

**WA No. 1983 of 2025  
C/W WP No. 14959 of 2020  
WP No. 2807 of 2026**

*RESERVED ON 29<sup>TH</sup> APRIL, 2026*

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 15<sup>TH</sup> DAY OF JUNE, 2026**

**PRESENT**

**THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE**

**AND**

**THE HON'BLE MR. JUSTICE C.M. POONACHA**

**WRIT APPEAL NO. 1983 OF 2025 (LB-BMP)**

**C/W**

**WRIT PETITION NO. 14959 OF 2020 (BDA-PIL),**

**WRIT PETITION NO. 2807 OF 2026 (GM-RES)**

**IN WA No. 1983/2025**

**BETWEEN:**

1. SRI KRISHNAMURTHY N  
AGED 61 YEARS  
S/O V NAGRAJAPPA  
R AT 84, VENKATESHWARA NAGAR  
BANGALORE NORTH  
BANGALORE-560064

...APPELLANT

(BY SRI V. SRINIVASAN RAGHAVAN, SENIOR ADVOCATE,  
ALONG WITH SMT. NAYANA TARA B.G., ADVOCATE AND  
ALSO FOR INTERVENERS)

**AND:**

1. STATE OF KARNATAKA  
REPRESENTED BY CHIEF SECRETARY  
GOVERNMENT OF KARNATAKA



VIDHANA SOUDHA  
BANGALORE - 560001

2. STATE OF KARNATAKA  
REPRESENTED BY ADDL  
CHIEF SECRETARY AND  
PRINCIPAL SECRETARY  
URBAN DEVELOPMENT  
DEPARTMENT, 4<sup>TH</sup> FLOOR  
VIKASA SOUDHA  
BANGALORE - 560001
3. BRUHATH BENGALURU  
MAHANAGARA PALIKE (BBMP)  
REPRESENTED BY ITS  
CHIEF COMMISSIONER  
HAVING ITS OFFICE AT  
NR SQUARE  
BANGALORE - 560027
4. BANGALORE DEVELOPMENT AUTHORITY  
REPRESENTED BY ITS  
COMMISSIONER  
HAVING ITS OFFICE AT  
T CHOWDIAH ROAD  
KUMARA PARK WEST  
BANGALORE - 560020

...RESPONDENTS

(BY SRI K. SHASHI KIRAN SHETTY, A.G.,  
SMT. ANUKANKSHA KALKERI, HCGP,  
MS. ADOORYA BOMAKKA HARISH, ADVOCATE,  
SRI ADITHYA C. SHUKAPURI, ADVOCATE FOR R-1 & R-2,  
SRI PRADEEP C. PATIL, ADVOCATE FOR R-3 AND  
SRI UDAYA HOLLA, SENIOR ADVOCATE ALONG WITH  
SRI K. KRISHNA, ADVOCATE FOR R-4)

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA  
HIGH COURT ACT PRAYING TO ALLOW THE PRESENT  
APPEAL BY SETTING ASIDE THE ORDER DATED 05/12/2025

PASSED BY THE LEARNED SINGLE JUDGE IN WP  
NO.11201/2025 AND GRANT ANY OTHER RELIEF.

**IN WP NO. 14959/2020**

**BETWEEN:**

1. VIJAYAN MENON  
SON OF LATE MR. T.A.G MENON  
AGED ABOUT 65 YEARS  
RESIDING AT: NO.33, 1<sup>ST</sup> MAIN  
S T BED LAYOUT  
KORAMANGALA  
BENGALURU - 560 034
2. MAJOR PROMOD KAPUR(RETD)  
SON OF LATE MR. SOMNATH KAPUR  
AGED ABOUT 84 YEARS  
RESIDING AT: NO.13/2, 5<sup>TH</sup> D MAIN  
(KRISHNA GARDEN), 1<sup>ST</sup> BLOCK  
KORAMANGALA  
BENGALURU - 560 034
3. C N KUMAR  
SON OF LATE MR C S NARAYAN  
AGED ABOUT 65 YEARS  
RESIDING AT: NO.18, 4<sup>TH</sup> CROSS  
1<sup>ST</sup> BLOCK, JAYANAGAR  
BENGALURU - 560 011
4. NITIN SESHADRI  
SON OF LATE MR S T SESHADRI  
AGED ABOUT 52 YEARS  
RESIDING AT: NO.760  
8<sup>TH</sup> MAIN ROAD  
3<sup>RD</sup> BLOCK, KORAMANGALA  
BENGALURU - 560 034
5. SNEHA NANDIHAL  
DAUGHTER OF LATE S Y NANDIHAL

AGED ABOUT 43 YEARS  
R/A NO.431, 2<sup>ND</sup> CROSS  
FIRST STAGE, INDIRANAGAR  
BENGALURU - 560 038

...PETITIONERS

(BY SRI DR. HARISH. B. NARASAPPA, SENIOR ADVOCATE,  
MS. ANARGHYA K. CHANDAR, ADVOCATE,  
MS. POORNIMA HATTI, ADVOCATE,  
MR. AAKASH SHERWAL, ADVOCATE,  
MS. MOULYA SUBBARAMAIAH, ADVOCATE,  
MR. SAURAV SUNIL, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA  
REPRESENTED BY ITS CHIEF SECRETARY  
DEPARTMENT OF URBAN DEVELOPMENT  
VIDHANA SOUDHA  
BENGALURU - 560 001
2. BANGALORE DEVELOPMENT AUTHORITY  
REPRESENTED BY ITS COMMISSIONER  
KUMARA PARK WEST  
T CHOWDAIAH ROAD  
BENGALURU-560 020

...RESPONDENTS

(BY SRI K. SHASHI KIRAN SHETTY, A.G.,  
MS. NILOUFER AKBAR, AGA,  
SMT. ANUKANKSHA KALKERI, HCGP,  
MS. ADOORYA BOMAKKA HARISH, ADVOCATE  
MR. ADITYA C. SHUKAPURI, ADVOCATE FOR R-1 AND  
SRI K. SHASHI KIRAN SHETTY. A.G./SENIOR ADVOCATE  
SRI MURUGESH V CHARATI, ADVOCATE FOR R-2)

THIS WRIT PETITION IS FILED UNDER ARTICLES  
226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING  
TO DECLARE THE BDA AMENDMENT ACT, THE KTCP  
AMENDMENT ACT AND THE KTCP AMENDED RULES

NOTIFICATION AS VIOLATIVE OF ARTICLES 14, 21 AND  
243ZE OF THE CONSITITUTION OF INDIA AND ETC.

**IN WP NO. 2807/2026**

**BETWEEN:**

1. CITIZENS' ACTION FORUM  
A SOCIETY REGISTERED UNDER THE PROVISIONS  
OF THE SOCIETIES REGISTRATION ACT, 1960  
HAVING ITS REGISTERED OFFICE AT  
NO.593, 24<sup>TH</sup> CROSS,  
BANASHANKARI 2<sup>ND</sup> STAGE,  
BENGALURU - 560 070.  
REPRESENTED BY ITS AUTHORIZED SIGNATORY,  
ROSITA SEQUEIRA  
...PETITIONER  
(BY MS. KALIGOTLA NITYA, ADVOCATE)

**AND:**

1. STATE OF KARNATAKA  
THROUGH ITS DEPARTMENT OF URBAN  
DEVELOPMENT,  
VIDHANA SOUDHA,  
BENGALURU - 560 001  
THROUGH ITS CHIEF SECRETARY
2. BANGALORE DEVELOPMENT AUTHORITY  
T CHOWDAIAH ROAD  
KUMARA PARK WEST  
BANGALORE - 560 020  
THROUGH ITS COMMISSIONER
3. GREATER BANGALORE AUTHORITY  
HUDSON CIRCLE  
N R SQUARE  
BENGALURU - 560 002  
REPRESENTED BY ITS CHIEF COMMISSIONER

4. BANGALORE METROPOLITAN PLANNING  
COMMITTEE  
GBA HEAD OFFICE COMPLEX  
HUDSON CIRCLE, N R SQUARE  
BANGALORE - 560002  
THROUGH ITS CHAIRMAN

...RESPONDENTS

(BY SRI K. SHASHI KIRAN SHETTY, A.G.,  
MS. NILOUFER AKBAR, AGA,  
SMT. ANUKANKSHA KALKERI, HCGP,  
MS. ADOORYA BOMAKKA HARISH, ADVOCATE,  
MR. ADITYA C. SHUKAPURI, ADVOCATE FOR R1,  
SRI UDAYA HOLLA, SENIOR ADVOCATE ALONG WITH  
SRI K. KRISHNA, ADVOCATE FOR R-2 AND  
SRI K. SHASHI KIRAN SHETTY, A.G.,  
SRI K.B. MONESH KUMAR, ADVOCATE FOR R-3 & R-4)

THIS WRIT PETITION IS FILED UNDER ARCILES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, QUASHING THE KARNATAKA TOWN AND COUNTRY PLANNING (AMENDMENT) ACT, 2020 (IMPUGNED AMENDMENT) PASSED BY THE RESPONDENT NO. 1, PRODUCED AT ANNEXURE-A AS BEING MANIFESTLY ARBITRARY AND THUS IN VIOLATION OF ARTICLES 14 AND 21 OF THE CONSTITUTION OF INDIA, 1950 AND ETC.

THIS WRIT APPEAL AND WRIT PETITIONS HAVING BEEN HEARD AND RESERVED FOR JUDGMENT, COMING ON FOR PRONOUNCEMENT THIS DAY, JUDGMENT WAS PRONOUNCED AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE  
and  
HON'BLE MR. JUSTICE C.M. POONACHA

**CAV JUDGMENT**

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

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## **I. INTRODUCTION AND BACKGROUND**

1. The present Writ Appeal, W.A.No.1983 of 2025 (LB-BMP), and the connected writ petitions, W.P.No.14959 of 2020 (BDA-PIL) and W.P.No.2807 of 2026 (GM-RES), raise a common set of questions concerning the constitutional validity of the statutory provisions for the grant of “Premium Floor Area Ratio” [**Premium FAR**]. The import of the scheme of the impugned provisions is to provide permissions, in terms of the approval to building plans accorded by the competent Authority, to raise additional construction over and above the ordinarily permissible Floor Area Ratio [**FAR**] on payment of charges referred to as Premium Charges. Since the substratum of the challenge raised in all three matters is common, they were heard together.

2. The Writ Appeal, W.A No. 1983 of 2025, arises from a judgment and order dated 05.12.2025 [**the impugned order**] passed by the learned Single Judge of this Court in W.P.No.11201 of 2025 (LB-BMP) captioned **Sri Krishnamurthy N. v. State of Karnataka and Others** connected with W.P.No.6347 of 2025 (LB-BMP), whereby the said writ petitions were dismissed. The present

appeal is confined to the impugned order insofar as it relates to W.P.No.11201 of 2025.

3. For the purpose of providing a contextual background to the challenge raised in the present appeal, we shall briefly refer to the relevant facts as referred to in W.A. No 1983 of 2025 and the proceedings from which the said appeal arises. The appellant in W.A.No.1983 of 2025 — Sri Krishnamurthy N., [**the appellant**] — is the absolute owner of land bearing Survey No.3/5 of Venkateshpura Village, Yelahanka Hobli, Bangalore North Taluk, Bengaluru. Bruhat Bengaluru Mahanagara Palike [**BBMP**] issued a notification dated 18.01.2005, notifying a portion of the said land, measuring 432.62 square metres as required for the purpose of widening of the Kogilu-Sampigehalli Main Road via Agrahara, from the Kogilu Village Bus Stand to the Shivaramkaranatha Layout Railway Level Crossing via Sampigehalli. The appellant surrendered the said land for the stated public purpose. The appellant opted to receive Transferable Development Rights [**TDR**] in terms of Section 14-B of the Karnataka Town and Country Planning Act, 1961 [**the KTCP Act**], read with the Karnataka Town and Country Planning (Benefit of

Development Rights) Rules, 2016 [the TDR Rules], as consideration for surrendering the said land.

4. The appellant executed and registered a Relinquishment Deed dated 03.09.2015 for transferring the subject land in favour of BBMP. It is stated that, despite repeated representations, BBMP and the Bangalore Development Authority [BDA] have not issued the Development Rights Certificate [DRC] in favour of the appellant.

5. As noted above, the impugned order dated 05.12.2025 was passed in W.P.No.11201 of 2025 connected with W.P.No.6347 of 2025 (LB-BMP). The present appeal does not assail the impugned order insofar as it relates to W.P.No.6347 of 2025. This court is informed that the said petitioners have not preferred any appeal against the impugned order.

6. W.P.No.14959 of 2020 (BDA-PIL) was filed on 11.12.2020 by Sri Vijayan Menon and four other private persons as a public interest litigation. The petitioners state that they are civic activists associated with the Citizens' Action Forum and other civic organisations, and have filed the said petition to assail:

- (i) the Bangalore Development Authority (Amendment) Act, 2020 [Karnataka Act No.27 of 2020] [**the BDA Amendment Act, 2020**], which was deemed to have come into force on 10.07.2020, and by which Section 38-D was inserted in the Bangalore Development Authority Act, 1976 [**the BDA Act**];
- (ii) the Karnataka Town and Country Planning (Fourth Amendment) Act, 2020 [Karnataka Act No.25 of 2020] [**the KTCP Amendment Act, 2020**] which received the assent of the Governor on 16.10.2020 and is deemed to have come into force with effect from 31.07.2020. By virtue of the said Act, Section 18-B was inserted in the KTCP Act; and
- (iii) a draft notification dated 17.11.2020 issued by the State Government proposing to introduce Rule 37-E in the Karnataka Planning Authority Rules, 1965 [**the KPA Rules**].

7. A Co-ordinate Bench of this court passed an interim order dated 25.05.2021 in WP No. 14959 of 2020 directing that any action

taken on the basis of the impugned provisions of law shall be subject to the final outcome of the said petition; and that whenever any such action is proposed, the parties concerned would be informed of the pendency of the said petition.

8. W.P.No.2807 of 2026 (GM-RES) was filed on 24.01.2026 by the Citizens' Action Forum as a public interest litigation. The said writ petition was, in its original form, directed against:

- (i) the KTCP Amendment Act, 2020, introducing Section 18-B; and
- (ii) the notification dated 21.02.2025 bearing No.UDD 78 MNJ 2024 (E) issued by the Government of Karnataka, introducing Chapter 11 in the Zonal Regulations of the approved Revised Master Plan-2015 [**RMP-2015**] of the Local Planning Area of Bengaluru.

9. The Citizens' Action Forum filed an amended memorandum of writ petition on 04.03.2026, additionally assailing the notification dated 05.02.2026 bearing No. UDD 78 MNJ 2024 (E), by virtue of which Chapter 11 of the said Zonal Regulations was modified.

10. It is material to note that the challenges raised by the appellant and by the petitioners in the connected writ petitions are substantially the same. Broadly speaking, the petitioners impugn:

- (i) Section 18-B of the KTCP Act;
- (ii) Rule 37-E of the KPA Rules;
- (iii) the notifications dated 02.04.2025 (bearing No.UDD 78 MNJ 2024 (E)) — comprising of three notifications, namely, Notification-I (Bengaluru), Notification-II (Bengaluru-Mysuru Infrastructure Corridor Area Planning Authority [**BMICAPA**]), and Notification-III (the local planning areas of Anekal, Kanakapura, Ramanagara, Channapatna, Magadi, Nelamangala, Bengaluru International Airport Area and Hosakote) — collectively introducing the scheme of Premium FAR through amendments to the respective Zonal Regulations [hereinafter, collectively referred to as '**the impugned notifications**']; and
- (iv) the notifications dated 05.02.2026 bearing No. UDD 78 MNJ 2024 (E) further amending the zonal regulations as amended by the impugned notifications.

The said notifications (three in number) are hereinafter collectively referred to as '**the 2026 notifications**'. Notification-I amended Chapter 11 of the Zonal Regulations of the RMP-2015 of the Local Planning Area of Bengaluru by substituting Regulation 2, Table No.27, and the foot-note thereunder. The other two notifications made amendments of a similar effect to the corresponding Zonal Regulations for the BMICAPA and other local planning areas. Inasmuch as the scheme introduced by the said notifications is substantively similar across the several planning areas, we shall, for the purposes of the present judgment, unless the context indicates otherwise, refer to Notification-I for considering the import of the amendments, and refer to it as '**the 2026 notification**'. The scheme of granting Premium FAR under Section 18B of the KTCP Act, Rule 37-E of the KPA Rules, the impugned notifications, the 2026 notifications and other provisions shall be referred to as '**the Premium FAR scheme**'.

11. In W.P.No.14959 of 2020, the petitioners also impugn Section 38-D of the BDA Act as introduced by the BDA Amendment Act, 2020, on the ground that the said provision is manifestly arbitrary and amounts to legalisation of unauthorised occupation of lands

belonging to the BDA. The petitioners contend that the effect of Section 38-D of the BDA Act is substantially similar to the '*Akrama Sakrama*' Scheme, the implementation of which has been stayed by the Supreme Court in S.L.P. (C) Nos. 11077-11078 of 2017. Except for this additional question concerning the validity of Section 38-D of the BDA Act, the substratum of the challenges raised in all three matters is common.

12. The principal grounds of challenge urged by the appellant and the writ petitioners are that:

- (i) the scheme of Premium FAR is manifestly arbitrary and falls foul of Article 14 of the Constitution of India;
- (ii) the said scheme violates Article 300A of the Constitution of India inasmuch as it has the effect of denuding the value of the TDRs which have been granted to land losers in lieu of monetary compensation, thereby of depriving them of their property without the authority of law;
- (iii) the Premium FAR scheme runs counter to the right to planned and sustainable development guaranteed under Article 21 of the Constitution;

- (iv) Section 18-B of the KTCP Act suffers from the vice of excessive delegation;
- (v) the impugned notifications and the 2026 notification are contrary to the parent statute and have not been notified in the manner prescribed by Section 13-E of the KTCP Act; and
- (vi) the Premium Charges as prescribed under Rule 37-E and the impugned notifications are at variance with the parameters prescribed under sub-section (2) of Section 18-B of the KTCP Act.

13. Before advertng to rival submissions and the import of the reliefs sought by the appellant in the writ appeal, and by the writ petitioners in the connected matters, it is relevant to set out the statutory framework in which the controversy involved in the writ petitions and the present appeal arises.

## **II. STATUTORY FRAMEWORK**

14. The KTCP Act was enacted to provide for the regulation of planned growth of land use and development, and for the making and execution of town planning schemes, in the State of Karnataka. The Statement of Objects and Reasons of the said Act records that

physical planning must precede economic planning, lest cities, towns and villages of the State grow to unmanageable sizes without proper planning, resulting in unhealthy surroundings.

