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HIGH COURT OF KARNATAKA

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Status: Pending

Case Number: WP 31982/2013  
(KAHC010320652013)

Classification: BDA

Date of Filing: 17/07/2013  
15:03:34

Petitioner: M/S SHERIFF  
CONSTRUCTIONS

Petitioner Advocate:

Respondent: THE BANGALORE  
DEVELOPMENT AUTHORITY

Respondent Advocate:

Filing No.: WP 31982/2013

Judge: SURAJ GOVINDARAJ

Last Posted For: FURTHER  
HEARING

Last Date of Action: 25/11/2024

Last Action Taken: ADJOURNED

Next Hearing Date: 11/12/2024

Daily Orders: WP 31982/2013

1	SURAJ GOVINDARAJ	<u>25/11/2024</u>
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,1. The learned counsel for the petitioner has filed an affidavit dated 25.11.2024. The same is taken on record.

2. In terms of the affidavit, today a fresh stand is taken by the petitioner that on the basis of the opinion of the Structural Consultant, they would be unable to remove the slab and the beam of the 15th floor and removal thereof would cause structural instability to the whole structure and its neighbouring structure.

3. I am unable to accept the said affidavit filed by the petitioner. This Court on several occasions had granted several adjournments to the petitioner to rectify the defects and violations which have been pointed out by the BDA. This being in order to try and save the building/s from demolition if the petitioner were to satisfy the requirements under law.

4. There being several violations, which had been committed by the petitioner, many of these were observed in the order dated 24.07.2024. On 20.08.2024, an affidavit was filed by the petitioner seeking for extension of time to indicate compliance with the Building Byelaws. This Court having noted the laxity on part of the petitioner in compliance with the requirements directed the BDA to place on record the timelines to carry out demolition work but however granted time to the petitioner to comply with certain other aspects.

5. Thereafter, BDA invited the application and bids in furtherance of the order dated 20.08.2024. On 05.09.2024, it was informed by the BDA that no bids were received by the BDA and taking into consideration the said aspect, the time sought for by the petitioner viz., two months for demolition of top portion of the 'A' block was granted to commence from 13.09.2024 with a specific direction that the same would be completed by 13.11.2024 as also various other directions were issued as regards compliance to be made by the petitioner. The submission of the learned counsel for the petitioner is further recorded on 13.09.2024. The modified plan which had been submitted was directed to be considered by the BDA. However, compliance was not made by the petitioner and the defects/observations made by the BDA were not rectified by the petitioner, when the matter was taken up on 21.11.2024, it was stated that demolition had been done partially. Hence, the BDA was directed to verify.

6. Today, the above submission has been made, which again, speaks of malafides on part of the petitioner and the intention of the petitioner to delay the proceedings which have been pending from the year 2013. The latitude which has been extended to the petitioner is not on account of the petitioner but taking into account the various purchasers who have purchased the apartments wherein the illegal constructions have been put up by the petitioner.

7. The petitioner having violated the plan sanction and thereafter having undertaken to demolish has now come up with a new contention that the demolition would cause structural instability. The petitioner was permitted to demolish the top portion of the building with an intention to try and save the other floors when in fact there was a requirement for demolition of the entire building. The petitioner now has come forward by categorically stating that the top portion cannot be demolished due to structural instability for the whole structure, and it is very clear that the rest of the building cannot be saved. Therefore, the entire building would need to be demolished. This demolition is required to be made on account of the Petitioner, any losses caused to the purchasers would have to be borne by the Petitioner as per the value of the apartments as on the date of demolition, as also taking into consideration the inconvenience caused to such purchasers/residents.

8. In that view of the matter, Commissioner BDA is directed to prepare a plan for the eviction and demolition of the entire building as well as to bring the development in compliance with the applicable building bye-laws.

9. Learned counsel for the BDA submits that tender would be issued within two weeks and awarded within a week thereafter and result thereafter would be placed on record before this Court.

10. Re-list on 11.12.2024 at 2.30 p.m.

**Last Updated On: 2024-11-27 10:37:02**

2	SURAJ GOVINDARAJ	<u>25/11/2024</u>
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	<p>,1. The learned counsel for the petitioner has filed an affidavit dated 25.11.2024. The same is taken on record.</p> <p>2. In terms of the affidavit, today a fresh stand is taken by the petitioner that on the basis of the opinion of the Structural Consultant, they would be unable to remove the slab and the beam of the 15th floor and removal thereof would cause structural instability to the whole structure and its neighbouring structure.</p> <p>3. I am unable to accept the said affidavit filed by the petitioner. This Court on several occasions had granted several adjournments to the petitioner to rectify the defects and violations which have been pointed out by the BDA. This being in order to try and save the building/s from demolition if the petitioner were to satisfy the requirements under law.</p> <p>4. There being several violations, which had been committed by the petitioner, many of these were observed in the order dated 24.07.2024. On 20.08.2024, an affidavit was filed by the petitioner seeking for extension of time to indicate compliance with the Building Byelaws. This Court having noted the laxity on part of the petitioner in compliance with the requirements directed the BDA to place on record the timelines to carry out demolition work but however granted time to the petitioner to comply with certain other aspects.</p> <p>5. Thereafter, BDA invited the application and bids in furtherance of the order dated 20.08.2024. On 05.09.2024, it was informed by the BDA that no bids were received by the BDA and taking into consideration the said aspect, the time sought for by the petitioner viz., two months for demolition of top portion of the 'A' block was granted to commence from 13.09.2024 with a specific direction that the same would be completed by 13.11.2024 as also various other directions were issued as regards compliance to be made by the petitioner. The submission of the learned counsel for the petitioner is further recorded on 13.09.2024. The modified plan which had been submitted was directed to be considered by the BDA. However, compliance was not made by the petitioner and the defects/observations made by the BDA were not rectified by the petitioner, when the matter was taken up on 21.11.2024, it was stated that demolition had been done partially. Hence, the BDA was directed to verify.</p> <p>6. Today, the above submission has been made, which again, speaks of malafides on part of the petitioner and the intention of the petitioner to delay the proceedings which have been pending from the year 2013. The latitude which has been extended to the petitioner is not on account of the petitioner but taking into account the various purchasers who have purchased the apartments wherein the illegal constructions have been put up by the petitioner.</p> <p>7. The petitioner having violated the plan sanction and thereafter having undertaken to demolish has now come up with a new contention that the demolition would cause structural instability. The petitioner was permitted to demolish the top portion of the building with an intention to try and save the other floors when in fact there was a requirement for demolition of the entire building. The petitioner now has come forward by categorically stating that the top portion cannot be demolished due to structural instability for the whole structure, and it is very clear that the rest of the building cannot be saved. Therefore, the entire building would need to be demolished. This demolition is required to be made on account of the Petitioner, any losses caused to the purchasers would have to be borne by the Petitioner as per the value of the apartments as on the date of demolition, as also taking into consideration the inconvenience caused to such purchasers/residents.</p> <p>8. In that view of the matter, Commissioner BDA is directed to prepare a plan for the eviction and demolition of the entire building as well as to bring the development in compliance with the applicable building bye-laws.</p> <p>9. Learned counsel for the BDA submits that tender would be issued within two weeks and awarded within a week thereafter and result thereafter would be placed on record before this Court.</p> <p>10. Re-list on 11.12.2024 at 2.30 p.m.</p> <p><b>Last Updated On: 2024-11-27 10:37:17</b></p>	
3	SURAJ GOVINDARAJ	<u>21/11/2024</u>
	<p>1. At the request of learned counsel for the petitioner, re-list on 25.11.2024 at 2.30 p.m.</p> <p>2. The learned counsel for the BDA has filed a memo. The same is taken on record.</p> <p>3. The learned counsel for the BDA is also directed to produce photographs of the demolished area.</p> <p><b>Last Updated On: 2024-11-22 10:38:52</b></p>	
4	SURAJ GOVINDARAJ	<u>29/10/2024</u>

