



**NC: 2023:KHC-D:11465**  
**WP No. 105386 of 2023**  
**C/W WP No. 105533 of 2023, WP No.**  
**105562 of 2023**

**IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH**

**DATED THIS THE 27<sup>TH</sup> DAY OF SEPTEMBER, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM**

**WRIT PETITION NO. 105386 OF 2023 (LA-UDA)**

**C/W**

**WRIT PETITION NO. 105533 OF 2023**

**WRIT PETITION NO. 105562 OF 2023**

**IN W.P.NO.105386/2023**

**BETWEEN:**

MUDUKAPPA S/O. RANGAPPA MARABANNAVAR,  
AGE: 43 YEARS, OCC: KSRTC DRIVER,  
R/O: KELAGINI ONI, GOKUL,  
TQ: HUBBALLI, DIST: DHARWAD.

...PETITIONER

(BY SRI ARAVIND D. KULKARNI, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY ITS SECRETARY,  
URBAN DEVELOPMENT DEPARTMENT,  
VIDHANA VEEDHI, BENGALURU-1.

2. THE HUBBALLI DHARWAD  
URBAN DEVELOPMENT AUTHORITY,  
REPRESENTED BY ITS COMMISSIONER,  
P.B. ROAD, HUBBALLI,  
TQ: HUBBALLI, DIST: DHARWAD.

...RESPONDENTS

(BY SRI P.N. HATTI, HCGP FOR R1;  
SRI G.I. GACHCHINAMATH, ADV. FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227  
OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE WRIT OF  
CERTIORARI OR ANY OTHER SUITABLE WRIT OR DIRECTION





**NC: 2023:KHC-D:11465**  
**WP No. 105386 of 2023**  
**C/W WP No. 105533 of 2023, WP No.**  
**105562 of 2023**

QUASHING THE IMPUGNED ORDER DATED 19.12.2009 BEARING NO.NA.AA.E.270.BE.MA.PRA.2009 PRODUCED AS ANNEXURE-B ISSUED BY THE RESPONDENT NO.1 AND ALSO THE IMPUGNED NOTIFICATION DATED 16.11.2010 BEARING NO.HU.DA.NA.PRA.BHUSWA:2:VI:VAHI.1/2010-11/3437 ISSUED BY RESPONDENT NO.2 PRODUCED AS ANNEXURE-C INsofar AS LAND BEARING SY.NO.76/1 MEASURING 1 ACRE 21 GUNTAS SITUATED AT GOKUL VILLAGE, TQ: HUBBALLI, DIST: DHRWAD AND ALSO THE IMPUGNED ENDORSEMENT DATED 15.05.2023 BEARING NO.NA.AA.E.144.BE.MA.PRA.2022(E-KADATHA) PASSED BY THE RESPONDENT NO.1 PRODUCED AS ANNEXURE-J AND SUCH OTHER RELIEFS.

**IN W.P.NO.105533/2023**  
**BETWEEN:**

SRI GOPAL S/O. PRAHALADRAYA AGARWAL,  
AGED ABOUT 59 YEARS, OCC: AGRICULTURE,  
R/O: SARVODAYA COLONY, GADAG,  
TQ: & DIST: GADAG.

...PETITIONER

(BY SRI VEERESH BUDIHAL, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY ITS SECRETARY,  
URBAN DEVELOPMENT DEPARTMENT,  
VIDHANA VEEDHI, BENGALURU-1.
2. THE HUBBALLI DHARWAD  
URBAN DEVELOPMENT AUTHORITY,  
REPRESENTED BY ITS COMMISSIONER,  
P.B. ROAD, HUBBALLI,  
TQ: HUBBALLI, DIST: DHARWAD.

