IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE 20^{TH} DAY OF AUGUST, 2025

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T WRIT PETITION NO. 40367 OF 2014 (LA-BDA)

BETWEEN:

1 . SMT REKHA MAHESH AGED ABOUT 52 YEARS, W/O. B.M MAHESH KUMAR, R/A HOSATHOTA ESTATE, P.B.NO.16, BALLUPET P.O., HASSAN DISTRICT-573214.

...PETITIONER

(BY SRI. C.M.NAGABUSHANA, ADVOCATE)

AND:

- 1. THE STATE OF KARNATAKA
 REPRESENTED BY ITS PRINCIPAL SECRETARY,
 URBAN DEVELOPMENT DEPARTMENT,
 KARNATAKA GOVT. SECRETARIAT,
 VIKASA SOUDHA, BANGALORE-560 001.
- 2. THE BANGALORE DEVELOPMENT AUTHORITY REPRESENTED BY:
 THE COMMISSIONER,
 T. CHOWDAIAH ROAD,
 KUMARA PARK WEST,
 BANGALORE-560 020.
- 3. SMT. KAMALAMMA
 W/O LATE P.MUNIREDDY,
 AGED ABOUT 80 YEARS,
 NO.3, 10TH CROSS,



JAYMAHAL EXTENSION, BANGALORE-560 046.

- 4 . SRI KONDAPPA, S/O LATE P.MUNIREDDY, AGED ABOUT 63 YEARS, NO.3, 10TH CROSS, JAYMAHAL EXTENSION, BANGALORE-560 046.
- 5 . SRI SOMASHEKAR, S/O LATE P.MUNIREDDY, AGED ABOUT 55 YEARS, NO.3, 10TH CROSS, JAYMAHAL EXTENSION, BANGALORE-560 046.
- 6. SMT. RADAMMA,
 W/O SURENDER REDDY,
 AGED ABOUT 60 YEARS,
 RESIDENT OF NO.48, FERNS CITY,
 RING ROAD, MARATHHALLI,
 BANGALORE-560 056.
- 7. SMT. SARALA UPENDRA, W/O UPENDRA, AGED ABOUT 51 YEARS, NO.3, 10TH CROSS, JAYAMAHAL EXTENSION, BANGALORE-560 046.
- 8. THE COTTONPET SILK HANDLOOM WEAVERS COOPERATIVE SOCIETY LIMITED, NO.19, 10TH CROSS, CUBBONPET, BANGALORE-560 002, REPRESENTED BY SECRETARY.

...RESPONDENTS

(BY SMT. PRATHIBHA R.K., AGA FOR R-1; SRI. K.KRISHNA., ADVOCATE FOR R-2; SRI. CHANDRAKANTH R.GOULAY, ADVOCATE FOR R-3, R-5 TO R-7; SRI. K.K.VASANTH, ADVOCATE FOR R-8; VIDE ORDER DATED:03.02.2020, R-3 AND R-5 TO R-7 ARE THE LR'S OF DECEASED R-4) THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA, PRAYING TO RECALL AND REVIEW THE ORDER DATED:20.03.2014 PASSED IN W.P.No.36025/2013 (ANNEXURE-A) BY THIS HON'BLE COURT AND CONSEQUENTLY TO DISMISS THE WRIT PETITION, ETC.

THIS PETITION HAVING BEEN HEARD AND RESERVED **FOR ORDERS** 05.08.2024, COMING ON FOR ON PRONOUNCEMENT THIS THE SINGH DAY, D K J., PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH and HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV ORDER

(PER: HON'BLE MR. JUSTICE D K SINGH)

The present petition has been filed by the petitioner who claims Sy.Nos.7/1A, 7/1B, 7/1C and 7/1D situated at Gangenahalli village were acquired under the notification dated 30.11.1977 by the Bangalore Development Authority (hereinafter referred to as 'BDA').

- 2. The petitioner in this petition has challenged the judgment dated 20.03.2014 passed in Writ Petition No.36025/2013.
- 3. Before dealing with the question of maintainability of the petition in challenging the judgment dated 20.03.2014

passed in the Writ petition No.36025/2013 and two other connected petitions, it would be apt to take note of the relevant facts which are stated thereunder:

