

(2005) 10 KAR CK 0057

In the Karnataka High Court

Case No : Writ Appeal No's. 2086, 2300, 2531 and 2532 of 2004

B. Anjanappa and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 06-10-2005

Acts Referred:

Constitution of India, 1950 — Article 226
Karnataka Government (Transaction of Business) Rules, 1977 — Rule 66
Land Acquisition Act, 1894 — Section 16 (2), 4 (1), 5 A, 6 (1)

Citation : (2006) 1 KarLJ 233

Hon'ble Judges : S.R. Nayak, J;C.R. Kumaraswamy, J

Bench : Division Bench

Advocate : T.K. Rajagopal and R. Radha, in W.A. No. 2532 of 2004, Padmanabha Mahale, for N. Gangadhar, in W.A. No. 2086 of 2004 and G.S. Visweswara, for K.S. Narayana Swamy, in W.A. Nos. 2300 and 2531 of 2004, for the Appellant; B. Veerappa, Government Advocate for Respondents-1 to 3 in W.A. Nos. 2532 and 2086 of 2004 and for Respondents-2 to 4 in W.A. Nos. 2300 and 2531 of 2004, K. Suman, for Respondent-1 in W.A. Nos. 2300 and 2531 of 2004 and for Respondent-21 in W.A. Nos. 2086 and 2532 of 2004, Udaya Holla, for U. Prabhakar, for Respondents-22 to 25 in W.A. Nos. 2086 and 2531 of 2004, Holla and Holla for Respondent-22 in W.A. No. 2531 of 2004 and N.H. Law Associates for Respondents-26 and 27 in W.A. No. 2086 of 2004, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—All these writ appeals are directed against the same judgment of the learned Single Judge dated 9th March, 2004 passed in

Writ Petition No. 27205 of 2001 and therefore, we clubbed all the writ appeals, heard them together and they are being disposed of by this

common judgment.

2. The appellants in Writ Appeal No, 2532 of 2004 are the owners of the land in Sy. No. 77/1 measuring 2 acres 9 guntas, Sy. No. 77/7

measuring 36 guntas, Sy. No. 23/1 measuring 27 guntas, Sy. No. 88/6 measuring 25 guntas, Sy. No. 35/1 measuring 32 guntas, Sy. No. 49/1

measuring 1 acre 17 guntas, Sy. No. 49/2 measuring 1 acre 13 guntas and Sy. No. 49/3 measuring 1 acre 36 guntas, (totally admeasuring 9 acres

25 guntas) of land situate in Veerannapalya Village, Bangalore East Taluk (formerly Bangalore North Taluk). The appellants in this appeal were

not parties to the W.P. No. 27205 of 2001. This appeal was filed by the appellants with the leave of the Court.

3. The appellants in Writ Appeal No. 2086 of 2004 are the owners of 38 guntas of land comprised in Sy, No. 78/3 of Nagavara Village, Kasaba

Hobli, Bangalore East Taluk (formerly Bangalore North Taluk). The appellants were not made parties to Writ Petition No. 27205 of 2001. The

appellants have filed this appeal with the leave of the Court. In this appeal, I.A. Nos. I, II and III of 2005 were filed by the purchasers of the

above land to implead themselves as parties to the proceedings. This Court, by order dated 20-9-2005, allowed I.A. Nos. I, II and III of 2005

and permitted the applicants in the I.As. to be impleaded as respondents 22 to 27.

4. The appellants in Writ Appeal No. 2300 of 2004 are the owners of the land in Sy. Nos. 77/2, 77/3 and 77/3B totally measuring 3 acres 3

guntas situate in Nagavara Village, Kasaba Hobli, Bangalore East Taluk (formerly Bangalore North Taluk). The appellants were not impleaded as

party respondents to Writ Petition No. 27205 of 2001. However, during the pendency of the writ petition, the appellants made an application for

impleading them as party respondents, but, the learned Single Judge did not pass any order on the said application. Hence, Writ Appeal No. 2300

of 2004 is filed with the leave of the Court.

5. In Writ Appeal No. 2531 of 2004, the appellants are the owners of the land in Sy. No. 24/4 measuring 24 guntas and Sy. No. 26/1 measuring

25 guntas, in all measuring 1 acres 9 guntas of land in Nagavara Village, Kasaba Hobli, Bangalore East Taluk (formerly Bangalore North Taluk).

The appellants are the purchasers of the above land from its vendors under registered sale deed dated 16th October, 2003. The appellants are not

parties to the impugned order of the learned Single Judge and they have filed this appeal with the leave of the Court. In this appeal, I.A. No. I of

2005 was filed by Karnataka State Muslim Federation claiming to be the purchaser of the land bearing Sy. Nos. 22/1, 22/2, 23/1, 23/3, 23/4,

24/1, 24/5 and 78/7 measuring 17 acres 3 guntas situate in Nagavara Village, which forms part of the subject land in this writ appeal to implead

itself as a party to the proceedings. This Court, by order dated 19-9-2005, allowed I.A. No. I of 2005 and permitted the applicant in the said I.A.

to be impleaded as respondent 22.

6. The learned Single Judge by the order impugned in these writ appeals, has allowed Writ Petition No. 27205 of 2001 filed by the contesting

respondent viz. The Vyalikaval House Building Co-operative Society Limited, Bangalore (for short, the "Society") and quashed the impugned

action of the State Government dated 4-6-2001 marked as Annexure-M proposing to withdraw the preliminary notification issued by it u/s 4(1) of

the Land Acquisition Act, 1894 (for short, the "Act"), for acquisition of 52 acres 17 guntas of land situate in Nagavara Village, Kasaba Hobli,

Bangalore East Taluk (hereinafter for short referred to as the "subject land"). Further, the learned Single Judge has issued a direction to the official

respondents to proceed with the acquisition of the subject land from the stage at which it was stopped forthwith and to complete it by issuing the

notification u/s 6(1) of the Act within a period of three months. Since the Division Bench has stayed the above direction issued by the learned

Single Judge, it is stated that no further steps are taken by the State Government in pursuance of the order of the learned Single Judge.

7. The background facts leading to the filing of the writ petition may be noted briefly in the first instance and they are as follows.-

The Government of Karnataka issued notification u/s 6(1) of the Act on 21-2-1986 declaring the lands measuring 165 acres 30 guntas as required

for public purpose, to wit, for the purpose of the Society for providing house sites to its members. Pursuant to the said notification, an award was

also passed and possession of the land was taken over by the State Government and the possession of the said land was admittedly handed over

to the Society. But, in view of the judgment of the Supreme Court in the case of H.M.T. House Building Co-operative Society Vs. Syed Khader

and others, (hereinafter for short referred to as the "HMT HBCS case"), the landowners filed writ petitions challenging the above acquisition

proceedings. Those writ petitions were allowed by this Court quashing the notification dated 21-2-1986 to the extent of 52 acres 17 guntas only.

