and detention under the "Goonda" Act alone will bring some degree of discipline in this chaotic situation. Karnataka Legislature has already passed the Land Grabbing (Prohibition) Act under which a Special Court will be established to try and punish land-grabbers and their abettors. This is awaiting the assent of the President. On its becoming law, the special Court and its

administrative wing should be created quickly so that effective action can be taken to prevent land encroachment.

(11) Evolving a Reliable System of Property Titles:

The age-old system of land records and registration of deeds have lost their sanctity totally. Bogus records are created without any fear and the BBMP officials play havoc with katha registration. It was represented before the Committee by all the senior officers of government and statutory bodies that unless a reliable system of property titles is established, officials will continue to misuse their discretionary powers regarding property titles. It is seen that it is possible to create such a more reliable system. With the use of available modern technology such as Total Stations, a quick and accurate survey of landed property can be done within a year. This should be coupled with Inquiry of Title by the Survey Department as provided under Chapter XII of the Karnatka Land Revenue Act. This is on the model of the Torrens System of Registration of Titles as prevailing in many other countries. At present we have the system of registration of DEEDs in India in contrast to the Torrens system of registration of Title. Such a more reliable system of registration of title has been done in a small way in Belgaum city already. A well coordinated and funded survey and title enquiry should be done in the metropolitan area of Bangalore district which will cost less than Rs.60 crores. This will have the great benefit of creating a basis for title documents which can be made use of by all the government departments, Bangalore Development Authority, Bruhat Bangalore Mahanagara Palike, Municipal Councils, Gram Panchayats and citizens. The cost can also be easily recovered from the users of these valuable title documents .

(12) Successfully Defending Government Cases in Courts :

There are seventeen Legal Cells appointed by the Government to the departments to pursue effectively the

litigations involving the government. The law Secretary is required to review the work of legal cells once a month and send a report to the Chief Secretary. This should be faithfully undertaken.

Selection of Government Advocates:

It is necessary to constitute a high level Committee with the Advocate General as Chairman, the Chief Secretary and a nominee District Judge of the Chief Justice of Karnatka High Court as members and the Law Secretary as Members Secretary. The committee will call for applications and select the Government Advocates and Government Pleaders purely on merit and the decision of the committee shall be final. The committee will call for application and select the Government Advocates and Government Pleaders purely on merit and the decision of the Committee shall be final. The committee will also assess the performance of the existing Government Advocates and pleaders and wherever felt necessary will terminate their services. In addition to the existing remuneration, they should also be given an incentive of up to Rs. 10,000/- on winning each case. The post of Administrative officer in the office of the Advocate General should be filled up with the appointment of a Civil Judge as was the practice earlier.

To Pursue the cases effectively in the Courts, each department should from a Cell on the model of the Commercial Tax Department.

(13) Computerization of Law Department :

The Law Department should computerize its records and system on the pattern of the High Court which enables better tracking of the stage of the cases.

(14) A Permanent Administrative Structure to implement the Karnataka Land Grabbing (Prohibition) Act and to punish and prevent land encroachments :

The Act constituting Special court has been passed by the Karnataka Legislature and has been sent for assent of President In may 2007. This has to be pursued with the Government of India and meanwhile Rules should be framed. Besides, there should be an effective administrative wing under the Special Court to investigate the encroachments and prosecute the encroachers and abettors. It is noticed that collusion among officials, encroachers and powerful sections of people is rampant and in most ceases the encroachers and their abettors are going scot-fee. In many cases records have been destroyed by officials as in Jala Hobli of Bangalore North Additional Taluk. In many cases tank beds and even public roads have been fully encroached.

To bring such offenders under the severity of the Act, it is necessary that the special Court has as its administrator or secretary General an officer of the rank of serving Additional Chief Secretary under whom there should be sufficient number of officers of Revenue, Police and Forest Department Special Prosecutors and Legal Assistants. He should be clothed with legal power to summon officers of Government Department, statutory bodies and citizens to appear before him and furnish records. Unless such powers are given to the Special Court and its Secretary General, Investigation, Prosecution and punishment will not be successful.

(15) A master plan needed for use of lands recovered from encroachers :

It is necessary to form a committee of experts from town and country planning leading architects and citizen to have a

master plan for the optimum and ideal land use for the available government land.

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DETAILED REPORT

After ascertaining the extent of encroachment from various department and statutory bodies and discussing them in the meetings of the Committee, the following details and proposals for immediate action are included in this Report.

1. INCOMPLETE AND INSUFFICIENT INFORMATION ON ENCROACHMENTS BY DEPARTMENTS:

It is noticed that in most cases the Departments have not given complete information about the encroachments. On the formation of the Committee in June 2006, letters were written to all the Government Departments and Statutory Bodies to furnish complete information about encroachments of lands in their possession. However, the Committee discovered to its dismay that none of the department have maintained a Property Register even to know the details of land in their possession. In spite of requiring them to prepare and maintain such Property Register, most departments have not done so. When information regarding the details of possession of land itself is not there, it is simply not possible form them to survey and ascertain the number and extent of encroachment. The list given by the Forest Department is thus “selective” and is incomplete.

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2. CRIMINAL PROSECUTION OF LAND-GRABBERS, GOVERNMENT OFFICIALS AND NON-OFFICIALS WHO ACTIVELY PROMOTE, ABET AND ASSIST LAND-GRABBING:

The above instances are only a few examples of the large number of land-grabbing cases which have come to the notice of the Committee. In all these instances, it is clear that such alnd-grabbing could not have taken place without the active cooperation, promotion and abetment of officials and others concerned. Land value in Bangalore district is like that of gold and outside BMP it is not less than Rs. 1 crore per acre even outside BMP.

While this committee has no brief to reform the entire administration, it certainly can recommend preventive and punitive measures to against land-grabbing. The duty of the Administration is to uphold rule of law. The purpose of the Fence is to protect the Crops: to act as the Guardian. Trustee and a Sentinel. But the few examples in the above paragraphs show that the Fence itself is eating the Crops, the Guardian himself is molesting the Ward, the Trustee is robbing the Beneficiary and the Sentinel is looking the Citizens. If these illegal, anti-social and Unethical acts go unpunished, honest citizens will lose all faith in Government and the very Social Contract on which the State is founded will crumble as castles built on foundations of sand.

It is therefore necessary to prosecute and prosecute public servants-both officials and non-officials-wherever they are involved in land grabbing, under the Indian Penal Code. Recently, on the recommendations of this Committee, the Karnataka Land-Grabbing (Prohibition) Act has been passed. It contains provision to prosecute public servants committing or abetting land-grabbing. These must be vigorously implemented. Till the rules and administrative machinery under this Act come into force, the existing provisions in the Indian Penal Code for

creation of false documents, false evidence and abetting such violations should be invoked.

As pointed by this Committee in its Interim Report submitted to the Legislature in February2007. Action should also be taken under the Karnataka Prevention of Dangerous Activities of Bootleggers. Drug offenders, Gamblers, Goondas, Immoral Traffic Offenders and Slum Grabbers Act, 1985. Under this act Slum Grabber is defined as a person who illegally takes possession of any Government, Local Body's or Private Person's land or constructs structures and any person who abets such illegal act. The act thus covers any land grabber and any person including public servants who abets such land-grabbing and they can be detained up to one year. There are many land-grabbers in the form of Real Estate Agents and Builders who have created bogus documents for plots and apartments and have sold them away to unsuspecting persons. It is these people who should be detained. This act is known commonly as "Goonda" Act and so far in Karnataka only habitual offenders and bootleggers have been detained. The drastic provision of detention up to one year should be used against land-grabbers also.

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3. THE STRANGE CASE OF KARNATAKA JUDICIAL EMPLOYEES HOUSE BUILDING COOPERATIVE SOCIETY- WHO WILL GUARD THE GUARDIANS?

The Karnataka Judicial Employees House Building Cooperative Society (KJEHBCS) was established in 1983 with the objective of providing housing to the employees of Judicial Department. Government acquired 156 A26G of land in the village limits of Allalasandra, Chikkabommasandra and Jakkur Chikka Plantations in Bangalore North Taluk in the year 1992 and handed over possession on 13.11.1992. Besides, the HBCS took possession of about 36 acres of land in the same village through private negotiations with the land holders entering into agreement to Sell. At the outset it should be mentioned that such negotiations of taking possession of the Government is a violation of Sections 79 A and 79 B of the Karnataka Land Reforms Act. Section 79 –B of the Karnataka Land Reform Act which section came into force on 1.03.1974 states as follows:-

"79-B. Prohibition of holding agricultural land by certain person.-(1) With effect on and from the date of commencement of the Amendment act, except as otherwise provided in this Act.

(a) No person other than a person cultivating land personally shall be entitled to hold land; and

(b) it shall not be lawful for, (i).....,(ii).....(iii)....., (iv) A cooperative society other than a cooperative farm, to hold any land. "

Further, under section 80 (1) (a) (iv), no sale in favour of a cooperative society disentitled U/S79 B will be lawful. Also U/S 83 all such and unlawfully held by a HBCS shall be forfeited after a summary enquiry by the Assistant Commissioner.

It is therefore clear that the Judicial Employees HBCS has violated the Land Reforms act and the land so held by the HBCS shall be forfeited to the Government along with the structures on it. The HBCS gave an ingenious explanation were actually not purchased through Sale Deeds but only Agreements to Sale were effected and the HBCS has taken possession of the lands on that basis. This only compounds the offence of the HBCS as it has taken possession of the lands without any titale and proceeded to allot sites in gross violation of law. In some cases, the HBCS and a few land-holders have entered into a "Compromise" before the City Civil Judge. It is astounding as to how such "compromise" in violation of the provisions of the Land Reforms Act and that too before a Court of Law can be entered.

The HBCS submitted a layout plan to the Bangalore Development Authority 6-11-1992 for approval. The BDA vide its letter dated 28.11.1992 resolved to approve the layout subject to certain conditions. However, the HBCS never again went before the BDA. Meanwhile many such HBCSs approached the Courts against one of the conditions namely, payment of Rs.2 lakhs per acre towards the Cauvery Water Supply Scheme. The court held this condition against many HBCS including the Judicial Employees HBCS as invalid. The Judicial Employees HBCS then submitted its layout to the City Municipal Council, Yelakhanka Which is not the planning Authority for the lands of the HBCS as the BDA is the concerned authority under the Town and Country planning Act. The CMC gave approval primarily for collection of fees at Rs.9 per square foot. This was assumed to be "approval" of the layout for which the CMC had no jurisdiction.

The Judicial Employees HBCS enrolled 3399 members and 1353 Associate Members and allotted 2268 sites. This include a large number of sites allotted to many Associate Members including Judges of High Court/Supreme Court their family members. Politicians, Contractors, officials like police-Sub

Inspectors who cannot be even honorary' Judicial officers while many regular primary members were not allotted sites. The allotters included such person as police Sub Inspector. Contractor of Public Works Department, Children of Judges etc. who were not judicial Employees or primary members.

Admittedly, the HBCS in its original layout plan had allocated about 65% for sites. 5% rfor civic amenities and Parks and the balance for roads. According to the Town planning norms. 52% can be allotted as sites,25% to be reserved for CA sites and parks and the balance of 23% for roads. According to this requirement, the HBCS should have provided for 404 CA sites against which no site was relinquished to the BDA.

In October 2002 the Judicial Employees Welfare Association petitioned to the High Court about various violations committed by the HBCS and the HC by an interim order directed that no sites reserved for civic amenities and parks and public use should be distributed as sites by the HBCS. However, the HBCS violated this direction also and distributed sites reserved for public use. Against this a contempt petition was filed by the Welfare Association which is being heard by the High Court of Karnataka and the Supreme Court appears to have issued a stay against the same.

In March 2006, the secretary cum Manager of the HBCS allotted 27 sites to his son-in-low by forging the documents of the HBCS against which the HBCS has filed a criminal case which is pending. In December 2006 the registrar of cooperative societies has initiated an enquiry regarding the irregularities committed and for disqualification of the office-bearers of the HBCS. The numerous violations committed by this HBCS are briefly as follows:-

(1) According to sections 79 A and 79 B of the Karnataka land Reforms Act, no HBCS can hold agricultural land without

the prior permission of the Government. But the HBCS took possession of about 36 acres of land from land holders on the basis of Agreement to sell and distributed the land as sites. In Managlagowri vs. Keshamurthy (2001) (4) KLJ 520) the High Court of Karnataka held that such distribution of sites after taking possession of agricultural land in violation of section 79-B the land Reforms act without prior approval of Government deserves criminal prosecution and directed the Police department to launch criminal prosecution. Besides, such land possessed and distributed by the HBCS is liable for forfeiture by the Government.

(2) Civic Amenities sites to the extent of 25% of the total layout area must be relinquished to the BDA for leasing them for civic amenities. As per order of the High Court in Bangalore Medical Trust Vs. BDA (AIR) 1991 SC 1902) dated 19.07.1991 sites meant for civic amenities cannot be used for any other purpose. Also, sites whether relinquished to the BDA or not, vest in the BDA. Besides, as per decision of the HC in A.S. Vishveshwariah vs. BDA 2004 (3) KLJ p.2613, under section 33 of the Town and country planning act, if the layout is not approved by the BDA and the HBCS goes ahead and distributes sites and buildings are built, the BDA can take possession of the buildings and use them for its own purpose, lease them out or sell to the public.

(3) The HBCS has allotted sites to persons who are not eligible for allotment of sites as judicial employees such as police sub inspector, PWD Contractor, Politicians, etc. Most noteworthy of such ineligible persons are the High Court Judges many of whom have been allotted sites as per list appended (Annex.3). As per observations of the High Court in ILR 1995 (1) Kar 3199. High Court Judges cannot be members of the HBCS. The observation of Justices K.S. Bhaktavatsalam and M.F. Saldanha in this case are as follows.

p.3183"A reading of Clause-7 of the Byelaws, in our view, by no stretch of imagination can include the Judges of High Court or Supreme Court (sitting, transferred, retired). Even assuming for a moment that certain judges have been allowed to to become members of the society, it may be an irregularity in the conduct of the business of the society. It is settled law, as we have already stated, that even through the allotment is made contrary to the Byelaws, this court cannot exercise the jurisdiction under Article226 of the Constitution as no writ will lie against a cooperative society....."

It is most unfortunate that the Judicial Employees HBCS which should have been a model to the other house building Cooperative Societies has itself become the lading law-breaker without the least fear or care for law, propriety or public interest. It has indulged in acts of favour. Cronyism and capricious indifference to law at will, obviously under the hubris that having High Court judges and powerful persons as its members and beneficiaries will ensure immunity to all its illegal acts.

What is more disquieting is the readiness with which sitting High Court Judges who are not "employees" under any government but are constitutional functionaries protected rightly by many a privilege under the law, should have eagerly become members of the HBCS and obtained sites. It is seen that some of them obtained sites not only for themselves but also for their kith and kin who are not judicial employees either. The board of directors who appeared before the officers of the committee on 30.05.2007 also informed that while there was one set of application form for the members, there was another set for the Judges of High Court and Supreme Court.

Having the registered office of the HBCS in the High Court building itself invoking awe and terror in the minds of various agencies who have to take action against the HBCS as per law,

do not create an atmosphere of fairplay, straightforwardness or impartial dispensation of justice.

In the retreating standards of public morality, the people still perceive the Judiciary as the last bastion of redress, relief, remedy and justice. Therefore, the Judiciary should be, like Sita or Caesar's wife, above and far removed from the least odor of suspicion of indiscretion and impropriety. This Committee therefore, feels that it is necessary to protect the Judiciary's own precious reputation and the faith of people in it.

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4. **GOBBLING OF PUBLIC ROADS IN BINNAMANGALA MANAVARATHE KAVAL BY APPANAHALLI IN BANGALORE SOUTH TALUK DUE TO COLLUSION OF PURVANKARA BULDERS, REGISTRATION DEPARTMENT, BANGALORE MAHANAGARA PALIKE:**

Permission to convert 8A 8G of land in Survey NO.4/1 of Binnagmangala Manavarathe Kaval of Bangalore South taluk was given about twenty five years ago In 1975 the Byappanahalli Grama Panchayat approved a layout plan for the land even though it had no legal powers to give such approval. Following this, four persons namely, Suresh Salaria, Rohit Salaria, S.S. Mohamad Samad and Mohamad Saifullah, registered 51 sale documents showing purchase of 51 sites including four sites shown as roads in the layout plan. Some sites were purchased in two persons names. No documents showed the names of all four purchasers jointly. On 23.05.2003, these four persons applied for khatha registration before the Bangalore Manahanagara Palike. On3.06.2003, within a remarkably expeditious then days, the BMP issued a Joint Khatha in the name of all four persons for a total area of 2.34.489 square feet including the 39,910 square feet area covered by the roads.

