

Chaduranga Kanthraj Urs and Anr.

v.

P. Ravi Kumar and Ors.

(Contempt Petition (Civil) No. 688 of 2021)

In

(Civil Appeal No. 3310 of 1997)

10 December 2024

[M.M. Sundresh and Aravind Kumar,* JJ.]

Issue for Consideration

Whether orders dated 21.11.2014, 17.05.2022 and 19.03.2024 passed by this Court has been wilfully disobeyed by the respondents/contemnors.

Headnotes[†]

Contempt of Court – Disobedience of Order – Willful Disobedience:

Held: In order to punish a contemnor, it has to be established that disobedience of the order is ‘wilful’ – It means knowingly-intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom – It would exclude casual, accidental, bonafide or unintentional acts or genuine inability and would also not include involuntary or negligent actions – The deliberate conduct of a person means that he knows what he is doing and intends to do the same – It is too well settled that if two interpretations are possible, and if the action is not contumacious, a contempt proceeding would not be maintainable. [Para 1.10]

Contempt of Court – Execution of decree – Alternate remedy:

Held: The weapon of contempt will not be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for – The paramount consideration is given to maintain court’s dignity and majesty of law. [Para 1.11]

Contempt of Court – Wilful disobedience – Action in disregard:

Held: The civil contempt would mean a wilful disobedience of a decision of this Court – What would be relevant is the “wilful

* Author

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disobedience" – Hence, knowledge of having acted in disregard to an order is *sine qua non* for being proceeded with if there is a deliberate, conscience and intentional act then the jurisdiction can be clutched. [Para 1.12]

Contempt of Court – Allegation of wilful disobedience of the Orders dated 21.11.2014, 17.05.2022 and 19.03.2024 passed by this Court:

Held: A plain reading of the orders dated 21.11.2014 and 17.05.2022 would indicate that direction issued to the respondents is to the effect that TDR had to be issued as per TDR rules – There was no ambiguity or vagueness in the said orders – It is also not the case of the contemnors that any doubt being there in the said orders – The respondents seem to have dragged their feet and for no justifiable reason whatsoever have not implemented the said orders – Thus, explicitly there has been wilful disobedience of orders of this Court and respondents having failed in their attempt to seek modification of order dated 21.11.2014 cannot take umbrage under any circumstances whatsoever for not implementing the orders of this Court, particularly when clarification/modification prayer was put to rest on 17.05.2022 by this Court – In fact, this Court by Order dated 19.03.2024 with the hope that respondents would purge in the contempt by implementing the same in its letter & spirit had directed compliance of the Order dated 21.11.2014 and 17.05.2022 – An additional condition was imposed or in other words orders dated 21.11.2014 and 17.05.2022 was tweaked by this Court – A valiant attempt has been made by the contemnors to contend that orders of this Court has been complied by passing of the order dated 15.03.2024 and issuance of consequential notices and Government Orders – In the notices issued on 10.06.2024 and 26.06.2024 the authorities seems to be projecting a picture that the possession of the subject land has not been delivered and this is nothing but suppressing the true facts and making a false statement before this Court namely *suppressio veri suggestio falsi* – The State and its authorities have no doubt dragged their feet in implementing the orders of the Court – However, there seems to be thin line of doubt which has arisen in the mind of State and its authorities as regards the valuation and in this direction if steps have been taken to protect the interest of the revenue and several meetings have been held and these aspects are placed before the State Cabinet and a decision has been taken by the State cabinet, it

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cannot be construed or held that State is not willing to implement the order and particularly in the background of several orders having been passed though not in consonance with the orders dated 21.11.2014 and 17.05.2022 – Hence, this Court deems it proper to extend one final opportunity to report compliance within a time frame – Since, the State and its authorities have intentionally dragged its feet for long number of years and having attempted to tap all the mirage remedies and left with no other option and to stave off these proceedings have passed the orders dated 15.03.2024, 22.04.2024, 24.05.2024 and 10.06.2024 to utilise the subject land for road widening, fixing the extent to which each of the claimants would be entitled for compensation and to issue the TDR on an estimate value which is not accepted by this Court, still an opportunity to issue TDR's as per market value as envisaged under Karnataka Stamp Act, 1957 ought to be extended to the respondents/contemnors – Hence, the respondent authorities directed to issue the TDR as per the value noticed by the Court in favour of the respective claimants – It is also explicitly made clear that the order dated 19.03.2024 to the extent of imposing additional conditions is hereby recalled, as it is diametrically opposite to the order dated 17.05.2022 and 21.11.2014 – The directions issued under Orders dated: 21.11.2014 and 17.05.2022 to be complied by the competent authority of BBMP. [Paras 5.3, 10, 15, 16, 23, 24, 25]

Case Law Cited

Sudhir Vasudeva v. George Ravishkeran [2014] 4 SCR 27 : (2014) 3 SCC 373; *Rita Markanday v. Surjit Singh Arora* [1996] Supp. 7 SCR 56 : (1996) 6 SCC 14; *Rama Narang v. Ramesh Narang* [2021] 1 SCR 389 : (2021) 15 SCC 338; *Ram kishan v. Tarun Bajaj & Ors* [2014] 1 SCR 538 : (2014) 16 SCC 204; *All Bengal Excise Licensees Associationv. Raghabendra Singh and Others* [2007] 3 SCR 816 : (2007) 11 SCC 374 – referred to.

List of Acts

Karnataka Town and Country Planning Act, 1961; Karnataka Stamp Act, 1957; Contempt of Courts Act, 1971.

List of Keywords

Suppressio Veri Suggestio Falsi; Lex non cogit ad impossibilia; Bona fide; Malafide; Government Orders; Contempt; Modification;

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Contempt; Compliance; Compensation; Financial Hardship; Wilful Disobedience; Disobedience of order; Alternate remedy; Action in disregard; Knowledge of consequence.

Case Arising From

INHERENT APPELLATE JURISDICTION : Contempt Petition (Civil)
No. 688 of 2021

In

Civil Appeal No. 3310 of 1997

From the Judgment and Order dated 21.11.2014, 17.05.2022 and 19.03.2024 of the Supreme Court of India

With

Contempt Petition (Civil) No. 578 of 2022 in Civil Appeal No. 3305 of 1997, Contempt Petition (Civil) No. 716 of 2023 in Civil Appeal No. 3307 of 1997 with Interlocutory Application No. 39734 of 2023, Contempt Petition (Civil) No. 555 of 2024 In Civil Appeal No. 3310 of 1997, Contempt Petition (Civil) No. 556 of 2024 in Civil Appeal No. 3309 of 1997, Contempt Petition (Civil) No. 585 of 2024 in Civil Appeal No. 3306 of 1997

Appearances for Parties

C. Aryama Sundaram, Dhruv Mehta, Aditya Sondhi, Gopal Sankarnarayanan, Sr. Advs., T. Harish Kumar, Navneet Dugar, Subham Kothari, Bharathi Subramanian, Bharathi Subramaniyan, Keith Varghese, Prashant, Anoop Krishna, Ms. Nayana Tara Bg, Rajat Sehgal, Mrs. Vandana Anand, Ms. Bina Madhavan, S. Udaya Kumar Sagar, P. Balaji Verma, Tushar Singh, Katubadi Ismail (for M/s. Lawyer S Knit & Co.), Mrs. Kanchan Kaur Dhodi, Mrs. Lalita Kaushik, Abhay Kumar, Manu Nair, Neelabh Shreesh, Aryan Roy, S. S. Shroff, Advs. for the Petitioners.

