

(2013) 08 KAR CK 0214

In the Karnataka High Court

Case No : Writ Petition No. 13001 of 2010 (LB-RES) Connected with W.P. No's.
31887/10, 33653/10, 13003/10, 4579/10, 18661/10, 4489/11,
1653/10, 24060/10, 19577/11, 47175/11, 8243-44/12, 8915/12,
23563-565/12, 17099/12, 21945/12, 24527/12, 23946/12,
24502-507/12, 2

Smt. V. Chinnabai

APPELLANT

Vs

Mysore Urban Development Authority and The State of
Karnataka

RESPONDENT

Date of Decision : 05-08-2013

Acts Referred:

Constitution of India, 1950 — Article 14, 162, 166
Karnataka Urban Development Authorities (Allotment of Sites) Rules, 1991 — Rule 19
Karnataka Urban Development Authorities Act, 1987 — Section 65

Citation : (2013) 4 AKR 591 : (2013) ILR (Kar) 5185 : (2014) 2 KarLJ 15

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : O. Shivarama Bhat, in W.Ps. 4579, 13001, 13003, 31887/2010, 23946, 42276, 50593/2012, 141, 2394, 2625/2013, Sri. K. Govindaraj in W.P. 33653/2010, Sri K.R. Lingaraju in W.Ps. 18661/2010, 4489/2011, 8243-44, 8915, 23563-65, 21945, 30085-94, 41132, 46580-594, 47870/2012, 12360-378, 12530-533/2013, Sri. P. Mahesha in W.P. 1653/2010, Sri. Christopher Noel A. in W.P. 24060/2010, Sri. M.C. Jayakirthi in W.P. 19577/2011, Sri G. Venkatachala in W.P. 47175/2011, Sri. M.Y. Sreenivasan in W.P. 17099/2012, Sri. P.N. Hegde in W.P. 24527/2012, Sri. M. Jaiprakash Reddy, in WP Nos. 24502-507/2012, Sri. T.A. Karumbaiah in W.P. 29237/2012, Sri. T. Basavaraj in W.P. 13692/2010 and Sri. Prashanth P.N. in W.P. No. 46963/2012, for the Appellant; P.S. Manjunath in W.Ps. 13692, 24060/2010, 19577/2011, for R1 in W.Ps. 1653, 4579, 13001, 13003, 33653/2010, for R2 in W.P. 31887/2010, 47175/2011, 8243-44, 8915, 23563-65, 24502-507, 30085-94, 50593/2012, Sri. Vijaya Kumar A. Patil, AGA for R1 in W.Ps. 18661, 31887/2010, 47175/2011, 23563-65, 17099, 21945, 24527, 23946, 24502-507, 3008594, 42276, 46580-594, 46963, 47870, 50593/2012, 141, 2394, 2625, 12360-378, 12530-533/2013, for R2 in W.Ps. 1653, 4579, 13001, 13003, 33653/2010, for R3 in W.P. 29237/2012, Sri T.P. Vivekananda, Advocate in W.P. 41132/2012, for R1 and R2 in W.P. 29237/2012, for R2 in W.Ps. 18661/2010, 4489/2011, 17099, 21945, 42276, 46580-594, 46963, 47870/2012, 141, 2394, 2625, 12360-378, 12530-533/2013, for R2 and R3 in W.Ps. 24527, 23946/2012 and Sri N.B.

Judgement

Ram Mohan Reddy, J.

FACTS IN BRIEF:

W.P. 13001/2010-Chinna Bai:

1. Petitioner's application to the respondent-Mysore Urban Development Authority, for short "MUDA" fructified into an allotment of site No. 12195/G measuring 40" x 60" at Vijayanagar IV Stage, II Phase, Mysore as communicated in the letter dated 5.3.1991 (not produced) requiring the petitioner to pay Rs. 1,45,000/- being the total value of the site, after deducting Rs. 1,350/- in deposit within 30 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment hence the respondent-MUDA by order dated 20.6.2005 Annexure-B cancelled the allotment. The Under Secretary to The Chief Minister's office by letter dated 24.10.2005. Annexure-C directed the respondent-MUDA to consider the case of the petitioner. Petitioner asserting that the site allotted stood in his name as reflected in the encumbrance certificates Annexures-F and F1 has filed this petition for the following reliefs: a) Call for records from the respondents.

b) Issue a writ of mandamus directing the 1st respondent to consider the directions issued by the Hon"ble Chief Minister, Hon"ble Urban Development Minister and 2nd respondent dated 24.10.2005, 5.10.2009 and 4.11.2009 vide Annexures-C, D and E for allotment of site in favour of the petitioner in site No. 12195/G measuring 40" x 60" situated at II Phase, IV Stage, Vijayanagar, Mysore.

b1) Direct respondent No. 2 to execute the sale deed in favour of the petitioner in respect of site No. 12195/G measuring to an extent of 40 x 60 situated at II Phase, IV Stage, Vijayanagar, Mysore by quashing the order dt 23.4.2007 in No. NA.HA.E-513 MAINAPRA 2005 Annexure-J.

Petition is opposed by respondent-MUDA by filing common statement of objections inter alia contending that failure to make payment of the value of the site within the time stipulated by law as well as paper publication on 9.5.2005, resulted in the cancellation of the allotment. The instructions issued by the State Govt. were not to consider the re-allotment of the site in case of cancellation due to non-payment. Petition filed after 7 years suffers from delay and laches. Petitioner being a fence sitter is disentitled to the relief.

W.P. 31887/2010:- Hanumappa B.V.

Petitioner's application to the respondent "MUDA" fructified into an allotment of

site No. 817 measuring 50" x 80" at Vijayanagar IV Stage, III Phase, Mysore as communicated in the letter dated 8.9.1994 Annexure-B requiring the petitioner to pay Rs. 10,500/- in addition to Rs. 5,625/- in deposit, being 15% of Rs. 70,000/- the total value of the site and to pay balance of Rs. 53,815/-90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Karnataka Urban Development Authorities (Allotment of Sites) Rules, for short "Rules of 1991", the respondent-MUDA cancelled the allotment. Petitioner submits that the Under Secretary, Urban Development, Karnataka State, by letters dt 26.8.2005, 27.12.2005 and 4.3.2008 Annexures-D, E and F directed the respondent-MUDA to consider the petitioner's case and to re-allot the site, which when not complied, the petitioner has preferred this petition for the following reliefs:

a) Issue a writ in the nature of certiorari to quash the letter/order dated 23.4.2007 passed by the Respondent No. 1 in No. NA.HA.E.513 MAINAPRA 2005 vides Annexure-A insofar as the petitioner is concerned; consequently,

b) Direct the respondent No. 2 to execute the Sale Deed in favour of the petitioner in respect of Site No. 817 formed by the Respondent No. 2 in the layout called by name Vijayanagara 4th Stage, III Phase, Mysore measuring an extent of 12 x 18 metres by collecting the balance amount with reasonable interest.

2. Petition is opposed by respondent-MUDA by filing common statement of objections inter alia contending that failure to make payment of the value of the site within the time stipulated by law resulted in cancellation of the allotment. The instructions issued by the State Govt. were not to consider the re-allotment of the site in case of cancellation due to non-payment. Petition filed after 7 years suffers from delay and laches. Petitioner being a fence sitter is disentitled to the relief.

W.P. 33653/2010: Shylesh B. Kadri

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 1383 measuring 50" x 80" at Devanur III Stage, as communicated in the letter dated 14.7.2003 Annexure-D requiring the petitioner to pay Rs. 3,00,300/- deducting Rs. 2,700/- in deposit, being the balance value of the site within 30 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, the respondent-MUDA by order dated 25.9.2004 cancelled the allotment. Petitioner submits that he deposited the amount of Rs. 4,49,710/- by way of demand draft towards balance site value as indicated in his letter dt. 12.5.2006 and also asserts that the respondent-MUDA has not complied with the direction in letter dt. 20.2.2006 of the Under Secretary, Urban Development, Bangalore, to re-allot the site. Hence this petition for the following reliefs:

(i) Issue a writ of mandamus or any other appropriate writ, directing the 2nd respondent to allot No. 1383, measuring 50 x 80 in Devanuru 3rd stage Layout,

Mysore and transfer the site to the petitioner in accordance with law.

3. Petition is opposed by respondent-MUDA by filing statement of objections inter alia contending that failure to make payment of the value of the site within the time stipulated by law resulted in the cancellation of the allotment. Learned counsel further submits that in view of the instructions issued by the State Govt. not to consider the re-allotment of the site in case of cancellation due to non-payment, the demand draft for Rs. 4,49,710/- is returned to the petitioner under cover of letter dated 19.6.2010 Annexure-O. Petition having not challenged the cancellation order is disentitled the relief. Petition filed after 9 years suffers from delay and laches. Petitioner being a fence sitter is disentitled to the relief.

W.P. 13003/2010: Singamma

Petitioner's application to the respondent-MUDA fructified into allotment of site No. 947 measuring 40" x 60" at N R Mohalla, Sathagally "B" Zone, as communicated in the letter dated 25.2.2001 requiring the petitioner to pay Rs. 61,000/- deducting Rs. 11000/- in deposit, being the balance value of the site within 30 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, the respondent-MUDA by order dated 14.8.2002 Annexure-B cancelled the allotment. Petitioner asserts that the Under Secretary, Urban Development, Bangalore, by letter dt. 4.11.2009 directed the respondent-MUDA to consider the case of the petitioner and to re-allot the site, when not complied with has preferred this petition for the following reliefs:

- a) Call for the records from the respondents";
- b) Issue a Writ of Mandamus, directing the 1st respondent to consider the directions issued by the Hon'ble Urban Development Minister dated 05.10.2009 and 2nd respondent dated 04.11.2009 vide Annexures C & D for allotment of site in favour of the petitioner in Site No. 947 measuring 30" x 40" in Nazarabad Mohalla, Sathagally B-Zone, Mysore.
- c) Pass such other reliefs as this Hon'ble Court may deems fit in facts and circumstances of the case.

4. Petition is opposed by respondent-MUDA by filing common statement of objections inter alia contending that failure to make payment of the value of the site within the time stipulated by law resulted in the cancellation of the allotment. Petitioner having not challenged the cancellation order is disentitled to the relief. Petition filed after 11 years suffers from delay and laches. Petitioner being a fence sitter is disentitled to the relief.

W.P. 4579/2010: P. Srinivas

Petitioner's application to the respondent-MUDA fructified into allotment of site No. 2927 measuring 50" x 80" at Devanur III Stage, N.R. Mohalla, Mysore as communicated in the letter dated 25.2.2001 Annexure-B requiring the petitioner

to pay Rs. 45,450/- being 15% of Rs. 3,03,000/- the total value of the site deducting Rs. 12,600/- in deposit within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, the respondent-MUDA by order dated 13.2.2002 Annexure-D cancelled the allotment. Petitioner states that the site allotted stood in his name as reflected in the encumbrance certificates Annexures-G and Gl. Petitioner asserts that the Under Secretary, Urban Development Department, Bangalore by letter dated 4.11.2009 Annexure-F directed the respondent-MUDA to consider the case of the petitioner, which when not considered has preferred this petition for the following reliefs:

A) Call for the records which ultimately, resulted in passing of the impugned order vide Annexure-"A";

A1) Direct the respondent No. 2 to execute the sale deed in favour of the petitioner in respect of the aforesaid site, by quashing the order dated 23.04.2007 in No. NA.HA.E-513 MAINAPRA 2005 produced at Annexure-J.

b) Issue an order, direction or writ in the nature of writ of certiorari, quashing the order dated 09.12.2009 made in No. My.A.R./V.A-5/336/2009-10 passed by the 1st respondent vide Annexure-"A";

c) Issue a Writ of Mandamus, directing the 1st respondent to consider the direction issued by the Hon"ble Urban Development Minister dated 05.10.2009 vide Annexure E for allotment of site in favour of the petitioner in Site No. 2927 measuring 50" x 80" in Devanuru 3rd Stage, NR Mohala Mysore.

d) Pass such other reliefs as this Hon"ble Court may deems fit in facts and circumstances of the case.

5. Petition is opposed by filing statement of objections of the respondent-MUDA, learned counsel for the respondent making reference to the records submits that failure to make payment of the value of the site within the time stipulated resulted in the cancellation of the allotment. Petition filed after 11 years suffers from delay and laches. Petitioner being a fence sitter is disentitled to the relief.

W.P. 18661/2010: K. Rajeshwari w/o late M. Papanna

The husband of the petitioner having applied to the respondent-MUDA; it is stated fructified into allotment of a site No. 343 measuring 45" x 60" at Nachanahalli II Stage as communicated in the letter dtd. 6.5.1986 vide Annexure-B whence the applicant was required to pay Rs. 27000/- being the value of the site, in differed payment of Rs. 3375/- an allotment and balance within 90 days/6 years. Despite notices dt. 26.09.1989; 30.01.1992; 03.12.1993; 29.07.1994 and 30.06.1995, when payment was not forthcoming, cancelled the allotment by resolution dated 07.12.1996. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment, the respondent-MUDA by order dated 07.12.1996 cancelled the allotment. Petitioner asserts that similarly circumstanced allottees were extended the benefit of a direction by the

State Government to receive the balance allotment amount from such of those allottees and hence the same may be extended to the petitioner. Petitioner further asserts that the Under Secretary, Urban Development, Bangalore, by letter dt. 17.7.1995 directed MUDA to consider the case of the petitioner and re-allot the site, which when not considered filed this petition for the following reliefs:

- a) Issue a writ or order in the nature of CERTIORARI quashing the endorsement dated 11.12.2008 bearing No. My.Na.Pra/Va, Aa-a/494/2008-09 issued by the Respondent No. 2 vide Annexure-A as illegal;
- b) Issue a Writ in the nature of mandamus or any other appropriate writ, order or direction, directing the respondent No. 2 to allot the site bearing No. 343, measuring 45 feet x 60 feet in Nachanahalli II Stage, Mysore, in favour of Petitioner and to execute Absolute Sale Deed conveying the same absolutely and unconditionally in favour of the Petitioner after receiving the balance sital value along with interest accrued thereon; and
- c) Pass such other relief or reliefs as this Hon''ble Court deems fit to grant with an order as to costs of the appeal, under the facts and circumstances of the case, in the interests of justice and equity.

6. Petition though not opposed by filing statement of objections, nevertheless, the learned counsel for MUDA making reference to the records submits that the petitioner's husband when allotted a site on 6.5.1986 had made an initial deposit of Rs. 3375/- along with application but did not make payment of the balance amount towards the value of the site despite reminders dated 26.9.1988, 30.1.1992, 3.12.1993, 29.7.1994 and 30.6.1995. Failure to make payment led to cancellation of the allotment by order dated 7.12.1996. According to the learned counsel, petitioner is not entitled to any relief and the petition filed on 17.6.2010 suffers from inordinate delay and laches.

W.P. 4489/2011: Chandramma

Petitioner's application to the respondent-MUDA fructified into allotment of a site No. 4786 measuring 20" x 30" at Vijayanagar IV Stage, II Phase, Mysore. Petitioner on furnishing the Caste Certificate, certifying to belong to Backward class. The Respondent-MUDA by letter dated 27.03.1989 allotted site No. 10628 in the same layout requiring the petitioner to pay Rs. 1500/- in addition to Rs. 180/- in deposit, being 15% of Rs. 10,000/- the total value of the site and to pay the balance of Rs. 8,320/- within the time frame stipulated therein. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment, hence, the respondent-MUDA by order dated 23.8.2001 cancelled the allotment. Hence this petition for the following reliefs:

- a) Issue a writ or order in the nature of certiorari quashing the order dated 23.08.2001 passed by the Respondent; vide Annexure-A.
- b) Issue a Writ or order in the nature of mandamus directing the respondent to

receive the balance amount and to execute an Absolute Sale Deed in favour of the petitioner thereby conveying the Site bearing No. 10628 measuring 20 x 30 feet situate at Vijayanagar 4th Stage, 2nd Phase, Mysore.

c) Pass such other order or orders as this Hon''ble Court deems fit to pass under the facts and circumstances of the case, including the costs of the proceedings, to meet the ends of justice and equity.

