

(2008) 05 KAR CK 0007

In the Karnataka High Court

Case No : Writ Petition No's. 18272 and 24104 of 2005

Pista Bai and Others

APPELLANT

Vs

Bangalore Mahanagara Palike and Others

RESPONDENT

Date of Decision : 27-05-2008

Acts Referred:

Karnataka Slum Areas (Improvement and Clearance) Act, 1973 — Section 17, 59

Citation : (2008) 05 KAR CK 0007

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : K.S. Raghavendra, for the Appellant; H.C. Shivaramu, for R1, K.K. Vasanth, for R3 and Keshava Reddy, GA for R2, 4 and 5 Southern Law A/S for R3 and P.S. Malipatil, for R6, for the Respondent

Judgement

Ram Mohan Reddy, J.—Since common questions of fact and that of law arise for decision making, with the consent of the learned Counsel for the parties, the petitions are clubbed, finally heard and are disposed of by this common order.

2. The parties to the petitions and the facts, except the reliefs, are common.

A) In WP 18272 of 2005 the petitioners seek a direction to:

- a) implement the orders dtd. 31.8.95 Annexure - G & 18.12.2005 Anx-H;
- b) produce the file pertaining to the legal opinion over the unauthorised occupation of the petition schedule premises by the 3rd respondent;
- c) act on the petitioners' representations dtd. 4.1.99 and 3.7.2001 Annexure-K & L and issue a government Order;
- d) direct the 1st respondent to register the katha of the petition schedule premises in the name of the petitioners; and
- e) All such other reliefs.

B) In WP 24104/2005 the petitioners seek a writ of mandamus to the 2nd

respondent - Bangalore Mahanagara Palike to demolish the unauthorised construction and to hand over vacant possession of the land.

3. Facts in brief:

(a) The petitioners claim to be the the widow and children, respectively, of H. Bhavarlal, since deceased on 12.06.87, constituting a joint Hindu undivided family, and having inherited the immovable property bearing No. 18, Annipura Village, bearing CTS No. 1076, for short, the petition schedule premises, acquired by the deceased during his life time, under 10 separate deeds of conveyance, executed by the title holders during the period 1946 - 63, filed writ petition No. 1689/88, which was allowed by order dtd. 31.10.1990 Annexure-A directing the Corporation of the City of Bangalore to consider the petitioners' representations for transfer of katha of the petition schedule premises.

(b) The Karnataka Slum Clearance Board acting u/s 17 of the Karnataka Slum Area (Improvement & Clearance) Act, 1973, for short "Slum Clearance Act", issued a Notification dtd. 9.12.1977 declaring the petition schedule premises as a slum area, which when called in question in WP 6455/1980 by late H. Bhavarlal was disposed of holding that the petitioner had reason to be aggrieved and permitted him to file objections to the notification. (as disclosed in annexure D). The authorities under the Slum Clearance Act rejected the objections issued the notification dated 22/24th June 1985 to acquire the petition schedule premises, which when called in question in WP 11329/85, this Court by an interim order dtd. 24.07.1985 Annexure-B restrained the Karnataka Slum Clearance Board from disturbing the petitioners peaceful possession of the petition schedule premises. On the death of H. Bhavarlal the petitioners came on record in WP 11329/85 and filed a memo seeking leave of the court to withdraw the writ petition which was ordered accordingly and simultaneously on 5.9.1991 preferred an appeal before the State of Karnataka, Department of Housing-2nd respondent, invoking Section 59 of the Slum Clearance Act calling in question the Notification dtd. 22/24.06.1985, which when allowed by order dtd. 9.10.1994 Annexure-D, the Notification was cancelled. The HOPCOMS- Respondent No. 3, a party to the appeal proceedings, on being heard, the appellate authority recorded a finding that the petitioners' claim was genuine and that the action of HOPCOM in occupying the petition schedule premises was condemnable. Pursuant thereto the State issued a notification Dtd. 15.10.1992 Annexure-E cancelling the Notifications dtd. 12.07.1977 and 22/24/06.1985, declaring the slum area and the acquisition, respectively.