	<div>1. Learned counsel for the petitioner submits that demolition work started and would be completed as undertaken and recorded in the order dated 5.09.2024.</div> <div>2. Learned counsel for BDA submits that modified plan submitted by the petitioner has been considered by the BDA and there are certain observations made by Town Planning of BDA which would be furnished to the petitioner by the end of the day 4.11.2024.</div> <div>3. Counsel for the petitioner seeks for two weeks' time thereafter to go through the same and make his submission on the observations made and or rectify the objections/defects pointed out.</div> <div>4. Relist on 21.11.2024 at 2.30 p.m. By then report also to be filed as regards demolition work carried out in terms of the order dated 5.09.2024. BDA to inspect the project on 15.11.2024 to ascertain if the demolition is as per para 3 of Order dated 5.09.2024 carried out and submit a report by the next date.</div> <div>Last Updated On: 2024-11-05 10:45:04</div>	
5	SURAJ GOVINDARAJ	<u>23/10/2024</u>
	<div>1. Learned counsel for the petitioner submits that a modified plan has been submitted to the BDA.</div> <div>2. Learned counsel for BDA seeks for and is granted a week's time to make his submission as to whether the modified plan can be sanctioned or not.</div> <div>3. Relist on 29.10.2024 at 2.30 p.m.</div> <div>Last Updated On: 2024-10-24 14:47:12</div>	
6	SURAJ GOVINDARAJ	<u>27/09/2024</u>
	<div>1. Learned High Court Government Pleader has filed a memo dated 27.09.2024 addressed by the Principal Secretary, Urban Development Department to the Director of Municipal Administration, directing the said Director to forward a copy of the essential procedure to all the municipalities and corporations in the State of Karnataka. The same is taken on record.</div> <div>2. Learned High Court Government Pleader seeks for and is granted three weeks time to produce the letter addressed by the Director of Municipal Administration to all the concerned authorities as also the report for further compliance.</div> <div>3. Re-list on 24.10.2024 at 2.30 pm. for further compliance.</div> <div>Last Updated On: 2024-09-30 12:28:59</div>	
7	SURAJ GOVINDARAJ	<u>19/09/2024</u>
	<div>1. Learned counsel for the petitioner in WP No.31982/2013 submits that an affidavit has been filed today morning and copy thereof has been served on the counsel for the respondents No.1 to 5 as also counsel for the petitioner in the other matter. They are granted a week's time to go through the same and make their submission.</div> <div>2. Learned counsel for the petitioner in WP No.44363/2018 submits that the cause list as regards the Bangalore Bench matters is not accessible on the website as also she did not receive an SMS informing her about the listing of the matter today and it is on that basis she submits that the other counsels may not be present, due to their not knowing about the listing.</div> <div>3. The Registrar (Computers) is directed to look into this issue and rectify the same at the earliest, if there is any defect.</div> <div>4. Re-list on 27.9.2024 at 2.30 p.m.</div> <div>Last Updated On: 2024-09-19 20:22:28</div>	
8	SURAJ GOVINDARAJ	<u>13/09/2024</u>

	<div>1. The learned counsel for BDA submits that if CA-II site is to be relocated, an interchange with a park area, then a modification of a plan would have to be done requiring the consent of all the owners.</div> <div>2. Sri.N.Khetty, learned counsel for respondent No.5 submits that there is an area earmarked for future development which is adjacent to the present project to which location CA-II site could be shifted and on such shifting, there would not be any problem as regards the necessary amenity of the water tank which has been unauthorizedly constructed in CA-II site.</div> <div>3. Learned counsel for the petitioner submits that if the matter is taken up on 18.09.2024, she would be able to make her submission after obtaining instructions from the petitioner.</div> <div>4. Re-list on 19.09.2024 at 2.30 p.m.</div> <div><b>Last Updated On: 2024-09-13 18:51:38</b></div>
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9	SURAJ GOVINDARAJ	<u>05/09/2024</u>
	<div>1. Learned counsel for the BDA submits that no bids were received on 3.9.2024 and as such a paper publication has been taken inviting bids by 18.9.2024. No permission from this Court was taken to take out paper publication, the whole purpose of directing BDA to make their submission as regard demolition of the portion of top of 'A' Block as also underground tank in 'O' block was in order to expedite the matter, since this Court was of the opinion that the timeline sought for by the petitioner were not reasonable.</div> <div>2. The timeline sought for in the affidavit filed on 20.8.2024 had been rejected for the aforesaid reason, expecting that the BDA will give a better timeline. Unfortunately, the BDA is yet to secure even bids or quotations indicating the cost and it is only thereafter that it is submitted that the timelines will be provided. The same would go beyond the time sought for by the petitioner themselves.</div> <div>3. In that view of the matter, I am of the considered opinion that the time sought for by the petitioner for two months to demolish the portion of top of 'A' Block would be required to be granted. The said two months' time would commence from 13.9.2024 in order to enable the petitioner to take preparatory steps, the demolition would necessarily have to be completed by 13.11.2024.</div> <div>4. Insofar as the underground water tank in 'O' Block is concerned, the petitioner has sought for four months' time to shift the water tank and bring back Civic Amenity site No.2 to its original status.</div> <div>5. Learned counsel for the petitioner today once again made a ferment request to the BDA to consider, if the area above the underground tank can be treated as park and open space in lieu of the area already demarcated as park and open space and the area denoted as parks and open space could be denoted as Civic Amenity No.2.</div> <div>6. Learned counsel for BDA seeks for and is granted a week's time to make his submission in relation thereto.</div> <div>7. Learned counsel for the petitioner submits that insofar as para No.4 of the affidavit is concerned the same is under progress and by 18.9.2024 compliance would be reported.</div> <div>8. Re-list on 13.9.2024 at 2.30 p.m. to enable learned counsel for BDA to make his submission as regards 'O' Block.</div> <div><b>Last Updated On: 2024-09-12 13:10:49</b></div>	

10	SURAJ GOVINDARAJ	<u>03/09/2024</u>
	<div>1. Sri.B.S.Sachin., learned counsel for BDA submits that application and bids have been invited which are required to be submitted by 4.00 p.m. today in furtherance of para No.4 of the order dated 20.8.2024. The bids and quotations being received by 4.00 p.m. today is directed to place the same on record by 5.9.2024.</div> <div>2. Re-list on 5.9.2024 at 2.30 p.m.</div> <div><b>Last Updated On: 2024-09-03 18:25:33</b></div>	

11	SURAJ GOVINDARAJ	<u>20/08/2024</u>
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1. Learned counsel for the petitioner in W.P.No.31982/2013 has filed an affidavit in compliance of the order dated 24.07.2024, which reads as under:

“AFFIDAVIT OF THE PETITIONER IN COMPLIANCE OF ORDER DATED 24.07.2024

Affidavit of Shri. Nafees Ahmed, son of Late Mr. Naseer Ahmed, aged about 52 years, having our office at 73/1, Sheriff Center, 5th Floor, St. Marks Road, Bengaluru do solemnly affirm and state on oath as under:

1. That I am the Chief Executgive Officer of the Petitioner and hence, I am conversant with the facts of the present case and competent to swear to this affidavit. I say that, for the sake of brevity all the petitioner’s earlier pleadings be read as part of the present Affidavit and all submissions made therein are without prejudice to its contentions on merits.
2. I state that pursuant to this Hon’ble Court’s order dated 24.07.2024 the petitioner has visited the site with its architects and has held elaborate discussions with the resident’s welfare association in relation to the above issues.
3. I state that the Hon’ble Court has ordered demolition of a portion of top of the A Block (as per the Petitioner’s Affidavit dated 24.07.2024) as well as of the swimming pool located at the roof top of A Block. It is submitted that the same shall be completed in 2 months from today.
4. I further state that the BDA has raised an objection that alternate area for CA Site 1 to the extent of area falling under the HT line needs to be provided. The petitioner is examining the viability of the same and undertakes to report on the same within 4 weeks from today.
5. In relation to the shifting of underground water tank located benath CA Site -2, the petitioner submits that, the Petitioner is in the process of identifying a suitable alternate site for the underground water tank to a location that causes minimum inconvenience to the residents of O-Block. The process of shifting of the underground water tank would be completed in 4 months from today.
6. I further state that, the petitioner has approached Mr. Punit, the land owner of the adjoining the property near O Block with a proposal for purchasing a portion of his land near O Block. I state that Mr. Punit is willing to provide his land on long term lease but has still not conveyed to the petitioner in terms for selling the land. The petitioner is making continuous and fervent efforts in this respect for execution of a sale deed and will report on the same within 4 weeks from today.
7. I state that the averments made herein above are true and correct to the best of my knowledge and the same may be taken on record.”
2. The petitioner has taken the proceedings very lightly, even after having violated the building bylaws applicable. Despite indulgence being extended, the petitioner has now sought for a large additional time which cannot be granted. The filing of the affidavit itself has taken a month’s time and even today, it was submitted that the affidavit has been filed today, the petitioner being well aware of the date given in the matter has filed the affidavit at the last moment to further delay the proceedings, hence this court sitting at Kalburgi had to call for the affidavit filed in the principal bench through email, which has been extracted hereinabove.
3. The timelines which have been given by the petitioner is again an abuse of the process of the Court. The proceedings being pending from the year 2013, the petitioner has continued to enjoy the construction which has been put up in violation of law.
4. In that view of the matter, I am of the considered opinion that there will be no purpose served by extending any further indulgence to the petitioner in the matter. Hence the learned counsel for the BDA is directed to carry out the demolition work as adverted to in paragraph Nos.3 of the affidavit filed today. He is directed to place on record the timelines that are required to do so within one week from today for approval, needless to say the cost as determined by the BDA will be borne by the Petitioner without demur and if not paid will be recoverable as land revenue.
5. Insofar as paragraph 4 of the affidavit, 4 weeks time i.e., until 18th September 2024 is granted to the petitioner, if the alternative site is not identified and the lines shifted by then, necessary directions would have to be issued.
6. Insofar as Paragraph No.5 is concerned, BDA is directed to identify a suitable alternate site for the underground water tank, put up construction of a water tank in the alternate site and thereafter demolish the existing tank such that the water source is maintained without any interruption. BDA to identify the location and submit as to how long it would take to build an alternate water tank and demolish the existing water tank, again needless to say the costs of the same shall be borne by the Petitioner without demur and if not paid, recoverable as land revenue. The timelines to be placed on record within two weeks from now.
7. Insofar as paragraph No.6 is concerned, the petitioner is granted four weeks time to purchase the adjoining property to O-block and place the same before this Court, again needless to say no further indulgence would be extended, if the adjoining property is not purchased within the undertaken 4 weeks of time i.e., on or before 18th September 2024, there being a violation of setbacks the concerned building violating setbacks would have to be demolished by the BDA.
8. Learned counsel for the petitioner points out certain typographical errors in paragraph No.16 of the order dated 24.07.2024. The reference to ‘O’ block in line three is corrected to ‘A’ block and the reference to civic amenity site No.2, 3 and 4 is corrected to civic amenity Site No.2.

	9. Re-list on 03.09.2024.  <b>Last Updated On: 2024-08-21 10:37:34</b>	
12	SURAJ GOVINDARAJ	<u>13/08/2024</u>
	1. Learned counsel for the petitioner seeks for and is granted a weeks' time to file their affidavit as undertaken in the order dated 24.07.2024. 2. Re-list on 20.08.2024.  <b>Last Updated On: 2024-08-13 18:09:43</b>	
13	SURAJ GOVINDARAJ	<u>24/07/2024</u>

1. Learned counsel for the petitioner has filed an affidavit of Sri. K.G. Vasanth Kumar, an Architect giving the details of the undivided interest insofar as 'O' Block is considered. Where it is stated that total extent of land in respect of 'O' Block is 81,637 Sq. feet and on that basis, it is stated that on examination of sale deeds which have been executed in respect of 'O' Block, the undivided share allotted under the said sale deeds are proper and correct. Apart therefrom a tabular statement showing the UDS allocated in Block 'A' to 'G' has been produced. Insofar as CA site No.2 is concerned, it is stated that it is located in the middle of Block 'O' and that the area used for CA site No.2 is not part of the UDS for Block 'O'. The said affidavit is taken on record.
2. Learned counsel for the BDA is directed to cause the inspection and verify the authenticity of these statements.
3. This moreso in view of submission made by Sri. N.Khetty, learned counsel appearing for respondent No.5 that there is no plan sanction and as such, the determination of the UDS can be done only basis of the plan sanction. This aspect would have to be examined by the BDA while considering the application for the modified plan sanction to ascertain if the UDS allotted to each of the apartments during the course of approval of the modification plan is in accordance with the sale deeds which have been executed and the civic amenities and park areas are demarcated. A comprehensive statement for each of the apartments along with each of the civic amenity, park area and open space to be filed by the BDA. Needless to say, the comprehensive statement would have to detail out the total land area, FAR permissible, the coverage permissible, constructed area and whether the same is in accordance with the applicable building Bylaws.
4. Another affidavit of the petitioner has been filed indicating that the petitioner is in the process of negotiating leasing of the land adjacent to 'O' Block on long term basis, since the adjacent owner has been hospitalized, the negotiations have not gone further. It is pointed out the learned counsel for the petitioner that a long lease would not satisfy the requirement of making available the setbacks in as much as the said land will have to form part of the project and as such it would be only a sale deed which should have to be executed conferring full and complete rights on the said property which will vest with the Association in terms of the Karnataka Apartment Ownership Act, 1976.
5. In the said affidavit, it is further stated that the petitioner would undertake demolition of the temporary structure, empty and stop using the swimming pool located in the top most floor of 'A' Block, thereby reducing the height of 'A' Block.
6. I am of the considered opinion that non usage of the swimming pool will not reduce the height of the building, it would be required that the swimming pool be demolished, so that there is no construction which can be considered to be a top floor, so that the topmost floor is in compliance with the requirements of the Building Bylaws.
7. The submission of the learned counsel for the petitioner is that once the demolition is made, the top most height of 'A' Block would be reduced to 45.75 meters, thereby, bringing in compliance the shortest distance between each of the building in accordance with the Building Bylaws.
8. Learned counsel for the BDA is directed to get the same examined, verify the height of the 'A' Block after the demolition and make submission as to whether on the demolishing, the distance between the building would comply with applicable by laws.
9. An objection had been raised in the re-joiner filed on 19.06.2023 by BDA as regards the FAR and coverage, wherein it has been stated that the submitted plan and FAR is calculated for 75% of the area. It would be required for the BDA to place on record the permissible ground coverage as regards this subject project and whether 75% of the land could to be used for the purpose of construction, in terms of the applicable law.
10. One another objection which has been raised is as regards the driveway on either side of the park located from Blocks 'B' and 'G'. The contention being that the requirement under the Building Bylaws is 3.5 meters, The same would not come in the way for the BDA considering the modification of the plan since the basic requirement of 3.5 meters has been satisfied, the petitioner having left more than what is required will not affect the petitioner adversely.
11. An objection has been raised as the Club house being constructed below the swimming pool and that portion of said Club house is below the surrounding ground level.
12. Learned counsel for the petitioner submits that the land where the Club house is constructed is a slope and such a portion of the said club house is below the ground level but the main access to the Club house is from the ground level on one side. Be that as it may, as regards the construction of club house, the FAR has been denoted and made part of the entire project, if that be so, when the FAR is made part of the project, it cannot be considered to be a basement. This objection on part of the BDA stands overruled.
13. As regards the underground water tank stated to be constructed between the wings of 'O' Block and below Civic Amenity Site No.2, learned counsel for the petitioner submits that the said under ground water tank would be removed after making adequate arrangement for water facilities to the residents of 'O' Block. In regard thereto, learned counsel for the BDA submits that if the underground water tank is removed, objections in respect of CA-2 Site would stand satisfied.
14. Insofar as CA-1 is concerned, it is stated that there is a high-tension wire running across the property and the same cannot be considered as a Civic amenity site by the BDA, since it cannot be used for any



purpose.