7. Petition is opposed by filing statement of objections inter alia not denying the allotment of the site and failure to pay its value following which despite show cause notice dated 18.09.2000 and an endorsement dated 08.11.2000 to pay the balance sital value, when not responded to the Authority canceled the allotment by letter dated 23.08.2001 Annexure-A. It is further stated that in the absence of relevant material over the income of the petitioner being less than Rs. 12,000/- is disentitled to the benefits of Rule 19(1) by extending three years time for payment of value of the site. According to MUDA petitioner did not enclose to the application a certificate over her social and economical status in the required form, though produced in the writ petition as Annexure-D, as also the factum of having deposited Rs. 1,500/- on 20.4.1999 though a copy of the challan for remittance of the said sum is furnished as Annexure-F. In addition it is stated that the petitioner did not make a request to extend three years time to make the payment. It is lastly submitted that the petitioner having failed to approach the court within time calling in question the cancellation order dated 23.8.2001 Annexure-A is disentitled to equity and allotment of the site.

W.P. 1653/2010: T.P. Rafiq

Petitioner''s application to the respondent-MUDA fructified into allotment of site No. 2120 measuring 40'' x 60'' at Devanur III Stage, Mysore as communicated in the letter dated 25.2.2001 Annexure-A requiring he petitioner to pay Rs. 24,000/- in addition to Rs. 5625/- in deposit, being 15% of Rs. 1,60,000/- the total value of the site within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the "Rules", the respondent-MUDA by order dated 15.2.2003 cancelled the allotment. Petitioner asserts that the Under Secretary, Urban Development, Bangalore, by letter dt. 4.3.2006 Annexure-L directed the respondent-MUDA to consider the case of the petitioner and to re-allot the site, which when not complied with has preferred this petition for the following reliefs:

a) Issue writ of Mandamus directing the first respondent authority to consider the representation of the petitioner vide Annexure-F & G, and to collect the balance sale consideration amount with interest and execute the sale deed in favour of the petitioner in respect of site No. 1346 situated at Devanur 4th Stage, Mysore.

b) Pleased to pass any other or directions as this hon''ble court feels deem fit under the circumstances of the case in the interest of justice and equity.

8. Petition is opposed by respondent-MUDA inter alia contending that failure of the petitioner to make payment of the value of the site within the time stipulated by law resulted in the cancellation of the allotment. Petitioner having not challenged the cancellation order Annexure-R2 is disentitled to the relief. Petition filed 10 years after the order of cancellation, suffers from delay and laches, and being a fence sitter is disentitled to the relief.

WP. 24060/2010: Rangegowda Subedar C.

Petitioner's application to the respondent-MUDA fructified into allotment of site No. 1406 measuring 40" x 60" at Hanchya and Sathagally "A" zone, Mysore as communicated in the letter of allotment dated 25.2.2001 Annexure-C requiring him to pay Rs. 24,000/- being 15% value of the site, in addition to Rs. 1,500/- as deposit and to pay the balance of Rs. 1,34,500/-, totaling to Rs. 1,60,000/- within 90 days. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, the respondent-MUDA by order dated 15.2.2003 cancelled the allotment. Petitioner asserts that the Under Secretary, Urban Development, Bangalore, by letter dt. 3.5.2006 Annexure-L directed the respondent-MUDA to consider the case of the petitioner and re-allot the site, which when not complied with has preferred the petition for the following reliefs:

a) Issue a writ or Order in nature of Certiorari by quashing the order bearing No. LP/Volume/2004-05 dated 29/03/2005 vide Annexure-H, passed by the Respondent, is illegal; and

b) Issue a writ of Mandamus or any other appropriate writ order/Orders, direction, directing the respondent authority to re-allot site bearing No. 1406, measuring 40 x 60 feet at Hanchya and Sathagally A-Zone, Mysore and convey the said site to the petitioner by executing a Registered Sale Deed by receiving the balance of site value.

c) Grant such other relief/reliefs that this Hon'ble Court deems fit to the facts and circumstances of the case, in the interest of justice and equity.

9. Petition is opposed by filing statement of objections inter alia contending that the writ petition suffers from delay and laches. According to the respondent-MUDA the allotment letter Annexure-R1 was mailed to the petitioner at the address shown in the application Annexure-A, in the absence of any information from the petitioner over the change of postal address. Petitioner having failed to comply with the terms and conditions of allotment was issued with an endorsement dt. 4.12.2002 Annexure-R2 to pay Rs. 1,58,500/- within 30 days which was also mailed to the petitioner at the address shown in the application. Petitioner when issued with a letter dated 2.2.2005 Annexure-R3 to furnish proof of having paid the value of the site, within 15 days of the receipt of the letter, though addressed to the mailing address as indicated in the application was returned unserved by the postal authorities Annexure-R4. Though respondent by letter 21.2.2005 was ready and willing to pay the amount, the non compliance of

the terms of the allotment order led to the order dated 29.3.2005 Annexure-R5 cancelling the allotment.

WP 19577/2011: S. Subramanya

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 1665 measuring 30" x 40" at Devanur III Stage, Mysore as communicated in the letter dated 25.2.2001 Annexure-A requiring the petitioner to pay Rs. 9,150/- in addition to Rs. 2500/- in deposit, being 15% of Rs. 61,000/- the total value of the site and balance of Rs. 49,350/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, the respondent-MUDA by communication dated 26.4.2011 intimated the petitioner that allotment of site is cancelled by order dt. 31.3.2005. Hence this petition for the following reliefs:

- a) Issue a writ of certiorari or quash the endorsement dated 26.04.2011 bearing No. My.Na.Pra.Va.A-5/357/2010-11 dated 26.04.2011 issued by the respondent as per annexure-H.
- b) To issue a writ of mandamus to the respondent directing them to execute the absolute sale deed in respect of the site bearing No. 1665 measuring 9 mtrs x 12 mtrs in Devanur III Stage Mysore as per allotment letter dated 25.2.2001 as per Annexure-A.
- c) to call for the records relating to the allotment of the site bearing No. 1665 measuring 9 mtrs x 12 mtrs in Devanur III Stage, Mysore as per Annexure-A.
- d) Grant such other relief/s as deems fit to grant in the facts and circumstances of the case.

10. Petition though not opposed by filing statement of objections nevertheless learned counsel for the respondent-MUDA making reference to the records submits that failure to make payment of the value of the site within the time stipulated by law resulted in the cancellation of the allotment. Petitioner having not challenged the cancellation order is disentitled to the relief. Petition filed 8 years after the cancellation of the site allotment, suffers from delay and laches. Petitioner being a fence sitter is disentitled to the relief.

W.P. 47175/2011: B.R. Nagesh

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 1979 measuring 40" x 60" at Devanur III Stage, Mysore as communicated in the letter dated 6.10.2001 Annexure-A requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 5,625/- in deposit, being 15% of Rs. 1,60,000/- the total value of the site and to pay the balance of Rs. 1,30,375/- within 60 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, the Respondent-MUDA cancelled the allotment of site by order dated 14.2.2003. It

appears that the petitioner addressed a letter dt. 6.4.2006 Annexure-C to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 6.4.2006 Annexure-D directed the respondent-MUDA to consider the case of the petitioner which when not considered and the allotment cancelled, has filed this petition for the following reliefs:

A) Issue a writ of mandamus or any other appropriate writ, order or direction directing the Respondents to collect the amounts due from the Petitioner as per the Government order dated: 27.12.2005 and register the site allotted in his favour.

11. Petition is opposed by respondent-MUDA by filing common statement of objections inter alia contending that that failure to make payment of the value of the site within the time stipulated by law resulted in the cancellation of the allotment. The instructions issued by the State Govt. were not to consider the re-allotment of the site in case of cancellation due to non-payment. Petition filed 10 years after the cancellation of the allotment, suffers from delay and laches. Petitioner being a fence sitter is disentitled to the relief.

W.P. 8243-44/2012:

W.P. 8243/2012: M. Mahaboob Sharief

Petitioner's application to the respondent-"MUDA", it is said fructified into an allotment of site No. 12309 measuring 40" x 60" at Vijayanagar IV Stage, II Phase, Mysore as per true copy issued by MUDA at Annexure-A4 (Allotment letter not produced). Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, the respondent-MUDA is said to have cancelled the allotment.

W.P. 8244/2012: Prasad S.

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 2351 measuring 40" x 60" at Devanur II Stage, Mysore as communicated in the letter dated 27.9.1991 Annexure-A-5 to pay balance of Rs. 42,625/- in addition to Rs. 1815/- in deposit within 90 therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment, hence the respondent-MUDA is said to have cancelled the allotment. Hence these petitions for the following reliefs:

a) Issue a writ or order in the nature of mandamus directing the Respondent No. 2 to execute an Absolute sale deeds in favour of the petitioners thereby conveying their respective sites absolutely in their favour by receiving the balance amount of sital value with interest in the terms of the Order dated 30.1.2012 passed by the Division Bench of this Hon"ble Court in W.A. 499/2011 and connected matters.

12. Petitions are opposed by respondent-MUDA by filing common statement of objections inter alia contending that failure to make payment of the value of the

site within the time stipulated resulted in the cancellation of the allotment. Petitioners having not challenged the cancellation orders are disentitled to the relief.

W.P. 8915/2012: Jayamma K.

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 406 measuring 20" x 30" at Hanchya and Sathagally B-Zone as communicated in the letter dated 6.10.2001 Annexure-A requiring the petitioner to pay Rs. 3,300/- in addition to Rs. 750/- in deposit, being 15% of Rs. 22,000/- the total value of the site and to pay the remaining Rs. 17,950/- within 90 days therefrom. Petitioner did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, the respondent-MUDA cancelled the allotment. Petitioner submits that the Secretary, Urban Development, Karnataka State, by letter dated 27.12.2005 Annexure-D directed the respondent-MUDA to consider the case of the petitioner and to re-allot the site, which when not responded to has filed this petition for the following reliefs:

a) Issue a writ or order in the nature of mandamus directing the respondent No. 2 to execute an Absolute Sale deeds in favour of the petitioner thereby conveying site bearing no. 406, measuring 20 x 30 feet in the layout called Hanchya and Sathagally B-zone, Mysore absolutely in her favour by receiving the balance amount of sital value with interest as per the terms of the order dt. 30.1.2012 passed by the division bench of this Hon"ble Court in w.a. no. 499/2011 and connected matters vide Anx. E.

13. Petition is opposed by Respondent-MUDA by filing common statement of objections and learned counsel for the respondent-MUDA making reference to the records submits that failure to make payment of the value of the site within the time stipulated by law resulted in the cancellation of the allotment. The instructions issued by the State Govt. were not to consider the re-allotment of the site in case of cancellation due to non-payment. Petition filed 7 years after cancellation of the allotment, suffers from delay and laches. Petitioner being a fence sitter is disentitled to the relief.

W.P. 23563-65/2012

W.P. 23563/12: Moorthy G.S.

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 9 measuring 50" x 80" at Hanchya and Sathagalli A-zone, Mysore as communicated in the letter dated 14.7.2003 Annexure-A requiring the petitioner to pay balance of Rs. 2,91,750/- in addition to Rs. 11,250/- being the total value of the site within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, the respondent-MUDA cancelled the allotment. It appears petitioner addressed a letter, undated, Annexure-B to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 3.5.2006 Annexure-C directed

the respondent-MUDA to consider the case of the petitioner.

W.P. 23564/12: Sathyakumar V.A.

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 1324 measuring 50" x 80" at Devanur III Stage, Mysore as communicated in the letter dated 25.2.2001 Annexure-A-1 requiring the petitioner to pay Rs. 45,450/- in addition to Rs. 11,250/- being 15% of Rs. 3,03,000/- of the total value of the site and to pay the balance of Rs. 2,46,300/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, the respondent-MUDA cancelled the allotment. It appears petitioner addressed a letter, undated, Annexure-B1 to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 21.3.2006 Annexure-C1 directed the respondent-MUDA to consider the case of the petitioner.

W.P. 23565/12: M. Narayana

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 1257 measuring 30" x 40" at Vijayanagar IV Stage, I Phase, Mysore as communicated in the letter dated 29.8.2000 Annexure-A2 requiring the petitioner to pay Rs. 8,250/- in addition to Rs. 885/- being 15% of Rs. 55,000/- of the total value of the site and to pay the balance of Rs. 45,865/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, the respondent-MUDA cancelled the allotment.

Petitioners addressed letters, undated, Annexure-B, B1 and B2 to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letters dated 3.6.2006, 21.3.2006 and 21.4.2006 Annexures-C, C1 and C2 respectively, directed the respondent-MUDA to consider the case of the petitioners and further, according to the petitioners they are entitled to the benefit of execution of the sale deed of the sites allotted in terms of the order dated 30.1.2012 of the division Bench in W.A. 499/2011 Annexure-E, which when not considered have preferred petitions for the following reliefs:

a) Issue a writ or order in the nature of mandamus directing the respondent No. 2 to execute an Absolute sale deeds in respect of the sites bearing No. 9 measuring 50 x 80 feet situated at Hanchya & Sathagally A-zone in favour of the 1st petitioner, site bearing No. 1324 measuring 50 x 80 feet situated at Devanur III Stage in favour of the 2nd petitioner and site bearing No. 1257 measuring 30 x 40 feet situated at Vijayanagar IV Stage I Phase in favour of the 3rd petitioner by receiving the balance amount of site value with interest in the terms of the order dated 30.1.2012 passed by the Division Bench of this Court in W.A. No. 499/2011 and connected matters vide Annexure-E.

14. Petitions are opposed by respondent-MUDA by filing common statement of objections contending that failure to make payment of the value of the site within

the time stipulated by law resulted in the cancellation of the allotment. The instructions issued by the State Govt. were not to consider the re-allotment of the site in case of cancellation due to non-payment. Petition filed after several years suffer from delay and laches and being fence sitters are disentitled to the relief.

W.P. 17099/2012: Chikkasundara

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 1279 measuring 40" x 60" at Hanchya and Sathagally A-Zone as communicated in the letter dated 25.2.2001 Annexure-A requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 4,538/- being 15% of Rs. 1,60,000/- of the total value of the site and to pay the balance of Rs. 1,31,462/- within 90 days therefrom. Petitioner did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, the respondent-MUDA by order dated 29.3.2005 Annexure-B cancelled the allotment. It appears petitioner addressed a letter, undated, Annexure-C to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 17.4.2006 Annexure-D directed the respondent-MUDA to consider the case of the petitioner. Petitioner asserting that the site allotted stood in his name as reflected in the encumbrance certificate dated 5.4.2012 Annexure-E has filed this petition for the following reliefs:

- a) Issue a writ of Mandamus or any other writ of like nature directing the 2nd respondent to comply the office order dated 17.04.2006 vide No. 2006 issued by the 1st respondent vide Annexure-D to the writ petition.
- b) Directing the 2nd respondent to re-allot the site No. 1279 measuring 40 x 60 in HANCHYA AND SATHAGALLY A-ZONE AT MYSORE to the petitioner.
- c) Grant such other relief or reliefs as this Hon'ble Court fit in the circumstance of the caste.

15. Petition is opposed by filing statement of objections of the respondent inter alia admitting the fact of allotment and cancellation for non-payment of value of the site. It is contended that the petition is not maintainable as it suffers from delay and laches. In addition it is contended that the petitioner having failed to pay the value of the site within the time prescribed led to the endorsement dated 20.8.2002 calling upon the petitioner to deposit Rs. 1,31,462/- together with interest at the rate of 20% p.a. within 30 days, which when not complied with led to cancellation of the allotment by order dated 29.3.2005. According to the respondent State Govt. did not issue any direction as asserted by the petitioner but was instructed it to examine the case of the petitioner for re-allotment. The respondent states that it took no action in view of the subsequent communication dated 12.5.2006, 23.4.2007, 29.2.2007 and 4.3.2008 Annexures-R1 to R5 of the State Govt. directing the MUDA not to take action pursuant to the letter dated 27.12.2005. It is further stated that the State Govt. issued a circular dated 4.2.2011 Annexure-R6, informing all Urban Development Authorities in the

State not to accept payments towards value of the site allotted after the time stipulated under the Rules, 1991.