Shashi Kiran Shetty, AG, Nishanth Patil, A.A.G., Dama Seshadri Naidu, Sr. Advs., V. N. Raghupathy, Adithya Bhat, Ms. Adoorya Bomakka Harish, Ayush P. Shah, Vignesh Adithya S, Pai Amit, Kushal Dube, Ms. Pankhuri Bhardwaj, Tathagata Dutta, Abhiyudaya Vats, Nikhil Pahwa, Ssahel Sood, Abhinav Thakur, Mayank Jain, Ms. Uditra Chakravarthy, Tarun, Ankur S. Kulkarni, Pramod Dayal, Advs. for the Respondent.

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1. Alleging wilful disobedience of the Orders dated 21.11.2014, 17.05.2022 and 19.03.2024 passed by this Court, these contempt petitions have been filed for punishing the respondents for their alleged contumacious act.
- 1.1 For purposes of convenience the contempt petitions which have been filed with details appended thereto are tabulated herein below:

Serial No.	CONTEMPT PETITION No.	COMPLAINANT/S	RESPONDENT/S	ORDER ALLEGED TO HAVE BEEN FILED
1	CP. No. 688 of 2021 in C.A. NO. 3309 -3310 /1997	Chaduranga Kanthraj Urs and Anr.	Shri P. Ravi Kumar and Ors.	Order dt. 21.11.2014 passed in I.A. No. 13 of 2011 in C.A. No. 3303 of 1997.
2	CP. No. 578/2022 in C.A. No. 3305 of 1997	Chamundi Hotel Private Limited	Smt. Vandita Sharma and Ors.	Order dt. 21.11.2014 passed in I.A. No. 13 of 2011 in C.A. No. 3303 of 1997. ii. Order dt. 17.05.2022 in I.A. No. 98276 of 2021 in C.A. No. 3303 of 1997. iii. Order dt. 19.03.2024 in CP No. 578 of 2022.
3	CP. No. 716 of 2023 in C.A. No. 3307 of 1997	M.L Varchusvin S.S. Raje Urs.	Smt Vandita Sharma and Ors.	i. Order dt. 21.11.2014 passed in I.A. No. 13 of 2011 in C.A. No. 3303 of 2011 in C.A. No. 3303 of 1997. ii. Order dt. 17.05.2022 in I.A. No. 98276 of 2021 in C.A. No. 3303 of 1997.
4	CP. No. 555 of 2024 in C.A. No. 3310 of 1997 and C.P. 688 of 2021	Chaduranga Kanthraj Urs and Anr.	Dr. Rajneesh Goel and Ors.	i. Order dt. 17.05.2022 in I.A. No. 98276 of 2021 in C.A. No. 3303 of 1997. ii. Order dt. 19.03.2024 in CP No. 578 of 2022.

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5	CP. No. 556 of 2024 in C.A. No. 3309 of 1997	Smt. Indrakshi Devi	Rajneesh Goel and Ors.	i.Order dt. 21.11.2014 passed in I.A. No. 13 of 2011 in C.A. No. 3303 of 1997. ii. Order dt. 17.05.2022 in I.A. No. 98276 of 2021 in C.A. No. 3303 of 1997.
6	C.P No. 585 of 2024 in C.A. No. 3306 of 1997	Kamakshi Devi Aavaru	Rajneesh Goel and ors.	i.Order dt. 21.11.2014 passed in I.A. No. 13 of 2011 in C.A. No. 3303 of 1997. ii.Order dt. 17.05.2022 in I.A. No. 98276 of 2021 in C.A. No. 3303 of 1997.

The aforestated analogous petitions are taken up together and disposed of by this Common Order as they involve facts in common.

- 1.2 The petitioners in the aforestated contempt petitions have contended that the order dated 21.11.2014 and 17.05.2022, including the order dated 19.03.2024 is clear and explicit whereunder the respondent authorities have been directed by this Court to issue TDR as per TDR Rules in favour of the respective land owners whose land has been acquired for widening of Bellary and Jayamahal Roads and yet respondents have failed to do so and thereby they have wilfully disobeyed the directions and orders passed by this Court. It is also contended that though Bengaluru Development Authority (for short BDA) and Bengaluru Bruhat Mahanagara Palike (for short BBMP) on the one hand were taking steps to issue TDR by calling for information from the petitioners, on the other hand Government of Karnataka passed an Order on 23.02.2021 expressing its difficulty to implement the orders of this Court on the ground of financial hardship being caused to exchequer which itself is clear wilful disobedience. It is also contended that State has taken the benefit flowing from the order dated 21.11.2014 and utilized the land owned by petitioners to widen the roads and has issued the Government Order dated 08.12.2022 after dismissal of the IA for modification on 17.05.2022, which amounts to over reaching the orders of this Court. It is also contended that the positive direction issued by this Court to

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the respondents to issue TDR as per TDR rules in favour of complainants had not been complied which not only undermine the dignity of this Court but also the authority of this Court. It is further contended that market value determined for the subject land for issuing TDR by no stretch of imagination can be the market value prescribed under the provisions of Karnataka Town and Country Planning Act, 1961 and the Karnataka Town and Country Planning (Benefit of Development Rights) Rules, 2016. It is also submitted that contemnors in the IA No.98276 of 2021 had filed for modification of the order dated 21.11.2014 wherein they have clearly admitted that in the event of TDR is to be issued to the extent of 15 acres 39 guntas as per the orders of this Court which is the extent of land acquired by the BBMP for widening of the roads, it would result in issuance of TDR valued at Rs.1,396 crores as per TDR rules and yet determined the value under the notices dated 10.06.2024 diametrically opposite to the stand already taken by them. Hence, contending that respondents are acting in violation of the orders of this Court wilfully and as such they are liable to be proceeded with and punished for wilful disobedience of the order dated 21.11.2014, 17.05.2022 and 19.03.2024.

- 1.3 On being notified contesting respondents have filed affidavits of compliance in the respective petitions. Shri Jairam N., Commissioner, BDA has stated that BBMP had proposed to grant Development Rights Certificate (DRC/TDR) in lieu of utilisation of Bengaluru Palace ground for “widening of Bellary road from BDA junction to Mekhri Circle” and in this regard the BBMP has issued the provisional acceptance order dated 07.06.2024 and in response to the recommendations by the BBMP, the BDA has approved the issuance of DRC/TDR on 10.06.2024 whereunder the details of the DRC has been enumerated. It is further contended that same is in compliance with the order dated 21.11.2014, 17.05.2022 and 19.03.2024. It is further stated that as per the recommendations of the BBMP, the petitioners have been served notice dated 10.06.2024 by BDA calling upon them to hand over the physical possession of the lands to the officials of BBMP, apart from informing them to hand over personal bonds simultaneously, to enable them to collect DRC. It is also stated that as indicated in the notice the

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officials of BBMP and BDA were present at Bengaluru Palace grounds on the appointed date and time to take possession of the lands, but petitioners had failed to appear and as such a joint mazar was drawn on 18.06.2024 by noting physical possession of the land was not taken and personal bonds was not furnished by the petitioners.

- 1.4 It is further stated that one more opportunity was extended to the petitioners to collect the approved DRC and a notice dated 26.06.2024 was issued in this regard and again the petitioners had failed to appear on the appointed place and time for handing over possession of the land. It is stated that possession of the subject land was taken on 01.07.2024 and respective authorities though were ready to handover DRC to the petitioners, they failed to appear and receive the same. Hence, it is contended that at no point of time the said respondent had any intention to wilfully disobey the orders of this Court and have tendered unconditional apology for the delay that has occasioned in implementing the orders of this Court. Contending that delay was neither deliberate or intentional they have prayed for dismissal of the contempt petitions.
- 1.5 Mr. Tushar Giri Nath, Chief Commissioner, BBMP has filed an affidavit of compliance dated 17.03.2024 stating thereunder that in compliance of the order dated 21.11.2014 and 17.05.2022, the Government of Karnataka through decision of Cabinet decided on 14.03.2024 to utilise 15 acres 39 guntas namely the subject land for road widening and also decided to issue the TDR as per the Karnataka Town and Country Planning Act, 1961 and the TDR Rules and in furtherance of the same Government Order dated 15.03.2024 came to be issued. It is further stated that as per the said Government Order the BBMP would implement the orders of this Court by issuance of TDR/DRC as per rules. It is further stated that out of 15 acres 39 guntas only an extent of 1,217.41 sq. meter has been actually utilised for the road widening purposes and the entire land would be utilised after issuance of DRC/TDR as per rules. It is further stated that at no point of time the respondent had any intention to wilfully disobey the orders of this Court and have tendered unconditional apology for the delay in implementing the orders of this Court.