The important matter to be notice here is, for issue of Joint Khatha the property must have been purchased jointly and the purchasers must be blood-relations. In this case the property was not purchased jointly by all the four, nor were they blood-relations. Also, at the time of registration of documents, the sub-Registrar should have noticed that public roads are included in the Schedule to the documents. Further, on 24.12.2003 they applied to the BMP for permission to build residential houses. Again, on 24.06.2004, they obtained permission from MBP for conversion into commercial purpose. Further, on 24.05.2005, they obtained BMPs permission for construction of a commercial complex. Meanwhile, the Purvankara Builders purchased the

property from the above four persons and have started construction of multistoried commercial building. At no stage of issuing joint kathas, change of land use, building permission, etc. the concerned authorities inspected the land. Had they done so, the stealing of the public road and making it part of the building would have been noticed.

In this episode, there have been illegalities from the beginning. The Grama Panchayat had no authority to approve the layout. The Sub-Registrar of the Registration Department should have seen that the public road as mentioned in the sale deeds could not be sold away by anybody. The BMP issued illegally joint Khatha without inspect ion of the layout even though the property was not purchased jointly by all the four nor were they blood-relations, just to help the builder. Truly it can be said that Money proved to be thicker than Blood in this case.

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5. MORTGAGING OF THE ENTIRE BYRASANDRA TANK BED TO BANK FOUR A LOAN:

Survey No.56 of Byrasandra village, Uttarahalli Hobli, Bangalore South Taluk of Bangalore Urban District is actually a tank bed of 15 acres 11 guntas. This tank was transferred to the Forest Department for the purpose of creating a tree part by Govt. Order No.PWD 82 IBM 85 dated 11.02.1988. Meanwhile a company called M/s Sierra Property Development Pvt. Ltd, has mortgaged the above tank bed land to the Indian Overseas Bank. Jayanagar and have secured a loan. The signatories for securing this loan are Shri. M.C Bopanna. Managing Directors of the Company and Shri. H. Subramanya, the G.P.A. holder. ‘

Another interesting matter is that on 13.04.1995 a cheque for Rs. 42,17,600/- drawn in favour of M/s Sierra Property Developers Pvt Ltd. Drawn on city Union Bank Ltd. T. Nagar Chennai was produced before the Indian Overseas Bank, Jayanagar and has been enchased in favour of Shri. M.C. Bopanna.

Later, the cheque was forwarded to the city Union Bnk at Chennai on 19.04.1995 for clearing but the same was rejected on the grounds of insufficient funds in his account. Further, it is important to note that the Indian Overseas Bank of Bangalore in order to rectify their faulty action of paying Rs. 42,17,600/- in advance without getting the cheque cleared by sending the same to the Chennai Bank and without ascertaining whether there was sufficient funds in the relevant account, asked to furnished a collateral security for the amount paid and to get the same converted as a loan. This bank has neither enchased that amount by sending the cheque to Chennai Bank nor have they verified the availability of sufficient funds in the relevant account.

As per the complaint received by the Committee, Shri. N Manohar and 4 others have created documents regarding 15 acres 11 guntas of Byrasandra Tank showing it as their ancestral property and one Shri. H. Subramanya as the GPA holder has joined hands with Mr. M.C. Bopanna and has provided the tank bed land as collateral security and has got the amount which he had realized from the bank through cheque converted as loan.

It is also learnt that the GPA holder Shri. H. Subramanya showing the same tank bed which was furnished a collateral security for a loan has secured a personal loan also. The bankers have given a notice to the GPA holder Shri. H. Subrmanya for non-payment of the loan. Then Shri. H. Subramanya filed a civil suit in PCR No.105/1996 before the Forth Additional Metropolitan Court stating that his personal loan has been repaid and the documents mortgaged as collateral security has been misused for some other loan and are not being returned to him. The court stage, Shri. H. Subramanya submitted another application to the court requesting to secure the documents which were in the custody of the bank. Accordingly, the Police department have taken these documents to their custody. On another application filed by Shri. H. Subramanya for an order to hand over the documents to him, the court acceded to his request.

The Indian Overseas Bank has filed a case in the Court of 23rd Civil and Sessions Judge in No.CRP/220/1996 praying for the return of documents, and contended that the subordinate court has not sought the opinion of the Bank while handing over such valuable documents to Shri H. Subramanya since he himself had mortgaged these documents to the Bank as collateral security. After examining this matter the Court directed Shri. H. Subramanya to hand over the documents to the custody of the bank. In response to this, Shri. H. Subramanya submitted that these documents were lost while traveling in an auto rickshaw

and a complaint has been field in the Jayanagar Police Station (No.109/1996). Thus, the original documents are not traceable now.

Later the Bank, with the help of photocopies of the documents which they had retained with them. Approached the Debt Recovery Tribunal which in turn issued an order on 4.2.2005 for auctioning of the bank bed. In the auction, one Mr. Mushtaq Ahmed gave the highest bid for Rs. 6.70 Crores and also paid 25% as advance of the bid amount.

Meanwhile, the Reserve Bank employees Residents Welfare Association preferred a writ petition No.4291/2005 in the High Court of Karnataka on which a stay order has been issued against the confirmation of the bid. The stay is still existing.

Through the BMP entrusted the tank bed for developing a tree part to the Forest Department in 2003 it has incurred an unnecessary expenditure of Rs. 1,20,00,000/- for tank development. The forest Department true to the adage “Locking the Stable after the Horse has bolted “ filed a complaint in Tilaknagar Police Station in 2005 and Initiated a criminal case for taking action against those who have sanctioned loan by mortgaging the tank bed land. The police have failed to investigate and take legal action.

In this case, it is very clear that they have fraudulently created false documents regarding government. Property in a highly systematic manner and have effect ted this illegal transaction with the financial institution. The Bangalore Mahanagara Palike have wastefully spent public money without any clear scheme unnecessarily towards an unrelated work. The forest Department has failed to take any action when all this was happening and ultimately to show some action, has filed a complaint with the police.

Therefore, the Committee is of the opinion that suitable action must be initiated against the financial institution which has given loan on the basis of bogus documents without exercising care and attention resulting in a scandal. The bank has also converted a bounced cheque into a loan. Action should also be taken against the officials of BMP who have incurred wasteful expenditure and against the Forest Department who remained a silent spectator failing in their duly to protect the tank bed.

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6. GARBBING OF 11 A 20 G OF TANK BED LAND OF GOVERNMENT AT PATTANDUR AGRAHARA, BANGALORE EAST TALUK BY CREATING BOGUS RECORDS; [WP NO.39159 OF 2002, WP NO.4335 OF 2006 AND CRP NO.62 OF 2005 DATED 08.03.3007]

Pattandur Agrahara was formerly an Inam village which has now become fully urbanized with the information Technology Park having geen established some years ago. There is a tank in this village in Survey No.54 measuring 11A 20G. It has been shown as Sarkari Kere in the Revenue Records of the Survey and Settlement Department from 1860 onwards. The service Inams were abolished by an Act in 1959 and all such Inam lands came to be vested in Government with effect from 1.2.1959. The Act also provided for the registration of occupancy rights of the erstwhile inamdars except communal lands, waste lands, gomal lands, tank beds, quarries, rivers, streams, tanks and irrigation works. Hence, from 1959 onwards this land was shown as Sarkari Kere in the Revenue Records till 1980.

However, on 27.12.1980 a bogus and fraudulent order purportedly by the Land Reforms Tribunal was created to show that one KB Munivenkatappa was granted occupancy rights. He also filed a suit for declaration of title before the Civil Court in 1993 which was decreed in his favour on 24.1.1995. The government Pleader who conducted the case opined that it was not a fit case for appeal and the Director of Public Prosecution (Civil) also concurred with this strange opinion. However, some diligent officers of the Revenue Department refused to mutate the records in the name of he decree-holder pointing out that the land is shown in revenue records from the beginning as Tank Bed land and therefore, government property. On this rejection, the decree holder filed a case in 2001 and the Court ordered for the arrest of the Divisional Commissioner, Special Deputy Commissioner and Tahsildar for disobeying the orders of the Civil

Court. Against this order the Tahsildar had to hire a private advocate to defend himself as the Government did not provide him on time with a Government Advocate. In due course the officers were defended by the Government before the High Court. Government also filed an affidavit before the High Court that the order of the Land Reforms Tribunal dated 27.12.1980 on which the entire further proceedings were based, was a c concocted and fraudulent documents and pleaded for condonation of delay in preferring the Revision Petition.

Though the subject matter before it was condoning of delay, the High Court went into the details of the and examined the original records of the Survey and Revenue Departments. The High Court came to the conclusion that the entry made in the land Reforms Tribunal for receiving applications were indeed fraudulent and further stated that about 70 last pages of the register concerned shows prima facie that the officials have tampered with the said book and that they do not appear to have been made in the regular course of transactions. The Court further went on to say that the instant case appears to be a tip of the iceberg.

The Court by its order dated 8 March 2007 came down heavily on the Government officials, Government Advocates and even on the Lok Ayuktha which had given a clean chit to the Government officials who had not acted promptly to prefer an appeal against the decree passed in 1993. It is worthwhile to quote in this regard the comments of the Hon'ble Justice N. Kumar.

"33. The material on record discloses at every stage the persons who were entrusted with the responsibility of protecting the pubic property have let down the Government. The way the litigation has been fought and the way the government representatives and their counsel have let down the public interest, is shocking. When the matter

was brought to the notice of the Lokayuktha, it issued a clean chit to those officials saying that the public interest has not suffered. There cannot be a worst situation than this. A mighty Government rendered helpless by such advice and breach of trust. ....

The learned Government Advocate who conducted he case on behalf of the Government instead of advising suitably the Government to prefer an appeal, gave his opinion that it is not a fit case for an appeal. The director of Public Prosecution (civil) who was expected to apply his mind and take an independent decision has failed to discharge his duties and he has concurred with the opinion given by the learned Government Advocate not to prefer an appeal. Even when the matter was being agitated in this Court in writ proceedings, advocate who was in charge of these matters appears to have not applied his mind properly. On the contrary, in the proceedings in W.P. No.7908/79 this court has recorded that the Government Pleader after verifying the records of the Land Tribunal, Bangalore South Taluk, in case No. LRF.5063/79-80 admitted the grant of land.. However, it is heartening to note that there are some officials still left in the administration who have a commitment in life and who think about public good. The said officials at the relevant point of time did notice that the schedule land is a Government land and it is a "sarkari kere' and mutation entries cannot be made in the name of the decree holder. They resisted the attempt to get the mutation entries made. In is only when arrest warrants were issued against them for disobeying the decree of a civil court, the Government realized the blunder they have committed and the Law Officers who betrayed its Trust. (Emphasis added).

A beginner in the legal profession would know that against a judgment and decree of declaration of title, an appeal lies

and not a revision. This is the type of legal advice which has been given to the government over a period of nearly ten years. "It is a case of salt having lost its savour". The judicial process is used 6to acquire rights over the Government property, a clear case of abuse of judicial process.

34. Karnataka being one of the progressive States in the Union of India, Bangalore being the center of attraction to the whole world, unfortunately, the professional legal advice given to the Government is of this nature. It is no wonder that the value of landed property in Bangalore is more than gold and the read estate business in the most thriving business in the city of Bangalore.. Now that multinational companies are competing with each other to have a foothold in Bangalore, with the liberalization, globalization and privatization, having its impact on all walks of life in the society, whether the Government is capable of meeting the challenges in the field of law and in protecting its people and its properties, with the kind of legal assistance they have. There is no dearth for legal talent in the state. The problem is the mind to utilize the said talent. It is for them to take appropriate steps to overhaul their revenue and legal departments, including the quality of he Advocates they choose to represent them in Courts, if the Government is sincere in protecting the public and its properties."

With these remarks the Hon'ble Justice the HC directed the office of the High Court to send a copy of the order to the Chairman of the Legislature Committee for Encroachment of Government land to be take appropriate action in respect of Lands covered in the ledger book maintained in the land Reforms Tribunal. Bangalore South Taluk. In particular, the last 70 pages which is full of over-writings, cancellations , insertions and manipulations, as found by the Court.

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7. GRABBING OF 180 ACRES OF GOVT. PAD LAND IN BADAMANAVARTHE KAVAL VILLAGE, BANGALORE SOUTH TALUK BY CREATING BOGUS DOCUMENTS TO FAVOUR THE HOUSE OF KHODAYS:

Prior to 1941 the land in S. No.137 of Baada Manavarthe Kaval [(Choodanahalli) village in Bangalore South Taluk Measuring 310 A 18G was under the cultivation of the villagers Doddahanumiah and others. On .9.81941 this land was resumed to government gor non-payment of land revenue and came to be entered in land records as Sarkari Pada.

In 1942, Under the Grow More Food campaign, the Government allowed for temporary (Hangami) cultivation 66 acres, at the rate of 6 acres each to 11 persons namely,

Venkata Bhovi, Muniswamy, Yankata Bhovi, Kunta Bhovi

Thimma Bhovi, Guruswamy Bhovi Guruva Bhovi Chinnalaga,

Chinnakariya, Venkata and Havala Bhovi

Subsequently, in 1953-54 the 66 acres appears to have been confirmed in the above persons names at the rate of 6 acres each free of cost (Muffat).

However, subsequently the Record of Rights were corrected and tampered to show that 16 acres (instead of 6 acres) were granted to 18 persons (instead of 11 persons), this is in total 288 acres in place of the original 66 acres, a land grab of 222 acres. The extra 7 persons as concocted were:-

Kabbala Bhovi, Eera Bhovi, Chikkamalla, Khoota Bhovi,

Kulla Bhovi, Ranga, Lakshmayya

It is even doubtful whether the original grant itself was made to these persons as the concerned Land Registrar of 1942 shows only the name of Venkata Bhovi ”and ten others “ having been

given 6 acres each while the correct procedure is to mention the grant individually for each person.

Strangely in 1969, the Tahsildar vide his OM No.LND.143/63-64 dated 26.4.1969 suggested to the Deputy Commissioner as follows:-

"In the circumstances, the GMF grant made during the year 1942 may be recommended for a confirmation in favour of the above 18 individuals or on upset price of Rs. 100 per acre as already reported."

On 3.2.1968 and 8.1.1969, the following persons, all belonging to the Khodays Family "purchased" 180 acres at 10 acres each from the same 18 persons belonging to Bhovi (Scheduled Caste) community.

K.L. Srihari, KH Gurunath KH Srinivas, KH Radhesh,

KM Maduhsudhan, KP Vasudeva, KP Ganeshan,

KL Narayana Sa, KN Eswara Sa, KL Ananthapadmanabha Sa,

(All of whose residential address is given as No.9 Seshadri Road, Gandhinagar, Bangalore 560009)

In 2001, Some interested persons, led by one Narasimhaiah and others filed a Pubic Interest Litigation Writ Petition before the Karnataka High Court No WP No.8636 of 2001 and the HC passed an order on 12.6.2001 directing the Special Deputy Commissioner, Bangalore Urban District to initiate proceedings under section 136 (3) of the land Revenue Act and to take such remedial action as may be found necessary within 4 weeks.

The then Special DC (Shri C. Krishne Gowda) Passed an order No.RRT (2) CR 59/2000-01 on 10 October2003 (i.e after28 Months). He however, held the entries in the Record of Rights

creating presumption that 18 persons were granted 16 acres each, as tampered and ordered cancellation of the entries.

Against this order of the Special DC. KL Shrihari Khoday and nine others of his family preferred writ Petitions No. WP.17777 to 17780 of 2004 (KLR.RS) and the HC by their order dated 29.06.2004 remanded the matter for fresh enquiry. The special DC vide his order No. RRT CR59/2000-01 dated 15.07.2005 again held the creation of entries of granting of 16 acres to 18 persons as bogus and that purchase of 10 acres each from 18 persons by the Khodays has no legal validity and the 180 acres should be resumed to the government. Once again, the Khodays preferred writ petition No. 22819/2005 (KLR.RS) before the High Court which is pending since 30.09.2005.

Since April 2006, one Muniyappa, S/o Eerachannappa, OB Choodahalli village Uttaraholli hobli, Udayapura Post Bangalore South taluk has been submitting well-documented petitions to Government about this land-grabbing by Khodays family with the connivance of Revenue Department officials and even by the Government Advocates as shown below:-

Dt.25-4-2006 Addressed to the Chief Minister with copies to Revenue Minister

Dt.10.-5-2006 Do Chief Minister W/c to Revenue & Low Min.& Adv. Genl.