The State Government has not placed any material before the Court to show that it has taken over possession of the subject land from the Society

consequent upon the quashing of the notifications and handed over the same to the landowners concerned. In W.P. Nos. 6421 to 6428 of 1994

disposed of on 18-2-1987, this Court has observed as follows.--

In the absence of any material to show that the Government has taken possession of the land from the landowners, it is not possible for the special

LAO to deliver possession to the landowners.

However, the learned Single Judge in the impugned order has observed that in the records in file No. RD 72 AQB 2000 produced by the learned

Government Pleader at the time of arguments, it was seen that the Government had taken possession from the landowners and had delivered the

same to the Society and there is nothing on record to show that after that event possession of the subject land has been taken over from the

Society and the same was restored to the landowners concerned.

8. The Society, after quashing of the notification dated 21-2-1986 to an extent of 52 acres 17 guntas of land by this Court, represented to the

State Government for acquisition of the subject land for the benefit of the said Society. The entire cost of the acquisition including the cost of the

subject land was already deposited by the Society even before initiating the land acquisition proceedings in the first instance. The State

Government after examining the feasibility and also in view of the fact that the Registrar of Co-operative Societies has made recommendation to

acquire the subject land vide reports dated 23-6-1999 and 26-4-1999, the State Government accorded approval for acquisition of the subject

land. Accordingly, the Deputy Commissioner, Bangalore Urban District issued notification u/s 4(1) of the Act proposing to acquire the subject

land. At that stage W.P. Nos. 30629 and 30630 of 1999 and other connected writ petitions were filed by the concerned landowners challenging

the notification in this Court and this Court by its order dated 27-10-1999 dismissed those writ petitions as premature, however, reserving liberty

to the landowners to challenge the final notification, if issued, on the basis of the preliminary notification. The landowners challenged the order of

the learned Single Judge dated 27-10-1999 in W.A. Nos. 488 to 492 of 2000 and the Division Bench dismissed those writ appeals by order

dated 19-6-2000.

9. At this stage itself, it needs to be noticed that some of the persons claiming to be the landowners filed CCC Nos. 1918 to 1922 of 1999 before

this Court to initiate contempt proceedings alleging that the State Government committed contempt of Court in initiating fresh acquisition

proceedings, when this Court and the Supreme Court had quashed the acquisition proceedings initiated on an earlier occasion. Those contempt

cases were dismissed by this Court with the following observation:

4. When acquisition proceedings initiated by the State are quashed on the grounds of some irregularities, nothing prevents the State Government

from issuing a fresh notification after rectifying the irregularities. Hence, the mere act of issuing a fresh notification u/s 4(1) cannot be termed as a

violation of the order quashing the earlier notification. Therefore, there is neither willful disobedience nor contempt.

After the dismissal of W.P. Nos. 30629 and 30630 of 1999 and W.A. Nos. 488 to 492 of 2000, some of the landowners filed their objections

before the Land Acquisition Officer (LAO) against the acquisition of the subject land. On those objections, the LAO conducted the enquiry

envisaged u/s 5-A of the Act and submitted his report to the State Government recommending for issuance of the final notification u/s 6(1) of the

Act. After the receipt of the above from the LAO, the Revenue Minister passed an order on 20-11-1999 directing the concerned authorities to

issue final notification in respect of the subject land. When the matter stood thus, the impugned endorsement/order bearing No. RD 72 AQB 2000,

dated 4-6-2001 marked as Annexure-M was issued seeking to withdraw Section 4(1) notification.

10. The Society being aggrieved by the said action preferred present Writ Petition No. 27205 of 2001 for quashing of the order at Annexure-M

and for consequential direction to the State Government to proceed with the acquisition proceedings from the stage at which it was stopped. The

learned Single Judge has allowed the writ petition, quashed the endorsement/order at Annexure-M and directed the official respondents to

proceed with the acquisition from the stage at which it was stopped and

complete the proceedings by issuing notification u/s 6(1) of the Act within the stipulated time of 3 months. Hence, these writ appeals by some of the landowners of the subject land.

11. We have heard M/s. G.S. Visweswara, learned Senior Counsel, Sri Padmanabha Mahale, learned Senior Counsel and Sri T.K. Rajagopal, learned Counsel on behalf of the appellants. We have also heard Sri Udaya Holla, learned Senior Counsel for impleading respondent in W.A. No.

2531 of 2004 - Karnataka State Muslim Federation as well as the learned Counsel appearing for the impleading respondents in W.A. No. 2086

of 2004. We have also heard Sri B. Veerappa, learned Government Advocate for the respondent-State and its authorities and Sri K. Suman, learned Counsel for the Society.

12. Sri G.S. Visweswara, learned Senior Counsel, referred to the preliminary notification dated 20-12-1984/3-1-1985 and the final notification

dated 21-2-1986 i.e., Annexure-A and B to the writ petition, whereunder, the total extent of 165 acres 30 guntas of land in Nagavara Village

were acquired by the Government of Karnataka in favour of the Society under the provisions of the Act. It was contended that this Court had

quashed the acquisition of land under the notifications i.e., Annexure-A and B insofar as it related to their lands in various writ petitions filed by the

appellants/erstwhile landlords. Annexure-C to the writ petition is one such order dated 28-10-1996 passed by this Court in a batch of writ

petitions filed by the landlords. In the said order, this Court referring to the judgment of the Division Bench of this Court in the case of Narayana

Reddy and Anr. v. State of Karnataka and Ors. 1991(3) Kar. L.J. 545: ILR 1991 Kar. 2248 (hereinafter for short referred to as "Narayana

Reddy"s case") quashed the acquisition proceedings in respect of the lands of the writ petitioners/erstwhile landowners. Reference is also made to

the judgment of the Hon"ble Supreme Court in HMT HBCS case. Sri G.S. Visweswara would draw our attention to the order passed by this

Court dated 28-10-1996 marked as Annexure-C and the fact that Writ Appeal No. 506 of 1996 and other connected writ appeals filed by the

Society against the orders passed by the learned Single Judge quashing the acquisition notifications also came to be dismissed by the Division

