

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 19TH DAY OF FEBRUARY 2014

PRESENT

THE HON'BLE MR.D.H.WAGHELA, CHIEF JUSTICE

AND

THE HON'BLE MRS.JUSTICE B.V.NAGARATHNA

WRIT PETITION NO. 3676/2008 &
WRIT PETITION NOS.43472-43474/2011 (GM-RES-PIL)

BETWEEN :

1. CITIZENS' ACTION FORUM
NO.31/1, I FLOOR
M K PUTTALINGAIAH ROAD
PADMANABHANAGARA
BANGALORE-560070
REPRESENTED BY ITS SECRETARY
LT. COL. MATHEW THOMAS (RETD)
2. LT. COL. MATHEW THOMAS (RETD)
S/O LATE SHRI T P JOHN
AGE: 70 YEARS, SECRETARY
CITIZENS' ACTION FORUM
NO.30/1, 1ST FLOOR
M K PUTTALINGAIAH ROAD
PADMANABHANAGARA
BANGALORE-560070
3. SADASHIVANAGAR RESIDENTS' WELFARE
ASSOCIATION, NO.457, 11TH MAIN ROAD
R M V EXTENSION, SADASHIVANAGAR
BANGALORE-560080
REP BY ITS HONORARY SECRETARY
MR B K JAGADISHCHANDRA, IFS (RETD)
4. MR B K JAGADISCHANDRA
SECRETARY, SRWA, AGE: 69 YEARS
S/O LATE SHRI B N KAPPA
438, 11TH MAIN ROAD, RMV EXTENSION

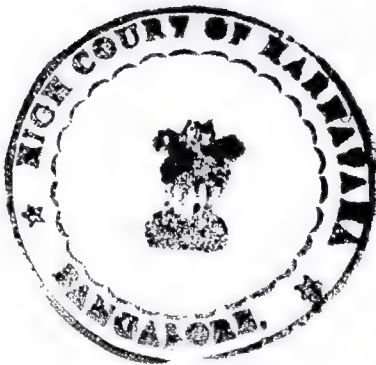


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SADASHIVANAGAR
BANGALORE-560080

5. MAJ. GEN. M K PAUL (RETD) AVSM
S/O LATE MR. NRIPENDRA KISHORE PAUL
AGED 74 YEARS, PAST PRESIDENT
DEFENCE COLONY RESIDENTS' ASSOCIATION
'DEVALAYA", 3RD MAIN ROAD
DEFENCE COLONY, BANGALORE-560038
6. MR XERXES DESAI S/O MR SAPUE DESAI
AGED 71 YEARS, RETD. CHIEF EXECUTIVE
TITAN GROUP OF COMPANIES &
PRESIDENT, DEFENCE COLONY
RESIDENTS' ASSOCIATION, 41, 4TH MAIN
3RD CROSS, DEFENCE COLONY
INDIRANAGAR, BANGALORE-560038
7. AIR VICE-MARSHAL (RETD)
S KRISHNASWAMY AVSM
S/O LATE MR K R SRINIVASAN
AGED 77 YEARS
RETIRED SENIOR IAF OFFICER
A1, "VIJAYASRINIVAS"
218, 3RD MAIN, DEFENCE COLONY
INDIRANAGAR, BANGALORE-560038
8. MR J R KAPUR S/O MR N D KAPUR
AGED 80 YEARS
FORMER GENERAL MANAGER, HAL
2973, 5TH CROSS, 13TH MAIN
HAL 2ND STAGE, BANGALORE-560008
9. GP. CAPT. K BHASKARAN
S/O LATE MR. KUNHAMBU, AGED 76 YEARS
RETIRED SENIOR AIR FORCE OFFICER
FORMER PRESIDENT, HAL 2ND STAGE
CIVIC AMENITIES & CULTURAL ASSOCIATION
3019, 12-B MAIN, HAL 2ND STAGE
BANGALORE-560008

MR. S SHYAM SUNDAR, IFS (RETD)
S/O MR. S VENKATA RAO, AGED 76 YEARS
FORMER PRINCIPAL CHIEF CONSERVATOR OF
FORESTS, GOVT. OF KARNATAKA &



