

Karnataka High Court Sri. S Sundaresh vs State Of Karnataka on 13 October, 2017 Author: Dr. Vineet Kothari 1/125 R IN THE HIGH COURT OF KARNATAKA, BENGALURU

DATED THIS THE 13TH DAY OF OCTOBER 2017

BEFORE

THE HON'BLE Dr.JUSTICE VINEET KOTHARI

WRIT PETITION No.14815/2017 (KLR-RES)

Between:

Sri. S. Sundaresh Son of Late Suryanarayanarao Aged about 58 years Residing at 216, 6th Main Road Nrupatunga Nagar J.P. Nagar 7th Phase, Bangalore-560076. ...Petitioner (By Mr. Udaya Holla, Senior Counsel for Mr. Shirish Krishna, Advocate)

And:

1. State of Karnataka The Principal Secretary, Revenue Government of Karnataka M.S. Building, Ambedkar Veedhi Bangalore-560001.
2. Under Secretary Government of Karnataka Revenue Department (Land Grants-1) M.S. Building, Ambedkar Veedhi Bangalore-560001. ... Respondents (By Mr. Madhusudan R. Naik, Advocate General A/W Mrs. Promodhini Kishan, AGA)

\*\*\*\*\*

Date of Order 13-10-2017 W.P.No.14815/2017  
Sri. S. Sundaresh Vs. State of Karnataka & Another

2/125

This Writ Petition is filed under Article 226 of the Constitution of India, praying to issue a writ, order or direction in the nature of a Writ of Certiorari and quash the Notice RD 363 LUX 2012 dated 01.04.2017 issued by the Respondent No.2 which is produced as Annexure 'A' & etc.,

This Writ Petition having been heard and reserved on 28-07-2017, coming on for Pronouncement of Orders, this day, Dr Vineet Kothari, J, made the following:

ORDER

Mr. Udaya Holla, Senior Counsel for Mr. Shirish Krishna, Advocate for Petitioner Mr. Madhusudan R. Naik, Advocate General A/w Mrs. Promodhini Kishan, AGA for Respondent - State

3. "SATYAMEV JAYTE" (Truth alone Triumphs) is the quote from Mundaka Upanishad, the concluding part of the sacred Hindu Vedas and it is the North Star of our Judicial System inscribed at the bottom of our National Emblem, Ashok Stambh and Dharm Chakra.
4. It tells us that, the 'truth' should be the Guiding Star in the entire judicial process. Truth alone has to be the foundation of justice. The entire judicial system has been created only to discern and find out Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another the real truth. Judges at all levels have to seriously engage themselves in the journey of discovering the truth. That is their mandate, obligation and bounden duty. Justice system will acquire credibility only when people will be convinced that justice is based on the foundation of the truth.
5. Truth being the cherished ideal and ethos of India, pursuit of Truth should be the guiding star of the entire justice system. For justice to be done, truth must prevail. It is truth that must protect the innocent and it is truth that must be the basis to punish the guilty. Truth is the very soul of justice. Therefore truth should become the ideal to inspire the courts to pursue. This can be achieved by statutorily mandating the courts to become active seekers of truth. It is of seminal importance to inject vitality into our system. Concern for and duty to seek the Truth should not become the Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another limited concern of the courts but should percolate down in other wings of the State as well.
6. 'Truth' has a strange but a firm character of finding its way and coming out and revealing itself even though embedded at the bottoms of time periods and piles of papers bound through the chain of litigation in the Courts of law and the quest for truth should not get bogged-down merely because a long period has lapsed.
7. The present case through a long litigative history of about 35 years for a cause arising 50 years ago in 1967, is based on the bed-rock of the claim of the father of the present petitioner-Mr. S. Sundaresh, Mr. S. Suryanarayana Rao, who claimed 4 acres of land as a free grant or privilege to a Freedom Fighter and Political Sufferer under the Revenue Laws of the State of Mysore, later on re-named as State of Karnataka in the year 1973, on the basis of a document purportedly given in Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another his favour way back in the year 1967 and the said Mr. S. Suryanarayana Rao who was born on 01/12/1923 and who unfortunately expired in the very first leg of this litigative battle in the year 1989 on 11/08/1989 and

then, his son, Mr. S. Sundaresh, (born on 14/12/1954) on his own behalf and also on behalf of other legal representatives including 4 sons and 8 daughters of the said freedom fighter, Mr. S. Suryanarayana Rao either through himself or even through the other persons who were apparently businessmen dealing with land and real estate development fought till the present level of the litigation.

8. The present writ petition has been filed by Mr. S. Sundaresh against the impugned Show Cause Notice dated 01-04-2017, issued by the Respondent-State Government, seeking to investigate the entire issue from the bottom of it upto now for the purpose of canceling the Grant itself in favour of the said freedom fighter and Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another political sufferer, Mr. S. Suryanarayana Rao, which in the course of time, the said land of 4 acres in the heart of Bengaluru City not only became very precious and valuable but also attracted even political influence and involvement, but the present show cause notice and a Reference order referring the matter to Lokayukta for enquiry, which are assailed, inter alia, on the ground of change of stand on account of change of the political party in the Government and which is the background in which the present writ petition against the said Show Cause Notice and Reference order are intended to be challenged by the petitioner - Mr. S. Sundaresh.
9. When one talks of Freedom Fighters, the normal image that comes to one's mind is a person who suffered physically and mentally for unshackling the chains of foreign rule in our country. The normal reaction when one sees such person is one of reverence, regard and respect. The brave and courageous deeds of Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another these persons are a distinctive part of India's history of fight for freedom. Many persons lost their lives, many were injured and a large number of such persons had languished in jails for various periods. The common thread which must have passed through the minds of these people is their sole objective to see that their motherland has a Government of its own, free from foreign rule. But these images get shattered when one hears that with a view to gain financially, fake documents have been produced, false claims of participation in the freedom movement have been made and it is indeed a sad reflection on the moral values of the citizens of our country that a large number of cases have surfaced after Independence in 1947 where it has been established that people who were not even born when the freedom fight was on or the country got independence or were toddlers when the country got independence, have applied for and managed to get Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another "Sammanpatra", pensionary and other allied benefits. Such persons actually bring disrespect to the whole country and such dishonourable ventures have to be dealt with sternness to send out a

message that they are not freedom fighters, but are profiteers sullyng the name of freedom fight.

10. The impugned show cause notice issued by the Respondent - Government of Karnataka, on 01/04/2017 narrates the history of the said grant of 1967 and in brief the litigative history and the reason for which the State Government seeks to re-open the entire issue and investigate into the matter and accordingly, apprehending that even some of the Government officials also acted collusively with the petitioner or their representatives in seeking such favourable orders from the Executive, the State Government has even referred the matter to Lokayuktha under Section 7(2-A) of the Lokayuktha Act, 1984, for Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another investigation vide its Government Order, Annexure R- 23 dated 15/04/2017, which has also been inter alia challenged by the present petitioner by seeking an amendment to the Writ Petition.
11. The two parcels of land which now carry a very high market value and which became the subject matter of litigation in two different stages in the present case are: i] The land of 4 Acres situated at Survey No.76, Sadara Mangala Village, Bangalore South Taluk; and ii] The land of 4 Acres situated at Survey No.129 (Old Survey No.51) of Sreegandhadakavalu, Yeshwanthapur Hobli, Bangalore North Taluk.
12. The father of the present petitioner - Mr. S. Sundaresh, Mr. S. Suryanarayana Rao claimed to be a freedom fighter and political sufferer, filed for the first time the Writ Petition in this Court in the year 1983, Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another starting the litigation after the grant of land in 1967, after 16 years, namely Writ Petition No.3664/1983 (S. Suryanarayana Rao Vs. State of Karnataka and another) and by the time the said petition came to be decided on 18/06/1990, after 7 years of its filing, in the meanwhile, the said Mr.Suryanarayana Rao unfortunately expired on 11/08/1989 itself and was later on represented by his legal representatives in the same petition by his 4 sons and 8 daughters namely, Mr. S. Sundaresh and three other sons, viz., Mr. Vijayakumar, Mr.S. Manjunath and Mr.S. Subramanya and eight daughters, namely, Smt.K. Geetha, Smt. Asha, Smt.Uma, Smt. Kokila, Smt. Sandhya, Kum.Gayathri, Kum.Shailaja and Kum. Anitha. The said Writ Petition filed after about 16 years of the Grant of 4 acres of land, which the petitioner claimed was made in his favour amongst other persons on 16/03/1967 in Sy.No.76 of Sadara Mangala village, Bangalore South Taluk, claiming relief from the Court Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another that the 'Saguvali Chit' (Certificate of Grant) be issued in his favour because the same was not issued by then and since a similar relief was given to one petitioner in an earlier Writ Petition No.4466/1977 (B.R. Gopalachar Vs. State by Revenue Secretary

and Another) in a decision rendered by the High Court on 12/10/1981, therefore, he is also entitled to a similar relief.

13. A learned Single Judge of this Court allowed the said writ petition, Writ Petition No.3664/1983 (S. Suryanarayana Rao, since deceased by his LRs. Vs. State of Karnataka and another) of the petitioner on 18/06/1990 and directed the Respondents to “consider the application of the petitioner” for grant of 4 acres of land in Sy.No.76 of Sadara Mangala Village, Bangalore South Taluk, and “to issue the”Saguvali Chit" within three months" and the Respondents were directed to issue the “Saguvali Chit” Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another in the name of the legal representatives of the petitioner who died on 11-08-1989. While directing so, the learned Single Judge in his short order, only relied upon the order passed by a co-ordinate Bench of this Court in Writ Petition No.4466/1977 (B.R. Gopalachar Vs. State by Revenue Secretary and Another) and in para.2 of the order held that “when the petitioner’s claim is pursuant to the same Government Order (factually it was not), I think that it is a fit case to issue writ of mandamus to the authorities”.
14. However, the learned Advocate General who appeared for the State in the present case pointed that the petitioner in Writ Petition No.4466/1977 (B.R. Gopalachar Vs. State by Revenue Secretary and Another) was not given the grant of land as a freedom fighter or political sufferer in the same Government Order dated 16/03/1967 as the present petitioner was given on 16/03/1967, but in a different context of Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another some Dairy or cattle owners and under different order altogether.
15. The learned Advocate General also submitted that the grant dated 16/03/1967 relied upon by the petitioner in the present case was actually only an appropriation or setting apart of the land by the Revenue Department for such grant in favour of 13 such persons including Mr. S. Suryanarayanarao and on the very next day, the State Government finding that the State Government had no such power to appropriate the entire land of 21 acres in Sy.No.76 of Sadaramanagala Village, immediately directed the concerned Deputy Commissioners not to issue the Grants in favour of these persons. But without bringing this fact to the notice of the Court, the petitioner, S. Suryanarayana Rao and his son Mr. S. Sundaresh had filed/pursued the aforesaid Writ Petition No.3664/1983 (S. Suryanarayana Rao, since Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another deceased by his LRs. Vs. State of Karnataka and another) and claimed the aforesaid relief at par with the petitioner in Writ Petition No.4466/1977 (B.R. Gopalachar Vs. State by Revenue Secretary and Another) and on that very basis, their first petition came to be allowed by a learned Single Judge of this Court on 18/06/1990 with a direction to ‘consider’ the

application, however coupled with a direction to issue 'Saguvali Chit' in favour of the Legal Representatives of Mr. S. Suryanarayana Rao.

16. The petitioner- Son, Mr. S. Sundaresh, after a gap of 16 years after the judgment in Writ Petition No.3664/1983 (S. Suryanarayana Rao Vs. State of Karnataka and another), on 18/06/1990 not even explaining the huge time gap of these 16 years and what he did during this period of 16 years to secure the land in question, just filed another writ petition in this Court, namely, Writ Petition No.17665/2006 (S. Sundaresh Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Vs. State of Karnataka and others), in 2006 at the fag end - 07/12/2006, claiming the enforcement of the earlier judgment dated 18/06/1990 in Writ Petition No.3664/1983 and the said Writ Petition also came to be disposed of by another learned Single Judge of this Court on 11/01/2007 after 17 years again directing the Respondents to comply with the same aforesaid directions of this Court in the order dated 18/06/1990.
17. But, what happened between the year 1990 and 2006 when the earlier order was passed in favour of the petitioner and subsequent petition filed by him in the year 2006 appears to have not been brought to the notice of the Court in the subsequent Writ Petition No.17665/2006(S. Sundaresh Vs. State of Karnataka and others).
18. In between this period of 1990 and 2006, the learned Advocate General submitted that the said grant Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another of 16/03/1967 not only specifically came to be cancelled on 20/01/1972 which order the petitioner claimed before this Court in this petition that it was never served upon them at any point of time, but the learned Advocate General submitted before the Court that another order was specifically passed on 30/06/1999, canceling the said Grant of 1967 in favour of the petitioner which was specifically conveyed to the petitioner, Mr.S. Sundaresh vide endorsement dated 19/08/1999 to the effect that land of 21 acres of Sadara Mangala village had already been acquired by KIADB who have allotted the said industrial plots to other persons and there is no land left in the said Sy.No.76 of Sadara Mangala Village for the grant of the same to the petitioner and therefore the request for Grant to the petitioner cannot be considered or accepted. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another
19. But the petitioner, Mr. S. Sundaresh did not even disclose this known fact to him in his subsequent Writ Petition No.17665/2006 (S. Sundaresh Vs. State of Karnataka and others) and in view of the said Grant of 16/03/1967 having been cancelled in the year 1972 itself and then again specifically conveyed vide order dated 30/06/1999 on 19/08/1999, there was no occasion for the petitioner to have filed fresh Writ Petition

No.17665/2006 in the year 2006, without laying any challenge to the order dated 11/01/2007 and order dated 30/06/1999 claiming the enforcement of the judgment dated 18/06/1990 in earlier Writ Petition No.3664/1983 (S. Suryanarayana Rao, since deceased by his LRs. Vs. State of Karnataka and another) which itself was based on a misconceived premise of his case being at par with the Writ Petition No.4666/1977 filed by one B.R. Gopalachar S/o. Ramanujachar whose facts were clearly distinguishable. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another