Bench of this Court. Sri G.S. Visweswara also referred to the fact that on

14-7-1999 an order was passed by the Hon"ble Supreme Court dismissing SLP Nos. 495 to 498 of 1999 preferred against the order of this Court made in Writ Appeal Nos. 2322 to 2325 of 1997. That order is produced at Annexure-VI to the statement of objections filed by the appellants in Writ Appeal No. 2300 of 2004 to the I.A. filed by the Society for vacating the order of stay granted by this Court in the above writ appeal. It was emphasized by Sri G.S. Visweswara that the Hon"ble Supreme Court having dismissed the SLPs only on 14-7-1999 the impugned acquisition notification i.e., Annexure-F, dated 28-7-1999 was issued after 14 days from the date of dismissal of the SLPs. Sri G.S. Visweswara also invited our attention to the various observations made by this Court in Narayana Reddy"s case as well as in HMT HBCS case in support of his contention that the Society was a fraudulent Society and it had indulged in the business of real estate activities; that it was admitting ineligible and bogus members and the acquisition proceedings is a colourable exercise of power. Sri G.S. Visweswara also referred to the observations made by the learned Single Judge in the order impugned in these writ appeals whereunder the learned Single Judge has held that irrespective of the quashing of the earlier acquisition proceedings relating to a total extent of 52 acres 17 guntas, possession of the lands had continued with the Society. In this regard, Sri G.S. Visweswara referred to the order dated 18-2-1997 passed by the very same learned Single Judge whereunder the learned Judge for the purpose of condoning the delay in filing the said writ petitions by the erstwhile landlords in Writ Petition Nos. 6421 to 6428 of 1994 and other connected matters (produced as Annexure-IV to the statement of objections in W.A. No. 2300 of 2004) had held that there was no material to show that the Government had taken possession of the lands from the landowners. Sri G.S. Visweswara would contend that the very same learned Single Judge having given a finding earlier in Writ Petition Nos. 6421 to 6428 of 1994 and connected matters in his order dated 18-2-1997, could not have now taken an opposite view and held that the Society is in possession of the subject land inspite of the fact that acquisition proceedings relating to the subject land have been quashed.

13. Sri G.S. Visweswara would next contend that there was no prior approval of

the scheme for issuing a fresh notification u/s 3(f)(vi) of the Act and therefore, the preliminary notification was rightly withdrawn by the Government under the order dated 4-6-2001 at Annexure-M. It was also contended by Sri G.S. Visweswara that there was a Cabinet decision dated 20-12-1997 not to initiate any fresh acquisition of land by the Government of Karnataka in favour" of any House Building Co-operative Society, which decision has been reiterated by the Government in its circular dated 23-1-1998 (a copy of which has been produced at Annexure-I to the statement of objections filed by the appellants) and consequently the impugned acquisition notification Annexure-F, dated 29-7-1999 was rightly withdrawn by the Government under the impugned endorsement/order dated 4-6-2001. It was further contended by Sri G.S. Visweswara that the Society has been entering into real estate transaction with an outsider in respect of the subject land by entering into a Memorandum of Understanding (MOU) with a Developer and that 50% of the share of the sites in its possession was being sold to the Promoter and Developer, apart from the Society being heavily indebted to the BD and BRDCC Bank. Therefore, Sri G.S. Visweswara would maintain that the Society was really interested in carrying on real estate ventures and that no public purpose was being served and that the present acquisition notification is tainted with mala fides.

14. Sri G.S. Visweswara would next contend that the learned Single Judge had virtually misread the Cabinet decision dated 20-12-1997 to hold that there was no such Cabinet decision to the effect that the subject land should not be acquired by the Government under the Act in favour of any House Building Co-operative Society; that the learned Single Judge committed an error of law in presuming that there was prior approval of the present acquisition notification as contemplated u/s 3(f)(vi) of the Act. It was alternatively contended by Sri G.S. Visweswara that the Court had no power to issue any direction to the State Government to acquire lands as that power was left to the sole discretion of the Government and that no writ of mandamus would lie to the Government to exercise its eminent domain power in any particular manner.

15. It was next contended by Sri G.S. Visweswara that the preliminary notification dated 29-7-1999 had elapsed automatically as no final

declaration was issued u/s 6(1) of the Act within a period of one year from the date of issuance of the preliminary notification and consequently, the

acquisition was bad in law irrespective of the endorsement issued by the Government withdrawing the Section 4(1) preliminary notification i.e.,

Annexure-M, dated 4-6-2001.

16. Sri Udaya Holla, learned Senior Counsel appearing for the impleaded respondent 26 in Writ Appeal No. 2531 of 2004, while adopting the

arguments of Sri G.S. Visweswara would contend that his client i.e., Karnataka State Muslim Federation having purchased 17 acres 3 guntas of

land has constructed huge building to house Engineering College run by the Federation.

17. Sri Padmanabha Mahale, learned Senior Counsel appearing for the appellants in Writ Appeal No. 2086 of 2004, Sri T.K. Rajagopal, learned

Counsel appearing for the appellants in Writ Appeal No. 2532 of 2004 and the learned Counsel appearing for the other impleaded respondents in

Writ Appeal No. 2086 of 2004 have also adopted the arguments of Sri G.S. Visweswara.

18. Even though the State Government has not preferred any writ-appeal against the order of the learned Single Judge dated 9th March, 2004 in

Writ Petition No. 27205 of 2001, Sri B. Veerappa, learned Government Advocate sought to support the endorsement/order Annexure-M, dated

4-6-2001 impugned in the writ petition, inter alia, contending that the learned Single Judge did not consider the statement of objections filed by the

State Government in the writ petition. Learned Government Advocate also contended that fresh acquisition notification dated 28-7-1999 was

contrary to the Cabinet decision dated 20-12-1997 and opposed to the circular dated 23-1-1998 and that there was no prior approval as

required u/s 3(f)(vi) of the Act. The learned Government Advocate thus sought for setting aside the order of the learned Single Judge urging more

or less similar contentions as that of the appellants.