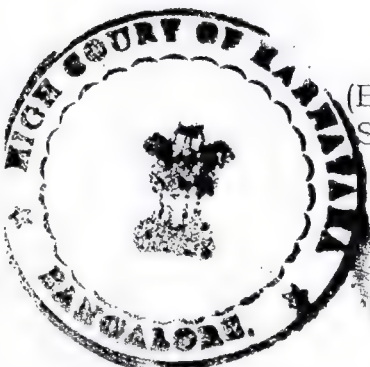
FORMER PRESIDENT, HAL 2ND STAGE
CIVIC AMENITIES & CULTURAL ASSOCIATION
2989/D, 12TH MAIN, HAL 2ND STAGE
BANGALORE-560008

11. MR P P R NAIR
S/O LATE MR K K R PANICKER
AGED 72 YEARS
FORMER SPECIAL SECRETARY
MINISTRY OF HOME AFFAIRS
GOVERNMENT OF INDIA
3367/B, 13TH MAIN ROAD
HAL 2ND STAGE, BANGALORE-560008
12. MR S N S MURTHY, IPS (RETD)
S/O LATE MR S NARAYANA RAO
AGED 72 YEARS
FORMER DG & IGP, KARNATAKA STATE
AND FORMER PRESIDENT, HAL 2ND STAGE
CIVIC AMENITIES AND CULTURAL ASSOCIATION
NO. 3367/C, 13TH MAIN ROAD, HAL 2ND STAGE
BANGALORE-560008
13. DR B R PAI
S/O LATE MR RAMA BHASKAR PAI
AGED 63 YEARS, FORMER DIRECTOR
NATIONAL AEROSPACE LABORATORIES
1078, 12TH MAIN ROAD, HAL 2ND STAGE
BANGALORE-560008
14. DR R BALASUBRAMANIAM
S/O LATE DR. K RAMAKRISHNA IYER
AGED 64 YEARS
DIRECTOR AND SCIENTIFIC ADVISER
NATIONAL AEROSPACE LABORATORIES (RETD)
808, MAYURAPRIYA, 7TH MAIN, I CROSS
HAL 2ND STAGE, BANGALORE-560008
15. MR. KUMAR RANGANATHAN
S/O CDR T V RANGANATHAN
AGED 40 YEARS
SENIOR MANAGER, INTEL CORPN.,
15, DEFENCE COLONY, INDIRANAGAR
BANGALORE-560038



16. MR S JANARDHAN
S/O LATE MR SUBRAMANIAN SESHADRI
AGED 75 YEARS
FORMERLY SCIENTIST AT
NATIONAL AEROSPACE LABORATORIES
BANGALORE (1960 - 1991) AND
CHIEF MODERATOR FOR NATIONAL
COMPUTING CENTRE, UK (1991-1999)
1196, 13TH MAIN, HAL 2ND STAGE
BANGALORE-560008
17. MR. RAVINDRANATH GURU
S/O LATE MR. MAHESHCHANDER GURU
AGED 64 YEARS, 593, DUNDUBHI, 24TH CROSS
BSK II STAGE, BANGALORE -560070
18. PANDURANGANAGAR RESIDENTS'
WELFARE ASSOCIATION (REGD.)
NEAR WATER TANK, 5TH MAIN ROAD
PANDURANGANAGAR, IIM POST
BANNERGHATTA ROAD, BANGALORE-560076
REP BY ITS SECRETARY SRI K.P. BHAT
19. SRI K.P. DINESH KUMAR
PRESIDENT, PANDURANGANAGAR RESIDENTS'
WELFARE ASSOCIATION (REGD.),
NEAR WATER TANK, 5TH MAIN ROAD
PANDURANGANAGAR, IIM POST
BANNERGHATTA ROAD, BANGALORE-560076
20. SRI K.P. BHAT, SECRETARY
PANDURANGANAGAR RESIDENTS'
WELFARE ASSOCIATION (REGD)
NEAR WATER TANK, 5TH MAIN ROAD
PANDURANGANAGAR, IIM POST
BANNERGHATTA ROAD
BANGALORE-560076
**(PETITIONER NOS.18 TO 20 ARE
IMPLEADED V/O DATED 22.02.2010)**
- ... PETITIONERS