20. The petitioner filed yet another Writ Petition, namely Writ Petition No.5888/2010 on 23/02/2010 (S. Sundaresh Vs. State of Karnataka and another) praying therein for a direction to the KIADB for whom the said land was acquired to deliver the possession of 4 acres of land in Sy.No.76 of Sadara Mangala Village to the petitioner. The said W.P.No.5888/2010 (S. Sundaresh Vs. State of Karnataka another) came to be however dismissed by the learned Single Judge on 15/06/2010, along with another W.P.No.2180/2010 (M/s. S.K. Hotels and Resorts Pvt.Ltd. Vs. State of Karnataka and others) filed by M/s. S.K. Hotels and Resorts Pvt. Ltd., represented by Managing Director, Sri. N.H. Shiva Murthy S/o Hanumanthappa.
21. Against the order of the learned Single Judge disposing of the aforesaid Writ Petition No.5888/2010 (S. Sundaresh Vs. State of Karnataka and another), Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another the petitioner, Mr. S. Sundaresh filed a Writ Appeal, namely, Writ Appeal No.3038/2010 (Sri.S. Sundaresh Vs. State of Karnataka and another) which came to be disposed of by the Division Bench of this Court on 06/08/2010, inter alia holding that though in view of the order passed on 20/01/1972 canceling the Grant of 16/03/1967 and the land having been acquired by KIADB, the Division Bench cannot grant relief sought by the appellant, Mr. S. Sundaresh therein but, however the Division Bench observed that, "the grant of 4 acres of land to the appellant's father is not cancelled and what is cancelled is grant of land in Sy.No.76 of Sadara Mangala Village. Since the said land is not available for Grant, but it is for the Government to take immediate steps to issue "Saguvali Chit" in respect of the said land in the same Village or nearby Village, forthwith, as the land is granted in the year 1967 and the officials for the Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another mistake committed by them have made the appellant's family to approach this Court on three different occasions and with due regards to the service rendered by the country by a freedom fighter. Therefore we grant permission to the appellant to approach the Government to grant any other alternative land of 4 acres as early as possible. If such a representation is made, it is for the Government to consider the same in accordance with law, within a period of three months. Accordingly, the appeal is disposed of."

22. The learned Advocate General, Mr. Madusudan R. Naik, vehemently submitted that initially when the Hon'ble Division Bench took note of the fact that the grant of land stood cancelled on 20/01/1972, but since the Government is producing the document to that effect before the Court for the first time, which was not factually a correct premise, but even though the Hon'ble Division Bench observed that they cannot grant Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another any relief to the appellant in view of such cancellation of the Grant, therefore it could not have, with great respects, held that though the grant of 4 acres of land to the appellant's father is not cancelled and what is cancelled is grant of land in Sy.No.76 of Sadara Mangala village, which is a contradiction in terms in itself.
23. This order of Division Bench dated 06/08/2010 was not taken further by any party before Hon'ble Supreme Court. Be that as it may, the Division Bench of this Court finally only directed the appellant, Mr. S. Sundaresh to approach the Government for grant of any other alternate land of 4 acres and in any case if such a representation was made, the same was to be considered in accordance with law.
24. Now, in the year 2010, when this direction was given by the Division Bench, the freedom fighter Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another and political sufferer, the father of the petitioner appellant, Mr. S. Suryanarayanarao was dead long ago in the year 1989 and therefore the said appellant, Mr. S. Sundaresh not being the freedom fighter or political sufferer himself, naturally could not claim the preferential right or reservation for grant of land as a political sufferer or freedom fighter, as he was not even born at that time before independence in 1947, as he was born only on 14/12/1954.
25. However, the petitioner appellant, Mr. S. Sundaresh thereafter himself identified such alternative land and approached the State Government for grant of such alternative land in Sy.No.129 of Sreegandhadakavali Village, Yeshwanthpur Hobli, Bangalore North Taluk and quite surprisingly as if it was a case of purchase of land rather than by way of a free Grant to Freedom Fighter, he even paid a sum of Rs.6.00 crores at the Guidance Value of Rs.1.50 crore Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another for one acre as informed to him by the Deputy Commissioner, Bangalore District, Bangalore, on 17/07/2013 and sought enforcement of the same through filing of Contempt Petitions, viz.CCC No.605/2012 (disposed of on 11/09/2012) and CCC No.604/2013 (Sri.S. Sundaresh Vs. Smt. Latha Krishna Rao), both arising out of the Division Bench order dated 06/08/2010 in Writ Appeal No.3038/2010, and the same came to be disposed of by the Division Bench of this Court on 30/05/2013 saying that since in compliance with the order dated 06/08/2010 passed by the Division Bench in Writ Appeal No.3038/2010 (Sri.S. Sundaresh Vs. State of Karnataka and another),



since the State Government has already granted an alternative land to the appellant petitioner on 22/04/2013 but one of the conditions of that grant of alternative land namely Condition No.10, whereby the Government reserved the right to acquire the said land for any public purpose without Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another compensating the grantee, was illegal and therefore the said condition No.10 was liable to be struck down as unenforceable.

26. With this, the Contempt proceedings in CCC No.604/2013 arising out of Writ Appeal No.3038/2010 (Sri.S. Sundaresh Vs. State of Karnataka and another), were dropped and Contempt Petition was disposed of, even though the previous Contempt Petition No.605/2012 filed in preceding year for same purpose came to be disposed of on 11/09/2012 only directing State to consider his request but with the rider that the petitioner would not insist upon any particular land. Thus, the learned Advocate General contended that all this happened by collusive acts of Executive and Beneficiary and under the threat of pendency of the aforesaid second Contempt Petition in CCC No.604/2013 before this Court. As the litigative history of this case would show, Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another the combination of multiple writ petitions and contempt petitions have occupied a very large time space of this Court in this case.
27. The learned Advocate General submitted before the Court that the grant order dated 22/04/2013 was collusively issued by the concerned officials of the State Government under the threat and pressure of the pending Contempt Petition No.604/2013 filed by the appellant petitioner after three years of the Division Bench order dated 06/08/2010 and despite disposal of previous Contempt Petition No.605/2012 on 11/09/2012, due to the political intervention, though the aforesaid alternative land legally could not have been allotted and granted to the appellant petitioner Mr. S. Sundaresh, for a number of reasons, inter alia also for the reason that the said land fell within 25 Kms. of the area of Municipal Corporation and same could be given by way Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another of any grant or otherwise under the relevant Revenue Rules.
28. In yet another angle of this litigation, the petitioner appellant Mr. S. Sundaresh filed another Writ Petition in this Court in 2015, namely, Writ Petition No.13664/2015 (S. Sundaresh Vs. State of Karnataka and others) along with Writ Petition Nos.15058/2015 & 2454/2015 which were filed by one Golden Valley Educational Trust (hereinafter referred to as 'GVET' for short), who were fighting against for the cancellation of their 30 years Lease by KIADB in Sy.No.76 of Sadara Mangala Village, Bangalore South Taluk, which was also claimed by the present appellant petitioner, Mr.S. Sundaresh also, until such alternative land in Sy.No.129 of Shreegand-

hadakavalu Village, Yeshwanthpur Hobli, Bangalore North Taluk came to be allotted to him and in that petition, a learned Single Judge of this Court Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another held that the State Government could not have even allotted the said land in favour of GVET for various reasons and the land allotted to GVET was liable to be cancelled because before grant of the said land, the Government had to notify the land available in any village for disposal as per Rule 5 of the Karnataka Land Grant Rules, 1969 and admittedly since the 15 acres of land in Sy.No.51 (presently re-numbered as Sy.No.129 of Sreegandhadakavalu village, Yeshwanthpur Hobli, Bangalore North Taluk) was granted to the said Trust, GVET, on lease basis on 12/01/1967 for a period of 30 years and the said lease period had expired on 12/01/1997 and thereafter the said lease was not renewed. Therefore, the status of the said Trust, GVET, on expiration of the lease period in 1997, would be that of a tenant holding over and liable to be evicted at will and therefore a summary enquiry under Section 39 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1974 ought to have Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another been held in the matter against the lessee, the GVET and since it was not so held, therefore, the impugned order passed on 20/01/2010 against the said GVET Trust was liable to be quashed.

29. While so holding, the learned Single Judge of this Court also dealing with the petition filed by Mr. S. Sundaresh in Writ Petition No.13664/2015 (S. Sundaresh Vs. State of Karnataka and others) also simultaneously observed at the fag end of the common order in para-30 that the conduct of the petitioner - Sundaresh was absolutely flawless and blameless and his father was a freedom fighter and he was allotted earlier 04 acres of land in Sy.No.76 of Sadara Mangala Village which land came to be compulsorily acquired for Karnataka Industrial Area Development Board ('KIADB' for short) and the said allotment was withdrawn and his bona fides were also proved as he mobilized and deposited Rs.6.00 crores for alternative land to be Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another allotted to him in Sy.No.129 in Sreegandhadakavalu, Yeshwanthpur Hobli, Bangalore North Taluk, but in view of the aforesaid order passed in favour of GVET, the said grant also could not be upheld till the summary enquiry under Section 39 of the Karnataka Land Revenue Act is held against the said Trust, GVET and a proper eviction order is passed against it thereafter only the Government can re-grant the said land in favour of Sundaresh and if the said Mr. S. Sundaresh cannot wait, the Government can identify still an alternative land for him and give it to him.
30. Aggrieved by these directions of the learned Single Judge, the said appellant Mr. Sundaresh took the matter further before the Division Bench of this Court vide Writ Appeal Nos.136 and 267-268/2016 c/w. Writ Appeal

No.197/2016 which was filed by GVET and all these four Writ Appeals came to be decided by the Division Bench of this Court in the recent past on Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another 08/07/2016 and the Division Bench while setting aside the order of the learned Single Judge held that the said Trust GVET whose Lease Deed admittedly came to expire by efflux of time on 12/01/1997, thereafter the State Government was not prevented from giving a grant of the said land to any other person, even though the possession of the said Trust continued after the expiry of lease period on 12/01/1997.

31. In para 42 of the judgment, the Division Bench observed that GVET had no right over the said land subsequent to the expiry of the lease by efflux of time and it was open to the Government to deal with such land in accordance with law. It was also an admitted fact that no educational Institution had been actually set up by GVET upon the said land which also demonstrated the absence of any crystallized right of GVET in relation to the said land at Sy.No.129, Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sreegandhadakavalu Village, Yeshwanthapur Hobli, Bangalore North Taluk.
32. While holding so, the Division Bench of this Court also observed that there was no illegality or irregularity in the grant of 4 acres of land out of 15 acres of land in Sy.No.129 to Mr. S. Sundaresh on the date of grant in favour of Sundaresh on 22/04/2013, because the GVET had no preemptive right in the said land and the said land in question was a 'Gomal land' (free pasturage land) and Section 71 of the Karnataka Land Revenue Act 1964, inter alia provides that the Deputy Commissioner may set apart lands for free pasturage for the village cattle, for forest reserves or for any other public purpose and lands assigned specially for any such purpose shall not be otherwise used without the sanction of the Deputy Commissioner and in the disposal of lands and Rule 108-I of the Karnataka Land Revenue Rules, 1966, empowered Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another such allotment of land and therefore the grant of 4 acres of land in favour of the appellant Sundaresh deserved to be upheld and therefore Writ Appeal Nos.136 & 267-268/2016 filed by S. Sundaresh were allowed and Respondents were directed to undertake transfer of khata and other revenue mutations in favour of the petitioner, in accordance with law and hand over the possession of 4 acres of land in Sy.No.129 of Sreegandhadakavalu Village, Yeshwanthpur Hobli, Bangalore North Taluk to the appellant petitioner. Writ Appeal No.197/2016 and Writ Petition No.2454/2015 and W.P.No.15058/ 2015 (The Golden Valley Educational trust Vs. The State of Karnataka and others) filed by GVET came to be dismissed.
33. The GVET filed Special Leave Petitions against the said order passed by the Division Bench on 08/07/2016 before the Hon'ble Supreme Court which S.L.P.Nos.19928-19931/2016 (Golden Valley Date of Order 13-10-

2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Education Trust, Kolar Vs. State of Karnataka and others) came to be summarily dismissed by the Hon'ble Supreme Court on 18/11/2016. Proxy war on behalf of Mr. S. Sundaresh and Mr. S. Suryanarayana Rao.