19. Sri K. Suman, learned Counsel appearing for the Society, per contra, while fully supporting the order of the learned Single would maintain that

the judgment of the Apex Court in HMT HBCS case and the judgment of this Court in Narayana Reddy's case have absolutely no direct bearing

on the decision making in the present proceedings and reliance placed on the

learned Counsel for the appellants and impleaded respondents on those decisions to attack the impugned order of the learned Single Judge is totally misconceived. Sri Suman would contend that when the Revenue Minister, on consideration of the report submitted by the LAO after conducting enquiry u/s 5-A of the Act recommending for acquisition of the subject land and for issuance of declaration u/s 6(1) of the Act directed the concerned authorities to issue notification u/s 6(1) of the Act, that direction of the Revenue Minister itself would tantamount to declaration envisaged u/s 6(1) of the Act. Sri Suman would contend that the reference to the Cabinet decision dated 20-12-1997 in the order impugned in the writ petition is an instance of misreading of the Cabinet decision and the learned Single Judge has rightly pointed out that the Cabinet did not decide not to acquire land under the Act in favour of any House Building Co-operative Society. Sri Suman would contend that since the order made by the Revenue Minister directing the authorities to issue notification u/s 6(1) of the Act should be regarded as the order of the State Government in terms of the Karnataka Government (Transaction of Business) Rules, 1977, the concerned authorities are left with no discretion except to take further steps to acquire the subject land and in that view of the matter, no exception could be taken to the direction issued by the learned Single Judge to the official respondents to proceed with the acquisition from the stage at which it was stopped. Sri Suman would contend that it is well-settled that the Writ Court can issue mandamus or direction commanding a statutory or public authority to perform its duty cast on it under a statute.

20. Having heard the learned Counsels for the parties, the question that falls for decision is whether any ground is made out by the appellants and/or the impleaded respondents who claim to have required interest in the subject land warranting our interference with the order of the learned Single Judge?

21. We think it appropriate to first dispose of the contentions of the learned Government Advocate. It needs to be noticed that when the State Government has not preferred any appeal against the order of the learned Single Judge, the State is estopped from attacking the order of the learned Single Judge on merit. Moreover, the learned Single Judge in the order dated 9-3-2004 impugned in the writ petition has categorically

observed thus:

5... When I also asked the 1st respondent to produce the file relating to the Cabinet note which is referred to in Annexure-M, the State

Government has produced the xerox copy of decision of the Cabinet but has not produced the file. From this I find that there is something fishy in

the Government for the reasons best known to it.

6. Annexure-M is an endorsement issued by the State Government withdrawing the notification u/s 4(1) of the LA Act, firstly on the ground that

there is a decision of the Cabinet not to initiate any acquisition proceedings for acquiring the land for the benefit of the society and also on the

ground it is open for the society to purchase the land by private negotiations. From the xerox copy of the Cabinet decision, I find that there is no

such decision by the Cabinet on 20-12-1997 to the effect that the State Government has taken a policy decision not to acquire the land for the

benefit of the society. If that is so, in the argument that the Cabinet has taken a policy decision not to acquire the land for the benefit of Society is

liable to be rejected.

If the finding given by the learned Single Judge is factually incorrect or if there was an error apparent on the face of the record in such a finding

given by the learned Single Judge as contended by the learned Government Advocate, then, the State Government ought to have at least filed a

review petition before the learned Single Judge itself. No such endeavour has been made by the State Government. Therefore, the State is

estopped from contending to the contrary before the Division Bench in these writ appeals.

22. In the course of hearing of these writ appeals since we found serious dispute between the parties with regard to the actual content of the

decision taken by the Cabinet on 20-12-1997 and since it was contended by Sri G.S. Visweswara that the learned Single Judge has misread the

Cabinet decision dated 20-12-1997, we specifically directed the learned Government Advocate to produce the records including a copy of the

Cabinet decision dated 20-12-1997. The learned Government Advocate, at the fag end of the hearing on 21-9-2005, told us that the concerned

file is not yet traced and an attempt is being made to trace the same. However, the learned Government Advocate placed before us xerox copies

of the Cabinet note in Subject No. 625 of 1997 and the Cabinet decision dated 20-12-1997. Having perused the same, we should state that the

learned Single Judge is absolutely justified in observing that "there is no decision by the Cabinet on 20-12-1997 to the effect that the State

Government has taken a policy decision not to acquire the lands for the benefit of the Society". The decision taken by the Cabinet on 20-12-1997

only directs that the House Building Co-operative Societies should be asked to directly negotiate with the farmers/landlords for purchase of the

lands required by them. Even the Cabinet note states that the House Building Co-operative Societies should be encouraged to purchase the lands

required by them from the landowners directly for forming layouts. However, having said it, the same Cabinet note also states that if the

landowners refuse to sell the land to the Societies, then, the Societies could approach the Government for acquisition of lands required by them

under the Act. It is farther stated that the acquisition of the lands required by the Societies under the provisions of the Act would be resorted to

after the State Level Land Acquisition Committee approves the scheme after considering the recommendation made by the Co-operation

Department. Thus, it is quite clear from the Cabinet note and the Cabinet decision that there was no embargo to acquire the land required by the

House Building Co-operative Societies for formation of layouts. If there is no such Cabinet decision, then, it follows, as a necessary corollary that

the circular dated 21-3-1998 is obviously based on a misreading or misunderstanding of the Cabinet decision dated 20-12-1997 and without any

basis.

23. The contention of the learned Government Advocate (similar to the contention of Sri G.S. Visweswara raised on behalf of the appellants) to

the effect that the Society had not submitted a scheme/project for scrutiny before the Three Men Committee or the State Level Co-ordination

Committee constituted under Rule 3 of the Karnataka Land Acquisition (Companies) Rules, 1973 or that there was no clearance of the Single

Window Agency (SWA), is not acceptable to us inasmuch as the entire acquisition of 165 acres 30 guntas of land in the earlier Section 4(1)

notification dated 22-12-1984/3-1-1985 and final notification u/s 6(1), dated 21-2-1986 (i.e., Annexure-A and B) was scrutinized by the Three

Men Committee, State Level Co-ordination Committee and prior approval was accorded as required u/s 3(f)(vi) of the Act for initiation of acquisition proceedings of the land under the above noted two earlier notifications which necessarily included the subject land also which are notified for reacquisition in the present acquisition notification (Annexure-F). It would be relevant to note that even though the earlier acquisition notifications i.e., Annexure-A and B were quashed by this Court in various writ petitions, the quashing was confined to the lands of only those writ petitioners. It is true that that judgment was upheld both by the Division Bench as well as the Supreme Court. At the same time, it needs to be noticed that all that this Court did was to take note of the observations made against the Society vis-a-vis its conduct in admitting ineligible members, deploying agents etc., (as made by the Division Bench of this Court in Narayana Reddy's case or the Supreme Court in HMT HBCS case) and quashed the acquisition notifications only insofar as they related to the lands of the writ petitioners therein. This Court or the Supreme Court did not set at naught or quash the entire notifications i.e., Annexure-A and B or order restoration of possession. It is admitted by the State Government that it had accorded prior approval u/s 3(f)(vi) of the Act for the scheme which included the subject land also before Annexure-A and B notifications were issued. Therefore, the contention of the learned Government Advocate that no scheme has been submitted by the Society for the present acquisition is totally misconceived and against the record.