15. It is relevant to note the statutory framework within which the impugned Premium FAR scheme operates. Sub-section (6) of Section 2 of the KTCP Act defines 'Planning Area' to mean any area declared to be, or included in, a local planning area under the KTCP Act. Sub-section (7) of Section 2 of the KTCP Act defines 'Planning Authority' to mean, in respect of the local planning area comprising the City of Bangalore, the Bangalore Development Authority; and in respect of any other local planning area, the Planning Authority constituted under the Act. Sub-section (11) of Section 2 of the KTCP Act defines "Regulations" as the Zonal Regulations governing land use made under the Act.

16. Section 9 of the KTCP Act mandates the preparation of a Master Plan by the Planning Authority. Sub-section (1) of Section 9 reads as under:

**"9. Preparation of Master Plan.** – (1) Every planning authority shall, as soon as may be, carry out a survey of the area within its jurisdiction and shall, not later than two years from the date of declaration of the local planning area, prepare and

publish in the prescribed manner a master plan for such area and submit it to the State Government, through the Director, for provisional approval.”

17. Section 12 of the KTCP Act sets out the contents of the Master Plan. Explanation (ii) to Section 12(1) of the KTCP Act, defines the term “Floor Area Ratio”. Sub-section (1) of Section 12 is set out below:

**“12. Contents of Master Plan. –** (1) The Master Plan shall consist of a series of maps and documents indicating the manner in which the development and improvement of the entire planning area within the jurisdiction of the Planning Authority are to be carried out and regulated, such plan shall include proposals for the following, namely:—

(a) zoning of land use for residential, commercial, industrial, agricultural, recreational, educational and other purposes together with Zoning Regulations;

(b) a complete street pattern, indicating major and minor roads, national highways, and state highways, and traffic circulation pattern, for meeting immediate and future requirements with proposals for improvements;

(c) areas reserved for parks, playgrounds, and other recreational uses, public open spaces, public buildings and institutions and area reserved for such other purposes as may be expedient for new civic developments;

(d) areas earmarked for future development and expansion;

(e) reservation of land for the purposes of Central Government, the State Government, Planning

Authority or public utility undertaking or any other authority established by Law, and the designation of lands being subject to acquisition for public purposes or as specified in Master Plan or securing the use of the landing in the manner provided by or under this Act;

(f) declaring certain areas, as areas of special control and development in such areas being subject to such regulations as may be made in regard to building line, height of the building, floor area ratio, architectural features and such other particulars as may be prescribed;

(g) stages by which the plan is to be carried out.  
Explanation:

- (i) 'Building Line' means the line up to which the plinth of a building adjoining a street may lawfully extend and includes the lines prescribed, if any, in any scheme;
- (ii) 'Floor Area Ratio' means the quotient of the ratio of the combined gross floor area of all the floors, excepting areas specifically exempted under the regulations, to the total area of the plot."

18. Section 13-E of the KTCP Act empowers the State Government to amend the Regulations. The said Section reads as under:

**"13-E. Amendment to Regulations.** — The State Government may, after previous publication of the draft for not less than one month by notification make amendments to regulations."

19. Section 74 of the KTCP Act empowers the State Government to make rules for carrying out the purposes of the Act. Section 75 of the Act empowers the Planning Authority to make bye-laws, consistent with the provisions of the Act and the Rules made thereunder, to carry out the purposes included in the Master Plan. The said provisions read as under;

**74. Rules.**—(1) The State Government may, by notification and after previous publication, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may be made to determine the following matters:—

137[(a) the functions and powers of the Board and Planning Authorities constituted under Section 4-C;

(a-1) the qualifications and disqualifications for being chosen as and for being members of the Board, and Planning Authorities constituted under Section 4-C;

(a-2) the manner of nomination of representatives of local authorities under clause (iii) of sub-section (3) of Section 4-C;

(a-3) the manner in which and the purposes for which any Planning Authority may associate with itself any person under Section 4-F;]

138[(a-4)] the particulars that are to be shown in a map under Section 6;

(b) the manner of and the procedure to be followed in making an inquiry under sub-section (2) of Section 7;

(c) the manner of publication of the 139[Master Plan] under sub-section (1) or sub-section (2) of Section 9; or under sub-section (4) of Section 13;

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- (d) the notices to be given under Section 11, 140[\* \* \*] or Section 27;
- (e) the form of the commencement certificate to be granted under sub-section (1) of Section 15;
- (f) the particulars to be furnished by a person submitting a lay-out plan under sub-section (1), the period within which the Planning Authority may sanction such plan under sub-section (2) and the manner of holding an inquiry under sub-section (4) of Section 17;
- (g) the betterment fee to be levied and the manner of levy under Section 18;
- (h) \* \* \*
- (i) \* \* \*
- (j) the manner of publication of a declaration of intention to make a scheme under sub-section (2) of Section 29;
- (k) the manner of publication of a draft scheme under Section 30;
- (l) the further particulars to be included in the draft scheme under clause (g) of Section 32;
- (m) the form of the commencement certificate to be granted under clause (a) of sub-section (1) of Section 35 and the conditions, if any, to be included therein;
- (n) the procedure to be followed in making an inquiry under clause (c) of sub-section (1) of Section 35;
- (o) the manner in which, and the method according to which, compensation shall be payable under sub-section (2) of Section 35;
- (p) the qualifications of persons to be appointed as Director of Town Planning and as Town Planning Officer;
- (q) the procedure that is to be followed by a Town Planning Officer in making orders under any of the several clauses of sub-section (1) of Section 38;

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- (r) the form in which the Town Planning Officer is to draw the final scheme under clause (n) of sub-section (1) of Section 38;
- (s) the procedure to be followed by the officer appointed to hold an inquiry for the purpose of deciding a disputed claim as to ownership under Section 42;
- (t) the manner of preparing a preliminary scheme under Section 43;
- (u) the manner of giving notice under Section 44;
- (v) the procedure to be followed in summarily evicting a person under Section 46;
- (w) the notice to be given before action is taken under Section 47;
- (x) the manner of publication of a draft variation under sub-section (2) and the particulars which a draft variation shall contain under sub-section (3) of Section 48;
- (y) the manner of election of representatives of the several Planning Authorities under sub-section (2) of Section 51;
- (z) the time to be allowed for making a claim to compensation under Section 60;
- (aa) the period within which payment is to be made to the Planning Authority under Section 63;
- 143[(aa-1) the form of the budget of Planning Authorities, the date on or before which it shall be prepared, the manner of preparing it and the number of copies that have to be sent to the Board and the State Government;
- (aa-2) the form of the annual statement of accounts and balance sheets to be prepared under Section 68-C;
- (aa-3) the form of the annual report of the Planning Authorities and the dates on or before which they shall be submitted under Section 68-D);]

(bb) the manner in which documents, plans, maps shall be made accessible to the public under the proviso to Section 77;

(cc) the procedure to be adopted by the Planning Authority to secure co-operation on the part of the owners or persons interested in the land proposed to be included in a Town Planning Scheme at every stage of the proceedings by means of conferences and such other means as may be expedient;

(dd) the procedure to be followed by a Town Planning Officer generally under this Act;

(ee) the extent to which the proceedings of Planning Authorities under this Act shall be regulated by any municipal or local law applicable to such authorities; and

(ee-1) the documents of which copies may be granted and the fees payable for the inspection of such documents and the grant of copies thereof;]

(ff) any other matter for which there is no provision or no sufficient provision in this Act (including provision relating to appeals, appellate authorities, time for filing appeals, fees payable in respect of appeals and other matters), and for which provision is in the opinion of the State Government, necessary for giving effect to the purposes of this Act.

(3) A rule made under this section may provide that a contravention of any of the provisions of the rules which are specified in such rule shall be punishable with fine which may extend to five hundred rupees and in the case of a continuing contravention, with an additional fine which may extend to ten rupees for every day during which such contravention continues after conviction for the first such contravention.

(3A) Any rule under this Act may be made to have effect retrospectively and when any such rule is made a statement specifying the reasons for making such a rule shall be laid before both Houses of the State Legislature along with the rule under sub-section (4). All rules made under this

Act shall, subject to any modification made under sub-section (4), have effect as if enacted in this Act.

(4) Every rule made under this section shall be laid as soon as may be after it is made before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

75. Bye-laws.—(1) A Planning Authority may, with the previous sanction of the State Government, make bye-laws consistent with the provisions of this Act and the rules thereunder to carry out the purposes included in the Master Plan.

(2) A bye-law made under this section may provide that a person contravening any of the provisions of the bye-laws which are specified in such bye-law shall on conviction, be punished with fine, which may extend to one hundred rupees and in the case of a continuing contravention, with an additional fine, which may extend to five rupees for every day during which such contravention continues after conviction, for the first such contravention.

(3) The power to make bye-laws under this section shall be subject to the condition of previous publication and such publication shall be in the official Gazette and in such other manner as may be directed by the State Government.

20. It would be relevant, at this stage, to set out the meaning of the term Floor Area Ratio [**FAR**]. FAR is, in essence, the ratio of the total floor area of a building to the area of the plot or site upon which it is constructed. As is evident from Explanation (ii) to sub-section (1) of Section 12 of the KTCP Act, FAR is a metric employed in town planning to regulate urban density by ensuring that the extent of built-up area on any plot is commensurate with the infrastructure — including the road width, the availability of water supply, sewage disposal, drainage, and other civic amenities — available to support the use and occupation of the buildings. The permissible FAR varies from zone to zone and is prescribed in the Zonal Regulations of the Master Plan. RMP-2015 was approved by the State Government vide Government Order dated 22.06.2007, and has been in force with effect from 22.06.2007.

### **III. TRANSFERABLE DEVELOPMENT RIGHTS (TDR)**

21. A scheme for the grant of Transferable Development Rights [**TDR**] was introduced in the State of Karnataka by virtue of the Karnataka Town and Country Planning (Amendment) Act, 1998 [Karnataka Act No.23 of 2004], which received the assent of the Hon'ble the Governor on 17.03.2004 and was published in the

Karnataka Gazette Extra-Ordinary on 03.06.2004. By the said Amendment Act, Section 14-B was inserted in the KTCP Act. The Statement of Objects and Reasons of the said Amendment Act recorded, inter alia, that the Act was to provide for grant of Development Rights to landowners surrendering their land for public purposes, in the form of Notional Land, which could be utilised within the planning area for the purposes of additional construction, in lieu of monetary compensation.

22. Pursuant to Section 14-B of the KTCP Act as originally enacted, the State Government, by a Government Notification dated 18.01.2005, notified the terms and conditions for the grant of TDR.

23. Thereafter, by virtue of the Karnataka Town and Country Planning (Amendment) Act, 2015 [Karnataka Act No.38 of 2015], Section 14-B of the KTCP Act was substituted in its entirety, with effect from 10.09.2015. Section 14-B, as substituted, reads as under:

**“14-B. Benefit of development rights.—**(1) In a Local Planning Area if any Public Authority requires any ‘Area’ for the public purpose, it shall notify the same in such manner as may be prescribed and the owner of such ‘Area’ hands over possession of such ‘Area’ free from all encumbrances to such Public Authority in lieu of any compensation, under the Right

to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) or any other law, he shall, notwithstanding anything contained in this Act or regulations, be entitled to be granted Development Rights (DR) under this section subject to conditions specified below. The Planning Authority shall issue Development Rights to such persons not more than the extent specified in table below, subject to such terms and conditions as may be prescribed.

(2) The provisions of this section shall be applicable to the Local Planning Areas having City corporation and may be extended to other Local Planning areas as and when required by the State Government by notification from time to time.

(3) No Development Rights shall be granted under this section unless the Public Authority deposits the amount with Planning Authority equal to the market value of the area required:

Provided that the Local Authority and Planning Authority are exempted from such deposition.

(4) The Public Authority intending to obtain Development Rights in favour of owners shall apply to the Planning Authority enclosing the list of land owners who have surrendered the area for the public purpose as per the provisions in sub-section (1) after verifying title over such property and ensuring that no other person has any claim over such property. It shall also specify the details of entire land or building so surrendered along with payment of 'Deposition Amount' as per the market value, to the Planning Authority.

(5) The Planning Authority before issuing Development Rights shall verify and notify the details of Area surrendered in the news paper calling objections and suggestions, if any, for the purpose of Development Rights and the Development Rights intended to be issued, after satisfying itself beyond doubt that the persons claiming Development Rights is entitled for the same.

(6) If the owner does not agree to surrender his 'Area' required by a public Authority for any public purpose, for the Development Rights and demands for monetary compensation, then the public Authority may acquire such 'Area' by providing compensation as per the provisions of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013) or any other law prevailing.

(7) Any 'Area owned by Public Authority required for public purpose by a Local Authority shall also be eligible to obtain Development Right if such 'Area is surrendered to the Local Authority in lieu of any compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (Act 30 of 2013).

(8) The Authority competent to approve Building plan shall not approve utilization of the Development Right unless an entry to that effect is made in the Development Rights Certificate and in the register/database maintained by the Planning Authority as prescribed.

(9) The Planning Authority after considering objections or suggestions received under sub-section (5) shall verify the details for sanction of Development Rights and if found eligible issue it in the form of Development Right Certificate (DRC) under intimation to the public Authority to the owner specifying the extent of Notional Land as Development Rights admissible, subject to such terms and conditions as may be prescribed or reject it, quoting the reasons thereof.

Provided that no such application shall be rejected without giving opportunity of hearing to the public Authority and the owner of such land.

(10) The Development Rights shall be calculated based on the land area or building area surrendered by the owner to any Public Authority free from all encumbrances and without claiming any

compensation. The Land or building area so surrendered shall be converted into 'Notional Land' to extent specified in the Table below based on the value of the land determined on the basis of Market value notified by the State Government under the Karnataka Stamp Act, 1957.

(11) The Deposition amount or fee amount received by the Planning Authority under sub-section (3) or sub-section (27) shall be kept in a separate account called Transferable Development Rights Fund of the Planning Authority and shall be granted and utilized in the concerned Local Planning Area by the concerned Local Authority or Planning Authority in the prescribed manner.

(12) The Development Rights so issued shall be utilized within the same Local planning Area to which it is issued.

(13) The Development Rights may be utilized within the same plot or in any other Area in the same Local Planning area by the owner or the owner of such Development Rights may transfer the Development Rights to somebody else who can use that Development Rights on any other Area within the Local Planning area, as Transferable Development Rights.

(14) The utilisation of Development Rights at the receiving plot shall be subject to limitations, as may be prescribed.

(15) Whenever the owner sells the Development Rights, it shall be registered in the Planning Authority after due entry in the register/database and on the Development Rights Certificate.

(16) No transfer or utilization of the Development Right shall be valid unless it is registered by the Planning Authority.

(17) The Planning Authority shall maintain a register/database and shall make entry of issue, transfer or utilization of Development Rights granted

under this section in such manner as may be prescribed.

(18) Issue, transfer or utilization of the Development Rights may be done through electronic form and through internet in such manner as may be prescribed.

(19) The State Government shall establish a State level Development rights monitoring authority consisting of such number of members as may be prescribed to keep track of all transactions of Development Rights. It shall also have power to inspect, verify the records of concerned planning Authority pertaining to these transactions. It shall also have power to prosecute persons responsible for illegal or fraudulent transactions in contravention of the provisions of this section.

(20) No person shall be eligible for the Development Rights for the surrender of the areas earmarked for road, parks or common open spaces and Civic Amenity sites to the Planning Authority or Local Authority while obtaining permission for formation of layouts or development any land under Section 15 or 17.

(21) The Planning Authority shall periodically publish total number of Development Rights issued, transferred and the balance remaining in each Local Planning Area and the name of the holder in such manner as may be prescribed.

(22) Any person aggrieved by any order of the Planning Authority may appeal to such Appellate Authority, in such manner, as may be prescribed. The appellate Authority may dispose the application with such direction as it deems fit. The decision of the appellate Authority shall be final.

(23) Any person who fraudulently create any Development Rights Certificate or fraudulently transfers Development Rights shall on conviction be liable for an imprisonment for not less than one year which may be extended to three years and to a fine

which may extend to double the value of amount cheated by him.

(24) The member secretary of the Planning Authority, shall be responsible to file complaint before the Court regarding the offences committed under this section.

(25) In case of any dispute arising over the ownership of the 'Area' surrendered, where the Development Rights Certificate issued for such Area' is already transferred and utilized by any person other than the person who has surrendered the Area', such claims shall be restricted only to the extent of eligibility of compensation from the person who has surrendered the 'Area' for Development Right. The Public Authority which verified the claims shall also be responsible for the wrong recommendation for issue of Development Right. It shall make good the loss occurred by it.

(26) All Development Rights issued before the commencement of the Karnataka Town and Country Planning (Amendment) Act, 2015 shall also be entered in the register/database maintained under this section in the same manner specified herein.

(27) Necessary fees as prescribed shall be collected by the Planning Authority for registering any transaction of issue, transfer or utilization of Development Rights Certificate.

(28) Every Transaction pertaining to issue, utilization or transfer of Development Rights and the Transferable Development Rights Fund of the Planning Authority created under sub-section (11) shall be audited every year by such officer as may be prescribed. The audit report alongwith compliance shall be sent to the Government by the concerned planning authority and the Government shall place the same before both the houses of the State legislature.

**TABLE**  
**(see sub-section (1))**  
**QUANTUM OF DEVELOPMENT RIGHTS ADMISSIBLE**

<b>Sl. No.</b>	<b>PURPOSE FOR WHICH LAND SURRENDERED</b>	<b>DEVELOPMENT RIGHT ADMISSIBLE</b>
1.	<p align="center"><b>Land Development Rights</b></p> <p>(i) Any road widening/any road formation as proposed in Master Plan or as proposed by the Local Authority or Developing Authority.</p> <p>(ii) Any infrastructure Projects approved by the Government (Transportation Water Supply, Sewage, Electricity, etc.,...)</p> <p>(iii) Providing for parking, parks, play grounds and open spaces or any other public places proposed in the Master Plan or proposed by Local Authority</p> <p>(iv) Providing EWS/LIG/ affordable housing.</p> <p>(v) Any other public purpose notified by the Government from time to time</p>	<p>Development Right in the form of "Notional land" which shall be equal to:</p> <p>(a) two times of the Area surrendered;</p> <p>(b) two times of the total area surrendered, in case the remaining area after surrendering the required portion for public purpose has become incapable of reasonable beneficial use.</p>
2.	<p align="center"><b>Building Development Rights</b></p> <p>All types of authorized buildings</p>	<p>Development Rights in the form of notional land which shall be equal to one time the land area derived by dividing the value of the building/portion of the building surrendered, by</p>

		the market value of the land/plot on which the building is situated. The method of valuation of building shall be as prescribed.
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**Note.**—The Development Rights in the form of ‘Notional Land’ shall be multiplied by the permissible Floor Area Ratio of the plot where Development Rights or transferable Development Rights is proposed to be utilized, to derive the additional Floor Area eligible for that plot due to utilization of Development Rights or Transferable Development Rights.

