2025 INSC 345

REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3764 OF 2025
(@ SPECIAL LEAVE PETITION (C) NO.4326 OF 2021)

1. THE COMMISSIONER, BANGALORE DEVELOPMENT AUTHORITY
2. BANGALORE DEVELOPMENT AUTHORITY … APPELLANTS

VERSUS

1. SMT. RATHNAMMA
2. SRI G ARVIND
3. SMT. RADHAMMA … RESPONDENTS

ORDER

AHSANUDDIN AMANULLAH, J.

Leave granted.

2. The present appeal arises from the judgment and order dated 01.07.2019 passed by the High Court of Karnataka at Bengaluru (hereinafter referred to as the 'High Court') in Writ Appeal No. 1166 of 2012 (LA-BDA) (hereinafter referred to as the 'impugned order'), whereby the appeal filed by the appellants was only partly allowed.

BRIEF FACTS:

3. The Bangalore Development Authority (Incentive Scheme for Voluntary Surrender of Land) Rules, 1989 (hereinafter referred to as the 'Incentive Rules') were framed under the Bangalore Development Authority Act, 1976 (hereinafter referred to as the 'BDA Act'). On 20.03.1999, a preliminary notification was issued under Section 17(1) of the Act proposing to acquire 4 Acres and 15 Guntas of land in survey number 71 at Anjanapura Village, Uttarahalli Hobli, Bangalore South Taluk belonging to the respondents along with other lands for the formation of Anjanapura Township under a scheme prepared by the Bangalore Development Authority (hereinafter referred to as the 'BDA'). On 31.05.2001, the respondents opted for voluntary surrender of their land under the Incentive Rules and possession of the same was taken over under a mahazar dated 31.05.2001. Pursuant to this, a final notification was issued under Section 19(1) of the Act covering the lands of the respondents along with other lands.

4. The notice under Section 9 of the Land Acquisition Act, 1894 (hereinafter referred to as the 'Act') was issued on

24.09.2001. On 10.01.2002, the award was made in respect of the respondents' land and compensation amount was deposited in the Civil Court. Notification dated 09.08.2005 (hereinafter referred to as the 'Amended Incentive Rules') was issued amending the Incentive Rules and increasing the entitlement area for voluntary surrender of land with effect from 27.11.2002. Thereafter, on 10.03.2005, an application was filed by the respondents for allotment of sites under the Incentive Rules. The appellants in 2006 allotted and executed sale deeds in respect of two 40 ft. x 60 ft. sites and two 40 ft. x 30 ft. sites to the respondents.

5. Since the respondents were agitating and litigating for additional area under the amended Incentive Rules, the appellants issued an endorsement dated 21.04.2010 stating that the respondents' entitlement under the Incentive Rules is for allotment of land upto the extent of 5400 sq. ft. and allotment of sites to an extent of 7200 sq. ft. has already been made in favour of the respondents, which is already in excess of the respondents' entitlement under the Incentive Rules.

6. Respondents filed Writ Petition No. 28680/2010 (LA-BDA) before the High Court challenging the endorsement dated 21.04.2010. Learned Single Judge of the High Court vide order dated 08.03.2011 allowed the petition directing the writ petitioners to allot the sites to respondents as per the Amended Incentive Rules. The appellants filed Writ Appeal No. 1166 of 2012 (LA-BDA) against the order of the Learned Single Judge which has been partly allowed vide the impugned order. While doing so, the Division Bench of the High Court took note of the Circular dated 12.05.2004 issued by the Deputy Secretary, Revenue Department, Government of Karnataka clarifying that compensation can be sanctioned to the 'A' kharab land if they were granted prior to 4(1) notification under the Act. However, it was stated in the said circular that no compensation shall be payable to 'B' kharab lands. The impugned order taking note of the fact that out of 4 Acres 15 guntas of land belonging to the respondents, 24 guntas are 'A' kharab and 8 guntas are 'B' kharab land, held that respondents are not entitled to receive any site as incentive towards that extent of land which is 'B' kharab and directed the appellants to allot another 40 ft. x 60 ft. site to the respondents.

SUBMISSIONS BY THE APPELLANTS:

7. Learned counsel for the appellants argued that High Court in the impugned order failed to appreciate that the entitlement for allotment gets crystalized on the date of surrender and not on the date of making an application. As such, on the date of voluntary surrender of possession by the respondents, i.e., on 31.05.2001, the Incentive Rules were prevalent and applicable. It was contended that as per the Incentive Rules, the respondents were entitled to two 40 ft. x 60 ft. sites and one 20 ft. x 30 ft. site for having surrendered an area more than 4 acres but not exceeding 4 ½ acres.

8. It was further argued that the impugned order failed to notice that even though the maximum permissible area for allotment under the Incentive Rules was three sites of 40 ft. x 60 ft., totalling 7200 sq. feet., but having regard to the area surrendered, the respondents were entitled to just 5400 sq. ft., whereas they were actually allotted 7200 sq. ft. It was lastly contended that the impugned order erred in not considering the entitlement under the Incentive Rules and applying the Amended Incentive Rules.