24. Alternatively, it needs to be noticed from para 6 of the statement of objections filed by the Government in Writ Petition No. 27205 of 2001, the Society had requested the Government in its letter dated 14-5-1999 to reacquire the subject land in favour of the Society under the Act and that the decision to acquire the subject land was taken somewhere between 26-5-1999 and 30-5-1999 and orders were communicated to the Special Deputy Commissioner, Bangalore, vide Letter No. RD 183 AQB 82, dated 30-6-1999. This action on the part of the State Government itself could be construed as a scheme, if at all the second acquisition/reacquisition of the very same lands under the earlier scheme required any such fresh scheme to be submitted. Looking from that angle also, we should state that the contention of the learned Government Advocate is not

well-founded.

25. This takes us to the other contention of the learned Government Advocate that the letter of the Registrar of Co-operative Societies dated 23-

6-1999 marked as Annexure-E to the writ petition, was received by the Government in the Revenue Department only on 12-8-1999, is again of

no consequence inasmuch as all that the letter of the Registrar of Co-operative Societies emphasised is that the Society has been cleared of all the

irregularities alleged against it in the enquiry report u/s 64 of the Karnataka Co-operative Societies Act, 1959 and the Government should consider

the reacquisition of the lands in favour of the Society. In fact, this letter Annexure-E, if we may say so, clinches the issue and is a direct answer to

the argument advanced by Sri G.S. Visweswara that the Society is a bogus society having committed illegalities and irregularities including that of

admitting bogus or ineligible members etc. In this regard reference could be made to paragraphs 2 to 4 of the letter of the Registrar of Co-

operative Societies, Annexure-E, dated 23-6-1999. They read as follows.--

2. It is a fact that enquiry u/s 64 of the Karnataka Co-operative Societies Act, 1959 was conducted and the report was submitted to this office.

On the basis of the findings in the enquiry report, the society was instructed to set right the defects on 5-3-1990. The society submitted the replies

on 22-3-1990. Not satisfied with the reply, this office issued order u/s 68 of the Karnataka Co-operative Societies Act, 1959 on 28-5-1990

directing the society to set right the defects contained in the findings of the enquiry report and submit compliance report. The said society submitted

the compliance report on 25-6-1990.

3. The society also had requisitioned the Government in this regard vide their letter dated 7-1-1999. The Government vide their reference No.

CMW/1/CHS/99, dated 11-1-1999 had forwarded the letter of the Society to this office for taking needful action in the matter.

4. In pursuance of the order issued u/s 68 of the Karnataka Co-operative Societies Act, 1959 this office called the latest report from the

Vyalikaval House Building Co-operative Society Limited, Bangalore-560 003. The Society in turn submitted the reports on 30-3-1999 and 12-4-

1999. On detailed examination of the replies and the satisfactory clarification furnished by the Society in the compliance reports, this office vide

Order No. HSG/105/HHS/87-88, dated 26-4-1999 has accepted the same.

Thus, on all scores the stand taken by the Government and/or appellants to justify the impugned order, Annexure-M is totally untenable in terms of law and on facts.

26. Let us now proceed to deal with the contentions urged by Sri G. S. Visweswara. The judgment in Narayana Reddy's case or HMT HBCS

case can have no direct bearing or application to the present acquisition notifications. We say this, because, it is evident from Annexure-A and B

(i.e., earlier acquisition notifications) and the present preliminary notification Annexure-F, dated 28-7-1999 that all the lands required including the

subject land in the present acquisition notification are situate in Nagavara Village, Bangalore East Taluk. As is evident from the judgment of

Narayana Reddy's case (at page 2255), the notifications that were in challenge in the above writ petitions relating to the Society were: (a)

preliminary notification u/s 4(1) of the Act dated 17-12-1984 and (b) final notification u/s 6(1) of the Act dated 21-2-1986. In the instant case,

preliminary notification was issued at the first instance on 22-12-1984/3-1-1985, which is a different notification. However, the final notification as

is evident from Annexure-A is dated 21-2-1986. The final notification in Narayana Reddy's case is also dated 21-2-1986. To clarify the above

factual position, the Society produced before the Court copies of the memorandum of writ petitions in Narayana Reddy's case, i.e., W.P. Nos.

17775 and 17776 of 1986 (numbers of the writ petitions could also be noticed from the reported judgment in Narayana Reddy's case at

paragraph 51, page 2338). It could be seen from the memorandum of writ petition and the enclosures thereto, that the preliminary notification is

dated 17-12-1984 and the final notification is dated 21-2-1986 relating to lands comprised in various survey Nos. of Kodichikkanahalli and

Hongasandra Villages of Bangalore South Taluk. Evidently the notifications in Narayana Reddy's case are different; the Scheme is different and

the acquisition relates to lands of different villages, all situate in Bangalore South Taluk. The Division Bench of this Court in Narayana Reddy's

case had dealt with the involvement of the agents in the acquisition relating to those lands and to the enquiry u/s 64 of the Karnataka Co-operative

Societies Act by the Joint Registrar of Co-operative Societies against the Society

and held that the Society's conduct was improper then and that those acquisition notifications were a result of colourable exercise of power. However, the Division Bench of this Court quashed only the final notification u/s 6 of the Act (as is evident from paragraph 51(1)(ii) at page 2339).

27. The above order the Division Bench of this Court was taken up in an appeal by the Society and other affected Societies before the Supreme Court which rendered a common judgment in HMT HBCS case. At paragraph 22 of the judgment. Their Lordships of the Supreme Court held as under:

22. In the present case there has been contravention of Section 3(f)(vi) of the Act inasmuch as there was no prior approval of the State

Government as required by the said section before steps for acquisition of the lands were taken. The report of Shri G.V.K. Rao points out as to

how the appellant-Society admitted large number of persons as members who cannot be held to be genuine members, the sole object being to

transfer the lands acquired for "public purpose", to outsiders as part of commercial venture, undertaken by the office-bearer of the appellant-

Society. We are in agreement with the finding of the High Court that the statutory notifications issued under Sections 4(1) and 6(1) of the Act have

been issued due to the role played by M/s. S.R. Constructions, respondent 11. On the materials on record, High Court was justified in coming to

the conclusion that the proceedings for acquisition of the lands had not been initiated because the State Government was satisfied about the

existence of the public purpose but at the instance of agent who had collected more than a crore of rupees for getting the lands acquired by the

State Government.

The appeals are accordingly dismissed. But in the circumstances of the case there shall be no orders as to costs.