- i. The land in Sy.No.7/1A measuring 1 acre 34 guntas in Gangenahalli village, now called R.T.Nagar. K.H.Muniswamappa Block, Bangalore was claimed to have been Ρ. Munireddy, the husband acquired bv one Smt.Kamalamma and the father of Sri.Kondappa, Sri Somshekara, Smt.Radhamma and Smt. Sarala Upendra in the year 1970 and his name stood in the revenue records as the owner of the said land. As a result of the partition between Sri. Late. Munireddy and his brothers, the extent of property in Sy.No.7/1A fell to the share of Sri. P.Munireddy, the husband of of Smt. Kamalamma, the petitioner in one the W.P.No.36025/2013 while lands in Sy.Nos.7/1B, 7/1C and 7/1D each to the extent of 17 guntas fell to the share of the other brothers, the total extent, in all measuring 8,278 Sq.mts.
- ii. Under the exemption order passed by the State Government under Section 2(1)(A) of the Urban Land (Ceiling and Regulation)Act, 1976 dated 19.03.1983 the said land was reflected. The betterment charges of Rs.79,100/- was paid to

the local authorities and the land was also assessed to the land tax in terms of Section 145, Karnataka Municipal Corporations Act, 1976.

- iii. The lands in Sy.Nos.7/1A, 7/1B, 7/1C and 7/1D along with the other lands were the subject matter of notification for acquisition under the provisions of the BDA Act, 1976, for the purpose of extension of Matadahalli Layout dated 30.11.1977, which was followed by the final notification dated 08.12.1977. The land bearing Sy.No.7/2 measuring 2 acres 14 guntas was withdrawn from the acquisition under the Land Acquisition Act, 1894 by the order dated 15.11.1978.
- iv. A survey report was submitted by the Land Acquisition Officer on 01.01.1981 recommending deletion of certain lands, which was subject matter of acquisition notifications. The recommendation included several items of lands in Sy.Nos.7/2, 10/1, 10/2 and 13/2 of Gangenahalli Village apart from other lands, which were withdrawn by issuance of notifications under Section 48 of the Land Acquisition Act.
- v. It transpires that Munireddy had sought for approval for a housing scheme in respect of his land in question

and the State Government had recommended to the respondent No.2 - BDA permitting the scheme, whereby 70% of the land would remain with the land owner and 30% would be available to the authority for development, free of cost. When the matter stood thus, the work order was issued by the BDA to the third party for the purpose of development of the land, which was the subject matter of acquisition including the land in Sy.No.7/1A, as per the order dated 19.05.2005. Therefore, Sri. Munireddy who was then in possession of the land, had approached this Court by filing W.P.No.15201/2025 praying that work order dated 19.05.2025 may be quashed and a further direction was sought to the respondents to take further action pursuant to the housing scheme which he had proposed.

vi. An interim order was granted in the said petition which was later vacated. As against the order vacating the interim order, a Writ Appeal was filed in Writ Appeal No.3560/2005. The said writ appeal was disposed of vide order dated 21.02.2006 with a direction that the plots, if any, formed on the land bearing Sy.No.7/1A would not be allotted to the third parties pending disposal of the writ petition. Writ Petition No.15201/2005 in turn was disposed of with a direction to the

State Government to consider the case of the petitioner-Munireddy to withdraw the notification in view of the other lands, namely Sy.Nos.7/1B, 7/1C and 7/1D having been withdrawn from the acquisition proceedings. The said representation filed by Sri.Munireddy stood disposed of by the order dated 06.09.2011. The said order of rejecting the representation by the Munireddy, for releasing the land in Sy No.7/1A from the acquisition proceedings, was the subject matter of challenge in Writ Petition No.36025/2013.

4. The learned Single Judge by judgment dated 20.03.2014 held that Matadahalli layout is a large portion of area in Sy. Nos. 5/1 to 5/4, 7/3 as well as 12, 13 and 11, a large extent of land around the land bearing Sy. No. 7/1A had been withdrawn from the acquisition proceedings and the land in Sy. No.7/1A remained an isolated pocket which would no longer be available for integration with the layout. It was also held that the petitioner's contention that the possession of the land was with the petitioner could not be disbelieved. It was further held that the lands in Sy.Nos.7/1B and 7/1C have been withdrawn from acquisition proceedings, which would render it impossible to conveniently form a layout insofar as the isolated item of land in Sy.No.7/1A was concerned. Therefore, the

scheme would lapse in view of the language of Section 27 of the BDA Act, 1976 and accordingly, it was held that the scheme insofar as the land in Sy. No.7/1A was concerned, had lapsed and the order passed by the State Government declining the request of the petitioner to withdraw the acquisition proceedings in respect of the land in Sy No.7/1A vide the order dated 20.03.2014 was quashed.