W.P. 21945/2012: Azad Kumar Kothari

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 2923 measuring 50" x 80" at Devanur III Stage, as communicated in the letter dated 25.2.2001 Annexure-A requiring the petitioner to pay Rs. 45,450/- in addition to Rs. 11,250/- in deposit, being 15% of Rs. 3,03,000/- the total value of the site and to pay the remaining Rs. 2,46,300/- within 90 days therefrom. Petitioner did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, the respondent-MUDA by order dated 13.2.2003 Annexure-B cancelled the allotment. It appears petitioner addressed a letter, undated, Annexure-C to the Secretary, Urban Development, Karnataka State and the Under Secretary by letter dated 17.1.2005 Annexure-D directed the respondent-MUDA to consider the case of the petitioner, which when not considered was rejected by endorsement dated 25.7.2009 annexure-E. According to the petitioner he is entitled to the benefit of execution of the sale deed of the site allotted in terms of the order dated 30.1.2012 of the division Bench in W.A. 499/2011 Annexure-G. Hence this petition for the following reliefs:

- a) Issue a writ of Mandamus or any other writ of like nature directing the 2nd respondent to comply the office order dated 17.04.2006 vide No. 2006 issued by the 1st respondent vide Annexure-D to the writ petition.
- b) Directing the 2nd respondent to re-allot the site No. 1279 measuring 40 x 60 in HANCHYA AND SATHAGALLY A-ZONE AT MYSORE to the petitioner.
- c) Grant such other relief or reliefs as this Hon'ble Court fit in the circumstance of the caste.

16. Learned counsel for the MUDA making reference to the records submits that petitioner's application dated 6.3.1991 fructified into the allotment and stipulation of the period within which the value of the site was required to be deposited. According to the respondent the petitioner did not respond to the letter of allotment and therefore, a reminder letter dated 24.9.2002 was issued and thereafter wards by letter dated 13.8.2003 the allotment was cancelled. Learned counsel submits that before any further action could be taken on the letter dated 17.1.2005, the State govt. on 12.5.2006 issued instructions not to take any action on such letters followed by yet another letter of the State dated 22.9.2007 not to receive payments from defaulters whose allotment of sites have been cancelled. Hence the letter dated 25.7.2009 Annexure-E. According to the learned counsel the decision of the Division Bench has no application to the case of the petitioner.

W.P. 24527/12: Puttaswamy,

Petitioner having responded to a notification issued by the respondent-"MUDA" applied for and secured an allotment of a residential site No. 3419 at Devanur III

Stage, Mysore, measuring 30" x 40" and though required to pay Rs. 61,000/- being the value of the site within the time stipulated in the letter of allotment dt. 25.2.2001 Annexure-B nevertheless made payment of Rs. 9,150/- within 60 days and did not pay the balance of Rs. 49,350/- within 90 days the time stipulated and in view of the violation of Rule 19 of the Rules, the respondent-MUDA by letter dt. 29.7.2011 Annexure-A cancelled the allotment. It appears that allottees similarly circumstanced having petitioned the Government, a lenient view was directed to be taken entitling the allottees to pay the balance amount together with interest. Petitioner's request for similar such benefit when denied led to filing W.P. 10748/2007 which was disposed of on 9.4.2008 entitling the petitioner to allotment, which when not complied with has preferred this petition for the following reliefs:

i) Issue a writ in the nature of Certiorari quashing Annexure-A dated 29.07.2011 in No. MYN.Pra/Va-A-5/309/2011-12 issued by the 3rd respondent.

ii) Issue a writ of Mandamus directing the 2nd respondent to accept the sital value of site No. 3419 of Devanur 3rd State, Mysore, along with the penal interest in terms of Annexure-D and execute the sale deed in favour of the petitioner.

17. Petition though not opposed by filing statement of objections nevertheless learned counsel for respondent-MUDA with reference to the records submits that though the petitioner was extended the allotment of a Site, nevertheless failed to make payment within the time stipulated. According to the learned Counsel, W.P. No. 10748/2007 filed by the petitioner was disposed of on 9.04.2008 on certain directions issued by the State Government, nevertheless, since the State Government by order dated 22.09.2007, directed not to receive any payments from persons whose allotment of sites have been cancelled and therefore, the petition is not maintainable.

W.P. 13692/10-K.B. Pramila

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 1989 measuring 50" x 80 " Sathagalli II Stage, as communicated in the letter dated 29.8.2000 Annexure-E requiring the petitioner to pay Rs. 41,250/- in addition to Rs. 9,300/- in deposit, being 15% of Rs. 2,75,000/- the total value of the site and to pay the remaining Rs. 2,24,450/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, the respondent-MUDA by order dated 19.11.2002 Annexure-G cancelled the allotment. Petitioner addressed an undated letter Annexure-B to MUDA and another letter an acknowledgement of which issued by the respondent-MUDA on 1.3.2010 Annexure-B1 leading to the information that the allotment was cancelled on 19.11.2002 by endorsement dated 9.3.2010 Annexure-C. Hence this writ petition filed on 21.4.2010 for the following reliefs.

a) Issue a writ or order in the nature of certiorari by quashing the endorsement

bearing No. My.na.Pra/Ma.A. 6/387/2009, dated 09.03.2010 vide Annexure-C issued by the respondent.

(a-1) Issue a writ of certiorari quashing the order passed by the respondent vide No. MUDA/Nisha/02.03/2831/UM 85, dated 19.11.2002 vide annexure-G to this Petition.

b) Issue a writ or order in the nature of mandamus directing the respondent authority to re allot the site No. 1989, measuring 50 x 80 feet, Sathagalli Layout, 2nd stage, Mysore and convey the said site to the petitioner by executing a registered sale deed by receiving the balance of sital value by considering the representation vide Annexure-B to the writ petition.

18. Petition is opposed by filing statement of objections inter alia contending that the allotment letter when mailed to the petitioner at the address as shown in the application was returned with the postal endorsement "no such addressee in this door number" Annexures-R1 and R2. Petitioner when extended yet another opportunity by endorsement dated 3.8.2002 to pay the balance within 30 days therefrom was returned with the Spl. Revenue Inspector of MUDA with an endorsement that the applicant is not residing at the address, Annexure-R3. Hence the allotment was cancelled by order dated 19.11.2002 which when mailed to the petitioner was returned with the endorsement of the postal authorities stating "address not found" Annexures-R4 and R5. For the first time on 1.3.2010 Annexure-R6 petitioner submitted a representation that she had come to know about the allotment and as she had changed her residence, and had informed about the said change of address, which was factually incorrect. In the absence of particulars of the date on which the change of address had taken place, no relief is permissible. The falsity of the claim, it is said, is established by the address shown in the letter dated 30.4.2010 Annexure-R7 which is the same as shown in the application form for allotment of site filed on 20.3.1989 Annexure-D. The petition filed calling in question the cancellation of the year 2002 is beyond time.

W.P. 23946/12-M.N. Ramesh

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 1733 measuring 30" x 40" at Hanchya and Sathagally B zone, as communicated in the letter dated 14.7.2003 Annexure-C requiring the petitioner to pay Rs. 58,500/- in addition to Rs. 2,500/- in deposit, being the total value of the site within 30 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules. It appears petitioner addressed a letter, dated 25.5.2005 Annexure-D stating that he had changed his residence and to furnish him copy of allotment letter. On enquiry petitioner states that he was informed of the cancellation of the allotment for non payment. Petitioner further states that on 7.6.2005 addressed a letter to the Commissioner, Annexure-E and having made an application for issue of the cancellation order noticed that the postal cover and

acknowledgement Annexures-F, G and H did not pertain to notice for payment. In addition it is stated that the petitioner had financial difficulties and respondent-MUDA having not made a demand did not make the payment. According to the petitioner several similarly placed allottees made representation to the Govt. which issued certain directions to the MUDA relaxing the schedule of payment of the value of the site, however with interest. Petitioner asserts that about 95 allottees whose allotment when cancelled filed writ petitions leading to W.A. 499/2011 whence the Division Bench extended the benefit of allotment and conveyance of the sites cancelled. Hence this petition for the following reliefs:

a) Issue a writ of certiorari to quash the Endorsement dated: 6-9-2011 in No. VA.I.AKACHERI-6/105/11-12 issued by the Respondent No. 3 and also quashing the Government order No. NAHAE.441 APRA 2008, Bangalore dated: 10-12-2009 passed by the Respondent No. 1 vide Annexures-A and B in so far as the petitioner is concerned and consequently:

b) Direct Respondent No. 2 to execute the Sale Deed in favour of the Petitioner in respect of Site No. 1733 formed by the Respondent No. 2 in the layout called by name Hanchya-Sathagalli "B" Zone, Mysore measuring an extent of 30 X 40 (9X12 Mtrs).

19. Petition though not opposed by filing statement of objections nevertheless learned counsel for respondent-MUDA on the basis of the records submits that petitioner's application dated 6.3.1991 fructified into the allotment and that the letter allotment was mailed to the address shown in the application which was returned by the postal authorities with the endorsement "no such addressee", on 7.10.2003. Respondent is said to have issued a paper publication on 27.9.2003 and 20.7.2004 in Times of India" calling upon persons who had not received the allotment letter through post, to go over to the office receive allotment letter and pay the sital value. Since there was no response the allotment was cancelled by order dated 9.9.2004 and mailed to the petitioner on 30.9.2004. An unsigned representation dated 25.5.2005 stating that the petitioner had not received the allotment letter due to change of address was not acted upon. However, the claim of the petitioner that on 7.6.2005 he made a representation in response to a public notice dated 27.5.2005, it is submitted is incorrect. It is further submitted that Annexure-A endorsement is an intimation dated 6.9.2011 that the site allotted to the petitioner had been cancelled on 9.9.2004 and having not questioned that cancellation writ is not maintainable.

W.P. 24502-507/12

In W.P. No. 24502/12: N. Parameshwara

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 1895 measuring 30" x 40" at Hanchya and Sathagally B-zone, as communicated in the letter dated 16.7.2002 Annexure-B1 (True Copy) requiring the petitioner to pay Rs. 58,500/- in addition to Rs. 2,500/- in deposit, being the total value of the site and to pay within 90 days therefrom. Petitioner admittedly

did not pay the said sum within the time stipulated hence was in violation of Rule 19 of the Rules, 1991.

In W.P. No. 24503/12: S.C. Rajashekar

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 3221 measuring 40" x 60" at Devanur III Stage, as communicated in the letter dated 16.7.2002 Annexure-B2 (Typed copy) requiring the petitioner to pay Rs. 1,57,050/- in addition to Rs. 6,250/- in deposit, being the total value of the site and to pay the balance of Rs. 1,57,050/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated hence was in violation of Rule 19 of the Rules 1991.

In W.P. No. 24504/12: Meer Azmatulla

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 2134 measuring 40" x 60" at Devanur II Stage, as communicated in the letter dated 27.9.1991 Annexure-B3 requiring the petitioner to pay Rs. 39,902/- in addition to Rs. 4538/- in deposit and Rs. 500/- registration fee and to pay the balance value of the site of Rs. 39,902/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment.

In W.P. No. 24505/12: Srikanta

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 3418 measuring 30" x 40" at Devanur III Stage, as communicated in letter dated 25.2.2001 Annexure-B4 (typed copy) requiring the petitioner to pay Rs. 9,150/-/- in addition to Rs. 2,500/- in deposit, being 15% of Rs. 61,000/- of the total value of the site and to pay remaining Rs. 49,350/-within 60 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated hence in violation of Rule 19 of the Rules.

In W.P. No. 24506/12: A. Shylan

Petitioner's application to the respondent-"MUDA" is said to have fructified into an allotment of site No. 4253 measuring 20" x 30" at Vijayanagar II Stage, without furnishing the allotment letter except for a typed copy of an affidavit declaring himself to belong to schedule caste Annexure-A5 and a typed copy of a final notice dated 7.1.1998 Annexure-B5 to furnish material particulars and photograph. Petitioner admittedly did not pay the said sum within the time stipulated hence in violation of Rule 19 of the Rules.

In W.P. No. 24507/12: Srinivasa S.

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 2628 measuring 40" x 60" at Devanur III Stage, as communicated in letter dated 25.2.2001 Annexure-B6 requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 5625/- in deposit, being 15% of Rs. 1,60,000/- of the total value of the site and to pay remaining Rs. 1,30,375/- within 90 days therefrom.

Petitioner admittedly did not pay the said sum within the time stipulated hence in violation of Rule 19 of the Rules.

It is stated that persons similarly situated addressed letter to the Secretary, Urban Development, Karnataka State and the Under Secretary, who directed the respondent-MUDA to consider the case of the said persons. Petitioners assert that they are entitled to similar treatment extended to other allottees whose allotments were cancelled for non payment and thereafter retrieved, have filed these petitions for the following reliefs:

a) Issue a writ in the nature of mandamus directing the respondents to receive/ accept the unpaid balance amount of the site value with penal interest from the petitioners and execute lease cum sale deed in favour of the petitioner No. 1 to site bearing No. 1895 measuring 30 X 40 ft in Hanchya and Sathagalli B-Zone to the Petitioner No. 2 site bearing No. 3221 measuring 40 X 60 ft in Devanuru 3rd stage and the petitioner No. 3 site No. 2134 measuring 40 x 60 ft and the petitioner No. 4 site bearing No. 3418 measuring 30 X 40 ft in Devanuru 3rd stage and the petitioner No. 6 No. 2628 measuring 30 X 40 ft in Devanuru 3rd stage and the petitioner No. 5 to site No. 4253 measuring 20 X 30 ft in Vijayanagar 2nd stage Mysore.

Petitions though not opposed by filing statement of objections, nevertheless learned counsel for the respondent with reference to the records submits that petitioner in W.P. 24502/12 was allotted site 1895, petitioner in W.P. 24503/12 was allotted site 3221, petitioner in W.P. 24504/12 was allotted site 2134, petitioner in W.P. 24505/12 was allotted site No. 3418, and petitioner in W.P. No. 24507/12 was allotted site No. 2628 and petitioner in W.P. 24506/12 no records were available relating to alleged allotment. According to the learned counsel petitioner in W.P. 24502/12 made a representation on 28.1.2005 which was responded to on 2.3.2005 declining the request to allot the site since cancelled. It is submitted that none of the other petitioners made any request. Learned counsel hastens to add that petitioners having not called in question the orders of cancellation and having not responded to the paper publication in Times of India" on 27.9.2003 and 20.7.2004, are disentitled to any relief.

W.P. No. 29237/12-T. Raghavendra Acharya

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1273 measuring 40" x 60" at Hanchya and Sathagally A-zone, as communicated in the letter dated 20.6.2001 Annexure-B requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 4,538/- in deposit, being 15% of Rs. 1,60,000/- the total value of the site and to pay the remaining Rs. 1,31,462/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, 1991, the respondent-MUDA by order dated 3.12.2002 as indicated in the endorsement dated 20.8.2008 Annexure-F cancelled the allotment. Petitioner claims to have addressed a letter to the respondent-MUDA whence the State of Karnataka by

communication dated 13.2.2006 Annexure-C permitted the petitioner to pay the site value together with interest. The petitioner's repeated request to accept payment was declined by MUDA vide endorsement dated 20.8.2008 Annexure-F. Hence this petition for the following reliefs:

i) Issue a writ of certiorari to quash Annexure-F the endorsement dated 20.08.2008 issued by the 2nd respondent No. 5/108/2008-09 Issue a writ of mandamus directing the 1st respondent to comply with the direction issued by the 3rd respondent as per Annexure-C dated 13.02.06 in No. 731/05 within a specified period.

ii) In the alternative issue a writ of mandamus directing the 1st respondent to allot any other site measuring 40 x 60 ft in the layout formed by 1st respondent within a specified period.