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- 1.6 Sri Jairam N., Commissioner, BDA had initially filed counter affidavit on 18.03.2024 in contempt petition No. 688 of 2021 contending thereunder that on the basis of the orders dated 21.11.2014 and 17.05.2022 passed by this Court, the Government of Karnataka had taken a decision on 14.03.2024 to utilise 15 acres 39 guntas namely subject land for road widening subject to grant of DRC/TDR and as such Government Order dated 15.03.2024 came to be issued. It is further submitted that BDA is the planning authority as per the KTP Act and said authority would issue Development Rights Certificate-DRC after receiving recommendation by the public authority. It is further stated that at no point of time the contemnor had any intention to wilfully disobey the orders passed by this Court.
- 1.7 The Chief Commissioner of BBMP has filed further affidavit on 28.07.2024 in contempt petition No. 555-556 of 2024 narrating the sequential events culminating in the orders dated 21.11.2014 and 17.05.2022 apart from narrating the purported details about issuance of DRC/ TDR to the claimants. The sum and substance of the narration is pursuant to the orders passed by this Court, notices had been issued to the petitioners and except Smt. Deepamalini Devi none of the petitioners had turned up to hand over physical possession of 15 acres 17.5 guntas of land, as a result thereof another notice dated 26.06.2024 came to be issued and on the appointed date 01.07.2024 none had appeared and after identifying the subject land i.e. 15 acres 17.5 guntas by metes and bonds by the survey wing of the revenue department possession of subject land was taken by BBMP on 01.07.2024. In paragraph 5 of the said affidavit the sequential events leading to the issuance of DRC/TDR has been narrated and the summary of the same is to the effect that the BDA was the authority to issue/deal with Form No.3 and thereupon DRC/TDR and after the amendment to the KTCP Act in 2021 the BBMP public authority became the authority to issue/deal with form No.1 and 3 and after the amendment the matter stood transferred to BBMP from BDA for further action as per the notification dated 23.09.2022 and accordingly notice came to be issued to the claimants on 21.03.2024. It is also stated that there were exchange of correspondence between the BDA and the claimants whereunder it is clearly admitted that 15 acres

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17.05 guntas is the land utilised/to be utilised for road widening purposes based on the survey settlement dated 22.04.2024. It is further stated that the Deputy Commissioner (TDR) BBMP vide order dated 22.04.2024 after considering all the claims and objections determined and finalised the extent of land of various claimants. It is further stated that on the basis of the request of BBMP the Government passed an order dated 24.05.2024 permitting BBMP to utilise the land ad measuring 15 acres 17.5 guntas for road widening and determined the value of the land at Rs. 11 crores for the entire land covered under the acquisition namely under BPAT and determined the compensation of subject land in proportion to the same value for issuance of DRC/TDR to be issued to the claimants. The Deputy Commissioner (TDR) after considering the objections raised to the order dated 24.05.2024 while rejecting the objections of the claimants/petitioners by order dated 06.06.2024 held the "market value" of the subject land cannot be beyond 2 lakhs and as such applied the said value for issuance of TDR. In other words, factor taken into consideration for determining the market value of the subject land is on the premise that land had stood vested with the State Government under the BPAT whereunder the total value of the entire land has been computed at Rs.11 crores namely for 472 acres 16 guntas and proportionate value is to be considered for the subject land which is the part of the larger extent and as such justifying the order dated 06.06.2024, the notices were issued to the petitioners/claimants to accept the DRC/TDR as per value determined thereunder and contending orders of this Court had been complied they have sought for contempt proceedings being dropped or petitions being dismissed.

- 1.8 The complainant/petitioner in contempt petition No.716 of 2023 has filed a rejoinder/affidavit dated 08.07.2024 reiterating the contentions raised in the contempt petitions and also contending the development that have taken place pursuant to the order dated 19.03.2024 and has highlighted the issue regarding reduction of the extent of land and determination of the market value at Rs. 120.68 per sq. meter as against the guidance value of Rs. 2,83,500 (for Bellary Road) and 2,04,000 (for Jay Mahal Road) per sq. metre as fixed under Section 45-B of The Karnataka Stamp Act, 1957. It is also contended that

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DRC/TDR which was forwarded through post and handed over to the minor daughter of the first petitioner would not absolve the liability of the respondents contemnors to comply with the orders of this Court in substance.

- 1.9 The petitioner in contempt petition No.578 of 2022 has also filed a rejoinder affidavit in response to counter affidavit filed by respondent no.3 whereunder it has been contended that at all relevant point of time and in various forum the ownership rights over the subject land has been declared to be that of the petitioner and as such there is no dispute with regard to the ownership of the land and none of the legal heirs of Late Shri SDN Wadiyar could object to it either. Contending that the official respondents have failed to comply with the order dated 21.11.2014 the petitioner have sought for appropriate action being taken against the respondents.

DISCUSSION AND REASONING:

Heard the arguments of the Learned Senior Advocates assisted by the Learned Advocates for appearing parties, perused the entire case papers and having bestowed our careful consideration to the rival contentions raised at the bar, we are of the view that following point would arise for our consideration

**"Whether orders dated 21.11.2014, 17.05.2022 and
19.03.2024 passed by this Court has been wilfully
disobeyed by the respondents/contemnors?"**

PREFACE:

- 1.10 In order to punish a contemnor, it has to be established that disobedience of the order is 'wilful'. It means knowingly-intentional, conscious, calculated and deliberate with full knowledge of consequences flowing therefrom. It would exclude casual, accidental, bonafide or unintentional acts or genuine inability and would also not include involuntary or negligent actions. The deliberate conduct of a person means that he knows what he is doing and intends to do the same. It is too well settled that if two interpretations are possible, and if the action is not contumacious, a contempt proceeding would not be maintainable.

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- 1.11 The weapon of contempt will not be used for execution of the decree or implementation of an order for which alternative remedy in law is provided for. The paramount consideration is given to maintain court's dignity and majesty of law. In ***Sudhir Vasudeva Vs. George Ravishankaran***¹ this Court has observed that a Court exercising jurisdiction under the Contempt of Courts Act, 1971 must not travel beyond the four corners of the orders in relation to which contempt has been alleged. That the Court hearing a contempt petition ought to restrict the scope of its enquiry to such directions which are explicit in the judgment or orders of which contempt has been alleged.
- 1.12 The civil contempt would mean a wilful disobedience of a decision of this Court. What would be relevant is the "wilful disobedience". Hence, knowledge of having acted in disregard to an order is *sine qua non* for being proceeded with if there is a deliberate, conscience and intentional act then the jurisdiction can be clutched.
- 1.13 Having adumbrated position of law enumerated by this Court we proceed to deal with the alleged acts of contempt said to have been committed by the contemnors in the instant petitions.