34. Yet another angle of litigation in this case was at the instance of one Mr.N.H. Shivamurthy S/o. Hanumanthappa who claimed that he held a Power of Attorney and Agreement to Sell in his favour executed by the said Mr. S. Suryanarayanarao and even his legal representatives and therefore the 'Saguvali Chit' in respect of the land granted to the said freedom fighter, Mr.S. Suryanarayanarao, should be issued in his favour. He even claimed that he wanted to set up a Five Star Hotel in the said land in Sy.No.76 of Sadara Mangala Village, Bangalore South Taluk which was acquired for KIADB and therefore KIADB should be directed to allot the land in question to him and for this, Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another the said N.H. Shivamurthy who claimed virtually to be the owner of the said 4 acres of land granted in favour of S. Suryanarayanarao, filed two Writ Petitions in this Court.
35. Writ Petition No.38979/2003 (N.H. Shivamurthy Vs. State by Secretary and others) which came to be disposed of on 28/08/2003 directing the KIADB to consider the application of the said petitioner and another Writ Petition No.10744/2005 (N.H. Shivamurthy Vs. The State of Karnataka and others) which was filed on 11/03/2005 which however came to be dismissed by the learned Single Judge on 15/03/2005 at the threshold and it was held that the said petitioner, Mr. N.H. Shivamurthy had no title over the land belonging to KIADB and therefore his representation had rightly been rejected by the KIADB. The Writ Appeal, i.e. Writ Appeal No.2402/2005 (N.H. Shivamurthy Vs. State of Karnataka and others) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another filed by the said appellant, Mr. N.H. Shivamurthy on 22/03/2005 against the order dated 15/03/2005 rejecting his writ petition also came to be dismissed by the Division Bench on 28/03/2005.
36. This litigation was apparently a shadow-fight put up by the said person by Mr. N.H. Shivamurthy, on behalf of Mr. S Sundaresh only and Mr. N.H. Shivamurthy continued to fight on his behalf for the 4 acres of land in Sy.No.76 of Sadara Mangala, Bangalore South Taluk which went out of their hands, as the land in question came to be acquired and given to the KIADB and for this period between 2003 and 2005, the said appellant, Mr. S. Sundaresh appears to have gone out of scene of litigation and the land developers and persons like Mr. N.H. Shivamurthy fought the litigation for the said land in Sy.No.76 of Sadara Mangala, Bangalore South Taluk. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another

37. Two other Civil Suits filed in this regard just require a brief mention here. O.S.No.6106/1994 was filed by GVET Trust, Kolar against the Vokkaligara Sangha and the said Civil Suit filed on 17/10/1994 seeking a declaration by GVET that the plaintiff Trust is the owner of the land in Survey No.129 of Shreegandhadakavalu Village, Yeshwanthapur Hobli, Bangalore North Taluk and demolish the constructions raised by the Defendant - Vokkaligara Sangha in Sy.Nos.128 and 129 (old Sy.No.51) came to be dismissed by the learned Trial Court on 18/06/2006.
38. The appeal filed by Vokkaligara Sangha against the Temporary Injunction in the aforesaid O.S.No.6106/1994 namely M.F.A.No.171/1995 (The Vokkaligara Sangha Vs. The Golden Valley Educational Trust, Kolar) filed on 23/01/1995 however came to be dismissed by the learned Single Judge of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Judge of this Court on 19/06/1995 affirming the Temporary Injunction given by the Trial Court and appellant Vokkaligara Sangha was directed not to put up any structures and maintain the character of the property till disposal of the Suit.
39. In this background of the case, the learned Advocate General on behalf of the State Government submitted that there were certain grey areas, illegalities and irregularities committed by the appellant petitioner Mr. Sundaresh who was in collusion with some Government officials and even having political patronage and certain wrong decisions were taken at the level of the Government also and thus the said land came to be granted for which under Rule 25 of the Karnataka Land Grant Rules, 1969, the State Government has power to investigate and even cancel such grant which was granted in the circumstances narrated above and therefore, the impugned Show Cause Order dated 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Cause Notice dated 01/04/2017 which has been issued bona fide to bring out the truth and fix the responsibility on the erring officials and not to allow the precious Government land to be given away to unscrupulous appellant petitioner like Mr. S. Sundaresh who may now be only a shadow-fighter and the land actually being in the control of some other hidden land developers. The matter, therefore deserves to be allowed to be investigated threadbare and the Show Cause Notice need not be interfered with by this Court, at this stage, under Article 226 of the Constitution of India.
40. Mr. Madhusudan R. Naik, learned Advocate General also contended that the Karnataka Land Revenue Act and the concerned Grant Rules also prohibit allotment of any such land within the periphery of 25 kms. of the Municipal Corporation area under the provisions of the Act and therefore the allotment and Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another grant in favour of the appellant petitioner Mr. S. Sundaresh was apparently in breach of these Rules and prohibitory clauses and since the alternative land given to the

said appellant in Sy.No.129 of Shreegandhadakavalu Village, Yeshwanthapur Hobli, Bangalore North Taluk, admittedly and obviously falls within the restricted area of 25 kms., such grant and allotment is void ab-initio, illegal and unsustainable.

41. He further submitted that under the garb of allotment to a freedom fighter or his legal heirs under the Land Grant Rules, which was in the nature of a concession and a privilege to the freedom fighters for their sacrifices and contribution in the freedom struggle of the country before 1947, the present allotment definitely cannot be viewed as a concession or privilege in favour of the present appellant, Mr. S. Sundaresh in the light of those Rules, who was neither a freedom fighter nor a political sufferer. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another
42. He further submitted that since the, Grant and Saguvali Chit, the Final Certification of such Grant never came to be issued and never crystallized in favour of the freedom fighter and political sufferer, his father Mr. S. Suryanarayana Rao himself, there was no reason to believe that he got any such property as an inheritable right in legacy for which he could put up such a long drawn legal battle and should finally succeed in getting such a Grant through illegal and dubious methods.
43. The learned Advocate General also submitted that the previous decisions from this Court in this matter have never determined the question of entitlement of the petitioner, upon the said question being specifically raised and contended by the State and therefore upon a contextual reading of the previous decisions, it would be clear that there is no such issue decided specifically upon consideration of the question Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another of entitlement and as such it cannot be said that the present Show Cause Notice seeks to overreach the judicial process or it amounts to sitting over the judgments of this Court as was sought to be contended by the learned Senior Counsel for the petitioner. He submitted that State is not at all trying to upturn any of the decision in favour of the petitioner. Its right to however hold an enquiry and investigation into unearthing the wrong and irregularities in such allotment and grant should not be cut short by invoking the extra-ordinary jurisdiction of this Court in the form of present writ petition.
44. Mr. Madhusudan R. Naik, learned Advocate General relied upon several case laws to support his contentions which would be discussed at the relevant place hereinafter.
45. Since the present writ petition is directed against the Show Cause Notice issued by the Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Respondent-State on 01.04.2017 and later on, an order has been passed on 15.04.2017, Annexure-R23,

handing over an enquiry to the Lokayuktha under the provisions of Section 7(2-A) of the Karnataka Lokayuktha Act, 1984, for which the petitioner has filed later on an application seeking amendment of the writ petition itself for laying a challenge to the said order dated 15.04.2017 handing over an enquiry to the Lokayuktha, the case against the petitioner as contained in the said Show Cause Notice dated 01.04.2017 and various contentions raised by the learned Advocate General on behalf of the State have been first dealt with and now the contentions raised by the learned Senior counsel Mr.Udaya Holla, appearing for the petitioner in the present case are taken up.

46. Mr.Udaya Holla, learned Senior counsel has vehemently submitted that the impugned Show Cause Notice Annexure-A dated 01.04.2017 is nothing but a Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another judicial overreach by the Executive for undoing the effect of the judgments in favour of the present petitioner, upholding the grant of land in his favour and even directing the Executive Authorities to record the mutation entries in his favour and handing over the possession and 'Saguvali Chit' in favour of the petitioner for the said 4 acres of land situated in Sy.No.129 of Yeshwanthpura Hobli, Bangalore North Taluk, but to avoid the implementation of the said judgments, the Respondent-State deliberately and mischievously wants to set at naught the entire judicial process which has now finally culminated in favour of the petitioner at the hands of the Division Bench of this Court in the recent judgment dated 08.07.2016 allowing W.A.Nos.136 & 267-268/2016 in favour of the petitioner while dismissing the Writ Appeal No.197/2016 filed by the Golden Valley Education Trust, which order has been even upheld by the Hon'ble Supreme Court. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another
47. Mr.Holla has submitted that the Division Bench has clearly held in favour of the petitioner that the grant of 4 Acres of land in favour of the present petitioner in Sy.No.129 of Sreegandhadakavalu village, Yeshwanthpura Hobli, Bangalore North Taluk, was justified and Rule-27 of the Karnataka Land Grant Rules, 1969, provides that notwithstanding anything contained in the said Rules, the State Government may relax any of the provisions of the said Grant Rules and since the said land was granted in pursuance of even the Cabinet Resolution dated 12.03.2013, the consequential Government Order dated 22.04.2013, finally granting 4 Acres of land in Sy.No.129 of Sreegandhadakavalu village, Yeshwanthpura Hobli, Bangalore North Taluk, to the present petitioner after a long chain of litigation commencing from the year 1983 should be deemed to have been done relaxing these Rules and the restrictions as per Rule 27 and the same cannot be Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another undone by the Respondent-State on the pretext of now holding a fresh enquiry in the matter on the basis

of some alleged fraud committed by the petitioner in collusion with the Executive Authorities of the State.

48. The learned Senior counsel Mr.Udaya Holla cited several decisions of the Hon'ble Supreme Court of India and submitted that it is a case of malice-in-law and the State Executive cannot be permitted to undo the clear directives of the Court under the garb of holding a fresh enquiry de novo into the original grant as well as the subsequent grant of the land in favour of the petitioner on the basis that his father Mr.S.Suryanarayana Rao was a freedom fighter and political sufferer. He also submitted that the said Division Bench order passed on 08.07.2016 became final that the dismissal of SLP Nos.19928-19931/2016 filed by the Golden Valley Education Trust & Others vs. State of Karnataka & Another Karnataka & Others by the Hon'ble Supreme Court by a summary dismissal of the said SLPs on 18.11.2016 and the State itself never challenged the said order dated 08/07/2016 of Division Bench before the Hon'ble Supreme Court, which though the State could have done so, if it wanted.
49. Mr. Udaya Holla, the learned Senior counsel took the Court through the history of litigation in the present case and submitted that not only the first grant of land in favour of the petitioner way back on 16.03.1967 was perfectly genuine and legally sustainable grant and the cancellation of that grant by the subsequent order dated 20.01.1972 was never conveyed to the petitioner or his father in respect of 4 Acres of land in Sy.No.76 of Sadaramangala village, Bangalore South Taluk and therefore, the first writ petition filed by the petitioner's father namely W.P. No.3664/1983 (S.Suryanarayana Rao, since deceased by his L.Rs. vs. State of Karnataka & Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another another), for seeking a mandamus direction to the Respondents to issue the 'Saguvali Chit' in favour of the legal representatives of the petitioner Mr.S.Suryanarayana Rao, who had expired during the pendency of the said writ petition on 11.08.1989 was rightly allowed by the learned Single Judge of this Court, but the State claimed that the said land of Sy.No.76 of Sadaramangala village, Bangalore South Taluk had already been acquired by the State for KIADB, which , in turn is said to have been leased out the said land in favour of Golden Valley Education Trust, Kolar, for a period of 30 years, which lease deed also expired in the year 1997.
50. However, upon the directions of the Court, the Respondent-State was directed to consider the allotment of alternative land to the petitioner vide order dated 06.08.2010 by the Division Bench of this Court in W.A.No.3038/2010 (S.Sundaresh Vs. State of Karnataka & Another) and accordingly, after a Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another litigation initiated by the said Golden Valley Education Trust (GVET), which succeeded before the



learned Single Judge of this Court in W.P.No.15058/2015 (The Golden Valley Educational Trust vs. The State of Karnataka & Others) vide order of learned Single Judge dated 31.10.2015.

51. The present petitioner appealed against the said order in W.A.Nos.136 & 267-268/2016 (S.Sundaresh Vs. State of Karnataka & Others), which came to be allowed by the Division Bench of this Court on 08.07.2016, which was affirmed by the Hon'ble Supreme Court by dismissal of the SLP filed by the Golden Valley Education Trust (GVET) and thus there remained no doubt about the entitlement of the present petitioner to have the 'Saguvali Chit' and the mutation of entries in the land records and the peaceful possession of the said 4 Acres of land in Sy.No.129 of Yeshwanthpura Hobli, Bangalore North Taluk, and Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another the Respondent-State cannot be permitted to render this entire success in litigation by the petitioner as an exercise in futility by issuing the impugned Show Cause Notice on 01.04.2017 and purportedly handing over an enquiry to the Lokayuktha under order dated 15.04.2017.
52. Mr. Udaya Holla therefore submitted that both the impugned Show Cause Notice dated 01.04.2017 as well as Reference Order dated 15.04.2017 deserve to be quashed by this Hon'ble Court by allowing the writ petition filed by the petitioner with exemplary costs.
53. Some of the Case laws relied upon by Mr.Udaya Holla for the petitioner are discussed below for ready reference:-
  - (a) In Siemens Ltd., vs. State of Maharashtra & Others (2006) 12 SCC 33, the Hon'ble Supreme Court held that although ordinarily the writ court may not Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another exercise its writ jurisdiction entertaining the writ petition questioning the notice to show-cause unless it appears to be a notice wholly without jurisdiction or when a notice is issued with premeditation, which shows that the respondent has clearly made up its mind and the show-cause notice is merely a front for such premeditation.
  - (b) In Oryx Fisheries Private Limited vs. Union of India and others (2010) 13 SCC 427, the Hon'ble Supreme Court dealing with a case relating to Marine Products Export Development Authority Act, 1972, held in paragraph-31 like this:- "31. It is of course true that the show- cause notice cannot be read hyper- technically and it is well settled that it is to be read reasonably. But one thing is clear that while reading a show-cause notice the person who is subject to it must get an impression that he will get an effective opportunity to rebut the allegations contained in the show-cause notice and prove his Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another innocence. If on a reasonable reading of a show-cause notice a person of ordinary prudence gets the feeling that his reply to the show-cause notice will be an empty

ceremony and he will merely knock his head against the impenetrable wall of prejudged opinion, such a show-cause notice does not commence a fair procedure especially when it is issued in a quasi-judicial proceeding under a statutory regulation which promises to give the person proceeded against a reasonable opportunity of defence”.