Dt.22-7-2006 Do Chief Minster

Dt.28-8-2006 Do Chairman, Joint Legislature C'tee on land Encer' Ments.

The complainant Muniyappa in his last petition dated 28.08.2006 says, inter alia, that when the Writ Petition No.22819/2005 came up before the 16th Court Hall for hearing 4 times, the Government Pleader Kept quiet" .. Without opening his

mouth, not argued on behalf of the Government. He sat in his bench like a Doll by twinkling his eyes. This attitude of the Government pleader is to help the land Grabbers. My respected Sir, I am not asking anything for my own benefit. It is not correct by keeping quiet to see that the land grabbers have grabbed the valuable land in collusion with the Revenue Officials which is only 15 Kms away from the Bangalore City. The said land may be used by the Government for public activities."

The Writ Petition No. WP22819/2005 [KLR.RS] preferred by the Khodays on 30.09.2005 against the order of the Special Deputy Commissioner dated 15.07.2005 is still pending before the HC for the past 18 months. The explanation of the Government Advocate appearing in this case ought to have been called for by the Government. At a conservative estimate the 180 acres illegally occupied by the Khodays on the basis of fraudulent documents concocted by the Revenue Department Officials is worth Rs.180 Crores even at Rs.1 crore per acre.

It is also necessary for Government to call for the explanation of the concerned officials and launch criminal prosecution for breach of trust, creating false evidence, etc. under the Indian Penal Code and the recently passed legislation. The Vas, RIs, Tahsildars. ACs. DCs/Spl. DCs of the period from the date of the fraud; the Sub-registrar and District Registrars for registering the documents of sale without looking into the violation of Land Reforms Act and PTCL, 1978 Act should be proceeded against.

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8. CHOUBEENA SUBBARAO CHARITIES CASE- HOW9,770 SQ. FT. OF LAND AND BUILDINGS WORTH RS.15 CR. BEQUEATHED BY A PHILANTHROPIST IS GRABBED BY PRIVATE PERSONS WITH THE HELP OF BBMP OFFICIALS.

Shri. Choubeena Subba Rao, a philanthropist, died without heirs around 1913 after executing a Will on 4.11.1992. His registered will bequeathed his property of 908 Sq. meters of land (9.770 Sft. With buildings at 3rd Main, 3rd Cross, Chamarajpet to the Endowments Department after the time of his wife. Dieed in 1932 and the ten shops and land came into the possession of the Endowments Department from the income of which the Department was to maintain the Upkeep of a few specified temples.

The property, worth about Rs.15 Crores at a conservative estimate of Rs.15.000 per square foot in the central Chamarajpet, remained with the Endowment Department from 1993. According to the City survey conducted by the Director of Survey and Settlement in 1972, the property bearing City Survey No.1456 measuring 908.3 sqm stood in the name of Choubeena Subba Rao Charities- Muzrai Department vide Property Register Card dated 25.07.1972.

However, on .9.9.2003 one TG Ramachandra, a clerk of the MBP and residing in Chamarajpet along with another person, entered into an Agreement of Sale for purchase of the entire property measuring 90 Ft x 108 ft and the four buildings for a consideration of Rs. 75 Lakhs. Rs.25,000 was paid in advance,50% after the disposal of “case, if any” and the balance 50% after the khatha of the property is transferred to the name of the Vendors and the Sale is registered. It is therefore clear that the role of the BMP Clerk TG Ramachndra was to see that the Khatha is changed to the “Vendors” CR Shamanna and S. Venkatesh, who were in no way connected to the property.

Interestingly, another unregistered will purportedly written by Shri. Choubeena Subba Rao on 8.11.1912 (i.e four days after his original registered will) made its appearance before the Assistant Revenue Officer Srinivasulu, in 2003, i.e. after 91 years. On the basis of this the Assistant Revenue Officer of the BMP changed the khatha to the name of C.R. Shamanna and S. Venkatesh vide No.DA(C) 46 PR5/03-04.

Disputing this Khatha change, the Endowments Department filed a Review Petition No.10/2005-06 before the Joint Commissioner, West Zone of the BMP. He passed an order in which he totally and unilaterally disregarded the following material facts, did not verify the Endowment Department's pleas with due diligence, glossed over the documents filed before him, deliberately favored the land grabbers and did his best to make the late philanthropist Choubeena Subba Rao turn in his grave.

(1) On the Petition by CR Shamanna and S. Venkatesh, the two land-grabbers, before the Special Deputy Commissioner, Bangalore Urban District to declare them as rightful owners of the said property, he passed a detailed order on 10.05.2006 dismissing the petition and held that the "Muzrai Department is entitled to get the 'mutation' of the property in question transferred to its name by Bangalore Mahanagara Palika and manage the property as well as perform several sevas as detailed in the will executed by late chaubeena subba Rao The joint commissioner admits in para 28 of his order dated 6-7-2006 i.e nearly two months after the order of the special deputy commissioner of seeing this order. But he disregarded the special DC,s orders on the following ridiculous and injudicious ground.

Para 28. The petitioner has produced copy of the order dated 10/5/2006 passed by the special deputy commissioner in M.A.NO.7/04-05 after the case was posted for orders wherein it is held that the properties belong to the muzral department which goes to show that the said issue is

subsequent to the impugned orders passed by the asst revenue officer chamarajapet. On perusal of the same and other document sic produced by the both the sic parties I am of the considered opinion this order is of no assistance to the petitioner as the orders passed by the special deputy commissioner is subsequent to the orders passed by the concerned revnue authorties the discussion I have made and conclusion I have reached are only for the purpose of resolving the question in dispute before me. Emphasis added.

For undiluted gibberish there can be no other "quasi-Judicial" order to beat this. When he is passing the order on 6.7.2006 should he or should he not take into account the order passed by the Special deputy commissioner dated 10.5.2006 who was the Competent Authority under the Religious and Charitable Endowments Act?

The Joint Commissioner's order eloquently speaks for itself that the only reason for disregarding it is favour the land-grabbers.

Obviously the disregarding of the order the Special Deputy Commissioner which was produced before, the Joint Commissioner was due to mala fide and dishonest intention. Indeed, he "resolved the question in dispute before him" which was worth Rs.15 crores, against the government and in favour of land-grabbers:-

(2) The Endowment Department brought to the notice of the Joint Commissioner the fact that the BMP employee TG Ramachandra colluded with the two land-grabbers in getting the Khatha changed. The Joint Commissioner records this in para 16 of his order but goes on to say in the next para that "vague statements do not help, and mere surmises or assumptions cannot replace credible proof." Etc etc. It transpires that the said

clerk TG Ramachnadra, still working under the Joint Commissioner, was a party to purchase the very same property for a sum of Rs.75lakhs (No less) and the said Agreement of Sale was registered on 6.9.2003 by paying a stamp duty of Rs.50. anyone with an iota of commonsense-let alone a senior joint Commissioner borne on the prestigious Karnatka Administrative Service-would have enquired more into the role of a mere clerk under his nose in this nefarious transaction.

(3) The Endowment Department represented before the Joint Commissioner that the so called second will is bogus and on the basis of which the learned Assistant Revenue Officer changed the Khatha from the Government Department to two land-grabbers (and which the Joint Commissioner upheld) **was dated 8.11.1912 and it surfaced before the Assistant Revenue Officer in the year 2003, that is after a mysterious hibernation of 91 (Ninety One) years.** Any normal hum being, let alone a high ranking officer of the Mahanagara Palike, would have got an elementary nagging doubt as two why such a valuable document conferring rights over a property worth Rs.15 crores was not produced by the beneficiaries much earlier and is surfacing after nine, decades and four generations. But the detailed order of the Joint Commissioner running to 29 paragraphs in 15 pages does not, with stupendous gullibility or worse, devote a single sentence to wonder at this mystery of second, unregistered will being produced after 91 years.

(4) The Muzrai Department also produced before the Joint Commissioner the records of the City survey c certified by the Survey and Settlement Department's which is also discussed by him in paras23 and 24 of his order. The Survey Departments Plain Table (PT) Sheet No.338 and Property Register Card B1 No. 1 dated 25.5.1977 shows that city Survey No.1456 situated between 3rd Main Road and 3rd Cross Road in Chamarajpet measuring 908,3 sq.meters stands in the name of Choubeena

Subba Rao Charities and Muzrai Department. In his order the learned Joint Commissioner number 37 whereas the Katha extracts produced comes to the "conclusion in that the Survey Records cannot be relied upon. As an executive officer of the Mahnagara Palike, it was his bounden duty to inspect the spot. Since the survey records clearly show the boundaries and extent on all four sides of the property and also the total area, before disregarding the Survey Records. Also strangely, in para 24 the Join Commissioner misreads the Survey Records as Choultries instead of Charities.

It was argued before the Committee by the Secretaries to Government that the order the Joint Commissioner is a "Quasi Judicial Order and therefore there cannot be disciplinary or criminal proceedings against an officer passing a quasi-judicial order. This gross misconception of the Secretary was duly dispelled by drawing attention to the relevant rulings of the Delhi High Court in Narayan Diwakar Vs. Central Bureau of Investigation dated 23.1.2006 [127(2006) DLT 789]. On referring the matter to the Law Department, this was also confirmed by them. [Annex 4]. It is surprising that senior Secretaries to Government, without having sufficient knowledge of legal status of officers misusing powers given under law, assert before the Legislature Committee protecting erring officers on the patently false ground of immunity for exercising quasi-judicial powers. Any act of any public servant is necessarily in exercise of powers under a legislative provision in which sense all acts of all officials can be wrongly interpreted as exercise of quasi-judicial powers.

Disregarding the clear orders of the Special Deputy Commissioner who is the competent authority under the relevant law dealing with Muzarai properties, turning a deafer to the allegation of the role of his own office clerk in the case, keeping dumb to the fact that a will on the basis of which the khatha of a charity given to the government

department, turns up after 91 years, casting blind eyes to the survey Department's Enquiry Report that the property belongs to the Endowment Department, etc. are-like the proverbial primate-not shining example of legitimate exercise of judicial powers, quasi or otherwise. At best it is a pseudo-judicial exercise to defraud public charties and abetting with the land-grabbers. At worst, it is a colorable, deliberate exercise of power to help land-grabbers trying to rob property endowed by a pious person, not allowing his soul to rest in peace.

This sordid saga of land-grabbing will not be complete without mentioning the role of the Endowments Department. Though it is entrusted with managing and protecting the properties of temples and charitable endowments made over by benevolent citizens like Choubeena Subba Rao, and though the Department Executive Officers in the BMP area have each only about five or six institution to supervise which each can complete in one month if they have the mind to, the departmental officers and their Executive Head have miserably failed in their duties. It inconceivable that whenthe katha of a valuable endowed property was being changed over a period of two years since 2003 or even earlier by land-grabbers, the departmental officers were unaware of such attempts. Without protecting the altruistic and pious endowment of valuable property bequeathed by a noble philanthropist, they allowed the grabbing of the property by unscrupulous persons. Even if one senior officer visited some of these properties in each month, he would have covered all the important properties in his jurisdiction in six months and would have detected the dark deeds of land thieves and could have hipped it in the bud. Obviously these officers of the Endowment Department though that God himself will protect His properties and they could continue their sweet slumber without waking up and bestirring from their immobile, Epicurean existence.

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9. GRABBING OF 3 A 26G OF LAND BELONGING TO THE NATIONAL INSTITUTE OF MENTAL HEALTH AND NEURO SCIENCES (NIMHANS) BY A BUILDER WITH ASSISTANCE FROM BANGALORE MAHANAGARA PALIKE OFFICIALS.

An area of 46 A 14 G of land in Byrasandra village, Uttarahalli hobli of Bangalore South Taluk (Now abutting Bangalore-Hosur Road, well within the inner city area) was acquired by the then Government of the Maharaja of Mysore in 1944 vide Notification No.PW 1688-90 dated 28.10.1944 for the purpose of SDS Tuberculosis Sanitarium. Subsequently, in the year 1981 the Government transferred 14 acres from this land to the National Institute for Mental Health and Neuro-Sciences (Nimhans) for its formation and expansion. The Assistant Engineer, Buildings Division, Banglore handed over the land to the Executive Engineer, Nimhans on 9.10.1987. This included lands in Survey Nos.2/1,2.3.2,4 and 2/5 measuring in total 6A25G.

Accordingy, mutation entries in the Revenue Records were made showing NIMHANS to be the kabjedar of the Property. The Encumbrance Certificate issued by-the Sub Registrar, Central records for the year 1981-82 also shows that the property stands in the name of NIMHANS. There is no doubt about the status of the ownership by NIMHANS because, when one Smt. Lakshmamma and Smt. Ramakka who were purportedly the heirs of the original owner of the lands prior to its acquisition in 1944 approached the Assistant Commissioner, Bangalore to cancel the mutation standing in the name of NIMHANS u/s 136 (2) of the Karnataka Land Revenue Act, the assistant Commissioner, after enquiry, dismissed the application vide his order No. RA (s) 01/2003-04 dated 12.5.2003 stating that as the land clearly belongs to NIMHANS. The applicants have no entitlement to the said land in their favour.

Despite the fact of the acquisition in 1944which was not challenged and compensation was also received by the erstwhile land-owners, the said Smt. Ramaka and others applied to the BMP on 22.12.1989 for changing the katha in their names in respect of S. Nos.2/2/2/3,2/4 and 2/5 measuring 9004.225 sq meters. The officials of the Bangalore Mahanagara Palike (BMP) obliged them by changing the khatha on 3.9.1990 without making an enquiry or a spot inspection and hearing objections of NIMHANS or without referring to city Survey records.

Since then the NIMHANS has been fighting for the declaration of title in the civil courts and restoration of khatha in their name. On 6.1.1994 one Sri. YN Nanjappa. Corporator and Chairman of the Standing committee (Works.). BMP, filed an application before the BMP enclosing a copy of the 1944 notification acquiring the land by the government and stating that the katha made in favour of Smt. Ramakka an others was not proper as the NIMHANS was the rightful owner of the land. After enquiring into the matter, the then Deputy commissioner of the BMP (Shri Anil Kumar) revoked the katha made in favour of private persons vide his order No.D.C. (s)B.L. 1752;93 dated 17.10.1994.

However, the Assistant Revenue Officer of the BMP once again restored the katha in favour of Ramakka and others on 7.6.1997 ostensibly on the ground that they have produced a civil court order. But all that the order of the City Civil Court, before who a case was filed by Ramakka and others in OS No.2456/86 said was that the peaceful possession and enjoyment of the property by Ramakka and other should not be interfered with" It did not say that the Khatha should be made in the name of Ramakka & Others. Nor was the BMP a party to the litigation for declaration of title.

Further on 3.3.1997 Ramakka and others filed another application before the BMP for effecting katha for 1A 17 G In S.

Nos. 2/2.2/3.2/3.2/4 and 2/5. The BMP gave the katha accordingly on 7.6.1997 and the property was assigned No.49/1. Again on 2.6.1998 they filed one more application before the BMP for joining the properties Nos.49 and 49/1 to make it a single unit. The BMP again obliged and the combined Property No.49 was shown as 158.994 square feet equal to 3 A 26G. at Rs.8,000 per sq. ft. in this area the value of the land is about Rs. 127 crores.

The BMP again changed the katha in the name of the builder KV. Shiva kumar on 27.3.2000 on the basis of few sale deeds produced. The BMP officials did not make any spot inspection or enquiry with the NIMHANS or the SDS Sanitarium regarding the ownership. Anyone with an elementary sense of duty would have done this . Obviously they were in a clandestine hurry to help the land-grabbers.

The foregoing narration will show that the BMP officials are playing havoc with the urban properties belonging to the Government. Though Khatha is not a documents of ownership and is only an “account for payment of tax, yet in most courts it becomes a strong evidence of ownership. The check-list for any change of katha prescribed by the BMP says in item 20 that spot inspection should be made and the objections of the neighboring property owners should be obtained and recorded. Had the Assistant Revenue Officer adhered to this fundamental duty. He would have heard the objections of NIMHANS and the SDS Sanitarium and Rajiv Gandhi Institute of Chest Diseases (for whom the land was originally acquired) and could not have changed the katha this he failed to do.

On the other hand, Shri Anil Kumar, the then deputy Commissioner of the BMP should be complimented for revoking the katha in the name of private persons on 17.10.1994 for the land acquired already for the SDS Sanitarium, when it was brought to his notice. It was illegal and an act of impropriety and

conspiracy on the part of the ARO to cancel the order of the Deputy Commissioner of BMP and change the katha to the name of Ramakka and others on the spurious claim that they produced a court order to this effect There was no direction to the BMP to any such effect nor was the BMP a party to the civil litigation. At the stage, the ARO ought not to have changed the katha suo motu disregarding the earlier orders of the deputy Commissioner.