20. Petition though not opposed by filing statement of objections nevertheless, learned counsel for the respondent-MUDA with reference to records submits that the petitioner's application dated 7.3.1989 under the Public Sector Employees quota was allotted a site in question and on receipt of the allotment letter did not pay the amounts indicated therein within the time stipulated, hence endorsement dated 20.8.2002 was issued to which too petitioner did not respond and therefore, the allotment was cancelled on 3.12.2002. Learned counsel submits that though the Govt. had issued certain instructions on the basis of petitioner's representation nevertheless subsequently the Govt. issued directions not to take action to restore allotment of sites cancelled for non-payment. Petitioner having approached the court after ten years of cancellation, it is submitted petition is not maintainable.

W.P. Nos. 30085-94/12 (Common petitions)

W.P. 30085/12-Umesh

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 3122 measuring 30" x 40" at Devanur III Stage, as communicated in the letter dated 14.7.2003 Annexure-A requiring the petitioner to pay Rs. 58,500/- in addition to Rs. 2,500/- in deposit, being the total value of the site within 30 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of Rules, 1991, the respondent-MUDA by order dated 25.9.2004 cancelled the allotment. It appears petitioner addressed a letter, undated, Annexure-F to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter directed the respondent-MUDA to consider the case of the petitioner. It is stated that persons similarly situated addressed letter to the Secretary, Urban Development, Karnataka State and the Under Secretary, dated 29.3.2006 Annexure-G directed the respondent-MUDA to consider the case of the said persons. When not considered filed a petition for a writ of mandamus.

W.P. 30086/12-Ramappa

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1933 measuring 50" x 80" at Hanchya and Sathahalli B zone, as communicated in the letter dated 14.7.2003 requiring the petitioner to pay the value of the site Rs. 3,03,000/-excluding Rs. 12,600/- in deposit, within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 21.8.2004 cancelled the allotment. It appears petitioner addressed a letter dt. 30.9.2004 Annexure-B stating that he had not received the letter of allotment and that he had informed MUDA about the change of address by registered post with a request to re-allot the site and failing which to atleast refund the initial deposit. By another letter dt. 6.6.2005 Annexure-B1 petitioner requested to consider re-allotment of the site. It appears that the petitioner addressed a letter dated 5.1.2006 Annexure-F1 to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 6.4.2006 Annexure-G1 directed the respondent-MUDA to consider the case of the petitioner.

W.P. 30087/12-Ramesh Kumar

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 737 measuring 30" x 40" at Devanur III Stage, as communicated in the letter dated 25.2.2001 Annexure-A1 requiring the petitioner to pay the value of the site Rs. 49,350/- in addition to Rs. 9,150/- and Rs. 2500/- in deposit being the total value of the site, within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 31.3.2005 cancelled the allotment. It appears petitioner addressed a letter dt. 22.2.2006 Annexure-F2 to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 4.3.2006 Annexure-G2 directed the respondent-MUDA to consider the case of the petitioner.

It appears that the petitioner addressed a letter dated 5.1.2006 Annexure-F1 to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter directed the respondent-MUDA to consider the case of the petitioner.

It is stated that persons similarly situated addressed letter to the Secretary, Urban Development, Karnataka State and the Under Secretary, dated 29.3.2006 Annexure-G directed the respondent-MUDA to consider the case of the said persons. When not considered filed a petition for a writ of mandamus.

W.P. 30088/12-Ningappa T.R.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1736 measuring 40" x 60" at Devanur III Stage, as communicated in the letter dated 25.2.2001 Annexure-A2 requiring the petitioner to pay the value of the site Rs. 24,000/- in addition to Rs. 5,625/- in deposit being 15% of Rs. 1,60,000/- the total value of the site and to pay the remaining Rs. 1,30,375/-,

within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 15.4.2005 cancelled the allotment. It appears petitioner addressed a letter to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 4.5.2006 Annexure-G3 directed the respondent-MUDA to consider the case of the petitioner.

W.P. 30089/12-P.S. Ganesh Prasad

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 10654 measuring 30" X 40" at Vijayanagar IV Stage, II Phase, as communicated in the letter dated 28.8.1998 Annexure-A3 requiring the petitioner to pay the value of the site Rs. 5,250/- in addition to Rs. 2,500/- in deposit being 15% of Rs. 35,000/- the total value of the site and to pay the remaining Rs. 27,250/-, within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 31.3.2005 cancelled the allotment. It appears petitioner addressed an undated letter Annexure-F3 to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 28.12.2005 Annexure-G4 directed the respondent-MUDA to consider the case of the petitioner.

W.P. 30090/12-M. Narayanappa

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 11425 measuring 30" x 40" at Vijayanagara IV Stage, II Phase, as communicated in the letter dated 31.7.1998 (note produced). Petitioner admittedly did not pay the value of the site within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. Petitioner is said to have addressed a letter dt. 20.1.2006 Annexure-B2, to MUDA, in response to the order dated 1.8.2005/17.1.2006 cancelling the allotment, stating that he has not received the allotment letter and that he would pay the value of the site on 23.1.2006 and as also submit caste proof certificate. It appears petitioner addressed a letter to the Secretary, Urban Development, Karnataka State. The MUDA is said to have addressed a letter dated 3.2.2006 Annexure-C to the Under Secretary, Urban Development seeking orders over the claim of the petitioner. In response the under Secretary by letter dated 27.2.2006 Annexure-G5 directed consideration of petitioner's representation.

W.P. 30091/12- P. Puttaswamy

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 2688 measuring 50" x 80" at Vijayanagar 4th Stage, 2nd Phase, as communicated in the letter dated 31.7.1998 (not produced). Petitioner admittedly did not pay the value of the site within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 18.4.2006 Annexure-G6 directed the respondent-MUDA to consider the case of

the petitioner.

W.P. 30092/12-B.S. Prakash

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 2539 measuring 50 x 80" at Vijayanagar IV Stage, II Phase, as communicated in the letter dated 28.8.1998 Annexure-A4 requiring the petitioner to pay Rs. 33,000/- in addition to Rs. 9,300/- in deposit being 15% of Rs. 2,20,000/- the total value of the site and to pay the remaining Rs. 1,77,700, within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 31.3.2005 cancelled the allotment. It appears that petitioner addressed a letter dt. 1.3.2005 Annexure-B3 in response to the letter dated 18.1.2005 of MUDA calling upon the petitioner to furnish particulars of payments made towards value of site, admitting the fact of having received the allotment letter dated 28.8.1998 and as he was financially not well placed, he could not make the payment. By yet another letter dated 7.4.2005 Annexure-B4 addressed to the Secretary, Urban Development, Karnataka State, was not responsive. Petitioner addressed another letter dt. 21.3.2006 Annexure-F4 to the Under Secretary, Urban Development whence the Under Secretary by letter dated 29.3.2006 Annexure-G7 directed the respondent-MUDA to consider the case of the petitioner.

W.P. 30093/12-Usha Kalro

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 911 measuring 40" x 60" at Devanur III Stage, as communicated in the letter dated 23.1.1989 Annexure-A5 requiring the petitioner to pay Rs. 4,538/- being 12 1/2% of Rs. 36,300/- the total value of the site and to pay the remaining Rs. 26,774/-, within 90 days therefrom. Petitioner admittedly did not pay the value of the site within the time stipulated in the letter of allotment. The respondent-MUDA by order dated 4.4.1998 cancelled the allotment. It appears petitioner addressed an undated letter Annexure-F5 to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 4.5.2006 Annexure-G8 directed the respondent-MUDA to consider the case of the petitioner.

W.P. 30094/12-M. Mallesha

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 11143 measuring 40" x 60" at Vijayanagar IV stage, II phase, as communicated in the letter dated 31.7.1998 (not produced). Petitioner admits to have not paid the value of the site within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 4.3.2006, cancelled the allotment. The Secretary, Urban Development, Karnataka State, by letter dated 8.3.2006 Annexure-G9 directed the respondent-MUDA to consider the case of the petitioner.

Petitioners assert that they are entitled to similar treatment extended to other allottees whose allotments were cancelled for non payment and thereafter retrieved, have filed these petitions for the following reliefs:

Issue a Writ or Order in the nature of mandamus directing the Respondent No. 2 to execute an Absolute Sale Deeds in favour of the

by receiving the balance amount of sital value with interest in the terms of the Order dated 30.01.2012 passed by the Division Bench of this Hon"ble Court in W.A. No. 499/2011 and connected matters vide Annexure "Q"

The common petitions are opposed by filing statement of objections of the respondent inter alia contending that the State Govt. though issued instructions during the year 2005, nevertheless in the year 2006 and thereafter retracted from the instructions and directed the respondent-MUDA not to re-allot sites, the allotment of which were cancelled for non payment of value of the site within the time stipulated. In addition, it is contended that petitioners having admitted to have not paid the value of the site in terms of the allotment letter and the Rules stipulating the period within which such payment is to be made and the cancellation orders when not called in question while there is inordinate delay in filing the petitions, petitioners are not entitled to any relief.

21. It is specifically pleaded that the petitioner B. Umesh in W.P. 30085/2012 made a representation to the govt. that he did not pay the value of the site in time due to financial difficulties and therefore, cannot be heard to contend that he was not aware of the cancellation of the site for non payment. According to the learned counsel despite the paper publication dated 4.8.2004 petitioner did not choose to make the payment.

22. As regards B. Ramappa, petitioner in W.P. 30086/2012 it is submitted is a retired superintending engineer to whom the letter of allotment despatched by post returned with an endorsement "no such addressee" as contended by the learned counsel for the respondent-MUDA on the basis of the records in his possession. In the letter dt. 30.9.2004 addressed to MUDA petitioner "sought refund of the deposit". It appears that one K.M. Krishnamurthy, MLA of Kadur addressed a letter dt. 7.7.2005 stating that petitioner was suffering from illness and therefore did not respond to the paper publication and a copy of that letter is at Annexure-R15.

23. As regards Ramesh Kumar, petitioner in W.P. 30087/12 on receipt of the allotment letter petitioner paid Rs. 9,150/- but failed to pay the balance within 90 days from 5.9.2001. Though a notice dt. 21.11.2002 Annexure-R16 was issued, it was returned by the postal authorities with the endorsement "no such addressee", where after wards by order dt. 31.3.2005 Annexure-R17 the allotment was cancelled. By representations dt. 22.3.2006, 16.6.2008 and 25.2.2012 request was made to restore the allotment which was responded to by letter dated 2.7.2012 rejecting the request.

In the case of Ningappa, petitioner in W.P. 30088/12, having admitted to have received the allotment letter on 20.6.2001 stated that he did not make the payment as his mother was suffering from serious ailment and was hospitalised. Having received the cancellation order dt. 15.4.2005, he submitted a representation dt. 25.8.2005 to the Governor of Karnataka Annexure-R18. In the absence of a challenge to the cancellation order, it is stated petition is not maintainable.

Subramanya Acharya, the allottee in W.P. 30089/12 when allotted a site on 28.8.1998 and by the time it was communicated he was reported to have died. His legal representative in W.P. No. 30089/12 having sought for transfer of allotment was permitted and he personally collected the letter of allotment on 16.12.2002 and did not make payment of the value of the site. Petitioners' representation dt. 4.6.2003 Annexure-R19 was responded to on the very same day to pay the entire site value with interest on that day itself. Petitioner having failed to comply with the said direction, MUDA issued notice dt. 31.1.2005, where after wards since payment was not forthcoming allotment was cancelled. The communication of the cancellation by post was returned with the endorsement "addressee not residing at the address" and "no such person in the address". Petitioners having approached the Under Secretary to Govt. on 19.12.2005 Annexure-R20 requesting extension of time for payment and to forward the letter of allotment to his address although he had received in person the allotment letter was responded to by letter dated 28.12.2005 instructing the Commissioner to take action. Regard being had to the fact that petitioner had personally received the allotment letter and had failed to pay the value of the site, the cancellation was not interfered with. More over it is stated that cancellation letter addressed to the petitioner at the mailing address furnished by him when returned with the endorsement "no such person at the address", the writ petition filed in the year 2005 does not deserve consideration.

As regards Narayanappa, petitioner in W.P. 30090/2012 claiming to belong to Schedule caste without enclosing the required certificate, on 28.8.1998 was informed to furnish the certificate. That letter addressed to the mailing address as set out in the application form was returned with a postal endorsement "no such person". The reminder dt. 3.2.2005 met with the same fate. Despite paper publication on 8.6.2005 to claim the allotment letter after producing necessary records, there was no compliance. Hence the allotment was cancelled by order dated 17.1.2006 to which petitioner responded by letter dt. 20.1.2006. The address furnished in the application was No. 78, Vth Cross, Channarayappa street, Vasanth Nagar, Mysore-1, while in the petitioner's letter dated 20.1.2006 the address is shown as No. 78, Vth Cross, Channarayappa Street, Vasanth Nagar, Bangalore-52, petitioner was unable to furnish the receipts for having paid the initial amount on the premise that he had lost the receipt. Although initially on 27.2.2006 the Under Secretary to govt. communicated instructions to take action on the letter of the petitioner, nevertheless by letter dated 12.5.2006 instructions were issued staying all action pursuant to letters issued after

27.12.2005 and on 17.3.2008 petitioner was informed that restoration of the allotment is impermissible.

In the case of Puttaswamy in W.P. No. 30091/12 the site allotted on 8.9.1994, except for the initial deposit of Rs. 3,024/- did not make further payment and hence a reminder dt. 5.12.1997 was issued which was also not responsive and hence the allotment was cancelled. Petitioner is said to have borrowed a loan from Karnataka State Financial Corporation, as indicated in its letter dt. 29.12.2008 Annexure-R22 to set up a mineral water plant on the said site though loan could have been taken only for the purpose of construction of a house.

Petitioner B.S. Prakash in W.P. 30092/2012 having received the allotment letter paid Rs. 9,300/- and thereafter failed to pay the balance despite the reminder dt. 14.8.2000 Annexure-R23. On 29.1.2001 petitioner wrote a letter Annexure-R24 that as the layout was not developed the demand for payment of balance of value of site is unfair. Petitioner's representations for waiver of interest was rejected and thereafter wads by order dated 30.3.2005 the allotment was cancelled. Petitioner, it is said is under the services under the State as an Asst. Engineer in the Irrigation Department, on deputation to BBMP as Asst. Executive Engineer. Though the Urban Development Department, at first, instructed MUDA to consider petitioner's representation but later on issued directions not to do so.

Usha Kalro, the petitioner in W.P. 30093/12 having not paid the balance sital value the allotment was canceled on 17.4.1998. 11 years after the cancellation petitioner on 22.5.2009 Annexure-R26 stated that her husband was unwell and having changed her residence did not receive the allotment letter and having no house at Mysore the site be restored. The request of the petitioner when rejected was accordingly communicated to the Chief Minister's on 24.7.2009.

Petitioner in W.P. 30094/12 by name Mallesh claiming to belong to backward tribe when asked on 28.8.1998 to produce the certificate so as to issue an allotment letter was not complied with and therefore, the proposed allotment was cancelled on 10.3.2006. It is stated that the communication dated 27.2.2006 annexed to the petition was not received by the respondent. In fact the State Govt. by letter dated 31.1.2009 instructed MUDA not to consider the request for restoration of the cancelled site.

W.P. 41132/12-Nirmala S.R.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1300 measuring 50" x 80" at Devanur III Stage as communicated in the letter dated 25.2.2001 Annexure-B requiring the petitioner to pay Rs. 45,450/- in addition to Rs. 18,225/- in deposit, being 15% of Rs. 3,03,000/- the total value of the site and to pay the remaining Rs. 2,39,325/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 30.4.2012 Annexure-A cancelled the allotment. Petitioner submits

that she paid Rs. 15,000/-, 1,80,000/- and Rs. 1,00,000/- on 17.10.2005 and 31.5.2006 by way of deposit through challans Annexures-D, DI and D2 respectively. Hence the writ petition for the following reliefs.

a) Issue a Writ or order in the nature of certiorari quashing order bearing No. My.Na.Pra/Va.Aa-5/684/2011-12 dated 30.04.2012 passed by the Respondent vide Annexures-"A".

b) Issue a writ or order in the nature of mandamus directing the Respondent to execute an Absolute Sale Deed in favour of the Petitioner thereby conveying the absolute title over the Site bearing No. 1300 measuring 50 x 80 feet in the Layout called Devanur III Stage, Mysore.