FACTUAL BACKGROUND:

2. The background in which the orders dated 21.11.2014 and 17.05.2022 came to be passed can be succinctly narrated as under:
Undisputedly the land measuring 15 acres and 39 guntas (hereinafter referred to as '**subject land**') and the adjoining properties collectively measuring 456 acres belonged to the erstwhile Maharaja of Mysore. The legal heirs of deceased Maharaja of Mysore amongst others and/or claiming through them are before this Court alleging wilful disobedience of the aforesigned orders.
3. The State enacted the Bangalore Palace (Acquisition and Transfer) Act 1996 (herein after referred to as "BPAT" Act) to acquire the Bangalore Palace and adjacent land including all the buildings around on the grounds enumerated therein. The constitutional validity of the

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same was unsuccessfully challenged by the legal heirs of Maharaja of Mysore before the High Court of Karnataka and an ad interim order of Stay of the operation of the Act came to be passed by the High Court on 10.12.1996. On conclusion of hearing writ petitions came to be dismissed vide Order dated 31.03.1997 and four weeks' time was granted to the writ petitioners to file an appeal before this Court and interim order granted on 10.12.1996 which was in operation till disposal of the writ petitions came to be continued till then. Subsequently, appeals came to be filed, and this Court by Order dated 22.04.1997 granted stay of dispossession and the Special Leave Petitions came to be admitted on 30.04.1997 and order of status quo came to be passed pending disposal of the appeals. The said appeals are pending before this Court.

4. In Civil Appeal No. 3303 of 1997, an interlocutory application came to be filed by the State of Karnataka seeking permission of this Court to widen the Bellary Road and Jayamahal Road and to complete the same by utilising 15 acres and 39 guntas of the Bengaluru Palace ground; and, to pay compensation to the above land as per the calculation made in the original award. Appellants in various appeals virtually conceded to the needs of the State to widen the road and expressed their willingness to accept the proposal of BBMP made in its letter dated 26.12.2009, whereunder BBMP had agreed to issue TDR for the extent of land acquired as per the Karnataka Town and Country Planning Act and the TDR guidelines, subject to final decision of this Court. Having regard to the fact that the State did not grant its approval to the proposal mooted by the BBMP and had instead offered to pay compensation as per the rates relevant at the time of passing of the order, this Court disposed of the said application by order dated 21.11.2014 and permitted the road widening subject to the condition that the appellants would be given the TDR as per TDR Rules. Order dated 21.11.2014 reads:

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

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the present appeal and the connected appeals shall be given TDR for widening of the road as per TDR Rules."

(Emphasis Supplied by us)

5. The respondent-authorities were required to implicitly implement the aforesaid order or in other words issue TDR as per the extant TDR rules. This Court in **Rita Markanday v/s Surjit Singh Arora**² has taken the view that even if the parties have not filed an undertaking before the Court, but if the Court is induced to sanction a particular course of action or inaction on the basis of the representation of such a party and the Court ultimately finds that the party never intended to act on such representation or such representation was false then the party would be guilty of committing contempt of court. In fact, this Court having heard the parties on merits and taking into consideration the totality of circumstances into consideration had passed a positive direction to the respondents to issue TDR a per TDR Rules. However, under the guise of the said order requires to be modified, a valiant attempt was made by the State after Seven (7) years by filing an interlocutory application on 12.08.2021 in IA No.98276 of 2021 seeking modification of the order dated 21.11.2014 wherein it was specifically prayed that the order dated 21.11.2014 may be clarified or modified, with a further prayer to direct the instrumentalities of the State to pay compensation as per the calculation made in the original award in the Act of 1996 in similar terms of the order of this Court dated 15.02.1999 passed in IA No.2.

5.1 Aforesaid application came to be rejected after adjudication vide order dated 17.05.2022 whereunder this Court reiterated its earlier order dated 21.11.2014 and observed there was no reason to modify the said order. The Order dated 17.05.2022 reads:

"We have noticed from the order dated 21.11.2014 that this court has allowed the I.A. No. 13 of 2011 filed by the applicant subject to the condition that the appellants will be given TDR for widening of the road as per the TDR Rules. **We do not see any reason to**

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modify the said order. It is for the applicant(s) to take action in terms of the order dated 21.11.2014.

The I.A. No. 98276 of 2021 stands rejected.”

(emphasis supplied by us)

- 5.2 This Court in ***Rama Narang Vs. Ramesh Narang***,³ has held that contempt jurisdiction could be invoked in every case where the conduct of a contemnor is such as would interfere with the due course of justice.
- 5.3 This Court exercising contempt jurisdiction would not enter into question which have not been dealt with and decided in the judgment or order, violation of which is complained by the applicant. This Court will consider whether the direction issued in the judgment or order is complied in true sense or in its letter and spirit and would not embark upon the journey of examining as to what the judgment or order should have contained. The primary concern would be as to whether there has been deliberate default or if there is any ambiguity in the directions issued therein, in which event it would be better to direct the parties to approach the court which disposed of the matter for clarification instead of clutching the contempt jurisdiction. A plain reading of the orders dated 21.11.2014 and 17.05.2022 supra would indicate that direction issued to the respondents is to the effect that TDR had to be issued as per TDR rules. There was no ambiguity or vagueness in the said orders. It is also not the case of the contemnors that any doubt being there in the said orders.
- 5.4 However, on the basis of an assumed doubt having arisen in the mind of the State that too after seven years of the passing of the order (dated 21.11.2014) and to stave off the impending contempt proceedings, an Interlocutory Application I.A. No. 98276 of 2021 referred to supra came to be filed for modification of the said order dated 21.11.2014 primarily on the ground of financial hardship amongst other grounds, which came to be rejected.

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5.5 It is apt and appropriate to note at this juncture itself that a specific plea came to be raised by the State in paragraph 9 of the aforesaid application, that if the TDR certificate is issued as per the order dated 21.11.2014 to the extent of 15 acres 39 guntas the *notional value* of the same would be Rs.1,396 crores. At the cost of burdening this order the relevant plea raised by the respondent in that regard is extracted herein below:

"9. The Respondents/Applicant-State of Karnataka respectfully submits that area of land sought to be acquired vide I.A. No. 13/2011 is an extent of 15 acres 39 guntas. If the compensation was required to be paid in terms of the Award passed under the Act of 1996 for the extent of 15 acres 39 guntas, the compensation payable would be Rs.37,28,813. However, if the TDR certificate is to be issued for the said extent of 15 acres 39 guntas, it would result in 13,91,742 Sq. ft. additional built up area constructible in the city of Bengaluru and approximately it would be equivalent to notional value of Rs.1,396 crores.

It is also relevant to note that TDR once granted is transferable. If the appellants were to be given TDR, the same may immediately be transferred by the appellants to any other parties/ builders. In event of the final judgment going against the appellants, then it would not be possible to recover the value of TDR from the appellants."

(Emphasis Supplied by us)

6. On passing of the aforesaid order dated 17.05.2022 it was incumbent upon the respondents-authorities to implement the aforesaid two orders without a demur as they are crystal clear. However, same was conveniently ignored or in other words the authorities seem to have gone into deep sleep at least till 05.04.2017 on which date a notification came to be issued by BBMP for carrying out the work of widening the road.
7. One another factor which cannot go unnoticed in the background of affidavits filed by both the parties is, that in respect of the subject property, Writ Petitions in Public Interest had also been filed seeking

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widening of Bellary Road and Jayamahal Road before the High Court of Karnataka wherein several orders came to be passed by referring to the orders passed by this Court referred to supra, of which contempt is alleged. Hence, we deem it proper to refer to the order dated 07.09.2016 passed in W.P. No. 42927 of 2015 which would have direct bearing on the present proceedings and it reads:

“We, therefore, direct the State Government to grant necessary clearance to the BBMP for widening the road and issue TDR certificates to the land owners **in terms of the Order of the Supreme Court of India as per the existing TDR rules.**

We trust and hope that the widening of the road will be completed within a year.”