(c) Dargah Hazarath Attaulla Shah, the respondent No. 6, staked a claim to the ownership of the petition schedule property by filing an appeal before the Commissioner for Religious and Charitable Endowments in Karnataka which when dismissed by Order dtd. 5.12.1977 Annexure-E1, the 2nd appeal u/s 38(2) of the Mysore Religious and Charitable Institutions Regulations, to The Mysore Revenue Appellate Tribunal, Bangalore, was also dismissed by Order dtd. 16.09.1960 Annexure-E2. It is the assertion of the petitioners that the final Quit Rent

Register Annexure-E3 recorded that Old No. 24, New No. 18 was private land belonging to Garudachar, the Inamdar, the petitioner's vendor in title.

(d) It is the further assertion of the petitioner that the 3rd respondent - HOPCOM, having dumped fruits & vegetables in the petition schedule premises was the cause for instituting O.S. 945/86 by late H. Bhavarlal, for bare injunction, whence the Civil Court by Order dtd. 7.3.1986 granted an ex parte temporary injunction, which when sought to be vacated on an I.A. filed by HOPCOM, was rejected. That suit, it is stated, was dismissed for non-prosecution on 28.11.1992 though H. Bhavarlal died on 12.06.1987 and his legal heirs-the petitioners herein, did not come on record.

(e) The 3rd respondent - HOPCOM's representation dtd. 8.2.1993 to the 2nd respondent-State, represented by Dept. of Housing, for an order of grant of the petition schedule premises, in its unauthorised occupation, was rejected by Order dtd. 31.08.1995 Annexure G, with a direction to HOPCOMs to handover possession of the petition schedule premises to the petitioners as it was private property and not Govt. land. The 3rd respondent acquiesced in the Order Annexure-G, but addressed a letter to the 2nd respondent stating that there was a serious dispute over the title to the petition schedule premises and hence the representations of the petitioners and the Wakf Board should not be considered. The 2nd respondent while rejecting the representation by order dtd. 18.12.1985 Annexure - H, reiterated that the land being under private ownership cannot be granted to the 3rd respondent.

(f) At the instance of the 3rd respondent-HOPCOM disputing the ownership and identity of the petition schedule premise as claimed by the petitioners, lead to a survey of the petition schedule premises by the Asst. Director of Land Records followed by a report, Annexure-J stating that on verification, both from the records and a physical measurement, revealed that the 3rd respondent was in occupation of the petition schedule premises in Sy. No. 18 of Annipura Village bearing CTS No. 1076 belonging to the petitioners. The Spl. Deputy Commissioner of Bangalore District by endorsement dtd. 11.08.2003 Annexure-J1 while concurring with the views of the Asst. Director of Land Records, in great elaboration, making reference to the revenue records traced the title of the petition schedule premises to Garudachar, the Inamdar. The Enquiry Officer of the City Survey Bangalore, conducted an independent survey and by Order dtd. 30.09.2003 Annexure-K held, that the land in occupation of the 3rd respondent was in Sy. No. 18 of Annipura Village, bearing CTS No. 1076.

(g) The petitioners' by representation dtd. 24.11.1999 to the 2nd respondent seeking intervention in the matter since the 3rd respondent being a creature of the State Government, a Co-operative Society, financially administered, dominated by and under the control of the Department of Horticulture, State of Karnataka, being pervasive and discharging public functions, sought compliance of the orders Annexure-G and H. According to the petitioners, that representation on reference to the Law Department, opined that the petitioners

were the lawful owners of the petition schedule premises of which the 3rd respondent was in unauthorised occupation, without authority of law and nevertheless took no action.