(BY SRI ADITYA SONDHI, ADV., FOR P-1 TO P17;
SRI V.B. SHIVAKUMAR, ADV., FOR P-18 TO 20)



AND :

1. STATE OF KARNATAKA
DEPARTMENT OF URBAN DEVELOPMENT
M S BUILDING, BANGALORE-560001
REP BY ITS SECRETARY
2. BANGALORE DEVELOPMENT AUTHORITY
T CHOWDAIAH ROAD, KUMARA PARK WEST -
BANGALORE-560020
REPRESENTED BY ITS COMMISSIONER
3. BANGALORE METROPOLITAN REGIONAL
DEVELOPMENT AUTHORITY, NO.1
ALI ASKAR ROAD, BANGALORE-560052
REPRESENTED BY ITS COMMISSIONER
4. BRUHAT BANGALORE MAHANAGARA PALIKE
N R SQUARE, BANGALORE-560002
REPRESENTED BY ITS COMMISSIONER
(R-4 IMPEADED V/O DATED 16.8.12)
... RESPONDENTS

(BY SMT. NILOUFER AKBAR, AGA FOR R-1;
SRI D N NANJUNDA REDDY, SENIOR COUNSEL FOR
SRI RAVI G SABHAHIT, ADV., FOR R-2;
SRI S.G. PANDIT, ADV., FOR R-3;
SRI SUBRAMANYA .R, ADV., FOR M/S.ASHOK
HARANAHALLI ASSOCIATES, ADVS., FOR R-4;
SRI A RAVISHANKAR, ADV., FOR IMPEADING
APPLICANT ON I.A.NO.II/13 & I.A.NO.IV/13;
SRIYUTHS SIDDAPPA, SUNIL & NITIN, ADVS., FOR
IMPEADING APPLICANT ON I.A.V/13;
SRI K.SHASHIKIRAN SHETTY, ADV., FOR M/S.SHETTY &
HEGDE ASSOCIATES, ADVS., FOR APPLICANTS IN
I.A.NO.X/13 & I.A.NO.XIII/13)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES
226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO
QUASH THE REVISED MASTER PLAN 2015 FORMULATED BY
THE SECOND RESPONDENT INCLUDING THE ZONING
REGULATIONS FRAMED THEREUNDER AND ALL ILLEGAL
PERMISSIONS GRANTED SUBSEQUENT TO THE SAID PLAN
VIDE ANNEXURE-S AND ETC.,



THESE WRIT PETITIONS COMING ON FOR FINAL DISPOSAL THIS DAY, NAGARATHNA .J MADE THE FOLLOWING:

ORDER

1. These writ petitions assail the Revised Master Plan 2015 formulated by the 2nd respondent –Bangalore Development Authority (BDA) and approved by the 1st respondent –State (a copy of the Master Plan is produced at Annexure-S). The State Government's order dated 25.06.2007 (Annexure-G), approving the Master Plan 2015 is also assailed. Consequential directions are also sought by the petitioners. Though the writ petitions were filed in the year 2008 and the matters were listed on several dates, on 25.01.2012, an interim order was passed by this Court. The same reads as under:-

“We have heard the learned counsel for the parties. On 17.11.2011, we had permitted the objections to be filed on behalf of respondent no.1, within two weeks, subject to payment of costs. Objections are not on the record. Learned counsel for the petitioners has drawn our attention to the report of the Committee chaired by Dr.A.Ravindra. The first paragraph of the Highlights reads as follows;

“1. Change of land use has been curtailed for small properties on small roads. The notion of



ancillary use of a property has also been done away with. These two provisions have caused much pain to communities, by mixing up commercial development in what should be residential areas only."

It will be relevant to mention here that Dr.A.Ravindra Committee was constituted by the respondent -Government itself vide order dated 04.12.2009. Our attention has been drawn to Revised Master Plan 2015, Bangalore, Volume-III Chapter-II of the Revised Zoning of land use and Regulations deals with Regulations for classification of Different Land uses. As a first step, as partial acceptance of the report, we direct that in the following areas of the city i.e. Malleshwaram, Richmond Town, Vasanthanagar, Jayanagar, Vijayanagar, Visveshwarpura, Rajajinagar, R.T.Nagar etc., classified in the Zoning Regulations, which corresponds to areas wherein purely residential user is permitted, no further permission shall be granted for re-development and re-construction except for residential user.