*Explanation.*—for the purpose of this section,—

- (a) “Area” means land/plot or land and building/portion of building thereon.
- (b) “Deposition Amount” means the amount to be remitted by any Public Authority intending to acquire the area falling within the jurisdiction of the Local Planning Area. This amount shall be equal to the market value of the area to be acquired;
- (c) “Development Rights (DR)” means the right given for development of land within the Local Planning Area in the form of “Notional Land” to an owner who surrenders the area of land or building required for public purpose without claiming any compensation.
- (d) “Development Right Certificate (DRC)” means the certificate of Development Rights issued to owner;
- (e) “EWS/LIG” means such class of person as may be notified by the State Government from time to time;
- (f) “Floor Area” means the floor area defined in the respective Zonal Regulations;
- (g) “Market value” means the value determined as per the guidance value of land in accordance with a Section 45-B of the Karnataka Stamp Act, 1957;
- (h) “Notional Land” means the Development Rights in the form of theoretical land area and not in the form of real/physical land area, in lieu of compensation;

- (i) "Public Authority" means the Planning Authority, Local Authority or an authority or a body owned and controlled by the State Government, Central Government or by both State and Central Government jointly having Authority by laws to acquire, hold and dispose of property together;
- (j) "Public purpose", means and includes for the purposes of,—
  - (i) Any road widening/any road formation as proposed in Master Plan or as proposed by the Local Authority;
  - (ii) Any Infrastructure projects approved by the Government (Transportation, Water Supply, Sewage, Electricity, etc.,...)
  - (iii) Providing for parking, parks, playgrounds and open spaces or any other public places proposed in the master plan or proposed by Local Authority except cases under Section 15 and 17;
  - (iv) Providing EWS/LIG/affordable housing; and
  - (v) Any other public purpose notified by the Government from time to time."
- (k) "Transferable Development Rights" (TDR) means the Development Right given in the form of 'Notional Land' to an owner, which can be sold or disposed or utilised elsewhere in the Local Planning Area. The DR of the 'Area' surrendered in the form of 'Notional Land', shall be permitted as TDR only after factorising the Market Value of the Originating Plot and the Receiving Plot, as specified in the Terms and Conditions."

24. As is evident from a plain reading of Section 14-B of the KTCP Act, as substituted by Karnataka Act No.38 of 2015, the scheme of TDR enables a landowner whose land is required by a Public Authority for any of the specified public purposes (such as road widening, formation of new roads, infrastructure projects, parks

and playgrounds, for providing EWS/LIG/affordable housing, or any other public purpose notified by the Government) to surrender the said land free from all encumbrances in consideration for Transferable Development Rights [**TDR**] in the form of “Notional Land”. The TDR, under the Zonal Regulations, translates into approvals to construct additional floor area, which may be utilised either on the originating plot or on any other plot (recipient plot) within the same Local Planning Area, whether owned by the landowner or a third party.

25. Sub-section (6) of Section 14-B preserves the option of the landowner to decline TDRs and claim monetary compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [**the 2013 Act**] or any other law for the time being in force.

26. The Note appended to Section 14-B clarifies that the Development Rights in the form of “Notional Land” shall be multiplied by the permissible Floor Area Ratio of the plot where the said Development Rights are proposed to be utilised in order to derive the additional Floor Area eligible for that plot. In other words, Notional Land does not translate one-to-one into additional built-up

area; rather, it is a base for determining the additional floor area that can be loaded on the recipient plot.

27. The State Government framed the Karnataka Town and Country Planning (Benefit of Development Rights) Rules, 2016 [**TDR Rules**], for the purposes of implementing Section 14B of the KTCP Act. The said rules were notified on 04.03.2017 and came into effect from the said date. The said Rules, inter alia, set out the procedure for verification of title, the manner of issuance of the Development Rights Certificate, the manner of computation of Notional Land, and the conditions subject to which TDRs may be utilised. Sub-rule (4) of Rule 4 of the TDR Rules provides that the maximum extent of TDR (additional floor area ratio) that may be loaded onto any building site of the receiving plot shall not exceed 0.6 times the ordinarily permissible Floor Area Ratio. Sub-rule (5) of Rule 4 prescribes that the minimum road width on the receiving plot shall not be less than 9.0 metres.

28. It is relevant to note that the State Government issued a Notification dated 21.04.2026 bearing No.UDD 193 MNJ 2026 (E) in exercise of the powers conferred under Section 76-K of the KTCP Act, inter alia clarifying that the provisions of Chapter 10 of the

Zonal Regulations of the RMP-2015 — which contained the provisions concerning TDRs — stand superseded and are inoperative with effect from 04.03.2017, being the date on which the TDR Rules came into force. By virtue of the said notification, clause 3.4(vi) of Chapter 3 of the said Zonal Regulations, which had been inserted vide Notification No.UDD 112 MNJ 2015 dated 29.09.2018 to provide for impact zone Premium FAR, was also withdrawn with effect from 16.06.2021, being the date on which Rule 37-E of the KPA Rules came into force.

#### **IV. THE PREMIUM FAR**

29. Section 18-B was inserted in the KTCP Act by virtue of the Karnataka Town and Country Planning (Fourth Amendment) Act, 2020 [Karnataka Act No.25 of 2020], which received the assent of the Governor on 16.10.2020 and was first published in the Karnataka Gazette Extraordinary on 19.10.2020. By Section 1(2) of the said Amendment Act, the same was deemed to have come into force with effect from 31.07.2020. Section 18-B as inserted reads as under:

**“18-B. Levy of premium charges for grant of Premium Floor Area Ratio. — (1) The Authority may grant permission for premium floor area ratio**

in the areas identified for the purpose in the Zonal regulations of the master plan.

(2) Where an application is made for grant of permission for utilisation of premium floor area ratio for the development of a building under Section 15, the Authority may levy premium charges, at such rate, not less than fifty per cent of the estimated increase in value of land and building as may be prescribed by the Government from time to time, for grant of premium floor area ratio, not exceeding the limits as specified in the zonal regulations of the master plan.

Explanation. — For the purpose of this section, ‘premium floor area ratio’ means additional floor area ratio permitted over and above the ordinary permissible floor area ratio.”

30. As is evident from a plain reading of Section 18-B, sub-section (1) empowers the “Authority” to grant permission for Premium FAR in the areas identified for the purpose in the Zonal Regulations of the Master Plan. Sub-section (2) provides that, where an application is made for grant of permission for utilisation of Premium FAR for the development of a building under Section 15 of the Act, the Authority may levy Premium Charges, at such rate, not less than fifty per cent of the estimated increase in the value of land and building as may be prescribed by the Government from time to time, for the grant of Premium FAR, not exceeding the limits as specified in the Zonal Regulations of the Master Plan. The

Explanation to Section 18-B clarifies that “premium floor area ratio” means additional floor area ratio permitted over and above the ordinarily permissible floor area ratio.

31. Thereafter, by a Notification dated 16.06.2021, the Karnataka Planning Authority (Amendment) Rules, 2021 were notified. By virtue of the said Rules, Rule 37-E was inserted in the Karnataka Planning Authority Rules, 1965, prescribing the manner and rate of levy of charges in case of permission for utilising Premium FAR. Rule 37-E of the KPA Rules, which is also subject matter of challenge, reads as under:

**“37-E. Charges to be levied in case of permission for utilizing Premium FAR. —**

(1) Wherever impact zones have been identified for grant of premium Floor area ratio (hereinafter referred to as FAR) and in any other areas specified for this purpose in the Zonal Regulations of the approved Master plans in force. The Premium F.A.R over and above the ordinarily permissible F.A.R not exceeding 0.6 times of the permissible F.A.R may be allowed in the building site, abutting minimum road width of 9m and above, on levying Premium FAR charges as prescribed below, namely:—

Premium FAR charges:—

(i) The guidance value of the developed site shall be taken as the base value;

(ii) Premium FAR charges shall not be less than 50% of the guidance value of the additional (notional) sital area.

Note: For the purpose of these rules, the term 'Additional (Notional) sital area' means the additional sital area that would be required for the building derived from the premium FAR permitted as an additional FAR above the permissible FAR.

(iii) The Premium FAR charges collected shall be deposited in a separate Head of Account of the Planning Authority or Local Authority which issues building plan.

(iv) The Premium charges so collected shall be utilised as below:

(a) 50% of the charges collected shall be utilised for the purpose of acquiring land and shifting of utilities related to the purpose for which F.A.R is issued.

(b) 50% of the charges collected by the Authority shall be utilised for developing infrastructure related to the purpose for which F.A.R is issued. In case the agency developing infrastructure is separate from the authority which is collecting the premium F.A.R charges, then the authority shall transfer this amount to the concerned agency which is developing the infrastructure and responsible for the activity for which F.A.R is issued, i.e., in case of sub-urban rail to the special purpose vehicle (SPV) formed for that purpose, in case of Metro to the company/SPV which is implementing the project etc.”

32. It is material to note that Rule 37-E of the KPA Rules contemplates the identification of “impact zones” for the grant of Premium FAR. Sub-rule (1) of Rule 37-E of the KPA Rules provides

that the Premium FAR over and above the ordinarily permissible FAR, not exceeding 0.6 times the permissible FAR, may be allowed in any building site abutting a road with a minimum width of 9 metres and above, on levy of Premium Charges as prescribed thereunder. The said charges are to be levied on the basis that (i) the guidance value of the developed site shall be taken as the base value; and (ii) the Premium FAR charges shall not be less than 50% of the guidance value of the additional (notional) sital area. The Note appended to the Rule defines "Additional (Notional) sital area" as the additional sital area that would be required for the building, derived from the Premium FAR permitted as additional FAR above the permissible FAR.

33. In the year 2024, the State Government introduced the Karnataka Town and Country Planning (Amendment) Bill, 2024, proposing further amendments to Section 18-B of the KTCP Act inter alia, providing that the maximum additional FAR which could be granted as Premium FAR shall not exceed 0.6 times the ordinarily permissible FAR.

34. By a draft notification dated 04.01.2025 bearing No.UDD 78 MNJ 2024 (E), published in Part IVA of the Karnataka Extraordinary

Gazette, the State Government set out the amendments proposed to:

- (i) the Zonal Regulations of the RMP-2015 of the Local Planning Area of Bengaluru;
- (ii) the Master Plan of the BMICAPA; and
- (iii) the Master Plans of the local planning areas of Anekal, Kanakapura, Ramanagara, Channapatna, Magadi, Nelamangala, Bengaluru International Airport Area and Hosakote.

35. The State Government invited objections and suggestions from all persons likely to be affected thereby within thirty days from the date of publication. By a representation dated 27.01.2025, the Citizens' Action Forum —the petitioner in W.P.No.2807 of 2026 — submitted its objections to the State Government in regard to the said draft notification.

36. By a notification dated 21.02.2025 bearing No.UDD 78 MNJ 2024 (E), the State Government notified the regulations under Section 13-E of the KTCP Act, with effect from 25.02.2025. The said

notification led the Citizens' Action Forum to file W.P.No.2807 of 2026.

37. It is relevant to note that the notification dated 21.02.2025 was withdrawn by a subsequent notification dated 02.04.2025. The said notification provided that the earlier notification was “not operated by the concerned authorities” and was withdrawn with effect from 25.02.2025 “after taking into consideration the administrative convenience”. The petitioners contend that the said withdrawal-and-substitution mechanism was, in substance, a device to introduce the impugned scheme with retrospective effect from 25.02.2025, without affording the public the opportunity of submitting fresh objections to the substantively altered regulations.

38. By the impugned notifications, all dated 02.04.2025 and bearing the same number No.UDD 78 MNJ 2024 (E) — comprising of:

- (i) Notification-I (the Framing of Zonal Regulations for the Revised Master Plan, 2015 of the Local Planning Area of Bengaluru and Greater Bengaluru (Amendment) Regulations, 2025);

- (ii) Notification-II (the Framing of Regulations of the Local Planning Area of the Bengaluru-Mysuru Infrastructure Corridor Area Planning Authority (BMICAPA) (Amendment) Regulations, 2025);  
and
- (iii) Notification-III (the Framing of Zonal Regulations of the Local Planning Areas of Planning Authorities within the Bengaluru Metropolitan Region (Amendment) Regulations, 2025).

The State Government, in exercise of its powers under Section 13-E of the KTCP Act, made the following amendments to the zonal regulations effective from 25.02.2025:

- (i) by Notification-I, Chapter 11 was inserted in the Zonal Regulations of the approved Revised Master Plan-2015 of the Local Planning Area of Bengaluru;
- (ii) by Notification-II, Section 5 was inserted in the Zonal Regulations of the approved Master Plan of the BMICAPA; and
- (iii) by Notification-III, a new chapter (titled 'Premium F.A.R Granted by Levy of Premium Charges') was inserted in

the Zonal Regulations of the approved Master Plans of the local planning areas of Anekal, Kanakapura, Ramanagara, Channapatna, Magadi, Nelamangala, Bengaluru International Airport Area and Hosakote.

These notifications are substantively similar in their effect.

39. The relevant extract of Chapter 11 of the Zonal Regulations of the approved Revised Master Plan-2015 of the Local Planning Area of Bengaluru, as inserted vide the impugned notification (Notification-I dated 02.04.2025) reads as under:

**“CHAPTER-11: PREMIUM F.A.R GRANTED BY LEVY OF PREMIUM CHARGES.**

1. The Premium F.A.R by levy of premium charges is the additional FAR granted over and above the ordinarily permissible F.A.R, on the basis of levy of premium charges by the Authority who accords permission for development of building or land under section 15 of the Karnataka Town and Country Planning Act, 1961, and in the areas as specified under regulation 2 below.

2. The maximum additional FAR available for utilization for development of additional area in any property by purchase of Premium FAR shall be not more than the maximum extent given in the table below and only on such roads and areas as given in table below:

Provided that in order to utilize the full extent of the additional FAR, the Premium FAR shall be

utilized along with the DRCs/TDRs issued under section 14B, as per table given below.

**Table No.27**

<b>Areas as defined by the Road Width where Premium FAR may be issued (m)</b>	<b>Maximum permissible additional F.A.R for a property for which Premium F.A.R by levy of charges is granted</b>	<b>Maximum additional F.A.R via Premium F.A.R which may be granted by levy of charges</b>	<b>The additional F.A.R which may be availed using D.R.C/T.D.R along with the Premium FAR</b>
<b>(1)</b>	<b>(2)</b>	<b>(3)</b>	<b>(4)</b>
>9, <=12	0.2	0.2	NIL
>12, <=18	0.4	0.3	0.1
>18	0.6	0.4	0.2

Entries in column (2), (3) and (4) are in multiples of permissible FAR.

NOTE 1: If Premium FAR is used for a property then as per above table the maximum permissible additional FAR shall be as per Col (2) and the said maximum additional F.A.R should be taken subject to maximum limit on Premium F.A.R as per Column (3) and anything more than that should be utilized from the D.R.C/T.D.R.

Note 2: The maximum additional FAR allowed for a given building site shall not be more than 60% of the regular FAR otherwise allowed free of cost. This could be availed either as combination of Premium FAR and TDR/DRC as given in Table

above or purely through purchase of the DRC/TDR.

3. The Premium FAR shall be granted by the Bruhat Bengaluru MahanagaraPalike within its jurisdiction:

Provided that, for the areas beyond BBMP jurisdiction the concerned Local Planning Authority shall be the competent authority to grant the Premium FAR.

4. The Premium F.A.R granted by levy of premium charges, not exceeding limits as specified in Regulation 2, may be allowed at the building site abutting road width of more than 9m.

5. Premium FAR charges, —

(i) The guidance value of the developed site on the same plot and put to same use as intended to be built using Premium FAR, shall be taken as the base value.

(ii) Premium FAR charges shall be 50% of the guidance value of the additional notional sital area:

Provided that Premium FAR charges per square metre of the additional area built shall not be less than 28% of the rate of the Guidance Value per square metre of building site on which building is proposed.

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10. The Premium F.A.R shall not be transferrable and must be utilised only at the building site for which it is issued."

40. As is clear from a perusal of Regulation 2 of Chapter 11, the maximum additional FAR available for utilisation including by purchase of Premium FAR was classified under three slabs based on road width — being 0.2 times the permissible FAR for areas abutting roads of width greater than 9 metres and up to 12 metres; 0.4 times for roads of width greater than 12 metres and up to 18 metres; and 0.6 times for roads of width greater than 18 metres. Out of the said maximum additional FAR, the maximum extent of FAR that could be acquired on payment of Premium Charges was capped at 0.2, 0.3 and 0.4 times, respectively. The balance could be utilised through TDR. Further, Note 1 to the table as set out provided that where Premium FAR was used for a property, the said maximum additional FAR would be subject to the maximum limit of Premium FAR as per Column (3), and anything more than the said limit could be availed only by utilising DRC/TDR. Note 2 capped the total additional FAR for any building site at 60% of the regular FAR, otherwise allowed. Regulation 5 of Chapter 11 prescribed the manner of computation of Premium FAR charges. Regulation 10 of Chapter 11 records that the Premium FAR shall not be transferable and must be utilised only at the building site for which it is issued.

41. Subsequent to the constitution of the Greater Bengaluru Authority [**GBA**] under the Greater Bengaluru Governance Act, 2024, with effect from 24.04.2025, and the consequential constitution of five City Corporations in place of the BBMP, the State Government issued the impugned 2026 second notification dated 05.02.2026 bearing No.UDD 78 MNJ 2024 (E). By the said notification, which was issued in exercise of powers under Section 13-E of the KTCP Act, Regulation 2, Table No. 27, and the footnote thereunder, of Chapter 11 of the Zonal Regulations of the approved RMP-2015 of the Local Planning Area of Bengaluru were substituted. Parallel amendments were made to Section 5 of the Zonal Regulations of the BMICAPA and to the corresponding chapter in the Zonal Regulations of the approved Master Plans of the local planning areas of Anekal, Kanakapura, Ramanagara, Channapatna, Magadi, Nelamangala, Bengaluru International Airport Area, and Hosakote<sup>1</sup>.

42. The effect of the 2026 notification, in substance, is to permit the grant of additional FAR up to 0.6 times of the ordinarily

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<sup>1</sup> These notifications as referred to earlier, are collectively referred to as '**the 2026 notifications**'. We shall, unless the context indicates otherwise, refer to Notification-I (as substituted) as 'the 2026 notification'

permissible FAR in respect of all sites abutting roads having a minimum width of 9 metres — irrespective of the slab in which the road would have hitherto fallen. The differential between the regime under the impugned notifications and the 2026 notifications is illustrated in the tabular statement set out by the petitioner in W.P.No.2807 of 2026, which is reproduced below:

	A	B	C	D
	<b>Road Width</b>	<b>Maximum additional FAR per Impugned Notification</b>	<b>Maximum additional FAR per Impugned Second Notification</b>	<b>Difference (D = B - A)</b>
i.	9m – 12m	0.2	0.6	0.4 (+200% from B)
ii.	12m – 18m	0.4	0.6	0.2 (+50% from B)
iii.	>18m	0.6	0.6	—

43. It is also relevant to note that under the regime introduced by the impugned notifications dated 02.04.2025, the Premium FAR was to be granted by the BBMP within its territorial jurisdiction, and by the concerned Local Planning Authority for areas outside the BBMP jurisdiction. Pursuant to the constitution of the GBA and the

consequential reconstitution of the urban local bodies in the Greater Bengaluru Area, the 2026 notification amended the clause referring to the competent authority to provide that the Premium FAR shall be granted by the respective City Corporations in the Greater Bengaluru Area, within their jurisdiction, and by the concerned Planning Authority outside the Local Planning Area of Greater Bengaluru.