(h) The Enquiry Officer of the City Survey Department, after an enquiry issued a Chalta No. for the petition schedule premises, entered the names of the petitioners in the Enquiry Register Annexure-M, during the year 1994, which when challenged by the 3rd respondent in a Revision Petition before the Asst. Director of Land Records, Bangalore Division, was dismissed by order Annexure-N. The 3rd respondent carried the said order in Appeal No. 266/2004 before the Karnataka Appellate Tribunal, Bangalore and obtained an interim order of status-quo.

(i) The petitioners representation dtd. 3.7.2001 Annexure-Q when received no response by the State Government impelled the petitioners to file WP 18272/05.

5. The petition is opposed by filing statement of objection dtd. 26.09.2005 of the 2nd respondent - State of Karnataka, Department of Housing, while not denying the facts as set out in the memorandum of writ petition, admits that the state directed the 3rd respondent -HOPCOM to vacate the petition schedule premises, nevertheless, contends that it cannot restore the petition schedule premises to the petitioners. There is no denial of the petitioners' assertion of an opinion of the Law department in file No. LAW 561 OPN 1/2000 dtd. 8.5.2001 recording the unauthorised occupation of the petition schedule premises by the 3rd respondent.

6. The 3rd respondent - HOPCOM by filing statement of objections dtd. 5.9.2005 opposed the petition, interalia, contending that the Writ petitions and reliefs are akin to a declaratory suit and in the light of the proceeding for eviction instituted by the Karnataka Board of Wakf - 7th respondent, under the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974, coupled with the pendency of the appeal before the Karnataka Appellate Tribunal and 23 years having gone by since the 3rd respondent occupied the petition schedule premises, a civil dispute cannot be decided in exercise of writ jurisdiction. At paragraph 8 it is asserted that the 3rd respondent is in possession of lands in Survey No, 18 measuring 2 acres 3 guntas, of Annipura Village, Bangalore North Taluk, within the limits of the Bangalore City Corporation. It is further stated that improvements and developments have been made on the petition schedule premises and that the Agricultural Produce Marketing Committee, Bangalore, notified the area as a marketing yard. The 3rd respondent does not dispute the facts as are set out in the memorandum of writ petition insofar as they relate to the Government Orders calling upon the 3rd respondent to vacate and hand over vacant possession of the petition schedule premises to the petitioners. At paragraph 13 of the statement of objection, it is stated that the 3rd respondent is a registered Co-operative Society in which Rs. 236.08 lakhs out of Rs. 257,44 lakhs paid up share capital is held by the State Government, while Rs. 21.36 lakhs by the members other than the state Government. At paragraph 18, it is stated that the 3rd respondent in the pleadings in W.P. 27111/95 instituted by it,

against The Karnataka Board of Wakf and Dargah-Hazarath Attaulla Shah, the 7th and 6th respondents, respectively, advanced a contention that H. Bhavarlal, also claimed title to the petition schedule premises. In addition, at paragraph 19 of the statement of objections, it is stated that the Govt. of Karnataka, by order dt 26.2.2003 reconstituted a high power committee under the chairmanship of the Registrar of Co-operative Societies and the Special Deputy Commissioner, as a Member, who after an enquiry into the issues pertaining to the Society, submitted a report on 11.8.2003 stating that the petition schedule premises, in occupation of the 3rd respondent belongs to H. Bhavarlal since deceased by Ms legal representatives and the occupation of the said premises by the 3rd respondent was unauthorised. The 3rd respondent contends that a dispute over the title to the said premises lies between the petitioners and 6th and 7th respondents as well as the Slum Clearance Board, who having not been made parties to the petition, the lis brought before the Court cannot be decided. It is lastly contended that in the proceedings instituted by the 6th respondent for eviction, led to the filing of W.P. 27111/95 which was disposed of by order dt. 19.7.2000 Annexure-R4 reserving liberty to the 3rd respondent to file objections to the show cause notice and directed the competent officer to consider the objections.