So far as permissions granted in the *interregnum*, between the filing of the petitions and today is concerned, we are severely handicapped, because of the non-filing of the counter affidavit/objections. Further orders shall be passed on the next date of hearing. This order should not be construed in any



manner as conveying the approval of the Court for other users.

Learned counsel for the petitioners states that he has received an advance copy of the counter affidavit/objections, in which, significantly there is complete non-traverse, so far as Dr.A.Ravindra Committee report is concerned.

Sri.Basavaraj Kareddy, Principal Government Pleader prays for condonation of delay in filing the objections, which according to him were filed in the Registry, yesterday.

Ordered accordingly. Counsel for the petitioners states that there is no factual response a rejoinder would be called for.

List for further consideration on 03.02.2012."

It is also brought to our notice that when the interim order dated 25.01.2012 was passed by this Court, Bruhat Bangalore Mahanagara Palike (BBMP) was not arrayed as a respondent in these writ petitions. Thereafter, BBMP was brought on record. Thereafter, the matters were listed on several dates and submissions of learned senior counsel as well as learned counsel on both sides have been heard with regard to the challenge made to the Master Plan 2015 particularly, with regard to the residential areas and



residential mixed areas. The order dated 13.09.2012 reads as under:-

“Learned Senior Counsel for the Bruhath Bangalore Mahanagara Palike prays for an adjournment to file objections to I.A.No.5/2012 within two weeks from today.

Allowed.

The objections will also disclose whether plans for commercial user has been allowed in any of the eight areas specifically mentioned in the order dated 25.01.2012.

Renotify on 10.10.2012.”

The order dated 08.11.2012 reads as under:-

“If plans have been sanctioned after passing of the order dated 25.1.2012, *prima facie* action may call for initiation of contempt of court proceedings. Even if permissions have been granted, we see no reason or justification for the B.B.M.P. not to take steps for recalling the permissions granted by them. The learned Standing Counsel for the B.B.M.P. states that he will advise the B.B.M.P. to take immediate action forthwith.

Renotify on 22.11.2012.”



The order dated 22.11.2012 reads as under:-

“Learned counsel appearing for BBMP states that Circular dated 08.11.2012 has been issued whereby plans which have already been sanctioned, but are contrary to order dated 25.01.2012, plans have been withdrawn. He states that an affidavit to this effect shall be filed within two weeks accompanied by details of plans which stand cancelled. It is further stated that even in areas which do not fall within those areas mentioned by us in our orders, wherever commercial user is directed in residential areas, plans have been withdrawn throughout the BBMP area.

List on 13.12.2012.”

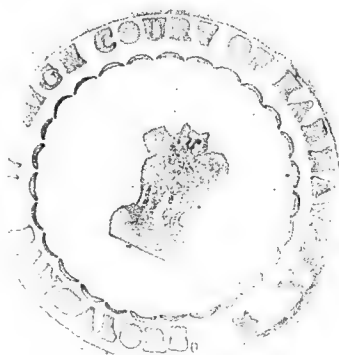
On 11.12.2012, an affidavit was filed by the Additional Director, Town Planning, BBMP. The relevant portion of the affidavit reads as follows:-

“3. This Hon’ble Court on 25/1/2012 has passed an interim order observing that there shall not be any commercial development in the area, which is predominantly residential such as Malleswaram, Richmond Town, Vasanthnagar, Jayanagar, Vijayanagar, Vishweshwarapura, Rajajinagar & RT Nagar. The BBMP was subsequently arrayed as



party to the proceedings. In the *interregnum*, the BBMP had issued sanctioned plan in many of the residential areas as it was not a party to the proceedings. On coming to know about the interim order passed on 25/1/2012, the BBMP issued a circular on 11/6/2012 prohibiting the issue of sanction plan in respect of the areas mentioned in the interim order. The Town Planning Section of BBMP in respect of all the eight zones have stopped issuing the sanctioned plan in compliance to the direction issued by this Hon'ble Court.