15. The submission on part of the BDA is that the said area demarcated as CA-1, cannot be allotted for any Civic amenity-1 to a third party and no construction can be carried out on the said CA-1, as such the BDA cannot construct the full extent on CA-1 in compliance with Building Bylaws. The project being a gated community and being an apartment complex, it would be required that any Civic Amenity or the park area which is denoted in the development plan be leased back to the Association for the purpose of maintenance and use. Therefore, the Civic amenity cannot be allotted to a third party but will continue to be with the Association. Be that as it may, the existence of a high tension wire could come in the way of usage of the property by the Association. As such, it would be required for the petitioner to make available adequate civic amenity area within the project insofar as the extent of CA-1 where the high tension wire runs. Calculation to this effect as regards what could be considered by the BDA and what is the extent of land coming under the high tension wire also to be provided by the BDA.

16. Learned counsel for the petitioner seeks for two days time to file an affidavit of the petitioner indicating by when the demolition of the top floor of 'O' Block will be completed, when the alternate water facilities would be made available for the residents of 'O' Block, when the underground water tanks built below the civic amenity- No. 2, 3 and 4 would be demolished, by when the land required for making available set back in compliance by Building Bylaws for 'O' Block would be made available. And by when alternate land would be demarcated for CA-1, so as to comply with requirement of the area for CA-1.

17. Learned counsel for the BDA is also directed to place on record as to what would be the time required for the BDA to examine, measure and comply with the directions given above, after the petitioner has carried out the demolition.

18. Re-list on 06.08.2024.

**Last Updated On:** 2024-07-29 10:50:52

14	SURAJ GOVINDARAJ	<u>18/07/2024</u>
	<p>1. Learned counsel for the petitioner has filed an affidavit, copy thereof has been now served on counsel for respondents No.1 to 3, who seeks for and is granted a week's time to go through and address arguments.</p> <p>2. Relist on 24.07.2024.</p> <p><b>Last Updated On:</b> 2024-07-19 14:15:31</p>	
15	SURAJ GOVINDARAJ	<u>20/06/2024</u>
	<p>,1. The learned counsel for the petitioner seeks for and is granted three weeks' time to file the affidavit of the architect and make her submission on compliance with the defects pointed out by the BBMP.</p> <p>2. Re-list on 11.07.2024 at 02:30 p.m.</p> <p><b>Last Updated On:</b> 2024-06-21 14:42:55</p>	
16	SURAJ GOVINDARAJ	<u>06/06/2024</u>

	<div>1. Learned counsel for respondent No.6 submits that there is an imminent threat by the BBMP or the BDA trying to dispossess respondent No.6 and disturb the operation of the substation established on the North Western Corner of the property. The BBMP and other official respondents are restrained from in any manner interfering with the possession of the operation of the substation set up by KPTCL.</div> <div>2. Insofar as the Civic Amenity Site No.2 is concerned submission of the learned counsel for the BDA is that there is a water tank, which has been built below the Civic Amenity Site No.2, which is situated in the center of 'O' block.</div> <div>3. Learned counsel for the petitioner submits that the said water tank has been removed. The learned counsel for the BDA is directed to ascertain and verify whether the submission is correct.</div> <div>4. Learned counsel for respondent No.5 submits that Civic Amenity Site No.2 situated in 'O' Block is not a Civic Amenity in view of the undivided interest in respect thereof, has already been sold to the purchaser of the apartments. Learned counsel for the petitioner submits that the said area has not been taken into consideration for the purpose of calculation of the undivided interest in the entire project area.</div> <div>5. She seeks for and is granted a week's time to place on record an affidavit stating the details of project including the entire 'O' Block detailing all the built up area, super built-up area and land area, methodology of calculation of undivided interest in respect of each of the apartments in the entire project area.</div> <div>6. List on 20.06.2024 at 2.30 P.M.</div> <div>Last Updated On: 2024-06-11 15:23:50</div>	
17	SURAJ GOVINDARAJ	<u>29/05/2024</u>
	<div>1. The learned counsel for the petitioner seeks for and is granted a week's time to get ready and address his further arguments.</div> <div>2. Re-list on 06.06.2024 at 2.30 p.m.</div> <div>Last Updated On: 2024-05-30 10:25:46</div>	
18	SURAJ GOVINDARAJ	<u>05/06/2023</u>
	<div>ORDER IN WP NO.31982/2013</div> <div>1. On behalf of Sri.Sachin B.S., learned counsel for respondents No.1 to 3, it is submitted that the affidavit is ready and given a week's time, the same would be filed.</div> <div>ORDER IN WP NO.44363/2018</div> <div>2. Sri.Mohammad Arif Khan, counsel submits that he has entered appearance for respondent No.6.</div> <div>3. Registry to verify and print his name as such.</div> <div>4. Re-list on 20.06.2023 at 2.30 p.m.</div> <div>Last Updated On: 2023-06-06 13:51:19</div>	
19	SURAJ GOVINDARAJ	<u>10/04/2023</u>
	<div>1. The learned counsel for respondents No.1 to 3 seeks for and is granted two weeks' time to file his objections to the report submitted by the learned counsel for the petitioner.</div> <div>2. The said objections to be filed on or before 28.04.2023 after serving a copy thereof on the learned counsel for the petitioner.</div> <div>3. The learned counsel for the petitioner to go through the same and compliance report be filed on or before 12.05.2023 after serving a copy thereof on the learned counsel for the respondents No.1 to 3.</div> <div>4. In the meanwhile, if there are any other issues, the petitioner and respondent shall have a meeting in the week commencing 15.05.2023.</div> <div>5. Re-list on 29.05.2023 at 2.30 p.m.</div>	
20	SURAJ GOVINDARAJ	<u>20/03/2023</u>
	<div>Learned counsel for the petitioner submits that a memo along with documents have been filed.</div> <div>Counsel for the petitioner to serve copy on the counsel for the respondents.</div> <div>Relist on 10.04.2023 at 2.30 p.m.</div>	

21	SURAJ GOVINDARAJ	<u>10/03/2023</u>
	<p>1. Sri. Shashi Kiran Shetty., learned senior counsel for the petitioner submits that a proposal has been submitted by the petitioner to respondent No.1 which is under consideration.</p> <p>2. None appears for the respondents No.1 to 3.</p> <p>3. Re-list on 20.3.2023.</p>	
22	SURAJ GOVINDARAJ	<u>13/02/2023</u>
	<p>Both the counsel seek for and are granted two weeks time to submit compliance report</p> <p>Relist on 6.03.2023.</p>	
23	SURAJ GOVINDARAJ	<u>30/01/2023</u>
	<p>1. Sri.Shashi Kiran Shetty, learned Senior Counsel for the petitioner submits that most of the issues which had been raised by the BDA have been complied with by the petitioner barring 3 to 4 issues which also would be resolved by compliance with the Rules as applicable on the date of the plan sanctioned viz., Zoning Regulations, 1995.</p> <p>2. Re-list on 13.02.2023 at 2.30 p.m.</p>	
24	SURAJ GOVINDARAJ	<u>16/01/2023</u>
	<p>1. Sri.B.S.Sachin, learned counsel for respondents No.1 to 3 has filed a memo enclosing a letter dated 10.01.2023 addressed to the petitioner.</p> <p>2. None appears for the petitioner today.</p> <p>3. For the say of the petitioner, re-list on 30.01.2023 at 2.30 p.m.</p>	
25	SURAJ GOVINDARAJ	<u>05/12/2022</u>
	<p>In WP No.44363/2018</p> <p>1. Sri.B.S.Reddy, learned counsel has filed a memo for retirement. Smt.Sona Vakkund has entered appearance for the petitioner. Hence, memo of retirement is accepted. Hence, registry to delete the name of Sri.B.S.Reddy.</p> <p>In WP No.31982/2013</p> <p>1. Sri.B.S.Sachin, learned counsel for respondent Nos.1 to 3 submits that the petitioner has furnished a modified plan at 5.00 p.m. on 02.12.2022 and as such the officer of BDA would have to inspect the site and go through the modified plan submitted and ascertain whether the same could be approved or not. He seeks for three weeks time in that regard.</p> <p>2. Sri N. Khetty, learned counsel for respondent No.5 submits that the construction of “O Tower” has been made on a portion of the property which had been relinquished by the petitioner for the purpose of civic amenity. Thus, the extent of land required to make available FAR for construction of “O Tower” was not available, rendering the construction illegal and a fraud played by the builder of the BDA.</p> <p>3. Sri B.S.Sachin, learned counsel for the BDA is directed to instruct the concerned BDA Officer carrying out inspection to take note of submissions made by Sri N. Khetty and submit their reply. The relinquishment deed dated 27.05.1997 shall also be produced by next date of hearing.</p> <p>4. Relist on 16.01.2023 at about 2.30pm.</p>	
26	SURAJ GOVINDARAJ	<u>21/10/2022</u>