7. The 3rd respondent filed IA- 2/05 under Order 6 Rule 17 to raise additional objections, contending that. being in continuous possession of the petition schedule premises for more than 12 years, the petitioners' title stood extinguished and hence, not entitled to secure possession of the property by invoking the writ jurisdiction. This application was allowed by order dt 5.10.2005.

8. The 6th respondent on being impleaded as a proper and necessary party, by order dt. 5.10.2005 on IA-2/05 filed statement of objections denying title of the petitioner to the petition schedule premises and that proceedings under the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, to evict the 3rd respondent is pending consideration. In addition, it is contended that 3rd respondent unsuccessfully challenged the eviction proceedings in W.P27111/95 which was dismissed by order dt. 19.7.2000 Annexure-R2, observing that the 3rd respondent admitted the fact of having not claimed title to the petition schedule premises, but was in unauthorised occupation and in the absence of foundation and necessary pleadings, the contention that the 3rd respondent perfected its title to the petition schedule premises by adverse possession was an "argument in despair" and totally alien to the concept of adverse possession. It is next contended that in the proceedings before the State in HUD 129 MCS 84 relating to acquisition of the petition schedule premises under the Slum Clearance Act, notices having been issued to H. Bhavarlal, the Wakf Board and 6th respondent, the State Govt. by order dt. 1.6.1985 Annexure-R5 while rejecting the objections to the acquisition directed the parties to approach the Civil Court for a decision over the title to property.

9. The 5th respondent-Co-operative Department of the State in its objections dt

25.11.2005 contends that the 3rd respondent is a co-operative institution under the Karnataka Co-operative Societies Act and that the petition schedule premises is declared as a Marketing yard. In the additional statement of objections dt. 1.12.2005 it is contended that the 3rd respondent is in possession of Sy. No. 23 of Arekempanahalli and that the second appeal No. 266/04 filed by the 3rd respondent is pending before the Karnataka Appellate Tribunal calling in question the order dt. 24.12.2003 Annexure-N of the Joint Director of Land Records. It is further contended that the claim of the petitioners that the petition schedule premises in the occupation of the 3rd respondent is in Sy. No. 18 is misconceived as it is in Sy. No. 23, having been informed of the same by 3rd respondent.

10. In W.P. 24104/05 the petitioners alleging that M/s HOPCOM erected unauthorised construction without prior permission or sanction under the Karnataka Municipal Corporation Act, 1964 and byelaws thereunder, seek a writ of mandamus directing the Bangalore Mahanagara Palike to demolish the unauthorised construction and to hand over vacant possession of the petition schedule premises.

11. The petition is not opposed by filing statement of objections of the respondents. The report dt. 19.11.2005 of the 2nd respondent discloses that notices when issued to the HOPCOM to produce records over the permission and sanction for erection of constructions, was responded to by filing objections dt. 29.11.2005, interalia, contending that during the year 1982 permission and sanction was accorded by the Corporation to erect the buildings in Sy. No. 23 bearing CTS No. 1076 and during the year 1992 proceeding u/s 321(1) and (2) of the Karnataka Municipal Corporations Act, though, initiated was closed in the light of the reply to the notice.

12. Having heard the learned Counsel for the parties this Court by order dt 14.11.2005 and 19.12.2005 directed the State to produce and place before Court the file pertaining to the opinion of the Law Department in respect of the claim of the petitioners as well as the records of the Survey settlement over the petition schedule premises which is not complied with and no explanation is forthcoming for not doing so.

13. Initially the respondents did not dispute the identity of the petition schedule premises to be the very same property over which the 3rd respondent is in unauthorised occupation, however, a faint effort was made by filing IA-V/05 to contend that the petition schedule premises falls in Sy. No. 23 of Arekempanahalli and not in Sy. No. 18 of Annipura village and to appoint a competent surveyor, which when not pressed was rejected by order dt. 27.5.2008. The 5th respondent-Department of Co-operation of the State of Karnataka having not disputed the identity of the property in its statement of objections dt. 25.11.2005, nevertheless in the additional statement of objection dt. 1.12.2005, based on the contents of IA-V/05 filed by the 3rd respondent, sought to dispute the identity of the petition schedule premises in tandem with the assertions in the said IA. In the light of the submission of the learned

Counsel for the 3rd respondent that 3rd respondent does not press IA-V/05, the contentions in the additional statement of objections dt. 1.12.2005 of the 5th respondent insofar as it relates to the dispute over the identity of the petition schedule premises.