(Emphasis supplied by us)

8. For complying the aforesaid direction an attempt was made to issue notification dated 05.04.2017 namely to carry out the widening of Jayamahal Road from Mekhri Circle up to Cantonment Railway Station and Bellary Road from BDA Junction to Mekhri Circle. After two (2) years i.e., on 17.07.2019, the State Government issued a Government Order permitting BBMP to issue TDR to the concerned land owners. Hence, a communication dated 29.08.2019 was addressed by the complainants to the Commissioner BBMP seeking to expedite the process of issuance of TDR and documents in support of their claim were also forwarded. However, TDR's were not issued for no reason at all. Thus, from 21.11.2014 till 17.07.2019 there was absolute silence on the part of contemnors and there is not even a whisper in the affidavits filed by the respondents in this regard viz., as to the reason for non-implementation of the Order dated 21.11.2014. Knowing fully, the consequences of non-implementing the orders of this Court, yet respondents consciously ignored to comply with the directions issued by this Court. After four (4) years notification came to be issued on 05.04.2017 to widen the road. Again, respondents went into deep slumber for two (2) years i.e., till 17.07.2019 date of government order issued resolving to issue TDR in favour of landowners. Silence on the part of the contemnors from 05.04.2017 to 17.07.2019 has to be termed as deliberate with full knowledge of consequences flowing therefrom. Thus, delay of five (5) years in

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implementation of the Order dated 21.11.2014 till 17.07.2019 not only remains unexplained but also *prima-facie* seems to be intentional and not bonafide or there being any genuine inability and this is the first stage of intentional delay. This Court in **Ram kishan Vs. Tarun Bajaj & Ors⁴** has opined that deliberate conduct of a person means that he knows what he is doing and intends to do the same. Therefore, there has to be a calculated action with evil motive on his part. Though Government Order dated 17.07.2019 came to be issued, that too after five (5) years after passing of orders (direction) by this Court to issue TDR's, yet it did not fructify. Thus, irresistible conclusion will have to be drawn that non-implementation of the orders of this Court was deliberate and intentional act on the part of contemnors.

9. From the pleadings of these proceedings it would also emerge, yet another Writ Petition No. 6585 of 2020 (PIL) had also been filed for expediting the process for road widening and an order came to be passed by the High Court of Karnataka on 07.01.2021 in that regard whereunder the State Government was directed to report the compliance by implementing with the directions contained in paragraph 10 of this Court's Order dated 21.11.2014 and paragraph 12 of High Court Order dated 07.09.2016 passed in Writ Petition No. 42927 of 2015 and for reporting such compliance, the State Government was granted time till 15.02.2021. State Government was also called upon to produce records and documents depicting grant of TDR certificates in terms of the order of this Court as well as the order of the High Court. However, the State Government instead of complying with the Orders passed by this Court and the High Court and initially having made a show of its earnestness to comply with the order, had submitted before the High Court in Writ Petition No. 6585 of 2020 on 17.02.2021 through the learned Advocate General that it would move this Court seeking modification of the Order dated 21.11.2014. Thus, Government Order came to be issued on 23.02.2021 wherein it has been stated that State Cabinet had decided to resile from its earlier decisions taken on 11.07.2019 vide Subject No. C435/2019 (pursuant to which the State Government had issued Government Order dated 17.07.2019 bearing No. MA.AA. EE.-MNY/2018 permitting issuance of TDR) and had resolved to file

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an application for modification of the Order dated 21.11.2014 and pursuant to the decision so taken, I.A. No. 98276 of 2021 came to be filed in C.A. No. 3303 of 1997 and connected appeals by the State of Karnataka on 12.08.2021 as already noted hereinabove. The present contempt petitions came to be filed on 17.08.2021 and this Court by Order dated 03.01.2022 directed the listing of these contempt petitions along with I.A. No. 98276 of 2021 filed for modification of the order dated 21.11.2014. Said application came to be heard and disposed of by this Court by Order dated 17.05.2022 by rejecting the same as already noticed herein above. Atleast then orders dated 21.11.2014 and 17.05.2022 ought to have been implemented. However, the Respondents seem to have dragged their feet and for no justifiable reason whatsoever have not implemented the said orders. Thus, explicitly there has been wilful disobedience of orders of this Court and respondents having failed in their attempt to seek modification of order dated 21.11.2014 cannot take umbrage under any circumstances whatsoever for not implementing the orders of this Court, particularly when clarification/modification prayer was put to rest on 17.05.2022 by this Court.

10. The wilful disobedience of the orders of this Court, at this stage is manifest and for no reason whatsoever it can be construed that respondents were under any doubt or there was lack of clarity in the orders of this Court. Infact the order dated 21.11.2014 is clear and explicit. However, under the guise of implementation of said order would result in grant of TDR to the extent of Rs. 1396 crores (the value of which is in serious dispute) modification was sought and said attempt made after Seven (7) years had also failed. This Court in the matter of *All Bengal Excise Licensees Association v/s Raghabendra Singh and Others*⁵ has taken a view that disobedience in a particular case would be continued as wilful based on facts and circumstances unfolded in a given case. Judicial orders are to be properly understood and complied with, even negligence and carelessness can amount to disobedience particularly when the attention of the person is drawn to the Court's order and its implications. In the instant case respondents being aware of the consequences of non-implementation of the order of this Court dated 21.11.2014 had sought for modification on the ground of financial

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hardship and had also failed. Hence, they are estopped from feigning ignorance for not implementing the orders of this Court or not being aware of the consequences of its implementations.

11. In the Writ Petition No. 6585 of 2020 aforestated which was pending before the High Court of Karnataka, the State Government dragged its feet by taking adjournment after adjournment on one pretext or the other and had projected a picture of its earnestness to implement the orders of this Court, though parallelly it had resiled from its earlier order dated 17.07.2019 by issuance of Government Order dated 23.02.2021 and later filed I.A. No. 98276 of 2021 on 12.08.2021 for modification of Order dated 21.11.2014 which ended in its dismissal also on 17.05.2022. It would be apposite to note that by Government Order No. UDD 269 MNY 2018 dated 08.12.2022 it was resolved to drop the proposal for widening of the roads itself and as such BBMP withdrew the proposal made to the State Government on 30.03.2009 in this regard which came to be accepted by Government Order dated 08.12.2022. Strangely and curiously it may be noted that the BBMP took a contrary stand before the High Court in the pending Writ Petition No.6585 of 2020 by filing affidavits which reflected about the progress of the steps taken by BBMP to widen the road or in other words, State and its authorities or instrumentalities were blowing hot and cold. On the one hand State was depicting a picture before the High Court of implementing the Orders of this Court and simultaneously State and its authorities were filing application for modification of the order passed in 2014 and parallelly assuring the High Court that it was keen on implementing the orders of this Court, though it was postponing the implementation and dragging its feet on one pretext or the other and eventually shelved the proposal to widen the road, though substantial progress had been made to widen the road for which purpose possession of land had also been taken.
12. Turning our attention to the core issue on hand namely as to whether there has been compliance of the Order dated 21.11.2014 and 17.05.2022 by the respondents, we will have to answer it in the negative and also further hold that there has been wilful disobedience, for the reasons assigned hereinbelow:

“(i). In compliance of the Order dated 21.11.2014 a communication came to be issued by the Special Deputy Commissioner Land Acquisition and TDR BBMP requesting the applicants to provide an indemnity bond following which

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the relinquishment deed would be executed and registered and thereafter TDR would be issued, yet same was not issued though land owners complied with the demand made by BBMP;

(ii). The State Government though passed a Government Order No. ma.aa.ee./269/MNY/2018 dated 17.07.2019 permitting issuance of TDR yet, same was not issued;

(iii). Though a communication was addressed by the State Government to the Commissioner BBMP on 29.08.2019 to expedite the process of issuance of TDR yet, TDR was not issued;”