We direct that as a result of quashing of the land acquisition proceedings including the notification as aforesaid, the possession of the lands shall be

restored to the respective landowners irrespective of the fact whether they had challenged the acquisition of their lands or not. On restoration of the

possession to the landowners they shall refund the amounts received by them as compensation or otherwise in respect of their lands. The appellant,

the respondents and the State Government including all concerned authorities/

persons shall implement the aforesaid directions at an early date.

Further, their Lordships of the Supreme Court dealt with the case of the Society at page 1981 of the judgment thus:

... But according to us, the facts of the present case are similar to the case of HMT House Building Co-operative Society and there is no scope to

interfere with the order of the High Court, quashing the notifications under Sections 4(1) and 6(1). Accordingly the special leave petitions filed on

behalf of the petitioner-Society are dismissed. No costs.

2. In the appeals arising out of SLP (C) Nos. 11482 to 11490 of 1991, after the dismissal of the appeals a direction has been given that as a result

of the quashing of the land acquisition proceedings including the notifications in question, the possession of the land shall be restored to the

respective landowners irrespective of the fact whether they had challenged the acquisition of their lands or not. A further direction has been given

that on restoration of the possession to the landowners, they shall refund the amounts received by them as compensation or otherwise in respect of

their lands. We issue a similar direction even in this case. The petitioner, the respondents and the State Government including all concerned

authorities/persons shall implement the aforesaid directions at an early date.

Thus, it is evident that the basis upon which the Supreme Court upheld the judgment of this Court in Narayana Reddy's case and quashed the

entire acquisition notifications and also ordered restoration of possession of the lands concerned to the landowners therein, because, there was no

prior approval of the scheme relating to acquisition of those lands at Bangalore South Taluk u/s 3(f)(vi) of the Act. Whereas, in the instant case, as

stated above, there is prior approval u/s 3(f)(vi) for the Nagavara project. Thus, the claim of the landowners that they are in possession of the

subject land on the basis of the judgment of the Supreme Court in HMT HBCS case is not acceptable to us.

28. At this juncture itself, it needs to be noticed that all these landowners (including the appellants as well as the Karnataka State Muslim

Federation), had in fact, canvassed the very same contentions as are urged in the above appeals, before the learned Single Judge of this Court in

W.P. No. 30629 of 1999 and other connected writ petitions (Annexure-H to the writ petition) when they challenged this very preliminary

notification dated 28-7-1999. Learned Single Judge of this Court, however, dismissed the writ petitions observing that they were premature and holding that if at all these landowners had a cause of action, they could urge all the contentions only after the final notification u/s 6 of the Act was issued. The writ appeals preferred by the very same landlords in Writ Appeal Nos. 488 to 492 of 2000 were also dismissed by the Division Bench by its order dated 19-6-2000. Looking from that angle, it could be said that the appellants are estopped from canvassing any of these contentions for they have no cause of action, as held by the learned Single Judge dated 27-10-1999 in W.P. No. 30629 of 1999, Annexure-H, as affirmed by the Division Bench vide its order dated 19-6-2000 in Writ Appeal Nos. 488 to 492 of 2000.

29. As regards the allegation of the appellants that the preliminary notification u/s 4(1) of the Act in the instant case was issued on 28-7-1999

immediately after 14 days from the date of dismissal of one of the SLPs by the Supreme Court, we should state that it is not well-founded,

because, while the Society had challenged the order of this Court in the SLP, it simultaneously had moved the Government for reacquisition of the

subject land, as noted above. The Government thereafter issued the preliminary notification u/s 4(1) of the Act on 28-7-1999. Nobody can take

exception to the exercise of eminent domain power vested in the State Government simply because on an earlier occasion the exercise of eminent

domain power was condemned by the Court for certain procedural infractions.

30. The other contention of Sri G.S. Visweswara that the observation made by the learned Single Judge in the impugned order that the Society

continued in possession of the subject land was contrary to the finding of the very same learned Single Judge in the earlier writ petitions, is

untenable. Evidently, when the earlier order was passed in the writ petition, the learned Single Judge had not perused the Government records.

When the Government record relating to the acquisition was produced before the learned Single Judge in the present proceeding, the learned

Single Judge noticed that there were records available with the Government, which were admittedly and obviously not placed before him during the

earlier round of litigations when the acquisition proceedings were quashed, to indicate that the Government did take over possession of the lands

acquired under the earlier acquisition notifications and handed over to the Society. The learned Single Judge, therefore, according to us, rightly

clarified the actual factual position that the Society in fact was put in possession of the property after the Government took over possession. At this

stage itself, it is relevant to notice that this finding is not disputed by the State also. It is only the appellants who are disputing this finding. Merely

because the appellants are disputing the above finding recorded by the learned Single Judge, it cannot be gainsaid that the finding is incorrect.

Having perused the records by ourselves, we could see that the above observation of the learned Single Judge is well-founded and justified. The

record now produced before us by the learned Government Advocate clinchingly demonstrates that in pursuance of the earlier acquisition

notification, Government had taken over possession and issued notification u/s 16(2) of the Act and thereafter, the Society was put in possession

of the same. The Society there after wards got its name mutated in the revenue records. There is absolutely no evidence to show that after the

Society was put in possession of the subject land by the State Government, the State Government again took back the possession of the subject

land from the Society and handed over the same to the owners of the subject land.

31. This takes us to the other contentions of the learned Counsel for the appellants that this Court cannot direct the Government to acquire the

lands and that there was no final declaration u/s 8(1) of the Act within a period of one year from the date of preliminary notification u/s 4(1) of the

Act and, therefore, acquisition proceedings initiated by issuing Section 4(1) notification has lapsed. The Government has categorically admitted in

the statement of objections filed in the writ petition as well as in the impugned endorsement/order that Section 5-A enquiry was completed and that

a report was sent by the LAO to the State Government recommending it to acquire the subject land. It is also admitted by the State Government

that the Revenue Minister issued a direction on 20-11-1999 to the concerned authorities to issue notification u/s 6(1) of the Act. Even a perusal of

the records placed before the Court by the learned Government Advocate would support that statement. At this juncture, it needs to be noticed

that in terms of Rule 66 of the Karnataka Government (Transaction of Business) Rules, 1977 all administrative decisions connected with land

acquisition shall be taken in the Administrative Department concerned in the Secretariat under the orders of the Minister-in-charge. Rule 66 of the

said Rules under Chapter III Part E deals with land acquisition and it reads thus:

66. All cases relating to acquisition of land under the Land Acquisition Act (hereinafter referred to as the "said Act") for any Department of

Government shall be dealt with in the Revenue Department; but all administrative decisions connected with the acquisition shall be taken in the

Administrative Department concerned in the Secretariat, under orders of the Minister-in-charge.