- (c) In *Union of India & Another vs. M/s.Bru Fertilizers Pvt. Ltd., & Others* (1993) 3 SCC 564, the Hon’ble Supreme Court dealing with a case of subsidy to small scale fertilizer manufacturers under the Scheme framed by Government of India withholding the subsidy on the ground of product being not in conformity with the standard specified under the Fertiliser (Control) Order, held that the High Court would normally not interfere at the stage of show-cause Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another notice, but where from the facts, it is apparent that there was no material available with the Department to doubt the statement on behalf of the respondents and their own officers at every point of time had issued the certificate the correctness of which could not be disputed or doubted except by raising unfounded suspicion, it would be failing to exercise jurisdiction if the Court does not discharge its constitutional obligation of protecting the manufacturers.
- (d) Relying upon the Constitution Bench decision in the case of *Calcutta Discount Co., Ltd., vs. Income Tax Officer & Another* AIR 1961 SC 372, dealing with a case of reassessment under the provisions of the Income Tax Act, the Hon’ble Apex Court held that it is a well settled law that though the writ of prohibition or certiorari will not issue against an Executive Authority, the High Courts have power to issue, in a fit case, the order prohibiting an Executive Authority from acting without jurisdiction. Where such action of an Executive Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Authority acting without jurisdiction subjects or is likely to subject a person to the lengthy proceedings and unnecessary harassment, the High Courts will issue appropriate orders or directions to prevent such consequences.
- (e) In *Whirlpool Corporation vs. Registrar of Trade Marks, Mumbai & Others* (1998) 8 SCC 1, relied upon by the learned Senior counsel for the petitioner, in paragraphs 20 & 21, the Hon’ble Supreme Court held as under:- “20. Much water has since flown under the bridge, but there has been no corrosive effect on these decisions which, though old, continue to hold the field with the result that law as to the jurisdiction of the High Court in entertaining a writ petition under Article 226 of the Constitution, in spite of the alternative statutory remedies, is not affected, specially in a case where the authority against whom the writ is filed is shown to have had no jurisdiction or had purported to usurp jurisdiction without any legal foundation. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another

21. That being so, the High Court was not justified in dismissing the writ

petition at the initial stage without examining the contention that the show-cause notice issued to the appellant was wholly without jurisdiction and that the Registrar, in the circumstances of the case, was not justified in acting as the “Tribunal”.

- (f) In D.L.F. Universal Ltd., vs. Prof.A.Lakshmi Sagar and Another (1998) 7 SCC 1, dealing with a case of Scheme for development of sites for 270 country villas on Banks of Arkavathi River in Karnataka, the Hon’ble Supreme Court held that the matters referred to in Section 95(3) of the Karnataka Land Revenue Act, 1964, the power is conferred on Deputy Commissioner for diversion from agricultural use to non-agricultural use of a large number of plots of land for construction of Villas and from the provisions of the said Section 95(3) of the Act, it is not possible to infer a right in a member of the public who has no special interest in the matter Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another to file an objection to an application for grant of permission to divert the use of agricultural land and to claim an opportunity to appear and oppose the said application before the Deputy Commissioner. Though the Court held that it is open for such a member of public to challenge such order passed by the Deputy Commissioner, but he cannot claim to raise an objection before the Deputy Commissioner at the stage of consideration of the application for such diversion or change of user of the land in question.
- (g) Mr.Udaya Holla, learned Senior counsel relied upon the decision of the Constitution Bench in the case of State of West Bengal vs. Hemant Kumar Bhattacharjee & Others- (AIR 1966 SC 1061), for the limited purpose of the submission in paragraph-14 of the said judgment that even a wrong decision by a Court having jurisdiction is as much binding between the parties as a right one and may be superseded only Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another by appeals to higher Tribunals or other procedure like review which the law provides.
- (h) Thus, he contended, the law does not permit the Executive to sit over the judgments of the Courts itself even if the judgment is wrong. To the same effect, he relied upon the decision of the Hon’ble Supreme Court in the case of Gorie Gouri Naidu (Minor) and Another vs. Thandrothu Bodemma and Others (1997) 2 SCC 552.
- (i) The principles of res judicata as explained in paragraph-12 of the judgment in the case of M.Nagabhushana vs. State of Karnataka (2011) 3 SCC 408, were relied upon by the learned Senior counsel for the petitioner. Paragraph-12 of the said judgment is quoted below for ready reference:-  
 “12. The principles of res judicata are of universal application as they are based on two age-old principles, namely, interest reipublicae ut sit finis litium which means Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another that it is in the interest of the State that there should be an end to litigation and the other principle

is nemo debet bis vexari, si constat curiae quod sit pro una et eadem causa meaning thereby that no one ought to be vexed twice in a litigation if it appears to the court that it is for one and the same cause. This doctrine of res judicata is common to all civilized system of jurisprudence to the extent that a judgment after a proper trial by a court of competent jurisdiction should be regarded as final and conclusive determination of the questions litigated and should for ever set the controversy at rest”.

- (j) Mr.Holla also relied upon the decision of the Constitution Bench in the case of Bachhittar Singh vs. State of Punjab and another AIR 1963 SC 395 at paragraph-10 to the following effect:- “10. . . . . Thus it is of the essence that the order has to be communicated to the person who would be affected by that order before Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another the State and that person can be bound by that order. For, until the order is communicated to the person affected by it, it would be open to the Council of Ministers to consider the matter over and over against (sic! again) and therefore, till its communication the order cannot be regarded as anything more than provisional in character”. This was with regard to impugned cancellation order dated 20.01.1972, which Mr.Holla submitted was never communicated to the petitioner purportedly canceling the grant dated 16.03.1967 in favour of the petitioner’s father.
- (k) On the issue of interference of the Court in writ jurisdiction against the show-cause notice, the learned Senior counsel Mr.Holla also relied upon the decision in the case of Union of India and Another vs. Vicco Laboratories (2007) 13 SCC 270, in paragraph- Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another 31, where the Hon’ble Supreme Court held that the abstinence from interference at the stage of issuance of show-cause notice in order to relegate the parties to the proceedings before the authorities concerned is the normal rule. However, the said rule is not without exceptions. Where a show-cause notice is issued either without the jurisdiction or in an abuse of process of law, certainly in that case, the writ court would not hesitate to interfere even at the stage of issuance of show-case notice. The interference at the show-cause notice stage should be rare and not in a routine manner.
- (l) In State of Uttar Pradesh & Another vs. Arezzo Developers Private Limited and Others (2016) 12 SCC 530, the Court reiterated that the Court has to see whether the show-cause notice is patently illegal, without jurisdiction, arbitrary or mala fide in nature. In the present case, when the landed properties were exchanged amongst the Bhumidhars without any consideration, can it be treated as an instrument so as Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another to attract the stamp duty was the question, which the Court finally held that such a show-cause notice against such exchange of lands under Section 161 of the Uttar Pradesh Zamindari Abolition and Land Reforms Act, 1950, could not have been issued.

- (m) The Bombay High Court in *Bharat Tukaram Bhalke and others vs. Regional Joint Director of Sugar and others* 2009 SCC Online Bombay 1104, the Bombay High Court quashed the show-cause notice issued to the petitioner against the provisions of Maharashtra Co-operative Societies Act under Section 78 of the Act and finding it to be actuated with mala fides, the Court struck it down.
  - (n) In *Collector (District Magistrate) Allahabad and another vs. Raja Ram Jaiswal* (1985) 3 SCC 1, the Hon'ble Supreme Court dealing with a Land Acquisition case, held that where power is conferred to achieve a purpose, the power must be exercised reasonably and in good faith to effectuate the purpose. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another However, if such power is exercised for an extraneous or irrelevant or non-germane consideration, the acquiring authority can be charged with legal mala fides.
  - (o) In *Ravi Yashwant Bhoir vs. District Collector, Raigad and others* (2012) 4 SCC 407, the concept of malice-in-law relied upon by Mr.Holla in the present case was succinctly explained by the Hon'ble Supreme Court in Paragraphs 47 & 48 as under:- "47. This Court has consistently held that the State is under an obligation to act fairly without ill will or malice in fact or in law. Where malice is attributed to the State, it can never be a case of personal ill will or spite on the part of the State."Legal malice" or "malice in law" means something done without lawful excuse. It is a deliberate act in disregard to the rights of others. It is an act which is taken with an oblique or indirect object. It is an act done wrongfully and willfully without reasonable or probable cause, and not necessarily an act done from ill feeling and spite. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another
48. Mala fide exercise of power does not imply any moral turpitude. It means exercise of statutory power for "purposes foreign to those for which it is in law intended". It means conscious violation of the law to the prejudice of another, a depraved inclination on the part of the authority to disregard the rights of others, where intent is manifested by its injurious acts. Passing an order for unauthorized purpose constitutes malice in law". Then the Court proceeded to set aside the removal of the elected member/Chairman of the Council in paragraph-70 with the following observations:-"70. Thus, the instant case has been a crystal clear-cut case of legal malice and therefore, the impugned orders are liable to be quashed. The duly elected member/Chairman of the Council could not have been removed in such a casual and cavalier manner without giving strict adherence to the Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another safeguards provided under the statute which had to be scrupulously followed".
49. Now, some of the case laws referred by the learned Advocate General for the Respondent State in support of his various contentions can also be briefly dealt with here: I. Writ Petition not maintainable against a Show

Cause Notice:

- (i) In *Executive Engineer Engineer, Bihar State Housing Board Vs. Ramesh Kumar Singh and others* [(1996) 1 SCC 327], the Hon'ble Supreme Court held that a writ petition against a Show Cause Notice issued by the Bihar State Housing Board calling upon the Respondent to explain why not an order of eviction be passed against him for his unauthorized living in a portion of the house allotted by the Board on Hire- Purchase basis to another Respondent, there was no question of infringement of any Fundamental Right Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another guaranteed by the Constitution and it cannot be said that the notice was ex-facie a 'nullity' or totally 'without jurisdiction' in the traditional sense of that expression. No question of vires of the statutory provisions was involved in the matter and therefore the petition under Article 226 was not maintainable. In para.10 of the judgment, the Court held as under:

10. We are concerned in this case, with the entertainment of the Writ Petition against a show- cause notice issued by a competent statutory authority. It should be borne in mind that there is no attack against the vires of the statutory provisions governing the matter. No question of infringement of any fundamental right guaranteed by the Constitution is alleged or proved. It cannot be said that Ext. P-4 notice is ex facie a "nullity" or totally "without jurisdiction" in the traditional sense of that expression – that is to say, even the commencement or initiation of the proceedings, on the face of it and without Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another anything more, is totally unauthorised. In such a case, for entertaining a Writ Petition under Article 226 of the Constitution of India against a show-cause notice, at that stage, it should be shown that the authority concerned has no power or jurisdiction, to enter upon the enquiry in question. In all other cases, it is only appropriate that the party should avail of the alternate remedy and show cause against the same before the authority concerned and take up the objection regarding jurisdiction also, then. In the event of an adverse decision, it will certainly be open to him, to assail the same either in appeal or revision, as the case may be, or in appropriate cases, by invoking the jurisdiction under Article 226 of the Constitution of India.
- (ii) In a service law matter, in a petition under Article 226 of the Constitution of India, against a charge sheet, the Hon'ble Supreme Court in the case of *Union of India and another Vs. Kunisetty Satyanarayana* [(2006) 12 SCC 28], held that in very rare and Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another exceptional cases, the High Court can quash a Charge Sheet or a Show Cause Notice, if it is found to be wholly without jurisdiction or otherwise wholly illegal. In para 14 of the said judgment, the Court held as follows:

14. The reason why ordinarily a writ petition should not be entertained against a mere show-cause notice or charge-sheet is that at that stage the writ petition may be held to be premature. A mere charge-sheet or show- cause notice does not give rise to any cause of action, because it does not amount to an adverse order which affects the rights of any party unless the same has been issued by a person having no jurisdiction to do so. It is quite possible that after considering the reply to the show-cause notice or after holding an enquiry the authority concerned may drop the proceedings and/or hold that the charges are not established. It is well settled that a writ petition lies when some right of any party is infringed. A mere show-cause notice or charge-sheet does not infringe the right of any one. It is only when a final order Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another imposing some punishment or otherwise adversely affecting a party is passed, that the said party can be said to have any grievance." Rights conferred in pursuance of Court orders can also be investigated again:-

(iii) In Union of India and others Vs. Ramesh Gandhi [(2012)1SCC 476, in Coal allotment case, the Hon'ble Supreme Court held that even the Court decisions are rendered on the basis of the facts pleaded before them and the issues raised out of those pleaded facts and to arrive at any conclusion on those facts, it requires a detailed examination of the relevant facts. Therefore, even if the Coal allotment was made in pursuance of the decision of the Calcutta High Court, it does not rule out the possibility of a crime to have been committed in such allotment. The relevant paragraphs 21, 22 and 27 are quoted below for ready reference. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another "21. Whether the private company failed to comply with the legal obligations arising out of the contracts entered into by it with the Coal India or its subsidiaries, depends on the proof of the facts allegedly constituting the acts or omissions amounting to the breach of the contracts on the part of the private company. To arrive at any conclusion on the above question, it requires a detailed examination of the relevant material. The fact that the supplies of coal were made to the private company pursuant to the orders of the Calcutta High Court and confirmed by this Court by itself does not rule out the possibility of a crime having been committed.

22. It is well known that decisions are rendered by courts on the basis of the facts pleaded before them and the issues arising out of those pleaded facts. As we have already pointed out, the only issue projected on the basis of the facts placed before Calcutta High Court and this Court is the Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another competence of the Coal Controller to give directions which in substance amounted to variation of the terms of the contracts to

which the private company and Coal India Ltd. are parties. This court in Civil Appeal Nos.2004-2005 of 1997 declared that the Coal Controller had the requisite legal authority to give such directions but did not examine any other issue.

23. If a judgment obtained by playing fraud on the Court is a nullity and is to be treated as non est by every Court superior or inferior, it would be strange logic to hear that an enquiry into the question whether a judgment was secured by playing fraud on the Court by not disclosing the necessary facts relevant for the adjudication of the controversy before the Court is impermissible. From the above judgments, it is clear that such an examination is permissible. Such a principle is required to be applied with greater emphasis in the realm of public law jurisdiction as the mischief resulting from Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another such fraud has larger dimension affecting the larger public interest." This judgment was heavily relied upon by the learned Advocate General to submit that despite the Court decisions in the present case also, it could not be ruled out that such grant and allotment of land of 4 Acres in favour of the petitioner and his father suffered from grave illegalities, irregularities and even a fraud which requires investigation and adjudication even now.

