CASE NO.:
Appeal (civil) 971 of 2003

PETITIONER:
Bangalore Development Authority & Others

RESPONDENT:
R. Hanumaiah & Others

DATE OF JUDGMENT: 03/10/2005

BENCH:
ASHOK BHAN & S.B. SINHA

JUDGMENT:
J U D G M E N T

BHAN, J.

This appeal is directed against the judgment of the Division Bench of the Karnataka High Court in Writ Petition No.727 of 1989 wherein and whereunder the Division Bench while setting aside the judgment of the learned Single Judge in Writ Petition No.15487 of 1987 issued a direction to the Bangalore Development Authority (for short "the BDA"), the appellant herein, to issue possession certificate to the writ petitioner i.e. the 1st respondent herein in respect of 6 acres and 20 guntas of land as per its Resolution dated 19.4.1972 and to allot alternative plots/sites of equal size to the persons who had been allotted sites carved out of 6 acres and 20 guntas of land

The City of Bangalore Improvement Act, 1945 was enacted by the then Government of Mysore. Under Section 3 of the said Act a Board of Trustees was constituted to implement the purposes of the Act. The Board (commonly known as CITB) was given the power to draw the improvement scheme and for undertaking any work for improvement or development of any area in or around the city of Bangalore. The Board was also given the power to acquire land by agreement and was deemed to be a local authority for the purposes of Section 50(2) of the Mysore Land Acquisition Act which was in pari materia with the Land Acquisition Act of 1894.

On 28.1.1960 a preliminary notification dated 26.11.1959 was published in the official Gazette proposing to acquire the land of the 1st respondent for formation of a scheme to set up a layout called the Koramangala Layout. Final notification was published on 28.9.1965 and the award was made on 29.11.1966. The amount of compensation was paid and in some cases it was deposited in the treasury. 1st respondent sought a reference for enhancement of the compensation. In the cases in which a reference had been sought by the 1st respondent the amount of compensation was deposited in the Civil Court. Immediately after the passing of the award the possession of the land in question was taken.

On 26.6.1968 a resolution was passed by the

CITB Bangalore (wrongly typed as 26.6.1969 in the impugned judgment) to re-convey an extent of 8 acres and 21 guntas of the land out of the total land acquired to the 1st respondent. On 19.4.1972 another resolution was passed by the CITB modifying its earlier resolution and agreeing to re-convey 6 acres, 20 guntas and 44 square yards in favour of the 1st respondent subject to the following conditions.

"1. He should arrange to withdraw immediately the cases pending in the civil court.

2. He should withdraw the compensation deposited in the court and State Huzur Treasury and re-deposit the same to the CITB funds within 30 days.

The details of compensation deposited are noted below. The Additional Special Land Acquisition Officer (CITB) may be consulted if any difficulty arises in withdrawing the amounts in courts or State Huzur Treasury.

1.
S.
No.32/6
Rs.24,845.
17
Civil Judge’s Court
2.
S.
No.32/8
Rs.
2,763.45
Civil Judge’s Court
3.
S.
No.32/9
Rs.
1,265.00
State Huzur Treasury
4.
S.
No.32/11
Rs.
3,004.37
Civil Judge’s Court
5.
S.
No.32/12
Rs.
6,008.75
Civil Judge’s Court
6.
S.
No.32/10
Rs.
1,265.00
State Huzur Treasury

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Rs.39,151.
74

Compensation paid in respect of Sy. No.32/17 amount to Rs. 3,162.50 ps. may also be credited to the CITB funds, together with interest at 9% on the compensation amount drawn upto the date of repayment.
Possession of S.No.26/1 may be handed over to the Additional Special Land Acquisition Officer immediately, and informed to take further action. "

It is suffice to mention that in so far as the refund of compensation amount was concerned it was found to be neither feasible nor practicable for the 1st respondent to withdraw the amount and re-deposit it and he, therefore, gave it in writing to the authority that these amounts would not be withdrawn by him or claimed by him whereupon the amounts in question were ultimately re-claimed by the authority. He withdrew his reference applications filed under Section 18 of the Act.

On 10.7.1974 layout plan was approved by the CITB in respect of the land which had been acquired for the development of the area. In the layout plan the land to the extent of 6 acres and 20 guntas was shown separately being reserved for re-conveyance.

In the year 1976, The City of Bangalore Improvement Act, 1945 was repealed and in its place Bangalore Development Authority Act, 1976 was enacted. Bangalore Development Authority constituted under the 1976 Act succeeded to the City Improvement Trust Board.

The resolution passed by the CITB to re-convey 6 acres and 20 guntas of land was not given effect to as the High Court of Karnataka in a series of judgment held that the land acquired for the development scheme could not be returned or re-conveyed to the owner and that it must be applied for the purpose for which it was acquired and the sites formed therein should be distributed according to the allotment rules. In view of the declaration of law made by the High Court the resolution was not given effect to by the BDA and sites were formed by the appellant in the said 6 acres and 20 guntas of land and the sites were allotted sometime in the year 1985-86.