#### **V. IMPUGNED ORDER**

44. By the impugned order dated 05.12.2025, the learned Single Judge dismissed W.P.No.11201 of 2025 along with W.P.No.6347 of 2025. The learned Single Judge examined the relevant provisions of the KTCP Act, the KPA Rules and the impugned notifications, and the principal contentions advanced by the petitioners.

45. The learned Single Judge observed that, by way of the introduction of TDR, a person who surrenders land can, instead of monetary compensation, request for allotment of TDR, by which he can either put up additional construction on the notified area or sell the same in favour of third parties for consideration; the said third parties, in turn, can utilise the TDR for additional construction in a notified area over and above what is permitted by the existing FAR.

By virtue of the introduction of Section 18-B of the KTCP Act, the State has permitted a person to pay an amount to the State and obtain permission to put up additional construction on a land over and above the permitted FAR.

46. The learned Single Judge observed that both Premium FAR and TDR are intended to permit landowners to put up additional construction over and above the FAR otherwise permitted, on payment of consideration. Whereas, in case of Premium FAR the consideration is paid to the State, in case of TDR it is paid to the person who owns the TDR. The effect of additional construction as permitted by utilization of Premium FAR and TDR is the same. The learned Single Judge held that in the given circumstances the petitioners before the learned Single Judge, cannot urge the ground that Premium FAR is manifestly arbitrary on the basis that it regularises illegal buildings; that the additional built-up area on account of Premium FAR will violate Article 21 of the Constitution of India; or that the amendment introducing Premium FAR is contrary to the object of the KTCP Act.

47. On the question of excessive delegation, the learned Single Judge held that the petitioners have failed to demonstrate how

Section 18-B of the KTCP Act suffers from excessive delegation; that prescribing the details pertaining to Premium FAR is best left to the executive depending upon the situation; and that the delegated legislation is not excessive. The impugned notifications cannot be construed as contrary to Section 14-B of the KTCP Act. The said notifications are passed in furtherance of Section 18-B, and the provisions of Sections 14-B and 18-B have to be harmoniously construed. The learned Single Judge also rejected the contentions regarding the retrospective operation of the impugned notifications or the alleged inconsistency between the rate of Premium Charges prescribed in Rule 37-E and in the impugned notifications on the one hand, and Section 18-B of the KTCP Act on the other. Additionally, the court also rejected the contention that the issuance of the impugned notifications suffered procedural infirmities.

48. On the question of the alleged adverse effect of Premium FAR on the holders of TDR, the learned Single Judge observed that the introduction of Premium FAR may have the effect of reducing the value of TDR held by such persons; however, it is not in dispute that for a person owning a bigger site, the maximum additional FAR (as per the impugned amendment and the impugned notifications)

can be achieved only by utilising TDR. It is not possible for a person to achieve the maximum additional FAR merely by using Premium FAR. The learned Single Judge further observed that any person wanting to commercially exploit a piece of land in a city like Bengaluru, in the usual course of business practice, would put up a construction by utilising the maximum permissible FAR, and the same can, in such a case, be done only by purchasing TDR from private individuals.

49. On the basis of the said reasoning, the learned Single Judge concluded that the State's policy cannot be said to violate the petitioners' rights under Article 300A of the Constitution of India, nor can the impugned amendment and the impugned notifications regarding Premium FAR be considered arbitrary and unreasonable. The learned Single Judge also observed that the concept of Premium FAR is prevalent in cities such as Mumbai and Ahmedabad outside Karnataka.

50. The impugned order, insofar as it pertains to W.P.No.11201 of 2025, is assailed by the appellant in the present appeal.

## **VI. SUBMISSIONS OF THE PARTIES**

51. Mr. V.Srinivasan Raghavan, learned Senior Advocate, advanced submissions on behalf of the appellant in W.A.No.1983 of 2025; Dr. Harish Narasappa, learned Senior Advocate advanced submissions on behalf of the petitioners in W.P.No.14959 of 2020; Ms.K.Nitya, learned counsel advanced submissions on behalf of the petitioner in W.P No.2807 of 2026 and the learned Advocate General countered the submissions on behalf of the State.

52. The submissions advanced on behalf of the appellant and the petitioners were broadly on similar lines. However, Dr Narasappa also advanced submissions assailing the provisions of Section 38-D of the BDA Act.

53. The arguments advanced on behalf of the appellant and the petitioners are summarised hereafter.

54. It is contended that Premium FAR has an adverse effect on TDR holders in as much as it denudes the value of TDRs. Thus, the introduction of the Premium FAR scheme violates Article 300A of the Constitution of India. In **Kukreja Construction Co. v. State of**

**Maharashtra**<sup>2</sup>, the Supreme Court had recognised TDR as compensation for the acquisition of land, and therefore, this property was protected under Article 300A of the Constitution of India. He contended that the State had an obligation to ensure that the use of TDR is not impeded in any manner and that its value is realised to the fullest extent. The counsel further contended that the Premium Charges, the value of which Premium FAR was offered under the impugned notifications, are in the nature of predatory pricing. The value of TDR is equivalent to the value of the notional physical land. The transfer of TDR also entails the associated cost of stamp duty and registration fee. It was submitted that, in addition, the buyer would also incur costs for conducting due diligence and other attendant costs associated with the sale and purchase of immovable property. However, as far as Premium FAR is concerned, it would be available at 28% to 50% of the land's guidance value, without any associated stamp duty or registration costs. The learned counsel submitted that no builder would purchase TDR if he could acquire Premium FAR at fraction of its value.

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<sup>2</sup> 2024 SCC Online SC 2547

55. Second, the counsel contended that there was no specified ratio for a combined usage of TDR with Premium FAR, and thus, there was no obligation on the part of the person purchasing Premium FAR to purchase TDR as well. He submitted that, out of the permissible additional 0.6 FAR, the developer could acquire 0.4 FAR by payment of Premium Charges. There would be no requirement for him to purchase any TDR if he is satisfied with the additional 0.4 FAR. He submitted that the restriction excludes the use of Premium FAR for developing plots abutting roads with a width greater than 9 metres and up to 12 metres, but that would offer little relief to the TDR owners, as most construction is permissible only on plots exceeding 360 sq. mtrs. Thus, the primary demand of FAR would be for the real estate developments on roads wider than 12 metres.

56. Third, they contended that providing Premium FAR within the additional FAR reserved for TDR (0.6 times the base FAR) is contrary to Section 14-B of the KTCP Act, which permits loading of TDRs on recipient plots to the extent of 0.6 times the base FAR.

57. Fourth, it was contended that Chapter IV of the Zonal Regulations provide for different FARs for different zones based on

the activities undertaken, the land use, the size of the plot, and the width of the road. However, the impugned notification completely overlooks the rationale for providing different FARs for different zones. Thus, the introduction of Premium FAR is manifestly arbitrary and violates the Zonal Regulations.

58. Next, it was contended that the Premium charges as provided in the impugned notifications are contrary to Rule 37-E of the Rules. The learned Senior counsel contended that under Section 18-B of the KTCP Act, the Premium Charges are to be levied at not less than 50% of the estimated increase in value of the land and building. However, under the impugned rule, the Premium Charges must be at least 50% of the guidance value of the additional (notional) sital area. The impugned notification also provides a different value.

59. The learned counsel also contended that the impugned notification was not published as required under the KTCP Act and was therefore liable to be set aside on that ground. It was contended that the impugned notification operates retrospectively, which is not permissible.

60. Mr. V.Srinivasan Raghavan, learned Senior Counsel, submitted that the concept of Premium FAR was contrary to the object of the KTCP Act, which is the planned growth, land use, and development. He submitted that the purpose of introducing Premium FAR is not to promote planned growth or development, but merely to generate revenue. He contended that the impugned section and the notifications are without application of mind and not based on any scientific principle or basis.

61. He contended that the Premium FAR violates Article 21 of the Constitution of India, as it would lead to the mushrooming of high-rise construction across the city, worsening existing traffic congestion and straining water supply and utilities. He contended that such development would affect air quality, block light, and deteriorate overall civic life in Bengaluru. He also referred to the decisions of the Supreme Court in **Hindustan Construction Company v. Union of India**<sup>3</sup>, **K.R Lakshmanan v. State of Tamil Nadu**<sup>4</sup>, **Noel Harper v. Union of India**<sup>5</sup>, **Bangalore International Airport Planning Area Authority v. Birla Super Bulk Terminal &**

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<sup>3</sup> (2020) 17 SCC 324

<sup>4</sup> (1996) 2 SCC 226

<sup>5</sup> (2023) 3 SCC 544

**Others<sup>6</sup> and Consumer Action Group v. State of Tamil Nadu<sup>7</sup>** in support of his contentions.

62. Dr. Harish Narasappa contended that Section 18-B of the KTCP Act violates Article 14 of the Constitution of India as it is based solely on the financial capacity of a person to purchase additional FAR without any rational nexus with the object of the KTCP Act. He contended that the said section failed to further the object of the KTCP Act and, therefore, it is also liable to be set aside as manifestly arbitrary. He submitted that the KTCP Act fails to identify the authority competent to grant FAR and is therefore unconstitutional.

63. Next, he submitted that Section 18-B of the KTCP Act, read with Rule 37-E, constitutes excessive and unconstitutional delegation of powers, as it delegates an essential legislative function. He submitted that Section 18-B does not lay down any policy or guidelines for the grant of Premium FAR. It also does not identify planning considerations, conditions for the grant of Premium FAR, or the quantum of additional FAR that could be permitted. He

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<sup>6</sup> (2018) 13 SCR 635

<sup>7</sup> (2006) 4 CTC 483

submitted that these essential aspects of legislative policy are sought to be delegated. He submitted that Section 18-B of the KTCP Act effectively substituted the *Akrama Sakrama* scheme, introduced by virtue of Section 76-FF of the KTCP Act. He submitted that the said scheme had been stayed by the Supreme Court by orders passed in SLP (C) Nos. 11077-78/2017. However, the Premium FAR scheme had indirectly sought to reintroduce a scheme under which excessive construction could be regularised by purchase of Premium FAR.

64. He submitted Section 38-D of the BDA Act, Section 18-B of KTCP Act and Rule 37-E of the Rules violates Article 21 of the Constitution of India as they would lead to increase in unauthorised and unplanned constructions. He relied on the decision of the Supreme Court in **Friends Colony Development Committee v. State of Orissa**<sup>8</sup>. On the strength of the said decision, he submitted that illegal and unauthorised constructions pose a serious threat to ecology and environment and cause unbearable burden on infrastructure, including water supply, sewerage and traffic movement.

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<sup>8</sup> (2004) 8 SCC 733

65. Next, he submitted Rule 37-E of the Rules and the impugned notifications had been issued without the involvement of the Bengaluru Metropolitan Planning Committee [**BMPC**] and, therefore, are violative of Article 243ZE of the Constitution of India.

66. Ms K.Nitya, learned counsel, submitted that Section 18-B of the KTCP Act, the impugned notification and the 2026 notifications are manifestly arbitrary as they are not based on any principle of planning. She emphasised that under Section 18-B of the KTCP Act, Premium FAR could be granted only in areas identified by the authorities in the zonal regulations and the master plan. However, no areas were identified in the zonal plans for granting Premium FAR. She also contended that zonal regulations are nearly 20 years old and do not form reliable or accurate foundation for determining the grant of additional FAR. She submitted that the impugned notification and the 2026 notification do not contemplate any mechanism for the provision of services such as public health, sanitation, conservancy, solid waste management and others by the respondents in the areas where Premium FAR is proposed to be granted. She submitted that such an attitude demonstrates a short-sighted and ill-considered proposal for development, which ignores

the network of public infrastructure in the city. She also submitted that the respondent State has failed to formulate and pass a revised master plan and neglected its statutory duties by introducing the Premium FAR scheme. She also submitted that the impugned Premium FAR scheme would indirectly accomplish the same object of the *Akrama Sakrama* scheme, which legitimises any construction in the State of Karnataka on payment of charges.

67. The learned Advocate General appearing for the State countered the aforesaid submissions. He contended that Premium FAR did not create any new or additional development potential beyond what was permissible under the pre-existing regulatory framework. He submitted that additional FAR up to 0.6 times of the base FAR was permissible in Bengaluru since 2004 under Section 14-B of the KTCP Act and Rule 4(4) of the KTCP (Benefit of Development Rights) Rules, 2016. He contended that Section 18B of the KTCP Act was in furtherance of statutory object of KTCP Act and for the purpose of providing for additional vertical development by granting Premium FAR over and above the permissible FAR. He also countered the submission that Section 18-B of KTCP Act violates Article 21 of the Constitution of India. He submitted that the

grant of Premium FAR was neither unconditional nor unregulated, as other norms for construction, including obtaining a sanctioned building plan conforming to the regulations for setback and height restrictions for buildings, as well as parking regulations, are applicable. He submitted that the Premium FAR scheme merely increases the FAR without altering any other regulatory norms. He submitted that FAR norms for Bengaluru were among the lowest for any metropolitan city. Therefore, the only way to accommodate additional space was to develop vertically. He contended that there is sufficient headroom to increase the FAR, which would permit vertical development. He also countered the submission that Section 18-B suffers from any excessive delegation, or that it does not identify the authority to grant Premium FAR. He submitted that Section 18-B of the KTCP Act requires an application for Premium FAR to be made to the Planning Authority under Section 15 of the KTCP Act, which in turn requires the grant of permission by the Planning Authority. He submits that some functions of the planning authority are delegated to the local authority under Section 18-B of the KTCP Act. He submitted that the 2026 notifications designated the City Corporations within the Greater Bengaluru Development as the concerned planning authority.

68. The learned Advocate General also referred to various provisions of the KTCP Act and the Rules in support of his contentions. He submitted that the Premium FAR scheme was in conformity with the KTCP Act and was introduced with the objective of addressing the city's propensity and need for vertical development. He further submitted that the amended framework under the 2026 notification fully accommodates the TDR and provides the structured coexistence of TDR as well as Premium FAR. He also submitted that roads with a width of 9 to 12 metres constitute the bulk of the road network, and Premium FAR is not available for development abutting such roads. He also furnished a tabular statement of the data of roads in Bengaluru, which is set out below:

<b>Sl. No.</b>	<b>Width of Road (m)</b>	<b>Number of Roads</b>
1	9 to 12	85,000
2	12 to 15	7,742
3	15 to 18	1,105
4	18 to 24	4,961
5	24 to 30	5,052
6	30 to 45	1,245
7	Above 45	3,135
	<b>TOTAL</b>	<b>1,08,233</b>

69. He contended that the increase in the Premium FAR is intended to address the needs of the ever-increasing population and the scarcity of land. He contended that there is no violation of Article

243-ZE of the Constitution of India. He submitted that the role of the BMPC was entirely distinct. He submitted that its primary role was the preparation of a draft development plan, which provides a guiding and recommendatory framework that broadly addresses the matters of coordinated spatial planning, sharing of water and natural resources, integrated infrastructure development, and environmental conservation. He submitted that this is fundamentally different from the scope of a statutory master plan approved under the KTCP Act. He also relied on the decision of the Supreme Court in **Bondu Ramaswamy vs. Bangalore Development Authority**<sup>9</sup> in support of his contention. He submitted that Section 13E of the KTCP Act does not provide for any mandatory consultation with the Bengaluru Metropolitan Planning Committee.

70. Lastly, he also countered the submission that Section 38-D of the BDA Act was violative of Article 14 of the Constitution of India. He submitted that Section 38-D of the BDA Act did not reward any illegal occupation, but, enabled the BDA to allot land to specific categories of persons who were in settled possession of the land in question, upon payment of market charges and a regularisation fee.

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<sup>9</sup> (2010) 7 SCC 129

## **VII. REASONS AND CONCLUSIONS**

71. It is apparent from the above that the writ petitioners assail the Premium FAR scheme on several fronts. First, is the challenge to the constitutional validity of the impugned notifications and Section 18-B of the KTCP Act, which was inserted by way of the Karnataka Town and Country Planning (Fourth Amendment) Act, 2020 (Karnataka Act No. 25 of 2020). The said Act received the assent on 16.10.2020 and is deemed to have come into force with effect from 31.07.2020. The challenge is mounted on the ground that:

- (i) it offends Article 300A of the Constitution of India;
- (ii) it is vitiated on account of excessive delegation;
- (iii) it is manifestly arbitrary; and
- (iv) it is inconsistent with Section 14-B of the KTCP Act and the scheme of providing TDRs; and
- (v) it has not been framed in accordance with the prescribed procedure, including as contemplated under Article 243ZE of the Constitution of India.

72. The writ petitioners in Writ Petition No.14959/2020 also assail the constitutional validity of Section 38-D of the BDA Act, inter alia,

on the ground that it is manifestly arbitrary and offends Article 14 of the Constitution of India.

**(A) The Premium FAR scheme does not violate Article 300A of the Constitution**

73. As noted above, the appellant in Writ Appeal No.1983/2025 seeks to impugn the Premium FAR scheme (as introduced by virtue of Section 18-B of the KTCP Act read with Rule 37-E of the Rules) and the 2026 notification on the ground that it violates Article 300A of the Constitution of India. The submission is based on the premise that the Premium FAR erodes the value of the TDRs granted to the appellant. According to the appellant, this amounts to a deprivation of his rights without authority of law.

74. We may note that the appellant owned land measuring 432.62 sq. mtrs. in Survey No.3/5, Venkateshpura Village, Yelahanka Hobli, Bengaluru North Taluk, which was acquired by the BBMP for the purpose of widening of Kogilu-Sampigehalli Main Road, in terms of Notification No. UDD/154/BEM/RUPRA/2004 dated 18.01.2005. The appellant opted to receive compensation in the form of TDRs (notional land) under Section 14-B of the KTCP Act. The appellant claims that the value of TDRs stands significantly eroded by the

introduction of the Premium FAR scheme. According to the appellant, the erosion in the value that TDRs can fetch in the market is due to the price of Premium FAR and the ease with which it can be acquired and loaded. It is contended that the Premium FAR is available at a value significantly lower than that of the TDRs. Further, the attendant costs, including stamp duty payable on the transfer of TDRs, make it more convenient to use Premium FAR rather than TDR.

75. It is contended that whereas the cost of TDR is equivalent to the value of the land acquired or surrendered by the land owner, the premium charges for Premium FAR are significantly less than the value of the land – they are a fraction of the value of the notional land that would be required for developing built-up space by acquiring the Premium FAR. The Premium Charges range from 28% to 50% of the said value. According to the appellant, this places TDR owners in a significantly disadvantageous position.