- (iv) The learned Advocate General also relied upon a decision in the case of Devendra Kumar Vs. State of Uttaranchal and others [(2013) 9 SCC 363 to submit that suppression of facts or misrepresentation would amount to fraud and fraud unravels everything and therefore no interference at this stage deserves to be made. The relevant paragraphs 13 to 16 of the said Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another judgment were relied upon by the learned Advocate General to buttress his argument, which read as under:

13. It is a settled proposition of law that where an applicant gets an office by misrepresenting the facts or by playing fraud upon the competent authority, such an order cannot be sustained in the eyes of law. "Fraud avoids all judicial acts, ecclesiastical or temporal." (Vide: S.P. Chengalvaraya Naidu (Dead) by LRs. v. Jagannath (Dead) by LRs. & Ors., AIR 1994 SC 853. In Lazarus Estate Ltd. v. Besalay, 1956 All E.R. 349, the Court observed without equivocation that "no judgment of a Court, no order of a Minister can be allowed to stand if it has been obtained by fraud, for fraud unravels everything."
14. In Andhra Pradesh State Financial Corporation v. M/s. GAR Re-Rolling Mills & Anr., AIR 1994 SC 2151; and State of Maharashtra & Ors. v. Prabhu, (1994) 2 SCC 481, this Court has observed that a writ Court, while exercising its equitable Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another jurisdiction, should not act to prevent perpetration of a legal fraud



as Courts are obliged to do justice by promotion of good faith. “Equity is, also, known to prevent the law from the crafty evasions and subtleties invented to evade law.”

15. In *Smt. Shrisht Dhawan v. M/s. Shaw Bros.*, AIR 1992 SC 1555, it has been held as under:- “Fraud and collusion vitiate even the most solemn proceedings in any civilized system of jurisprudence. It is a concept descriptive of human conduct.”
16. In *United India Insurance Company Ltd. v. Rajendra Singh & Ors.*, AIR 2000 SC 1165, this Court observed that “Fraud and justice never dwell together” (*fraus et jus nunquam cohabitant*) and it is a pristine maxim which has not lost temper over all these centuries. A similar view has been reiterated by this Court in *M.P. Mittal v. State of Haryana & Ors.*

- (v) Regarding delay of so many years after which the impugned Show Cause Notice has been issued to Date of Order 13-10-2017 W.P.No.14815/2017 *Sri. S. Sundaresh Vs. State of Karnataka & Another* the present petitioner, learned Advocate General relied upon decision in the case of *R. Vishwanatha Pillai Vs. State of Kerala and others* [(2004) 2 SCC 105], wherein the Hon’ble Supreme Court in a service matter held that a person procuring appointment in a post meant for a reserved category candidate, on the basis of a false Caste Certificate cannot be said to be a person holding a civil post within the meaning of Article 311 of the Constitution of India and therefore his dismissal on the said ground after many years was also upheld by the Hon’ble Supreme Court holding the said appointment to be a void appointment. The Court held in para.15 as under:

15. This apart, the appellant obtained the appointment in the service on the basis that he belonged to a Scheduled Caste community. When it was found by the Scrutiny Committee that he did not belong to the Scheduled Caste community, then the very basis of his appointment was taken away. His appointment was no Date of Order 13-10-2017 W.P.No.14815/2017 *Sri. S. Sundaresh Vs. State of Karnataka & Another* appointment in the eyes of law. He cannot claim a right to the post as he had usurped the post meant for a reserved candidate by playing a fraud and producing a false caste certificate. Unless the appellant can lay a claim to the post on the basis of his appointment he cannot claim the constitutional guarantee given under the Article 311 of the Constitution. As he had obtained the appointment on the basis of a false caste certificate he cannot be considered to be a person who holds a post within the meaning of Article 311 of the Constitution of India, Finding recorded by the Scrutiny Committee that the appellant got the appointment on the basis of false caste certificate has become final. The position, therefore, is that the appellant has usurped the post which should have gone to a member of the Scheduled Caste. In view of the finding recorded by the Scrutiny Committee and upheld upto this Court he has disqualified himself to hold the post. Appointment was

void from its inception. It cannot be said that the said void appointment would enable the Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another appellant to claim that he was holding a civil post within the meaning of Article 311 of the Constitution of India, As appellant had obtained the appointment by playing a fraud he cannot be allowed to take advantage of his own fraud in entering the service and claim that he was holder of the post entitled to be dealt with in terms of Article 311 of the Constitution of India or the Rules framed thereunder. Where an appointment in a service has been acquired by practising fraud or deceit such an appointment is no appointment in law, in service and in such a situation Article 311 of the Constitution is not attracted at all."

- (vi) The learned Advocate General also relied upon the Hon'ble Supreme Court decision in the case of Akhil Bhartiya Upbhokta Congress Vs. State of Madhya Pradesh and others [(2011) 5 SCC 29] regarding State policy of Allotment of land, grant of quotas, permits and licences etc. and the Court generally deprecated the same and held that it cannot Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another be allowed to be a distribution of largesse by the State in a non transparent manner. The relevant extract from the said judgment is also quoted below for ready reference. "What needs to be emphasized is that the State and/or its agencies/ instrumentalities cannot give largesse to any person according to the sweet will and whims of the political entities and/or officers of the State. Every action/decision of the State and/or its agencies/instrumentalities to give largesse or confer benefit must be founded on a sound, transparent, discernible and well defined policy, which shall be made known to the public by publication in the Official Gazette and other recognized modes of publicity and such policy must be implemented/executed by adopting a non- discriminatory and non-arbitrary method irrespective of the class or category of persons proposed to be benefitted by the policy. The distribution of largesse like Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another allotment of land, grant of quota, permit licence etc. by the State and its agencies/instrumentalities should always be done in a fair and equitable manner and the element of favoritism or nepotism shall not influence the exercise of discretion, if any, conferred upon the particular functionary or officer of the State. There cannot be any policy, much less, a rational policy of allotting land on the basis of applications made by individuals, bodies, organizations or institutions de hors an invitation or advertisement by the State or its agency/instrumentality. By entertaining applications made by individuals, organisations or institutions for allotment of land or for grant of any other type of largesse the State cannot exclude other eligible persons from lodging competing claim. Any allotment of land or grant of other form of largesse by the State or its agencies/instrumentalities by treating the exercise as a private venture is liable

to be treated as arbitrary, discriminatory and an Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another act of favoritism and/or nepotism violating the soul of the equality clause embodied in Article 14 of the Constitution. This, however, does not mean that the State can never allot land to the institutions/organisations engaged in educational, cultural, social or philanthropic activities or are rendering service to the Society except by way of auction. Nevertheless, it is necessary to observe that once a piece of land is earmarked or identified for allotment to institutions/organisations engaged in any such activity, the actual exercise of allotment must be done in a manner consistent with the doctrine of equality. The competent authority should, as a matter of course, issue an advertisement incorporating therein the conditions of eligibility so as to enable all similarly situated eligible persons, institutions/organisations to participate in the process of allotment, whether by way of auction or otherwise. In a given case the Government may allot land at a fixed price Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another but in that case also allotment must be preceded by a wholesome exercise consistent with Article 14 of the Constitution.

- (vii) On the submission that the question of entitlement of the present petitioner for the said grant was never really decided as an issue and therefore the previous judgments were sub-silentio on the same and therefore it did not prevent further enquiry into such grant and allotment in favour of the petitioner even at this stage, learned Advocate General relying upon the Constitution Bench decision of the Hon'ble Supreme Court in the case of Divisional Controller, KSRTC Vs. Mahadeva Shetty and another [(2003) 7 SCC 197], para.23 of which is quoted below for ready reference. "23. So far as Nagesha Case relied upon by the claimant is concerned, it is only to be noted that the decision does not indicate the basis for fixing of the quantum as a lump sum was fixed by the Court. The decision Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another ordinarily is a decision on the case before the court, while the principle underlying the decision would be binding as a precedent in a case which comes up for decision subsequently. Therefore, while applying the decision to a later case, the Court dealing with it should carefully try to ascertain the principle laid down by the previous decision. A decision often takes its colour from the question involved in the case in which it is rendered. The scope and authority of a precedent should never be expanded unnecessarily beyond the needs of a given situation. The only thing binding as an authority upon a subsequent Judge is the principle upon which the case was decided. Statements which are not part of the ratio decidendi are distinguished as obiter dicta and are not authoritative. The task of finding the principle is fraught with difficulty as without an investigation into the facts, it cannot be assumed whether a similar direction must or ought to be made as a measure of social justice. Precedents sub silentio and without argument are of no Date of Order

13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another moment. Mere casual expressions carry no weight at all, nor every passing expression of a Judge, however eminent, can be treated as an ex cathedra statement having the weight of authority.”

- (viii) To the same effect, he relied upon the decision in the case of A-One Granites Vs. State of U.P. and others [(2001) 3 SCC 537], the relevant portion of which is also quoted below for ready reference. “12. In State of U.P. & Anr. vs. Synthetics and Chemicals Ltd. & Anr., (1991) 4 SCC 139, reiterating the same view, this Court laid down that such a decision cannot be deemed to be a law declared to have binding effect as is contemplated by Article 141 of the Constitution of India and observed thus:”A decision which is not express and is not founded on reasons nor it proceeds on consideration of issue Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141.” In the case of Arnit Das vs. State of Bihar, 2000 (5) SCC 488, while examining the binding effect of such a decision, this Court observed thus:- “20.A decision not expressed, not accompanied by reasons and not proceeding on a conscious consideration of an issue cannot be deemed to be a law declared to have a binding effect as is contemplated by Article 141. That which has escaped in the judgment is not the ratio decidendi. This is the rule of sub silentio, in the technical sense when a particular point of law was not consciously determined.
- (ix) On the submission of Estoppel not applying to the State Government in such case, the learned Advocate General relied upon the decision of the Hon’ble Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Supreme Court in the case of G. Ramegowda, Major and others Vs. Special Land Acquisition Officer, Bangalore [(1988) 2 SCC 142], the relevant portion of the judgment is quoted below for ready reference. “The law of limitation is, no doubt, the same for a private citizen as for governmental authorities. Government, like any other litigant, must take responsibility for the acts or omissions of its officers. But a somewhat different complexion is imparted to the matter where Government makes out a case where public interest was shown to have suffered owing to acts of fraud or bad faith on the part of its officers or agents and where the officers were clearly at cross-purposes with it. Therefore, in assessing what, in a particular case, constitutes ‘sufficient case’ for purposes of Section 5 it might, be somewhat unrealistic to exclude from the considerations that go into the judicial verdict, those factors which are peculiar to and characteristic of the functioning of the Government. Implicit in the very nature of Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another governmental functioning is procedural delay incidental to the decision-making process. Due recognition of these limitations on governmental functioning - of course, within a reasonable limit - is necessary. It would be unfair and unrealistic to put Government and private parties on

the same footing in all respects in such matter.”

- (x) Further, the learned Advocate General submitted that the State being a continuing Body, cannot be stopped from changing its stand in a given case but where after holding enquiry, it can also come to the conclusion that action was not in conformity with law, the principle of Estoppel would not apply. He placed reliance on the decision of the Hon’ble Supreme Court in the case of Andhra Pradesh Dairy Development Corporation Federation Vs. B. Narasimha Reddy and others [(2011) 9 SCC 286], paragraphs 40 and 41 of which are quoted below for ready reference:- Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another “40. In the matter of Government of a State, the succeeding Government is duty bound to continue and carry on the unfinished job of the previous Government, for the reason that the action is that of the”State“, within the meaning of Article 12 of the Constitution, which continues to subsist and therefore, it is not required that the new Government can plead contrary from the State action taken by the previous Government in respect of a particular subject. The State, being a continuing body can be stopped from changing its stand in a given case, but where after holding enquiry it came to the conclusion that action was not in conformity with law, the doctrine of estoppel would not apply. Thus, unless the act done by the previous Government is found to be contrary to the statutory provisions, unreasonable or against policy, the State should not change its stand merely because the other political party has come into power.”Political agenda of an individual or a political party should not be subversive of rule of law“. The Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Government has to rise above the nexus of vested interest and nepotism etc. as the principles of governance have to be tested on the touchstone of justice, equity and fair play. The decision must be taken in good faith and must be legitimate. [Vide: Onkar Lal Bajaj v. Union of India (30) State of Karnataka & Anr. v. All India Manufacturers Organization(31) and State of Tamil Nadu v. K. Shyam Sunder(17)..

41. In State of Tamil Nadu. v. K. Shyam Sunder (17), this Court while dealing with the issue held as under SCC p.771, para 66) “66.The Statement of Objects and Reasons appended to the Bill is not admissible as an aid to the construction of the Act to be passed, but it can be used for limited purpose for ascertaining the conditions which prevailed at that time which necessitated the making of the law, and the extent and urgency of the evil, which it sought to remedy. The Statement of Objects and Reasons may be relevant to find out what is the Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another objective of any given statute passed by the legislature. It may provide for the reasons which induced the legislature to enact the statute.”For the purpose of deciphering the objects and purport of the Act, the court can look to the Statement of Objects and Reasons thereof“.”