After the formation of sites in said 6 acres and 20 guntas and their allotment the 1st respondent approached the High Court of Karnataka at Bangalore seeking a writ of mandamus directing the BDA to re-convey 6 acres and 20 guntas of land as per resolution of CITB dated 19.4.1972. A learned Single Judge of the High Court dismissed the writ petition summarily at the admission stage as being

concluded by the decision of the High Court in B.N. Sathyanarayana Rao Vs. State of Karnataka , ILR 1987 Karnataka 790. The writ appeal filed by the 1st respondent was also dismissed summarily at the initial stage as being covered by the earlier decisions of the High Court. 1st respondent thereafter approached this Court in CA.5165 of 1992 and this Court by its order dated 31.1.2001 accepted the appeal and set aside the orders impugned in the appeal and remitted the case back to the Division Bench to reconsider the appeal on merits in view of the contentions raised on behalf of the 1st respondent that in a later judgment in Muniyappa Vs. Bangalore Development Authority , ILR 1992 Karnataka 125, the High Court of Karnataka had taken a view that re-conveyance was permissible.

The Division Bench after remand considered the matter afresh and set aside the judgment of the Single Judge inter alia holding that there was change in the judicial thinking and in Maniyappa's case (supra) the Division Bench taking a wider perspective of the entire case law had held that it was permissible to restore or re-allot the land to the owners. That in the previous judgments rendered, the High Court had failed to take into consideration certain important factors such as that the State being the acquiring authority and the BDA being the beneficiary only, the State could withdraw the acquisition or prune the area of acquisition. Drawing support from Section 21 of the General Clauses Act it was held that the authority vested with the power to do a thing had a corresponding right to undo it as well. Since the State was the acquiring authority it could withdraw the acquisition or prune the area of acquisition. That the BDA was barred by doctrine of promissory estoppel to withdraw/not act upon the resolution dated 19.4.1972 specially when the 1st respondent in pursuance to the resolution passed had acted prejudicially to his interest. That the decision of the CITB was binding on the BDA being a successor. It was further held that land which was the subject matter of the resolution of re-conveyance could not and should not have allotted at all. That the acquisition proceedings in the process of vesting of the land had not reached finality in respect of 6 acres and 20 guntas of land as 1st respondent had re-deposited the amount of compensation as per resolution dated 19.4.1972 and thus had not received the amount of compensation. In view of the above findings the Division Bench held that there was no necessity to give a direction to re-convey the land but the proper direction would be to direct the BDA to issue the possession certificate to 1st respondent in respect of the land which is the subject matter of the writ petition. It was further held that since the allottees of the sites out of 6 acres and 20 guntas were likely/bound to be affected by the order a direction was required to be issued to BDA to allot equivalent sites/plots of land to such allottees within 4 months of the passing of the order.

Learned counsels for the parties have been heard at length.

A Division Bench of the High Court of Karnataka in Writ Appeal No.729 of 1983 (Sri. A.V. Lakshman Vs. B.D.A. & Others) upheld the order of the Single Judge by observing that the owners of the land did not have a right in law to seek re-conveyance of the acquired land. Another Division Bench in Writ Appeal No.581 of 1975 (Rachappa & Others Vs. State & Others) held that the lands acquired become the property of the Trust Board and it has to be dealt with in accordance with the law and owners of the land in the absence of a statutory provision entitling them to get the land re-conveyed would not be entitled to seek relief from the Court under Article 226 of the Constitution of India. It was observed as under:-

"Assuming for the sake of argument that the other lands which have been acquired by the Trust Board have been re-conveyed that by itself is not sufficient to hold that the appellants have a legal right in their favour for getting the lands acquired from them re-conveyed to them. When the lands are acquired by the Trust Board they become the property of the Trust Board and the Trust Board has to deal with its own sites in accordance with law. In the absence of a statutory provision entitling the appellants to get re-conveyance they would not be entitled to seek any relief from this Court under Article 226 of the Constitution on the ground that the Trust Board has in similar cases re-conveyed lands in favour of persons from whom they were acquired. Hence this prayer cannot be granted."

A single Judge in Writ Petition No.8321 of 1984 (H.N. Abdul Rehman Vs. State & Others) again held that Bangalore Development Authority had no power to pass a resolution of re-conveyance. It was observed that it was not open to the BDA to pass a resolution to re-convey the property and create a right in favour of the owner-writ petitioner. In B.N. Satyanarayan Rao Vs. State of Karnataka a learned Single Judge, [which decision was later on affirmed by the Division Bench] held that there was no provision in the Act and the Rules framed thereunder enabling the BDA to re-convey the sites. Re-conveyance was opposed to the scheme itself. The scheme was framed for forming of sites and allotting them as per rules. The rules did not provide for re-conveyance and, therefore, it was not possible to hold that there is any right to seek re-conveyance. It was also held that it was

not possible to apply the rule of promissory estoppel on the facts of the case as there was no provision in the Act, or in the Rules framed thereunder enabling the BDA to allot or re-convey the sites in the manner proposed to be done by the Notification. Therefore, the BDA could not be directed to allot or re-convey the sites on the ground that it had promised to allot or re-convey the sites. It was observed in para 4:

"Learned Counsel for the petitioner has not been able to place reliance on any of the provisions in the Act or on the Rules framed thereunder which enable the B.D.A. to re-convey the site. Re-conveyance in a way is opposed to the scheme itself. Scheme is formed for the purpose of forming site for allotting them as per the Rules. The rules do not provide for re-conveyance. Therefore it is not possible to hold that the petitioners have a right to seek re-conveyance."