...RESPONDENTS

(BY SRI P.N. HATTI, HCGP FOR R1;  
SRI G.I. GACHCHINAMATH, ADV. FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING QUASH THE IMPUGNED ORDER DATED 19.12.2009 BEARING NO.NA.AA.E.270.BE.MA.PRA.2009 PRODUCED AS ANNEXURE-B ISSUED BY THE RESPONDENT NO.1 AND ALSO THE IMPUGNED NOTIFICATION DATED 23.07.2010 BEARING NO.HU.DA.NA.PRA.BHUSWA:2/CR-4/2009-10/1563 ISSUED BY RESPONDENT NO.2 PRODUCED AS ANNEXURE-C INsofar AS



**NC: 2023:KHC-D:11465**  
**WP No. 105386 of 2023**  
**C/W WP No. 105533 of 2023, WP No.**  
**105562 of 2023**

LAND BEARING SY.NO.80/1B/1A MEASURING 2 ACRES 6 GUNTAS  
SITUATED AT GABBUR VILLAGE BY ISSUE OF WRIT OF CERTIORARI  
OR ANY OTHER SUITABLE WRIT OR ORDER OR DIRECTIONS AND  
SUCH OTHER RELIEFS.

**IN W.P.NO.105562/2023**  
**BETWEEN:**

1. SRI GOPAL S/O. PRAHALADRAYA AGARWAL,  
AGED ABOUT 59 YEARS, OCC: AGRICULTURE,  
R/O: SARVODAYA COLONY, GADAG,  
TQ: & DIST: GADAG-582101.
2. SUNITA W/O. GOPAL AGARWAL,  
AGED ABOUT 58 YEARS, OCC: AGRICULTURE,  
R/O: SARVODAYA COLONY, GADAG,  
TQ: & DIST: GADAG-582101.

...PETITIONER

(BY SRI VEERESH BUDIHAL, ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA,  
REPRESENTED BY ITS SECRETARY,  
URBAN DEVELOPMENT DEPARTMENT,  
VIDHANA VEEDHI, BENGALURU-1.
2. THE HUBBALLI DHARWAD  
URBAN DEVELOPMENT AUTHORITY,  
REPRESENTED BY ITS COMMISSIONER,  
P.B. ROAD, HUBBALLI,  
TQ: HUBBALLI, DIST: DHARWAD-580020.

...RESPONDENTS

(BY SRI P.N. HATTI, HCGP FOR R1; SRI G.I. GACHCHINAMATH, ADV.  
FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227  
OF THE CONSTITUTION OF INDIA PRAYING QUASH THE IMPUGNED  
ORDER DATED 19.12.2009 BEARING NO.NA.AA.E.270.VE.MA.  
PRA.2009 PRODUCED AS ANNEXURE-B ISSUED BY THE RESPONDENT  
NO.1 AND ALSO THE IMPUGNED NOTIFICATION DATED 23.07.2010



**NC: 2023:KHC-D:11465**  
**WP No. 105386 of 2023**  
**C/W WP No. 105533 of 2023, WP No.**  
**105562 of 2023**

BEARING NO.HU.DA.NA.PRA.BHUSWA:2/CR-4/2009-10/1563 ISSUED BY RESPONDENT NO.2 PRODUCED AS ANNEXURE-C INsofar AS LAND BEARING SY.NO.80/4 (80/3B) MEASURING 1 ACRE AND LAND BEARING SY. NO.79/1/1 (SY. NO. 79/1/1A) MEASURING 3 ACRES 38 GUNTAS 3 ANNAS SITUATED AT GABBUR VILLAGE BY ISSUE OF WRIT OF CERTIORARI OR ANY OTHER SUITABLE WRIT OR ORDER OR DIRECTIONS AND SUCH OTHER RELIEFS.