76. We may note that Section 18-B of the KTCP Act provides that the Premium Charges for Premium FAR shall not be less than 50% of the estimated increase in the value of land and building on which the Premium FAR are loaded. Thus, the Premium Charges are

determined at 50% of the notional land, which is commensurate with the incremental portion of the Premium FAR. However, under Section 14-B of the KTCP Act, read with Rule 4 of the Karnataka Town and Country Planning (Benefit of Development Rights) Rules, 2016, the 'Notional Land' represented by the TDR is twice the area of the land surrendered by the landowner or acquired for a public purpose. Thus, in terms of value, the TDR represents broadly twice the value of the land surrendered. If the value of the land acquired/surrendered by the land owner against which TDRs are granted is assumed to be of a similar value as the land on which Premium FARs are loaded (or the recipient's plots where the TDR are loaded), the price at which the owner/ developer of the recipients plot acquires the incremental FAR would be similar to the value of the required TDR. This is considering that the notional land (TDR) is equivalent to twice the acquired land. However, there is no dispute that the transfer of TDRs would attract stamp duty and other attendant charges, including the costs incurred by the purchaser in verifying the seller's title to the TDRs.

77. Mr. V. Srinivasan Raghavan advanced extensive submissions to persuade this court to accept that the pricing of Premium FAR

under the Premium FAR scheme is significantly lower than the value of the TDRs. He also contended that the TDRs are granted *in lieu* of compensation payable under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 [**2013 Act**]. Thus, if the landowner had opted to receive compensation under the 2013 Act, he would have received not only the market value of the land acquired but also additional compensation and solatium, which would broadly be twice the value of the land acquired. It is thus argued that although the quantum of TDR is twice the FAR available on surrendered/acquired land, it would be erroneous to equate it to 50% of the incremental value of the land, which is the minimum Premium Charge payable to acquiring Premium FAR.

78. Although the learned AG contested the said contention, in our view, it would be apposite to proceed on the basis that the Premium Charges payable for Premium FAR would be lower than the cost of the TDRs. This is apparent as the cost of the TDRs must be assumed as equivalent to the compensation under the 2013 Act, which the landowner could have opted to receive in lieu of accepting TDRs.

79. Having stated the above, we are unable to accept that providing additional FAR on payment of premium charges, which may be relatively lower than the costs of acquiring TDR, would offend Article 300A of the Constitution of India. The appellant's challenge on the same being violative of Article 300A of the Constitution of India is founded on an erroneous assumption that the Premium FAR scheme is expropriatory or amounts to depriving the TDR holders of their property. The assumption that Article 300A of the Constitution of India guarantees property owners that the market value of their property will be sustained is ill-founded. The assumption that Article 300A of the Constitution insulates property owners from the effect of policy changes or other economic or market forces is equally erroneous.

80. Article 300A of the Constitution of India was inserted by the Constitution (44<sup>th</sup> Amendment) Act 1978. The same is set out below:

**300-A. Persons not to be deprived of property save by authority of law.**—No person shall be deprived of his property save by authority of law.

81. Prior to the insertion of Article 300A, the right not to be deprived of property without authority of law as was contained in clause (1) of Article 31 of the Constitution of India. Whilst by virtue

of the 44<sup>th</sup> amendment, clause (1) of Article 31 was transposed as Article 300A, clause (2) was deleted. Article 19(1)(f), which guaranteed the right to property as a fundamental right, was also deleted.

82. Article 300A is a constitutional guarantee against deprivation of property by an executive fiat or by any means other than by law. The right to property cannot be curtailed or abridged by the State, except by law. The expression 'deprived' connotes an action in the nature of expropriation, which may be in the form of confiscation of property, acquisition of property, or curtailment of rights, amongst others. Absent any element of expropriation or deprivation, Article 300A of the Constitution of India is not attracted.

83. The policy decision of the executive that results in fluctuation of the values of property (immovable or otherwise) would not render the policy as violative of Article 300A of the Constitution of India. Almost all decisions relating to fiscal and economic policy affect the value of assets held by citizens. However, these decisions cannot be challenged as violative of Article 300A of the Constitution of India, as by their nature they do not expropriate or deprive the citizens of their property.

84. The assumption that values of properties are preserved under Article 300A of the Constitution is plainly erroneous. We may, illustratively, refer to a policy in which the State decides to address the scarcity of land for residential purposes in urban areas by expanding city limits and permitting conversion of the land for residential or commercial use. The State may also expand the network of urban transport and roads to address the commuting needs of residents of areas so included. This may reduce the market value of residential land due to additional supply. If we accept the contention that it is incumbent on the State to preserve values of properties, such an action of the State would also be vulnerable to a challenge on the ground of violating Article 300A of the Constitution of India. Plainly, this is not the import of the constitutional guarantee under Article 300A of the Constitution.

85. Article 300A of the Constitution of India does not apply if the deprivation of property is by virtue of law. Thus, the challenge on the ground that such deprivation of property falls foul of Article 300A of the Constitution would have to rest on the basis that the law in question is not valid. It is obvious that the validity of such a law would necessarily have to be tested on the anvil of other provisions

of the Constitution. In the present case, the challenge to the Premium FAR scheme is raised on the ground that it violates Articles 14 and 21 of the Constitution of India and is also inconsistent with the provisions of the KTCP Act. Thus, the validity of the Premium FAR scheme would necessarily have to be tested on the anvil of those grounds.

86. We are also not persuaded to accept that the Premium FAR scheme renders TDRs “nugatory” as contended on behalf of the appellant. The 2026 notification clearly indicates that Premium FAR is not available for plots or developments abutting roads with a width of 9 mtrs or greater but less than 12 metres. On plots abutting such roads, the additional FAR of 0.6 times the base FAR is available only by loading TDRs, which the developers/ owners of the recipient plot would have to acquire from TDR holders. Although it is argued on behalf of the appellant and the petitioners that the same is illusory, as there would hardly be any demand from takers of such narrow roads, that contention is contested by the respondents. We do not think it would be apposite for this Court to examine the question as to what would be the demand for TDRs from plot owners/developers for developing plots abutting such roads.

However, even if this Court were to consider the same, there is no empirical data to support the contention that there is no demand for TDRs, as claimed by the appellant and writ petitioners.

87. The learned Advocate General has produced a tabular statement setting out the data regarding the roads, which was not disputed. In terms of the said data, 85,000 out of 1,08,240 (wrongly mentioned as 1,08,233 in the affidavit dated 23.02.2026 and written submissions dated 22.04.2026 filed by the Government Advocate for the respondents) fall within the category of roads having width of greater than 9 metres and less than or equal to 12 metres. Given the scarcity of land and demand for urban space in Bengaluru, it is difficult to accept that there will be no demand for TDRs to raise construction abutting these roads. Additionally, the maximum Premium FAR that can be loaded on plots abutting roads wider than 12 metres is restricted to 0.4 times the base FAR. The balance of 0.2 times the base FAR can be utilised only by loading TDRs. Thus, if any landowner or developer desires to use the additional FAR to the maximum extent of 0.6 times the base FAR, he would necessarily have to acquire TDRs for a minimum of 0.2 times the base FAR. In the given circumstances, it is difficult to accept that a

reduction in demand for TDR, on account of the introduction of the Premium FAR scheme, would completely denude it of its value. The arguments advanced by the appellant and writ petitioners in this regard are not based on any empirical data. At any rate, none has been furnished to this Court.

88. In view of the above, we reject the contention that the Premium FAR scheme violates Article 300A of the Constitution of India for the reason that it may result in lowering the market value of TDRs.

89. It is also important to note that no landowner whose land is acquired or surrendered is compelled to accept TDRs as compensation for such acquisition by the State. The landowner is always free to accept fair compensation under the 2013 Act. The learned Advocate General, during the arguments at the stage of interim orders and during the course of final arguments, made an unequivocal statement that it is open for the appellant to accept the compensation under the 2013 Act even at this stage, as the TDR certificates have not been issued. The learned Senior Counsel appearing for the appellant rejected this offer outrightly.

90. We are unable to accept that, in the given circumstances, the appellant could raise any legitimate grievance that the introduction of Premium FAR is expropriatory and deprives the appellant of his property without the authority of law.

**(B) Section 18-B of the KTCP Act does not suffer from the vice of Excessive Delegation**

91. Section 18-B of the KTCP Act is assailed on the ground that it seeks to delegate essential legislative function and, therefore, is invalid. First, this contention is premised on the basis that although Section 18-B of the KTCP Act provides for grant of Premium FAR, it neither indicates a structure nor the manner or the extent to which such Premium FARs could be granted. Second, that it does not identify the authority which will issue Premium FAR.

92. Dr. Harish Narasappa contended that, read in isolation, Section 18-B of the KTCP Act is inchoate and was incapable of being implemented without reference to Rule 37-E of the Rules and the 2026 notifications. He also referred to the decision of the Supreme Court in **Sidhartha Sarawgi v. Board of Trustees for Port of Kolkata**<sup>10</sup> and on the strength of the said decision

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<sup>10</sup> (2014) 16 SCC 248

contended that legislation cannot delegate essential legislative function. He submitted that Section 18-B does not identify any area, planning considerations, the necessary conditions that must be satisfied for acquiring Premium FAR, or the quantum of additional FAR that can be granted. It delegates the task of making legislation on these essential aspects to the concerned authorities.

93. There is no cavil with the proposition that essential legislative functions cannot be delegated. However, if the legislative policy is clearly spelt out by the plenary enactment, the manner in which the policy can be given effect to, can be delegated.

94. In re **Delhi Laws Act, 1912**<sup>11</sup>, Mukherjea J. explained the essential legislative function, which could not be delegated, in the following words:

"The essential legislative function consists in the determination or choosing of the legislative policy and of formally enacting that policy into a binding rule of conduct. It is open to the legislature to formulate the policy as broadly and with as little or as much details as it thinks proper and it may delegate the rest of the legislative work to a subordinate authority who will work out the details within the framework of that policy."

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<sup>11</sup>(1951) SCR 747

95. In **Harishankar Bagla v. State of Madhya Pradesh**<sup>12</sup>, the Supreme Court considered the question of excessive delegation in the context of the provisions of the Essential Supplies (Temporary Powers) Act, 1946. Section 3 of the said Act delegated the powers to make Rules to the Central Government. Sub-section (1) of Section 3 of the said Act empowered the Central Government to make an order for regulating or prohibiting the production, supply and distribution, trade and commerce, in any essential commodity. Sub-section (2) Section 3 of the said Act provided that without prejudice to the generality of the powers conferred under Sub-section (1), the order *inter alia*, may provide for licences or permits or otherwise regulate the production or manufacture or transport, distribution, disposal, acquisition, use or consumption of the essential commodity. Section 6 of the Act provided that any order made under Section 3 by the Central Government would have an effect notwithstanding any other law other than the said Act. In exercise of the said powers, the Central Government issued the Cotton Textiles (Control of Movement) Order, 1948. In that context, the question arose whether this power, to override other enactments, could be delegated.

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<sup>12</sup>(1955) 1 SCR 380

96. It was argued that a power which abrogates or repeals any other enactment is an essential legislative function and thus could not be delegated. Mahajan, C.J., speaking for the majority, rejected the said contention and held that "an order passed under Section 3 of the enactment in question did not repeal or abrogate any law. However, during the continuance of the order made under Section 3, the other laws "do not operate in that field for the time being". The Constitution Bench of the Supreme Court upheld the provision providing that delegated legislation may temporarily suspend other enactments. The court rejected the argument that Section 3 of the Essential Supplies (Temporary Powers) Act, 1946, suffered from the vice of excessive delegation of legislative powers. The court held that the power conferred was not unbridled or unguided, as the Act in question set down the legislative principle for enacting the order for the purpose of "maintaining or increasing supplies of any essential commodity" and "securing their equitable distribution and availability at fair prices". The court held that the said principles provided sufficient guidance to the Central Government to exercise its powers under Section 3 of the Act.

97. We also consider it apposite to refer to the decision in the case of **Haniraj L. Chulani v. Bar Council of Maharashtra and Goa**<sup>13</sup>. The case concerned a challenge to the State Bar Council's powers to control a person's entry into and progress in the profession. Sub-section (1) of Section 24 of the Advocate's Act, 1961 contains provisions regarding persons who may be admitted as advocates on a State Roll. The said section also refers to conditions that may be specified by the Rules made by the State Bar Councils under Chapter III, which deals with the "Admission and Enrolment of Advocates". Sub-section (2) of Section 28 of the Act empowers the State Bar Councils to make rules for carrying out the purposes of the Act, which may also provide for conditions subject to which a person may be admitted as an Advocate. In this context, the Supreme court observed as under:

"Even though the aforesaid rule-making power is couched in wide terms the said power entrusted to the State Bar Council cannot be said to be unfettered or unhedged. The said rule-making power draws its sustenance from the guidelines laid down by the Act itself which entrusts the duty to the State Bar Council concerned to regulate entry to the legal profession which has the aforesaid well established connotations and attributes. The Bar Councils concerned are entrusted by the legislature itself with the aforesaid rule-making power enabling them to determine the

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<sup>13</sup>(1996) 3 SCC 342

requirements of the State Courts concerned where the new entrants have to practise and to lay down appropriate conditions regulating such entries. As the power to make rules is entrusted by legislature to the chosen representatives of legal practitioners themselves who would be alive to the requirements of the State concerned where the Bar Council functions and the needs of the litigating public residing in the State in the light of the set-up of courts in the States concerned, it cannot be said that the power is in any way unfettered or uncanalised so as to amount to total effacement of legislative control. Sufficient guidelines are laid down by the legislature itself while conferring such powers on the State Bar Councils. The guidelines flow from the nature of the profession to which admissions are to be given, the selection of the chosen representatives of the profession to be the recipients of such power and the requirements of the statute itself laying down the conditions for regulating the professional conduct of advocates as discernible from various provisions of the Act and the rules framed by a Central Bar Council itself for the guidance of all the State Bar Councils functioning in the country which are entrusted with the task of regulating the conduct of legal profession throughout the country under the supervision and guidance of Central Bar Council. The entire edifice of the Act in this connection has to be kept in view for finding out the relevant guidelines for enlightening the path of State Bar Councils entrusted with the task of framing rules regulating entries of new aspirants who are to be permitted to enter the fold of legal profession."

98. As is apparent from the above, the Supreme Court highlighted an important principle for determining whether the powers conferred by delegated legislation are uncanalised or unguided. For ascertaining the same, it is necessary to look at the provisions of the

plenary enactment as a whole—and not any specific provision—to ascertain whether the same provides sufficient guidance.

99. It is also well settled that conferring an unguided discretion to frame subordinate legislation would amount to abrogation of the essential legislative function, which is impermissible. However, it is also recognised that delegating certain legislative functions is a facet of an effective exercise of legislative powers. This is rooted in the principle that the legislature has all the necessary powers to exercise its legislative functions effectively, which would also entail the power to delegate certain legislative functions. It is recognised that delegated legislation has its own advantages, and in view of the complexity of problems, it is expedient to delegate certain functions. The law is now settled that so long as the plenary enactment provides sufficient guidance to make subordinate legislation and exercises its control over such delegated legislation, the same cannot be struck down as excessive.

100. We do not find any merit in the contention that Section 18B of the KTCP Act must be struck down as it does not provide any guidance as to the extent or the manner in which Premium FAR can be conferred. It is not necessary for a plenary legislation to specify

each parameter. As stated above, if the plenary enactment sets out the legislative policy and provides sufficient guidance for the delegated legislation, the same will not be vulnerable to a challenge on the ground of excessive delegation.

101. We may refer to the decision in the case of **Western India Theatres Limited v. Municipal Corporation of the City of Poona**<sup>14</sup>. In the said case, the provision of the Bombay District Municipal Act, 1901, which conferred powers on the Municipality to levy "*any other tax to the nature and object of which the approval of the Governor-in-council shall have been obtained prior to the selection contemplated in sub-clause (i) of clause (a) of Section 60*", was assailed. It was argued that the essential legislative function to determine the nature of the tax to be imposed was delegated to the municipality, and this was beyond the permissible limits of delegated legislation. The Supreme Court rejected the said contention. The Court observed that under Section 59 of the Bombay District Municipal Act, 1901, the municipality was authorised to impose tax for the purposes of the Act. The same was found to be sufficient

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<sup>14</sup>[(1959) Supplementary 2 SCR 71]

guidance. The Court noted that the challenged provision also laid down the procedure that the municipality had to follow.

102. We must also be guided by the following observations made by the Supreme Court in **Jyoti Pershad v. Administrator for the Union Territory of Delhi**<sup>15</sup> :

“so long as the legislature indicated in the operative provisions of the statute with certainty, the policy and purpose of the enactment, the mere fact that the legislation was skeletal or that very detail of the application of law to a particular case, was not laid down in the enactment itself or the fact that a discretion was left to those entrusted with administering the law, afforded no basis either for the contention that there had been an excessive delegation of legislative power so as to amount to an abdication of its functions, or that the discretion vested was uncanalised and unguided so as to amount to a carte blanche to discriminate”

103. In **Pandit Banarsi Das Bhanot v. State of Madhya Pradesh**<sup>16</sup>, the Supreme Court rejected the contention that delegating the power to fix rates of tax which could be charged in respect of different classes of goods could not be struck down as excessive. The court held that fixing the rates is not an essential

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<sup>15</sup>1962) 2 SCR 125

<sup>16</sup>[(1959) SCR 427

legislative function that cannot be delegated. We may refer to the following extract of the said decision:

“Now the authorities are clear that it is not unconstitutional for the legislature to leave it to the executive to determine details relating to the working of taxation laws, such as the selection of persons on whom the tax is to be laid, the rates at which it is to be charged in respect of different classes of goods, and the like.”

104. However, in a later decision in **Municipal Corporation of Delhi v. Birla Cotton Spg. and Wvg. Mills**<sup>17</sup>, the Supreme Court observed that the observations in **Pandit Banarsi Das'** case (*supra*) seem to be too “broadly stated”. However, the court accepted that rates of taxation could also be “delegated to a subordinate authority with proper guidance and subject to safeguards and limitations in that behalf”.

105. In **Rajnarain Singh v. Chairman, Patna Administration Committee, Patna & Anr.**<sup>18</sup>, the Constitution Bench of the Supreme Court upheld that an executive authority could be empowered to modify the existing or future laws, but not any essential features.

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<sup>17</sup>(1968) 3 SCR 251

<sup>18</sup> (1955) 1 SCR 290

106. We may also refer to the decision in the case of **Corporation of Calcutta v. Liberty Cinema**<sup>19</sup>. In the said case, one of the questions considered by the Supreme Court was a challenge to Section 548 of the Calcutta Municipal Act, 1951. The said section empowered the Municipal Corporation to charge a licence fee at such rate as may be fixed from time to time by the Corporation. Whilst the respondents argued that the levy was a fee and therefore should be commensurate with the services rendered, the Municipal Corporation contended that the levy was a tax and the element of *quid pro quo* was not essential. In view of the Corporation's contention, the Supreme Court also considered the challenge whether delegating the power to levy tax at such rates as may be determined, suffers from the vice of excessive delegation—that is, delegating essential legislative functions—and observed as under:

"26. No doubt when the power to fix rates of taxes is left to another body, the legislature must provide guidance for such fixation. The question then is, was such guidance provided in the Act? We first wish to observe that the validity of the guidance cannot be tested by a rigid uniform rule; that must depend on the object of the Act giving power to fix the rate. It is said that the delegation of power to fix rates of taxes authorised for meeting the needs of the delegate to be valid, must provide the maximum rate that can be fixed, or lay down rules indicating that maximum. We are unable to see

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<sup>19</sup>(1964) SCC OnLine SC 65

how the specification of the maximum rate supplies any guidance as to how the amount of the tax which no doubt has to be below the maximum, is to be fixed. Provision for such maximum only sets out a limit of the rate to be imposed and a limit is only a limit and not a guidance.