The senior officers of the BMP who came before the Committee harped endlessly on the point that NIMHANS did not produce any "scrap of evidence" from court orders that the property belonged to them. It is conveniently glossed over by all the senior BMP officials even to this day that in their own file there is a letter from the then Chairman of the standing committee of BMP enclosing a copy of Government Notification acquiring the land and on its basis the then deputy commissioner cancelled the Katha made in the name of private persons. Without any scrap of evidence the then deputy commissioner of the BMP could not have ordered the Katha cancellation from private persons names, disregarding this and arguing that the BMP was right in registering Katha to some private persons, is in the nature of suppression very and suggestion fast and deliberately abetting the land-grabbing by a builder, KV Shiv Kumar. It is also seen that there are twenty six sale deeds by which the sellers sold the lands to various parties and when the katha was changed to the name of this private builder in respect of the entire land, he was not the buyer in all the sale deeds. When the kath is changed and when the building permission is being given, the BMP is rules-bound to look into the title deeds. This the BMP and its Joint Director of Town Planning failed to do before giving building permission and thus helped a land grabber.

The Government property thus toyed with and abetted in land grabbing by BMP is 3A G. i.e 17,666 say yards or 158.994

sq .ft. This NIMHANS land is situated in a central area of he city and each square foot will fetch not less than Rs.8.000. The property is therefore worth Rs.127 crores. It is this property the BMP officials have been helping the builder land grabber to possess illegally.

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10. LAND GRABBING IN TURAHALLI MINOR FOREST WITHIN 12 KILOMETERS OF BDA OFFICE BY LAND GRABBERS AND PROMOTED BY BANGALORE DEVELOPMENT AUTHORITY

An Area of 597A 19G of Gomal land was notified as Turahalli Minor Forest in Notification No. G. 1786 FT-65-34-2 on 24.08.1934 by the Then Government of Maharaja of Mysore in the village of Turahalli and Uttarahalli Manavarathe Kaval as below.

Sl. No.	**Name of Village**	**Survey No.& Extent**			**Name of Block**
1.	Turahalli	41	94A	08G	Turahalli Minor Forest
2.	Do	42	159A	13G	Do
3.	Uttarahalli Manavaarthe Kaval	5	343A	38G	Do
	Total Extent		**597A**	**19G**	

TURAHALLI MINIOR FOREST-ROLE OF REVENUE DEPARTMENT OFFICIALS IN ABETTING LAND GRABBING

On 09.12.2004 the following persons executed a Memorandum of Understanding with one R. Dinesh Kumar S/o Roopchandji of Bangalore for the sale of 343A 38G of Gomala land in S. No.5 of Uttarahalli. Manavarthe Kaval for a consideration of Rs.30.00 lakhs per acre (that is Rs.103.00 crores for 343 acres; but the market value of the land even at nominal Rs.1,000 per sq. ft. is Rs.1.500 crores) for further development by a third party;-

(1) B. Chandrasekhar S/O Late Basavachar residing in Hanumantha Nagar, Bangalore.

(2) Narasimhamurthy S/o Late Seethramiah residing in Jayanagar, Bangalore.

(3) K. Vedachalam S/o A. Kodandapani residing at Sampangiramanagar, Bangalore.

(4) V. Mohankumr S/o Late Venkatppa residing at devereker, Bangalore,

(5) A.T. Krishnamurthy S/o Thimmiah residing at Deverekere, Bangalore.

[B. Chandrasekhar is said to be the husband of one Vijayalakshimi, a judicial officer working then in the Lok Ayukta; Vedhachalam is said to be originally a tailor turned real estate dealer of the Sony Builders, who was stituching gowns for judicial officer]

Another Agreement of Sale was entered into between (1). (2),(4) & (5) and one Realtor K. Rajanarendra S/o Late Balarangappa of Hyderabad residing in Sahakara Nagar, Bangalore for further negotiation, development and sale of the lands to other parties who are the nominees of the Purchaser for a consideration of Rs. 9.17 crores.

According to the report of the Deputy Commissioner, Bangalore Urban District dated 5.12.2006 the Sub- Registrar, Kengeri registered 43 documents between 28.07.2006 and 17.08.2006 involving Turahalli Minor Forest lands. Due to the various irregularities committed by the officials of the Revenue and Registration Department, the Sub-registrar, Kengeri, Revenue Inspector and Surveyors have been kept under suspension and Government have been asked to initiate action against the Special Tahsildar, Bangalore South Taluk and Assistant Director of Land Records for violations of rules. The Sub-Registrar however moved the Karnataka Administrative Tribunal and had his suspension order quashed.

TURAHALLI MINOR FOREST-REPERCUSSIONS OF HIGH COURT ORDERS ON SPURIOUS PETITINOS BY FICTITIOUS "CULTIVATORS" AND LAND-GRABBERS.

Ninety four persons claiming to be the unauthorized cultivators in S. No.5 of UM Kaval, filed a Writ Petition No.31316 to 31409/2000(KLR-Res) in 2000 against the Government namely, the Chief secretary, deputy commissioner, Bangalore Urban District Principal Chief Conservator of Forests, the Tahsildar, Bangalore South Taluk, the Range forest officer, Bangalore south Taluk, and the committee for Regularization of Unauthorized Cultivation, Bangalore South Taluk, praying to direct the respondents not to dispossess them and further to direct granting of 4 acres to each of them. (At4 acres each, the total land would come to 376 acres whereas the entire survey No.6 has an extent of only 343A 38G). A simple perusal of the documents filed or a mere small calculation would have revealed the discrepancy to the court.

However, the Court passed an order on 21.12.2001 holding that the mutation entry passed in the Revenue Records showing S. No.5 as Turahalli Minor Forest shall not be taken into consideration as legal and valid until the said entry is proved by the Forest Department by producing relevant records in that regard. Further, the court observed that whether the said land is within 18 Kms from Bangalore City Municipal Corporation is a "disputed question' and directed the Committee for Regularization of Unauthorized Cultivation to examine all these issued and pass final orders within 6 months.

Due to the growing urbanization of Bangalore and other cities and the misuse of agricultural lands. The state had amended the Land Revenue Act and introduced section 94 A in 1991 which prohibits regularization of unauthorized cultivation within 18 kms from BMP limits. In other words in 2001, government land, even if it was factually under unauthorized cultivation by eligible persons, could not be regularized. In the case of Forest land, the question of regularization does not arise at all because the forest Conservation Act 1980 specifically

prohibits any such grant by the Stat Government without the approval of the government of India. This has been fortified by the decision of the Supreme Court in Godavarman Tirumalpad vs. Union of India in WP. 202 (Civil)/1995 dated 12.12.1996 under which if the name "forest" not just in its legal sense but even in its dictionary meaning, has come in any records, that land should be treated as a forest land and no state Government can grant it without the approval of the Government of India. The observations of the SC in this regard are as follows.

"Para 4. The Forest Conservation Act, 1980 was enacted with a view to check further deforestation which ultimately results in ecological imbalance; and therefore, the provisions made therein for the conservation of forests and for matters connected therewith, must apply to all forests irrespective of the nature of ownership or classification thereof. The word "forest' must be understood according to its dictionary meaning. This description covers all statutorily recognized forests, whether designated as reserved, protected or otherwise for the purpose of section 2 (i) of the Forest Conservation Act. The term "Forest land" occurring in Section 2, will not only include 'forest' as understood in the dictionary sense, but also any area recorded as forest in the Government Record irrespective of the ownership (emphasis added). This is how it has to be understood for the purpose of section 2 of the Act. The provisions enacted in in the Forest conservation Act, 1980 for the conservation of forests and the matters connected therewith must apply clearly to all forests so understood irrespective of the ownership or classification thereof.'

The entry in the Record of Tenancy and Cultivation (RTC) Form of the Revenue department has a presumptive value. Section 133 of the Karnataka Land Revenue Act,1964 reads;

"133. Presumption regarding entries in the records. An entry in the Record of Rights and a certified entry in the Register

of Mutations or in Patta book shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted thereof." {Emphasis added).

In other words, while the presumption is a rebuttable presumption, the rebuttal should come from the person claiming it to be wrong. Therefore, it was for the 94 petitioners claiming to be "unauthorized cultivators' to prove that the entry in the revenue records naming it a forest land, is wrong and not for the forest department to prove it is right when the RTC entry and the mutation entry already states that it is a forest land, on the basis of the government notification issued in 1934.

The absolute prohibition of even a government land (let alone a forest land which can never be granted by the state government) within 18 km limit of Bangalore cannot be a difficult and complicated "disputed fact" The court could easily have asked the Respondents (1) Chief Secretary or any of the other Respondents to file an affidavit as to the distance of S.No.5 from BMP limits. It so happens that even though the Court ordered the Regularization Committee to dispose of all the petitioners' applications received within 6 months (the Court order was on 21.-12.2001), which expired in June 2002, the Regularization Committee did not pass any order within the time period. On the other hand on 26.03.2003 (i.e after 15 months) the Committee decided to refer episode exposed in the media, that the Committee on 2.2.1007 gave a decision that since the lands were situated within 18 km limits of BMP the applications are rejected. What prevented the Committee in rejecting the applications as soon as the High Court had asked them to dispose them off? That the survey numbers were situated within 18 km was known to the Committee in December 2001 also. 18 kilometer rule is the very core of the proceedings of the land Regularization Committee. It was not a new discovery in February2007. Even though the committee is headed by the local

Member of the Legislative Assembly and it knows fully well that the crow-flying distance of S. No.5 from BMP limit is 6 kms and the road-distance is 8 kms, the committee cooled its heels for over5 years by asking for a "report" from the Assistant commissioner and the request was not even passed on to the Assistant Commissioner by the Tahsildar who is the secretary of the Committee. The hands of the Land grabbers are long and powerful indeed.

Even on appeal, the division bench held the order of the single judge as valid. The Supreme Court's directions in the Godawarman case were not taken note of , nor the presumption U/S133 of the KLR Act, 1964, nor the prohibition of regularization within 18 kms. While Judicial activism to uphold the observance of Rule of Law is most desirable wherever there is a failure by the Executive, here is an instance where an untrammeled use of the cracks and crevices of the adversarial legal system by the land-thieves was allowed to go unchecked against pubic policy and law as laid down by the Supreme Court which has enabled the land grabbers to almost succeed in their crime of land –theft.

Turahalli Minor Forest-Role of the Forest dept in its Failure to Protect Forest Land By not Invoking the enormous powers under The Forest Act 1980 and supreme Court Judgment In Godavarman Tirumalpad Vs. Union of India.

KARNATAKA FOREST ACT, 1963

S. 64.A. Any person unauthorized occupying any forest land or any other land under the control of the Forest Department may be summarily evicted by a Forest Officer not below the rank of Assistant Conservator of Forests and any standing crops, trees, buildings, etc. can be forfeited if not removed by the unauthorized occupant.

S.74 of the Act empowers the Forest and Police Officers to arrest without warrant any person reasonably suspected of having been concerned for any offence under the Act punishable with imprisonment for one month or more.

Apart from filing First Information Reports as shown below, the forest Department did not take any further action to pursue the cases to its logical end by investigation. Prosecution and trial.

Sl. No.	**FIR NO.& DATE**	**Survey No.**	**Number of persons shown in the FIR**
1.	5/02-03 of 14.11.02.	5	Munikrishna and 8 others
2.	6/02-03 of 16.11.02	5.	Maikalappa and 9 others
3.	23/2-3 Of 04.12.02	5.	Gowramma W/o Lakshmayya
4.	24/2-3 of 4.12.02	42	Giriyamma
5.	50/2-3 of 14.03.03.	41	Smt. G.R. Lakshmi D/o Manmohan Attavar
6.	51/02-03 of 14.3.03	42	Damodar Shakuntala
7	8/05-06 of 08.03.06	42	Shankar and two others
8.	18/06-07 of 10.8.06	42	Nagaraj and5 others
9.	94/06-07 of 10.08.06	42	Byrappa and 2 others
10	96/06-07 of 08.08.06	5	Vajrappa
11	156/06-07 of 29.09.06	42	Rotary Club

Apart from individual land-grabbers, the BDA also "notified" on 7.11.2002 acquisition of 42 acres of land in Survey No.5 of Turahalli Minor Forest. Final notification on 9.9.2003 and passed the Award on 31.1.2004. It is to be noted however, that work on the formation of layout was started by the BDA even prior to the passing of the award. Formal Work order was issued on 28.11.2003 for Rs.2.93 crores to one V.K. Gopal but actual work appears to have started much earlier as seen from the ISRO satellite maps of 2003 which shows the layout already formed with roads and land leveled. What were the Forest Department Officials doing when the BDA issued a Notification on 7.11.2002 to acquire 42 acres of forest land in S. No.5 and final notification on 9.9.2003 and layout formation was going on in 2003 itself? Instead of making ritual chants of Godavarman case and piously believing that by merely reciting Godawarman mantra and singling Bhajans of it the land-grabbers will be scared and will run away from their crime, they did not take any preventive action when blatant attempts to grab forest lands were being made by land grabbers and even by the BDA from 2002. Fortified by the Godavarman Judgment, the Forest officials ought to have prosecuted all the persons connected with the criminal offence of forest land-grabbing and forfeited all the structures. This the Forest Department officers of Bangalore Urban Division failed to do.

When the committee confronted the officers of the Forest Department as to what action has been taken against land – grabbers in Turahalli minor Forest and, much worse. Banneerghatta National Park (discussed below), the forest department answered that action has been taken. The action taken by the Forest Department is nothing more than filing paper FIRs. The department appears to be under the unshakable impression that filing FIRs. Is the be all and end all of the matter and with it their responsibility to protect and preserve forests is over. It would therefore appear that the enormous powers vested

in them under the forest acts of 1963 and 1980 is actually powers wasted on then. It is only after the prodding by the committee in July 2006 that in a few cases the department has woken up and started trying to go beyond the FIR filing stage. When the forest department officers were specifically asked by the committee as to why they did not take any action beyond the filing of FIRs in few cases, they had no answer except vaguely hinting at “oral instructions” from above.

There are no records to show that all these 94 persons had unauthorized cultivated the Turahalli Minor Forest lands. These 94 persons who have been set up by builders and land-grabbers to go before the court and swear affidavits that they are unauthorized cultivators on the forest land, have been let free without being subjected to the reach of the Forest Act. The magnitude of negligence and inaction by the Forest Department and equally bold land-grabbing by a statutory body like the BDA is described in the following section.

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11. LAND GRABBING IN BANNEERGHATTA NATIONAL PARK, BANGALORE URBAN FOREST DIVISION AND FOREST DEPARTMENT FAILURE TO PROTECT THE PARK AND REMOVE ENCROACHMENTS:

The total area under the Banneerghatta National Park (BNP) is 26.68 lacres (102 Square kilometers) and it comes under both the Bangalore Urban District (18.198 acres) and the balance (8.484 acres) in Bangalore Rural District. The BNP was established in 1974 under section 35 of the National Wild life Act, 1972. There is a Deputy Conservator of forest of Indian Forest Service exclusively to attend to the management of the BNP with the following staff:-

Category	**Sanctioned**		**Working**	**Remarks**
Watchers	70	70	on Daily Wages of Rs.122 (Rs.3660 / month)	
Guards	16	13	Permanent. Salary Rs.6,000/ month	
Forester	3	3	Permanent. Salary Rs.8,000 (Min.PUC)	
RFO	3	3	Permanent. Salary Rs.11,000 (“Graduate”)	
ACF	1	1	IFS. Gazetted, Salary Rs.18,000	
DCF	1	1	IFS (On promotion Fr.ACF) Sal. Rs.21,000	
Total	**94**	**91**		

Hence, the area to be watched" by the Watcher is about 1.5 square kilometers and by the Guard is 8 sqm. The ACF and DCF have vehicles to supervise the Work done by the staff.

The Committee had called the Forest department for discussions on the various complaints received on several occasions. The meetings were held from July2006 onwards in Bangalore. Anekal and Yelahanka to discuss the encroachments in forest areas. Especially there were many complaints of encroachments in the Banneerghatta National Park. The national Park stands on a special footing, requiring a higher and stricter control by the forest department. The then government of the Maharaja of Mysore had issued Notification No. G6416-Ft.27-33-35 dated 17 March 1934 declaring 539A 27 G government land in S. No.67. 68. 69 and 70 of Bhutanahalli village in Jigani Hobli. Anekal Taluk of Bangalore district as Minor Forest under Section 35 of the Mysore Forest Regulation (XI of 1900). The BNP is carved out from this forest land.