13. The above sequential events would clearly reflect that the State Government was projecting before this Court of its bona fides to implement the Orders of this Court and having failed in its attempt to seek modification of the Order dated 21.11.2014 on account of application for modification having been dismissed on 17.05.2022, yet during the interregnum arrived at a conclusion that the implementation of the Order of this Court would be neigh impossible and vide Government Order No. UDD269MNY2018 (Part-4) dated 23.02.2021 which was pursuant to the Cabinet decision taken on 18.02.2021 vide subject No.C.82/21 the State had dropped the proposal to widen the road and thereby had failed to comply with the orders of this Court.
14. On present contempt petitions being filed in 2022 an attempt has been made by the authorities to project a picture as though all efforts were made to implement the orders of the Court. Two stages in which there has been wilful disobedience of the orders of this Court are:

FIRST STAGE

- i. After the order was passed on 21.11.2014 no steps were taken to implement the said order in its letter and spirit which ought to have been at least till 2017 i.e., issuance of notification dated 05.04.2017 for carrying out widening of roads;
- ii. Though State Government issued order on 17.07.2019 permitting BBMP to issue TDR to the concerned land owners, yet TDR was not issued despite all demands of BBMP were complied by land owners:

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- iii. From the date of order dated 21.11.2014 till an application namely IA No. 798276 of 2021 was filed for modification, the saga of pushing the file from table to table and keeping the same idle for a long period and conveniently ignoring the order of this Court by not implementing the same in its true spirit had continued for years or atleast till 17.07.2019;

SECOND STAGE

- iv. After the order dated 17.05.2022 came to be passed rejecting the application for modification/ clarification yet the State and its authorities did not take steps to implement the orders of this Court as expected of a prudent litigant i.e., by the State which should have acted as a model litigant.
- 15. In fact, this Court by Order dated 19.03.2024 with the hope that respondents would purge in the contempt by implementing the same in its letter & spirit had directed compliance of the Order dated 21.11.2014 and 17.05.2022. However, an additional condition was imposed or in other words orders dated 21.11.2014 and 17.05.2022 was tweaked by this Court. The direction so issued by this Court on 19.03.2024 reads:

“2. After some hearing, it is clear that the State shall issue necessary TDR as directed by this Court on 21.11.2014 and on 17.05.2022. Taking note of the submissions of the learned Advocate General, we direct compliance within a period of eight weeks from today.”

“3. Order dated 21.11.2014 does not specifically enable sale or transfer of the TDR, but directs grant of TDR as per Rules. To secure interests of all parties pending disposal of the Civil Appeals, we direct the recipient of the TDR to undertake return of the consideration received upon any sale or transfer of the TDR in the event the Civil Appeal(s) before Supreme Court are dismissed. An affidavit of Undertaking to this effect in the nature of personal bond(s) shall be furnished by the recipient of the TDR to the State before the sale or transfer of the TDR.

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We have not expressed any opinion with regard to inter se dispute between the parties."

16. A valiant attempt has been made by the contemnors to contend that orders of this Court has been complied by passing of the order dated 15.03.2024 and issuance of consequential notices and Government Orders.

In the notices issued on 10.06.2024 and 26.06.2024 the authorities seems to be projecting a picture that the possession of the subject land has not been delivered and this is nothing but suppressing the true facts and making a false statement before this Court namely ***suppressio veri suggestio falsi***. We say so for the simple reason that in the notices referred to hereinabove the respondents are attempting to give a picture as though possession of the land in question has not been taken, whereas in the Government Order dated 08.12.2022, it has been specifically mentioned that a sum of Rs. 56 crores has been provided for widening of the Bellary Road and Jayamahal Road and a Government Order No. UDD 56 MNY 2020 dated 04.03.2020 in the form of tender is handed over to M/s JMC Organization by issuance of a work order. The said Government order would also indicate that the road project is in progress. In fact, in the affidavit filed through Additional Chief Secretary Shri Rakesh Singh, it has been stated in paragraph 13 that the work is almost complete from Mekhri Circle to Jayamahal and because of the untimely rain, the completion got delayed.

17. In Writ Petition No.6585 of 2020, an affidavit dated 20.01.2023 came to be filed by BBMP through Smt. Priyadarshini, Executive Engineer, Road Infrastructure (East) BBMP, which came to be recorded by the High Court on 03.02.2023 by noticing that in paragraph 6 of the said affidavit, the deponent has made a statement that the road widening work is in progress. In fact, photographs were also appended to the said affidavit as document No.5. It was deposited in unequivocal terms that the road widening work has commenced and same came also to be recorded by the Division Bench of the High Court of Karnataka by observing that "*it can safely be said that necessary steps are taken by BBMP for widening of roads and the work is in progress at present*". It was further observed by the High Court that the BBMP can certainly explore some effective means and ways to see that that road widening work is done in a speedy manner and is

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not delayed on account of lame excuses or lethargy on the part of some officer of the BBMP or the executing agencies. Hence, BBMP was directed to file further progress report. A further affidavit was also filed on 13.03.2023 which came to be recorded by the Division Bench of the High Court on 29.09.2023 whereunder it was noticed that in paragraph 3 of the said affidavit it had been stated that the 95% of the road widening project is completed in all respects and now there is free flow of traffic on the stretch, particularly, with reference to the stretch on Bellary Road to Kaveri theatre junction. The status report which was called upon to be filed by BBMP resulted in filing further affidavit of the Executive Engineer which again came to be recorded by the Division Bench of the High Court on 19.04.2023 whereunder it was stated that in respect of different phases of the road widening, the project is complete to the extent of 25%, 95%, 50% and 60% respectively.

- 17.1 We are compelled to note or make references to the aforestated orders passed by the High Court of Karnataka, since the issue of road widening has been the core issue, and on the one hand the State is contending possession of the subject land was not taken or it was taken only in July 2024 and countered by the complainants that possession was taken long back. The pleadings above referred to would also leave no manner of doubt in the mind of this Court of possession of these lands having been taken either by the State or BBMP and same being in their possession since long, it is too late in the day for the State and its instrumentalities to contend that after the issuance of notices on 10.06.2024 and 26.06.2024 the possession of the subject land has been taken. It is for this reason we have held that the contemnors are guilty of suppressing the truth and suggesting falsehood.
18. A theoretical implementation would not amount to compliance. The implementation of the order should be substantial and said order/s should clearly reflect the intention of the authorities of its bonafides, as otherwise it has to be necessarily held that the act of State and its officers are not bonafide but tainted or malafide. ***Lex non cogit ad impossibilia- Law does not compel a person to do the impossible*** (AIR 1996 SC 753) Unless an order is absolutely impossible to be executed or carried out, the authorities cannot be heard to contend that financial burden would be a hurdle to implement the orders of

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this Court. If at all, there were any such hurdles, it was always open to authorities to approach this Court to seek appropriate orders and an attempt made in that regard had also failed. In the instant case, after having kept quiet for a period of almost 07 years i.e., from 21.11.2014 till 12.08.2021 (till filing of IA No.98276 of 2021), no effective steps were taken by the State and its instrumentalities to implement the orders of this Court except exchange of inter-departmental correspondence which is already noticed herein above.