27. It seems to us that there are various decisions of this Court which support the proposition that for a statutory provision for raising revenue for the purposes of the delegates, as the section now under consideration is, the needs of the taxing body for carrying out its functions under the statute for which alone the taxing power was conferred on it, may afford sufficient guidance to make the power to fix the rate of tax valid. We proceed now to refer to these cases.

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31. The portion in the judgment in *Bhana Mal Gulzari Mal* [(1960) 2 SCR 627] case quoted in the preceding paragraph will show that the validity of the guidance required to make delegation of power good cannot be judged by a stereo-typed rule. With respect, we entirely agree with this view. The guidance furnished must be held to be good if it leads to the achievement of the object of the statute which delegated the power. The validity of the power to fix rates of taxes delegated to the Corporation by Section 548 of the Act must be judged by the same standard. Now there is no dispute that all taxes, including the one under this section, can be collected and used by the Corporation only for discharging its functions under the Act. The Corporation, subject to certain controls with which we are not concerned, is an autonomous body. It has to perform various statutory functions. It is often given power to decide when and in what manner the functions are to be performed. For all this it needs money and its needs will vary from time to time with the prevailing exigencies. Its power to collect tax, however, is necessarily limited by the expenses required to discharge those functions. It has, therefore, where rates have not been specified in

the statute, to fix such rates as may be necessary to meet its needs. That, we think, would be sufficient guidance to make the exercise of its power to fix the rates valid. The case is as if the statute had required the Corporation to perform duties A, B & C and given power to levy taxes to meet the costs to be incurred for the discharge of these duties and then said that, "provided, however, that the rates of the taxes shall be such as would bring into the Corporation's hands the amount necessary to defray the costs of discharging the duties". We should suppose, this would have been a valid guidance. We think the Act in the present case impliedly provides the same guidance : see Section 127(3) & (4). It would be impracticable to insist on a more rigid guidance. In the case of a self-governing body with taxing powers, a large amount of flexibility in the guidance to be provided for the exercise of that power must exist. It is hardly necessary to point out that, as in the cases under Essential Supplies (Temporary Powers) Act, 1946, so in the case of a big municipality like that of Calcutta, its needs would depend on various and changing circumstances. There are epidemics, influx of refugees, labour strikes, new amenities to be provided for, such as hospitals, schools—and various other such things may be mentioned,—which make it necessary for a colossal municipal Corporation like that of Calcutta to have a large amount of flexibility in its taxing powers. These considerations lead us to the view that Section 548 is valid legislation. There is sufficient guidance in the Act as to how the rate of the levy is to be fixed."

107. Lastly, in this regard, we may refer to the decision in the case of **Devi Das Gopal Krishnan v. State of Punjab**<sup>20</sup> wherein the Supreme Court observed as under:

“The Constitution confers a power and imposes a duty on the legislature to make laws. The essential legislative function is the determination of the legislative policy and its formulation as a rule of conduct. Obviously it cannot abdicate its functions in favour of another. But in view of the multifarious activities of a welfare State, it cannot presumably work out all the details to suit the varying aspects of a complex situation. It must necessarily delegate the working out of details to the executive or any other agency. But there is danger inherent in such a process of delegation. An over-burdened legislature or one controlled by a powerful executive may unduly overstep the limits of delegation. It may not lay down any policy at all; it may declare its policy in vague and general terms; it may not set down any standard for the guidance of the executive; it may confer an arbitrary power on the executive to change or modify the policy laid down by it without reserving for itself any control over subordinate legislation. This self effacement of legislative power in favour of another agency either in whole or in part is beyond the permissible limits of delegation. It is for a court to hold on a fair, generous and liberal construction of an impugned statute whether the legislature exceeded such limits. But the said liberal construction should not be carried by the courts to the extent of always trying to discover a dormant or latent legislative policy to sustain an arbitrary power conferred on executive authorities. It is the duty of the court to strike down without any hesitation any arbitrary power conferred on the executive by the legislature.

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<sup>20</sup>AIR 1967 SC 1895

108. Bearing the aforesaid in mind, we may now proceed to examine the provisions of Section 18-B of the KTCP Act. Section 18-B is set out below for ready reference:

**18-B. Levy of premium charges for grant of Premium Floor Area Ratio.**- (1) The Authority may grant permission for premium floor area ratio in the areas identified for the purpose in the Zonal regulations of the master plan.

(2) Where an application is made for grant of permission for utilization of premium floor area ratio for the development of a building under section 15, the Authority may levy premium charges, at such rate, not less than fifty percent of the estimated increase in value of land and building as may be prescribed by the Government from time to time, for grant of premium floor area ratio, not exceeding the limits as specified in the zonal regulations of the master plan.

Explanation: For the purpose of this section, "premium floor area ratio" means additional floor area ratio permitted over and above the ordinary permissible floor area ratio."

109. Sub-section (1) of Section 18-B of KTCP Act enables an authority to grant permission for Premium FAR in areas identified for the purpose in the Zonal regulations of the master plan. Plainly, this is an enabling provision for providing Premium FAR in Zonal Regulations. Section 9 of the KTCP Act provides for the preparation of a master plan by a planning authority, and Section 12 provides for its contents. This includes zoning of land use for residential,

commercial, industrial, agricultural, recreational, educational and other purposes together with the zoning regulations. There is no dispute that parameters such as the building height, setbacks, and FAR must be specified in the zonal regulations. Viewed in this perspective, Section 18-B of the KTCP Act merely permits the grant of additional FAR in the areas identified in the Zonal Regulations.

110. Sub-section (2) of Section 18B authorises the levy of Premium Charges for the grant of Premium FAR. It also provides that such charges shall not be less than 50% of the estimated increase in the value of land and buildings as may be prescribed for the grant of Premium FAR, not exceeding the limits as may be prescribed in the Zonal Regulations. It is worth noting that the KTCP Act does not incorporate the building by-laws or other development parameters. However, it enables the framing of the master plan, including the Zonal Regulations. This is in conformity with the object of the KTCP Act, which is to provide for the regulation of land use, planned development and for the execution of town planning schemes. Section 18-B of the KTCP Act is an enabling provision which enables the concerned authorities to provide for additional FAR, subject to the payment of a premium. We are unable to accept

that the said power is unbridled or unguided, as additional FAR is necessarily confined to the limits of the Zoning regulations. Section 18-B also specifies that the minimum premium to be charged must be 50% of the incremental value of the land and building.

111. Insofar as the contention that Section 18-B does not specify which authority has to issue Premium FAR and, therefore, Section 18-B of the KTCP Act is liable to be set aside, is also unpersuasive. As rightly pointed out by the learned Advocate General, Section 18-B of the KTCP Act also provides that an application for premium FAR would be made in accordance with Section 15 of the KTCP Act. Section 14(2) and 15(1) of the KTCP Act, read together, contemplate that an application for permission for development is to be made to, and processed by, the Planning Authority. The Planning Authority is defined under Section 2(7) of the KTCP Act as under:

**"(7) 'Planning Authority' means,—**

(a) in the case of— (i) the local planning area comprising the City of Bangalore, the Bangalore Development Authority, and;

(ia) the local planning area comprising any "urban area" defined in the Karnataka Urban Development Authorities Act, 1987, the Urban Development Authority of such urban area;

(b) the heritage area as defined in the Hampi World Heritage Area Management Authority Act, 2002 (hereinafter referred to as heritage area) the Hampi World Heritage Area Management Authority constituted, under that Act

(ii) any other local planning area in respect of which the State Government may deem it expedient to constitute a separate Planning Authority, the Planning Authority constituted under this Act.

(b) in the case of any local planning area in respect of which a Planning Authority is not constituted under this Act, the Town Improvement Board constituted under any law for the time being in force having jurisdiction over such local planning area, and where there is no such Town Improvement Board, the local authority having jurisdiction over such local planning area"

112. The impugned notifications also provide that the corporations shall be the planning authorities for the sanction of plans within their respective jurisdiction.

113. When we view the provisions of Section 18B in the light of the principles as enunciated above, we are unable to accept that the said section suffers from the vice of excessively delegating legislative functions merely because it does not identify any area or person or the extent to which premium FAR may be granted.

**(C) The impugned notifications are not Inconsistent with or violative of Section 18-B of the KTCP Act**

114. The appellant contends that Rule 37-E of the KPA Rules and the impugned notifications are inconsistent with Section 18-B of the KTCP Act. It is contended that the said section provides that Premium FAR would be available only in specified areas identified for the purpose in the Zonal regulations of the master plan. Therefore, it was necessary for the State to identify specified areas in the Zonal regulations. It is pointed out that initially, impact zones were identified under Regulation 3.4(vi) of Chapter 3 of the Zonal Regulations, which was inserted with effect from 29.09.2018 by a notification dated 29.09.2018. However, the said notification was subsequently withdrawn by a notification dated 21.04.2026, which was issued while the present petition was being heard. Regulation 3.4(vi) of the Regulations as inserted by virtue of the Zonal Regulations of Bengaluru of the Revised Master Plan, 2015 (Amendment Regulations), 2018 is set out below:

**“3.4 (vi) Impact Zone Premium FAR.-**

- (i) Means additional FAR permitted by collecting additional fees within the Impact Zone of MRTS/LRT/Peripheral Ring Road projects, as specified in the Karnataka Planning Authority Rules, 1965.

- (ii) Impact Zone as defined in the Karnataka Planning Authority Rules, 1965 shall be entitled to one unit of extra FAR as premium F.A.R over and above the permissible FAR for all permissible uses, irrespective of the FAR applicable for the respective uses in the respective tables, subject to a minimum road width of 12 m.

**{Illustration:** If the existing permissible FAR of a plot is 2, then the Impact Zone Premium FAR would be 1 and the total permissible FAR would become  $2+1 = 3$ .}

- (iii) Impact Zone Premium FAR shall be granted under the regulations with an additional fee as prescribed in the Planning Authority Rules, 1965.
- (iv) Only the area which falls within impact zone shall be eligible for Impact Zone Premium FAR, which may be utilized for the whole extent irrespective of the area falling within the impact zone.
- (v) The Impact Zone Premium FAR shall not be transferrable.
- (vi) Impact Zone Premium FAR shall not be claimed for plots, on which there is construction which has violated the existing Zoning Regulations or Building by-laws.
- (vii) **Procedure for the grant of Impact Zone Premium FAR.**
- a) The applicant shall apply to Planning Authority/Local Authority along with NOC from Bengaluru Metro Rail Corporation Limited (BMRCL) to avail the Impact Zone Premium FAR along Metro corridor and Planning Authority/Local Authority would

scrutinize the proposal with reference to the Zoning Regulations and also with reference to the request for the Impact Zone Premium FAR.

- b) The applicant shall remit the Impact Zone Premium FAR fee by way of demand draft to the Planning Authority/Local Authority and it shall be kept in a separate head of account.
- c) Planning Authority/Local Authority shall maintain independent registers detailing the cases of grant of Impact Zone Premium FAR in the format prescribed in Appendix IX.”

115. The petitioners contended that the said regulations were in conformity with Section 18-B of the KTCP Act. However, the said notification was not acted upon. The said amendment to the Zoning regulations was withdrawn by a Notification dated 21.04.2026. The said notification expressly records that by virtue of Rule 37-E of the KPA Rules inserted by the Karnataka Planning Authority (Amendment) Rules, 2021, the provisions of Regulation 3.4(vi) stood superseded and were rendered inoperative with effect from 16.06.2021.

116. It is apparent that with the issuance of the aforesaid notification, inconsistency between Rule 37-E of the KPA Rules and the impugned notifications, if any stood resolved. The impugned

notifications do not specify any particular area or an impact zone. However, they uniformly makes Premium FAR available on the plots abutting roads with specified widths. Thus, the impugned Premium FAR scheme is applicable to plots (areas) identified with reference to the road width. The state contends that road width is a critical factor in urban development and planning. It is also contended that identifying areas with reference to the roads does not militate against the provisions of Section 18-B of the KTCP Act.

117. The plain language of Section 18-B of the KTCP Act indicates that the State was required to identify areas where Premium FAR could be made available. The objective is to ensure that Premium FAR can be applied to plots falling in areas that could sustain such additional development. The impugned notifications do not specify areas by locality names. However, they uniformly provide that Premium FAR would be available on all plots abutting roads with a specified width. Thus, the impugned notifications clearly identify the areas as plots abutting roads of certain widths. Considering that there is no ambiguity in identifying the plots on which the Premium FAR is available, we find that the requirements of Section 18-B of the KTCP Act are satisfied. As noted above, the width of a road is,

undisputedly, a relevant parameter for considering the extent of development or construction that should be permitted. In this view, we are unable to accept that the impugned notifications run contrary to Section 18-B of the Act.

118. The second facet of the challenge is regarding the manner in which Premium Charges are computed. It was contended that Section 18-B of the KTCP Act expressly stipulates that the premium charges will be “not less than 50% of the estimated increase in the value of land and buildings”. According to the petitioners and the appellant, the charges as fixed in the impugned notifications are based on the guidance value of the additional notional sital area. The proviso to paragraph No.5 of the impugned Notification also provides that the Premium FAR charges per square metre of additional area of building would not be less than 28% of the rate of the guidance value (per square metre) of the building site on which the construction is proposed.

119. We may now refer to the illustration as set out in the impugned Notification, which explains the manner of calculating the Premium charges. The same is set out below:

**Illustration**

<b>Particulars</b>	
Area of the site / Plot where Premium FAR is sought	10000 sq.m
Latest Guidance Value of the Developed site at Plot as per Notification u/s 45B of the Karnataka Stamp Act 1957	Rs.5000 per sq.m
Coverage Allowed on each Floor (say)	50%
Area of Each Floor = Plot Area x 50%	5000 sq.m
Allowable F.A.R	2.5
Allowable total F.A.R area (Permissible F.A.R)	10000x2.5=25000sq.m
Permissible number of floors (25000/5000)	5
No. Of Extra Floors desired by the developer (for illustration purpose)	2
Additional F.A.R Area to be constructed through Premium F.A.R	10000 sq.m
Additional F.A.R Area required as Premium F.A.R (Notional Area)	10000 sq.m/2.5=4000 sq.m
Premium FAR as ratio of the otherwise allowed FAR = 10000/25000 = 40%	0.4
Premium FAR as % age of permissible FAR (this is within allowed limits of Premium FAR as per table in Regulation 2 above)	40%
Value of the Notional Land for additional 10000 sq.m to be constructed using Premium FAR = 4000 x GV of Developed Land	4000 sq.m x 5000 = Rs.2,00,00,000/-
Premium F.A.R charges = 50% of GV of the Notional Land (4000 sq.m)	50% of 2,00,00,000/- Rs.1,00,00,000'-
Per square metre rate of the additional 10000 sq.m built up area = Premium FAR charges @ 50% divided by 10000	1,00,00,000/-/10,000 = Rs.1000 per sq.m

**WA No. 1983 of 2025**  
**C/W WP No. 14959 of 2020**  
**WP No. 2807 of 2026**

Lower Floor Cap for per sq.metre cost of additional 10000 sq.m @ 28% of the GV Rate of the Notional Land	28% of 5000 = Rs.1400 per sq.m
Final Price for additional built up area of 10000 sq.m @ Rs.1400 per sq.m	Rs.1400 per sq.m x 10000 sq.m  Rs.1,40,00,000/-

120. The aforesaid illustration clearly indicates that the increase in the value of land and building is determined on the basis of the guidance value of the additional land (referred to as notional land) which would be required for raising the construction to the extent of a floor area equivalent to the floor area constructed by use of Premium FAR. The illustration indicates that the Premium FAR constitutes 40% of the otherwise permissible FAR on a plot of 10,000 sq. metres, which is assumed as 2.5. This translates to a notional land area of 4,000 sq. metres (40% of 10,000). Thus, 4000 sq metres of additional land would be required to construct 10000 sq metres at an FAR of 2.5. The illustration assumes the guidance value of the said land is equal to ₹2 crore (at ₹5,000/- per sq. metre). Thus, 50% of the notional land value would amount to ₹1 crore, which translates to ₹1,000/- per sq. mtr of additional area that can be built using Premium FAR. However, the minimum charges are required to be not below 28% of the guidance value of the

additional area. Thus, ₹1,400/- is the Premium Charges per sq metre.

121. The petitioners/appellant argue that the said amount does not take into account the value of the construction raised. The same is inconsistent with Section 18-B of the KTCP Act, which stipulates 50% of the incremental value of both the land and building.

122. We find no merit in the said contention. It is well accepted that the value of constructed area, apart from the financial costs, is the cost of construction and the market value of land. It is necessary to bear in mind that a building is a depreciable asset, its value decreases over a period of time. The value of a building is not more than the cost of construction incurred or its replacement value. The replacement value is the value that would be incurred to construct it. Thus, for the purposes of determining the Premium FAR charges, the building value is taken at cost and it is implicit that there would be no increase in the building's value on account of any additional construction. The Premium FAR must be acquired before constructing any additional space. Thus, it is difficult to contemplate that the value or the replacement value of construction would be any different from the cost of actual construction. It is clear that the

incremental value of both the land and the building is captured in the value of the notional land when the area of the notional land is determined based on the incremental construction attributable to Premium FAR.

123. In view of the above, we reject the contention that the impugned notifications or Rule 37-E of the KPA Rules are contrary to Section 18-B of the KTCP Act.

**(D) Rule 37-E of the KPA Rules is not in conflict with the impugned notifications**

124. Rule 37-E of the KPA Rules is challenged on the ground that it is ultra vires the KTCP Act. This is premised on the argument that it is inconsistent with Section 18-B of the KTCP Act, as the Premium Charges are confined to the value of the land, not the building. This challenge is similar to the challenge to the impugned notifications as discussed above. We find no merit in the said challenge for the reasons as are set out above.

125. The impugned notifications are also challenged on the ground that they do not identify “impact zones”. However, Rule 37-E of the KPA Rules refers not only to the impact zone but to *“any other area specified for the purposes of Premium FAR in the Zonal regulations*

*of the approved master plan in force*". The impugned notification introduces Chapter 11 in the Zonal Regulations, whereby the areas where premium FAR is applicable are specified as plots abutting roads of the specified width. Thus, we find no merit in the contention that the impugned notifications are in conflict with 37-E of the KPA Rules.