Plea of promissory estoppel noticed in para 5 of the order to the effect:

"However, the learned Counsel for the petitioners has tried to take refuge under the equitable doctrine of promissory estoppel on the basis of the notification issued by the then Chairman of the B.D.A. dated 14.7.76 as per Annexure-B. The petitioners claim that as per and in pursuance of the notification (Annexure-B) they have filed the affidavits and have not challenged the acquisition and have altered their position to their disadvantage, therefore, it is not now open to the B.D.A. to resile from the notification and deny allotment of sites to the petitioners by way of re-conveyance."

The said plea was rejected by observing thus:

"In addition to this it is not possible to apply the rule of promissory estoppel in cases where there is no provision contained in the Act, or in the Rules framed thereunder enabling the B.D.A. to allot or re-convey the sites in the manner proposed to be done by the notification. (Annexure-B). Therefore I am of the view that the B.D.A. cannot be directed to allot or re-convey a site to each of the petitioners on the ground that it had

promised to allot or re-convey a site to each one of the petitioners."

In Writ Petition No.12119 of 1988 (Bangalore District Co-operative Central Bank Employees Co-op. Society Ltd. Vs. Bangalore Development Authority and Another), Justice Rama Jois expressed his agreement with the view taken by Bopanna, J. to the following effect:-

"If the B.D.A. were to be given the power to re-convey the land vested in it by exercising the power under Section 13 of the Act, that would be self-defeating the destructive of the purpose of constituting a special authority for the development of the City of Bangalore."

In view of the above quoted judgments and some other judgments of the High Court from 1983 onwards holding that the acquired land cannot be re-conveyed, the extent of 6 acres and 20 guntas which was originally earmarked for re-conveyance was also developed and sites were carved out and allotted.

In Muniyappa's case (supra) on which reliance has been placed in the impugned judgment to come to the conclusion that there was shift in the judicial thinking regarding the power of the BDA, to re-convey the land acquired to the owner, the facts were:-

A Writ Petition No.2495 of 1979 was filed by the owners of the land seeking issuance of a Writ of Mandamus directing the BDA to deliver possession certificate in respect of 1 acre of land in Survey No.5/3 C of Jadahalli. The Single Judge held that BDA had/has no power to re-convey the land acquired to implement the scheme and negatived the plea of the writ petitioner. Aggrieved against the order passed by the Single Judge the writ petitioner filed the appeal which was accepted. It was held that no material had been placed on record to hold that the land in question had in fact been acquired for a scheme or that the allotment of site contravened the scheme. The Division Bench expressed its agreement with the proposition that BDA which is a statutory body working under the Act had no power under the Act or the Rules framed thereunder to re-convey the lands which had been acquired for implementation of the scheme. The agreement was expressed in para 3 of the judgment in the following words:-

"The learned Single Judge has pointed out that the B.D.A. had or has no power to re-convey the lands acquired to implement a scheme relying upon the decisions of this Court in B.N.

Sathyanarayan Rao Vs. State of Karnataka, ILR 87 Kar. 790, and in B. Venkataswamy Reddy Vs. State of Karnataka, ILR 1989 Kar. 75. This proposition is absolutely unexceptionable having regard to the provisions of the B.D.A. Act as also the Rules of Allotment of Sites framed under the said Act."

[Emphasis supplied]

The Bench after going through the pleadings of the party came to the conclusion that it was not a case of re-conveyance of the land but allotment of the site as contemplated under Rule 5 and the word "re-conveyance" appears to have been used in a loose sense because the allottee happened to be the owner of the land prior to its acquisition. It was held:-

".. Further, the CITB had the power to allot site under Rule 5 without following the procedure prescribed in Rule 3 provided the other requirements of Rule 5 are fulfilled. No serious contention could be urged on behalf of the respondent to rebut the contention urged on behalf of the appellant that the word 'reconveyance' had been used in the Resolution dated 12.1.1972 and all the subsequent correspondence in a loose sense and in fact the said word meant allotment/grant of site within the meaning of Rule 5. As seen earlier the earliest Resolution dated 7.8.1963 only spoke of grant and not re-conveyance. When that is so, and when in fact the Resolution coupled with the correspondence between the petitioner and the CITB shows that what was done was an allotment as contemplated under Rule 5, the contention the word 're-conveyance' appears to have been used in a loose sense because the allottee was the previous owner of the said land prior to the acquisition, but in truth it is a case of allotment has to be accepted. If that be so, it has to be held that there was a valid allotment of 1 acre of land in Sy. No.5/3C as per Resolution No.646 dated 12.1.1972 by the CITB in favour of the petitioner-appellant. Further he had also complied with all other requirements imposed by the CITB."

On close scrutiny it has to be held that in Muniyappa's case (supra) the Bench did not express an opinion contrary to the opinion which had been expressed in the earlier decisions to the effect that there was no power under the Act or the Rules with the BDA to re-convey the acquired land, on the contrary the Bench expressed its agreement with the view taken in B.N. Sathyanarayana Rao's case (supra) and other cases to the effect that the BDA was not vested with the power under the Act or Rules to re-convey the land which had been acquired for a scheme. On the facts of the case the Bench came to the conclusion that it was a case of allotment as contemplated under Rule 5 and not that of re-conveyance. The Division Bench in the impugned judgment has misread and misapplied Muniyappa's case (supra) judgment to come to the conclusion that there was a shift in the judicial thinking and that the land acquired could be re-conveyed to the owners. The findings recorded which are based on misreading of the Muniyappa's case (supra) are unsustainable and therefore set aside.