4. The petitioner has alleged that the respondent -BBMP could not have issued the sanctioned plan subsequent to the interim order dated 25/1/2012. The respondent -BBMP has brought to the notice of this Hon'ble Court, the circumstances under which the plan was sanctioned and also with regard to the fact that the BBMP was not made party to the proceedings. This Hon'ble Court having heard the matter was of the view that the sanction plans run contrary to the interim order dated 25/1/2012. Accordingly, a submission was made on behalf of the BBMP that the plans issued subsequent to the interim order would be withdrawn.



5. The Special Commissioner (Planning), BBMP on 8/11/2012 issued an office order instructing all the concerned to withdraw the sanctioned plans issued subsequent to the interim order dated 25/1/2012. A copy of the office order dated 8/11/2012 is produced herewith and marked as Annexure R-2. On 22/11/2012 when the matter came up before this Hon'ble Court, the respondent -BBMP was directed to place on record, all the details regarding withdrawal of sanctioned plans, not only in respect of eight areas mentioned in the interim order dated 25/1/2012, but also in relation to the entire BBMP area. Accordingly, this affidavit is being filed.

6. The BBMP in all had issued 183 sanctioned plans pertaining to the 8 zones. The plans issued have now been withdrawn by issuing necessary communication and in respect of several plans, notices have been issued by the concerned authority for revocation. A copy of one such communication is produced herewith and marked as Annexure R-3. The details of the abstract showing the revocation of plan and issue of notice for revocation of plan sanctioned in all the eight zones pursuant to



the interim order dated 25/1/2012 along with the details of plans are produced herewith and marked as Annexure R-4. The details aforementioned clearly demonstrate that the BBMP has taken remedial action pursuant to the interim order dated 25/1/2012. The action initiated by the BBMP is in compliance with the interim order passed and there is no willful or deliberate disobedience of the interim order passed by this Hon'ble Court. It is therefore just and necessary to consider the aforesaid facts at the time of hearing the above writ petition, in the interest of justice."

2. Subsequently on 13.12.2012, another interim order was passed which was in fact an order clarifying the earlier interim order dated 25.01.2012. The same reads thus:

"We have heard the learned counsel for the parties. Although we find that there is no ambiguity in the order dated 25.1.2012, we think it expedient to make a further clarification. We direct that the B.B.M.P. shall not permit or grant any change of land user in the following areas i.e., Malleshwaram, Richmond Town, Vasanthanagar, Jayanagar, Vijayanagar, Vishweshwarapura, Rajajinagar and



R.T.Nagar. In addition thereto, the residential areas mentioned and shown in CDP 1995, regardless of whether they are subsequently depicted as residential main or residential mixed are also included. This order shall also apply to other residential areas regardless of the nomenclature used in the Revised Master Plan of 2015. Any building plans that have been sanctioned or trade licenses or change of land user that has been allowed subsequent to our order dated 25.1.2012 shall be recalled.

Renotify on 6.2.2013.”

3. On the last occasion, learned senior counsel appearing for the BDA stated that the BDA has considered the matter in detail and it has proposed certain amendments to the Master Plan particularly Zoning Regulations pertaining to residential and residential mixed areas. Today, an affidavit has been filed by the Commissioner, BDA detailing the proposals to amend the Zoning Regulations. Paragraphs 2 and 3 of the said affidavit read as under:-

“2. I state that the BDA vide its resolution No.37/2014 dated 27.01.2014 has proposed to amend Zoning regulations providing for the following:



i) That no commercial activity of whatsoever nature shall be allowed in residential main and residential mixed zones in the three rings, namely Ring No.1, Ring No.2 and Ring No.3, if road width is less than 40 feet.

ii) That only ancillary usages mentioned in the resolution shall be permitted in residential main and residential mixed zones in Ring No.1 and Ring No.2 up to 20% of the built up area or 50 Sq.Mtrs. whichever is lower provided the width of the road is above 40 feet.

iii) In Ring No.3, the ancillary usages may be permitted as the main use in residential main and in residential mixed zones if the plot size is more than 1000 Mtrs. having frontage of 10 mtrs. or more and if the width of the road is more than 60 feet.