126. Mr. V. Srinivas Raghavan also contended that Rule 37-E of the KPA Rules disregards the object of the KTCP Act. We find no merit in the said contention as well. The submissions advanced for challenging Rule 37-E of the KPA Rules are also somewhat similar to the challenge to Section 18-B of the KTCP Act. The petitioners and the appellant argue that specifying the additional construction that can be raised on a given plot on the basis of the width of the road cannot be considered as having any nexus with the object of the KTCP Act, which is to provide for a planned development. However, we are not persuaded to accept the said contention. As rightly contended by the learned Advocate General, determining the permissible floor space is one of the key control features of a planned development, and an additional FAR of 0.6 times the base FAR is uniformly stipulated. Plainly, specifying the maximum

construction that can be raised bears a clear nexus with the object of development and addressing the need for additional space.

**(E) Section 18-B of the KTCP Act is not inconsistent with Section 14-B of the KTCP Act and Rule 37-E of the KPA Rules**

127. The appellant and the petitioners also argue that Rule 37-E of the KPA Rules is inconsistent with Section 18B of the KTCP Act. Rule 37-E of the KPA Rules also disregards Section 14-B of the KTCP Act.

128. Section 14-B of the KTCP Act merely provides for the transfer of development rights. Sub-section (13) of Section 14-B of the KTCP Act provides that the TDR may also be transferred for the development of any other area within the local planning area.

129. The challenge raised by the petitioners is in the context of Sub-rule (4) of Rule 4 of the Karnataka Town and Country Planning (Benefit of Development Rights) Rules, 2016, which specifies that the maximum additional floor area based on notional land (TDR) can be utilised in the remaining portion of the original plot, but shall not exceed 0.6 times the ordinarily permissible FAR. Sub-Rule (6) provides that the notional land area (TDR) may be transferred to another plot. However, the additional FAR of the receiving plot shall

not exceed 0.6 times of ordinarily permissible FAR. It is contended that, since the additional FAR by utilising the TDR is 0.6 times the base FAR, there is no scope to absorb any Premium FAR. Thus, any construction raised using Premium FAR would necessarily reduce the permissible additional FAR available through the utilisation of TDRs.

130. We find no merit in the said contention. The 2026 notifications provides that only TDRs can be used for development on plots abutting roads of width equal to or greater than 9 metres but less than 12 metres. In respect of plots abutting roads of width of 12 metres and above, the entire 0.6 times of the base FAR may be utilised only by loading a minimum of Premium FARS and TDRs. Since Rule 4(4) and Rule 4(6) of the TDR Rules only prescribes the maximum additional FAR that may be availed by utilising the TDRs (notional land), there is no inconsistency between the impugned notifications – which enable a mix of TDRs and Premium FAR to be loaded on plots abutting roads of width 12 metres and above – and Section 14-B of the KTCP Act.

131. In view of the above, we reject the contention that there is any inconsistency between Section 14-B of the KTCP Act and Section

18-B of the KTCP Act; Rule 37-E of the KPA Rules; the impugned notifications; or the 2026 notifications. And that the said sections or notification are liable to be set aside on that ground.

**(F) The Premium FAR scheme does not violate Article 21 of the Constitution**

132. It was stoutly contended on behalf of the petitioners that the impugned Premium FAR scheme violates Article 21 of the Constitution of India. The learned counsel referred to the decision in **Friends Colony Development Committee v. State of Orissa**<sup>21</sup>, **Shanti Sports Club v. Union of India**<sup>22</sup> and **Resident's Welfare Association v. State (UT of Chandigarh)**<sup>23</sup> and the decision of the Bombay High Court in **Goa Foundation v. State of Goa**<sup>24</sup> in support of their contention that unplanned growth violates Right to Life under Article 21 of the Constitution of India.

133. In the case of **Friends Colony Development Committee** (supra), the Supreme Court was concerned with the regularisation of construction carried out in violation of the building laws. The

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<sup>21</sup> (2004) 8 SCC 733

<sup>22</sup> (2009) 15 SCC 705

<sup>23</sup> (2023) 8 SCC 643

<sup>24</sup> Judgment dated 13.03.2025 in PIL Writ Petition No.16/2023

relevant extract of the said decision, which was referred to by the learned counsel for the parties, is set out below:

“22. In all developed and developing countries there is emphasis on planned development of cities which is sought to be achieved by zoning, planning and regulating building construction activity. Such planning, though highly complex, is a matter based on scientific research, study and experience leading to rationalization of laws by way of legislative enactments and rules and regulations framed thereunder. Zoning and planning do result in hardship to individual property owners as their freedom to use their property in the way they like, is subjected to regulation and control. The private owners are to some extent prevented from making the most profitable use of their property. But for this reason along the controlling regulations cannot be termed as arbitrary or unreasonable. The private interest stands subordinated to the public good. It can be stated in a way that power to plan development of city and to regulate the building activity therein flows from the police power of the State. The exercise of such governmental power is justified on account of it being reasonably necessary for the public health, safety, morals or general welfare and ecological considerations; though an unnecessary or unreasonable inter-meddling with the private ownership of the property may not be justified.”

134. In **Shanti Sports Club** (*supra*), the Supreme Court once again emphasised the need for planned development of cities and urban areas, and the rigorous enforcement of the master plan,

prepared after careful study of complex issues, scientific research, and rationalisation of law.

135. In **Residents' Welfare Association** (*supra*), the Supreme Court took note of the adverse impact of haphazard urbanisation on the environment. The court also referred to the cover story published in Weekly India Today, "Bengaluru - How to Ruin India's Best City" and observed that the said article depicts the sorry state of affairs of Bengaluru, which was once considered to be one of India's best cities. A "Garden City" that has been ruined on account of haphazard urban development.

136. The decision in the case of **Goa Foundation** (*supra*) also refers to the passage from the decision in **Friends Colony Development Committee** (*supra*).

137. There is no cavil that haphazard development and a failure on the part of the concerned planning authorities to address the need to adequately plan urban spaces would adversely affect the environment and denude the quality of life of persons living in the urban areas. It is necessary for the authorities to rise to the challenge of urbanization as it is estimated that a majority of the country's population would be residing in urban areas by the year

2047. This would place civic infrastructure under immense pressure and failure due to lack of competence in addressing the complex issues of urban development would inevitably have adverse consequences for the environment. As observed by the Supreme Court in **Residents Welfare Association** (supra) as well as other decisions, the adverse effect on the environment on account of unplanned development is acutely evident.

138. Having stated above, we may also note that the scope of judicial review is limited. We cannot undertake a merits review and examine various other measures that could have been taken to address the issue of additional urban space. We cannot supplant our opinion on the question whether the increase in FAR would lead to haphazard development, in place of the concerned authorities. We must confine ourselves to examining the question whether the impugned Premium FAR scheme violates any constitutional or statutory right. Apart from the general arguments that the increase in FAR and urbanisation would have an adverse effect on the quality of life – which the State stoutly disputes – there is no material to establish that an increase in FAR would deprive the residents of their quality of life.

139. It is not disputed that there are several cities in the world, where the permissible FAR is higher. The permissible FAR in Bengaluru is amongst the lowest. According to the State, there is enough headroom to increase FAR. The appellant and the petitioners have been unable to establish that an increase in FAR would be debilitating to the quality of life in the city.

140. We are unable to accept that the increase in FAR violates Article 21 of the Constitution of India.

**(G) The Premium FAR scheme is not akin to the *Akrama Sakrama* scheme**

141. It was contended by the learned counsel appearing for the appellant that the Premium FAR Scheme seeks to reintroduce the *Akrama Sakrama* scheme, which is the subject matter of a challenge pending before the Supreme Court in SLP (C) Nos.11077-11078/2017. It was contended that since the Supreme Court has stayed the said scheme, reintroducing the same under the guise of Premium FAR scheme is impermissible.

142. The *Akrama Sakrama* scheme, introduced under Section 76FF of the KTCP Act, is intended to regularise unauthorised construction. The said section is reproduced below:

**“76 FF. Regularisation of certain development and change of land use.-** (1) Notwithstanding anything contained in this Act, where any land has been developed or change in land use is made in contravention of section 14, 14A, section 15, section 17 or the regulations or in contravention of commencement certificate granted under section 15, the Planning Authority may regularise such development and change of land use made prior to 4 the date of commencement of the Karnataka Town and Country Planning and certain other Laws (Amendment) Act, 2013, subject to such rules as may be prescribed and on payment of the prescribed amount, which may be different for different purposes, but not exceeding the estimated cost of the development.

Provided that the amount so prescribed shall not be less than,-

(i) six percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and rules made thereunder, of the portion of the building built in violation of the provisions referred tabove, if such violation of set back norms and permissible floor area ratio does not exceed twenty five percent;

(ii) eight percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and the rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio exceeds twenty five percent but does not exceed fifty percent:

Provided further that where the portion of the building is built in violation of the provisions referred to above is being used or meant for nonresidential purpose and amount payable for regularization of such portion shall be,-

(a) twenty percent of the market value, determined in accordance with the Karnataka

Stamp Act, 1957 and the rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio does not exceed twelve and a half percent;

(b) thirty five percent of the market value, determined in accordance with the Karnataka Stamp Act, 1957 and the rules made thereunder, of the portion of the building built in violation of the provisions referred to above, if such violation of set back norms and permissible floor area ratio exceeds twelve and a half percent but does not exceed twenty five percent.”; and] 3 (2) No such development or change in land use referred to in sub-section (1) shall be regularised, if it is made,- (i) in the land affected by the alignments of any road or of proposed inner ring road, National High Ways, bypass road, outer ring road or mass rapid transit system (rail) projects; (ii) on the land belonging to the State Government or the Central Government or appurtenant to any building belonging to the State Government or the Central Government; (iii) on the land belonging to an other person over which the former has no title; (iv) on the land belonging to any Board or Corporation owned or controlled by the Central Government or the State Government; (v) on the land belonging to, or vested in, any Urban Development Authority or Bangalore Development Authority; (vi) on the land belonging to, or vested in, a local authority; (vii) on the land abutting to storm water drains, tank bed areas, river course or beds and canals or below the high tension electric line; (viii) in land reserved for parks, playgrounds, open space or for providing civic amenities. (3) No development being a special and hazardous industry or an industry categorised as "RED" by the Karnataka Pollution Control Board shall be regularised in a non-conforming zone. Even in a conforming zone, it shall be regularised only with the clearance from the Karnataka Pollution Control Board.

(4) No development shall be regularised unless it conforms in respect of clearance from high-tension lines and fire protection measures.

(5) No development shall be regularised in the area covered by the Coastal Zone Regulations of the Ministry Environment and Forest, Government India.

(6) No development made in basement or usage in contravention of bye law shall be regularized.

(7) No development in violation of set back norms exceeding twenty-five percent in case of non-residential buildings and fifty percent in case of residential buildings shall be regularized.

(8) No development shall be regularised unless the violation in respect of change in land use is first regularised.

(9) No development where the violation is in excess of such prescribed limit but not exceeding fifty percent of permissible floor area ratio in respect of residential buildings and not exceeding twenty five percent of permissible floor area ratio in respect of non-residential buildings shall be regularized and different maximum limit may be prescribed in respect of different class of development: Provided that where such development resulting in violation is in excess of prescribed limit, such development shall not be regularized unless the development resulting in violation is brought down within the regularisable limit under this Act.

(10) Regularisation of violation in respect of change of land use shall be made as far as may be in accordance with section 14A;

(11) No development in respect of any building having more than two floors shall be regularised unless a certificate from a Structural Engineer is produced regarding the structural stability of such building;

(12) In case of a owner of the building who has made unauthorized construction in violation of the norms or zonal regulation and do not apply for regularization within the prescribed time, the supply of water and electricity to the building shall be liable to be disconnected with prior notice.

(13) Any person seeking regularization under this section shall make application to the prescribed Authority within 4 [such period as may be prescribed

(14) No unauthorised construction or development made in agricultural zone of approved Master Plan or green belt area declared under Karnataka Land Revenue Act, 1964 shall be regularized.

(15) No person shall be liable to pay fine or fee for regularization under any other law if he has paid regularization fee under this Act for the same violations.

(16) All payments made under sub-section (1) shall be credited to a separate fund kept in the concerned Local/Planning Authority called the urban areas infrastructure Development fund which shall be utilized in such manner, for the development of infrastructure, civic amenities, lighting, parks, drinking water, drainage system and for any other infrastructure, as may be prescribed.”

143. Section 76FF of the KTCP Act contains a non-obstante clause and seeks to regularise land developed or a change in land use in contravention of Section 14, 14A, Section 15 and 17 of the KTCP Act or the Regulations made thereunder. The *Akrama Sakrama* scheme essentially seeks to regularize unauthorised construction or

conversion of land use on payment of charges. This is neither the object nor the import of the Premium FAR Scheme. Clearly, the Premium FAR scheme does not seek to regularize unauthorised construction; it changes the law uniformly, permitting additional construction by availing Premium FAR to the extent provided on payment of a charge. Under the Premium FAR scheme, additional FAR is available not only for new construction on land but also for additional construction on buildings constructed in accordance with law. By virtue of the Premium FAR scheme, the owner of such buildings can raise additional construction subject to seeking necessary approvals and sanctions. Thus, the substratum of the Premium FAR scheme is not to regularize any unauthorised construction but to amend the extent of construction permissible under the Zonal regulations. It is possible that an owner who has raised construction in excess of that which is permissible may regularize the same by acquiring the Premium FAR. However, that would be an exercise whereby the building raised by him is brought in conformity with the applicable regulations. The same does not amount to regularising illegal construction, which would continue to stand contrary to other regulations. Merely because a construction which is in excess of the permissible limit stands regularised by

enhancement of the permissible limit, cannot be a ground to assume that it is a scheme for regularising illegal construction. The substrata of the Premium FAR Scheme and the *Akrama Sakrama* Scheme are completely different, and the same cannot be conflated merely because it may be permissible to regularise excess construction under the Premium FAR Scheme.

144. In the aforesaid view, we find no merit in the contention that the Premium FAR is akin to the *Akrama Sakrama* scheme and, therefore, must be set aside on the ground that a challenge to the *Akrama Sakrama* scheme is pending consideration in the Supreme Court.

**(H) Section 18-B and the Premium FAR scheme do not violate Article 243ZE of the Constitution**

145. It is contended on behalf of the appellant and the petitioners that Section 18-B of the KTCP Act, whereby the Premium FAR scheme was introduced, was without consultation with the BMPC. It was argued that the same is mandatory under Article 243ZE of the Constitution of India. Therefore the statutory provisions – Section 18B of the KTCP Act and Rule 37-E of KPA Rules together with the

impugned notifications, as subsequently modified by the 2026 Notifications – are liable to be set aside.

146. We may at this stage refer to Article 243ZE of the Constitution of India. The same is reproduced below:

**“243-ZE. Committee for Metropolitan planning.**—(1) There shall be constituted in every Metropolitan area a Metropolitan Planning Committee to prepare a draft development plan for the Metropolitan area as a whole.

(2) The Legislature of a State may, by law, make provision with respect to—

(a) the composition of the Metropolitan Planning Committees;

(b) the manner in which the seats in such Committees shall be filled:

Provided that not less than two-thirds of the members of such Committee shall be elected by, and from amongst, the elected members of the Municipalities and Chairpersons of the Panchayats in the Metropolitan area in proportion to the ratio between the population of the Municipalities and of the Panchayats in that area;

(c) the representation in such Committees of the Government of India and the Government of the State and of such organisations and institutions as may be deemed necessary for carrying out the functions assigned to such Committees;

(d) the functions relating to planning and coordination for the Metropolitan area which may be assigned to such Committees;

(e) the manner in which the Chairpersons of such Committees shall be chosen.

(3) Every Metropolitan Planning Committee shall, in preparing the draft development plan,—

(a) have regard to—

(i) the plans prepared by the Municipalities and the Panchayats in the Metropolitan area;

(ii) matters of common interest between the Municipalities and the Panchayats, including co-ordinated spatial planning of the area, sharing of water and other physical and natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the Government of the State;

(iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the Government of the State and other available resources whether financial or otherwise;

(b) consult such institutions and organisations as the Governor may, by order, specify.

(4) The Chairperson of every Metropolitan Planning Committee shall forward the development plan, as recommended by such Committee, to the Government of the State.”

147. Clause (1) of Article 243ZE of the Constitution of India contemplates the constitution of a metropolitan planning committee for preparing a draft development plan for the metropolitan area as a whole. Clause (2) of the said Article enables the State legislature to make laws for providing the composition of the planning

committees and the functions relating to planning and coordinating for a metropolitan area, which may be assigned to such committees. Clause (3) of Article 243ZE sets out the considerations that the metropolitan committee must bear in mind when preparing a draft development plan.

148. The State has framed the Bengaluru Metropolitan Planning Committee Rules, 2013 [**BMPC Rules**], in exercise of the power conferred under Section 503B read with Section 431 of the Karnataka Municipal Corporation Act, 1976 [**KMC Act**]. The BMPC Rules provide for the constitution of the metropolitan planning committee. Rule 9 of the BMPC Rules sets out functions of the metropolitan planning committee, which include preparing a draft development plan, the policy strategies, and priorities for a plan period of twenty five (25) years, having regard to the considerations as set out in clause (b) of Rule 9(2) of the BMPC Rules. Rule 10 of the BMPC Rules provides that the metropolitan committee shall formulate a draft development plan for the metropolitan area.

149. Rules 9 and 10 of the BMPC Rules are set out below:

**“Rule 9.** Functions of the Metropolitan Planning Committee:

(1) The committee shall perform such functions relating to planning and co-ordination for the Bangalore Metropolitan area as the Government may, by notification, assign to it.

(2) The committee shall, in preparing the draft development plan,-

(a) have regard to,-

(i) the plans prepared by the local Authorities in the Metropolitan area;

(ii) matters of common interest between the urban local authorities and the rural local authorities, including co-ordinated spatial planning of the area, sharing of water and other physical natural resources, the integrated development of infrastructure and environmental conservation;

(iii) the overall objectives and priorities set by the Government of India and the State Government;

(iv) the extent and nature of investments likely to be made in the Metropolitan area by agencies of the Government of India and of the State Government and other available resources, whether financial or otherwise;

(v) Consult such Institutions and Organizations as the Government may specify by, Order.

(b) Also indicate policies, strategies and priorities and major projects for a plan period of twenty-five years having due regard to,-

(i) Physical and natural resource potentials and their utilisation;

(ii) Natural Hazard prone areas;

(iii) Poverty alleviation and employment in both formal and informal sectors;

(iv) Development of trade, commerce and industry;

(v) Rural development;

(vi) Metropolitan area level transportation system including mass transport;

(vii) Integrated infrastructure development covering water, energy, sanitation, education, health, recreation, communication and other utilities facilities and Services;

(viii) Housing and Shelter development programme;

- (ix) Population assignment and settlement pattern of rural service centres as well as small, medium and large urban centres and their functional specialisation;
- (x) Protection of environmentally and ecologically sensitive areas and conservation of heritage;
- (xi) Generalised Land use;
- (xii) Fiscal resource requirements and its mobilisation including the extent and nature of investments likely to be made in the metropolitan area by agencies of the Government of India and the State Government;
- (xiii) Development of special areas, if any, such as new towns, industrial townships, coastal areas, etc;
- (xiv) Phasing of the metropolitan area perspective plan in periods of five years preferably co-terminus with the state five year plan; and
- (xv) Any other particulars and details as may be considered necessary by the committee and as may be directed by the Government.