Thus it is evident that it is the Revenue Minister alone who is competent to issue direction and as rightly held by the learned Single Judge in para 7

of the impugned order that when once the Revenue Minister issued such a direction, it would not be open for any authority in the State

Government to take any different decision which is inconsistent with the decision already taken. Be that as it may, nothing is placed before us to

show that the above decision/direction issued by the Revenue Minister was reversed, modified or set aside by the Cabinet.

32. Section 6 of the Act contemplates two actions: the first one deals with the issuance of declaration by the Government within one year from the

date of publication of the preliminary notification u/s 4(1) of the Act and the second one deals with declaration in the Gazette. The Supreme Court

in the case of S.H. Rangappa Vs. State of Karnataka and Another, , held as under:

8. We wish to clarify that the words ""publish"" and ""from the date of publication of the notification"" occurring in proviso (ii) to Section 6(1) refer to

the publication of Section 4 notification and have no reference to the publication of any notification u/s 6. u/s 6(1), it is only a declaration which is

required to be made, the time-limit being within one year of the publication of Section 4 notification. The main purpose for the issuance of a

declaration u/s 6 is provided by Sub-section (3), namely, that the declaration is conclusive evidence that the land is needed inter alia for a public

purpose and after the making of the declaration the appropriate Government may acquire the land in the manner provided by the Act. Sub-section

(2) requires the declaration to be published in the Official Gazette and in two daily newspapers circulating in the locality in which the land is situate

and in addition thereto the Collector is also required to cause public notice of the

substance of the declaration to be given in the convenient places in the said locality.

9. It is pertinent to note that Sub-section (2) of Section 6 does not prescribe any time-limit within which the declaration made u/s 6(1) is to be

published. It is well-known that after an order or declaration is made there can be a time gap between the making of the order or a declaration and

its publication in the Official Gazette. Whereas the time-limit for the making of an order is provided u/s 6(1), the Legislature advisedly did not

provide for any time-limit in respect of the steps required to be taken under Sub-section (2) of Section 6. If the contention of Mr. G.L. Sanghi, the

learned Senior Counsel for the appellant is correct, the effect would be that not only the declaration would have to be published within the time

prescribed under the proviso to Section 6(1) but all other steps, like publication in the daily newspaper and the Collector causing public notice of

the declaration to be given at convenient places in the locality, must also be completed within a period of one year of Section 4 notification. This

could certainly not be a consequence contemplated by the Legislature. As already observed, the purpose of Section 6 notification being to give a

final declaration with regard to the need of the land for public purpose, the interest of the landowners was sufficiently safeguarded with the

requirement of the making of the declaration u/s 6(1) within a prescribed period. It is difficult for us to read into Sub-section (2), the provisions of

the proviso to Section 6(1) which relate to the time-limit for issuance of the notification u/s 6(1).

In that view of the matter, when the Revenue Minister directed issuance of a declaration as contemplated u/s 6(1) of the Act on 20-11-1999 i.e.,

well-within a period of one year from 29-7-1999 which is the date of the publication of the preliminary notification made u/s 4(1) of the Act in the

official gazette, what remains is the procedural aspect of publishing the said declaration in the Official Gazette as contemplated u/s 6(2) of the Act.

As such, the statement of Sri G.S. Visweswara that the acquisition has lapsed automatically as no final declaration was issued u/s 6(1) of the Act,

is not a correct statement of fact and cannot be accepted as correct having regard to the provisions of Sub-section (1) of Section 6 of the Act and

the binding case-law on the point.

33. The contention of Sri G.S. Visweswara that the learned Single Judge ought not to have issued mandamus/direction to the State Government to acquire the subject land, in the context of the case, is not well-founded. At the threshold, it needs to be noticed that the learned Single Judge has not issued any direction to the Government to acquire the subject land, but, the learned Single Judge having quashed the impugned endorsement/order at Annexure-M as arbitrary and illegal, issued a direction to the State Government to proceed with the acquisition from the stage at which it was stopped and to complete it by issuing a notification u/s 6(1) of the Act. As pointed out supra, since the Competent Authority i.e., the Revenue Minister has already taken a decision to issue declaration u/s 6(1) of the Act and since that decision is not upset either by the Court's intervention or by the Cabinet, there is nothing wrong on the part of the learned Single Judge to enforce a decision already taken by the State Government through its Minister for Revenue. It is very much within the power of this Court to command the Executive Government to comply with the statutory duty enjoined upon it u/s 6 of the Act by issuing a formal notification and publishing the same. Writ of mandamus undeniably lies to the State for commanding it to perform a non-discretionary duty cast upon it under a statute. In that regard the following observations of the Supreme Court in the case of Dwarka Nath Vs. Income Tax Officer, Special Circle D-ward, Kanpur and Another, , are apt to be noted:

(4) We shall first take the preliminary objection, for if we maintain it, no other question will arise for consideration. Article 226 of the Constitution reads:

... every High Court shall have power throughout the territories in relation to which it exercises jurisdiction, to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose.

This article is couched in comprehensive phraseology and it ex facie confers a wide power on the High Courts to reach injustice wherever it is

found. The constitution designedly used a wide language in describing the nature of the power, the purpose for which and the person or authority against whom it can be exercised. It can issue writs in the nature of prerogative writs as understood in England; but the scope of those writs also is widened by the use of the expression ""nature"", for the said expression does not equate the writs that can be issued in India with those in England, but only draws an analogy from them. That apart, High Courts can also issue directions, orders or writs other than the prerogative writs. It enables the High Courts to mould the reliefs to meet the peculiar and complicated requirements of this country. Any attempt to equate the scope of the power of the High Court under Article 226 of the Constitution with that of the English Courts to issue prerogative writs is to introduce the unnecessary procedural restrictions grown over the years in a comparatively small country like England with a unitary form of Government to a vast country like India functioning under a federal structure. Such a construction defeats the purpose of the article itself. To say this is not to say that the High Courts can function arbitrarily under this Article. Some limitations are implicit in the article and others may be evolved to direct the article through defined channels. This interpretation has been accepted by this Court in T.C. Basappa Vs. T. Nagappa and Another, and P.J. Irani Vs.

The State of Madras, .

