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**(2011) 09 KAR CK 0030**

**In the Karnataka High Court**

**Case No : Writ Petition No's. 15476-15477 of 2010**

Smt. Lakshmamma and Narasimhamurthy

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

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**Date of Decision : 14-09-2011**

**Acts Referred:**

Bangalore Development Authority Act, 1976 — Section 19

**Citation : (2011) 09 KAR CK 0030**

**Hon'ble Judges : Mohan Shantanagoudar, J**

**Bench : Single Bench**

**Advocate :** M.S. Varadarajan, for Lex Axis, for the Appellant; B.V. Shankar Narayan, for R2, K.V. Narasimhan, for R3 to R5 and Keshava Reddy, G.A. for R1, R6 and R7, for the Respondent

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## **Judgement**

Mohan Shantanagoudar, J.—Petitioners have sought for a direction to the Respondents 1 and 2 to implement the resolution dated 3.8.1998 bearing No. 135/1993 passed by the 2nd Respondent-Bangalore Development Authority vide Annexure-"A" to the writ, petition. Certain other consequential reliefs are also sought for.

2. The records reveal that the Petitioners are the owner of the lands bearing Survey No. 6, measuring 4 acres 15 guntas and Survey No. 9/1, measuring 3 acres 9 guntas, situated at Lottegollahalli village, Kasaba Hobli, Bangalore North Taluk,. The said lands were acquired by Respondent No. 2 by issuing a final notification u/s 19 of the Bangalore Development Authority Act on 2.8.1978. Petitioners questioned the acquisition notification. A settlement was entered into between the parties during the pendency of the matter and the Respondents 1 and 2 agreed to confine the acquisition only to the extent of 54%-of the acquired land and to leave the balance of 46% of the land for the benefit of the Petitioners. Thus, a resolution came to be passed as per Annexure-"A" on 3.8.1998 in Subject No. 135/1998 to the effect that an area of 3 acres 21 guntas only will be taken possession of from out of Survey Nos. 6 and 9/1 of

Lottegollahalli village (which was owned by the Petitioners) by way of outright sale at the acquisition rate and that the remaining extent of 2 acres 36 guntas was agreed to be left in favour of Smt. Lakshamma, former land owner.

3. The said resolution dated 3.8.1998 was sought to be withdrawn by passing another resolution by the 2nd Respondent herein. Such a resolution withdrawing the earlier resolution was questioned by the Petitioners before this Court in Writ Petition No. 6078/2009 (LA-BDA), which came to be allowed on 14th July 2009. Consequently, the impugned endorsement therein was quashed. This Court held that the action of the Respondents in cancelling the resolution dated 3.8.1998 is illegal, arbitrary and unsustainable. It is further ordered by this Court that the Petitioners are entitled for the benefit of resolution passed by the Respondents-authorities on 3.8.1998. The order passed in Writ Petition No. 6078/2009 (LA-BDA) was confirmed by the Division Bench of this Court in Writ Appeal No. 2921/2009 (LA-BDA) and by the Apex Court on 30.12.2009. Thus, it is clear that the Petitioners are entitled to the benefit of the resolution dated 3.8.1998 vide Annexure- "A" passed by the 2nd Respondent in Subject No. 135/1998. Though the aforementioned orders are passed by this Court in the year 2009, till this day, the, said orders are not implemented. Hence, this writ petition is filed. In the meanwhile, the 3rd Respondent-Bruhath Bangalore Mahanagara Palike seems to have started digging over the properties in question. Hence, the Petitioners were constrained to file O.S. No. 3042/2010 before the jurisdictional Civil Court and in the said suit, an order of injunction is granted against the 3rd Respondent-Corporation restraining its activities over the properties in question.

4. Statement of objections are filed by the 2nd Respondent-BDA wherein it has averred as under:

Para-6: It is submitted that necessary steps will take to implement the said Resolution in so far as land measuring an extent of 02 acres 36 guntas situated in two Survey Numbers of Lottegollahalli village forming the subject matter of Resolution No. 135/1998.

Para 7: it is submitted that under the guise of seeking a direction for implementation of Resolution No. 135/1998, the Petitioners cannot maintain the instant Writ Petition (with certain ether prayers) for the land in excess of their entitlement as per the Resolution No. 135/1998. The Petitioners have described the total extent of land in Schedule-A & B by including the portion of the land for which, the Petitioners have no right, title and interest.

Para 8: It is submitted that implementation of Resolution No. 135/1998 involves certain internal procedures, identification of the land and earmarking of boundaries. Necessary steps will be taken to implement the Resolution in respect of 02 acres 36 guntas land within 3 months from today.

WHEREFORE, it is humbly prayed that this Hon"ble Court be pleased to dispose off the above Writ Petition by granting 3 months time to the Respondent No. 2 herein for implementation of Resolution No. 135/1998 in so far as it relates to

land measuring 02 acre 36 guntas forming the subject matter of Resolution No. 135/1993, in the interest of justice.

5. From the above, it is dear that 2nd Respondent prays for three months time to implement the resolution, dated 3.8.1998 passed in Subject No. 135/1998. In order to demarcate the boundaries in respect of 2 acres 36 guntas in Survey Nos. 6 and 9/1 of Lottegollahalli village, probably the BDA seeks three months time.

6. Be that as it may, since the resolution dated 3.8.1998 Weeds to be implemented in letter and spirit, the same shall be implemented by the Respondent No. 2 without fail within three months. Accordingly, the following order is made:

The 3rd Respondent-Corporation shall not carry on any activities over an area of 2 acres 36 guntas in Survey Nos. 6 and 9/1 of Lottegollahalli village, which belongs to the Petitioners. The 2nd Respondent-BDA shall implement the resolution dated 3.8.1998 passed by BDA in Subject No. 135/1998 fully within three months,

7. Accordingly, Writ petitions are disposed of. Consequently, Misc.W. No. 3442/2011 filed for direction is also disposed of.