**Rule 10. Preparing draft Development plan:**

Formulate metropolitan area draft development plan within one year from the date of constitution of the committee having regard or under preparation under sub-rule (2) of rule 9 and development goals, objectives and priorities for the plan period as well as the fiscal resources and central and state Government investment policies and programmes incorporating,-

- (1) all or any matters mentioned in sub-rule (2) or rule 9;
  - (2) phasing of the metropolitan area development plan into five annual plans by sectoral programmes, projects and schemes indicating physical targets and fiscal requirements; and
  - (3) any other particulars and details as may be considered necessary by the committee or as may be directed by the Government.
- (a) Prepare metropolitan area annual plan within the framework of approved metropolitan

area development plan having regard to findings of review of fiscal and physical performance of the previous annual plan.

(b) Consult such institutions and organizations as the Chamber of Commerce and Industry, non-Governmental organizations? including professional bodies as, Institute of Town Planners of India in the formulation of metropolitan area plans as the Government may determine in this behalf;

(c) Monitor the physical achievements of the investments made by the various planning and development authorities on annual basis and submission of report thereon to the Government;

(d) Resolve conflicts arising out of overlapping functions of planning and development authorities and rural local bodies:

(e) Advise the local authorities on their up-gradation of status and alteration of boundaries;

(f) Sort-out matters relating to sharing of water and other physical and natural resources;

(g) Formulate policies and identify projects for integrated development of metropolitan area level infrastructure and facilitate their implementation through public or private agencies;

(h) Serve as a nodal agency for disbursement of such funds as the Government may determine, to the local planning and development authorities; and

(i) Perform any other incidental, supplemental and consequential function or as prescribed or as may be directed by the Government or as may be necessary and required for the purposes of carrying out its functions under these rules.

(4) The Member Secretary of the Committee shall forward the draft development plan, as recommended by the committee, to the Government.

(5) The Committee shall have powers to formulate guide lines for preparation of draft plan, which shall be followed by the local authorities while formulating their own plans.

(6) The accounts of all receipts and expenditure of the Committee for the purpose of conduct of meetings and discharge of their function shall be

governed by Financial Code and other related Rules.”

150. It is evident from the above that the development plan is a strategic plan that involves the sharing of natural resources, developing trade and commerce, road development, etc. The development plan, as contemplated under Rule 9 of the BMPC Rules, is distinct from the building bye laws, which may provide for the extent of setbacks, building heights, fire safety provisions, and the extent of permissible construction for buildings catering to different activities. Illustratively, buildings used for commercial purposes, cinemas or hotels may require additional safety features, such as an adequate number of exits in the event of an emergency, such as a fire or an earthquake. The building by-laws applicable to a residential house and a commercial building may differ materially. These aspects are not addressed by the development plan as contemplated under Rules 9 and 10 of the BMPC Rules.

151. It is also rightly pointed out by the learned Advocate General that Section 13-E of the KTCP Act does not provide for any consultation with BMPC and the said provision is not called into question. We may also refer to the decision in **Bondu**

**Ramaswamy** (*supra*), which concerned a challenge to the acquisition of lands for the formation of Arkavati Layout on the outskirts of Bengaluru under the BDA Act. One of the contentions advanced in the said petition related to the BDA's power and jurisdiction to prepare development plans for Bengaluru Metropolitan Area. It was contended that pursuant to Article 243ZE of the Constitution of India, the KMC Act had been amended by insertion of Section 503B for providing the constitution of the BMPC for preparing a draft development plan. Therefore, BDA could no longer function as an authority for the development of the metropolitan area. It was contended that it could not formulate any development schemes for that purpose. In the aforesaid context, the Supreme Court observed that the role of BMPC was materially different from the role of BDA. The development schemes made by the BDA related to buildings, engineering, and other operations, including preparing layouts for drainage, water supply, electricity, sanitary arrangements, open spaces, etc. However, the role of BMPC is different. The court explained as follows:

“53. On the other hand, the development plan for the metropolitan area as a whole, to be prepared by the Metropolitan Planning Committee constituted under the KMC Act involves making a plan for overall development with reference to the

various functions enumerated in the Twelfth Schedule, that is, plans for economic and social justice, planning for economic and social development, slum improvement and upgradation, urban poverty alleviation, and providing several urban amenities and facilities referred to in the Twelfth Schedule. It would thus be seen that the “development scheme” formulated for Bangalore Metropolitan Area by BDA has nothing to do with a “development plan” that has to be drawn by a municipality or by the Metropolitan Planning Committee.

54. The development plan to be drawn for a metropolitan area, by a Metropolitan Planning Committee should not be confused with a development scheme to be drawn by a Development Authority like BDA for a metropolitan area.”

152. In view of the above, we are unable to accept that Section 18-B of the KTCP Act, the Rules made thereunder, and the Zonal Regulations are liable to be set aside for want of consultation with BMPC.

**(I) Section 38-D of the BDA Act is valid and not manifestly arbitrary**

153. As noted above, the petitioners in Writ Petition No.14959/2020 also seek to challenge the constitutional validity of Section 38-D of the BDA Act.

154. Dr. Harish Narasappa canvassed that Section 38-D of the BDA Act is contrary to Section 33A of the said Act and violates

Article 14 of the Constitution of India. He contended that the said section is also liable to be quashed on the ground of manifest arbitrariness.

155. Section 38-D of the BDA Act was introduced by virtue of the Bangalore Development Authority (Amendment) Act, 2020 and came into effect from 10.07.2020. The said Section is set out below:

**“38-D. Allotment of Bangalore Development Authority Land in favour of original owner or purchaser or unauthorized occupant etc.—(1)**

Notwithstanding anything contained in this Act or in any other law or any development scheme made under this Act, but without prejudice to Section 38- C where the Authority after holding such enquiry as it deems fit, is of the opinion that any land vested in, or acquired by it cannot be used by it on account of existing building thereon and it is not practicable to include such land for the purpose of development scheme or formation of sites, the Authority may, subject to such rules after holding such enquiry as may be prescribed, allot such land by sale in favour of the original owner of the land or purchaser from its original owner or any other person in unauthorized occupation of the land for some reason or other who has put up the building on the land and is in settled possession of such land but does not include a tenant, licensee or permissive user subject to the conditions that,—

(i) the building was in existence on such land and in settled possession for not less than twelve years prior to the date of commencement of the Bangalore Development Authority (Amendment) Act, 2020;

(ii) the allottee makes payment towards the allotment of land at rates specified in the table below,—

**WA No. 1983 of 2025**  
**C/W WP No. 14959 of 2020**  
**WP No. 2807 of 2026**

Sl. No.	Extent of Land with building, other than corner site	Amount to be levied and collected
1	Up to 20'X30'	Ten percent of the Guidance value
2	More than 20'X30' and upto 30'X40'	Twenty five percent of the Guidance value
	More than 30'X40' up to 40'X60'	Forty percent of the Guidance value
	More than 40'X60' and upto 50'X80'	Fifty percent of the Guidance value and penalty as may be prescribed

Provided that, in respect of corner site with building twice the rate specified above.

(iii) total extent of land allotted to any person under this sub-section shall not exceed 4000 square feet and no other member of his family shall be entitled to apply for or seek benefit of allotment of any other land on any ground whatsoever;

(iv) such original possessor of the land, purchaser from its original possessor or the person who is in unauthorized occupation of the land for one reason or other and is in possession of such land with building for more than twelve years prior to the date of commencement of the Bangalore Development Authority (Amendment) Act, 2020 seeking an allotment makes an application to the Authority containing such particulars, within such time and along with such fee as may be prescribed and also produces copy of any of the following supporting documents to establish his settled possession and construction of Building thereon like sale deed, approved plan and permission for construction of building, order for permanent supply of electricity, sanction for connection of supply of water and underground drainage for such building, property tax receipt given or issued by the competent authority for being paid the tax for such building or any such other

document to establish his settled possession and construction of any building as may be prescribed:

Provided that no such land shall be allotted if,—

(a) it is reserved for parks, playground, open space or for providing civic amenities;

(b) it affects alignment of any road or proposed ring road, National Highways, by-pass road or mass rapid transit system (rail) projects;

(c) it is abutting to or upon a storm water drain, tank bed area, river course or beds or below high tension electric lines; and

(d) the possession for more than twelve years is litigious or interrupted possession by virtue of interim order of court.

*Explanation.*—for the purpose of this section,—

(a) “guidance value” means estimated market value published under the Karnataka Stamp Act, 1957 prevailing on the date of allotment;

(b) “land” means site with building;

(c) “original owner of the land” means a person who was occupant of the land immediately before publication of development scheme which contained proposal for acquisition of such land; and

(d) “settled possession” means in possession of land with permanent building, without any litigious or interrupted possession but does not include a tenant, licensee or permissive user.

(2) The jurisdictional officer who is proved to have failed to prevent unauthorised occupation or construction that have taken place in his jurisdiction from the date of commencement of the Bangalore Development Authority (Amendment) Act, 2020 shall be liable for such punishment as may be prescribed.

(3) The Bangalore Development Authority shall take up an action plan to evict the unauthorized occupants in Bangalore Development Authority Lands and who are not eligible for allotment of site under this section on the date of commencement of the Bangalore Development Authority (Amendment) Act, 2020, within two years from the date of commencement of the Amendment Act.]”

156. Dr. Harish Narasappa contended that Section 38-D of the BDA Act enables transfer of public lands to illegal occupants without any basis and thus, is manifestly arbitrary. He contended that the same places illegal occupants in a more advantageous position than the law-abiding citizens. Additionally, he contended that, in the absence of guidelines governing the exercise of statutory power, such power would be subject to arbitrariness. He also relied on the decision of the Supreme Court in **State of Punjab v. Khan Chand**<sup>25</sup> in support of his contention.

157. We find no merit in the said contention. The assumption that Section 38-D of the BDA Act does not provide any guiding principle for the exercise of statutory powers ignores the plain language of Section 38-D of the BDA Act. Section 38-D of the BDA Act enables BDA to allot land to persons in certain circumstances where it is found that (i) land vested or acquired cannot be used on account of

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<sup>25</sup> (1974) 1 SCC 549

an existing building; and (ii) it is not practicable to include such land for the purposes of a development scheme or formation of sites. In these circumstances, such land can be allotted or sold in favour of (i) the original owner of the land, or (ii) the purchaser who had acquired the same from the original owner, or (iii) any person in unauthorised occupation who is in a settled possession of the land. However, this would not include a tenant, licensee or a land loser. Additionally, Section 38-D of the BDA Act also provides that the building in existence on the land and the settled possession should not be less than 12 years prior to the date of commencement of the Bangalore Development Authority (Amendment) Act, 2020; and second, that the allottee makes payment towards the land at such rate as specified. The tabular statement indicates that the only lands measuring up to a maximum of 4000 sq. ft. could be allotted under Section 38-D of the BDA Act.

158. The rationale for enacting Section 38-D of the BDA Act is apparent from the contents of the said section. The guiding principles for the exercise of power are also clearly set out in Section 38-D of the BDA Act.

159. The learned counsel appearing for the BDA submitted that from 1945 till 2010, the City Improvement Trust Board [**CITB**] and the BDA had acquired a vast extent of land. It was noted that there were unauthorised occupants on as many as 75000 sites spread across various layouts formed by the CITB (Predecessor of BDA).

160. It was noticed that among all the landowners whose land was acquired, several had raised construction. Further, the said properties had also been the subject matter of the sale and purchase transactions.

161. In the given facts, BDA found it difficult to evict all unauthorised occupants or demolish the structures in which they had been residing for more than 12 years. In some cases, such persons would also be eligible for allotment of BDA sites for which land was acquired. Thus, it did not stand to reason to dispossess them and subsequently allot sites to them.

162. The learned counsel had also pointed out the orders and observations made by the Court in various decisions. He also emphasised those observations made by the court necessitated enacting Section 38-D of the BDA Act. The relevant extracts of the

decisions as referred to by the learned counsel are reproduced below:

“The relevant directions issued by the Hon ble Court-

1. This Hon'ble Court in the case of Junjamma and Ors. V. BDA in ILR 2005 KAR 608 at paragraph no. 57 has observed as hereunder:

"Para 57. In the light of the aforesaid discussion and the findings recorded on the questions raised I proceed to pass the following:

ORDER

2(a). All the petitioners who are the land owners who are seeking dropping of the acquisition proceedings in so far as their respective lands are concerned, on the ground that: (a) their lands are situated within green belt area (b) they are totally built up; (c) converted for non - agricultural use; (d) garden land and nursery lands; (e) who have built hospitals, educational institutions and factories; (f) who have not been served with the notice of acquisition and (g) who are in doubt about the inclusion of their land in the notification are permitted to make appropriate application to the authorities seeking such exclusion and exemption and producing documents to substantiate their contentions within three months from the date of this order.

(C)In the event the Authority come to the conclusion that those persons are similarly placed, then to denotify their lands and exclude them from acquisition. "

2. In ILR 2006 KAR 318- The Commissioner BDA and Ors. V State of Karnataka &Ors, this Hon'ble Court has observed at Para 106 as hereunder:

"Para 106. For the aforesaid reasons, we pass the following:

ORDER

D) In so far as the land owners excluding the site owners, are entitled to the following reliefs:-  
(i) All the petitioners who are the land owners who are seeking dropping of the acquisition proceedings in so

far as their respective lands are concerned, on the ground that: (a) their lands are situated within green belt area; (b) they are totally built up; (c) properties wherein there are buildings constructed by charitable, educational and/or religious institutions (d) nursery lands; (e) who have set-up factories (f) their lands are similar to the lands which are adjoining their lands but not notified for acquisition at all, are permitted to make appropriate application to the authorities seeking such exclusion and exemption and producing documents to substantiate their contentions within one month from the date of this order. It is made clear that the BDA shall consider such request keeping in mind the status of the land as on the date of preliminary notification and to exclude any developments, improvements, constructions put up subsequent to the preliminary notification and then decide whether their cases are similar to that of the land owners whose lands, are notified for acquisition, notified and whose objections were upheld and no final notification is issued."

The same is confirmed by The Hon'ble Supreme Court in (2010) 7 SCC 129 Bondu Ramaswamy &Ors. V. BDA and Ors.

3. In WA no 1783/2014: BDA Vs R Shankaran this Hon'ble Court has observed at Para 59 as hereunder "Para 69. In view of the aforementioned, the following:

**ORDER**

a) With regard to the land owners (excluding the site owners):

i) All the land owners/writ petitioners who are seeking for dropping of their lands from acquisition on the ground that their lands are (1) nursery lands; (2) situated within green belt; (3) totally built up; (4) that the buildings are constructed by religious/charitable educational institutions; (5) that similar adjoining lands have been either left out from acquisition or de notified, are permitted to make an application to the BDA seeking for dropping of their lands from acquisition by producing all such material that they deem fit/necessary in support of their applications within 3

months from today; (ii) The BDA shall consider each of the said application/s keeping in mind the status of the lands as on the date of the preliminary notification and without taking into consideration any developments / improvements / constructions made subsequent to the preliminary notification;

4. In Writ Petition no. 44949/2003- Shamanna v State of Karnataka, this Hon'ble Court has observed at Para 53 as hereunder:

"Para 53.....

In the light of the aforesaid discussion and the findings recorded on the points raised by the petitioners, this Court proceeds to pass the following order:

#### ORDER

The challenge to the acquisition in all these writ petitions fails and it is accordingly rejected. The acquisition proceedings are upheld, subject to the following conditions:

B-(ii) : All the petitioners the who are landowners/converted site owners (duly converted for non-agricultural use of land, in accordance with law), who are seeking dropping of the acquisition proceedings in so far as their respective lands/sites are concerned, on the ground that: (a) their lands are situated within green belt area (b) they are totally fruit up; (c) converted for non-agricultural use; (4) garden and recognised nursery lands; (e) who have built hospitals, educational institutions and factories; (1) who have not been served with the notice of acquisition and (g) who are in doubt about the inclusion of their land in the notification are permitted to make appropriate application to the authorities seeking such exclusion and exemption and producing documents to substantiate their contentions within three months from the date of this order."

The same is confirmed by this Hon'ble Court in WA No.1026/2006- Smt, Gangamma & Ors. v State of Karnataka

5. In MA No(S). 1614-1616 Of 2019 In CA No(S).7661-7663 Of 2018 Bangalore Development Authority & Anr. v. State Of Karnataka &Ors., the Hon'ble Apex Court has observed as hereunder:

i) Vide order dated 03.12.2020-

"6. As stated above, the buildings constructed in the layout with valid sanction/permission from the competent authority/authority(ies) needs to be saved from demolition. Therefore, it is important to identify the lawful constructions made in the notified lands. For this purpose, we appoint a Committee comprising of Hon'ble Mr. Justice A.V. Chandrasekhar, former Judge of the Karnataka High Court, as its Chairman, Mr. Jayakar Jerome, former Commissioner of the BDA and Mr. S.T. Ramesh, former Director General of Police, as its members. The Committee is required to look into each of the requests of the owners of the dwelling houses/buildings for its regularisation. The Committee should also find out whether the said dwelling houses buildings have been constructed in accordance with the sanction/permission of the competent authorities. The constructions which have come up after the date of pronouncement of the judgment

by this Court i.e. 3.8.2018, shall not be eligible for regularisation. The Committee is permitted to devise its own mechanism/procedure for holding the enquiry including issuing notices in the local newspapers in this regard. Final orders regarding dwelling houses/buildings which will be protected, would be passed after we receive the report of the Committee. "

b) Vide order dated 25.11.2022

"(5) Having perused the Third and Fourth Report, we are satisfied that the buildings specified in Annexures L0001 to L0026 require to be regularized in terms of our order dated 03.12.2020. Therefore, we direct the BDA to regularize the buildings specified in Annexures L0001 to L0026 of the Fourth Report as corrected in the addendum. Annexures L0001 to LO026 of the said Report is made part and parcel of this order. We direct the BDA not to acquire/take possession of the lands/buildings specified in Annexures L0001 to L0026. This is, however, subject to the conditions indicated in our Order dated 03.12.2020."

163. As such, we find no merit in the contention that Section 38-D of the BDA Act confers any unbridled or uncanalised power or is manifestly arbitrary. The challenge to the validity of Section 38-D of the BDA Act is, accordingly, rejected.

164. In view of the above, the appeal and the writ petitions are dismissed.

165. Pending applications, if any, shall stand dismissed.

**Sd/-**  
**(VIBHU BAKHRU)**  
**CHIEF JUSTICE**

**Sd/-**  
**(C.M. POONACHA)**  
**JUDGE**

AHB/KPS/KMV