	<p>ORDER</p> <p>Sri.Sachin B. S., learned counsel for respondent Nos.1 to 3 submits that upon going through the affidavits which have been filed the defects have been narrowed down and brought to the notice of the petitioner in the said joint meeting.</p> <p>Sri.Shashi Kiran Shetty, learned Senior counsel appearing for the petitioner submits that a modified plan is under preparation and would be submitted to the BDA after a spot inspection, assessment of undivided interest of a particular apartment which has been sanctioned, undivided interest which has been sold and available, etc.</p> <p>Relist on 02.12.2022.</p>	
27	SURAJ GOVINDARAJ	<u>27/09/2022</u>
	<p>1. Sri.B.S.Sachin, learned counsel has filed a reply affidavit after serving the same on the learned counsel for the petitioner. The same is taken on record.</p> <p>2. Sri.B.S.Sachin, learned counsel for respondents No.1 to 3 submits that in view of the dispute between the parties having been narrowed now by way of an affidavit which have been filed, there are certain doubts, which are required to be clarified and if the representative of the petitioner were to call upon Mr.N.V.Ramesh, Deputy Director of Town Planning Section, Bangalore Development Authority, the same could probably be resolved.</p> <p>3. Sri.Shashi Kiran Shetty, learned Senior Counsel for the petitioner would submit that representative of the petitioner will call upon the said Deputy Director on 06.10.2022 at 15.00 hours.</p> <p>4. Re-list on 14.10.2022 at 2.30 p.m. to ascertain the progress in the matter.</p>	
28	SURAJ GOVINDARAJ	<u>14/09/2022</u>
	<p>1. Sri B.S.Sachin, learned counsel for respondent Nos.1 to seeks for one more opportunity to reply to the affidavit filed by the learned counsel for the petitioner. No such indulgence is required to be granted. However, in the interest of justice, one last opportunity is granted subject to payment of cost of Rs.10,000/- to the Karnataka State Legal Services Authority.</p> <p>2. It is made clear that if the objections are not filed by 23.09.2022, the said objection will be taken as not filed.</p> <p>3. Re-list on 27.09.2022 at 2.30 p.m.</p>	
29	SURAJ GOVINDARAJ	<u>26/08/2022</u>
	<p>ORDER</p> <p>1. Learned counsel for the petitioner submits that he will be filed an affidavit of Managing Partner of the petitioner during the Course of the day. A copy thereof will be served on the counsel for BDA and other counsel during the Course of the day.</p> <p>2. Sri Sachin B.S., learned counsel for respondent -BDA seeks for and is granted two weeks' time to file his objections to the affidavit filed by the petitioner and other respondents also permitted to file their objections, if they intend to within the said period.</p> <p>3. Objections, if any, to be filed on or before 09.09.2022.</p> <p>4. Re-list on 14.09.2022.</p>	
30	SURAJ GOVINDARAJ	<u>23/08/2022</u>

	<ol style="list-style-type: none"> <li>1. Sri Shashikiran Shetty, learned Senior Counsel has today filed a reply to the statement of objections filed by respondent No.5 on 07.07.2022.</li> <li>2. Sri N. Khetty, learned counsel appearing for respondent No.5 seeks for and is granted two weeks' time to go through the same and make his submissions.</li> <li>3. Sri B.S. Sachin, learned counsel for respondent Nos.1 to 3 seeks for two weeks' time to file his objections to the reply filed by petitioner to the affidavit filed by the respondent-BDA on 07.07.2022.</li> <li>4. A perusal of the said reply indicates that the said reply has been signed by the advocate for the petitioner. However, this Court vide its order dated 07.07.2022 had directed the petitioner to file an affidavit in reply to the affidavit filed by the BDA. Hence, the reply to the affidavit filed by the learned counsel for the petitioner is rejected</li> <li>5. Sri Shashikiran Shetty, learned Senior Counsel seeks for and is granted two days' time to file an affidavit in reply to the affidavit filed by the BDA.</li> <li>6. Re-list on 26.08.2022.</li> </ol>	
31	SURAJ GOVINDARAJ	<u>10/08/2022</u>
	<ol style="list-style-type: none"> <li>1. Learned counsel for the petitioner has filed a reply to the affidavit filed by the respondent-BDA. The same is taken on record.</li> <li>2. A copy of the same to be served on the counsel appearing in the matter.</li> <li>3. Re-list on 23.08.2022.</li> </ol>	
32	SURAJ GOVINDARAJ	<u>25/07/2022</u>
	<p>Sri Shashi Kiran Shetty, learned Senior Counsel appearing for the petitioner would submit that the reply to the affidavits filed by respondent Nos.1 to 3 and respondent No.5 is getting ready and given three days' time it would be final, after serving advance copy on the respondents on or before 28.07.2022. One week time is granted to the respondents thereafter to go through the same and to file their written objections, if any, to the compliance affidavit filed by the petitioner. The same to be filed on or before 04.08.2022 after serving a copy thereof on the counsel for the petitioner.</p> <p>Re-list on 08.08.2022 at 2.30 p.m.</p>	
33	SURAJ GOVINDARAJ	<u>07/07/2022</u>
	<ol style="list-style-type: none"> <li>1. Sri.Nanjunda Reddy, learned Senior counsel appearing on behalf of Sri.B.S.Sachin, counsel for BDA has filed an affidavit detailing out the issues to be answered by the petitioner. The same is taken on record. The learned counsel for respondent No.5 has also filed an affidavit, which is also taken on record.</li> <li>2. Sri.Shashikiran Shetty, learned Senior Counsel appearing for the petitioner seeks for and is granted ten days' time to file an affidavit in reply to both the affidavits, which are taken on record today. The reply affidavit to be filed on or before 20.07.2022 after serving a copy thereof on the other counsel.</li> <li>3. Re-list on 25.07.2022 for further hearing.</li> </ol>	
34	SURAJ GOVINDARAJ	<u>05/07/2022</u>
	<ol style="list-style-type: none"> <li>1. Sri.Nanjunda Reddy, learned Senior Counsel appearing for BDA and Sri.N.Khetty, learned counsel for respondent No.5 seeks for and are granted two days' time to point out the defects and/or violations of the plan sanction.</li> <li>2. Sri.Shashikiran Shetty, learned Senior counsel appearing for the petitioner would submit that once the defects are pointed out, if he granted week's time, he would answer all the said defects.</li> <li>3. Re-list on 07.07.2022 at 2.30 p.m., for the submissions and filing of an affidavit of Sri.Nanjunda Reddy and Sri.N.Khetty.</li> <li>4. It is made clear that the objections to be raised by the BDA or by the client of Sri.N.Khetty shall be final and once the same are placed on record, no further objections would be entertained.</li> </ol>	
35	SURAJ GOVINDARAJ	<u>07/06/2022</u>



