NON REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

INTERLOCUTORY APPLICATION NO. 13 OF 2011

IN

CIVIL APPEAL NO. 3303 OF 1997

Sri Srikanta D.N. Wadiyar (D)
Through LRs ... Appellant

Versus

State of Karnataka and others ...
Respondents

O R D E R

By means of this Interlocutory Application the first respondent – State of Karnataka has prayed as under: -

> *"[i] Permit the State of Karnataka to widen the road in the adjoining areas of the Palace Ground, Ramana Maharshi Road [Bellary Road] and Jayamahal Road as per sketch;*

[ii] grant permission to complete the proposed work of widening the roads, utilizing total area of 15 Acres 39 guntas of the Bangalore Palace Ground, in the interest of justice and equity; and

[iii] To pay compensation to the above land as per the calculation in the original award, which is agreed upon by this Hon'ble Court on an earlier occasion i.e., while disposing I.A. No. 2 on 15.02.1999 or any other compensation package that this Hon'ble Court may suggest."

2. Heard learned counsel for the parties including the parties in connected civil appeal Nos. 3309-3310 of 1997, 3305 of 1997, 3306 of 1997, 3308 of 1997, 3307 of 1997 and 3351 of 1997.

3. Brief facts of the case are that the Bangalore Palace (Acquisition and Transfer) Act, 1996 (for short "the Act") was passed by Karnataka Legislature to acquire Bangalore Palace, which compendiously means, main palace building and other buildings with the surroundings open space and the compound wall all around. Constitutionality of said Act was challenged in Writ Petition Nos. 3383 of 1997, 32175 of 1996, 33146 of 1996, 33147 of 1996, 33148 of 1996, C/w Nos. 32175 of 1996, 33649 of 1996, 33785 of 1996 and 33786 of 1996 by the appellants who are legal heirs of late

Maharaja of Mysore and some other persons who claimed interest in the Bangalore Palace and the land appurtenant thereto spread over in more than 400 acres of land. Said writ petitions were dismissed vide judgment and order dated 31.3.1997 passed by the High Court of Karnataka upholding the validity of the Act. From the perusal of record (including the order dated 15.7.2003 passed in these appeals), it appears that the issue relating to validity of the Act in the aforementioned appeals is referred for consideration to nine-Judge Bench.

4. By interim order dated 30.4.1997, this Court directed the parties to maintain status quo pending disposal of special leave petition. Also, vide another interim order dated 24.11.2000 passed on I.A. No. 11 of 2000 in Civil Appeal No. 3303 of 1997, in terms of proposals made in paragraphs 3 and 4 in the reply of said application, and acceptance expressed by the Advocate General, the respondent-State appears to have been allowed to utilize the palace land for road widening and construction of underpass near Mekhri

Circle, Bangalore, i.e., land adjacent to the roads between New Airport constructed at Devanhalli (Bangalore International Airport) and Bangalore Palace. From order dated 24.11.2000 passed in I.A. No. 11 of 2000 it further reveals that the learned Advocate General of the State submitted before this Court that for calculation of compensation, the formula laid down in the order passed on 15.2.1999 in I.A. No. 2 in Civil Appeal No. 3303 of 1997 shall be followed.

5. It is submitted on behalf of the respondent-State that road widening is necessary for easing the traffic congestion and frequent traffic jams. It is further stated by the respondent-State in the present I.A. No. 13 of 2011 that Bruhat Bangalore Mahanagara Palike (BBMP) has mooted proposal to widen Ramana Maharshi Road (Bellary Road – New Airport Road) and Jayamahal Road adjacent to Bangalore Palace, as these roads are directly linked with the New Airport. According to the proposal of the plan prepared by BBMP a total land of 15 acres 39 guntas is needed for the

project. Commissioner, BBMP, through his letter dated 20.11.2009, made necessary request to the Principal Secretary to Government, DPAR of the State, in reply to which said authority vide its letter dated 10.12.2009, agreed for the proposed project of widening the road in and around palace ground, and a permission for the purposes of acquisition of land was communicated vide communication dated 25.1.2001 (Annexure R-3 to the present application).