24. Petition though not opposed by filing statement of objections, nevertheless the learned counsel for the respondent with reference to original records submits that since the value of the site was not paid within the time stipulated and payments made subsequently and regard being had to the undated representation received on 9.10.2005 stating that she could not pay the value of the site due to financial difficulties, coupled with the fact that she is the wife of K.S. Ningappa, the Commissioner of the Authority during the period 1993-95, the cancellation of the allotment is in accordance with law.

W.P. 42276/12-N.C. Latha

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 2414 measuring 40" x 60" at Devanur III Stage as communicated in the letter dated 25.2.2001 Annexure-B requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 5625/- in deposit, being 15% of Rs. 1,60,000/- the total value of the site and to pay the remaining Rs. 1,30,375/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 24.3.2005 Annexure-F cancelled the allotment. Petitioner submits that on 12.9.2002 and 31.1.2005 reminders Annexures-C and D were issued to the petitioner for payment of the sital value and that petitioner was not in a position financially to pay the said sum. Petitioner by letter dated 8.2.2005 Annexure-E stated that she was not in a position to pay the sital amount. Petitioner claims benefits which similarly placed allottees were extended by orders of this court. Hence this petition for the following reliefs.

i) Quash the Letter/Order dated 23.04.2007 passed by the Respondent No. 1 in No. NA.HA.E.513 MAINAPRA 2005 vide Annexure-A in so far as the petitioner is concerned and consequently.

ii) Direct the Respondent No. 2 to execute the sale Deed in favour of the Petitioner in respect of Site No. 2414 formed by the Respondent No. 2 in the layout called by name Devanur III Stage, Mysore measuring an extent of 40" x 60" by accepting the amount fixed by the MUDA at the time of allotment.

25. Petition though not opposed by filing statement of objections, nevertheless

the learned counsel for the respondent with reference to original records submits that the facts set out in the petition as regards allotment and cancellation for non payment despite the reminders are admitted. Having remained silent for several years the filing of the petition on 16.10.2012 suffers from delay and laches. Petitioner being a fence sitter is not entitled to any relief.

W.P. Nos. 46580-56594/12

W.P. 46580/12 Smt. Mushrat Iqbal

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 2129 measuring 40" x 60" at Devanur III Stage as communicated in the letter dated 25.2.2001 Annexure-A requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 5625/- in deposit, being 15% of Rs. 1,60,000/- the total value of the site and to pay the remaining Rs. 1,30,375/- within 90 days therefrom.

W.P. 46581/12-Sudha Subramanya

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 2787 measuring 40" x 60" at Devanur III Stage as communicated in the letter dated 25.2.2001 Annexure-A1 requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 5625/- in deposit, being 15% of Rs. 1,60,000/- the total value of the site and to pay the remaining Rs. 1,30,375/- within 90 days therefrom.

W.P. 46582/12-Bhagya A.J.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1331 measuring 50" x 80" at Devanur III Stage as communicated in the letter dated 25.2.2001 Annexure-A2 requiring the petitioner to pay Rs. 45,450/- in addition to Rs. 11250/- in deposit, being 15% of Rs. 3,03,000/- the total value of the site and to pay the remaining Rs. 2,46,300/- within 90 days therefrom.

W.P. 46583/12-Nagarathna K.M.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 572 measuring 40" x 60" at Hanchya and Sathagally B Zone as communicated in the letter dated 25.2.2001 Annexure-A3 requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 1350/- in deposit, being 15% of Rs. 1,60,000/- the total value of the site and to pay the remaining Rs. 1,34,650/- within 90 days therefrom.

W.P. 46584/12-Shiva Prasad

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 288 measuring 30" x 40" at Nachanahalli-Kuppalur III Stage as communicated in the letter dated 14.7.2003 Annexure-A4 requiring the petitioner to pay Rs. 60,400/- in addition to Rs. 600/- in deposit against the total value of Rs. 61,000/- within 30 days therefrom.

W.P. 46585/12-Bojamma M.P.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 239 measuring 40" x 60" at Devanur III Stage as communicated in the letter dated 14.7.2003 Annexure-A5 requiring the petitioner to pay Rs. 1,53,750/- in addition to Rs. 6250/- in deposit, being the total value of the site Rs. 1,60,000/-.

W.P. 46586/12-Dr. S. Murali Krishna

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1380 measuring 50" x 80" at Devanur III Stage as communicated in the letter dated 25.2.2001 Annexure-A6 requiring the petitioner to pay Rs. 45,450/- in addition to Rs. 11250/- in deposit, being 15% of Rs. 3,03,000/- the total value of the site and to pay the remaining Rs. 2,46,300/- within 90 days therefrom.

W.P. 46587/12-Javarappa J.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 508 measuring 30 x 40" K.M. Halli as communicated in the letter dated 23.1.1989 Annexure-A7 requiring the petitioner to pay Rs. 2,210/- in addition to Rs. 885/- in deposit, being 12 1/2 % of Rs. 17700/- the total value of the site and to pay the remaining Rs. 14,380/- within 90 days therefrom.

W.P. 46588/12-Ashok Kumar K.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 3736 measuring 40" x 60" at Devanur III Stage as communicated in the letter dated 14.7.2003 Annexure-A8 requiring the petitioner to pay Rs. 1,53,750/- in addition to Rs. 6250/- in deposit, being the total value of the site Rs. 1,60,000/- within 30 days.

W.P. 46589/12-Rose Mary

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 10787 measuring 30" x 40" at Vijayanagar IV Stage, II Phase as communicated in the letter dated 28.8.1998 Annexure-A9 requiring the petitioner to pay Rs. 5,250/- in addition to Rs. 2500/- in deposit, being 15% of 35,000/- of the total value of the site and to pay the balance of Rs. 27,250/- within 90 days.

W.P. 46590/12-Sareen Kumar C.M.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 428 measuring 30" x 40" at Sathagally as communicated in the letter dated 24.3.2001 Annexure-A10 requiring the petitioner to pay Rs. 9,075/- in addition to Rs. 6500/- in deposit, being 15% of Rs. 60,500/- the total value of the site and to pay the remaining Rs. 44,925/- within 90 days therefrom.

W.P. 40591/12-Merry Philomina

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 2047 measuring 20" x 30" at Devanur III Stage, communicated in the

letter dated 25.2.2001 Annexure-A11 requiring the petitioner to pay Rs. 3,300/- in addition to Rs. 750/- in deposit, being 15% of Rs. 22,000/- the total value of the site and to pay the remaining Rs. 17,950/- within 90 days therefrom.

W.P. 46592/12-Vimala S.N.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1613 measuring 20" x 30" at Devanur III Stage as communicated in the letter dated 25.2.2001 Annexure-A12 requiring the petitioner to pay Rs. 3,300/- in addition to Rs. 750/- in deposit, being 15% of Rs. 22,000/- the total value of the site and to pay the remaining Rs. 17,950/- within 90 days therefrom.

W.P. 46593/12-Latha E.T.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 4872 measuring 40" x 60" at Sathagally II Stage as communicated in the letter dated 29.8.2000 Annexure-A13 requiring the petitioner to pay Rs. 21,750/- in addition to Rs. 5,000/- in deposit, being 15% of the total value of the site of Rs. 1,45,000/- and to pay the balance of Rs. 1,18,250/- within 90 days.

W.P. 46594/12-Yuvaraj K.M.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 5338 measuring 40" x 60" at Sathagally II Stage as communicated in the letter dated 29.8.2000 Annexure-A14 requiring the petitioner to pay Rs. 21,750/- in addition to Rs. 6,250/- in deposit, being 15% of the total value of the site of Rs. 1,45,000/- and to pay the balance of Rs. 1,17,000/- within 90 days.

Petitioners admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment on various dates between 2004 and 2005. Some of the petitioners i.e. Javarappa J (IN W.P. 46587/12); Rose Mary (W.P. 46589/12); Sareen Kumar C.M. (W.P. 46590/12); Merry Philomena (W.P. 46591/12) and Vimala S.N. (W.P. 46592/12) made payment of 15% of the initial deposit and failed to make payment of the balance, the other petitioners did not even pay the initial deposit, much less the balance. However, first, second, third, fifth, seventh, ninth, tenth, eleventh and twelfth petitioners made representations during 2005 and 2006 to the State govt. to restore the allotment since they had not paid the sital value. These representations when not considered while one Ravishankar who was also a defaulter when extended the benefit of restoration of the allotment, have presented these petitions for the following reliefs:

a) Issue a writ or order in the nature of certiorari quashing the Endorsement bearing No. my.Aa.Pra/Vi.Tha.5/2012-13 dated 31.10.2012 issued by the respondent No. 2 to the Petitioner No. 1 vide Annexure "Z" and

ii) Issue a writ or order in the nature of mandamus directing the Respondent No. 2 to execute an Absolute Sale Deeds in favour of the

by receiving the balance amount of sital value with interest in the terms of the

Order dated 30.01.2012 passed by the Division Bench of this Hon"ble Court in W.A. No. 499/2011 and connected matters vide Annexure "S".

26. Petitions though not opposed by filing statement of objections, nevertheless the learned counsel for the respondent-MUDA with reference to original records submits that since the petitioners had failed to make payment of the value of the site despite receipt of the allotment of sites. Petitioners having not questioned the orders of allotment and having approached the court after delay of more than six years have based their claim on the orders of this court, hence are fence sitters and the petitions deserve to be rejected.

W.P. 46963/12-N. Rama Murthy

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 33 measuring 40" x 60" at Nachanahalli-Kuppalur III Stage, as communicated in the letter dated 14.7.2003 Annexure-A requiring the petitioner to pay Rs. 1,55,462/- in addition to Rs. 4,538/- in deposit as against total value of Rs. 1,60,000/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment. Petitioner is said to have made a representation dt. 27.1.2006 for restoration of allotment which was responded to by reply dated 3.4.2006 stating that the site has been allotted and therefore, cannot be restored. It appears petitioner addressed an undated letter Annexure-B to the Secretary, Urban Development, Karnataka State, whence the Under Secretary by letter dated 5.4.2006 Annexure-D directed the respondent-MUDA to consider the case of the petitioner, which when not acceded, has filed this petition for the following reliefs:

i) Issue a writ or order in the nature of mandamus directing the Respondent No. 2 to execute an Absolute Sale Deeds in favour of the petitioner thereby conveying the Site bearing No. 33 measuring 40 x 60 feet in the Layout called Nachanahalli- Kuppalur III Stage-D by receiving the balance amount of sital value with interest in the terms of the order dated 30.01.2012 passed by the Division Bench of this Hon"ble Court in W.A. No. 499/2011 and connected matters vide Annexure "Q".

27. Petition is not opposed by filing statement of objections of the respondent, however learned counsel for MUDA making reference to the records submits that failure to make payment of the value of the site within the time stipulated by law resulted in the cancellation of the allotment. The instructions issued by the State govt. were not to consider the re-allotment of the site in case of cancellation due to non-payment. Lastly, it is submitted that one Smt. Manjula is the subsequent allottee of the site and on that ground too petitioner is not entitled to any relief. Petitioner being a fence sitter is disentitled to the relief.

W.P. 47870/12-Prabhuswamy:

Petitioner's application to the respondent-"MUDA" fructified into an allotment of

site No. 1333 measuring 50" x 80" at Devanur III Stage, as communicated in the letter dated 25.2.2001 Annexure-B requiring the petitioner to pay Rs. 45,450/- in addition to Rs. 11,250/- in deposit being 15% of Rs. 3,03,000/- being the value of the site and to pay the balance of Rs. 2,46,300/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment by order dt. 28.1.2006 as indicated in the endorsement dt. 19.11.2012 Annexure-A. According to the petitioner the publication in the newspaper dt. 6.5.2005 Annexure-C extended an opportunity to such of those allottees who had not received the allotment letters to approach the authority, obtain allotment letter and pay the value of the site. In response to that paper publication petitioner claims to have addressed a letter dated 9.6.2005 Annexure-D indicating that being a Insurance agent, on the move from one place to another transferred to Bangalore at the address shown in the letter requested for re-consideration. It appears petitioner addressed a to the Secretary, Urban Development, Karnataka State, stating that non-payment was due to financial difficulties, whence the Under Secretary to Chief Minister by letter dated 23.6.2006 Annexure-E directed the respondent-MUDA to consider the case of the petitioner, which was responded to by letter dt. 2.9.2006 Annexure-F informing that the State had directed to keep in abeyance any request for reconsideration of cancellation of allotment. Hence this petition for the following reliefs:

Issue a writ or order in the nature of certiorari quashing the Endorsement bearing No. My.Pra./Va.Aa-5/693/2012-13 dated 19.11.2012 issued by the Respondent No. 2 vide Annexure "A". issue a writ or Order in the nature of mandamus directing the Respondent No. 2 to execute an Absolute Sale Deed thereby conveying the title in respect of the Site bearing No. 1333, measuring 50 X 80 feet in the Layout called Devanur III stage, by receiving allotment value in terms of the order in W.P. No. 22302/2005 dated 18.03.2009 vide Annexure-J.

28. Petition is not opposed by filing statement of objections of the respondent, however learned counsel for MUDA making reference to the records submits that except for the alleged letter dt. 9.6.2005 Annexure-D which is not acknowledged by MUDA the facts are otherwise admitted. Though petitioner was extended an opportunity by letter dt. 11.7.2005 to furnish documents called for in the paper publication Annexure-C failed to do so and hence the cancellation of allotment by order dt. 21.8.2006, petitioner having not called in question the cancellation order, is not entitled to any relief. Petitioner being a fence sitter is disentitled to the relief.

W.P. 50593/12-Shakuntalamma

Petitioner, the widow of one H. Krishnaiah has presented this petition calling in question the govt. order dated 23.4.2007 Annexure-A and the order dated 31.3.2005 cancelling the allotment of site No. 20/42 measuring 40" x 60" at Vijayanagar IV Stage II Phase at Annexure-B by allotment letter dt. 31.7.1998 Annexure-C in favour of Krishnaiah, in addition to relief of writ of mandamus. It

is the allegation of the petitioner that Krishnaiah having made an application secured allotment of a site and paid Rs. 4,538/- along with the application as an initial deposit and when allotted the site though required to pay Rs. 15,000/- which in addition to the deposit is 15% of the total value of the site being Rs. One lakh and required to pay the balance of Rs. 80,462/- within 90 days, nevertheless did not pay the said sum due to financial difficulties and illness of her husband. Petitioner's husband is reported to have died on 31.5.2003 as disclosed in the death certificate Annexure-E, where after wards respondent-MUDA is said to have issued a reminder letter dt. 19.1.2005 Annexure-D to pay the balance of Rs. 95,462/- and therefore, the cancellation of the allotment on 31.3.2005 is illegal. Alleging that similarly placed allottees having had the benefit of several judgments of this court, on the basis of the directions issued by the govt. has presented this petition for the following reliefs:

a) Issue a writ of certiorari to quash the Government Order Letter/Order dated 24.03.2007 passed by the Respondent No. 1 in No. NA.HA.E.513 MAINAPRA 2005 and also cancellation letter dated 31.03.2005 passed by the Respondent No. 2 in No. LP/VOLUME-2004-2005 vide Annexure-A and B in so far as the petitioner is concerned.

b) Direct the Respondent No. 2 to execute the sale Deed in favour of the Petitioner in respect of Site No. 20/42 formed by the Respondent No. 2 in the layout called by name Vijayanagara 4th Stage, II Phase Mysore measuring an extent of 40" x 60" by accepting the amount fixed by the MUDA at the time of allotment.