State of Karnataka amended the Bangalore Development Authority Act, 1976 by the Bangalore Development Authorities (3rd Amendment) Act, 1993 (for short "the Amendment Act") which came into force with effect from 31st March, 1994. Section 5 of the Amendment Act introduced Section 38-C in the Act and Section 9 of the Amendment Act validated the allotments made between 20.12.1973 to 8.5.1986 retrospectively.

Although the Division Bench in the impugned judgment held that though the issue regarding applicability of Section 38-C after its incorporation in the BDA Act lifting the ban on re-conveyance was irrelevant because the 1st respondent did not contend that he was entitled to any relief under this provision but indirectly relying upon it the Division Bench held that in a given case for good reasons it would be permissible for the authority to alter the terms of the acquisition and restore the lands that had been acquired under the provisions of the Land Acquisition Act if the facts and circumstances so justified.

Section 38-C and Section 9 of the Amendment Act are reproduced below:-

"38-C. Power of Authority to make allotment in certain cases. \026 Notwithstanding anything contained in this Act or in any other law or any development scheme sanctioned under this Act, or City Improvement Trust Board Act, 1985 where the Authority or the erstwhile City Improvement Trust Board, Bangalore has already passed a resolution in favour of any persons any site formed in the land which belong to them or vested in or acquired

by them for the purpose of any development scheme and on the ground that it is not practicable to include such site for the purpose of the development scheme, the Authority may allot such site by way of sale or lease in favour of such persons subject to the following conditions, -

(a) the allottee shall be liable to pay any charges as the Authority may levy from time to time; and
(b) the total extent of the site allotted under this section together with the land already held by the allottee shall not exceed the ceiling limit specified under Section 4 of the Urban Land (Ceiling and Regulation) Act, 1976."

"9. Validation of certain allotment. \026 Notwithstanding anything contained in any law or any judgment, decree or order of any court where in pursuance of any resolution passed by the Authority or the erstwhile City Improvement Trust Board, Bangalore to re-convey in favour of any person any site out of the land which belonged to them or vested in or acquired by them for the purpose of any development scheme, the Authority has made allotment of such site by way of sale, lease or otherwise in favour of such person after the twentieth day of December, 1973 and before eight day of May, 1986, such allotment shall be deemed to have been validly made and shall have effect for all purpose as if, it had been \made under Section 38-C of the Principle Act as amended by this Act and accordingly \026
(a) all acts, proceedings and things done or allotment made or action taken by the authority shall for all purpose be deemed to be and to have always been done or taken in accordance with law;
(b) no suit or other proceedings shall be instituted, maintained or continued in any court for cancellation of such allotment or for questioning the validity of any action or things taken or done under Section 38-C of the Principle Act as amended

by this Act, and no court shall enforce or recognize any decree or order declaring such allotment made or any action taken or things done under the Principle Act as invalid."

Section 38-C commences with non obstante clause. It provides that irrespective of anything contained in any law or any judgment, decree or order of any Court where in pursuance of any resolution passed by the authority or the erstwhile City Improvement Trust Board, Bangalore in favour of any person re-conveying the site formed in the land which belong to them or vested in or acquired by them for the purpose of any development scheme and on the ground that it is not practicable to include such site for the purpose of any development scheme, the Authority allot such site for the purpose of development scheme by way of sale or lease in favour of such persons subject to the allottee paying such charges which the authority may levy from time to time and the extent of site allotted under this provision together with the land already held by the allottee shall not exceed ceiling limit specified under Section 4 of the Urban Land (Ceiling & Regulation) Act, 1976.

Section 9 of the Amendment Act speaks of validation of certain allotment. It also starts with the non obstante clause and provides that if a resolution has been passed by the Bangalore Development Authority or the City Improvement Trust Board to re-convey in favour of any person any site out of the land which belonged to him or vested or acquired from him for the purpose of any development scheme, the Authority has already made allotment of such site by way of sale, lease or otherwise in favour of such person after 20th of December, 1974 and before 8th of May, 1986, then such allotment shall be deemed to have been validly made and shall have effect for all purpose as if, it is \made under Section 38-C of the Principal Act as amended by Act 17 of 1984.

On a conjoint reading of Section 38-C read with Section 9 of the Amendment Act it would be seen that Section 38-C gives the authority to make allotment in certain cases. It gives the authority to the BDA to re-convey/allot in favour of any person any site formed in the land which belonged to them or vested in or acquired by them for the purpose of any development scheme and on the ground that it is not practicable to include such site for the purpose of development scheme by way of sale or lease in favour of such person whose land was acquired subject to his liability to pay any charges that the authority may levy from time to time and that the total extent of site allotted under this Section together with the land already held by the allottee would not exceed the ceiling limit under Section 4 of the Urban Land (Ceiling and Regulation) Act, 1976. Section 9 of the Amendment Act validates the allotment made between

20th December, 1973 to 8th May, 1986. Section 38-C only authorises the BDA to allot a site in a development scheme to a person whose land had been acquired. It does not give any power to the BDA to re-convey the land or a part of the land by withdrawing the acquisition itself. Observations made by the Division Bench in the impugned judgment that Section 38-C enabled the BDA to re-convey the land which had been acquired for a development scheme for a purpose other than implementing the scheme are not sustainable.