14. In addition, the undisputed material on record, more appropriately the order Annexure-E1 of Commissioner for Religious and Charitable Endowments in Mysore; the Order Annexure-E2 of the Karnataka Appellate Tribunal returning a finding that Garudachar, the vendor in title of the petition schedule premises was the inamdar, as disclosed in the Quit Rent Register, the notification No. 266 dt. 17.11.1877 Annexure-E4 followed by the Survey Report dt. 26.5.2001 Annexure-J and the sketches appended thereto, Annexure-T and V, emanating at the instance of 3rd respondent, coupled with the notification dated 12.7.1977, 9.12.1977, 22/24.6.1985 declaring the petition schedule premises as a slum area and for acquisition, leading to the proceedings before the State of Karnataka instituted by H. Bhavarlal, culminating in the issue of the notification Annexure - "E" cancelling the notifications, declaring the slum area and acquisition of the petition schedule premises under the Slum Clearance Act, there can be no more dispute over the identity of the petition schedule premises. In fact, the 3rd respondent admits that a high power committee under the chairmanship of the Registrar of Co-operative Societies and the Special Deputy Commissioner, as a member, after an enquiry, into the issues pertaining to the 3rd respondent, submitted a report:, dtd. 11.08.2003, that the petition schedule premises, in the occupation of the 3rd respondent, belongs to H. Bhavarlal, since deceased by his legal representatives, the petitioners herein. The 3rd respondent - HOPCOM further does not dispute to be in unauthorised occupation of the petition schedule premises, without authority of law, as observed by this Court, in the order dt. 19.7.2000 Annexure-R4 in W.P. No. 27111/95 instituted by the 3rd respondent.

15. Learned Counsel for the State of Karnataka submits that the 3rd respondent-HOPCOM is the creature of the State as it is on the imprimatur of the State that the department of Horticulture-respondent No. 4 secured registration of the Co-operative Society, in the name of the 3rd respondent, under the Karnataka Co-operative Societies Act, 1959. The State though directed, failed to produce the records, relating to the certificate of Registration the constitution of the 3rd respondent except the bylaws, disclosing the registration of the Society on 10.4.1987. Out of the paid-up share capital of Rs. 257.44 lakhs, the Government's share is admittedly Rs. 236.08 lakhs while that of individual members is Rs. 21.36 lakhs, as set out at paragraph 13 of the statement of objections. The Managing Director of the 3rd respondent is a civil servant deputed by the State of Karnataka. Even according to the learned Govt. Advocate the 3rd respondent-HOPCOM is financially, administratively dominated by and under the control of the Govt. of Karnataka, which is pervasive, discharging public functions such as collection, distribution and marketing of horticulture produce. The Board of Directors of the 3rd respondent contain the

nominees of the State. Thus the element of authority undoubtedly is of a binding character.