As On 28.02.2007 the department gave a list of encroachments in the Banneerghatta National Park according to which 542 persons have encroached 306.72 hectares of the park. This has been further revised in the Department's statement before the Committee on 30.05.2007 to 558 persons encroaching 320.50 hectares (=813 acres). It is found that in all these cases, apart from filing First information Report in October-Novermber2002 and issuing notices in February 2003 the

Department has not taken any action to pursue action to prosecute and evict encroachers. Only when the committee started its hearings in August 2006 the Department woke up and started issuing Eviction orders in a few cases in November, December 2008 and January2007. The department has not taken any action to bring the encroachers under trial and punishment as provided in the Karnataka Forest Act, 1963. In as many as 325 cases of these encroachments, the department has simply stated that “Action Under Progress”

In addition to the National Park, there is another separate Deputy Conservator of Forests for the Urban District Forests exclusively covering 8.476. acres of forests. Of this, as per statement filed by the department on 30.05.2007 before the Committee, as much as 1,099 acres of forest land is admitted to be under encroachment by 312 persons compared to 954 acres by 238 encroachers as per report of 14.2.2007 by the Deputy Conservator of Forests, Bangalore Urban district. Only in 170 cases notices U/s 64A have been issued and that too after the committee called for the explanation of the Department ofor inaction and in 123 cases final orders U/s 64 A of Karnataka Forest Act have been issued covering 474 acres. (In 23 cases an area of 94 acres have been resumed to the Forest Department after removal of encroachment). This is in addition to the tank bed encroachment of 312 acres by 553 persons in the total tank bed area of 3,379 acres of 114 tanks under the control of forest

department under the control of forest department. What is strange in this case is, the number of encroachers as reported by the Deputy conservator of Forests in February 2007 was only 441 which has gone up to 553 in by May 2007 but the area of encroachment has remained 312 acres . In respect of this, FIRs. Have been filed in only in 289 cases and final order issued in 122 cases but in no case actual eviction has taken place, according to their report to the committee on 30.05.2007.

while reviewing the encroachment problem in Bangalore Urban district, it is noticed that in all these cases of 542 encroachments in BNP, the FIRs under the Karnataka Forest Act, 1963 were filed only in October-November2002, after the Government of India directed the Forest Department in June 2002, following a direction from the Supreme court, to remove encroachment, Notices under s S. 64 of the K. Forest Act were issued only in August2006, that is, after the Committee storied prodding the Forest Department about the inaction of the Department to remove encroachment, Out of 542 encroachments, only in 214 cases FIRs have been registered and only in 22 cases charge sheets have been submitted to the Judicial Magistrates. After filing FIRs in October-November2002, the department did not take any serious action such as arrest and summary eviction of the encroachments. More importantly, the department has not taken any action in time to remove these encroachments and has idled all these years.

The state of affairs in Bangalore Urban Forest Division headed by an exclusive Deputy Conservator of Forests is even worse. In the 312 cases of encroachments in stated to be existing since over ten years or so, only when the committee started hearing the forest department's action against encroachments in august2006, the department woke up and started issuing FIRss from Septemebt2006. Even as on 30.5.2007 only in 170 cases notices U/s 64A have been issued and final orders have been issued for removal only in 123 cases. But in only 23 cases encroachment of 94 acres has been actually removed as on 30.05.2007, similarly, the 441 cases of tank bed encroachments under the control of forest department as reported in February 2007 has gone up to 553 cases as on 30.05.2007. only in 289 cases notices have been issued as on 30.05.2007 against the encroachers and in 122 cases final order have been issued. It is not reported as to in how many cases the encroachment has actually been removed. In cases like Koneha Agrahara tank near airport and Byrasandra tank near Jayanagar, the department did not even report of encroachment though the committee found total encroachment in the former and mortgaging of the tank bed land to a Bank in the latter. The department is thus selectively reporting encroachments.

The strategy of the Department appears to be to show for records that filing of FIRs is the end of all action and removal of encroachments or arresting the encroachers and prosecuting

them need not be done, putting the blame on political bosses. In their report to the committee, page after page under the column "Action Taken" is shown as "Under Progress". What is clearly in progress is Inaction.

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12. ENCROACHMENT IN TANKS UNDER THE CONTROL OF BANGALORE URBAN FOREST DIVISION:

According to the report of the Deputy Conservator of Forests, Bangalore Urban Division dated 14.02.2007, there are about 48 tanks with a total tank bed area of 3.379 acres of which about 313 acres are under encroachment by 441 persons which has strangely gone up to 553 encroachers as on 30.05.2007. A cursory examination of the names and address of encroachers shows that these are not farmers in the neighboring areas who have encroached the tank bed but are mostly residents of different parts of the city who have encroached residential and commercial plots in the tank bed. It is quite likely that some important and powerful persons have formed "layouts" in these tank beds and have sold to the city residents. The forest Department has not even given the extent of encroachment by each person while giving the total area of encroachment as 312 A 33G.

To summaries, the encroachments in Banneerghatta National Park and the Forest area and tank beds under the control of Bangalore Urban Forest Division is huge as shown below.

	Total Area (Acres)	**Number of Encroachers**	**Area in Acres**
Banneerghatta National Park	18,198	558	813
Bangalore Urban Forest Area	8,476	312	1,099
B"lore Urban Tanks	3,379	553	313

These are only some examples. Most of these persons have also constructed buildings in these forest lands encroached by them. As to how Forest officials kept quiet when these illegal

activates were going on for over 10 years and how the local bodies gave permission to build houses in forest land are beyond comprehension.

Of the above, the case of Jairam Hegde (serial No.1 above) is interesting. After issuing a notice on 8.11.2002, the Forest Department did not take any action in using its enormous powers to arrest him and summarily evict him. It is well known that in all such cases, issue of notice is only a pretext for "action taken" and a ruse to collect illegal gratification or an enabling helping hand for the encroacher to approach the Civil Court to make false claim and continue illegal occupation. In this case also the Forest department conveniently kept quiet for 8 months and the encroacher filed a Title suit in the Civil Court on 19.07.2003. Commencement of evidence started on 15.7.2005 (that is, after2 years) and the final order OS.570/2003 was issued on 21.03.2006. The encroacher's case was that he purchased the land from different persons on registered sale deeds in 1994 and he has been enjoying his property since then without any hindrance from the Forest Department till 2002.

The Civil Judge has passed scathing remarks against the Forest department (defendants) in para 6 as follows:-

"6. Plaintiffs to prove their case examined Plaintiffs No.1 as witness and got marked 48 documents and closed their evidence. **Defendants have not cross-examined PW1 Nor lead their evidence.**:"{Emphasis added]

Again, in para 14 and 15 the Order says:-

"It is true that the burden is on the defendants to prove that it was reserved forest land and negligently they have not discharged their burden.

Issue No.2;. The burden to prove this issue is on the defendants. **The defendants conducted the case very**

negligently. Except filing of the written statement, the have not taken any part in prosecuting the matter. At least they should have produced the copy of the Notification to show that S. No.156 and 171 along with other properties totally measuring 388 acres of land is notified as Reserved Forest Land and declared as Suddehalla Lake. But they have not produced the same..”

However, fortunately for the Government, in this case the Civil Judge held that the plaintiffs did not prove their case that the original sellers had title to the land, relying graciously on the affidavit filed by the Range Forest Officer even though the Forest Department did not even produce the notification declaring the lands including the suit land as forest land.

This is the fate of the forest lands in Bangalore Urban district. In the first place, the Forest Department does not have the will-power and is impotent to take any tangible action to arrest and evict the encroachers in the National Park area, for which they are amply empowered under the Karnataka Forest Act, 1963. Secondly, when the encroacher file as suit in the Civil Court, the Forest Land. This indicates an unholy partnership of the Trinity of Legal Officers, Forest Department and the Encroachers. There is thus, at best, a paralysis in the department and, at worst, a collusion between the Forest department officials and encroachers as can be seen from the above cases of Turahalli Minor Forest and Banneerghatta National Park which are only two examples of the deep disease affecting the Forest Department.

The Committee therefore, recommends action for criminal negligence against the concerned Forest Department Officials, from Range Forest Officer to Deputy Conservator of Forests and their other senior officers in the above cases so that at least in future the department will wake up and discharge their duties and protect the Forests of Karnataka for which they are

employed and empowered. Also, a complete survey of tanks should be conducted to ascertain the correct extent of tank bed encroachments.

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13. Evolving A reliable System of Property Titles & Maintenance on the Model of "Torrens System" Practiced in may other countries to the extent Possible.

-**F.G.H. Anderson – 1931 (Of Anerson Manual** fame in old Bombay-Karnatak Area)

During the discussions on irregularities committed in transferring kathas, construction of unauthorized building, not taking possession of public lands and properties, etc., many senior officers such as Commissioners of BMP, BDA Endowments, etc. expressed their helplessness that there is no reliable system of land and property title records in Bangalore Urban district. It is well-known that RTC (pahanis) are written casually, carelessly , and for a consideration leading to endless property-title disputes. All the senior officers submitted that if a reliable mechanism can be recommended by the committee to be put in place in Bangalore Urban district, it will go along way in reducing if not eliminating the uncertainties and malpractices in the existing system of land titles. The Committee therefore went into the crux of the matter relating to the present system of land-titles.

The present system of Registration of documents is capable of being misused quite freely as can be seen from the instances discussed in the earlier sections of this Report. This is because the system we follow is the Registration of Deeds in contract to the Registration of Titles established under the Torrens System. Sir Robert Richard Torrens (1814-1884) was an Irishman who went ot Australia and established the land title registration system in South Australia in the 1850s. Under the torrens system what is registered is not the Sale deed but a deed of Title to property. Thus, land and property titles are no longer passed by the execution of deeds but by the registration of dealings on a public register. Once registered, the title of a purchaser became indefeasible unless he was guilty of fraud; and innocent dealsrs

with interests in registered land were guaranteed their interest in the land. To put Torrens system into operation it is necessary to enquire into the title of the property in an exhaustive manner. Once this is done, it becomes easier to incorporate all the further changes in title ownership. The Torrens system is followed in varying degrees in most developed countries and also in a few developing countries such as Malaysia and Kenya.

A meeting was held by the Chairman of the committee with the Chief Secretary and other senior officers of Revenue, Urban Development, Survey Departments, Commissioners of BMP, BDA Director of Municipal Administrative. Chairman of Bangalore Metropolitan Region Development, Authority (BMRDA) etc. on 28.02.2007. It was explained in the meeting that the BMRDA and the Town planning department have prepared detailed survey of urban properties in the five towns of Anekal, Hosakote, Nelamangala, Kanakapura and Yelahanka by suing the modern method of survey by Total Station instrument and installing geographical control points. The detailed survey maps are 1;200 scale and, being digital, can be 1; 1 also. The entire survey was out-sourced to two private companies by calling all-India tenders. The survey was completed in about five moths time and it cost Rs.1.2 crores.

It is therefore, possible to make an accurate survey of all urban properties in Bangalore district (to an accuracy of 5 mm) which will cover about 2.000 sq. kilometers of all urban areas in the district and this well cost about Rs.50 crores including the Survey Enquiry. There are bout twenty qualified companies in India doing such surveys using Total Stations. If even about ten of them participate, using 500 total stations, the detailed survey ending with printed property maps can be completed in about 6 months time. Hence technically it is possible to do the same.

But this is only the accurate survey aspect in place of the traditional Survey Department using cross staff. Chains and the

dolomite and insufficient staff often making drastic errors. The more important aspect is the through enquiry into the title of the property. Chapter XII of the Karnataka land Revenue Rules provide for the detailed enquiry for the City Survey by which urban properties-both land and buildings-is done by the Survey Department by following a procedure of issuing notices, hearing objections, ascertaining title documents, etc. and finally writing property cards. In Bangalore City this was completed in 1975 but after that it has not been updated. However, In Belgaum when 14 villages were added to the Municipal Corporation area, a City Survey was conducted using available Total stations and Survey Department staff and Property Record Cards (PRCs) were prepared. These PRCs are still used by the owners as titles to property by them.

During the discussions with the Survey Department, it was estimated that about 150 qualified surveyors will be required to complete the city Survey Enquiry under the Land Revenue Rules in a period of six months. As in Election or Census operations, this can be done on a Task basis by recalling retired, competent officers of Survey and Revenue Department who are still available, with a core of working departmental officers. About 500 Total Stations are required for this purpose for six months. The Total station Survey by the Outsourced Companies and the city Survey by the Survey department can be done concurrently as and when survey maps are made available. The entire exercise of accurate survey by Total Stations and city Survey enquiry in all urban areas of Bangalore district can be done well within 8 months at a cost of not exceeding Rs.50 crores.

The city Survey Enquiry will still not render the title document as absolute and indisputable. In fact, under the Constitution of India, according to the original and appellate jurisdiction of the High Courts and Supreme Court, any dispute including property disputes, howsoever perfect the title may be,

can be admitted up to the stage of a full constitutional Bench. Even then it need not be final because the Supreme Court can reverse its own decision on a later date in important matters. Therefore, what is important to note in this proposal of Accurate Survey by total Stations plus City Survey Enquiry of Title to property is the High dependability of the Property Record Card in place of the highly undependable RTC (Pahani) document issued by the village Accountant and the Registered Sale deeds by the Sub-Registrar which are often written or registered so incorrectly and on extraneous consideration that many a time it is not worth the paper on which it is written, even though on its basis havoc is played in toying with Khatha changes, registration of documents, etc. An elaborate exercise of accurate survey and printing of land and property records by modern methods and a detailed city survey Enquiry giving due public notice will result in property title documents which are certainly much more dependable than the kind of documents issued or registered at present. It is still not absolute, but, as pointed out earlier, under the original and appellate jurisdiction of the High Court and Supreme Court of India, every property-title matter is justifiable. What is of prime importance is that the proposed system will give property titles a high dependability in place of the current fickle documentation.

There are about 9 lakhs houses in BBMP area and many more in the BDA area and still more in a 2,000 sq km area of urban land jurisdiction in Bangalore district. Even if a citiszen pays Rs.500 to get a highly dependable documents of title, the cost of the exercise will be comfortably met. The land recovered from land-grabbers in Bangalore Urban district fetches in public auction on an average about Rs. 40 laksh to Rs.2 crores per acre. The gomal and other revenue department land encroached in Bangalore Urban district is over 21,000 acres even if lands of other departments are not taken into consideration. Therefore, a highly dependable measurement and city survey costing about

R.50 crores which also can be met by the price of PRC which the property owners will only be too willing to pay, is nothing compared to the benefit it will bestow-No doubt the supervision in city survey enquiry must be beyond reproached by selecting proper staff and providing tight supervision.

The Deputy Chief Minister and Finance Minister have announced in the latest budget in para 97 that a title insurance Corporation will be formed which will insure against wrong property documents. This is most welcome as is done in other countries. However, any if coupled with a highly reliable system. of modern measurement of landed property and a detailed city Survey Enquiry of Title to property, such insurance system will go a long way to assure the citizens in getting reliable documents of title in place of the highly unreliable system now suffered by everyone.

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14. IMPROVEMENTS NEEDED IN DEFENDING CASES BY LAW DEPARTMENT GOVERNMENT'S AND STATUTORY BODIES ADVOCATES:

The Committee has observed that while land-grabbers are bodly instituting cases against government on the basis of concocted documents, the government departments and statutory bodies such as the BDA, BBMP,KIADB, etc, are not at all pursuing cases with any diligence. Thee are many instances where temporary injunctions are allowed to go on for more than ten years (as in Endowment Department, Housing Board, etc). and the government advocates do not bother to defend the cases on the ground that the departments concerned do not furnish information in time. Even when all information is made available, the government advocates do not evince any interest to defend the cases and, worse, side with the private parties, leading to the suspicion that there is collusion.

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15. UNSATISFACTORY PERFORMANCE OF THE LEGAL CELLS & LAW DEPARTMENT IN DEFENDING GOVT. CASES:

Government created 7 legal Cells for different Department in 1990 to ensure better handling of government cases in Courts and Tribunals. On 1.1.1996 Government reorganized the Legal Cells. Creating them for 17 departments and strengthening the staff with one section Officers, two stenographers, one Junior Assistant and two Dalayats and one common minivan. The following are the duties and responsibilities of the Legal Cells according to the Government Order:-

1. Issue of Authorization Lettersr.

2. Sanction and issue of GO relating to remuneration to law Officers.

3. Examination and approval of paragraph-wise remarks.

4. Scrutiny of draft statement of objections/written statements and ensuring that the same reaches the law officers after approval by the law department.