SUBMISSIONS BY THE RESPONDENTS:

9. Learned counsel for the respondents argued that the High Court vide its impugned order has appreciated the material before it in its correct perspective and the same does not require any interference by this Court. It was contended that the respondents voluntarily surrendered the lands without filing any objections and they did not seek any enhancement of compensation and only sought benefits under the Incentive Rules. It was argued that the appellants had earlier failed to take into consideration the Amended Incentive Rules while allotting the sites and calculating their entitlement. It was contended that the provisions of the Amended Incentive Rules have been effective from 27.11.2002 and therefore for the purpose of considering their application made on 10.03.2005, the entitlement has to be calculated according to the Amended Incentive Rules.

ANALYSIS, REASONING & CONCLUSION:

10. Having heard learned counsel for the parties, we find that the issue is quite simple. The crux of the matter is as to whether the Incentive Rules notified on 09.11.1989 which came into effect from 01.04.1989 or the Amended Incentive

Rules notified on 09.08.2005 which came into effect from 27.11.2002, would be applicable in the facts of the present case.

11. The relevant sequence of events are re-stated as follows:

a) The preliminary notification under Section 17(1) of the Act was issued on 20.03.1999 proposing to acquire 4 acres and 15 guntas of land from the respondents/their ancestors-in-interest;

b) In terms of the Incentive Rules, the respondents opted for voluntary surrender of their aforesaid land on 31.05.2001 and possession of the same was also taken on 31.05.2001;

c) This was followed by a final notification issued on 04.08.2001 under Section 19(1) of the Act in relation to the lands of the respondents;

d) Accordingly, notice under Section 9 of the Act, was issued on 24.09.2001 followed by award being made on 10.01.2002 pursuant to which the compensation amount was also deposited in the Civil Court;

e) Thereafter on 10.03.2005, an application was filed by the respondents for allotment of the sites in terms of the Incentive Rules; and

f) The appellants allotted and executed sale deeds in respect of two 40 ft. x 60 ft. sites and two 40 ft. x 30 ft. sites to the respondents in the year 2006.

12. From the aforesaid facts, it is crystal clear that the entire transaction with regard to acquisition and voluntary surrender of land under the Incentive Rules as well as possession and also notification under Section 19(1) of the BDA Act and under Section 9 of the Act stood completed much prior to coming into effect of the Amended Incentive Rules i.e., on 27.11.2002.

13. The benefit which the respondents sought to take was that since their application was made on 10.03.2005, the Amended Incentive Rules had already come into effect and thus the consideration should have been made under the Amended Incentive Rules which gave benefit of additional entitlement for allotment of land to the persons who voluntarily opted to surrender their land under the Incentive Rules. Pausing here for a moment, we would observe that the respondents cannot claim any benefit which

has to be reckoned from the day when the entire transaction of voluntary surrender of their land stood completed in terms of the acquisition under the relevant statute followed by the notification and handover of possession as also the compensation amount having been deposited; all of which having taken place much prior to 27.11.2002. In fact, the respondents have been able to maintain their claim only for the reason that no time limit was fixed for the application under the Incentive Rules. However, this cannot be stretched to the limit that the respondents could have waited for a better claim to come in future to claim benefit in a completed transaction much prior to such further benefits being extended. In the present case, we do not find any legal issue which can come to the aid of the respondents to claim that just because they had applied for allotment of sites on 10.03.2005 their case should be considered in terms of the Amended Incentive Rules which itself came into effect from 27.11.2002, especially in the background of all formalities relating to their acquisition of land having stood completed earlier. Another aspect which needs to be mentioned here is the fact that the respondents never challenged the acquisition before any authority or even the amount of compensation which clearly indicates that they had

chosen to voluntary surrender their lands on the basis of what they were aware of, i.e., the original Incentive Rules, and thus in that background they are bound by their conduct and acceptance and cannot later on agitate due to change in the rules at a later date which too came into effect much after things stood crystalized.

14. The aforesaid aspect has completely been lost sight of by the learned Single Judge as well as the Division Bench. Having said that, we may also clarify the position with regard to the stand taken by the appellants that the respondents were entitled only to 5400 square feet that is two plots of 40 ft. x 60 ft. and one plot of 20 ft. x 30 ft., the total of which comes to 5400 square feet and the same is clearly borne from the annexure to the Incentive Rules. However, it has not been explained by the appellants as to how in such background 7200 square feet has been allotted to the respondents. Be that as it may, since the appellants are not claiming for any return of land already given to the respondents, we refrain from going into that aspect.

15. For reasons aforesaid, we find that the order impugned of the Division Bench as well as the order of the learned

Single Judge cannot be sustained and are accordingly set aside. The allotment already made and transferred through sale deed executed with regard to two sites of 40 ft. x 60 ft. and two sites of 40 ft. x 30 ft. to the respondents stands confirmed and they are held not entitled to any further allotment.

16. Accordingly, the appeal stands allowed. No order as to costs.

.....J.
[SUDHANSHU DHULIA]

.....J.
[AHSANUDDIN AMANULLAH]

NEW DELHI
3rd January, 2025