19. The affidavits of the Commissioner of BDA and Chief Commissioner of BBMP would reflect as though there is due compliance of the aforesaid two Orders passed by this Court and this is not only in clear violation of the Orders 21.11.2014 but also order dated 17.05.2022 whereunder this Court in unequivocal terms or had categorically directed the respondents' herein to issue TDR as per the TDR Rules and nothing short or long of it. In other words, the TDR which was required to be issued ought to have been as per the Karnataka Town and Country Planning (Benefit of Development Rights) Rules, 2016. This Court by order dated 19.03.2024 after hearing the matter for some time had passed the aforesaid order.
20. A perusal of the same would indicate that this Court in no uncertain terms and categorically has held that State should issue necessary TDR as directed by this Court on 21.11.2014 and 17.05.22. In fact, specific direction was issued that there should be compliance within eight (8) weeks. It was also ordered that the recipient of the TDR should undertake to return the consideration received upon sale or transfer of the TDR in the event of the civil appeals before this Court are dismissed and called upon the complainants to file an affidavit of undertaking to this effect in the nature of personal bond(s) to be furnished by the recipient of the TDR to the state before the sale or transfer of the TDR. We deem it appropriate to note at this juncture that order dated 19.03.2024 was passed for implementing the orders dated 21.11.2014 and 17.05.2022 and there was no occasion or necessity for this Court to impose further conditions which in effect would amount to tweaking the orders dated 21.11.2014 and 17.05.2022. Infact there was no such prayer made by the State or its instrumentalities by filing appropriate applications. Attempt made in that regard by filing I.A. No. 98276 of 2021 had already been rejected by this Court by Order dated 17.05.2022 itself. Yet another reason which requires to be assigned for supporting such a view,

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emanates from the fact that State itself has admitted in the I.A. No. 98276 of 2021 that if TDR is to be issued as per TDR Rules the market value will have to be determined as per TDR Rules, which in effect would mean value of the land has to be determined as per the value fixed under the Karnataka Stamp Act, 1957. Accordingly, the calculation had been made and pleaded financial hardship. Though, while applying the market value as fixed under the Stamp Act, 1957, 60% of the value has been deducted which we are not in agreement for reasons detailed herein below, yet, the fact remains that State itself has admitted and adopted the value fixed under Karnataka Stamp Act, 1957 to fix the value of TDR to be issued. We would hasten to add that Civil Appeals relating to challenge of acquisition of larger area (456 acres) is still pending before the court and sufficient safeguards to protect the interest of the State can be taken care of at the time of passing final order. Necessarily, the issuance of TDR as per TDR Rules would be subject to final outcome of Civil Appeals and as such filing of an undertaking by the recipients of TDR as opined by our Order dated 19.03.2024 is not warranted. Hence, we deem it proper to delete the additional condition imposed by this Court by order dated 19.03.2024 and making it explicitly clear that TDR issued by the competent authority would be subject to final orders that may be passed in Civil Appeals pending before larger bench and this order would have no bearing on the pending appeals.

20.1 Though, initially there was resistance to the order dated 21.11.2014 and 17.05.2022, the State and its machinery seems to have understood the gravity of the situation and to fall in line with the further directions issued by this Court, has made a feeble attempt on 19.03.2024 to demonstrate before this Court of having complied with the orders passed by this Court which is alleged to have been wilfully disobeyed by the contemnors. After having dragged their feet for the last 10 years and having exhausted all remedies to stave off the orders dated 21.11.2014, 17.05.2022 and 19.03.2024, the respondent authorities or contemnors have filed affidavits by stating thereunder that orders of this Court have been complied. The affidavits dated 09.07.2024 filed by Shri Uma Shankar Additional Chief Secretary, Urban Development Department, Government of Karnataka- Respondent No.1

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would indicate that the deponent is depicting the picture of having complied with the orders dated 21.11.2014 and 17.05.2022 without any whisper with regard to the order dated 19.03.2024. In fact the deponent has relied upon the Government Order No. DPAR 68 PSR 2024 dated 24.05.2024 whereunder the TDR for 15 acres 17.5 guntas has been resolved to be issued to the complainants by determining the value as per the BPAT Act. The deponent also refers to the order dated 06.06.2024 passed by the Deputy Commissioner (TDR) who has again rested his oars on the Government Order dated 24.05.2024 namely determining the value of the land as per the value determined under the BPAT Act for the entire land of 436 acres. Pursuant to the said orders the TDR is said to have been forwarded to the complainant/claimant. On this ground contemporaries are seeking from being absolved of the present proceedings or in other words seeking for contempt proceedings being dropped and clearly admitting there has been delay for which an unconditional apology has been tendered.

- 20.2 The affidavit of compliance filed by respondent No.3 is as vague, vagueness could be. Except enclosing the order No. UDD 22 MNY 2023, Bengaluru dated 15.03.2024 whereby it has been resolved to utilise 15 acres 39 guntas of the Bengaluru Palace for road widening subject to the grant of TDR and undertaking that BPAT would implement the orders nothing further revolves around this affidavit.
- 20.3 The compliance affidavit of Respondent No.4 namely the Commissioner of BDA would indicate the steps taken by the said authorities to implement the order namely issuance of notice dated 10.06.2024 and reply given thereto by the noticee and the purported joint mahazar having been drawn at the spot for taking possession of the subject land, nothing more turns around.
- 20.4 The compliance affidavit filed on behalf of the Respondent Nos.5 to 6 is in same line with the affidavit filed by the Respondent No.4.
- 20.5 We find from the afore-stated affidavits that the consistent stand taken by the State from day one till date is to the

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effect that: (i) petitioners were not entitled for the TDR; (ii) if at all they are entitled to, then they would be entitled to the compensation as per the Land Acquisition Act or the value of the land as fixed by the ULC authorities or the value of the land as determined by the authorities determining the wealth tax; (iii) even if value is to be determined and TDR is to be furnished the valuation of the land cannot be as per the value fixed for the adjacent lands under Section 45B of the Karnataka Stamp Act, 1957 and the value is to be fixed as per the value of the land determined under the BPAT Act namely 11 crores for 472 acres and proportionately for 15 acres 39 guntas the value of the subject land has to be determined.

21. Having dragged its feet for years in implementing the Orders of this Court the respondents seem to have conceptualized a novel method to over-reach the Orders of this Court and we say so for the simple reason that affidavit of the compliance does not indicate or clearly admit that the TDR certificate being issued is in accordance with the extant TDR Rules but it is on an assumed value. The notice dated 10.06.2024 which was preceded by Government Order dated 24.05.2024 issued to the petitioners reflect that market value of the land acquired has been determined @ Rs.120.68/ per square meter inclusive of interest, which notice has also been duly replied **to** by the petitioners on 13.06.2024 contending valuation made is contrary to TDR Rules. The Government Order dated 24.05.2024 being contrary to the direction issued by this Court cannot be accepted or the value of the subject land as determined thereunder to be correct, or the value indicated therein can be taken as a determination as per TDR Rules and it is diametrically opposite to the TDR Rules. We say so for reasons more than one. **Firstly**, the gazette notification dated 27.09.2023 issued in exercise of power vested under Section 45B of Karnataka Stamp Act, 1957 by the Government of Karnataka fixing the guidance value of the properties for the purposes of registration which has been appended to the counter affidavit filed by the complainants would indicate that the value of the subject property is fixed at Rs. 2,83,500 per square meter on Bellary Road, and for Jayamahal Road it is fixed at Rs. 2,04,000 per square meter (see convenience compilation filed on 21.07.2024 at pages 248 and 249) and this value is not adopted. **Secondly**, the applicable rules for issuance of TDR is