42. On the basis of the aforesaid analysis of the facts, relevant case laws and record of the case, this Court is of the prima facie view that there are certain grey areas in the present case on which adequate light has not been thrown by the parties to the litigation or even in the previous decisions which may justify holding of a fresh enquiry, even at this belated stage. Some of those issues or points in brief as under:- I. There appears to be no evidence on record whatsoever, whether Mr. Suryanarayana Rao was really a Freedom Fighter or Political Sufferer at all or not? Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another There is no evidence of his participation in freedom movement, his being jailed or he being given any 'Samman patra' or Certificate for such participation in the Freedom struggle. Every citizen of country though mentally involved in the freedom movement unless he has actively participated in the Freedom struggle and suffered the brunt of it, perhaps, may not be entitled to receive the privileges and such benefits which were conferred upon such distinguished few after the freedom was achieved in the year 1947.
- II. The huge delay in the conferring of the Grant itself after 20 years of independence in the year 1947, in the year 1967 for the first time itself came much belatedly and the first approach to the Court itself for grant of 'Saguvali Chit' on the basis of such grant in his favour in the year 1967 came 16 years thereafter in the year 1983. In other words said Mr. S. Suryanarayana Rao claimed his right in the Court of law after 36 years Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another after Independence. Was it not too belated? Unfortunately, he died in the year 1989 without the 'Saguvali Chit' or entitlement being conferred upon him and rest of the litigation after him was contested and so called rights claimed only by his son, Mr. Sundaresh, who was not himself the Freedom Fighter and was even born after Independence on 14/12/1954.
- III. Whether such entitlement, if at all one can arrive at such a conclusion, without a crystallized right conferred upon Mr. S. Suryanarayana Rao before his death, whether the said right in the form of a 'property' was at all a heritable right or not and therefore whether the legal representatives of the deceased S. Suryanarayana Rao could have any right to be conferred such privilege, grant or entitlement in the capacity of a Freedom Fighter or a Political Sufferer. Admittedly his son, Mr. Sundaresh, the present petitioner was born even after independence of the country in 1947. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another IV. The amount of litigation put in by the family of Mr. S. Suryanarayana Rao led by Mr. S. Sundaresh to some how secure the said grant finally in the year 2013, with political role is also baffling. Whether a Freedom Fighter in the true sense of the term would have fought for this kind of privilege or grant of entitlement to such an extent is another shade to consider. In fact, whether upon payment of Rs.6.00

crores by Mr. Sundaresh, the price of said 4 Acres of land in 2013, it remains a free grant of land to a Freedom Fighter or a case of Sale of land by State under the guise of a Grant to a Freedom Fighter? V. On a contextual reading of the orders and judgments rendered by the Court on previous occasions in the present case, do not establish in categorical terms that the question of 'entitlement' in the light of an issue raised upon a contest put up by State Government, was even considered by the Court as a Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another matter in issue and then decided as a matter of right in his favour. Therefore, whether the principles of res judicata and estoppel or bar of jurisdiction of the State to now look into the matter, will arise or not, are the questions still open. The directions of this Court on previous occasions have been to "consider" his case and allot alternative land, obviously if available lawfully for such allotment and no where the question of "entitlement" as such was decided by the Courts as a matter of issue in favour of the petitioner.

- IV. Whether there was any misrepresentation or fraud played by the parties in the case or any collusion with members of the Bureaucracy or Executive and even Political patronage are the questions which may be required to be looked into by State or Hon'ble Lokayukta.
  - V. That if a bona fide enquiry is sought to be made at the hands of the State or even by Lokayukta under the impugned Show Cause Notice and Reference Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Order, why the Court in exercise of extra-ordinary jurisdiction, cut it short merely assuming on a misplaced sympathy that after a long drawn legal battle, if the son of a Freedom Fighter, Mr. Sundaresh has got the said grant finally in 2013 upon a payment of huge sum of Rs.6 crores, which was almost equivalent to market price of the land in question based on the guidance value informed to him and why the Court should curtail, prevent and foreclose such enquiry.
54. These and other issues are the issues and fields where the enquiry is sought to be now held and which at its threshold is under challenge before this Court.
  55. A summary of litigation history of this case by petitioner and even by third parties acting for and behalf of the petitioner or otherwise in the form of a Chart compiled by this Court, after going through the history of the litigation and the records of such cases, Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another with the assistance of learned counsels is given hereunder, which will also show that a combination of writ petitions filed from time to time and several contempt petitions were filed which might have played a role of putting a kind of pressure on the State Government to finally budge and issue a grant again in 2013 for the alternative land in Sy.No.129 of Sree-gandhadakaval, Yeshwanthapur Hobli, Bangalore North Taluk, with the

approval of the Cabinet, relaxing all restrictions and conditions even at such a belated stage. In the process of this kind of long drawn legal battle and bitter legal fight, invoking the Contempt jurisdiction of this Court by the petitioner several times and the latest Contempt Petition No.176/2017 filed on 02/02/2017 for allegedly not issuing 'Saguvali Chit' after the Division Bench decision dated 08/07/2016 in Writ Appeal No.136/2016 is still pending and that is also a factor, which cannot be overlooked. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another CHART OF HISTORY OF LITIGATION FOR THESE TWO LANDS QUESTION Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case Seeking Writ of B. R. Gopalachar Mandamus directing s/o HON'BLE MR. JUSTICE S. G. the Tahsildar, Ramanujachar, DODDAKALEGOWDA Bangalore South Taluk, 65 years to issue Saguvali chit Date of Disposal: to the petitioner, B.R. (Mr. R. 12/10/1981 Gopalachar. Anantharaman, W.P. (not present Adv.) Petition allowed. No. petitioner) 4466/ vs. Directed concerned 1977 Land in question was Authorities to demarcate 14/06/ given to Gopalachar 1 1. State of and decide this case for 1977 (filed by a U/R 42 with relaxation party not Karnataka, issuance of Saguvali chit. U/R 27 of the Mysore connected Revenue Land Grant to the Secretary. Remarks present (Amendment) Rules, 2. The This judgment was relied petition) 1960, as there were Tahsildar, upon and was the primary applications made to Bangalore South basis for the Writ Petition the government by Taluk. 3664/1983 filed by the deserving persons, like Petitioner. Gopalachar and others, (Mr. S. V. (see Sl. No. 2) to encourage dairy and Narasimhan, poultry farming around Adv.) Bangalore. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case HON'BLE MR. JUSTICE N. Y. HANUMANTHAPPA Date of Disposal: Seeking Writ of 18/06/1990 W.P. S. Suryanarayana Mandamus to Issue No. Rao, since Saguvali Chit to the Respondents were directed 3664/ deceased, by his Petitioners, S. to consider the 1983 LRs - Sundaresh Suryanarayana Rao, Application of the and others since they were granted petitioner and issue (filed by the 4 Acres of land in Sy. 'Saguvali Chit' within 3 Freedom (Mr. H. N. 76 of Sadaramangala months from the date of 23/02 Fighter who 2 Nagamohan Das, Village, Bangalore receipt of this order. /1983 died during the Adv.) South Taluk, vide Respondents also directed pendency of Govt. Order dated to issue the 'Saguvali Chit' this WP on Vs. 16/03/1967. in the name of the LRs of 11/08/ the deceased petitioner, who 1989, hence by 1. State of Relied upon decision of died on 11/08/1989, the present Karnataka, court in case at Sl. No. relying upon decision at petitioner) Revenue 1 above of B. R. Sl.No.1 above. Department. Gopalachar Remark: This Petition was 2.The Tahsildar, filed in 1983 after a gap of Bangalore 16 years of grant in 1967. (Mr. Patel D. No reasons for this huge Karigowda, Adv.) delay explained. Date of Order 13-10-2017 W.P.No.14815/2017



Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case After a gap of 11 years, after 1983 this third party Trust, Petitioner seeks a Declaration that the VIITH ADDL. CITY CIVIL JUDGE, plaintiff Trust be BANGALORE declared as the owner of SRI K. SHIV-ARAM the land in Sy.No.128 of Srigandhadakavalu, Date of allowing I.A for T.I : Bangalore North Taluk. 18/06/2006 O.S. (same as claimed by the No. present Petitioner) 1. Plaintiff Trust has been 6106/ leased the land from the The Golden Issue Mandatory 1994 Govt. of Mysore. It has not Valley Injunction directing the (Filed by a Education defendant Vokkaligara been in possession and third party Trust, Kolar Sangha to demolish the enjoyment of both Sy.Nos. to the construction in Sy.Nos. 128 & 129, (old Sy.No. 51), present (Mr. G. Papi 128 and 129 (old Sy.No. Sriganghadakaval, Petition; 51), Sriganghadakaval, Bangalore North Taluk Subject Reddy, Adv.) matter of Bangalore North Taluk 17/10 this case is belonging to the Trust. 2. Defendant Sangha has 3 vs. /1994 the piece of been in possession and land which Issue Permanent enjoyment of entire extent of was later to The Vokkaligara Injunction, restraining land in old Sy.No. 51. be granted Sangha, the Vokkaligara Sangha to the Bangalore. from interfering with the present 3. Plaintiff has not proved Golden Valley Education encroachment of Sy.Nos. petitioner and the (Mr. Trust's possession and 128 & 129, (old Sy.No. 51), same as M.S.Varadarajan, enjoyment of land in Sriganghadakaval, claimed by Adv.) Sy.No.128 of Bangalore North Taluk by the Srigandhadakavalu, the defendant. Petitioner Bangalore North Taluk. now) (Note: First case regarding 4. The Suit is barred by the alternate land where 4 time. Acres of Sy.No.129 of Srigandhadakavalu, Plaintiff is neither entitled Bangalore North Taluk, to Mandatory Injunction were supposedly granted nor Permanent Injunction. to Sundaresh S/o. Late Suryanarayana Rao in question) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case M.F.A. No. 171/ HON'BLE MR. JUSTICE S. 1995 VENKATARAMAN The Vokkaligara (Filed by a Sangha Date of disposal: third party Against T.I in O.S.No. 19/06/1995 to the (Mr.G. present 6106/1994. Gangireddy, Adv.) Petition; Subject matter is land Affirmed Lower Court's Subject bearing Sy.No. 51 order; Respondent-Plaintiff matter of vs. 23/01 (new Sy.Nos. 128-129) directed not to put up any 4 this case is /1995 the piece of in Srigandhadakaval, structures other than those The Golden land which Bangalore North already put up as is in the was later to Valley Taluk. (Same as Affidavit and maintain be granted Education claimed by the present character of property till to the Trust, Kolar. present Petitioner) disposal of the Suit. petitioner and the (Mr. V. H. Ron, Directed Lower Court to same as Adv.) dispose of the suit within 9 claimed in the present months. Petition) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No.

Cause Title Decision & Remarks No. filing the Case N.H. Shivamurthy  
S/o Hanumanthappa (Mr. K. Varaprasad, HON'BLE MR. JUSTICE H.  
Adv.) RANGAVITTALACHAR

W.P.	vs.		Date of
No.			07/11/
38979/	1. The State of		
2003	Karnataka, Rep.		Writ Petiti
	by its Secretary,		
		Issue direction to the	
(filed by a	Dept. of	Revenue Authorities to	KIADB di
third party	Industries &		
to the		issue Saguvali Chit in	consider the
	Commerce		
present		favour of Petitioner,	in accordanc
petition		N.H. Shivamurthy.	its own me
and	&		

28/08 months from the date of 5 claiming /2003 to be the Petitioner, N.H. receipt of order. 2. Karnataka GPA holder Shivamurthy, aggrieved Remarks: Industrial Area of S. Surya since Application for Likely a shadow fight put up narayana Development re-conveying land of 4 by Freedom Fighter because Rao, the Board deceased Acres has not been the land was acquired for Freedom considered by KIADB. KIADB in 1972 & given to it 3. Deputy Fighter and for industrial development. father of Commissioner, Sundaresh, Bangalore Dist. the present N.H.Shivamurthy claimed to petitioner) be GPA of Freedom Fighter S.Suryanarayan Rao & his 4. Tahsildar, S. Sundaresh and also an Bangalore South Agreement to Sell Holder. Taluk.

(Mr. K.  
Puttegowda, Adv.

Mr. P. V.  
Chandrashekhar)

Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case

56. To quash order dated 24/02/2005 of N.H. KIADB where land Shivamurthy bearing Sy. No. 76 in W.P. S/o Sadaramangala No. Hanumanthappa

Village, Bangalore 10744/ Aged about 46 South Taluk, was 2005 years allotted to form HON'BLE MR. JUSTICE N. industrial sites but not KUMAR (filed by a (Mr. K. to the petitioner as third party Varaprasad, directed in the W.P.No. to the Date of disposal:

present  
petition

15/03

and

vs.

above)  
2. To direct the

Petitioner has

11/03 claiming Respondent Authorities 6 to be the the land and the land /2005 1. The State of to consider the GPA holder belongs to KIADB. Karnataka, rep. Representation made of S. Surya by its Secretary, by petitioner, N.H. Authorities, i.e KIADB, are narayana Dept. of Shivamurthy, to direct justified in rejecting the Rao, the Industries & KIADB to re-convey petitioner's request. deceased Commerce the said land bearing Freedom Sy.No. 76 in Fighter and Petition dismissed. father of 2. KIADB Sadaramangala Sundaresh, Village, Bangalore the present 3. The Special South Taluk to petitioner) Deputy establish an industry Commissioner, for setting up of a KIADB. Five-star Hotel for which purpose the land is most suitable. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case N.H. Shivamurthy S/o Hanumanthappa W.A. Aged about 46 HON'BLE MR. JUSTICE P. No. years VISHWANATHA SHETTY 2402/ HON'BLE MR. JUSTICE C. R.

(filed by a (Mr. Jayakumar  
S. Patil, Adv.

KUMARASW

third party

Mr. K.