5. According to the petitioner, the land bearing Sy.Nos.7/1A, 7/1B 7/1C and 7/1D situated at Gangenahalli Village were acquired by the notification dated 30.11.1977 by the BDA. After forming the sites in the land in Sy.No.7/1A, the BDA had alloted 25 sites in favour of the respondent No.8 - Cotton Pet Silk Handloom Weavers' Co-operative Society Limited (hereinafter referred to as 'the Society'), vide order dated 09.12.2005, and the respondent No.2- BDA vide communication dated 18.01.2006 intimated about physical possession of 25 sites. The Society allotted these 25 sites in favour of its members. So one such site bearing Site No.39 was allotted in favour of one Smt.Vimala and the Society executed a sale deed on 21.01.2006 in favour of Smt.Vimala, who was put in possession of the said site.

- 6. Subsequently, by the sale deed dated 28.04.2006, Smt. Vimala had sold the said property in favour of the petitioner Smt. Rekha Mahesh who was put in possession and since then the property has remained in her possession. It is further submitted that the revenue records would suggest that Smt.Vimala was the owner of the property in Site No.39 which was part of the land in Sy.No.7/1A, out of the 25 sites created of the land in Sy.No.7/1A.
- 7. Learned counsel for the petitioner submits that the case of the petitioner is that the Writ Petition No.36025/2013 was filed by respondent Nos.3 to 7 who are the legal representatives of Lt. P. Munireddy, challenging the Government Order dated 22.07.2013 where their request for the release of the land in Sy.No.7/1A was rejected by the Government, with a direction to the respondents to de-notify the land in Sy.No.7/1A, measuring 1 acre 34 guntas, situated at Gangenahalli village, Bangalore without impleading the present petitioner as a party to the petition.
- 8. The petitioner was necessary and proper party to the said writ petition, being a beneficiary, inasmuch as the petitioner had purchased the property from the allottee of Site

No.39, which formed part of the 25 sites in the land bearing Sy.No.7/1A.

- 9. It is stated that the petitioner does not have any alternative and efficacious remedy other than approaching this Court by filing the present petition.
- 10. The question which requires for consideration before us is whether the writ petition is maintainable against the judgment dated 20.03.2014 passed in W.P.No.36025/2013, by the learned Single Judge of this Court.
- 11. The Supreme Court in the Constitution Bench decision in Rupa Ashok Hurra Vs. Ashok Hurra and others, reported in (2002) 4 SCC 388 has held that a writ of certiorari cannot be issued to a Coordinate Courts or Superior Courts. Hence, the High Court cannot issue a writ to another Bench of the same High Court, nor can one Bench of the High Court issue a writ to a different Bench of the same High Court.
- 12. Paragraph 7 of the said judgment, which is relevant is extracted hereunder:
 - 7. Having carefully examined the historical background and the very nature of writ jurisdiction, which is a supervisory jurisdiction over inferior courts/tribunals, in

our view, on principle a writ of certiorari cannot be issued to coordinate courts and a fortiori to superior courts. Thus, it follows that a High Court cannot issue a writ to another High Court, nor can one Bench of a High Court issue a writ to a different Bench of the same High Court; much less can writ jurisdiction of a High Court be invoked to seek issuance of a writ of certiorari to the Supreme Court. Though, the judgments/orders of High Courts are liable to be corrected by the Supreme Court in its appellate jurisdiction under Articles 132, 133 and 134 as well as under Article 136 of the Constitution, the High Courts are not constituted as inferior courts in our constitutional scheme. Therefore, the Supreme Court would not issue a writ under Article 32 to a High Court. Further, neither a smaller Bench nor a larger Bench of the Supreme Court can issue a writ under Article 32 of the Constitution to any other Bench of the Supreme Court. It is pointed out above that Article 32 can be invoked only for the purpose of enforcing the fundamental rights conferred in Part III and it is a settled position in law that no judicial order passed by any superior court in judicial proceedings can be said to violate any of the fundamental rights enshrined in Part III. It may further be noted that the superior courts of justice do not also fall within the ambit of State or other authorities under Article 12 of the Constitution.

13. The petitioner has placed reliance on some judgments. However, we are bound by the constitution Bench judgment in **Rupa Ashok Hurra** (supra). As no writ of certiorari can be issued by one Bench to another Bench, we are of the view that the present petition challenging the judgment

dated 20.03.2014 passed in Writ Petition No.36025/2013 is not maintainable. The petitioner may, however, take recourse to the review jurisdiction and file a review petition seeking review of the judgment before the learned Single Judge.

14. With the aforesaid observations, we **dispose of** this petition with liberty to the petitioner to file a review petition before the learned Single Judge seeking the review of the judgment and order dated 20.03.2014 if the petitioner is aggrieved by the said order passed in W.P.No.36025/2013.

Sd/-(D K SINGH) JUDGE

Sd/-(VENKATESH NAIK T) JUDGE

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