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known and called as Karnataka Town and Country Planning (Benefit of Development Rights) Rules 2016. Section 2(i) defines '**Market Value**' to mean the value determined as per the guidance value of land in accordance with Section 45B of the Karnataka Stamp Act, 1957. Thus, the TDR has to be issued as per the guidance value fixed under the Stamp Act and it is for this precise reason the State while determining the market value of the subject land had adopted the guidance value as specified under the Stamp Act for purposes of calculation/determination under I.A. No. 98276 of 2021 for pleading financial hardship. The State Government cannot now retrace its steps in this regard and determine the value of the subject property at its whims or fancies or on any imaginary value for the purposes of issuance of TDR. **Thirdly**, the market value of the property has to be prescribed under Rule 4 of TDR Rules, which clearly mandates the "market value" of a property to be as prescribed under Section 45B of Stamp Act, as the basis for issuance of TDR. In fact, this Court by Orders dated 21.11.2014, 17.05.2022 and 19.03.2024 in no uncertain terms has ordered or directed the respondents to issue TDR as per TDR Rules. **Fourthly**, in the interlocutory application (I.A. No. 98276 of 2021) filed for modification by the State, it has been specifically pleaded by the State itself that "if the compensation was required to be paid in terms of the award passed under the Act of 1996, then for the extent of 15 acres and 39 guntas the compensation payable would be Rs. 37,28,813. However, if the TDR certificate is to be issued as per TDR rules for the said extent of 15 acres 39 guntas, it would result in 13,91,742 sq. feet additional built up area constructable in the city of Bengaluru and approximately it would be equivalent to notional value of Rs.1,396 crores" after deducting 60% of the guidance value. The State specifically pleaded that TDR once granted is transferable and it would not be possible to recover the value of the TDR from the appellants if it is transferred to other parties/ builders, in the event of final judgment going against the appellants. In fact, it is for this precise reason we have opined supra that orders dated 21.11.2014 and 17.05.2022 was not required to be tweaked by this Court by adding additional conditions. **Fifthly**, it is to be noted that when value of adjacent and abutting land is fixed at Rs. 2,83,500 per sq. meter and 2,04,000 per sq. meter respectively under the Karnataka Stamp Act, 1957, the value of subject land cannot be diminished below the said value. The State specifically

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sought for modification of the order dated 21.11.2014 whereunder it was required to issue TDR as per TDR rules and wanted to pay compensation as per the calculation in the original award of 1996 in similar terms of the order dated 15.02.1999 passed on IA No.2 and this has been categorically turned down or rejected by this Court by order dated 17.05.2022. For these myriad reasons Government Order dated 24.05.2024 cannot be accepted as substantial compliance of the orders dated 21.11.2014, 17.05.2022 and 19.03.2024 and it stands rejected.

22. In fact, the State itself has categorically admitted in its Government Order dated 23.02.2021 the value of the TDR to be issued in favour of the claimants would be as under:

Total area 15 Acres 36 Guntas, Total 639 Guntas

$$639 \times 1089 = 695871 \text{ sq. ft.} \times 2 = 1391742 \text{ sq. feet.}$$

It is also admitted that the gross value is Rs.2,70,000 per Sq. Meter. However, it has determined the value as 0.4 times of the land value that is 1,08,000 per Sq. Meter on the premise that it is to be construed as an agricultural land. This very plea came to be raised for the modification of the order dated 21.11.2014 and it was turned down by this Court by order dated 17.05.2022 and it was reiterated that the TDR is required to be issued as per TDR Rules namely by adopting market value of the land. The value of the land cannot be anything less than market value as already determined under Section 45B of the Karnataka Stamp Act 1957. At the cost of repetition it requires to be noticed that the State Government itself has considered the market value as per guidance value at Rs. 2,70,000 per sq. meter fixed under Karnataka Stamp Act, 1957 and has adopted 0.4 times of the said value to calculate the TDR for the reason that the Bangalore Palace falls within agricultural zone which cannot be market value under TDR Rules. No material whatsoever has been placed by the State to depict that the subject land is to be construed as falling within agricultural zone. In fact, the subject property was utilized as a private residence of the then Maharaja of Mysore since long number of years and it is situated in the heart of city of Bangalore. There cannot be any cavil to the fact that TDR is required to be issued as per TDR Rules. In fact, not dwelling upon further on this aspect, it can be safely concluded that valuation of the subject land even according to the State was

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determined as per the guidance value then prevailing but restricted it to 40% of the guidance value by treating it as agriculture land without any basis whatsoever. The notifications issued under Section 45B of the Karnataka Stamp Act prescribes the guidance value and this value alone ought to have been adopted and there cannot be any reduction or subtraction in that regard. Thus, any amount of plea raised by the contemnors on the ground of financial hardship or otherwise would be in contravention of the Order passed by this Court on 21.11.2014, 17.05.2022 and 19.03.2024. Hence, we are of the considered view that the State and its instrumentalities and/or the competent authority being the BBMP is required to issue the TDR as per the then prevailing guidance value fixed under Section 45B of Karnataka Stamp Act, 1957 namely 2,83,500 per sq. meter for Bellary Road and 2,04,000 per sq. meter for Jayamahal road as indicated under the notifications issued under Section 45B of the Karnataka Stamp Act.

23. Yet the fact remains that subsequent to the same the State has calculated the value of the TDR in terms of the Order dated 22.04.2024 and 06.06.2024 as approved by the provisional acceptance order dated 07.06.2024, the correctness of which cannot be subject matter of the present contempt proceedings and the value of subject land as determined thereunder has not been accepted by this Court for the reasons already indicated supra. No doubt by way of attempting to purge in the contempt, these orders have been passed. The State and its authorities have no doubt dragged their feet in implementing the orders of the Court. However, there seems to be thin line of doubt which has arisen in the mind of State and its authorities as regards the valuation and in this direction if steps have been taken to protect the interest of the revenue and several meetings have been held and these aspects are placed before the State Cabinet and a decision has been taken by the State cabinet, it cannot be construed or held that State is not willing to implement the order and particularly in the background of several orders having been passed though not in consonance with the orders dated 21.11.2014 and 17.05.2022. Hence, we deem it proper to extend one final opportunity to report compliance within a time frame.
24. Since we have opined that the State and its authorities have intentionally dragged its feet for long number of years and having attempted to tap all the mirage remedies and left with no other option

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and to stave off these proceedings have passed the orders dated 15.03.2024, 22.04.2024, 24.05.2024 and 10.06.2024 to utilise the subject land for road widening, fixing the extent to which each of the claimants would be entitled for compensation and to issue the TDR on an estimate value which is not accepted by this Court, still an opportunity to issue TDR's as per market value as envisaged under Karnataka Stamp Act, 1957 as observed hereinabove ought to be extended to the respondents/contemnors.

25. Hence, we direct the respondent authorities to issue the TDR as per the value noticed hereinabove in favour of the respective claimants within six (6) weeks from today. We also make it abundantly clear that issuance of the TDR certificates would be subject to further orders that may be passed by this Court while disposing of the appeals which are pending before the larger Bench and both parties are at liberty to bring this fact to the notice of the court adjudicating the appeals. This order would also have no bearing on the respective contentions of both the parties in pending appeals or on any other collateral proceedings. We also make it explicitly clear that the order dated 19.03.2024 to the extent of imposing additional conditions is hereby recalled, as it is diametrically opposite to the order dated 17.05.2022 and 21.11.2014. The directions issued under Orders dated: 21.11.2014 and 17.05.2022 shall be complied by the competent authority of BBMP keeping in mind the observations made hereinabove within six (6) weeks from today and compliance affidavit shall be filed within the said period failing which the Commissioner, BBMP and the competent authority for issuance of TDR shall appear in person before this Court for having failed to comply with the orders of this Court, to enable this Court to pass further orders. On account of the faux pas situation that has been created by the respondent authorities, we direct that each of the complainants shall be paid a sum of Rs. 1 lakh each towards the cost of these proceedings except complainant in C.P. No. 578 of 2022.
26. In the light of the aforesaid observations contempt petition Nos.688 of 2021, 716 of 2023, 555 of 2024, 556 of 2024 and 585 of 2024 are allowed in above terms, CP No. 578 of 2022 stands disposed of reserving liberty to the complainants to pursue their grievance before the competent authority for issuance of TDR on resolution of the inter se dispute and it is needless to state that successful party

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would be entitled to receive the TDR as ordered by this Court vide Order dated 21.11.2014, 17.05.2022 and 19.03.2024.

27. All pending applications stands consigned to records.

For reporting compliance and/or appearance of the contemnors as the case may be. List these matters on 22nd January 2025.

Result of the case: Matter listed for reporting compliance.

[†]*Headnotes prepared by:* Ankit Gyan