16. The 4th respondent- Department of Horticulture which created and registered the 3rd respondent-society has chosen not to oppose the petition by filing statement of objections, while allowing the 3rd respondent to be in the forefront to defend its action of unauthorised occupation of the petition schedule premises, in gross violation of the rule of law. The 4th respondent which controls the 3rd respondent-HOPCOMs professes to have dispossessed the true owner of the petition schedule premises by a conduct which, to say, the least, is most reprehensible. This conduct of the State and its instrumentality cannot but be in opposition to the doctrine of equality before the law, a necessary corollary to the high concept of rule of law accepted by our Constitution. It is well established that one of the aspects of rule of law is that every executive action prejudicial to any person must be supported by some legislative authority. The Govt. in its action is expected not to act like a private individual but should act in conformity with certain healthy standards and norms. Such action should not be arbitrary, irrational or irrelevant. The Govt. it is well known, is not clothed with a right to perpetuate a wrong and the Court cannot give countenance to such action. Equality clause in the Constitution does not extend to perpetuate wrong nor can any one equate a right to have the wrong repeated and benefit reaped thereunder. It is in this background that the then Secretary of Housing and Urban Development; State of Karnataka-2nd respondent, by Order dt. 9.10.1992 Annexure-D condemned the action of unauthorised occupation of the petition schedule premises by the 3rd respondent. The highly discriminative and autocratic act depriving the owner of possession of the petition schedule premises without reference to any law or legal authority, by the State amounts to draining the vitality from the rule of law. The unauthorised occupation and the deprivation of the true owner of the possession of the petition schedule premises leads to disturbing implications.

17. The 3rd respondent represented by its Managing Director, an Officer of the State, sought to perpetuate the illegality by filing W.P. 27111/95 advancing a contention that HOPOOM perfected its title to the petition schedule premises, by adverse possession, which this Court rightly turned down in its order dt. 19.7.2000 Annexure-R4; observing thus:

22. Lastly, the learned Counsel for the petitioner contends that the petitioner society by its continuous unauthorised occupation of petition schedule property, has perfected its title in the immovable property. This submission of the learned Counsel is only an argument in despair and totally alien to the concept of adverse possession. There are no factual foundation and necessary pleadings to this effect in this petition. Therefore, I do not intend to express my opinion on this issue.

13. An identical plea is advanced in IA-2/05 under Order 6 Rule 17 that being in continuous possession of the petition schedule premises for 12 years and more,

by adverse possession the petitioners" title to the said property is extinguished, is yet another instance of perpetuating the wrong, which cannot be countenanced. For the very same reasons as held by His Lordship H.L. Dattu, as he then was, and as extracted supra, that contentions must necessarily fail.

19. In the circumstances, the action of the State in dispossessing the lawful owner of the petition schedule premises, exhibits a callous disregard of the normal requirements of rule of law, apart from what is legitimately and reasonably expected from a State functioning in a Society governed by the constitution which guarantees to its citizens against arbitrary invasion by the executive of peaceful possession of immovable property. Suffice it to state that State and its creature are not in bonafide possession of the petition schedule premises and in this judicial proceedings, seeks to protect or perpetuate a wrong committed. In the light of The French declaration of Human and Civil Rights of 1789 enunciating the scope of Article 17 of the Universal declaration of Human Rights 1948 adopted in the United Nations General Assembly, right to property hitherto considered as a constitutional right is now accepted as also a human right. In otherwords, no person can be deprived of Ms property save in accordance with law. The observations of the Apex Court in S.R. Ejaz Vs. The Tamil Nadu Handloom Weavers Co-operative Society Ltd., , in the circumstances is apposite:

If such actions by the mighty or powerful are condoned in a democratic country, nobody would be safe nor can the citizens protect their properties. Law frowns upon such conduct. The Court accords legitimacy and legality only to possession taken in due course of law. If such actions are condoned, the fundamental rights guaranteed under the Constitution of India or the legal rights would be given a go-by either by the authority or by rich and influential persons or by musclemen. Law of jungle will prevail and "might would be right" instead of "right being might.

20. Yet another method adopted by the 3rd and 4th respondents to defeat the claim of the petitioners is by investing title in the petition schedule premises in the 6th and 7th respondent, as is evident from the plea advanced in memorandum of writ petition No. 27111/95 and as observed in the order dt. 19.7.2000 Annexure-R4. Neither the 3rd respondent nor State admittedly is the owner of the petition schedule premises nor is there a declaration of title in their favour by a competent court of law coupled with the rejection of the plea of adverse possession, supra, the contention of the respondent-State and Department of Horticulture that the petitioners are not the owners of the petition schedule premises is but a ruse to perpetuate the unlawful and unauthorised occupation of the petition schedule premises.