	<p>1. Sri B.S.Sachin, learned counsel for the respondents-BDA submits that in the modified plan which has been submitted, there is an area which has been shown as a proposed change of land use. Though this area is shown as such, it cannot be considered by the BDA since, by virtue of the said plan, there is a probability of misinterpretation by the petitioner.</p> <p>2. Faced with the above situations, Sri Shashikiran Shetty, learned Senior Counsel, submits that a fresh revised modified plan will be submitted restricting it to the area as dealt with by this Court in the earlier order, merely the residential constructed area. He submits that given two days' time, the same would be submitted.</p> <p>3. Sri B.S. Sachin, learned counsel submits that the revised modified plan submitted would be considered by the BDA within a period of three weeks thereafter.</p> <p>4. Re-list on 05.07.2022.</p>	
36	SURAJ GOVINDARAJ	<u>24/05/2022</u>
	<p>ORDER</p> <p>In WP No.31982/2013:-</p> <p>1. Since Sri Suhas T L and Ramesh M D, learned counsels have entered appearance for the petitioner, memo of retirement filed by Sri Veeranna G Tigadi and Sri Ravi B Naik, learned counsels are accepted.</p> <p>2. Registry is directed to delete the names of Sri Veeranna G Tigadi, Sri K.B.Monesh Kumar &amp; Sri Ravi B Naik as also Sri Rahul Cariappa, learned counsels as that appearing for the petitioner.</p> <p>3. Since Sri N.Khetty, learned counsel has entered appearance for respondent No.5, Registry is directed to delete the name of Sri Balachandra Y.S. &amp; Ram M.K., learned counsel as that appearing for respondent No.5, as also the name of respondent No.5 appearing as party-in-person.</p> <p>4. Since Sri Shirish Krishnan and Joseph Anthony, learned counsels have entered appearance for respondent No.6, Registry is directed to delete the name of Sri Gurudev I Gachchinamath, learned counsel as that appearing for respondent No.6.</p> <p>In WP No.44363/2018:-</p> <p>5. Sri Suhas T L, learned counsel submits that he would appear for respondent No.5.</p> <p>6. Sri Sachin B S, learned counsel appearing for BDA submits that the memo dated 04.04.2022 is in compliance with the order dated 20.09.2019.</p> <p>7. Sri Shashikiran Shetty, learned Senior Counsel for the petitioner submits that there is no compliance in as much as that along with the said memo, there are various letters which have been produced calling upon the petitioner to produce certain further documents, which is not intend and purport to the order dated 20.09.2019 passed by this Court. By referring to various portions of the said order, more particularly the penultimate paragraph it is submitted that the petitioner would be required to submit the modified development plan and building plan as per the construction already put up and it was for the respondent-Board to ascertain that the said modified development plan and building plan is in accordance with the applicable building bye-laws or not and thereafter pass necessary orders as expeditiously as possible, within a period of four months. He submits that though the said modified development plan and building plan were submitted on 25.11.2019 necessary orders were to be passed by 22.03.2020. This was not been done.</p> <p>8. Sri B.S.Sachin, learned counsel appearing for the BDA who admits the receipt of the development plan and building plan, submits that there are further documents which are required and as such they were sought for and since they were not furnished, BDA has not passed necessary orders.</p> <p>9. I am unable to accept the said submission of the learned counsel for the respondent in as much as the penultimate para of the order dated 20.09.2019 passed by this Court clearly indicates that it is only the modified development plan and building plan which are required to be submitted and which are to be examined by the concerned of the BDA to ascertain if the modified development plan and building plan are in compliance of the applicable rules and regulations.</p> <p>10. Faced with the said situation, Sri B.S.Sachin, learned counsel seeks for ten days time to report compliance of order dated 20.09.2019.</p> <p>11. Re-list on 07.06.2022.</p>	
37	B.M.SHYAM PRASAD	<u>11/04/2022</u>
	Adjourned to be called after Summer Vacation 2022.	
38	B.M.SHYAM PRASAD	<u>04/04/2022</u>

	<p>Sri. Shravan, learned counsel places on record memo and additional documents, and he states that copies have been served on the other side.</p> <p>The petitions are adjourned for the say of the learned counsels for the parties to be called on 11.04.2022.</p>	
39	B.M.SHYAM PRASAD	<u>23/03/2022</u>
	<p>On perusal of the records and on hearing Sri. Shashikiran Shetty, learned senior counsel and Sri. B.S. Sachin, learned counsel who has filed vakalath for the first to third respondents in the writ petition in W.P. No.31982/2013, the office is directed to delete the name of Smt. A.D. Vijaya for the first to third respondents therein and Sri. G.M. Chandrashekar, for the second to fourth respondents in the writ petition in W.P. No.44363/2018 and show the name of Sri. B.S. Sachin for these respondents in the writ petition in W.P. No.44363/2018.</p> <p>Sri. B.S. Sachin submits that he is tentatively informed that certain orders have been passed by the Bangalore Development Authority after this Court's order dated 20.09.2019 and that he will secure complete instructions and place necessary material on record by the next date of hearing.</p> <p>The office is directed to list these petitions on 04.04.2022.</p>	
40	B.M.SHYAM PRASAD	<u>09/03/2022</u>
	<p>Perused this Court's order dated 20.09.2019 and heard Sri. K. Shashi Kiran Shetty, learned Senior counsel who appears for the petitioner.</p> <p>Sri. K. Shashi Kiran Shetty submits that after this Court's order dated 20.09.2019, appropriate plans have been submitted but no decision is taken as of today. The petitioner has been pursuing with the BDA for necessary decision.</p> <p>It is submitted at the bar that Smt. A.D.Vijaya, learned counsel who is on record for the BDA and its Officers (the respondent Nos.1 to 3), no longer appears for these respondents.</p> <p>This Court, on perusal of the order dated 20.09.2019 is of the view that this order must be brought to the notice of Sri. M.B.Rajesh Gowda, the Commissioner, BDA for necessary representation before this Court and submission on the action taken pursuant to the order dated 20.09.2019.</p> <p>Therefore, the Registry is directed to send a copy of this Court's order dated 20.09.2019 to the Commissioner, BDA, both by normal mode and also by E-mail.</p> <p>The petitions are adjourned to be called on 23.03.2022.</p>	
41	G.NARENDAR	<u>26/11/2021</u>
	<p>ORDER</p> <p>Case is called.</p> <p>Learned counsel for the petitioner seeks time.</p> <p>Released from part heard.</p> <p>List before the regular bench having roster.</p>	
42	G.NARENDAR	<u>18/03/2020</u>
	list after two weeks	
43	GNJ	<u>20/09/2019</u>

Heard the learned Counsel for the petitioner and the learned Counsel for the respondent-BDA.

A piquant situation has arisen wherein the petitioner asserts that it had submitted the building plan for sanction and had also paid the necessary charges. There is no dispute with regard to the development plan which admittedly is approved by the BDA.

Learned Counsel for the BDA contends that no building plan has been submitted and despite the search of the records, no building plan submitted by the petitioner in respect of the project has been traced. The building plan that is produced by the petitioner is rejected by the authority as one that has been concocted. But the fact remains that the authority has acknowledged the receipt of payments which are indeed mentioned in the building plan □ Annexure-B.

It is incomprehensible as to how the authority would have received the amounts which amounts to about Rs.2.53 Crores without raising a demand and the fact remains that till date no audit objections are raised. The copies of the challans have been traced and placed before this Court by the authority. It is also fairly admitted that the amounts have been accounted and credited under the relevant heads. It is also relevant to note that the petitioner pursuant to the approved development plan and the building plan, the issuance of which is denied by the BDA, has put up construction of eight blocks with each block consisting of Ground plus 13 floors and basement parking and the apartment units have also been sold to third parties and the BBMP has also issued khatha certificates and the apartments have also been assessed to tax and taxes are being collected from various owners. The apartments have been sold about almost more than a decade and a half, much before the litigation commenced. It is submitted that presently about 1,800 families are residing in the apartment complex.