This apart Section 38-C is prospective in its application except to the extent of the allotment made between 20th December, 1973 to 8th May, 1986 which are saved by Section 9 of the Amendment Act. The resolution of CITB of 1972 agreeing to re-convey the part of the land acquired is not covered by the provisions of Section 9 of the Amendment Act. In the present case, the resolution of the CITB predecessor-in-interest is dated 19.4.1972 and it would not be deemed to be validated by the deemed fiction created by Section 9 of the Amendment Act to bring it within the provisions of Section 38 -C.

We may here notice the judgment of this Court in H.C. Venkataswamy Vs. Bangalore Development Authority , 2001 (9) SCC 204, on which reliance has been placed by the counsel for the respondent to contend that Section 38-C would be applicable to the present case. In this case the BDA had acquired land for the development of the scheme called "Rajamahal Vilas II Stage." BDA passed a Resolution on 26.6.1984 whereunder it was decided that each of the owners of the land whose land had been acquired would be given a site measuring 40’ x 60’ free of cost. BDA did not implement the decision on the ground that the Resolution was not approved by the State Government. The appellants challenged the decision of the State Government by way of a writ petition under Article 226 of the Constitution of India before the Karnataka High Court. A Division Bench of the High Court by the judgment dated 8.2.1991 dismissed the writ petition. Aggrieved against the decision of the High Court appeals were filed in this Court which were accepted. Taking note of Section 38-C read with Section 9 of the Amendment Act it was held that the provisions of Section 9 were fully applicable to the allotments made to the appellants during the period 1984-85. It was observed in later part of para 10 as under:-

"...Even if it is assumed that the basis for the allotment of sites to the appellants was not the same as has been provided by the Amendment Act under Section 38-C, but that would not invalidate the allotments because the deeming fiction crated by Section 9 of the Amendment Act would bring the allotments within

the purview of Section 38-C. The effect of the deeming fiction is that even though these allotments may not have been made under Section 38-C they would be saved by Section 9 of the Amendment Act by virtue of the deeming fiction."

It was further observed in para 11 as under:-
"Even otherwise we are of the view that the resolution of BDA did substantial justice to the appellants. A situation was created where it may not have been possible for BDA to implement the scheme. The BDA entered into a settlement with the farmers and took a conscience decision to allot plots to them. It was neither fair nor just on the part of BDA and the State Government to have gone back on their decision which was taken with an open mind and after discussion with the farmers. BDA by passing the resolution, in a way, accepted the demand of the farmers for enhanced compensation. The allotment of plots to them was to further compensate them for acquiring their land for the development scheme."

This decision is of no assistance to the 1st Respondent as it was a case of allotment of a site formed under the scheme and not of re-conveyance by withdrawing from the acquisition itself. Moreover, Section 9 of the Amendment Act would also be not applicable as the resolution of CITB does not fall within the prescribed dates i.e. 20.12.1973 to 8.5.1986.

The Division Bench in the impugned judgment has taken the view that the correspondence exchanged between the parties established that the respondent acting on the representation or the promise held out to him to his prejudice and altered his position to his detriment in not pressing his claim for higher compensation and withdrawing the legal proceedings. That the respondent had also not claimed the compensation that was offered to him, which was re-deposited by him with the authority. That the appellant could not be permitted to resile from the representation or promise made by it to the respondent as the respondent had acted on the representation and altered his position to its prejudice. Plea taken by the appellant that rule of promissory estoppel shall not apply to do or perform an act prohibited by law or not authorised by law was rejected by observing that Act to re-convey the land was not prohibited as there was a shift in the judicial thinking in Muniyappa’s case

(supra). It was held that the appellant was bound to re-convey the land to the petitioner as per its resolution. That the appellant was debarred from resiling from the promise/representation made especially in view of the fact that the respondent acting on the promise made to him had altered his position to his prejudice.

The doctrine of promissory estoppel is not based on the principle of estoppel. It is a doctrine evolved by equity in order to prevent injustice. Where a party by his word or conduct makes a promise to another person in unequivocal and clear terms intending to create legal relations knowing or intending that it would be acted upon by the party to whom the promise is made and it is so acted upon by the other party the promise would be binding on the party making it. It would not be entitled to go back on the promise made. This Court in M/s. Motilal Padampat Sugar Mills Co. Ltd. Vs. State of Uttar Pradesh, 1979 (2) SCC 409, after analyzing the doctrine of promissory estoppel as applied in the Courts of England and the United States held that in India the law may be taken to be settled that principle of promissory estoppel would be applicable to the Government as well where it makes a promise knowing or intending that it would be acted upon by the promisee, and the promisee in fact acting on the promise alters his position, then the Government will be held bound by the promise and such a promise would be enforceable against the Government at the instance of the promisee. That the Government stood on the same footing as a private individual so far as the obligation of law is concerned. The Government committed as it is, to the rule of law, cannot claim immunity from the applicability of Rule of Promissory Estoppel and repudiate a promise made to it on the ground that such a promise may fetter its future executive action. It was pointed out that since the doctrine of promissory estoppel is equitable doctrine it must yield when the equity so requires and if it can be shown by Government that, having regard to the facts as they have transpired, it would be inequitable to hold the Government to the promise made by it, the Court will not raise an equity in favour of the promisee and enforce the promise against the Government. Another exception carved out was that doctrine of promissory estoppel cannot be invoked to compel the Government or even a private party to do an act prohibited by law. It was observed in para 28 as under:-

