



Judge, High Court of
Bombay

Justice Michael F. Saldanha (Retd)



Judge, High Court of
Karnataka

November 6, 2019

AN OPEN LETTER TO THE HON. CHIEF JUSTICE/CHIEF MINISTER

Most Respected Sirs,

On my return to Bengaluru yesterday, I was deeply distressed and saddened by the unfortunate controversy regarding the proposal to put up a seven storeyed building in Cubbon Park. Since my transfer to the Karnataka High Court in July 1994 I have worked ceaselessly to preserve this park and in the following ten years I had passed a number of Orders in the public interest to preserve and sustain it. At that time almost daily, large numbers of Political demonstrators used to camp in the park- they used to cut the trees and cook their food and the park was an open-air lavatory - apart from causing unbearable disturbance and noise pollution to the High Court. I acknowledge the support from the then Chief Minister, Devegowdaji, who directed implementation of the Orders which saved the park as also some of the subsequent CMs notably S.M. Krishnaji, J. H. Patelji and Yediyoorappaji.

One of the most difficult problems was with regard to prohibiting building activity. Every conceivable trick was used to circumvent the Law and I do remember that when the Govt. decided to construct a Residence/ Recreation centre for the MLAs and I had stayed the action as the Laws prescribe a total ban on building activity within the Park a strange argument was advanced that the Govt. is above the Law, which incidentally was rejected by me. Much later, when the construction came up and I enquired as to how this had happened, I was told that the stay had been vacated by the then Chief Justice. I was helpless but Bangaloreans know what happened to the Hon'ble gentleman in after years.. Similarly, I had stayed the construction of a high rise Commercial building adjoining the Cubbon Park Police Station but again, after some time the building came up and I refrain to relate how this happened. The right thinking citizens of Bangalore are aware of how attempts are on to destroy the park and even one single new construction will open the flood gates. It is therefore imperative that on this occasion no building activity whatsoever

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should be allowed to take place within the park. The legal position is very clear that there is a total ban and I need to respectfully record that neither the High Court nor the State Govt. are above the Law. How an Order to the contrary was passed by the Ld. Single Judge surprises me and that too, on an application from the Registrar General of this very High Court.

I do hope that the order in question comes to be set aside. In a well researched article from the Head of the Environment Support Group published in the Bangalore Mirror dated 6th November 2019, Leo Saldanha has amplified the Law and he has even provided options if the High Court needs additional space as to what are the solutions. To my mind what has been presented is faultless and unanswerable. There is one basic issue that has been completely over looked. In the early 90s when the High Court raised the question of additional space requirement the State Govt. very generously agreed to construct a Mirror Image of the original Atara Kacheri Heritage Building behind the existing one which was then joined on both sides to the old building and I remember at the inauguration it was pointed out that the High Court had enough space for the next sixty years.

The old High Court building was one KM long and after the new extension the High Court has approx. 2.4 KM, of built up area apart from basements, which will have to be doubled as it extends over two storeys. Through the ten years of my tenure as a Judge I recall that huge areas in the building were either unutilized or underutilized. Public offices and the same applies to the Courts work in a Century old formula in addition to which huge areas are used for storage of material that needs to be disposed off. Files are now obsolete and the paperless working in recent times requires small and compact offices and a total overhaul of the work culture. In the course of the last 15 years, when the two benches started functioning in different parts of the state virtually two thirds of the work load was shifted to those benches and the High Court at Bangalore has a huge shrinkage of loads and consequent release of huge areas of space which needs to be reclaimed with some spring cleaning.

May I respectfully request the High Court, in these circumstances, to order an immediate space audit by skilled professionals and I am personally confident that when this is done it will be pointed out that no additional office space will be required by the High Court. If the need still

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emerges the matter can be reconsidered but I can responsibly submit that it will not happen.

We are specially privileged in that our new Chief Justice whom I have known over the decades was one of the finest Lawyers in the true sense of the word and in the last few years he emerged as an outstandingly good Judge of the Bombay High Court and I am happy to learn that he has decided to review the whole case. On the few occasions when I did have the occasion to interact with our present CM I have found him to be understanding and considerate but more importantly to be very receptive to the voice of the people.

Cubbon Park is much more than a mere Garden. The buildings which are sought to be demolished are Heritage buildings and they should be treated as relics. I share the feelings and sentiments of every person who has protested against the present proposed construction and I know that like me they feel deeply because they have a bond with this part of the Planet and they will not let it be destroyed. There is a sacred grove in the North East where not even a stick or a leaf has been taken out for over a century – there is nothing special about that forest except that generations have pledged to preserve it. For me and for all right thinking Bangaloreans Cubbon Park and the trees of Bangalore and Karnataka are PAVITHRA. It is often overlooked that when a tree is cut there is a huge loss of Bird Life, Animal Life, Reptile and Insect Life and these murders are wrongly overlooked. We will not allow Bengaluru to become another Gas Chamber like Delhi.

This is our Collective Appeal. Recently the Bombay High Court and the State Government in the Aarey Case bulldozed the voice of the Citizens- we cannot let that happen here.


JUSTICE MICHAEL F SALDANHA – (Retd.)