On the last date of hearing, this Court had orally directed the officials present, to inspect the buildings and arrive at an assessment as to whether the construction put up comes within the permissible Floor Area Ratio.

Today, Sri Rajesh S.Agadikar, Assistant Engineer, BDA, who is present before the Court submits that in compliance with the oral direction of this Court they have inspected the buildings and the constructions put up are within the permissible FAR limits.

It is not in dispute that the total extent of land measures about 35 acres and the alternate CA site has also been identified. Learned Counsel for the petitioner submits that the petitioner has no hesitation in handing over/relinquishing the CA site identified in favour of the BDA.

In this background, this Court is of the opinion that in this continued battle of attrition between the Authority and the Developer, the sufferers are the apartment owners whose hard earned investments is at stake. Hence, this Court is of the opinion that the petitioner and the authority be directed to work out the modalities and their differences without giving scope for infraction of the law of the land.

This Court has perused the provisions of Section 32 of the BDA Act and the provisions of Sections 15 & 17 of the Karnataka Town & Country Planning Act, 1961 (for short, □KT & CP Act□). Learned Counsel for the Authority and the learned Counsel for the petitioner would submit that the provisions enables the BDA which is the Planning Authority under the KT & CP Act, is empowered not only to sanction the plan submitted to it, but also sanction such modified plans if need arises. On a conjoint reading of Section 32 of the BDA Act and Sections 15 & 17 of the KT & CPA Act, this Court is of the opinion that the contention advanced by the learned Counsel bears substance and merits consideration. In that view of the matter and in view of the peculiar nature of the case, this Court is of the opinion that the following direction may be issued pending disposal of the writ petition.

The petitioners are directed to submit a modified development plan and building plan without prejudice to their claim that it has already submitted the building plan. The modified development plan and the building plan shall be in consonance with the construction already put up. The said modified development plan and the building plan shall be considered by the respondent-Board and if it is found that the building plan is not violative of the Act or Rules, the same shall be considered positively. The modified development plan and the building plan shall be submitted to the authority within two weeks. If such modified development plan and the building plan is submitted within two weeks, the same shall be considered in an expeditious manner at any rate within an outer limit of four months. If there are differential amounts to be paid, the authority shall intimate in writing to the petitioner and the same shall be deposited by the petitioner.

The presence of the officers before this Court is dispensed with on the next date of hearing.

	List on 03.02.2020.	
44	GNJ	<u>24/07/2019</u>
	<p>ORDER</p> <p>Heard the learned counsel for the petitioner, learned counsel for respondent Nos.1 to 3 BDA and the learned counsel for 6th respondent.</p> <p>Learned counsel for the BDA is assisted by the officers of B.D.A..</p> <p>The files relating to the petitioner's construction has been placed before the Court.</p> <p>On going through the note No.188 of the Engineering Section and note No.135 of the other file of Planning Section, the contention that the plan has not been submitted appears to be on a weak footing and hence the plea that no building plan has been submitted is specious and appears to be contrary to the file noting. These notes prima facie probabalises the case of the petitioner. Hence, the following officers shall be present during the further hearing of the petition to assist the Court. The officers are:</p> <ol style="list-style-type: none"> <li>1. Sri N.S. Shamanna, Joint Director of Town Planning, B.D.A.</li> <li>2. Sri Nagendra, Executive Engineer,</li> <li>3. Sri Rajesh, A.E.</li> </ol> <p>List this petition on 13.08.2019.</p>	
45	GNJ	<u>21/06/2019</u>
	<p>ORDER ON IA-1/2019</p> <p>Case is called.</p> <p>IA-1/2019 is moved by the Development Authority. There is no representation for the applicant.</p> <p>It is seen that the matter has been pending for quite sometime now. The fate of the purchaser has been hanging fire. In this background, the present act of the Development Authority is only reflective of its insensitivity to the sufferings of the citizens.</p> <p>The issue with regard to the details of payments and the material placed on record is not one which cropped up yesterday, but was one which was pointed out by this Court way back in the year 2018 i.e., as early as in the month of April 2018. In this regard, the Town Planning Member and the Engineer Member were also summoned and their affidavits have also been taken. In the affidavits, they have categorically admitted issuance of receipt evidencing payment of certain sums. Nearly 14 months have passed and again on the same issue, adjournment is sought. It is apparent that the authority is trying to avoid hearing before this Court. The conduct of the respondent-Authority is highly unbecoming of a statutory authority. Hence, IA-1/2019 is rejected with costs of Rs.25,000/- payable by the respondent-Authority to the State Legal Services Authority.</p> <p>List on 03.07.2019.</p>	
46	GNJ	<u>07/06/2019</u>

	<p>ORDER</p> <p>This Court has made an observation vide order dated 27.04.2018 relating to the statement made by the BDA and also the fact remains that the Development Authority is the only Authority competent to supervise and to authorize sanction plan for construction of □high rise building□ as in the instant case.</p> <p>The entire dispute appears to be revolving around the building plan produced by the petitioner. The respondents are questioning the authenticity and sanctity of the same.</p> <p>Hence, the BDA shall place before the Court the records which would either demonstrate authenticity or sanctity of the plan and such other material to demonstrate that the plan relied upon by the petitioner is fabricated document. The BDA shall further clarify under what head, the payments received by it have been appropriated.</p> <p>List on 21.06.2019 at 2.30 p.m.</p>
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47	GNJ	<u>11/04/2019</u>
	<p>The matter is listed for final hearing.</p> <p>The counsel for the petitioner and the counsels for the respondents with the exception of counsel for the Development Authority are present.</p> <p>This Court on the last date of hearing after taking note of the joint affidavit observed that the issue with regard to open area has been amicably resolved and also took note of the fact that a different area has been earmarked to the satisfaction of the Development Authority.</p> <p>The Development Authority shall proceed to expedite the consequential action with regard to taking possession of the alternate site earmarked as open space.</p> <p>List on 28.05.2019 as a final chance to the counsel for the Development Authority to make her say. In the meanwhile, the counsels to place a detailed synopsis with reference to the materials relied upon by them.</p>	

48	GNJ	<u>21/12/2018</u>
	<p>ORDER</p> <p>Heard the learned Advocate General.</p> <p>The presence of learned Advocate General was requested in view of the stand adopted by the Bangalore Development Authority that the transfer of the land to the BESCO is illegal in view of the fact that the said land was demarked as a Civic Amenity Site.</p> <p>The learned counsel for the BESCO submits that the fact remains that the BESCO has purchased the land for a nominal sum of Rs.100/- and has established the sub-Station which is serving lakhs of consumers and not merely the residents of the campus therein. Hence, keeping in view the magnitude, intervention of the learned Advocate General was sought.</p> <p>Learned Advocate General would submit that he would look into the matter and address the matter on the next date of hearing. He would further submit that he would attempt and endeavour to resolve the issue.</p> <p>Hence, list on 04.01.2019 at 2.30 p.m.</p>	

49	GNJ	<u>26/04/2018</u>
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	<p>Pursuant to the orders of this Court, the Town Planning Member, Engineering Member, Executive Engineer (North) and Assistant Executive Engineer (North) are present.</p> <p>In the course of hearing, it is brought to the knowledge of this Court that totally a sum of `2,53,12,944/- has been paid as per the plan dated 09.07.1997 and the said amount has been paid under three challans. A sum of `1,79,58,954/- under challan No.564434 dated 23.08.1996, a sum of `71,18,960/- under challan No.604228 dated 01.07.1997 and a sum of `2,35,030/- under challan No.577671 dated 09.12.1997.</p> <p>The Town Planning Member and the Engineering Member are directed to file their individual affidavits with regard to the receipt of the said sum of `2,53,12,944/- with reference to the challan numbers mentioned in the alleged sanctioned plan at Annexure □ B to the writ petition.</p> <p>Affidavit to be filed by tomorrow.</p> <p>The petitioner is also directed to file an affidavit stating the details of the payments made, the method and manner in which the amounts have been paid to the Bengaluru Development Authority.</p> <p>List this matter tomorrow at 2:30 p.m.</p> <p>The officers who are present today are directed to be present tomorrow also.</p> <p>Copy of this order to be furnished to Smt.A.D.Vijaya, learned counsel appearing for Bengaluru Development Authority.</p>
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50	BVJ	<u>21/02/2018</u>
	<p>Sri. Ravi B. Naik, learned counsel for the petitioner submits that in terms of the objection filed by learned counsel for respondent Nos.1 to 3, petitioner has complied all the requirements specified in para 7 and 8 of statement of objections.</p> <p>Learned counsel appearing for BDA seeks one week time to get proper instruction from BDA.</p> <p>List this matter next week.</p>	