Further, the Supreme Court in the case of Ambalal Purshottam v. Ahmedabad Municipal Corporation and Ors. AIR 1908 SC 1223 : (1968) 2

SCJ 692, has held as hereunder:

(11) The last argument raised by Counsel for the appellants is, in our judgment, futile. The notification issued by the Government of Bombay u/s 6

of the Land Acquisition Act was by operation of Sub-section (3) conclusive evidence that the land was needed for a public purpose. No inquiry

was thereafter permissible that the land was not needed for a public purpose. It is true that no steps were immediately taken by the Land

Acquisition Officer to make awards of compensation and to take possession of the lands. But the reason apparently was that the municipality was

still trying to purchase the land by private treaty and when it was found that it could not purchase the lands, the Land Acquisition Officer was

requested to expedite the determination of compensation. We are unable to hold

that there is any evidence that the Government of Bombay issued the notification u/s 4 of the Land Acquisition Act, not for the bona fide purpose of acquisition, but with the object of pegging down prices so that the lands may when needed be obtained at those rates in future. The land was within the line of the street and could not without the sanction of the municipality be put to any profitable use. If either the landowners or the tenants were aggrieved by the delay, it was open to them to claim writs or orders compelling the State Government to complete the assessment and payment of compensation. We are not hereby to be understood as suggesting that after issue of the notifications under Sections 4 and 6 the appropriate Government would be justified in allowing the matters to drift and to take in hand the proceedings for assessment of compensation whenever they think it property to do. It is intended by the scheme of the Act that the notification u/s 6 of the Land Acquisition Act must be followed by a proceeding for determination of compensation without any unreasonable delay. But on the facts of the present case, it does not appear that there was any scope for holding that with a view to prevent the landowners or the persons claiming derivative title from them from getting the benefit of the rise in prices, notifications under Sections 4 and 6 were issued without any intention to take steps for acquisition of the lands.

34. It was contended by the learned Counsel for the appellants that the writ petition was liable to be dismissed in limine as the affected landlords were not made parties to the writ petition. It is true that the appellants herein were not made parties to the writ petition, but, now with the leave of the Court they have filed these writ appeals. Some others who have acquired right and interest in the subject land before or after issuance of notification u/s 4(1) of the Act, have also come forward to implead themselves as party respondents and their applications are already ordered as noted above. The question for our consideration is whether the initial lapse on the part of the Society to implead them as party respondent would entail the dismissal of the writ petition at this distance of time, particularly having regard to the subsequent events/developments. While appreciating this question, it is necessary to notice that the learned Single Judge in Writ Petition No. 30629 of 1999 and other connected writ petitions disposed of on 27-10-1999 has categorically held that the rights, if any, of the owners to

challenge the acquisition proceedings would arise only after the issuance of declaration u/s 6(1) of the Act and the said order of the learned Single Judge was upheld by the Division Bench of this Court in Writ Appeal Nos. 488 to 492 of 2000. In that view of the matter, it was contended by the learned Counsel for the Society that the appellant-landlords did not have any legal right to have their say in the matter merely because the Government issued the impugned endorsement dated 4-6-2001 Annexure-M proposing to withdraw Section 4(1) notification. It is true, in terms of above orders of the learned Single Judge and the Division Bench of this Court, the right to oppose the acquisition of the subject land will accrue to the landowners only when declaration u/s 6(1) of the Act is issued. In this case, the formal declaration in the form of the final notification u/s 6(1) of the Act is not yet issued. Secondly, the owners of the acquired lands have not challenged the order of the Revenue Minister dated 20-11-1999 directing the concerned authorities to issue notification u/s 6(1) of the Act. Be that as it may, though we cannot say that the landlords are not proper and necessary parties to the writ petition filed by the Society impugning the endorsement dated 4-6-2001 at Annexure-M, since the aggrieved landowners have preferred the writ appeals and the matter was heard threadbare on merit and since the impugned endorsement dated 4-6-2001 could not be sustained in law, there is no justification for us to dismiss the writ petition filed by the Society in limine as suggested by the learned Counsel for the appellant-landowners solely on the ground that the owners of the subject land were not made parties to the writ petition.

35. Above all, a circumstance which weighed with us heavily in the decision-making is the fact that the subject land measuring 52 acres 17 guntas does not form a separate block within 165 acres 30 guntas of total land so that it can be excluded from the development, i.e., formation of layout.

It is admitted position that this 52 acres 17 guntas of land consists of different bits scattered at different places and on all aides within the said 165 acres 30 guntas of land. The acquisition of 165 acres 30 guntas, except the subject land 52 acres 17 guntas, stands and the society has already taken up formation of layout keeping in mind the total extent of 165 acres 30 guntas. If the acquisition of 52 acres 17 guntas is prohibited or

withdrawn, it is not possible for the Society to execute the scheme framed by it as approved by the Government and in that event, the whole object

of acquiring 165 acres 30 guntas of land will be frustrated. The other circumstance which is highlighted by the learned Single Judge in the impugned

order is the fact that most of the owners of the subject land have consented for acquisition. It needs to be noticed that the original respondents viz.,

Smt. Parvathamma and others i.e., respondents 2 to 20 in Writ Petition No. 27205 of 2001 who were all non-contesting respondents in the writ

appeals, are also landlords of major part of the subject land and they have consented for acquisition of their land in favour of the Society under the

present preliminary notification dated 29-7-1999, Annexure-F. Looking from that angle also, there is no justification for us to interfere with the

order of the learned Single Judge. Thus, in conclusion, we hold that the endorsement dated 4-6-2001 impugned in the writ petition is ex facie illegal

and without authority of law and therefore, liable to be quashed. The order of the learned Single Judge is unexceptionable.

36. Before parting with this case, a submission made by Sri Udaya Holla, learned Senior Counsel appearing for the impleaded respondent 22 in

W.A. No. 2531 of 2004, Karnataka State Muslim Federation, might to be noted. Sri Udaya Holla would submit that the Federation having

purchased 17 acres 3 guntas of land from the original owners has put up construction to house Engineering College run by it and if acquisition of

the subject land is allowed for the benefit of the Society, it would result in great prejudice to his client. First of all, the Federation has not produced

sale deeds for having purchased the land claimed by it from the original owners; secondly, Sri C.M. Ibrahim, the President of the Federation, had

challenged the preliminary notification earlier along with other landowners and his writ petition and writ appeal were dismissed. If the Federation,

despite issuance of the acquisition notification, has put up construction, it has done so at its peril. However, it is stated by the learned Counsel for

the Society that the above claim made on behalf of the Federation is factually incorrect. The Federation having stepped into the shoes of the

original owners, it should sail or sink with its vendor/s and it cannot have any better right or interest than what its vendor/s had.

37. In the result and for the foregoing reasons, we dismiss all the writ appeals, however, with no order as to costs.