5. Monitoring of pending litigation and furnishing the required information and documents to the law officer.

6. Securing copies of judgments from the law officer and forwarding the same to the law Department with recommendation as to whether an appeal should be filed or otherwise. The decision to prefer an appeal or not to prefer an appeal will continue to be taken by the law department.

7. Filing of Suits.

8. Reply to Section 80 CPC Notices.

9. To take follow-up action on receipt of files after review by the law department.

The Government also amended the Karnataka Government (Transaction of Business) Rules, 1977 by inserting a new section 65A vide Notification No.DCA20 ARB 96 dated 23.8.2000 KDG Ex.29.8.2000 which says:-

"65A. it shall be the duty of the Law Department to review, at least once in a months, the pending Government Litigation. For this purpose, the Secretary to Government, law department, shall hold monthly meetings with all the heads of legal cells and the law Officers of the Office of the Advocate General. The Secretary to Government, law department shall report the result of such review to the chief secretary in a proforma specified by that department in this behalf."

The Committee convened a meeting of the Secretary, Law Department and the Heads of Legal Cells on 21.2.2007 to discuss the various lacunae in defending government cases before the Courts. The Committee found to its horror that the Heads of Legal Cells were not even aware of the Government order and everyone smugly asserted that only giving legal opinion in cases referred to them is their responsibility and mentoring of pending litigation is not. When their attention was drawn to the Government Order that it is very much their responsibility to monitor the pending litigation, they had no answer.

In addition, the Law Secretary was also not aware of the Government order (a copy of which was not even available with the law department and the Committee had to get it from the department of personnel and administrative Reforms), nor was he aware of Rule 65A of he Transaction of Business Rules according to which the law secretary has to convene a meeting of all heads of Legal cells and the law Officers of the Advocate General, at least once a month, to review the pending litigations and report the result of such review to the Chief secretary.

The Chambers dictionary meaning of the term “monitor” is “to oversee, supervise, regulate, to watch closely for purposes of control, surveillance, to keep track of, to check continually,” had such a review mandated by Government been done by the secretary, Law Department with the Heads of Legal cells and law officers regularly every months, the highly disinterested and contemptuous manner in which government litigation is conducted drawing strictures from the courts ca be avoided and besides, valuable government property would not be lost to unscrupulous land-grabbers.

It should therefore, be made compulsory for the secretaries to department to review pending cases once a month with their own Head, Legal cell and concerned law officers and the secretary, law department to monitor and review with Heads of Legal cells and Law Officers once a month the important pending cases. The Legal cells should be strengthened. The facilities required by the Heads of Legal Cells in the form of stenographers, fax. Etc. should be ensured by the secretary of the department concerned.

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16. SUCCESSFULLY DEFENDING GOVERNMENT CASES IN COURTS:

It is well known, and the Committee has also seen it in many instances, that the Government is inadequately and badly represented by their counsel in the Courts, in the Pattandur Agrahara case (WP No.39159 of 2002, dated 8.3.2007) the Hon'ble Judge of the High Court himself has passed strictures on the Government Advocates, director of Prosecution, law Department, etc, for their lapses and even has castigated them for "betraying the trust of the Government.

There are seventeen Legal Cells appointed by the Government to the departments to pursue effectively the litigation involving the government. These cells have failed in their duty of mentoring the important cases, not even being aware of what their duties. Are The concerned secretaries to Government Departments under whom the Legal cells are working should have monthly meetings with them to review the cases within the department itself. As indeed required under the Rules creating Legal Cells, but failed to be followed in practice, the law secretary should review the work of legal cells once a month and send a report to the Chief Secretary. At present the government wakes up only when the chair, table and sofa set of the Chief Secretary are attached by the Courts. This situation should change.

Selection of Government Advocates:

The present unsatisfactory system of selection of government advocates should be changed. To ensure that no extraneous factors come into the selection process, the committee feels it is necessary to constitute a high level committee with the advocate General as Chairman, the Chief secretary and a nominee district Judge of the Chief justice of Karnatak High Court as members and the law secretary as Member-secretary. The committee will

call for applications and select the government Advocates and government Pleaders purely on merit and the decision of the committee shall be final. The committee will also assess the performance of he existing government Advocates and pleaders and wherever felt necessary will terminate their service. In addition to the existing remuneration, they should also be given an incentive of upto Rs. 10,000 on winning each case. The post of administrative Officer in the office of the advocate General should be filled up with the appointment of a civil Judges as was the practice earlier.

To Pursue the cases effectively in the Courts, each department should form a cell on the model of the Commercial Tax department. Each government department should therefore, study the pattern in the commercial Tax department and should constitute such a cell. In the special case of the Revenue Department which does not have one single Head of department outside the secretariat, the cell should be constituted in the Office of the Regional commissioner, Bangalore who will co-opt competent personnel from the other three regional commissioners offices. For drafting the petitions on behalf of the Government, the National Law School has agreed to ask their under-graduates and post-graduate for whom it is compulsory to be attached to law firms as part of their law course, to work with government advocates. On part tie basis they can be attached to the advocate general's office for drafting the petitions in an effective manner as their grounding in law will lead to better drafting. This has been agreed to by the National law School-university.

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17. COMPUTERIZATION OF LAW DEPARTMENT

The Karnataka High Court has computerized all the legal proceedings in an elaborate and effective manner. Each case is given a unique number and therefore tracing and collating case and subject matter of cases is easier. The law department of the Karnataka Government has no such system. The law department should therefore computerize its records and system on similar lines.

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18. THE KARNATAKA LAND GRABBING (PROHIBITION) ACT, 2007

The officers of the Committee had visited Hyderabad and studied the Andhra Pradesh land grabbing (Prohibition) Act, 1980 and had discussions with the Chairman and Members of the Special Court which has been constituted for the State of Andhra Pradesh. The A.P. act prohibitions land grabbing of any type in the entire state of Andhra Pradesh, including land-grabbing of government, lands of statutory bodies and of private persons. It is therefore comprehensive.

The salient features under the Karnataka Act are:-

1. It applies to all lands belonging to Government, local authority, a statutory or non-statutory body and includes a Company . Trust, Society or association of individuals.

2. Land-grabbing includes whoever unlawfully takes possession of the land or assists in taking possession and also an abettor such as public servants.

3. Land-grabbing is punishable by the Special Court with a minimum of 1 year's imprisonment and a maximum of three years and with the fine up to Rs.25,000.

4. The Special Court will initially consist of a Chairman of the rank of serving or retired High Court Judge and two Judicial Members of the rank of District Judges and two other revenue members not below the rank of Deputy Commissioner of District.

5. Additional Benches can also be constituted with Judicial Members as Chairman and a Revenue Member.

6. All land grabbing cases in the State will be tried only by the Special Court and the decision of the Special Court will be final.

7. The special Court will have powers of the Civil Court and the Court of session.

8. Where it is proved prima facie that the land is owned by the Government, the burden of proof that the land is not grabbed lies with accused.

9. In areas where Special Court is not constituted, a Magistrate of the First Class can be empowered by the Government to try offences under this Act.

10. This act overrides all other laws. All cases of land-grabbing nature before any other court or authority stand transferred to the Special Court under this Act.

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19. NEED TO CONSTITUTE A RELIABLE INVESTIGATION AND PROSECUTING AUTHORITY WITHIN THE PROVISIONS OF THE ACT AND THE SPECIAL COURT.

In the foregoing paragraphs it is made clear that the menace of creating bogus records, collusion with land-grabbers and abetting the land-grabbing is rampant. Most of the genuine cases of land grabbing fail in the courts because of indifferent and defective investigation, lackadaisical prosecution and slothful arguments by the Government Advocates and in some cases even collusion. To prevent this and to make a through detection and prosecution of all such land grabbing, it is necessary that a highly competent and high-powered Administrative Wing is constituted as part of the special Court under the Karnataka Land Grabbing (Prohibition) Act.

Section 12 of the Act provides for the appointment of officers and employees by the Chairman to assist the Special Court, it is suggested that, to make the Investigation, Prosecution and Trial Fool-proof, the Administrative Wing is headed by an officer of the rank of serving Additional Chief secretary under whom there should be sufficient number of senior revenue officers of the rank of deputy commissioner, superintendents of police, Law Officers and special Prosecution. On the model of the Lok Ayukta, such officers should be appointed by the Chairman of the special Court from a panel of officers to be furnished by the Government. In exceptional cases, the chairman should also be empowered under the Rules to employ on Task or contract basis special investigating Team and Special Prosecutors, also the revenue Members of the special court should be of the rank of retired or retiring Chief Secretary to avoid protocol problems with the head of the Administrative Wing.

There should be sufficient budget provision to constitute the special court on the most modern lines including e-

governance requirements. As the lands under encroachment is Bangalore Urban district so far detected is itself about 27,000 acres and at an average rate of Rs.1 crore per acre this will be worth about Rs.27,000 crores, funds should not be a constraint to provide a competent Administrative Wing to ensure a through detection of bogus documents and transactions and diligent investigation and successful prosecution. If this is not done, the special Court. For dealing with land grabbing will become a routine function and even a farce. It is also necessary to choose a sizeable number of younger officers to serve the Special Court from the Indian Administrative. Police and forest services and graduates from the National Law School of India-University who still have social commitment and whose moral fibre has not been worn out by age, frustration and the plunging values of social milieu.

After submission of Interim Report Part, 1, the Joint Legislature Committee has corresponded with different Department, through Hon'ble Chairman and Hon'ble speaker with a view of curbing the Government Land Encroachments. 16 letters are enclosed in Annexure-5 of the Report.

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20. A MASTER PLAN FOR USE OF LANDS RECOVERED FROM ENCROACHERS:-

According to the reports of the departments the encroachments so far identified by the department is about 30,000 acres of which 21,700 acres are identified by Revenue department itself. The revenue department has done commendable work in removing encroachment in about 8,000 acres. Of this, the department has auctioned 1183 acres during May and June2007 for a total bid amount of Rs.663 crores, that is at an average of Rs,56 lakhs per acre. Wherever the bid amount was more than 1 ½ times the guidance value, the auction was confirmed and the rest were rejected. Thus, the auction confirmed is to the extent of 297 acres only for an amount of Rs.311 crores. The average amount of successful bids come to Rs.104 lakhs per acre.

Besides the auction, the Revenue Department has asked various government departments and statutory bodies as to their requirement of land. They have given their demands totaling about 5,000 acres.

The committee has discussed this matter in detail. Even assuming that the lands under encroachments is only30,000 as reported by the departments so far, this is a very big area of government land. These lands are scattered over the entire Bangalore Urban district from small plots to large extent of clusters of fifty and above. While it may be necessary to auction small plots of land within the BMP area, auctioning away all the lands and allotting some lands to different government departments in a haphazard manner will not be advisable. It is also seen that most of the bidders are builders and real estate agents. Hence, if all the government lands are auctioned the government will lose the lands permanently to the benefits of the builders.

The committee therefore, is of the strong opinion that a Committee of Town and Country Planning experts, architects, leading citizens and representatives of important departments should take stock of the location and extent of the total government lands, encroached lands and recovered lands and should prepare a Master Plan for use of these lands in future. Instead of a haphazard and adhoc allotment of land to individual department, it is necessary to prepare and identify these lands on a detailed map and determine the land use for these lands keeping in mind the future growth and requirements of infrastructure and other facilities such as stadium, parks schools, playgrounds, etc. Bangalore is growing at 3.3% per annum even now and with the formation of Ramangaram as Bangalore South District and renaming of existing Bangalore Rural as Bangalore North and Bangalore Urban as Bangalore Central, this entire area of the composite Bangalore district will become a huge urban agglomeration and a Megalopolis. For such a future development the land requirement by government, local bodies and private sector will be very high. Hence, if the available government lands are auctioned away in a hurry to the builders, there will be nothing left in future for genuine requirements. This is like disposing of the family Jewels for immediate benefits in short sight disregarding the needs of future.

The Committee therefore, recommends that a Master Plan should be prepared for the available government lands in Bangalore Urban district, identifying the needs of the future and reserving them for such needs.

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21. Protection to the Guilty due to the inactive administrative

The instances narrated in this Report clearly show that the land-grabbers carry on their illegal activities with the help of fake documents concocted by the officials. These illegal activities of evil design are well-planned and executed by the land-grabbers resulting in huge loss to the public. It is a shame that Government have failed to use its powers to prosecute these criminals. The committee has not come across a single instance in which the Government have proceeded against the land-grabbers. All that has been done is taking action against some poor and small encroachers. Because of the inaction of the Government to let go the crooked land-grabbers, real estate agents and their daring abettors, ordinary citizens have come to lose faith in government and administration. It is therefore, the considered opinion of this Committee that it is absolutely essential for government to take stringent action against land – grabbers and their abettors as narrated above.

In the Sovereign Democratic Republic created by the Constitution in independent. India, lofty principles such as Rule of Law, Equality before law, due Process, Majesty of law, dignity of courts, Inalienable Fundamental Rights, Directive Principles, etc, are enshrined. But, if it appears to the common man, who experiences harassment, torment and injustice in his daily life at the hands of the privileged few belonging to the Establishment, that while all persons are said to be equal before law, but in reality some are much more equal than others to whom the law will apply only partially if at all, then, the weightily principles of law and justice of which we are justly proud of will abort all of their pregnant meaning and will become mere words scratched on flowing water.

Therefore, wherever the guilt of the encroachers and their abettors are proved, Government should take stringent action.

A.T. RAMASWAMY
Chairman
Joint House Committee

D' SOUZA ROBINSON
Principal Secretary
Karnataka Legislature
Secretariat

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ANNEX

1. Karnataka Land Grabbing (Prohibition) Act, 2007

2. Karnataka Land Revenue (Amendment) Act, 2007

3. List of High Court/ Supreme Court Judges who have been allotted sites by the K. Judicial Employees HBCS.

4. Opinion of law Department on Quasi Judicial functions.

5. Sixteen letters written by Chairman of the joint Committee to various Departments through the Chairman of the Hon'ble Legislative Counsel and Hon'ble Speaker

ANNEX-1

KARNATAKA LEGISLATIVE ASSEMBLY

TWELFT ASSEMBLY

FIFTH SESSION

THE KARNATAKA LAND GRABBING (PROHIBITION) BILL, 2007 [L.A.Bill No.27 of 2007]

A Bill to provide for measures to curb organized attempts to grab lands whether belonging to the government local authorities of other statutory or non statutory bodies owned or controlled or managed by the government.

And whereas such land grabbers are forming bogus cooperative housing societies or setting up fictitious claims and indulging in large scale and unprecedented and fraudulent sale of such through unscrupulous real estate dealers or otherwise in favour of certain sections of the people resulting in large accumulation of unaccounted wealth and quick money to land grabbers and thereby adversely affecting public order.

And whereas having regard to the resources and influence of the persons by whom the large scale on which and the manner in which the unlawful activity of land grabbing was has been is being organised and carried on in violation of law by them as land grabbers in the state of Karnataka it is necessary and expedient to curb immediately such unlawful activity of land grabbing by providing measures hereinafter appearing and matters connected there to or incidental therewith.

Bet it enacted by the Karnataka state legislature in the fifty eight year of the republic India as follows.

1. Short title application and commencement.(1) this act may be called the Karnataka land grabbing prohibition act.2007

(2) It applies to land belonging to the government local authority or any statutory or non statutory body owned controlled or management by the government in the state of Karnataka .

(3) It shall come into force at once.

2. Definitions:- In this Act, unless the context otherwise requires

(1) ”Government means the State Government,

(2) “Land includes,

(i) land belonging to the Government, a local authority, a statutory body owned, controlled or managed by the Government.

(ii) rights in or over land, benefits to arise out of land, and buildings, structures and other things attached to the earth or permanently fastened to anything attached to the earth,

(3) “land grabber’ means a person or a group of person who commits land grabbing and includes any person who gives financial aid to any person for taking illegal possession of lands or far construction of unauthorized structures thereon, or who collects or attempts to collect from any occupiers of such lands, rent, compensation and other charges by criminal intimidation, or who abets the doing of any of the above mentioned acts, and also includes the successors in interest:-

(4) “Land grabbing” means every activity of grabbing of any land, without any lawful entitlement and with a view to illegally taking possession of such lands, or entre into or create illegal tenancies or lease and license basis for construction, or use and occupation, of unauthorized structures, and the term “to grab land” shall be construed accordingly,

(5) “Local authority includes the Municipal Corporation, a Municipal Council , Zilla Panchayat, Taluk Panchayat, Gram Panchayat, Town Panchayat Industrial Township, Improvement Board, Urban Development Authority and Planning Authority or any Local Self Government Constituted under any low for the time being in force,

(6) “Notification means a notification published in the Karnataka Gazette, and the word “notification fied” shall be constructed accordingly,

(7) “person” includes a group or body of persons, any company or an association, whether incorporated or not.
(8) “proscribed”: means prescribed by rules made by the Government under this Act,

(9) Special Court’ means a special Court constituted under Section 7.