"....It may also be noted that promissory estoppel cannot be invoked to compel the Government or even a private party to do an act prohibited by law. There can also be no promissory estoppel against the exercise of legislative power. The Legislature can never be precluded from exercising its legislative function by resort to the doctrine of promissory

estoppel. Vide State of Kerala Vs. Gwalior Rayon Silk Manufacturing Co. Ltd., 1973 (2) SCC 713."

In A. P. Pollution Control Board II Vs. Prof. M.V. Nayudu (Retd.) , 2001 (2) SCC 62, it was held that there can be no estoppel against the statute. Rejecting the plea for applying the principle of promissory estoppel, it was observed in para 69 as under:-

"The learned Appellate Authority erred in thinking that because of the approval of plan by the Panchayat, or conversion of land use by the Collector or grant of letter of intent by the Central Government, a case for applying principle of "promissory estoppel" applied to the facts of this case. There could be no estoppel against the statute. The Industry could not therefore seek an NOC after violating the policy decision of the Government. Point 4 is decided against the 7th respondent accordingly."

[Emphasis supplied]

Similarly, in Sharma Transport represented by D.P. Sharma Vs. Government of A.P. , 2002 (2) SCC 188, it was held that the Government as a public authority cannot be compelled to carry out a representation or promise which is prohibited by law or which was devoid of authority or power of the officer of the Government or the public authority to make the promise. It was observed in para 24 as under:-

"It is equally settled law that the promissory estoppel cannot be used to compel the Government or a public authority to carry out a representation or promise which is prohibited by law or which was devoid of the authority or power of the officer of the Government or the public authority to make. Doctrine of promissory estoppel being an equitable doctrine, it must yield place to the equity, if larger public interest so requires, and if it can be shown by the Government or public authority for having regard to the facts as they have transpired that it would be inequitable to hold the Government or public authority to the promise or representation made by it. The Court on satisfaction would not, in those circumstances raise the

equity in favour of the persons to whom a promise or representation is made and enforce the promise or representation against the Government or the public authority. These aspects were highlighted by this Court in Vasantkumar Radhakisan Vora Vs. Board of Trustees of the Port of Bombay, 1991 (1) SCC 761, STO Vs. Shree Durga Oil Mills, 1998 (1) SCC 572 and Ashok Kumar Maheshwari (Dr.) Vs. State of U.P., 1998 (2) SCC 502, Above being the position, the plea relating to promissory estoppel has no substance."

[Emphasis supplied]

In Pune Municipal Corporation and Another Vs. Promoters and Builders Association and Another, 2004 (10) SCC 796. it was held that it is a settled preposition of law that there could be no "promissory estoppel" against the statute. Relying upon the earlier decisions of this Court and overturning the view taken by the High Court in invoking the principle of promissory estoppel it was held in para 6 as under:-

"DCR are framed under Section 158 of the Act. Rules framed under the provisions of a statute form part of the statute. (See General Officer Commanding-in-Chief Vs. Dr. Subhash Chandra Yadav, 1988 (2) SCC35, para 14). In other words, DCR have statutory force. It is also a settled position of law that there could be no "promissory estoppel" against a statute. (A.P. Pollution Control Board II Vs. Prof. M.V. Nayudu, 2001 (2) SCC 62, para 69, STO Vs. Shree Durga Oil Mills, 1998 (1) SCC 572, paras 21 and 22 and Sharma Transport Vs. Govt. of A.P., 2002 (2) SCC 188, paras 13 to 24.) Therefore, the High Court again went wrong by invoking the principle of "promissory estoppel" to allow the petition filed by the respondents herein."

[Emphasis supplied]

Reliance placed by the counsel for the respondent on the decision in State of Punjab Vs. Nestle India Ltd. , 2004 (6) SCC 465, to contend that the principle of promissory estoppel would be applicable to the present case cannot be accepted. In the aforesaid case, the State of Punjab had come up in appeal against the order passed by the High

Court quashing the demand raised by the State of Punjab for purchase tax on milk for the period 1996-97. The High Court quashed the demand raised by the State of Punjab on the principle of promissory estoppel as the State of Punjab had promised to abolish the purchase tax on milk for the period in question and was estopped from contending to the contrary. The respondent writ petitioners were the factories producing various milk products. As registered dealers under the Punjab General Sales Tax Act, 1958 the respondent writ petitioners had been paying purchase tax on milk in terms of Section 4-B of the Act however for one year i.e. from the period 1.4.1996 to 4.6.1997 none of the respondents paid the purchase tax on the plea that the Government had decided to abolish purchase tax on milk for the period in question and was estopped from contending to the contrary.