29. Petition is not opposed by filing statement of objections of the respondent, however learned counsel for MUDA making reference to the records submits that the husband of the petitioner during his lifetime having failed to pay the amount being the value of the site within the time stipulated in terms of the allotment letter and Rule 19 of the Rules, 1991. The cancellation of the allotment by order dt. 31.3.2005 is just and proper. According to the learned counsel submits that the information letter Annexure-D issued to the allottee is to furnish information a/w records relating to monies paid by the allottee in excess of deposit of Rs. 4,538/-, towards payment of the balance value of the site being Rs. 95,462/-, as against the full value of Rs. One lakh for the site allotted. Learned counsel submits that the challenge to the order of cancellation suffers from delay and laches and the petitioner being a fence sitter is not entitled to any relief.

W.P. 2394/13-C. Rajappa Gowda:

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 5289 measuring 50" x 80" at Vijayanagar IV Stage, II Phase, as communicated in the letter dated 24.3.1999 Annexure-B (typed copy) requiring the petitioner to pay Rs. 33,000/- in addition to Rs. 10,080/- in deposit, being 15% of Rs. 2,20,000/- the total value of the site and to pay the remaining Rs. 1,76,920/- within 90 days therefrom. Petitioner admittedly did not pay the said

sum within the time stipulated and in view of the violation of Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment. It appears petitioner addressed a letter, dt. 28.10.1999 stating that Rs. 33,000/- was paid on the very day towards value of the site. MUDA is said to have returned the said sum on 17.1.2000 which was received by the petitioner personally on 20.1.2000. Petitioner alleging that similarly circumstanced allottees whose allotment of sites when cancelled secured the benefit of govt. orders and orders of this court is entitled to the said benefit. Petitioner alleges that the State govt. by communication dated 23.4.2007 Annexure-A was not justified in declining the petitioner the benefit while extending benefit only to 91 allottees. Hence this writ petition for the following reliefs.

a) Issue a writ of certiorari to quash the Government Order Letter/Order dated 23.04.2007 passed by the Respondent No. 1 in No. NA.HA.E.513 MAINAPRA 2005 vide Annexure-A in so far as the petitioner is concerned.

b) Direct the Respondent No. 2 to execute the sale Deed in favour of the Petitioner in respect of Site No. 5289 formed by the Respondent No. 2 in the layout called by name Vijayanagara 4th Stage, II Phase Mysore measuring an extent of 50" x 80" by accepting the amount fixed by the MUDA at the time of allotment.

30. Petition though not opposed by filing statement of objections, learned counsel for respondent-MUDA submits that the payment of Rs. 33,000/- by the petitioner on 28.10.1999 not being within the time stipulated was returned to the petitioner who received the same personally on 20.1.2000. It is further submitted that petition filed 12 years after the cancellation of allotment suffers from delay and laches and that petitioner is a fence sitter disentitled to any relief.

W.P. 2625/13-Cheluvaiah:

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1297 measuring 50" x 80" at Devanur III Stage, as communicated in the letter dated 25.2.2001 (not furnished) requiring the petitioner to pay Rs. 2,99,976/- in addition to Rs. 3,024/- in deposit as against the total value of the site being Rs. 3,03,000/- within 30 days therefrom, as indicated in the endorsement dt. 24.9.2002 Annexure-

B. Petitioner admittedly did not pay the said sum within the time stipulated and in view of the violation of Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment by order dt. 13.2.2003 Annexure-

C. Petitioner asserts that the correspondence between the State govt. and the MUDA Annexures D and E is in the direction of permitting allottees whose allotment of sites were cancelled, to be re-allotted the site subject to certain conditions regarding payment of interest. It is the allegation of the petitioner that the State Government in its letter dt. 23.4.2007 Annexure-A addressed to MUDA illegally directed the benefits to be made applicable to only 91 such allottees.

Hence this petition for the following reliefs:

a) Issue a writ of certiorari to quash Government Order Letter/Order dated 23.04.2007 passed by the Respondent No. 1 NA.HA.E.513 MAINAPRA 2005 vide Annexure-A in so far as the petitioner is concerned.

b) Direct the Respondent No. 2 to execute the sale deed in favour of the petitioner in respect of site No. 1297 formed by the Respondent No. 2 in the layout called by name Devanur III stage, Mysore measuring an extent of 50" x 80" by accepting the amount fixed by the MUDA at the time of allotment.

31. Petition though not opposed by filing statement of objections, learned counsel for respondent-MUDA on the basis of the original records submits that the despite the reminder on 24.9.2002 Annexure-D petitioner did not make the payment of the value of the site. Hence the cancellation order Annexure-C is just and legal. Petition filed after 11 years without calling in question the order of cancellation suffers from delay and laches. Petitioner cannot seek the benefit of orders of the govt. since govt. has retracted from its earlier instructions keeping in mind the statutory provisions. The orders of this court are not applicable to the petitioner's case. Even otherwise petitioner being a fence sitter disentitled to any relief.

W.P. Nos. 12360-12378/13

W.P. 12360/13-B.N. Indira

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 668 measuring 40" x 60" at Hanchya and Sathagally A-zone, as communicated in the letter dated 6.10.2001 Annexure-A requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 4,350/- in deposit, being 15% of Rs. 1,60,000/- the total value of the site and to pay the remaining Rs. 1,31,650/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 Rules, 1991. The respondent-MUDA by order dated 30.3.2005 cancelled the allotment.

W.P. 12361/13 Smt. Jayamma Kariyappa

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1499 measuring 30" x 40" at Devanur III Stage, as communicated in the letter dated 25.2.2001 Annexure-AI requiring the petitioner to pay Rs. 9,150/- in addition to Rs. 2,500/- in deposit, being 15% of Rs. 61,000/- the total value of the site and to pay the remaining Rs. 49,350/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 20.2.2003 cancelled the allotment.

WP 12362/13-A. Ghouse Khan

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 979 measuring 30" x 40" at Hanchya Sathagally communicated in the

letter dated 14.7.2003 (not produced). The respondent-MUDA cancelled the allotment. Petitioner states that he deposited Rs. 11,000/- but has not furnished any documents.

W.P. 12363/13 Saffinaz

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 3191 measuring 30" x 40" at Devanur III Stage. (allotment order not produced). The respondent-MUDA by order dated 20.7.2004 cancelled the allotment. Petitioner states that she deposited Rs. 9,150/- but has not furnished any documents.

W.P. 12364/13: N.D. Jagadeesha

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 3671 measuring 30" x 40" at Devanur III Stage, as communicated in the letter dated 14.7.2003 Annexure-A2. The respondent-MUDA by order dated 20.6.2005 cancelled the allotment.

W.P. 12365/13-Smt. Vinoda

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1363 measuring 50" x 80" at Devanur III Stage, as communicated in the letter dated 25.2.2001 Annexure-A3 requiring the petitioner to pay Rs. 45,450/- in addition to Rs. 11250/- in deposit, being 15% of Rs. 3,03,000/- the total value of the site and to pay the remaining Rs. 2,46,300/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment.

W.P. 12366/13-Kamala T.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1895 measuring 30" x 40" at Devanur II Stage, as communicated in the letter dated 21.9.1991 Annexure-A4 requiring the petitioner to pay Rs. 17,510/- in addition to Rs. 2,210/- in deposit, against Rs. 20,000/- being the total value of the site within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment. The respondent-MUDA cancelled the allotment. Petitioner states that she deposited Rs. 14,850/- but has not furnished any documents.

W.P. 12367/13-Shankar

Petitioner's father's application to the respondent-MUDA fructified into an allotment of site No. 34 measuring 40 x 60" at Kesare III Stage, as communicated in the letter dated 2.5.1984 Annexure-A5 requiring the allottee to pay Rs. 3,520/- in addition to Rs. 480/- in deposit, as against Rs. 11,940/- being the total value of the site within 90 days therefrom. Allottee admittedly did not pay the said sum within the time stipulated in the letter of allotment the respondent-MUDA cancelled the allotment. Allottee is said to have deposited Rs.

3,520/- but has not furnished any documents. Allottee is said to have died on 23.10.1990 though no document is produced in proof of the same. However, a survivorship certificate dated 11.2.2008 Annexure-B stating that one Papanna died on 23.10.1990.

W.P. 12368/13-Rathnamma P.M.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 1418 measuring 40" X 60" at Hanchya and Sathagally A zone, as communicated in the letter dated 25.2.2001 Annexure-A6 requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 1350/- in deposit, being 15 % of the total value of Rs. 1,60,000/- and to pay the balance of Rs. 1,34,650/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules 1991. The respondent-MUDA cancelled the allotment. Petitioner states that she deposited Rs. 24,000/- but has not furnished any documents.

W.P. 12369/13-Sundar Raju S.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 124 measuring 40" x 60" at Devanur III Stage, as communicated in the letter dated 14.7.2003 Annexure-A7 requiring the petitioner to pay Rs. 1,58,500/- in addition to Rs. 1,500/- in deposit, against Rs. 1,60,000/- being the total value of the site within 30 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The MUDA by order dated 29.3.2005 cancelled the allotment.

W.P. 12370/13-Ranganath Venkata Rao

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 3357 measuring 30" x 40" at Devanur III Stage, as communicated in the letter dated 6.10.2001 Annexure-A8 requiring the petitioner to pay Rs. 9,150/- in addition to Rs. 2,500/- in deposit, against Rs. 61,000/- being the total value of the site and to pay the balance of Rs. 49,350/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment. Petitioner states that he deposited Rs. 9,150/- but has not furnished any documents.

W.P. 12371/13-Nagesh Nath S.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 2791 measuring 40" x 60" at Devanur III Stage, as communicated in the letter dated 14.7.2003 Annexure-A9 requiring the petitioner to pay Rs. 1,53,750/- in addition to Rs. 6,250/- in deposit as against Rs. 1,60,000/- being the total value of the site within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment.

W.P. 12372/13-Swamynathan N.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 5313 measuring 50" x 80" at Hanchya and Sathagally A zone, as communicated in the letter dated 25.2.2001 Annexure-A10 requiring the petitioner to pay Rs. 45,450/- in addition to Rs. 27,500/- in deposit being 15% of Rs. 3,03,000/- the total value of the site and the balance of Rs. 2,30,050/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment. Petitioner states that he has deposited Rs. 45,450/- but has not furnished any documents.

W.P. 12373/13-S.M. Prakash

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 5315 measuring 40" x 60" at Sathagally II Stage, as communicated in the letter dated 29.8.2000 Annexure-A11 requiring the petitioner to pay Rs. 21,750/- in addition to Rs. 6,250/- in deposit being 15% of Rs. 1,45,000/- the total value of the site and the balance of Rs. 1,17,000/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 29.3.2005 cancelled the allotment.

W.P. 12374/13-S.K. Lokesh

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 123/34 measuring 40" x 60" at Vijayanagar IV Stage II Phase, as communicated in the letter dated 28.8.1998 Annexure-A12 requiring the petitioner to pay Rs. 15,000/- in addition to Rs. 5,625/- in deposit being 15% of Rs. 1,00,000/- the total value of the site and to pay balance of Rs. 79,375/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment.

W.P. 12375/13-Omkar Murthy J.G.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 3402 measuring 40" x 60" at Devanur III Stage, as communicated in the letter dated 25.2.2001 Annexure-A13 requiring the petitioner to pay Rs. 24,000/- in addition to Rs. 5,000/- in deposit being 15% of Rs. 1,60,000/- the total value of the site and to pay balance of Rs. 1,31,000/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 17.2.2003 cancelled the allotment.

W.P. 12376/13-Nagaraju B.

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 648 measuring 30" x 40" at Hanchya and Sathagally B zone, as

communicated in the letter dated 25.2.2001 Annexure-A14 requiring the petitioner to pay Rs. 9,150/- in addition to Rs. 2,210/- in deposit being 15% of Rs. 61,000/- of the total value of the site and to pay the balance of Rs. 49,640/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment.

W.P. 12377/13-Lakshmaiah

Petitioner's application to the respondent-MUDA fructified into an allotment of site No. 483 measuring 40" x 60" at Vijayanagara IV Stage, I Phase, as communicated in the letter dated 6.6.1994 Annexure-A15 requiring the petitioner to pay Rs. 7,500/- in addition to Rs. 1815/- in deposit being 15% of Rs. 50,000/- of the total value of the site and the balance of Rs. 40,125/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment. Petitioner states that he deposited Rs. 47,500/- but has not furnished any documents.

W.P. 12378/13-Narayana

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 8I6/A measuring 30" x 40" at Devanur III Stage, as communicated in the letter dated 14.7.2003 Annexure-A16 requiring the petitioner to pay Rs. 60,400/- in addition to Rs. 600/- in deposit as against Rs. 61,000/- being the total value of the site within 30 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dated 25.9.2004 cancelled the allotment.

In the memorandum of writ petition it is stated that petitioners B.N. Indira, Jayamma Kariyappa, A. Ghouse Khan, N.D. Jagadeesh, T. Kamala, Shankar, S.M. Prakash filed representations Annexure-C series for restoration of the cancelled sites. Petitioners contend that in the light of the directions issued by the State govt. to MUDA to restore the allotments to 91 out of 175 allottees similarly circumstanced by letter dated 23.4.2007 Annexure-F which when questioned in several writ petitions certain directions were issued. Finally the Division Bench approved the order of the learned Single Judge which was affirmed by the Apex Court. Hence the common writ petition for the following reliefs:

- a) Issue a writ or order in the nature of certiorari setting aside the Endorsement bearing No. My.Na.Pra/Va.Aa-5/2012-13 dated 27.09.2012 issued by the Respondent No. 2 to the petitioner No. 1 vide Annexure "Q"
- b) Issue a writ or order in the nature of mandamus directing the Respondent No. 2 to execute an Absolute Sale Deeds in favour of the Petitioners by receiving the balance amount of sital value with interest thereby conveying the Schedule Sites in their favour in the terms of the order dated 30.01.2012 passed by the Division

Bench of this Hon'ble Court in W.A. No. 499/2011 of this Hon'ble Court in W.A. No. 499/2011 and connected matters vide Annexure-"K".

32. Petitions though not opposed by filing statement of objections, learned counsel for respondent-MUDA on the basis of the original records submits that none of the petitioners having questioned the orders of cancellation of the allotment of sites and therefore the petitions filed are not maintainable. It is further submitted that petitions filed after several years of the orders of cancellation suffer from delay and laches. In addition it is submitted that petitioner Jayamma Kariyappa in W.P. 12361/13 having failed to make good the value of the site and on cancellation of the allotment, the site in question was allotted to one P. Chandru and title deed executed on 10.12.2004. Petitioners it is submitted are fence sitters disentitled to any relief.

W.P. Nos. 12530-533/13 Common Petitions:

W.P. 12530/13-Prakash

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 1010 measuring 30" x 40" at Hanchya and Sathagally A-zone, as communicated in the letter dated 25.2.2001 Annexure-A requiring the petitioner to pay Rs. 9150/- in addition to Rs. 600/- in deposit, being 15% of Rs. 61,000/- the total value of the site and to pay the remaining Rs. 51,250/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment. Petitioner claims to have deposited Rs. 9,150/- on 10.7.2001, Rs. 12,000/- on 10.10.2002, Rs. 13,000/- on 30.11.2002, Rs. 4,000/- on 5.12.2002 and Rs. 9,000/- on 12.12.2002 without furnishing copy of the receipts/challans.

W.P. 12531/13-Smt. Shivamma

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 2094 measuring 30" x 40" at Devanur III Stage, as communicated in the letter dated 25.2.2001 Annexure-A1 requiring the petitioner to pay Rs. 9,150/- in addition to Rs. 2,500/- in deposit, being 15% of Rs. 61,000/- the total value of the site and to pay the remaining Rs. 49,350/- within 90 days therefrom. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA cancelled the allotment.

W.P. 12532/13-RAMESH

Petitioner's application to the respondent- "MUDA" fructified into an allotment of site No. 1890 measuring 40" x 60" at Hanchya and Sathagally B-Zone communicated in the letter dated 25.2.2001 Annexure-A2 requiring to pay Rs. 24,000/- in addition to Rs. 4,538/- in deposit being 15% of Rs. 1,60,000/- the total value of the site and to pay the balance of Rs. 1,31,462/- within 90 days therefrom. The respondent-MUDA cancelled the allotment. Petitioner states that

he deposited Rs. 24,585/- on 3.9.2001 but has not furnished any documents.