(10) “unauthorized structures” means any structure constructed, without express permission of the concerned competent authority under relevant law.

3. Land grabbing to be unlawful:- Land grabbing in any form is hereby declared unlawful and any activity connected with or arising out land grabbing shall be an offence punishable under this Act.

4. Prohibition of land grabbing:- (1) No person shall commit or cause to be committed land grabbing.

(2) Any person who, on or after the commencement of this Act, continues to be in occupation, otherwise than as a lawful tenant, of a grabbed land belonging to the Government, local authority, statutory or non-statutory body owned, controlled or managed by the State Government shall be guilty of an offence under this Act,

(3) Whoever contravenes the provisions of sub-section (1) or sub-section (2) shall on conviction, be punished with imprisonment for a term which shall not be less than one year but which may extend to three years, and with fine which may extend to twenty five thousand rupees.

5. Penalty for other offences in connection with land grabbing:- Whoever with a view to grabbing land in contravention of the provisions of this Act or in connection with any such land grabbing.

(a) sells or allots, or offers or advertises for sale or allotment, or has in his possession for the purpose of sale or allotment any land grabbed.

(b) Instigates or incites any person to commit land grabbing.

(c) uses any land grabbed or causes or permits knowingly to be used for purposes, connected with sale or allotment, or.

(d) enters into an agreement for construction of any structure or buildings on such land;

(e) Causes or procures or attempts to procure any person to do any of above mentioned acts,

Shall, on conviction, be punished with imprisonment for a term which shall not be less than one year but which may extend to three years and with fine which may extend to twenty five thousand rupees.

6. Offences by companies:- (1) Where an offence against any of the provision of this Act or any rule made there under has been committed by a company, every person who at the time of the offence was committed, was in charge of land was responsible to the company for the conduct of business of the company, as well as the company, shall be deemed to be guiltily

of the offence and shall be liable to be proceeded against and punished accordingly.

Provided that nothing contained in this sub section shall render any such person laible to any punishment if he proves that the offences was committed without his knowledge or that he has exercised all due diligence to prevent the commission of the such offence.

(2) Notwithstanding anything contained in sub section (1) where any such offence has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director manager secretary or other officer of the company such director manager secretary or other shall be deemed to be guilty of that offence and shall be laible to be proceeded against and punished accordingly.

Explanation for the purpose of this section.

(a) company means any body corporate and includes a trust a firm a society or other association of individuals. And

(b) director in relation to.

(i) a firm means a partner in the firm.

(ii) a society, a trust or other association of individuals, means the person who is entrusted under the rules of the society, trust or other association with management of the affairs of the society, trust or other association, as the case may be.

7. Constitution of Special Courts:- (1) The Government may, for the purpose of providing speedy enquiry into any alleged act of land grabbing, and trial of cases in respect of the ownership and title, to or lawful possession of , the land grabbed and those offences specified in Chapter XIC-A of the Karnataka

Land Revenue Act, 1964, by notification, constitute a Special Court.

(2) A special Court shall initially consist of a Chairman and four other members, to be appointed by the Government.

(3) The Chairman shall be a person who is or was a judges (hereinafter referred to as Judicial Members, two shall be person who are or were district Judges (hereinafter referred to as Judicial Members) and the other two members shall be persons who hold or have held a post not below the rank of a deputy Commissioner of the District (hereinafter referred to as Revenue Members);

Provided that the appointed of a person who was a judge of a High Court as the Chairman of the Special Court shall be made after consultation with the Chief Justice of the High Court.

(4) The Government, if it is of the opinion that additional Bench of the Special Court is necessary for trial of such cases, may likewise constitute Additional Bench of Special Court, by notification, in respect of such area, as may be specified therein.

(5) Such Additional Bench shall consist of one Judicial Member and one Revenue Member with a qualification specified in sub-section (3).

(6) The Chairman or other member shall hold office as such for a term of three years from the date on which he enters upon his office, or until the special Court's reconstituted whichever is later.

(8) (a) Subject to the other provisions of this Act, the jurisdiction powers, and authority of the special Court may be exercised by benches thereof one comprising of the Chairman, a judicial member and a Revenue member and the other comprising of a Judicial Member and a Revenue Member.

(b) Where the bench comprises of the Chairman, he shall be the Presiding Officer of such a bench and where the bench consists of two members, the judicial Member shall be the Presiding Officer.

(c) It shall be competent for the chairman either suo-motto or on a reference made to him to withdraw any case pending before the bench comprising of two members and dispose of he same or to transfer any case from one bench to another bench.

(d) Where it is reasonably apprehended that the trial of civil liability of a person accused of an offence under this Act, is likely to take considerable tike, it shall be competent for the Chairman to entrust the trial of the criminal, liability of such offender to another bench in the interest of speedy disposal of the case.

(e) Where a case under this act is heard by a bench consisting of two members and the members thereof are divided in opinion, shall be laid before another judicial member or the chairman and that member or chairman, as the case may be after such hearing as he thinks fit. Shall deliver his opinion and the decision or order shall follow that opinion.

(9) The quorum to constitute a meeting of any bench of the Special Court shall be two.

(10) No act or proceedings of the Special Court shall be deemed to be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution or re-constitution thereof.

8. Authorization of Officers:- The state government may, by notification, authorize an officer of the Government not below the rank of Tahsildar, to be the officer responsible for administration and effecting implementation of the provisions of this Act, initiate legal action against the persons contravening the provisions of this Act and exercise such powers and powers and performs such

functions, in respect of such area, as may be specified in the notification.

9. **Procedure and powers of the Special Courts:**- (1) The special Court may, either suo moto or on application made by any person, officer or authority take cognizance of and try every case arising out of any alleged act of land grabbing or with respect to the ownership and title to, or lawful possession of, the land grabbed or offences specified in Chapter XIV-A of the Karnataka Land Revenue Act, 1964 whether before or after the commencement of this Act, and pass such orders including orders by way of interim directions as it deem fit;

(2) The Special Court shall for the purpose of taking cognizance of the case, consider the location, or extent or value of the land alleged to have been grabbed or of the substantial nature of the evil involved or in the interest of justice required or any other relevant matte:

(3) In respect of any alleged act of land grabbing or the determination of questions of title and ownership to, or lawful possession of any land grabbed under this act and offences specified in Chapter XIV-A of Karnataka Land Revenue Act, 1964, shall be tried only in a special Court constituted for the area in which the land grabbed is situated, and the decision of the Special Court shall be final.

Provided that if, the opinion of the special Court, any application filed before, it is prima facie frivolous or vexatious, it shall reject the same without any further enquiry.

(4) The special Court shall defemine the order in which the civil and criminal liability against a land grabber be initiated. It shall be within the discretion of the special Court whether or not to deliver its decision or order until both civil and criminal proceedings are completed. The evidence admitted during the

criminal proceedings may be made use of while trying the civil liability. But additional evidence, if any adduced in the civil proceedings shall not be considered by the special Court while determining the criminal liability. Any person accused of land grabbing or the abetment therefore before he special Court shall be a competent witness for the defence and may give evidence on oath in disproof of the charge made against him or any person charged together with him in the criminal proceedings.

Provided that he shall not be called as a witness except on his own request or his failure to give evidence shall be made the subject of any comment by any of the parties or the special Court or give rise to any presumption against himself or any person charged together with him at the same proceedings.

(5) (a) The special Court shall, while deciding the civil liability of a person shall follow its own procedure which is not inconsistent with the provisions of the Code of Civil Procedure 1908.

(b) Every offence punishable under this act shall be tried summarily.

(c) When a person is convicted of an offence of land grabbing attended by criminal force or show of force or by criminal intimidation, and it appears to the special Court that, by such force or show of force or intimidation, the land has been grabbed, the special Court may if it thinks fit, order that possession of the same be restored after evicting by force. If necessary.

(6) Every case under sub-section (1) shall be disposed of finally by the special Court, as far as possible within a period of six months from the date of institution of the case before it.

(7) Every finding of the special Court with regard to any alleged act of land grabbing shall be conclusive proof of the fact of land grabbing and of the persons who committed such land grabbing,

and every judgment of the special Court with regard to the determination of title and ownership to, or lawful possession of any land grabbed shall be binding on all persons having interest in such land.

Provided that the special Court shall, by notification specify the fact of taking cognizance of the case under this act. Such notification shall state that nay objection which may be received by the special Court from any person including the custodian of evacuee properly within the period specified therein will be considered by it.

Provided further that where the custodian of evacuee property objects to the special Court taking cognizance of the case, the special Court shall not proceed further with the case in regard to such property.

Provided also that the special Court shall cause a notice of taking cognizance of the cause under the Act, served on any person known or believed to be interested in the land, after summary enquiry to satisfy itself about the persons likely to be interested in the land.

(8) It shall be lawful for he special Court to pass such order as it may deem fit to advance the cause of justice. It may award compensation in terms of money for wrongful possession of the land grabbed which shall not be less than the amount equivalent to the market value of the land grabbed as on the date of the order and profits accrued from the land payable by the land grabber to the owner of the grabbed land and may direct re-delivery of the grabbed land to its rightful owner. The amount of com-sensation and profits, so awarded and costs of re-delivery, if any shall be recovered as an arrear of land revenue in case the government is the owner, or as a decree of a civil Court, in any case to be executed by the special Court:

Provided that the special Court shall, before passing an order under this sub-section, give to the land grabber an opportunity of making his representation or of adducing evidence, if any, in this regard, and consider every such representation and evidence.

10. **Special Court to have the powers of the Civil Court and the Court of Session**:- Save as expressly provided in this Act, the provisions of the code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973, in so far as they are not inconsistent with the provisions of this Act, shall apply to the proceedings before the special Court and for the purpose of the provisions of the said enact-mentis, special Court shall be deemed to be a civil Court, or as the case may be a Court of sessions and shall have all the powers of a civil Court and a Court of sessions and person conducting a prosecution before the special Court shall be deemed to be a public prosecutor.

11. **Burden of proof:-** Where in any proceedings under this act prima facie proved to be the land owned by the Government, the special Court shall presume that the person who is alleged to have grabbed the land is a land-grabbers and the burden of proving that the land has not been grabbed by him shall be of such person.

12. **Staff of the Special Court**. (1) The chairman of the special Court may appoint officers and other employees required to assist the special Court in the discharge of its functions under this Act.

(2) The categories of officers and employees who may be appointed under sub-section (1), their salaries, allowances, method of recruitment and other conditions of service and the administrative powers of the chairman of the special Court shall be such as may be prescribed, after consultation with the Chairman.

13. **Power to try offences**:- all offences punishable under this act shall be cognizable. Every offence punishable und3er this act shall be tried by a magistrate of he first class specially empowered by the Government in this behalf by notification in then official gazette wherever special Court is not constituted.

14. **Persons acting under the Act to be public servants:-** Every person acting under the provisions of this act shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code.

15. **Protection of persons acting in good faith**:- No suit, prosecution or other legal proceeding shall lie against any officer or employee of the special court or any officer of the government for anything done in good faith or intended to be done under this act or the rules made there under.

16. **Act to override other laws**:- the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force or custom, usage or agreement or decree or order of a court or any other tribunal or authority.

17. **Review:-** The special Court may in order to prevent the miscarriage of justice review its judgment or order passed under section 9 but no such review shall be entertained except on the ground that it was passed under a mistake of fact, ignorance of any material fact or an error apparent on the face of the record.

Provided that it shall be lawful for the special Court to admit or reject review petitions in circulation without hearing the petitioner.

Provided further that the special Court shall not allow any review petition and set aside its previous order or judgment without hearing the parties affected.

18**. Power to make rules.-** (1) The Government may, by notification after previous publication make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall, immediately after it is made, be laid before each house of the state legislature it is in session and if it is not in session in the session immediately following, for a total period of fourteen day which may be comprised in one session, or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following both houses agree in making any modification in the rule or in the annulment of the rule, the rule shall, from the date on which the modification or annulment is notified, have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

19. **Power to make regulations**:- (1) The special Court may, by notification, with the concurrence of the government make regulations not inconsistent with the provisions of this act or the rules made there under relating to the procedure to be followed for the conduct of the cause and for regulating the manner of taking decisions.

(2) The special Court may cause a public notice of the substance of such regulations for the information of the general public.

(3) Every regulation made under this section shall, immediately after it is made, be laid before such house of the legislature of the Sate if it is in session, and if it is not in session

in the session immediately following for a total period of fourteen days which may be comprised in one session or in two successive sessions and if before the expiration of the session in which it is so laid or the session immediately following the State legislature agrees in making any modifications in the regulation or in the annulment of the regulation, the regulation shall from the date on which the modification or annulment is notified. Have effect only in such modified form or shall stand annulled, as the case may be, so however, that any such modification or annulments shall be without prejudice to the validity of anything previously done under the regulation.

20. **Transfer of pending cases:-** Any cases, pending before any court or other authority immediately before thee constitution of a special Court, as would have been within the jurisdiction of such special Court, shall stand transferred to the special Court as if the cause of action on which such suit proceeding is based had arisen after the constitution of the special Court.

21. **Prohibition of alienation of lands grabbed**:- Any transaction relating to an alienation of a land grabbed or any part thereof by way of sale leases, gift, exchange, settlement, surrender, usufructuary mortgage or otherwise, or any partition effected or a trust created in respect of such, land, which has taken place whether before or after the commencement of this Act, shall, except to the extent ordered by the Special Court, or be null and void.

STATEMENT OF OBJECTS AND REASONS

It has come to the notice of the Government that there are organized attempts on the part of certain lawless persons operating individually and groups to grab either by force, or by deceit or otherwise land belonging to the Government, a local authority, a religious or charitable institution or endowment, including a Wakf. The land grabbers are forming bogus co-operative housing societies or setting up fictitious claims and indulging in large scale and unprecedented and fraudulent sales of land through unscrupulous real estate dealers or otherwise in favour of certain sections of people, resulting in large scale accumulation of the unaccounted wealth. As public order is adversely affected by such unlawful activities of land grabbers in the State, particularly in respect of urban and urban sable lands, the State Government has felt that it is necessary to curb such unlawful activities immediately by enacting a special law in this regard.

Hence, the State Government of Karnataka with a view to prohibit the activities of land grabbing and top provide for matters connected therewith has proposed to bring Karnataka Land Grabbing (Prohibition) Act into force. Apart from declaring land grabbing as unlawful the State Government desires to prohibit and grabbing. Therefore, it is proposed to provide for penalty for offences in connection of land grabbing to effectively implement this Act and for the purpose of providing speedy enquiry into an alleged act of land grabbing and trial of cases in respect of the ownership and title to, or lawful possession of the and grabbed by Notification constitute a Special Court. It is felt that the State Government will be able to curb the illegal land grabbing enforcing the proposed legislation.

Hence the bill.

FINANCIAL MEMORANDUM

A sum of Rs.1,69,07,452=00 is calculated to be the approximate expenditure to the state exchequer from the proposed legislative measure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 7. (1) Empowers the State Government to constitute a Special Court.

(2) empowers the state government to constitute an additional bench of special court.

Clause 8. Empowers the State Government to authorize an officer of the Government, not below the rank of Tahsildar to be officer responsible for administration and effecting implementation of the provisions of this act to initiate legal action against the persons contravening the provision of this act and exercise such powers and performs such functions, in respect of such area, as may be specified.

Clause 9. Empowers the Special Court to specify the fact of taking cognizance of the case under this Act.

Clause13: Empowers the State Government to empower a magistrate of the first class to take cognizance of all the offences punishable under this Act wherever Special Court is not constituted.

Clause18: Empowers to the State Government to make rules for carrying out the purpose of this Act after previous publication.

Clause 19. Empowers the Special Court to make regulations not inconsistent with the Provisions of this Act or the rules made there under relating to the Procedure to be followed for the conduct of the cases and for regulating the manner of taking decisions, with the concurrence of the Government.

The proposed delegation of legislative power is normal in character.

M.P. PRAKASH
Minister for Home, Law, Justice, Human Rights and Parliamentary Affairs

S.B. PATIL
Additional Secretary

Annex - 2

KARNATAKA LEGISLATIVE ASSEMBLY

TWELFTH ASSEMBLY

FIFTH SESSION

THE KARNATKA LAND REVENUE (AMENDMENT) BILL, 2007

(L.A. BILL NO.28OF2007)

A Bill further to amend the Karnataka Land Revenue Act, 1964.