It was averred in the writ petition that the Chief Minister of Punjab on 26.2.1996 while addressing dairy farmers at the State level function had announced that the State Government had abolished purchase tax on milk and milk products in the State. Similarly, the Finance Minister in his Budget Speech echoing the view of the Chief Minister had stated that the State Government had abolished the purchase tax on milk. The Financial Commissioner in its memo dated 26.4.1996 addressed to the Excise and Taxation Commissioners had written that it has been decided in principle to abolish purchase tax on milk with effect from 1.4.1996. In a meeting held under the Chairmanship of Chief Minister a decision was taken to abolish the purchase tax on milk and it was decided to issue a formal notification in a day or two. Later on, the Government resiled from its promise and issued demand notices raising the demand of purchase tax for the year 1996-97. Upholding the decision of the High Court and noticing and analyzing the entire case law on promissory estoppel it was held that the State Government in view of the provisions of the Punjab General Sales Tax Act, 1948 had the power to exempt the purchase tax on milk. Since there was nothing in law which prohibited it from doing so, the State Government was held bound to act upon its representation and exempt the milk from purchase tax for the relevant period. It was held that no representation could be enforced which is prohibited by law but this principle would not be applicable to the cases where there is power under the statute to grant exemption. Grant of exemption could not be said to be contrary to the statute. Statute did not debar the grant of exemption rather it envisaged it. Distinguishing the judgment in Amrit Banaspati Co. Ltd. Vs. State of Punjab, 1992 (2) SCC 411, it was observed as under:-

"Amrit Banaspati Co. Ltd. Vs. State of Punjab, 1992 (2) SCC 411, is an example of where despite the petitioner having established the ingredients of

promissory estoppel, the representation could not be enforced against the Government because the Court found that the Government's assurance was incompetent and illegal and "a fraud on the Constitution and a breach of faith of the people". This principle would also not be applicable in these appeals. No one is being asked to act contrary to the statute. What is being sought is a direction on the Government to grant the necessary exemption. The grant of exemption cannot be said to be contrary to the statute. The statute does not debar the grant. It envisages it."

There is no provision in the Act and the Rules framed thereunder enabling the BDA to re-convey the land acquired to implement a scheme for forming of sites and their allotment as per rules. The rules do not provide for re-conveyane. In the absence of any provision in the Act or the Rules framed thereunder authorizing the BDA to re-convey the land direction cannot be issued to the BDA to re-convey a part of the land on the ground that it had promised to do so. The rule of promissory estoppel cannot be availed to permit or condone a breach of law. It cannot be invoked to compel the Government to do an act prohibited by law. It would be going against the statute. The principle of promissory estoppel would under the circumstances be not applicable to the case in hand.

It is well-settled that there cannot be any estoppel against a statute. In Tata Iron & Steel Co. Ltd. Vs. State of Jharkhand and Others [(2005) 4 SCC 272], this Court observed:

"53. This is also not a case where the appellant altered its position pursuant to or in furtherance of a promise made to it by the State. The doctrine of promissory estoppel, therefore, is not applicable. It is not even a case where the doctrine of legitimate expectation could be invoked. (See Hira Tikkoo v. Union Territory, Chandigarh)

54. We, however, are not oblivious that the doctrine of promissory estoppel would be applicable where a representation has been made by the State in exercise of its power to exempt or abolish a commodity as taxable commodity. Such promise, however, must be made by the persons who have the power to implement the representation."

In Savitaben Somabhai Bhatiya Vs. State of Gujarat and Others [(2005) 3 SCC 636], this Court observed:

"17. In Yamunabai case plea similar to the one advanced in the present case that the appellant was not informed about the respondent's earlier marriage when she married him was held to be of no avail. The principle of estoppel cannot be pressed into service to defeat the provision of Section 125 of the Code."

Recently in Devasahayam (D) BY LRS. Vs. P. Savithramma & Ors. [2005 (7) SCALE 322], this Court observed:

"The doctrine of approbate and reprobate is a species of estoppel. However, there cannot be any estoppel against a statute. [See MD, Army Welfare Housing Organisation Vs. Sumangal Services (P) Ltd. Vs. Sumangal Services (P) Ltd., (2004) 9 SCC 619]"

Learned counsel for the respondent vehemently contended that Section 29 of the City of Bangalore Improvement Act, 1945 was different in content and scope than Section 38 of the Bangalore Development Act. Since the resolution was passed under the City of Bangalore Improvement Act, 1945, the resolution has to be seen and interpreted in the light of Section 29 of the City of Bangalore Improvement Act, 1945. That Section 76(3) of the BDA Act provides that any right, privilege, obligation or liability acquired, accrued or incurred arising under the old Act shall remain intact. We do not find any force in the submission.

Section 27-A of the City of Bangalore Improvement Act, 1945 provided that notwithstanding anything contained in the Act during a period of fifteen years from the date of commencement of the Act, the Government may acquire the land under the Mysore Land Acquisition Act, 1894 for the purpose of improvement, expansion or development of the City of Bangalore or any area to which this Act extends, and any land so acquired after it has vested in the Government, stand transferred to the Board and such land may be dealt with under the provisions of Sections 28 and 29, or in such manner as the Government may direct. Section 29 of the said Act reads as under:-

"Section 29. Power of Board to

acquire, hold and dispose of property. \026 (1) The Board shall for the purposes of this Act, have power to acquire and hold movable and immovable property, whether within or outside City.