Appeal before Division

Date of

to the  
present

Varaprasad,

Bench against order

28/03

petition  
and

Adv.)

passed in (Sl. No. 6)

W.P.No 10744/2005,

Upheld the

that the Petitioner has

22/03 claiming vs. passed in W.P.No 7 no title over the land /2005 to be the 10744/2005 (by learned GPA holder and that the 1. The State of Single Judge Justice. N. of S. Authorities, i.e KIADB, Suryanara Karnataka, rep. Kumar) were justified in yana Rao, by its Secretary, rejecting the the

Dept. of However, this dismissal not deceased petitioner's request. Industries & to come in the way of KIADB Freedom Fighter and Commerce allotting the land to father of Appellant, if Appellant is Sundaresh, 2. KIADB entitled under law as per the present scheme of KIADB. petitioner) 3. The Special Deputy Commissioner, KIADB Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case S. Sundaresh S/o Late S. Suryanarayana HON'BLE MR. JUSTICE S. Rao ABDUL NAZEER

(M/s M. G. C. &		Date of
Co. , Adv.		11/01
	To Issue Mandamus to	
[M.G.Chitrigenat	direct Respondent	
h Prasad,		Directed the R
K.P.Samath])	Nos.1 to 4 to comply	comply w
	with directions given in	directions
W.P.	W.P.No. 3664/1983	W.P.No.3644
No.	vs.	
	passed on	issue Saguval
17665/	18/06/1990 (first	

07/12 2006 1. The State of Petitioner) within 8 weeks 8 petition by the present /2006 Karnataka. from date of receipt of copy Petitioner) to issue (Filed by of the said order. permanent Saguvali the present 2. KIADB Petitioner) Chit for 4 Acres of Remarks: land at Sy.No.76, 3. Deputy First case initiated by the Sadaramangala Commissioner LR of Deceased Freedom Village, Bangalore Fighter, Mr. Suryanarayana South Taluk. 4. Tahsildar, Rao, filed after a gap of 23 Bangalore South years from the first date of taluk, filing the first Writ Petition (Mr. B. Veerappa, by the present Petitioner in AGA 1983 Mr. Gowhar Unnisa, Adv.) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case HON'BLE MR. JUSTICE N. KUMAR R.F.A. HON'BLE MR. JUSTICE V. SURI No. Permanent Injunction APPARAO 1262/ for the Defendant to 2006 The Golden stop encroachment of Date of Disposal Valley land bearing Sy.Nos. 25/09/2013 (Filed by a Educational 128 and 129 (old third party Trust Sy.No. 51) Plaintiff has title and to the present Srigandhadakaval, possession over land bearing Petition; (Mr. B. K. Bangalore North Sy.Nos. 128 & 129 (old Sy. Subject Sampath Kumar, Taluk. (Same as No. 51) Srigandhadakaval, matter of Bangalore North Taluk. 15/06 Adv.) claimed by the present 9

this case is Mandatory Injunction not /2006 the piece of Petitioner) land which vs. granted as plaintiff did not was later to Appeal against the object to defendant's be granted construction on land in the The Vokkaligara O.S.No. 6106/1994, to the early stages. Permanent present Sangha Trial Court, order petitioner which rejected the Injunction granted and the (Mr. G. Gangi plaintiff's claim of restraining the defendants same as from interfering with peaceful Reddy, Adv.) encroachment as it was claimed in possession and enjoyment of the present hit by limitation. properties excluding the Petition) construction by the Vokkaligara Sangha. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case S. Sundaresh s/o Late S Mandamus directing Suryanarayana KIADB to deliver Rao possession of land in Sy.No. 76, HON'BLE MR. JUSTICE A. S. (Mr. Thomas V. Sadaramangala BOPANNA Peter, Adv.) Village, Bangalore South Taluk. Date of Disposal vs. 13/10/2009 (Note: KIADB had 1. State of taken back land Petitioner directed to file W.P. allotted to the R3 - Karnataka fresh Representation to 09/01 No. Company owing to 10 KIADB requesting re- /2009 1007/ winding up of 2. KIADB conveyance of land to the 2009 Company. petitioner as per Law within 3. M/s four weeks. Raletronics Pvt. (Sundaresh S/o Late Ltd. (in Suryanaraya Rao, Respondent to consider the liquidation) initiated this petition representation and decide requesting KIADB, who within three months of (Mr. R. Kumar, are in possession of filing. Adv. land in Sadarmangala Mr. P. V. Village, to grant it in Chandrashekhar, his favour) Adv.) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case M/s S. K. Hotels & Resorts Pvt. Ltd. Rep by its Managing Director Sri.N.H. W.P. Shivamurthy, HON'BLE MR. JUSTICE AJIT J. Quash, Stay No. S/o GUNJAL Execution of 2180/ Hanumanthappa proceedings of 2010 Date of Disposal: allotment letter dated (Mr.K. 15/06/2010 16/12/2009 issued by (filed by a Varaprasad, KIADB wherein land third party Adv.) The petitioners do not to the (Sy. No. 76 of have any semblance of present Sadarmangala Village, vs. right to seek allotment of petition Bangalore South and land in their favour. 22/01 Taluk) was allotted to 11 claiming 1. State of /2010 to be the Respondent No. 3, a Karnataka Petitioner in W.P. No. GPA holder construction company. 2180/2010 does not have of S. Surya narayana 2. KIADB title let alone a right under Direct KIADB to allot Rao, the an Agreement of Sale and

	3. M/s Raja		General Power
Freedom		Sadaramangala	
	Angsana		
Fighter and		(Bangalore South	
father of	Constructions		Petitioner

Sundaresh,  
the present  
petitioner)

Pvt. Ltd.

Taluk) Industrial area

No.5888/2010

in favour of the  
petitioner.

(Mr. Narendra  
Prasad, Adv.  
Mr. P. V.  
Chandrashekhar,  
Adv.  
Mr. Rajendra N.  
S., Adv.)  
S. Sundaresh  
S/o Late S  
Suryanarayana  
Rao

Direct KIADB to  
consider the  
representation of

W.P.  
No.  
5888/

(Mr. Thomas V  
Peter, Adv.)

have documents  
tit

Decided by Com  
dated 15/06/

23/02 2010 Petitioner and deliver 12 HON'BLE MR. JUSTICE AJIT J. /2010 vs. possession of Sy.No. GUNJAL (Filed by 76 of Sadaramangala (see above Sl. No. 11) the present 1. State of village, Bangalore Petitioner) Karnataka South Taluk.

## 2. KIADB

Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case (Mr. Narendra Prasad, Adv. Mr. P. V. Chandrashekhar) HON'BLE MR. JUSTICE K. L. S. Sundaresh MANJUNATH S/o Late S Suryanarayana Date of Disposal: Rao Appeal against 06/08/2010 Decision passed in (Mr. C. V. W.P.No.5888/2010 Appeal allowed. Nagesh, Adv.) (that the Petitioner does not have proper Since the grant of land W.A. vs. documents to prove bearing Sy.No. 76 of 30/07 No. their title over the land 13 Sadaramangala Village, /2010 3038/ 1. State of in Sy. No. 76 of Bangalore South Taluk, 2010 Karnataka Sadarmangala Village, stands cancelled due to Bangalore South non-availability, petitioner

57. KIADB Taluk) wherein the is allowed to approach the petition of the Govt. to grant alternative (Mr. B. Veerappa, appellant was land of 4 Acres. AGA dismissed. Mr. P. V. Government directed to Chandrashekhar,

consider the same within Adv.) three months. S. Sundaresh S/o Late S Suryanarayana HON'BLE MR. JUSTICE K. Contempt proceedings Rao SHREEDHAR RAO for alleged failure of HON'BLE MR. JUSTICE B. compliance of the (Ashok Haranahalli MANOHAR Associates) order of 06/08/2010 passed in Date of Disposal: vs. W.A.No.3038/2010 11/09/2012 CCC wherein the 19/07 No. 605/ Ashok Manoli, Government was 14 Complainant is at liberty to /2012 2012 Principal directed to consider Secretary, approach the Govt. afresh. (Civil) the complainant's Revenue Govt. Advocate filed a Memo representations for Secretary, submitting that the Govt. grant of alternate Revenue would consider the land and issue Department, complainant's request for State of Saguvalli Chit within 3 alternative land but he Karnataka months from the date shall not insist any of order. particular land. (Mr. V. S. Hegde, AGA) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case HON'BLE MR. JUSTICE N. KUMAR HON'BLE MR. JUSTICE B. SRINIVASE GOWDA Date of Disposal: 30/05/2013 Government passed an order on 22/04/2013 S. Sundaresh Again Contempt granting alternative land on s/o Late S proceedings initiated Suryanarayana for alleged failure of Srigandhadakavalu, Rao compliance of the Bangalore North Taluk order of 06/08/2010 with cabinet approval. This (Ashok passed in land was selected by Haranahalli W.A.No.3038/2010 petitioner and he even paid Associates) and C.C.C.No. Rs. 6 Crores for the same on C.C.C. 605/2012. 7/7/2013. Certain 25/03 No. 604/ vs. (Sl. No. 14) 15 conditions were imposed in /2013 2013 the order Dt 22/4/2013. (Civil) Latha Krishna Remarks: These two The court however struck Rao, Principal consecutive contempt down the condition No. 6. Secretary, Dept. petitions were filed by The condition reserving of Revenue, the petitioner for right with the Govt. to State of alleged non compliance acquire the said land for any Karnataka of same order Dt public purpose without 30/07/2010 in compensating the grantee is (Mr. V. S. Hegde, W.A.No. 3038/2010 held void. Contempt Adv.) (Sl. No. 13) Proceedings however dropped. Remarks: This grant of land, now Government claims, was done under the pressure of contempt petitions and for ulterior motives of petitioners and colluding officials. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case Golden Valley Educational Trust (Mr. Sampath Kumar B. K., Adv.) vs. 1. State of W.P. Karnataka. No Issue Mandamus to 27099/ 2. Deputy Respondents not to 2013 Commissioner. resume allotment of HON'BLE MRS. JUSTICE B. V. (Filed by a land in Sy.No. 129 in 3.The Tahsildar, NAGARATHNA third party Srigandhadakavalu Bangalore North to the Village, Bangalore present Taluk. Date of Disposal: North Taluk, and not Petition; 05/11/2013 Subject to create third party 4. Additional 24/06 matter of rights till disposal of 16 District Prayer cannot be granted as /2013 this case is Appeal No.

413/2010 the piece of Commissioner, matter is pending before at KAT, Bangalore, land which Bangalore. KAT. was later to Additional prayer should be granted Additional Prayer: 5. S. Sundaresh considered separately mis- to the Issue Certiorari to present s/o Late S joinder of cause of action, quash Govt. order petitioner Suryanarayana not allowed. and the allotting 4 Acres of Rao. same as the said land in favour claimed in of S. Sundaresh. the present 6. The Petition) Vokkaligara Sangha.

(Mr. H.  
Kantharaj, Addl.  
AG  
Mr. Ananta H,  
Adv.  
Mr. Ashok  
Haranahalli, Adv.  
Mr. Shiva Reddy,  
Adv.)

Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case Vokkaligara Sangha, HON'BLE MRS. JUSTICE B. V. Bangalore NAGARATHNA (Mr. G. Gangi Date of Disposal: Reddy, Adv.) W.P. 14/02/2013 No. vs. 35878/ Owing to the SLP pending in 2013 the Supreme Court, the 1. Government validity of Grant made by (Filed by a of Karnataka State Govt. in favour of 3rd third party Respondent in W.P. to the 2. Special To quash the present No.35878/2013 cannot be Deputy Government Order and Petition; decided by this Court. Subject Commissioner direct R1 & R2 not to Owing to the matter pending 07/08 matter of grant land in Sy. No. 17 adjudication before the /2013 this case is 3. Sundaresh 129 (old Sy. No. 51) of the piece of Karnataka Appellate Srigandadakavalu land which Tribunal where the was later to 4. Golden valley Village, Bangalore cancellation of grant as be granted North Taluk. against Golden Valley Trust to the (Mr. H. present is in question, prayers in Kantharaj, Addl. petitioner W.P.No.52039/2013 and the AG cannot be decided upon. same as Mr. Ananta H, claimed in Adv. the present Petitioners are at liberty to Mr. Ashok Petition) challenge the order after Haranahalli, Adv. such adjudication in the Mr. Subramanya above cases before the R. , Adv. Hon'ble Supreme Court and Mr. B. K. KAT. Sampath Kumar, Adv.) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case Golden Valley Educational Trust (Mr. Sampath Kumar B. K., Adv.) W.P. vs. No. 52039/ 1.State of Karnataka. (Filed by a third party 2. Special To quash Government to the Deputy present Order allotting 4 Acres Commissioner Petition; of land in Sy. No. 129 Decided by Common Order Subject



(old No. 51) dated 14/02/2013 by 21/11 matter of 3. Thasildar 18 Sri-gandhadakavalu HON'BLE MRS. JUSTICE B. V. /2013 this case is the piece of Village, Bangalore NAGARATHNA 4. Additional land which North Taluk, to R5 (see above Sl. No. 17) was later to District and 11 Acres for office be granted Commissioner, purposes. to the Bangalore present District. petitioner and the same as 5. S. Sundaresh claimed in the present (Mr. H. Petition) Kantharaj, Addl. AG Mr. Ananta H, Adv. Mr. Ashok Haranahalli, Adv. Mr. Subramanya R., Adv.) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case S. Sundaresh (Ms. Nalina Mayegowda, Adv. Quash the FIR filed by Mr. Poovayya, the BMTF (Respondent Adv.) No.2) at the instance of the informant A. vs. Prasad (Respondent Crl.P. No. 1) alleging 10/09 No. 1. A. Prasad Matter pending vide order 19 fraudulent grant of /2014 5688/ dated 27/03/2015 land bearing Sy.No. 2014 2. State of 129 of Karnataka Srigandhadakavalu by Bangalore Village, Bangalore Metropolitan North Taluk to S. Task Force Sundaresh (Mr. M. R. Vijaykumar, Adv.) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case Jagadish Shivappashettar (Ms. Nalina Mayegowda, Adv. Mr. Poovayya, Adv.) vs. Crl.P. 23/10 No. /2014 6731/

2. State of  
Karnataka  
by Bangalore  
Metropolitan  
Task Force

(Mr. M. R. Vijay  
Kumar, Adv.)

Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case HON'BLE MR. JUSTICE ASHOK B. HINCHIGERI Date of Disposal: 31/10/2015 S. Sundaresh S/o Late S (Common Order for W.P.Nos. Suryanarayana 13664/2015 & 2454/2015 & 15058/2015) Rao (Sl. Nos. 21, 22, 23) (Ms. Nalina 1. The Special Deputy Mayegowda, Adv. Commissioner's order dated Mr. Poovayya, 20/01/2010 cancelling the Adv.) lease to Golden Valley Trust is quashed as there can be no vs. cancellation when the lease has Issue Mandamus to already expired. effect the mutation 2. Further, the possession of

58. State of the land of 15 Acres has not entries in Petitioner's Karnataka, The

been taken over back by the favour in respect of the Principal Government. land bearing Sy.No. W.P. Secretary, 3. The Govt. Order dated 129 of 30/03 No. Revenue 22/04/2013 wherein the land 21 Srigandhadakavalu measuring 4 Acres granted to /2015 13664/ Department village, Bangalore S. Sundaresh is quashed since North Taluk, as the grant cannot be made by

59. The Deputy Petitioner had already the Govt. without securing Commissioner, deposited 6.00 crore back the vacant possession of Bangalore Urban the land from the erstwhile with the Govt. on District lessee. 17/07/2013.
60. The Govt. is directed to hold
61. The Golden summary enquiry u/s 39 of the Valley Karnataka Land Reforms Act or Education initiate proceedings under the Trust, Kolar Public Premises Act against the Trust. If the Govt. takes over (Mr. A. G. possession in accordance with law, it can re-grant the land to Shivanna, Adv. S. Sundaresh. Mr. B. K. If S. Sundaresh is not in a Sampath Kumar, position to wait, the Govt. has Adv.) to grant alternative land to him and deliver possession. This re- grant or alternative t has to be done within six months of the issuance of published copy of this order. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case The Golden Valley Education Trust, Kolar (Mr. B. K. Sampath Kumar, Adv.) vs. Issue Certiorari 1. State of quashing the Special Karnataka, the Deputy Commissioner's W.P. Principal order dated No. Secretary, 20/01/2010 cancelled 2454/ Revenue the lease of land 2015 Department. measuring 15 Acres at Sy.No.51 (new Sy No. (Filed by a 2. The Special 129) of third party Deputy Srigandhadakavalu to the present Commissioner, Village, Bangalore Petition; Bangalore North Taluk, made to Decided by Common Order Subject District. the petitioner Trust dated 31/10/2015 by 20/01 matter of 22 and the order of KAT HON'BLE MR. JUSTICE ASHOK /2015 this case is the piece of 3. The upholding the Special B. HINCHIGERI land which Tahsildar, Deputy Commissioner's (see above Sl. No. 21) was later to Bangalore North order. be granted Taluk. Issue Mandamus to the present directing Respondent petitioner 4. S. Sundaresh Authorities to renew and the s/o Late S the lease in favour of same as Suryanarayana petitioner Golden claimed in the present Rao Valley Educational Petition) Trust as the Trust is 5. Vokkaligara ready and willing to Sangha, tender the Trust Bangalore. amount.

(Mr. A. G.  
Shivanna, Addl.  
AG  
Ms. Nalina  
Mayegowda, Adv.

Mr. Poovayya,  
Adv.  
Mr. B. L.  
Jagadish, Adv.)

Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case The Golden Valley Education Trust, Kolar. (Mr. B. K. Sampath Kumar, Adv.) vs. W.P. 1. State of No. Karnataka, The 15058/ Principal 2015 Secretary, Revenue (Filed by a Department. Issue Writ of Certiorari third party to quash Govt. Order to the present 2. The Deputy dated 22/04/2013 Petition; Commissioner, granting 4 out of 15 Decided by Common Order Subject Bangalore Acres of land at Sy No. dated 31/10/2015 by 08/04 matter of 23 District. 51 (New Sy No. 129) HON'BLE MR. JUSTICE ASHOK /2015 this case is the piece of of Srigandhadakavul B. HINCHIGERI land which 3. The Village, Bangalore (see above Sl. No. 21) was later to Tahsildar, North Taluk, earlier be granted Bangalore North leased to the petitioner to the present Taluk. Trust, to S. Sundaresh. petitioner and the 4. Additional same as District claimed in the present Commissioner, Petition) Bangalore.

5. S. Sundaresh  
s/o Late S  
Suryanarayana  
Rao

(Mr. A. G.  
Shivanna, Addl.  
AG  
Ms. Nalina  
Mayegowda, Adv)

Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case HON'BLE CHIEF JUSTICE SUBHRO KAMAL MUKHERJEE & HON'BLE MR. JUSTICE RAVI S. Sundaresh MALIMATH S/o Late S Suryanarayana Date of Disposal: Rao 08/07/2016 (Mr. Sajan (Common Order for Poovayya, Adv. W.A.Nos. 136/2016 & Mr. Shirish 267/2016 & 268/2016 & Krishna, Adv.) Appeal against the 197/2016) Common Order for vs. W.P.Nos. 13664/2015 GVET does not have a & 2454/2015 & legal right in the said land

62. State of 15058/2015 W.A. as the lease in favour of 14/01 Karnataka /2016 dated 31/10/2015 of 2016 time on January 12, 1997

63. Deputy Hon'ble Mr. JUSTICE and it is open to the Commissioner, ASHOK B. Government to deal with the Bangalore urban HINCHIGERI said land in accordance Dist. (See above Sl. No. 21, with law and hence cannot 22 & 23) question the grant in favour 3. Golden Valley of Sundaresh. Education Trust No illegality in Government Order granting 4 Acres of (Ms. Niloufer land in Sy. No.129 of Akbar, AGA Srigandhadakavalu Mr. B. K. Village, Bangalore North Sampath Kumar, Taluk, to Sundaresh. Adv.) W.A.Nos.136;267-268 of 2016 allowed Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case S. Sundaresh S/o Late Suryanarayana Rao (Sajan Poovayya Shirish Krishna) vs. 1.State of Karnataka. Appeal against the
64. Special Common Order for Decided by Common Order Deputy W.P.Nos. 13664/2015 of Division Bench dated Commissioner, & 2454/2015 & 8/7/2016 by Bangalore Dist. 15058/2015 HON'BLE CHIEF JUSTICE W.A. 14/01 SUBHRO KAMAL MUKHERJEE  
/2016 3. Tahsildar, dated 31/10/2015 of &

Bangalore north  
Taluk.

Hon'ble Mr. JUSTICE  
ASHOK B.  
HINCHIGERI

HON'BLE MR. JUSTICE  
MALIMATH

4. Additional  
District  
Commissioner,  
Bangalore.

(See above Sl. No. 21,  
22 & 23)

(see above Sl. No. 21, 22 & 23)

5. Golden valley  
Education  
Trust, Kolar

(Ms. Niloufer  
Akbar, AGA  
Mr. B. K.  
Sampath Kumar,  
Adv.)

Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case S. Sundaresh S/o Late Suryanarayana Rao (Mr. Sajan Poovayya, Adv. Mr. Shirish Krishna, Adv.) vs. 1.State of Appeal against the Karnataka. Common Order for Decided by Common Order W.P.Nos. 13664/2015 of Division Bench dated

65. Special Deputy & 2454/2015 & 8/7/2016 by Commissioner, 15058/2015 HON'BLE CHIEF JUSTICE W.A. Bangalore Dist 14/01 SUBHRO KA-

MAL MUKHERJEE /2016 3. Tahsildar, dated 31/10/2015 of & Bangalore North Hon'ble Mr. JUSTICE HON'BLE MR. JUSTICE RAVI Taluk ASHOK B. MALIMATH HINCHIGERI

66. Vokkaligara (See above Sl. No. 21, (see above Sl. No. 24) Sangha, 22 & 23) Bangalore.
67. Golden Valley Education Trust, Kolar. (Mr. Niloufer Akbar, AGA Mr. M. R. Vijay kumar, Adv. Mr. B. K. Sampath Kumar, Adv.) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case W.A. No. 197/ 2016 Golden Valley Education Trust (Filed by a third (Mr. B. K. Sampath party to Kumar, Adv.) the present vs. Appeal against the Petition; Common Order for Dismissed by Common 1. State of Subject Karnataka. W.P.Nos. 13664/2015 Order of Division Bench matter of & 2454/2015 & dated 8/7/2016 by this case 2. Deputy 15058/2015 HON'BLE CHIEF JUSTICE 27/01 is the Commissioner, SUBHRO KAMAL MUKHERJEE

/2016 piece of Bangalore Urban dated 31/10/2015 of & land Dist. Hon'ble Mr. JUSTICE HON'BLE MR. JUSTICE RAVI which ASHOK B. MALIMATH was later 3. S. Sundaresh HINCHIGERI S/o Late to be (See above Sl. No. 21, (see above Sl. No. 24) Suryanarayan Rao granted 22 & 23) to the (Mr. Niloufer present Akbar, AGA petitioner Mr. Sajan and the Poovayya, Adv. same as Mr. Shirish claimed Krishna, Adv.) in the present Petition) Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case Golden Valley Education Trust, Kolar. (Mr. Amit Singh Chaddha, Sr. Adv. S.L.P. Mr. Balaji Nos. Srinivasan, Adv. 19928-Mr. Arunava 19931/ Mukherjee, Adv. Ms. Vaishnavi Subrahmanyam, (Filed by Adv. a third Ms. Srishti Govil, party to HON'BLE MR. JUSTICE MADAN Adv. Against the Common the B LOKUR Ms. Pratiksha order of the High Court present HON'BLE MR. JUSTICE Mishra, Adv. in W.A.Nos.136/2016; Petition; ADARSH KUMAR GOEL Mr. Suraj S, Adv. 267-268/2016 & Subject 197/2016. matter of Date of Disposal: Mr. A K Ganguli, this case 18/11/2016 19/07 Adv. (Dated 8/7/2016 by 28 is the /2016 Mr. Rajani K. HON'BLE CHIEF JUSTICE piece of With summary dismissal of Prasad, Adv. SUBHRO KAMAL land SLP, Hon'ble SC upheld Ms. N MUKHERJEE & which High Court DB order in Annapoorani, HON'BLE MR. JUSTICE was later W.A.Nos.136/2016; 267- Adv.) RAVI MALIMATH to be 268/2016 & 197/2016 granted Dt 8/7/2016 vs. see above Sl. No. 24) to the present State of petitioner Karnataka and and the ors same as claimed (Mr. Sanjay in the Hegde, Adv. present Mr. Vikram Petition) Hegde, Adv. Mr. Harsh Parashar, Adv.

Mr. V N

Raghupathy,  
Adv.)

Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Sl. Date of Summary of Prayers in Case No. Cause Title Decision & Remarks No. filing the Case S. Sundaresh S/o Late Suryanarayana Rao (Mr. Joseph Antony, Adv. HON'BLE MR. JUSTICE ABDUL Mr. Shirish Initiate proceedings NAZEER Krishna, Adv.) and order that the HON'BLE MR. JUSTICE accused are guilty of B. SRINIVAS GOWDA vs. C.C.C. contempt of the 02/02 No Judgment of the Notice was issued to the 29 1. Dr. Ramana /2017 176/ Hon'ble High Court in respondents on Reddy, Principal 2017 W.A.Nos.136 & 267-14/02/2017 Secretary, 268/2016 Department of Matter pending Revenue, Dt 8/7/2016 Government of Next Date 11/7/2017 Karnataka

2. V. Shantar,  
Deputy  
Commissioner,  
Bangalore Urban  
District.  
S. Sundaresh  
S/o Late  
Suryanarayana  
Rao

(Mr. Shirish  
Krishna, Adv.)

The present petition to  
quash the impugned

vs.

W.P.

Show Cause notice Dt.

DECIDED BY THE

05/04 No 1/4/2017 for holding DT.13/10/2017 30 1. State of /2017 14815/ enquiry into the grant Karnataka. 2017 of land to Petitioner and enquiry by 2. Under Lokayukta, Karnataka. Secretary, Government of Karnataka.

(Mr.  
Madhusudan R.  
Naik, AG)

Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another

68. On the basis of the aforesaid analysis, this Court is of the view that this Court cannot injunct and pre-empt the fresh enquiry in the matter sought to be initiated by the Respondent State by issuing the impugned Show

Cause Notice on 01/04/2017 and directing an enquiry by Lokayukta under the provisions of Section 7(2-A) of the Karnataka Lokayukta Act, 1984 by an order passed on 15/04/2017. This Court is of the opinion that it would be premature, in the absence of any crystallized right in favour of the petitioner, to non-suit such enquiry.

69. This Court does not find the impugned Show Cause Notice dated 01/04/2017 nor the order for enquiry by Lokayukta dated 15/04/2017 to be either wholly without jurisdiction or tainted with any malice- in-law or malice-in-fact, so as to invoke its extraordinary jurisdiction under Article 226 of the Constitution of India. The impugned Show Cause Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another Notice as well as the order of enquiry appear to be in bona-fide and fair exercise of the powers vested in the State to go to the bottom of the whole transaction and the claims made by the family of late S. Suryanarayana Rao, the self-acclaimed Freedom Fighter and to examine the entitlement of grant, which itself being highly belated or doubtful, the manner in which the subsequent grant of alternative land in the year 2013 was given in favour of the son, Mr. S. Sundaresh, the present petitioner, who has carried on this long chain of litigation for the last 30 to 40 years, deserves to be thoroughly investigated and inquired into. The State's largesse or the precious lands of the State can neither be allowed to be frittered away in the garb of respect to the Freedom Fighter, nor it can be allowed to be surreptitiously parted in favour of the private parties for extraneous considerations. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another
70. This court will advisedly desist from making any comment on the rights of the parties and since the stage of the case as of now is only that a fresh enquiry is sought to be initiated by the Respondent State in the matter, any such observation may affect the enquiry and therefore it is not considered appropriate to make any comment or give any findings in the matter. Whatever has been said above in the present case should not be construed as the findings of this Court and that is just an expression of possibilities. The matter deserves to be inquired by the Respondent State and by the Hon'ble Lokayukta under the impugned order of inquiry dated 15/04/2017.
71. The entire spectrum of case laws discussed above also supports this view of the Court that in such cases where the truth and rights are not completely established and crystallized, the giving of mandatory directions to the State or quashing of the impugned Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another orders or Show Cause Notices may be fraught with consequences which could be consciously avoided by the Courts, particularly in exercise of its extraordinary writ jurisdiction under Article 226 of the Constitution of India.

72. It is indeed apparent that the long period of time which has lapsed in this case and a long chain of litigation pursued by the present petitioner and others is there, but then as observed in the preamble part of this order that unless the quest for truth leads the judicial process to the truth, any decision on merits of the case at this stage would only be like groping in the dark and therefore, despite the long lapse of time, this Court does not feel it appropriate to foreclose any such enquiry in the matter, but would close by expressing a sanguine hope that a dispassionate, fair, genuine and an expeditious enquiry in the matter shall be held and concluded as soon as possible. Date of Order 13-10-2017 W.P.No.14815/2017 Sri. S. Sundaresh Vs. State of Karnataka & Another
73. The present petition is accordingly disposed of with no order as to costs.  
Sd/- JUDGE BMV\*/Srl