6. Regarding details of the land measuring 15 acres 39 guntas paragraph 5 of the present I.A. No. 13 of 2011 is reproduced below: -

> *"5. It is submitted that the Commissioner of B.B.M.P. has written one more letter dated 0505.2010 to the Additional Chief Secretary and Principal Secretary, Urban Development Department, Bangalore, bringing to his notice the Project for Road widening and copy of the said letter dated 05.05.2010 is herewith produced and marked as ANNEXURE-R4. The statement showing the area of land of Bangalore Palace Ground required for widening the Bellary Road from B.D.A. junction to Mekhri Circle [2.55 Kms. To 4.05 Kms. = 1.5 Km.] is as under:*

Sl. No.	Name of the Area Owner	From Chanage [in Km.]	To	Length in Mtr.	Width in	Average in sq. Mtr.
1	2	3	4	5	6	7
1.	Sri Srikantadatta N. Wadiyar	2.55	3.227	667.00	18.38	12446.00
2.	Miss Minakshi Devi	3.227	3+385.50	158.50	23.40	3710.00
3.	Miss Kamakshi Devi	3+384.5	3.545	158.50	17.75	2813.50
4.	Miss Vishalakshi Devi	3.544	3+702.50	158.50	18.65	2955.50
5.	Sri Sridhar Ramachandraraju Urs	3+702.50	3+895.50	193.00	17.49	3375.87
6.	Smt. Indirakshi	3+895.50	4.05	154.50	6.18	955.12

Devi

Total [A] *1500.00* *26256.00*

[B] Land of Bangalore Palace Ground required for Jayamahal Road Widening from Mekhri Circle to Cantonment Railway Station is as under:

Sl. No.	*Name of the Owner*	*From Chanage [in Km.] To*		*Length in Mtr.*	*Average Width in Mtr.*	*Area in sq.*
1	*2*	*3*	*4*	*5*	*6*	*7*
1.	*Sri Srikantadatta N. Wadiyar*	*0+000*	*1.582*	*1582.00*	*17.19*	*27201.25*
2.	*Miss Indrakshi Devi*	*0+650*	*0+700*	*50.00*	*3.2*	*160.00*
3.	*Sri A. Chandrashekar Raja M/s. Chamundi*	*1.582*	*2.74*	*1158.00*	*9.53*	*11038.75*

Hotels Pvt. Ltd.

Total [B] 2790.00 -- 38400.00

Grand Total : [A+B] = 64.656.00 Sqm. [15A – 39G]

A copy of the sketch showing the widening of the road is herewith produced and marked as ANNEXURE-R5."

7. Learned counsel for the respondent-State argued that existing roads in and around Bangalore Palace are very congested leading to frequent traffic jams and traffic disorders. As such the widening of the road has become essential. It is further contended that widening of the road is in the public interest to avoid traffic jams. It is also informed that BBMP had already widened Bellary Road from Rajbhawan to Devanhalli, except the stretch near the Bangalore Palace ground.

8. Learned counsel for the appellants in the present case and learned counsel for the appellants in the connected

appeals, except the appellant in Civil Appeal No. 3309 of 1997, in response to above arguments, submitted that they are ready to surrender the required land as above provided Transfer Development Right (TDR) is given to them under the TDR Rules. Some of the appellants said to have already received usual compensation also.

9. Learned counsel for the non-applicants (appellants in various appeals) have stated that, in the public interest, as expressed in the need to widen the existing roads, they would be willing to accept the proposal of the Bruhat Bangalore Mahanagara Palike in its letter dated 26.12.2009 in which the penultimate paragraph reads as follows: -

> "As per your request Bruhat Bangalore Mahanagara Palika will be issuing TDR for the extent of land acquired as per Karnataka Town & Country Planning Act, and the TDR guidelines subject to the final decision of the Hon'ble Supreme Court."

The State, however, did not grant its approval to this proposal and has instead offered to pay compensation for

the acquisition as per the rates relevant at the time of the passing of the Act. The impasse is, therefore, to be crossed.

10. In the above circumstances, having considered the submissions of learned counsel for the parties, including learned counsel for the parties in all the connected appeals, without prejudice to the rights of the parties, and keeping in mind the necessity of widening of the road, and the public interest, we think it just and proper to allow I.A. No. 13 of 2011 subject to condition that the appellants in the present appeal and the connected appeals shall be given TDR for widening of the road as per TDR Rules.

.....J.
[Vikramajit Sen]

.....J.
[Prafulla C. Pant]

New Delhi;
November 21, 2014.