21. At this juncture it is relevant to notice that this Court by order dtd. 9.1.2008, accepted the joint memo dtd. 8.1.2008 filed by the petitioners and respondents 6 and 7, wherein it is stated that the respondents acquired the petitioners" right, title and interest in the petition schedule premises.

22. In this view of the matter, there can be no more dispute that neither of the aforesaid Institutions, respondents 6 and 7, are title holders of the petition schedule premises except for the petitioners. Thus the hurdle in the petitioners' claim to title to the petition schedule premises created by the 3rd and 4th respondents cannot be countenanced. In these circumstances there is no force in the contention of the learned senior counsel for HOPCOMs that the petitioners should be driven to the Civil Court to secure a declaration of title and that the relief in the writ petition is in the nature of a declaratory suit.

23. Having regard to the long drawn litigation between the parties, due to the unauthorised occupation of the petition schedule premises by the 3rd respondent coupled with the finding recorded by the State in the Order dt 9.10.1992 Annexure-D that the petitioners' claim was genuine and the action of HOPCOMs in occupying the property was condemnable and the further direction of the 2nd respondent in its order dt. 31.8.85 Annexure-G of the HOPCOM to hand over the petition schedule premises to the petitioners, the petitioners have made out a legal right in exercise of sound judicial discretion to compel performance of act which in equity and good conscience ought to be performed. Mandamus, it is universally known, is designed to remedy a wrong.

24. In conclusion, the petitioners have made out a legal right to a writ of mandamus directing the 1st respondent. Bangalore Mahanagara Palike to issue the khata of the petition schedule premises in their favour and collect the Corporation Tax over the said premises, hitherto not done. It is well settled law that khata does not confer title but recognises the person who is primarily responsible to pay the taxes. Petitioners are also entitled to a writ of mandamus directing the respondents to implement the order dt 31.8.1985 Annexure-G and for a consideration of their representations dt. 4.11.1999 and 3.7.2001 Annexures- K and L.

25. After the arguments of the learned Counsel for the parties were heard, the State Government filed a memo dt 20.3.2008 reads thus:

The State Government has taken a decision to acquire the land concerned in this case, as the same is required for a public purpose.

Necessary action is being initiated in this behalf immediately.

26. In view of the contents of the memo, the State appeals to put a quietus to the uncharitable pleas put-forth by respondents 3 and 4 over the petition schedule premises and by proposing to acquire the land for a public purpose. Provided the State commences and concludes the acquisition of the petition schedule premises, within six months from today, in accordance with law, it is unnecessary to direct the State to handover possession of the petition schedule premises to the petitioners in compliance with its order dt. 31.8.1995 Annexure-G or consider the petitioners' representations Annexure-K and L and pass orders thereon.

27. However, if the State does not complete the acquisition of the land within a period of six months from today, it is not legal for the State and its instrumental, the 3rd respondent, to continue to occupy the petition schedule premises and in that event, is directed to consider the petitioners' representations Annexure-K and L in the light of the observations supra and to pass orders within two months thereafter, in accordance with law.

28. In the result, Writ Petition No. 18272/05 is allowed in part. A direction is issued to the 1st respondent to forthwith register the title of the petitioners, as contemplated by Section 114 of the Karnataka Municipal Corporations Act, 1976 and issue a khata of the petition schedule premises in the names of the petitioners. Subject to the directions supra the reliefs of mandamus to implement the orders Annexure-G and H and to consider the petitioners' representations Annexure-K and L, as also to produce the file pertaining to immovable property in question do not survive for consideration in the light of the decision of the State Government to acquire the land in question for a public purpose.

In the circumstances, Writ Petition No. 24104/05 does not survive for consideration and is, accordingly disposed of.