THESE PETITIONS, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

The subject matter in Writ Petition No.105386/2023 is an agricultural land bearing Survey No.76/1 measuring 1 acre 21 guntas situated at Gokul village, the subject matter in Writ Petition No.105533/2023 is an agricultural land bearing Survey No.80/1B/1A measuring 2 acres 6 guntas situated at Gabbur village and the subject matter in Writ Petition No. 105562/2023 are agricultural lands bearing Survey No.80/4 (80/3B) measuring 1 acre and Survey No.79/1/1 (Survey No.79/1/1A) measuring 3 acres 38 guntas and 3 annas situated at Gabbur village. Respondent No.2 prepared a development scheme and consequently drew up a notification by issuing notification



**NC: 2023:KHC-D:11465**  
**WP No. 105386 of 2023**  
**C/W WP No. 105533 of 2023, WP No.**  
**105562 of 2023**

under Section 17(1) the Karnataka Urban Development Authorities Act, 1987 (for short "the Act"). Respondent No.1-State approved the scheme, however, found that the petition lands notified to implement the developmental scheme were found to be not feasible. Respondent No.2, therefore, resolved to drop the entire scheme pertaining to Gokul and Gabbur village and in a meeting held on 06.08.2016 passed resolution No.2 and resolved to recommend for dropping the scheme, which is evident from Annexure-D. The Commissioner of respondent No.2 thereafter sent recommendation to respondent No.1-State recommending to drop the scheme and consequent acquisition vide correspondence dated 12.09.2016 as per Annexure-E. The petitioners feeling aggrieved by the inaction on the part of respondent No.1-State are compelled to knock the doors of the Writ Court.

2. Heard the learned counsel for the petitioners and the learned HCGP for respondent No.1 and the learned counsel appearing for respondent No.2.



**NC: 2023:KHC-D:11465**  
**WP No. 105386 of 2023**  
**C/W WP No. 105533 of 2023, WP No.**  
**105562 of 2023**

3. It is borne out from the records that respondent No.2 issued preliminary notification on 16.11.2010. However, respondent No.2 has recommended to drop the scheme. If preliminary notification was issued in 2010 and respondent No.2 being a competent development authority has recommended to drop the scheme, the scheme prepared by respondent No.2 even otherwise would lapse. Section 27 of the Act clearly contemplates that the Authority has to execute the scheme within five years from the date of publication of final declaration issued under sub-section 1 to Section 19 of the Act. In the present case on hand, respondent No.2 has found that the petition lands are not feasible for development scheme and therefore, recommendation is sent. The captioned petition needs to be allowed on two counts. Firstly, respondent No.2 being competent development authority has resolved to drop the proceedings on the ground that the petition lands are not feasible to implement the scheme. Secondly, the preliminary notification is also



**NC: 2023:KHC-D:11465**  
**WP No. 105386 of 2023**  
**C/W WP No. 105533 of 2023, WP No.**  
**105562 of 2023**

liable to be quashed as respondents 1 and 2 have not resolved to issue final declaration under Section 19(1) of the Act. Since there is failure to adhere to time schedule prescribed under Section 27 of the Act, the scheme has automatically lapsed and therefore, the sanction granted by respondent No.1 to implement the scheme prepared by respondent No.2 also does not survive for consideration. For the reasons stated supra, I pass the following:

**ORDER**

- i) *The writ petitions are allowed.*
- ii) *The impugned endorsements dated 19.12.2009 vide Annexure-B issued by respondent No.1 in all the petitions and the notification dated 16.11.2010 produced vide Annexure-C in W.P.No.105386/2023 and the notification dated 23.07.2010 vide Annexure-C issued in W.P.No.105533/2023 & W.P.No.105562/2023, insofar as petition lands are concerned, are hereby quashed by holding that the acquisition has lapsed under*



**NC: 2023:KHC-D:11465**  
**WP No. 105386 of 2023**  
**C/W WP No. 105533 of 2023, WP No.**  
**105562 of 2023**

*Section 27 of the Karnataka Urban Development Authorities Act.*

*iii) In view of disposal of the petition, pending interlocutory applications, if any, do not survive for consideration and are disposed of accordingly.*

**Sd/-**  
**JUDGE**

YAN  
List No.: 1 SI No.: 99