51	RMRJ	<u>29/09/2015</u>
	<p>Apparently the petitioner has sold a property of which it had no right, title and interest, purchased by Karnataka Power Transmission Corporation Limited and therefore, the said Corporation is necessary and proper party to this petition.</p> <p>Petitioner is permitted to arraign as party respondent No.6 Karnataka Power Transmission Corporation Limited, Cauvery Bhavan, K.G.Road, Bengaluru, represented by its Executive Engineer, Major Works, KPTCL, A.R.Circle, Bengaluru.</p> <p>Sri Gurudev Gacchinamath, learned standing counsel to take notice to the said respondent.</p> <p>Petitioner to amend the cause title and serve copies of the writ petition along with annexures on the said learned counsel. Copies of the statement of objections also be made available to the said Counsel.</p> <p>Re-list on 6.10.2015.</p>	

52	RMRJ	<u>15/09/2015</u>
	At the request of learned Senior Counsel for the petitioner, list on 29.09.2015.	

53	RMRJ	<u>22/06/2015</u>
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Learned counsel for petitioner submits that out of large tracts of land measuring 34 acres 28 guntas when proposed for a Group Housing Project, petitioner relinquished 21056.36 sq.mts. as land towards open space, parks and 14037.50 sq.mts. towards civic amenities by executing a deed of release and relinquishment dated 18.10.1996, Annexure-C, in favour of Bangalore Development Authority (for short BDA) and also delivered possession. The BDA is said to have sanctioned a development plan during June, 1996 for construction of 17 blocks of residential apartments consisting of basement, ground and 13 upper floors.

According to learned counsel, the State Government is said to have made some modifications in the Group Housing Scheme, whereby, petitioner was required to make over an additional extent of land towards civic amenity totaling to 14143.71 sq.mts. following which executed a supplementary release and relinquishment deed further followed by supplementary development plan duly sanctioned on 9.7.1997 by the BDA, whereunder, instead of 17 blocks of buildings it was reduced to 15 blocks followed by issue of commencement certificate.

Learned counsel submits that out of sheer inadvertence and in public interest petitioner executed a conveyance deed for Rs.50/- as consideration conveying 1240.50 sq.mts. being a portion of CA site to the Karnataka Power Transmission Corporation Limited though petitioner had relinquished its right, title and interest over the said land.

It is the next submission of the learned counsel that the area relinquished in favour of KPTCL though 1240.50 sq.mts. from out of 14,143.71 sq.mts. of CA site, KPTCL has put up a sub-station catering to the needs of the entire Peenya industrial area and said relinquishment being in the interest of public, no serious view can be taken against the petitioner.

Petitioner it is said is accused of offence under Section 420 and criminal case is pending before the jurisdictional Magistrate on the basis of a complaint lodged by respondent No.5. It is in this backdrop of facts the petitioner alleges that the respondent BDA rejected the petitioner's claim for issue of occupancy certificate for residential building in 8 blocks on the premise firstly, that land relinquished to BDA was made over to KPTCL and secondly, that sewage treatment plant was erected on the civic amenity area without authority of law.

Learned counsel for the respondent-BDA seeks time to examine and point out to the infirmities in the construction activity by the petitioner as also as to law relating to what a development plan is. Since it is not a known whether there exists Building Bye-laws of BDA, for construction of buildings of that magnitude while what is sanctioned to the petitioner is a development plan.

Prima facie, the action of the petitioner in contending that some inadvertent action is taken to convey land that did not belong to it after relinquishment, is nothing short of fraud on the constitution. Lodging a sewage treatment plant on civic amenity site without the permission of the BDA is yet another fraud.

There is also another fraud, in the light of submission of Sri Giridhar, learned counsel for some of the occupants that they did not secure occupancy certificate to occupy the residential flats. The question is who put the residents in possession and under what authority did they take possession for use and occupation of the residential flats in the absence of occupancy certificate.

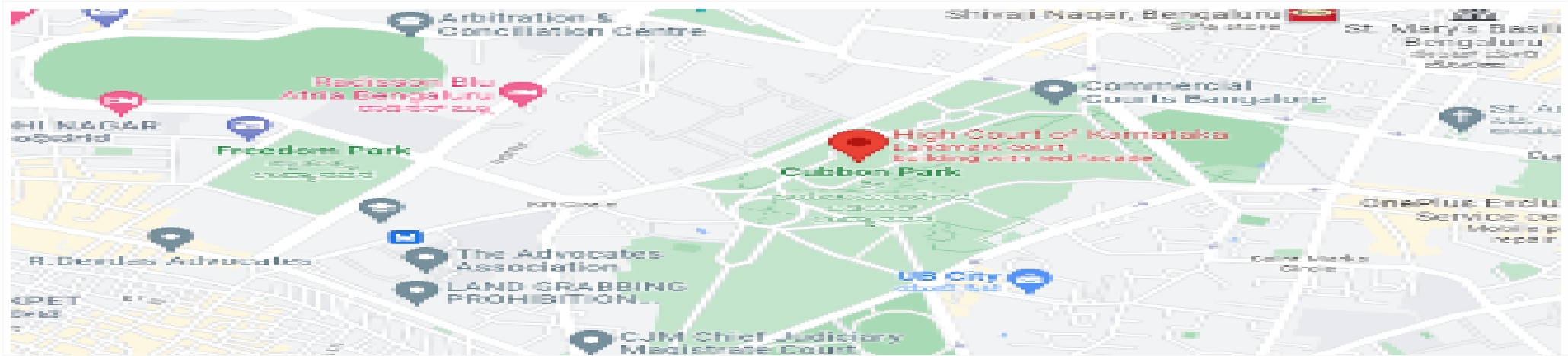
These and many questions arise for decision making.

At request, list tomorrow (23.06.2015).

54	ABHJ	<u>18/02/2015</u>
	Learned counsel for the BDA seeks short adjournment for the purpose of obtaining instructions. Adjourned.	
55	DBBJ	<u>19/08/2014</u>

	<div>PC:</div> <div>Learned counsel for the parties are directed to furnish english translation of all relevant kannada documents on which they propose to rely upon in the course of hearing of the writ petition before the next date.</div> <div>S.O. to 26.08.2014.</div>
56	<div>ASBJ</div> <div>19/06/2014</div>
	<div>Copy of IA No.1/2013 be served on the learned counsel for the kpetitioner. List next week.</div> <div>IA No.1/2014 filed by the petitioner seeking to raise certain additional grounds in the petition. Application is allowed. The grounds sought to be raised shall be incorporated and the amended writ petition be filed. The respondents may file their additional objections to the amended petition.</div>
57	<div>ANVGJ</div> <div>10/03/2014</div>
	<div>The jurisdictional Executive Engineer of the BDA shall conduct an inspection of the property in dispute and point out all the deficiencies at one stretch, on account of which the occupancy certificate sought by the petitioner cannot be issued.</div> <div>Let a detailed spot inspection be carried out in the presence of the petitioner's authorised representative and the office bearers of fourth respondent - Resident's Forum and the report be placed on record of this petition on or before 26.03.2014.</div> <div>Re-list on 28.03.2014.</div>

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