A copy of the resolution No.37/2014 dated 27-01-2014 along with its English translation is annexed to this affidavit.

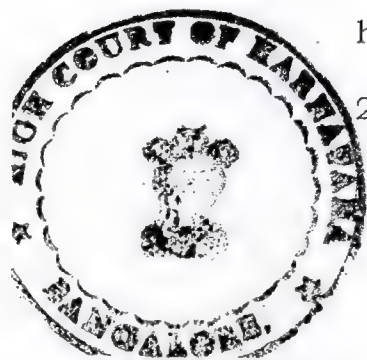


3. I submit that the amended regulations will be forwarded to the Government and once the Government carries out the proposed amendment, the BDA assures this Hon'ble Court that the resolution shall be implemented strictly in its letter and spirit."

4. Learned senior counsel appearing for the BDA submits that the resolution along with the proposals to amend the Zoning Regulations would be forwarded to the State Government which could consider the same and thereafter notify the Regulations which would be in effect and amendment to the Master Plan, 2015.

5. Learned Additional Government Advocate appearing for the State submits that if the said proposals are sent to the State Government, the same would be considered and notified within a period of three months from date of submission of the proposals by the BDA to it having regard to Section 13E of the Karnataka Town and Country Planning Act, 1961.

6. During the course of submissions, learned counsel have also brought to our notice that the interim order dated 25.01.2012, which has been clarified by the interim order



dated 13.12.2012, has been operating till date and it is submitted that till the State Government notifies the proposed amendment to the Zoning Regulations, the said interim orders may be continued. Submission of learned counsel on either side is placed on record.

7. Learned counsel appearing for the petitioners states that there are other grievances with regard to the Master Plan 2015 such as with respect to Mutation Corridors and also learned counsel appearing in the other writ petitions state that there are various other contentions which have been raised by the petitioners therein.

8. In the circumstances, we take the affidavit filed by the Commissioner, BDA on record. As stated in the affidavit, the BDA shall forward the amendment to the Zoning Regulations to the State Government for its approval. The State Government shall consider the same and notify the proposed amendment within a period of three months from the date BDA forwards the proposal to it. Till the proposed amendments are notified, the interim order dated 25.01.2012 as well as 13.12.2012 shall continue. BBMP shall also abide by the orders of this Court as well as the contents of its affidavit extracted *supra*. Having regard to



the contents of the affidavit filed on behalf of the BBMP and pending notification of the amendment to the Zoning Regulations, the interim orders dated 25.01.2012 and 13.012.2012 are continued. All other contentions which are raised in these writ petitions on both sides are left open to be agitated in any other appropriate matter.

9. We have also noticed that several impleading applications i.e., I.A.Nos.II/2013, IV/2013, V/2013, X/2013 and XIII/2013 have been filed by private parties ventilating their grievances with regard to the issues which have been raised in these writ petitions and particularly, with regard to the interim orders dated 25.01.2012 as well as 13.12.2012. We do not think that those applications which are in fact private interest litigations could be considered along with these public interest litigations. Therefore, we dispose of all the applications seeking impleadment by permitting the impleading applicants to file their separate and independent petitions to be considered by the Bench having roster.

10. With the aforesaid directions and observations, these writ petitions stand disposed.



(10)

11. In view of disposal of the writ petitions, all other pending interlocutory applications also stand disposed.

Sd/-
CHIEF JUSTICE

Sd/-
JUDGE

'TRUE COPY'
M. S. Srinivas 13/3/14
Section Officer,
High Court of Karnataka
Bangalore - 560 001



- a) The date on which the application was made 25.2.14
- b) The date on which charges and additional charges if any, are called for 7.3.14
- c) The date on which charges and additional charges, if any are deposited/Paid 1.3.14
- d) The date on which the copy is ready 12.3.14
- e) The date of notifying that the copy is ready for delivery 12.3.14
- f) The date on which the applicant is required to appear on or before 15.2.14
- g) The date on which the copy is delivered to the Applicant 13/3/14
- h) Examined by *[Signature]*