W.P. 12533/13-Pushpavathi

Petitioner claims that her husband by name Parasaiah filed an application to the respondent-"MUDA" fructified into an allotment of site No. 1198 measuring 30" x 40" at Vijayanagar IV Stage, I Phase, communicated in the letter dated 29.8.2000 Annexure-A3 requiring to pay Rs. 8,250/- in addition to Rs. 600/- in deposit being 15% of Rs. 55,000/- the total value of the site and to pay the balance of Rs. 46,150/- within 90 days therefrom. The respondent-MUDA cancelled the allotment. According to the petitioner her husband died on 25.11.2001 as certified in the certificate of death Annexure-B and hence she is entitled to maintain this petition.

It is the common grievance of the petitioners that the allotment of sites when cancelled for non-payment of the value of the site within the time stipulated, in the light of the directions issued by the State govt. to MUDA to restore the allotments to 91 out of 175 allottees similarly circumstanced by letters Annexures-E to M and regard being had to several orders of this court both of the learned Single Judge and the Division bench as confirmed by the Apex court petitioners appellant entitled to the reliefs. Hence these common petitions for the following reliefs:

Issue a writ or order in the nature of mandamus directing the Respondent No. 2 to execute an Absolute Sale Deeds in favour of the Petitioner by receiving the balance amount of site value with interest thereby conveying the Schedule Sites in their favour in the terms of the order dated: 30.01.2012 passed by the Division Bench of this Hon"ble Court in W.A. No. 499/2011 and connected matters vide Annexure-R.

33. Petitions though not opposed by filing statement of objections, learned counsel for respondent-MUDA on the basis of the original records submits that none of the petitioners having questioned the orders of cancellation of the allotment of sites and therefore the petitions filed are not maintainable. It is further submitted that petitions filed after several years of the orders of cancellation suffer from delay and laches. In addition it is submitted that the husband of Pushpavathi in W.P. 12533/13 having suffered an order of cancellation for not having paid the value of the site within the time stipulated is not entitled to any relief.

W.P. 141/2013-B. Subramanya Samaga

Petitioner's application to the respondent-"MUDA" fructified into an allotment of site No. 871 measuring 40" x 60" at Vijayanagar IV Stage, II Phase, as communicated in the letter dated 8.9.1994 Annexure-C requiring the petitioner to pay Rs. 10,500/- in addition to Rs. 4538/- in deposit, being 15% of Rs. 70,000/- the total value of the site and to pay the remaining Rs. 54,902/- within 90 days therefrom. Petitioner was issued with an information letter dt 4.10.1995

Annexure-D extending 90 days time to make payment of the value of the site since a stay order granted by the court pertaining to the site was vacated. Petitioner was issued with yet another final information letter dt. 28.10.1996 Annexure-E to pay the balance of the amount with interest. Petitioner admittedly did not pay the said sum within the time stipulated in the letter of allotment and Rule 19 of the Rules, 1991. The respondent-MUDA by order dt. 29.5.1998 Annexure-B cancelled the allotment.

It is the assertion of the petitioner that similarly circumstanced allottees whose allotment of sites when cancelled the State govt. had issued directions to the MUDA to re-allot the very same site and as affirmed by a learned single Judge and the Division Bench of this Court and confirmed by the Apex Court rejecting the SLP filed by the MUDA, the State govt. was not justified in issuing the letter dt. 23.4.2007 Annexure-A directing MUDA not to re-allot sites once cancelled for nonpayment of value of site. Hence this petition for the following reliefs:

a) Issue a writ of certiorari to quash the Government Order Letter/Order dated 23.04.2007 passed by the Respondent No. 1 NA.HA.E.513 MAINAPRA 2005 and also cancellation letter dated 29.05.1998 passed by the Respondent No. 2 in No. MAINAPRA 9/1998 vide ANNEXURES A and B respectively in so far as the petitioner is concerned.

(b) Direct the Respondent No. 2 to execute the sale Deed in favour of the Petitioner in respect of Site No. 871 formed by the Respondent No. 2 in the layout called by name Vijayanagara 4th Stage, II Phase Mysore measuring an extent of 40" x 60" by accepting the amount fixed by the MUDA at the time of allotment.

34. Petition though not opposed by filing statement of objections, learned counsel for respondent-MUDA on the basis of the original records submits that the petitioner having questioned the orders of cancellation of the allotment of site at a belated stage, i.e. after 15 years suffers from delay and laches. In addition it is submitted that the State govt. having noticed that it had no jurisdiction to issue instructions in violation of Rule 19 of the- Rules, issued the communication Annexure-A. Hence the petition is not maintainable. Petitioner being a fence sitter, it is submitted is disentitled to the reliefs.

Provisions of Statutes:

Rule 19 of the Karnataka Urban Development Authorities (Allotment of Sites) Rules, 1991.

Section 65 of the Karnataka Urban Development Authorities Act, 1987.

Section 65 of the Bangalore Development Authority Act, 1976.

Articles 14, 162 and 166 of the Constitution of India.

Reported Opinions:

- i) State of Orissa and Another Vs. Mamata Mohanty, ;
- ii) Shiba Shankar Mohapatra and Others Vs. State of Orissa and Others, ;
- iii) Bangalore Development Authority and Others Vs. R. Hanumaiah and Others, ;
- iv) Gullapalli Nageswara Rao and Others Vs. Andhra Pradesh State Road Transport Corporation and Another,
- v) Union of India (UOI) and Another Vs. Central Electrical and Mechanical Engineering Service (CE and MES) Group "A" (Direct Recruits) Association, CPWD and Others, ;
- vi) Punjab Water Supply and Sewerage Board, Hoshiarpur Vs. Ranjodh Singh and Others, ;
- vii) State of Sikkim Vs. Dorjee Tshering Bhutia and others, ;
- viii) Bedanga Talukdar Vs. Saifudaullah Khan and Others,
- ix) Noida Entrepreneurs Association Vs. NOIDA and Others,
- x) Sanchit Bansal and Another Vs. The Joint Admission Board (JAB) and Others,
- xi) State of Haryana and Others Vs. Ram Kumar Mann,
- xii) Secretary, Jaipur Development Authority, Jaipur Vs. Daulat Mal Jain and Others,
- xiii) Gursharan Singh and others etc. Vs. New Delhi Municipal Committee and others, 9;
- xiv) State of Bihar and Others Vs. Kameshwar Prasad Singh and Another, ;
- xv) Natural Resources Allocation, in re: Special Reference No. 1 of 2012 reported in (2012)10 SCC 1 at paragraph 96;

Having heard the learned counsel for the parties and perused the pleadings, the points for consideration are hereto set-forth:

I. RE: Encumbrance certificates:

35. Learned counsel for the petitioners submits that the encumbrance certificates issued by the Sub-registrar's office, Mysore, during the year 2013 discloses the names of petitioners as allottees of sites, hence entitled to a re-allotment of the very same sites. A perusal of the encumbrance certificates disclose that some of the petitioners having made applications were issued with the certificates indicating encumbrances if any over the sites during the period from the date of allotment upto the date of application. The certificates bear the names of the applicants and do not certify that the sites allotted stand in their names since entry of encumbrance over immovable property is recorded by the Sub-registrar based on instrument registered u/s 17 of the Registration Act. In the absence of registration of any instrument of transfer of the allotted sites to the petitioners,

the plea advanced cannot be countenanced.

II. RE: Failure of the allottees to challenge the orders of cancellation of allotment of sites/Delay and laches:

36. In the admitted facts petitioners though allotted sites by MUDA failed to pay the value thereof within the time stipulated in the letters of allotment or as prescribed by Rule 19 of the Rules as applicable, hence the allotments stood cancelled, which when not questioned, have filed these petitions several years thereafter, while in some cases more than two decades without showing sufficient cause for the delay and laches. Hence disentitled to equities. In fact during the lifetime of the allottees viz., M. Papanna in W.P. 18661/2010 allotted on 6.5.1986 and Krishnaiah in W.P. 50593/2012, allotted on 31.03.2005 did not challenge the cancellation of allotment but their respective widows have presented the petitions. Petitioners claim being state are disentitled to any relief. Facts reveal the allotment of sites to petitioners on:

37. In *State of Orissa and Another Vs. Mamata Mohanty*, the Apex Court observed that it has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the court after coming to know of the relief granted by the Court in a similar case, as the same, cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the Judgment in cases where some diligent person had approached the court within a reasonable time.

38. Petitioners having not approached the court and raised disputes challenging the validity of orders of cancellation of allotment but have filed petitions seeking impetus from the Judgments of this court cannot but be characterized as fence sitters as contended by the learned counsel for MUDA.

39. In *Shiba Shankar Mohapatra and Others Vs. State of Orissa and Others*, the Apex Court observed thus:

It is settled law that fence sitters cannot be allowed to raise a dispute or challenge the validity of the order after its conclusion. No party can claim the relief as a matter of right as one of the grounds for refusing relief is that the person approaching the court is guilty of delay and laches. The court exercising public law jurisdiction does not encourage agitation of state claims where rights of third parties crystallises in the interregnum.

III. RE: Directions/Instructions issued by the State Government to MUDA:

40. The State Government by communication dated 27.12.2005 instructed MUDA to re-allot sites since cancelled for non-payment of value within time if the allottees come forward to pay the value together with interest at 18% p.a. for the first 90 days and 20% p.a. from 91st day till payment or the rates at which sites are sold in public auction, whichever is higher. Though as many as 142 + 175 allottees came forward to pay the said amounts nevertheless 51 out of 142

paid the value of the site with interest, hence extended the benefit. As regards 91 out of 142 allottees though paid the amounts belatedly, the State Government issued instructions to MUDA to refund the amount, while in respect of 175 allottees not to take any further action. By another communication dated 22.9.2007 MUDA was instructed to execute the sale deeds conveying the sites to four allottees not amongst the 91 + 175 allottees by accepting the value of the site with interest. By yet another communication dated 4.3.2008 State instructed MUDA to execute the sale deeds on seniority basis to the 91+4 (95) allottees while reiterating that no action be taken in respect of 175 allottees.

41. Some of the said allottees, challenged the Government instructions in a number of writ petitions including W.P. 14/2010. Petitions when clubbed, a learned Single Judge by order dated 9.4.2008 in W.P. 7568/2007 and batch directed MUDA to execute the deeds of sale after satisfying that the petitioners had paid the entire sale consideration with interest. By order dated 3.8.2010 in W.P. 14/2010 and connected petitions, the learned Single Judge applied the doctrine of desuetude by observing that Rule 19 of the Rules had become dead letter of law and accordingly directed MUDA to execute the sale deeds on being satisfied of the payment of value with interest. MUDA having carried the Judgments in WA 499/2011, while some of the petitioners too filed appeals, when clubbed together, a Division Bench by order dated 30.1.2012 set-aside the finding of application of the doctrine of desuetude and directed MUDA to execute the sale deeds within two months on being satisfied with the deposit of entire site value along with interest without reference to the price fetched in an auction of comparable sites. That order when carried in SLP (Civil) No. 11552/2012 by MUDA, advancing several question of law over instructions of the State govt. in the light of Article 14 of the Constitution of India, the Apex Court passed the following order on 23.4.2012:

Heard Mr. P.V. Shetty, learned senior counsel for the petitioners.

Special Leave Petitions are dismissed. Question of law is kept open. However, the time granted by the High Court in paragraph 19(ii) of the impugned judgment extended by two months from today.

42. In the admitted facts, petitioners having not come forward to pay the value of the site with interest though 142 + 175 allottees did so and succeeded in obtaining the re-allotment of sites, since cancelled cannot be heard to contend that MUDA practiced discrimination by not extending the petitioners similar benefits.

43. Keeping in mind the order dated 23.4.2012 of the Apex Court, supra and the submission of the learned counsel for MUDA, which is not disputed by the learned Counsel for the petitioners, the following additional points law arise for decision making:

Regard being had to the statutory prescription of time limit to pay the value of the site by allottees of sites, in Rule 19 of the Rules, whether,

i) MUDA could enlarge time beyond what is prescribed ?

ii) The State Government could issue directions/instructions to receive payment of value of site beyond the time prescribed and re-allot sites since cancelled ?

44. The submission of the learned counsel for the petitioners is that non payment of the value of the sites allotted, within the time stipulated in the letters of allotment or prescription in Rule 19 of the Rules followed by cancellation of allotment by MUDA does not disentitle the petitioner to a re-allotment of the same site.

45. The Rules of 1991 framed u/s 71 of the Karnataka Urban Development Authorities Act, 1987, for short "KUDA Act" came into force w.e.f. 3.2.1994 whereunder Rule 19 reads thus:

46. Petitioners allottees prior to the coming into force of the Rules 1991 were required to pay the value of the site, within the time stipulated in the letters of allotment while those, post, coming into force of the Rules of 1991 were required to pay the value of the site within the time prescribed in Rule 19. The Rules provide for a clear transparent and objective criteria ensuring transparency on the basis of reason, fair play and non-arbitrariness. Rule 19 does not invest in MUDA a power to extend further time at the request of the allottees who commit default in payment and does not invest a jurisdiction to relax the condition regarding time schedule for payment.

47. Any relaxation in the time schedule in favour of allottees in default would be to the detriment of all other allottees who complied with the time schedule and made payment of the value of the sites, tantamounting to breach of the mandate of Article 14 of the Constitution of India. So also the Rule does not empower the State Government to direct MUDA to extend time to the allottees in default to pay the value of the site. The State framed Rules of 1991 without reserving to itself the right to issue directions to MUDA to extend time under Rule 19. Hence point (i) supra is answered accordingly.

48. As regards the power of the State Government to issue directions/instructions to MUDA, it is useful to extract Section 65 of the KUDA Act which runs thus:

65. The Government may give such directions to the Authority as in its opinion are necessary or expedient for carrying out the purposes of this Act and it shall be the duty of the Authority to comply with such directions.

49. Article 166 of the Constitution of India reads thus:--

166. Conduct of business of the Government of a State-

(1) All executive action of the Government of a State shall be expressed to be taken in the name of the Governor

(2) Orders and other instruments made and executed in the name of the

Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order on instruction which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(3) The Governor shall make rules for the more convenient transaction of the business of the Government of the State, and for the allocation among Ministers of the said business in so far as it is not business with respect to which the Governor is by or under this Constitution required to act in his discretion

50. Article 162 of the Constitution of India reads thus:

162. Extent of executive power of State- Subject to the provisions of this Constitution, the executive power of a State shall extend to the matters with respect to which the Legislature of the State has power to make laws Provided that in any matter with respect to which the Legislature of a State and Parliament have power to make laws, the executive power of the State shall be subject to, and limited by, the executive power expressly conferred by the Constitution or by any law made by Parliament upon the Union or authorities thereof.

51. The direction contemplated by Section 65 of the KUDA Act is to carry out the purposes of the Act. The State Government having framed Rules of 1991 in the matter of allotment of sites while Rule 19 provides for time limit for the allottees to make payment of the value of the site The State cannot issue directions in violation of the said Rules. The issue of directions/instructions by the State must be in terms of the constitutional scheme i.e., compliance with requirements of Article 162 and 166 of the Constitution of India. Unless an order is expressed in the name of the Governor and is authenticated in the manner prescribed by the Rules made by the Governor, the same cannot be treated as an order or direction issued by the Government much less termed as a decision of the Government. It is no doubt true that Article 166(1) of the Constitution of India is directory nevertheless the direction/instruction/order of the State govt. must comply with the requirements of Article 166 of the Constitution of India.

52. Section 65 of the Bangalore Development Authority Act, is para materia with Section 65 of the KUDA Act, and reads thus:

65. Government's power to give directions to the Authority:

The Government may give such directions to the authority as in its opinion are necessary or expedient for carrying out the purposes of this Act and it shall be the duty of the authority to comply with such directions.