Whereas it is expedient further to amend the Karnataka Land Revenue Act, 1964 (Karnakata Act 12 of 1964) for the purpose hereinafter appearing;

Be it enacted by the Karnataka State Legislative in the Fifty-eight year of the Republic of India as follow:-

1. **Short title and commencement (1)** This Act may be called the Karnataka Land Revenue (Amendment) Act, 2007.

   (2) It shall be deemed to have come into force with effect from the eleventh day of December, 2006.

2. **Insertion of new Chapter- XIV-A** After Chapter XIV of the Karnataka Land Revenue Act, 1964 (Karnataka Act 12 of 1964), the following new Chapter shall be inserted, namely:-

CHAPTER- XIV-A

OFFENCES AND PENALTIES

192-A- Offences and Penalties:- Notwithstanding anything contained in the Act or the

Rules made there under whoever commits any of the offence specified in column(2) of the Table below, shall on conviction by a Judicial Magistrate of first class for each of such offence be punishable with the sentence indicated in column(3) thereof:-

Sl. No.	**Offence (2)**	**Punishment (3)**
(1)	Unlawfully enters or occupies on any Government land with the intention of holding that government land, Provided that it shall not apply to cases of Jama, Bane lands in coorg district or encroached government lands regularized or pending for regularization before the committee constituted under sections 94 A, 94 B and 94 C a of the Act.	Imprisonment for one year and fine of rupees five thousand
(2)	Cheats and thereby dishonestly creates documents for the purpose of selling, mortgaging or transferring by gift or otherwise of any government land.	Imprisonment for three years and fine of rupees ten thousand
(3)	Creates a forged documents regarding Government lands with an intention to use it for that purpose or to grab such land.	Imprisonment for three years and fine of rupees five thousand
(4)	Being a Revenue officer entrusted with the responsibility of reporting unlawful occupation of government land or initiating action to remove such unauthorized occupiers fails to report or take action to remove such	Imprisonment for three years and fine of rupees ten thousand

	unlawful occupants: Provided that it shall not apply to cases of Jamma, Bane lands in Coorg district or encroached government lands regularized or pending for regularization before the committee constituted under section 94A, 94B and 94C of the Act,	
5.	Sells any agricultural land for non-agricultural purposes without getting such land converted or without obtaining prior approval of the competent authority. Provided that it shall not apply to cases which are regularized by the government by formulating a special scheme in this behalf	Imprisonment for three years and fine of rupees ten thousand,
(6)	Creates a forged documents, regarding conversion of agricultural land for non-agricultural use or authoring the holder of agricultural land to use for non-agricultural purpose .	Imprisonment for one year and fine of rupees five thousand.
(7)	Being a public servant entrusted with the responsibility of maintaining records or entrusted with the responsibility of reporting unlawful conversion to the competent authority or to initiate action against unlawful conversion of revenue lands for non-agricultural	Imprisonment for three years and fine of rupees ten thousand

	purposes Provided that it shall not apply to cases which are regularized by the government by formulating a special scheme in this behalf.	
(8)	Contravenes any lawful order passed under this Act.	With fine which may extend to five thousand rupees for the first offence and five times the fine for the second and subsequent offense,

192-B. Abetment of offences.- Whoever abets any offence punishable by or under this act or attempts to commit any such offence shall be punished with the penalty provided by or under this act for committing such offence.

192-C. Punishment under other laws not barred. Nothing in this act shall prevent any person from being prosecuted and punished under any other law for the time being in force for any act or omission made punishable by or under this Act.

Provided that no person shall be so prosecuted and punished for the same offence more than once.

192-D. Cognizance of Offences.- Offences under this Chapter, shall be cognizable

3. **Repeal and savings**:- (1) The Karnataka land revenue (Amendment) Ordinance, 2006 (Karnataka Ordinance 3 of 2006) is hereby repealed.

(2) Notwithstanding such repeal anything done or any action taken under the principal act as amended by the said ordinance

shall be deemed to have been done or taken under the principal act as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

Section 94 of the Karnataka land revenue act confers power on the Deputy Commissioners to remove unauthorized occupation in Government land, but still there are widespread encroachments of Government lands particularly in and around urban areas like Bangalore, Mysore, Mangalore, Belgaum, Hubli-Dharaws, Gulbarga and other cities. It has come to the knowledge of the Government that such land Grabbers are indulging in real estate business and thereby defrauding the innocent public. There-fore it is considered necessary that the further that the further encroachment of the Government land in the urban areas has to be checked and such land Grabbers to be punished severely.

To prevent the officers in colluding with such land grabbers, the officers knowing such activities but not initiating action against the culprits, officers abetting encroachments, officers creating bogus document and forging revenue records are made culpable and liable for prosecution.

Keeping the above facts in view, it was proposed to bring an amendment to the Karnataka Land Revenue Act, 1964 by inserting a new chapter called" Offences and Penalties'

The cases of Jamma, Bane lands in Coorg District or encroached government lands regularized or pending for regularization before the committee constituted under sections 94A. 94B and 94 C of the Act and cases which are regularized by the government by formulating a special Scheme in this behalf are excluded from the purview of the offence.

Since the matter was urgent and the Karnataka Legislature was not in session, the Karnataka Land Revenue (Amendment) Ordinance, 2006 (Karnataka Ordinance No.3 of 3006) was promulgated to achieve the above object.

This Bill seeks to replace the said Ordinance.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed legislative measure.

EXPLANATORY STATEMENT AS REQUIRED BY SUB-RULES (1) OF RULE 80 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE KARNATAKA LEGISLATIVE ASSEMBLY .

Section 94 of the Karnataka Land Revenue Act conferred power on Deputy commissioners to remove unauthorized occupation of government land, still there are widespread encroachment of government lands particularly in and around urban areas like Bangalore, Mysore, Mangalore, Belgaum, Hubli-Dharwad, Gulbarga and other cities. It has come to the knowledge of the Government that such land gabbers are indulging in real estate business and thereby defrauding the innocent public and the Government. Therefore it is necessary that the further encroachment of the government land in the urban areas to be checked and such land grabbers to be punished severely.

To prevent the officers in colluding with such land grabbers, the officers knowing such activities, but not initiating action against the culprits officers abetting encroachments, officers creating bogus document and forging revenue records are made culpable and liable for prosecution.

Keeping the above facts in view, it was proposed to bring an amendment to the Karnataka Land Revenue, Act, 1964 by inserting a new chapter called “Offences and Penalties.

Since the matter was urgent and Karnataka Legislature was not session, the Karnataka Land Revenue (Amendment) Ordinance, 2006 (Karnataka Ordinance No.3 of the 2006) was promulgated to achieve the above object.

JAGADEESH SHETTAR
Minister for Revenue

S.B. PATIL
Additional Secretary

Karnataka State Judicial Department Employees House Building Co-operative Society

Site allotted to the Hon'ble Judges

Sl. No.	SLF No.	SDL No.	Site No.	Dimens-ion	Name	Remarks
1.	1731	1773	1383	80X120	Justice P.K. Shamasundar	High Court
2.	1385	1036	1384	80X120	Justice D.P. Hiremath	High Court
3.	1518	1082	1387	80X120	Justice M.M. Mirde	High Court
4.	1172	891	1401	80X120	Justice A.B. Murgod	High Court
5.	355	917	1403	80X120	Justice R.G. Desai	High Court
6.	830	1803	1407	80X120	Justice P.A. Kulakarni	High Court
7.	897	640	1415	80X120	Justice P. Jagannath Hegde	High Court
8.	598	41	1416	80X120	Justice M.B. Vishwanath	High Court
9.	1471	1072	1419	80X120	Justice M.P. Chinnappa	High Court
10.	823	1792	1421	80X120	Justice M.S. Patil	Supreme Court
11.	852	1793	1381	80X120	Justice N. Venkatachala	Supreme Court
12.	1918	1761	1389	80X120	Justice S. Rajendra Babu	Supreme Court
13.	1960	1771	1399	80X120	Justice Shivaraj Patil	High Court
14.	849	1747	1408	80X120	Justice D.R. Vittal Rao	High Court
15.	2404	1807	1417	80X120	Justice C.	High

					Shivappa	Court
16.	844	1859	1418	80X120	Justice V.S. Malimath	High Court
17.	2342	1797	1382	80X120	Justice Shivashankar Bhat	High Court
18.	2495	1851	1385	80X120	Justice A.J. Sadashiva	High Court
19.	2341	1791	1388	80X120	Justice S.A. Hakeem	High Court
20.	1835	1810	1390	80X120	Justice K.A. Swamy	High Court
21.	2497	1847	1392	80X120	Justice R.V. Ravindran	Supreme Court
22.	2494	1809	1394	80X120	Justice D.M. Chandrashekhar	High Court
23.	2514	1918	1395	80X120	Justice Vishwanatha Shetty	High Court
24.	1959	1769	1402	80X120	Justice Kedambadi Jagannat Shetty	High Court
25.	841	1774	1404	80X120	Justice K.S. Puttawamy	High Court
26.	2503	1919	1410	80X120	Justice K.H.N. Kuranga	High Court
27.	1611	1802	1411	80X120	Justice H.G. Balakrishna	High Court
28.	825	1775	1412	80X120	Justice Doddakalegowad (Smt. Yeshodamma)	High Court
29.	821	1779	1413	80X120	Justice K. Jagannath Shetty	Supreme Court
30.	2405	1777	1414	80X120	Justice L. Srinivasa Reddy	High Court
31.	1878	1806	1420	80X120	Justice G.P.	High

					Shivaprkash	Court
32.	845	1788	1422	80X120	Justice M. Ramajois	High Court
33.	1338	1789	1232	60X90	Justice S.R. Venkateshmurthy	High Court
34.	2496	1830	1267	60X90	Justice R. Ramakrishna	High Court
35.	1418	1081	1288	60X90	Justice B. Padmaraj	High Court
36.	1477	1805	1356	60X90	Justice N.D. Venkatesh	High Court
37.	217	1496	1470	60X90	Justice R.G.Vidyanathan	High Court
38.	2038	1780	1471	60X90	Justice S. Venkataraman	High Court
39.	1652	1243	1472	60X90	Justice M.S. Rajendra Prasad	High Court
40.	1579	1353	1473	60X90	Justice Manjula Challur	High Court
41.	1577	1141	1474	60X90	Justice K. Bhakthavatsalam	High Court
42.	1088	934	1475	60X90	Justice B.M. Mallikarjuna	High Court
43.	1400	1067	1476	60X90	Justice H.N. Narayana	High Court
44.	914	772	1480	60X90	Justice Md. Anwar	High Court
45.	2358	1893	859/ A	60X90	Justice B.K. Somashekar	High Court
46.	1188	1032	1269	60X90	Justice B.K. Sanglad	High Court
47.	2504	1836	1266	60X90	Justice G.C. Bharuka	High Court
48.	2498	1852	1268	60X90	Justice V.P. Mohan Kumar	High Court

49.	2500	1854	1270	60X90	Justice P. Krishnamurthy	High Court
50.	2499	1839	1271	60X90	Justice Kumar Raja Rathnam	High Court
51.	2501	1840	1272	60X90	Justice J. Eshwara Prasad	High Court
52.	2502	1837	1273	60X90	Justice T.S. Thakur	High Court
53.	61	1861	1295	60X90	Justice M.N. Venkatachalaiah	Supreme Court

1.	80x120 = 32	(1)	Supreme Court Judges	= 8
2.	60x90 = 31	(2)	High Court Judges	= 76
3.	50x80 = 14			84
	40x60 = 7			
Total	84			

54.	828	1595	1453	60X90	Justice A.K.Laksheshwara	High Court
55.	124/A	1948	1501	60X90	Justice Balakrishna Herade	Supreme Court
56.	2512	1943	1253	60X90	Justice Y.Bhaskar Rao	High Court
57.	2929	1992	1264	60X90	Justice V.Gopala Gowda	High Court
58.	2513	1920	2118	60X90	Justice V.K.Singal	High Court
59.	257/A	2024	859/C	60X90	Justice S.R.Nayak	High Court
60.	2511	1877	859/D	60X90	Justice H.L.Dattu	High Court
61.	2518	1916	2118/A	60X90	Justice S.R.Bannurmath	High Court
62.	3000	2034	2118/B	60X90	Justice K.L.Manjunath	High Court
63.	2981	2030	2118/C	60X90	Justice A.V.Srinivasareddy	High Court
64.	1578	1245	1052	50X80	Justice V.G.Sabahit	High Court
65.	819	591	1337	50X80	Justice S.B.Majage	High Court
66.	899	1109	1342	50X80	Justice G.Patri Basavanagowda	High Court
67.	820	1153	1886	50X80	Justice G.N.Sabahit (Janaki)	High Court
68.	2500	1872	981/B	50X80	Justice Hulvadi G.Ramesh	High Court
69.	1924	1743	981/D	50X80	Justice K.Ramanna	High Court
70.	813	590	1296/8	50X80	Justice K.Ramachandra	High Court

71.	2466	1768	863	50X80	Justice b.N.Krishnan	High Court
72.		1863	1296 /11	50X80	Justice Chandrashekaraiah	High Court
73.		1000	861	50X80	Justice S.Mohan	Supreme Court
74.		1004	862	50X80	Justice N.Y.Hanumanthappa	High Court
75.		1725	864	50X80	Justice S.R.Rajashekara Murthy	High Court
76.		1801	858	50X80	Justice M.Ramakrishna	High Court
77.		2110	362/ 2	50X80	Justice Chidananda Ullal	High Court
78.	623	27	1439	40X60	Justice C.N.Ashwathanarayana Rao	High Court
79.	115/ A	1922	239/ 15	40X60	Justice M.S.Nesarge	High Court
80.		1939	2068	40X60	Justice T.J.Chouta	High Court
81.		1917	2070	40X60	Justice G.T.Nanavathi	Supreme Court
82.		1875	2094	40X60	Justice R.V.Vasanthakumar	High Court
83.		1956	2093	40X60	Justice R.Gururajan	High Court
84.		2025	1	40X60	Justice P.V.Reddy	High Court

Sd/-

Karnataka State Judicial Department
Employees House Building
Co-operative Society

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No(s) 5057/2007

(From the judgment and order dated 02/03/2007 in CCC No. 87/2004 & W.P. No. 40994/2002 of The HIGH COURT OF KARNATAKA AT BANGALORE)

KARNATAKA STATE JUDL. DEP. E.H.B. COOP. STY.

..Petitioner(s)

VERSUS

JUDICIAL LAYOUT RES. & SITE HOL. ASSN. & ORS.

..Respondent(s)

(With Prayer for interim relief and office report)

Date : 11.05.2007 This Petition was called on for hearing today

CORAM :

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE H.S. BEDI

For Petitioner(s) Mr. K.K. Venugopal, Sr. Adv.

Mr. T.R. Subbanna, Sr. Adv.

Mr. H. Shivappa, Adv.

Mr. Anil Kumar, Adv.

Mr. P.R. Ramasesh, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following

ORDER

Issue Notice

There shall be interim stay of the impugned order until further orders.

Sd/-	Sd/-
(G.V. Ramana)	(Veera Verma)
Court Master	Court Master

(As directed by Hon'ble CJI, not to be heard by Hon'ble Mr. Justice R.V. Raveendran)

Law 626 Opn. 2006

RD 109 MuAe Bee 2006 Law Department (Opinion)

Date: 31.10.2007

In the Union of India Vs. K.K. Dhawan [1993(2) SCC 56], Hon'ble Supreme Court has held that disciplinary action can be taken against an officer who acts negligently or recklessly or in order to confer undue favour on a person while exercising judicial or quasi-judicial powers in the following cases:

vii) Where the officer had acted in a manner as would reflect on his reputation for integrity or good faith or devotion to duty;

viii) If there is prima facie material to show recklessness or misconduct in the discharge of his duty;

ix) If he has acted in a manner which is unbecoming of a government servant;

x) If he had acted negligently or that he omitted the prescribed conditions which are essential for the exercise of statutory powers;

xi) If he had acted in order to unduly favour a party;

xii) If he had been actuated by corrupt motive, however, small the bribe may be.

The omissions/commissions of an officer while passing an order in a quasi-judicial capacity can be investigated by the police in a criminal case, only if such criminal case is initiated by the State Government. Further, such a criminal case can be instituted provided there are reasonable grounds for believing that such officer has committed an offence warranting institution of such criminal case.

(Approved by Law Secretary)

Sd/-

Addl. Law Secretary (Opinion)

Sd/-

(G.S. REVANKAR)

Deputy Secretary to Government (Opn.1)

Department of Law, Justice & Human Rights