53. The Apex Court in Bangalore Development Authority and Others Vs. R. Hanumaiah and Others, case regard being had to the aims and objections, functions and duties of the Bangalore Development Authority, it was observed thus:

The power of the State Government u/s 65 of the BDA Act, 1976 is circumscribed by the conditions precedent laid down therein. Thus, the directions can be issued only when the same are necessary or expedient for carrying out the purpose of the Act. In a case of this nature, the State Government did not have any such jurisdiction and thus, the BDA has rightly refused to comply therewith. The facts obtaining in that case related to the BDA's jurisdiction to reconvey the lands vested in it in exercise of its powers though the Act did not confer any such power and that the State alone could reconvey the said acquired lands of the authority.

54. In Gullapalli Nageswara Rao and Others Vs. Andhra Pradesh State Road Transport Corporation and Another, case the Apex Court having regard to clauses 2 and 3 of Articles 166 of the Constitution and the formation of the State of Andhra Pradesh on 26.10.1956 the business rules of Andhra State continue to govern the secretariat of Andhra Pradesh government, the effect of which was stated thus:

26. xxxx. A State Government means the Governor; the executive power of the State vests in the Governor; it is exercised by him directly or by officers subordinate to him in accordance with the provisions of the Constitution; the Ministers headed by the Chief Minister advise him in the exercise of his functions; the Governor made rules enabling the Minister in charge of particular department to dispose of cases before him and also authorizing him, by means of standing orders, to give such directions as he thinks fit for the disposal of the cases in the department. Pursuant to the rule, the record discloses, the Chief Minister, who was in charge of Transport, had made an order directing the Secretary to Government, Home Department, to hear the objections filed against the scheme proposed by the State Transport Authority.

55. In Union of India (UOI) and Another Vs. Central Electrical and Mechanical Engineering Service (CE and MES) Group "A" (Direct Recruits) Association, CPWD and Others, , the Apex Court observed thus:

10. It is now a well settled principle of law that an executive order must be passed in conformity with the Rules. Power of the State Government to issue executive instructions is confined to filling up of the gaps or covering the area which otherwise has not been covered by the existing Rules. See Sant Ram Sharma Vs. State of Rajasthan and Another, and D.D.A. and Others Vs. Joginder S. Monga and Others, . Such office orders must be subservient to the statutory rules.

56. In Punjab Water Supply and Sewerage Board, Hoshiarpur Vs. Ranjodh Singh and Others, , the Apex court observed thus:

19. In the instant case, the High Court did not issue a writ of mandamus on arriving at a finding that the respondents had a legal right in relation to their claim for regularisation, which it was obligated to do. It proceeded to issue the directions only on the basis of the purported policy decision adopted by the

State. It failed to notice that a policy decision cannot be adopted by means of a circular letter and, as noticed hereinbefore, even a policy decision adopted in terms of Article 162 of the Constitution of India in that behalf would be void. Any departmental letter or executive instruction cannot prevail over statutory rule and constitutional provisions. Any appointment, thus, made without following the procedure would be ultra vires.

57. In *State of Sikkim Vs. Dorjee Tshering Bhutia and others*, the Apex Court observed that the executive power of the State under Article 162 of the Constitution of India extends to matters with respect to which the legislature of the State has power to make laws. The Government business is conducted under Article 166(3) of the constitution in accordance with the Rules of business made by the Governor whereunder government business is divided amongst the Ministers and specific functions are allocated to different ministries. The executive power of the State, it is observed, cannot be exercised in the field which is already occupied by the laws made by the legislature. It is settled law that any order, instruction, direction or notification issued in exercise of executive power of the State which is contrary to any statutory provision, is without jurisdiction and is a nullity.

(emphasis supplied)

58. Regard being had to the aforesaid provisions of the Constitution of India, although State Government has general control but such control must be exercised in terms of Articles 162 and 166 and the State can lay down a policy in terms of which statutory authorities are bound to act but, that does not authorize the Minister for Urban Development, Government of Karnataka or the Secretary, Urban Development to act in violation of the statute. The instructions/directions issued by the Minister and the Secretary when not compliant with the statutory provisions i.e. Rules of 1991 and KUDA Act, while Rule 19 having prescribed a time limit to allottees to make payment of the value of the site, the respondent-MUDA is not obliged to comply with the said instructions/directions.

59. Learned Addl. Advocate General, submits that the State having committed a mistake in issuing instructions to MUDA in letters dated 27.12.2005, 12.5.2006 and 4.3.2008 Annexures-R1, R2 and R5, respectively, nevertheless by letters dated 23.4.2007 and 22.9.2007 Annexures R3 and R4, respectively and Circular dated 4.2.2011 Annexure-R6, to the Statement of objections in W.P. 17099/2012 informed all Urban-Development Authorities to strictly comply with Rule 19 of the Rules of 1991. The point (ii) supra is answered accordingly.

60. Thus neither MUDA has jurisdiction to extend time beyond what is prescribed in Rule 19 of the Rules 1991 in the matter of payment of the value of the site allotted, nor the Minister for Urban Development, Government of Karnataka or the Secretary, Urban Development have jurisdiction to issue directions/instructions contrary to the Rules of 1991.

V. Re: Article 14 of the Constitution of India:

Rule of Law is The Foundation of A Democratic Society-

61. In *Bedanga Talukdar Vs. Saifudaullah Khan and Others*, , the Apex Court observed thus:

The selection process has to be conducted strictly in accordance with stipulated selection procedure which needs to be scrupulously maintained. There cannot be any relaxation in terms and conditions of advertisement unless such power is specifically reserved in relevant rules and or in advertisement. Even where power of relaxation is or is not provided in relevant rules it must be mentioned in the advertisement. Such power, if exercised should be given due publicity to ensure that those candidates who become eligible due to relaxation are afforded equal opportunity to apply and compete. Relaxation of any condition in advertisement without due publication is contrary to the mandate of equality in Article 14 and 16 of the Constitution.

62. In *Noida Entrepreneurs Association Vs. NOIDA and Others*, , the Apex Court observed thus:

The State or the public authority which holds the property for the public or which has been assigned the duty of grant of largesse, etc., acts as a trustee and therefore, has to act fairly and reasonably. A public authority is ultimately accountable to the people in whom the sovereignty vests. All powers so vested in him are meant to be exercised for public good and promoting the public interest.

At paragraph 40 observed thus:

The public trust doctrine is the part of law of the land. The doctrine has grown from Article 21 of the Constitution. In essence, the action/order of the State or State instrumentality would stand vitiated if it lacks bonafides, as it would only be a case of colourable exercise of power. The Rule of law is the foundation of a democratic society.

41. Power vested by the State in a public authority is to be exercised strictly adhering to the statutory provisions and fact situation of a case. A decision taken in an arbitrary manner contradicts the principle of legitimate expectation. An authority is under a legal obligation to exercise the power reasonably and in good faith to effectuate a purpose for which power stood conferred. In this context, "in good faith" means "for legitimate reasons". It must be exercised bonafide for the purpose and for none other.

It is further observed thus:

State actions are required to be non arbitrary and justified on the touchstone of Article 14, Constitution and rule of law. Action of the State or its instrumentalities must be in conformity with some principle which meets the test of reason and relevance. Functioning of a "democratic form of a government demands equality and absence of arbitrariness and discrimination".

63. In *Sanchit Bansal and Another Vs. The Joint Admission Board (JAB) and*

Others, the Apex Court observed thus:

An action is said to be arbitrary and capricious where a person, in particular, a person in authority does any action based on individual discretion by ignoring prescribed rules, procedure or law and the action or decision is founded on prejudice or preference rather than reason or fact. To be termed as arbitrary and capricious, the action must be illogical and whimsical, something without any reasonable explanation. When an action or procedure seeks to achieve a specific objective in furtherance of education in a bonafide manner, by adopting a process which is uniform and non-discriminatory, it cannot be described as arbitrary or capricious or malafide.

64. In *State of Haryana and Others Vs. Ram Kumar Mann*, , the Apex Court observed thus:

The doctrine of discrimination is founded upon existence of an enforceable right. He was discriminated and denied equality as some similarly situated persons had been given the same relief. Article 14 would apply only when invidious discrimination is meted out to equals and similarly circumstanced without any rational basis or relationship in that behalf. The respondent has no right, whatsoever and cannot be given the relief wrongly given to them, i.e. benefit of withdrawal of resignation. The High Court was wholly wrong in reaching the conclusion that there was invidious discrimination. If we cannot allow a wrong to perpetrate, an employee, after committing misappropriation of money, is dismissed from service and subsequently that order is withdrawn and he is reinstated into the service. Can a similarly circumstanced person claim equality u/s 14 for reinstatement ? The answer is obviously "No". In a converse case, in the first instance, one may be wrong but the wrong order cannot be the foundation for claiming equality for enforcement of the same order. As stated earlier, his right must be founded upon enforceable right to entitle him to the equality treatment for enforcement thereof. A wrong decision by the Government does not give a right to enforce the wrong order and claim parity or equality. Two wrongs can never made a right. xxxx

65. In *Secretary, Jaipur Development Authority, Jaipur Vs. Daulat Mal Jain and Others*, -the Apex Court considering the scope of Article 14 of the Constitution of India, regarding concept of equality held thus:

xxxx suffice it to hold that the illegal allotment founded upon ultra vires and illegal policy of allotment made to some other persons wrongly, would not form a legal premise to ensure it to the respondent or to repeat or perpetuate such illegal order nor could it be legalised. In other words, judicial process cannot be abused to perpetuate the illegalities. Thus considered, we hold that the High court was clearly in error in directing the appellants to allot the land to the respondents.

66. In *Gursharan Singh and others etc. Vs. New Delhi Municipal Committee and others*, observed thus:

xxxx Neither Article 14 of the Constitution conceives within the equality clause this concept nor Article 226 empowers the High Court to enforce such claim of equality before law. If such claims are enforced, it shall amount to directing to continue and perpetuate an illegal procedure or an illegal order for extending similar benefits to others. Before a claim based on equality clause is upheld, it must be established by the petitioner that his claim being just and legal, has been denied to him, while it has been extended to others and in this process there has been a discrimination. xxxx.

67. In *State of Bihar and Others Vs. Kameshwar Prasad Singh and Another*, the Apex Court observed thus:

the concept of equality as envisaged under Article 14 of the Constitution is a positive concept which cannot be enforced in a negative manner. When an authority is shown to have committed an illegality or irregularity in favour of an individual or group of individuals, others cannot claim the same illegality or irregularity on the ground of denial thereof to them. Similarly wrong judgment passed in favour of one individual does not entitle others to claim similar benefits.

68. The underlining object of Article 14 is to secure to all persons, citizens or non-citizens, the equality of status and opportunity referred to in the preamble to our constitution. The language of Article 14 is couched in negative terms and is in form, an admonition addressed to the State. It does not directly purport to confer any right on any person as some of the other Articles example Article 19 do. The right to equality before law is secured from all legislative and executive tyranny by way of discrimination, since the language of Article 14 uses the word "State", which as per Article 12, includes the executive organ. Besides Article 14 is expressed in absolute terms and its effect is not curtailed by restrictions like those imposed on Article 19(1) by Articles 19(2) to 19(6). However notwithstanding the absence of such restrictions, certain tests have been devised through judicial decisions to test if Article 14 has been violated or not. This is the law laid down by the Five Judge Bench of the Apex Court in *Natural Resources Allocation, In Re: Special Reference No. 1 of 2012*, .

69. It is a settled legal proposition that Article 14 is not meant to perpetuate illegality and it does not envisage negative equality. Thus, even if some other similarly situated persons have been granted some benefit inadvertently or by mistake, such order does not confirm any legal right on the petitioners to get the same relief. These are the principles laid down by the Apex Court in *Mamatha Mohanty's case* (supra).

70. Even assuming that the letters addressed by the Under Secretary to govt. of Karnataka, Urban Development Department to MUDA at the behest of the petitioners, directing MUDA to re-allot the sites to the petitioners-allottees after cancellation of the sites allotted, are in the nature of executive instructions, nevertheless can be accepted only if it is found not to be in violation of the Rules of 1991. This court is not bound to accept the mistaken notion of the statute by

the State and MUDA who are dealing with the working of the Rules of 1991. The Rule of law inhibits arbitrary action and also makes it liable to be invalidated. Every action of the State or its instrumentalities should not only be fair, legitimate and above board, but should be without any affection or aversion. It should neither be suggestive of discrimination nor even given an impression of bias, favouritism and nepotism.

VI Re: Special Leave to Appeal (Civil) No. 11552/2012

71. MUDA aggrieved by the order dated 30.1.2012 of the Division Bench in W.A. 499/2011 and WA 777/2011 having preferred Special Leave to Appeal (Civil) No. 11552/2012 raising questions of law, more appropriately over Rule 19 of the Rules and the power of the State Government to issue instructions and directions u/s 65 of the KUDA Act, suffered an order dated 23.4.2012 dismissing the special leave while keeping open the question of law. The Apex Court confirmed the orders of the learned Single Judge and that of the Division bench directing MUDA to accept payment of the value of the site together with interest from allottees in default in the matter of payment of the value of the site since on earlier occasion this court permitted such allottees the benefit of govt. instructions by accepting delayed payments.

72. The question as to whether MUDA or the State govt. could extend time for payment of the value of the sites beyond the period stipulated in Rule 19 of the Rules of 1991, when no right is reserved either in MUDA or the State govt. to extend such time, are the petitioners entitled to, as a matter of right, for extension of time to make payment of the value of the sites after the cancellation of the allotments ?

73. Learned counsel for the respondent points to the observations of the Apex Court in State of Orissa (supra) which runs thus:

42. "Incuria" literally means "carelessness". In practice "per incurium" is taken to mean per ignoratium". The courts have developed this principle in relaxation of the Rules of stare decisis. Thus the "quotable in law", is avoided and ignored if it is rendered ignoratium of a statute or other binding authority.

74. Learned counsel submits that in the absence of Rules to extend the time limit for payment of the value of the site by allottees who had committed default since Rule 19 of the Rules does not provide for such extension, hence the Judgments relied upon by the petitioners are per incurium and must be ignored.

75. Regard being had to the statutory provisions as well as the observations of the apex Court in the reported opinions supra, petitioners on allotment of sites, having committed default in the payment of value of the site, within the time stipulated, are disentitled to any relief.

76. It is useful to notice that the petitioner having brought to the notice of the Court in W.P. 31887/2010 that one S.B. Ravishankar, s/o Dr. S.L. Byrappa though allotted site No. 1366 measuring 50 x 80" on 25.2.2001 had failed to pay Rs.

3,03,000/- within the time stipulated being the value of the site had led to cancellation by order dated 13.2.2003, nevertheless the State government having intervened, the MUDA had by order dated 23.7.2010 allotted the very same site, the counsel for the State Government filed a memo dated 22.2.2013 enclosing copies of the communication dated 14.2.2013 to the MUDA and the cancellation order dated 14.2.2013 of MUDA cancelling the allotment made in favour of S.B. Ravishankar. Thus what is obvious is that the State Government having reckoned that it had no jurisdiction to issue directions u/s 65 of the Karnataka Urban Developments Act, 1987 in matters relating to cancellation of allotments for non-payment of value of site within the time stipulated under Rule 19 of the Rules, 1991, led to the State addressing the letter to MUDA and the subsequent cancellation of the allotment by MUDA made to S.B. Ravishankar. In these circumstances, petitioners having sought for issue of writ of mandamus to the respondent-MUDA to comply with the instructions of the Secretary and the Minister for Urban Development, State of Karnataka and accept the payment of the value of the site from the petitioners who had defaulted in making payment, without making reference to the powers of the Government and more appropriately in the teeth of the prescription of time continued in Rule 19 of the Rules of 1991, cannot be justified as fair and reasonable. Petitioners can claim no existing legal right for issue of a writ of mandamus to State and MUDA to comply with the said instructions. State having retracted from the said instructions by communication Annexure-R3 and R4 and the Circular Annexure-R6, petitioners have no vested right for issue of directions to comply with the communications of the Secretary and Minister for Urban Development Authority.

In the result, petitions devoid of merit are dismissed.