(2) Subject to such restrictions, conditions and limitations as may be prescribed by rules made by the Government, the Board shall have power to lease, sell or otherwise transfer any movable or immovable property which belongs to it, and to appropriate or apply any land vested in or acquired by it for the formation of open spaces or for building purposes or in any other manner for the purpose of any improvement scheme.

(3) The restrictions, conditions and limitations contained in any grant or other transfer of any immovable property or any interest therein made by the Board shall, notwithstanding anything contained in the Transfer of Property Act, 1882 (Central Act 4 of 1882) or any other law, have effect according to their tenor."

First part of Clause (1) of Section 29 provides that the Board shall have the power for the purpose of the Act to acquire and hold movable and immovable property, whether within or outside the city. Clause (2) provides that subject to such restrictions, conditions and limitations as may be prescribed by rules made by the Government, (i) the Board shall have power to lease, sell or otherwise transfer any movable or immovable property which belongs to it, and, (ii) to appropriate or apply any land vested in or acquired by it for the formation of open spaces or for building purposes or in any other manner for the purpose of any improvement scheme. The first part deals with the power of the Board to lease, sell or otherwise transfer any movable or immovable property which belongs to it and, second, to appropriate or apply any land vested in or acquired by it for the formation of open spaces or for the building purposes or in any other manner for the purpose of any improvement scheme. The present case falls in the second part which provides that the lands which have been acquired by it or have been vested in it for formation of open spaces or for building purposes shall be utilized for the purpose of the improvement scheme for which the lands have been acquired. It cannot be used for any purpose other than for which it was acquired which in the present case was for formation of open spaces or for building purposes and since the land was acquired for the purpose of forming sites it could only be

used for the purpose of forming sites and their allotment. There is no power as per this provision to re-convey the lands which have been acquired under a scheme for forming sites. The power of the Board to lease or sell or transfer the sites was made subject to the restrictions, conditions and limitations which may be prescribed by the Rules. In the Rules framed there is no provision for re-conveying the land and, therefore, power does not vest in the Board to re-convey the lands which were acquired for formation of sites in an improvement scheme.

On comparison and reading of Section 29 of the City of Bangalore Improvement Act, 1945 and Section 38 of the Amendment Act we do not find any material difference between these two sections. In fact both these sections are pari materia with each other. The arguments raised, based on Section 76(3) of the BDA Act, therefore, has no force and hence rejected.

Notification under Section 4 was issued under the Mysore Land Acquisition Act, 1894 which is pari materia with the Central Act i.e. Land Acquisition Act. By the Land Acquisition (Karnataka Extension & Amendment) Act, 1961 (Karnataka Act No.17 of 1961) the earlier Act of Mysore State was repealed and the Land Acquisition Act of 1894 (Central Act 1 of 1894) was extended to the whole of the State of Karnataka in its application to the State of Karnataka. It was specifically provided that all amendments made by the Act repealed shall cease to continue and shall be omitted from the Land Acquisition Act of 1894 and such of the provisions thereof as were affected by the repealed Act shall stand revived to the extent to which they would have otherwise continued in operation but for the passing of the repealed Act.

Preliminary notification under Section 4 dated 26.11.1959 was published under the Karnataka Land Acquisition Act, 1894 (The Mysore Land Acquisition Act). But all proceedings thereafter including the final notification and the subsequent proceedings were under the Land Acquisition Act, 1894. The Division Bench in the impugned order has taken the view applying the principle laid down in Section 21 of the General Clauses Act which provides that power to issue the notification, order or rules or bye-laws would include the power to add, amend, vary or rescind any notification, order, rule or bye-law held that where the authority is vested with the power to do something then it is entrusted with the power to undo it as well. Since the State Government had the power to acquire the land it has the power to release the land from acquisition as well.

In our considered view, the Division Bench has erred in holding that the State Government could release the lands in exercise of its power under Section 48 of the Land Acquisition Act, 1894 from the acquisition.

This Court in Lt. Governor of Himachal Pradesh Vs. Sri Avinash Sharma, 1970 (2) SCC 149, has held in para 6 as under:-

"Power to cancel a notification for compulsory acquisition is, it is true, not affected by Section 48 of the Act; by a notification under Section 21 of the General Clauses Act, the Government may cancel or rescind the notification issued under Sections 4 and 6 of the Land Acquisition Act. But the power under Section 21 of the General Clauses Act cannot be exercised after the land statutorily vests in the State Government."

It was concluded in para 8 that:-
"..It is clearly implicit in the observations that after possession has been taken pursuant to a notification under Section 17(1) the land is vested in the Government, and the notification cannot be cancelled under Section 21 of the General Clauses Act, nor can the notification be withdrawn in exercise of the powers under Section 48 of the Land Acquisition Act. Any other view would enable the State Government to circumvent the specific provision by relying upon a general power. When possession of the land is taken under Section 17(1), the land vests in the Government. There is no provision by which land statutorily vested in the Government reverts to the original owner by mere cancellation of the notification."

Again in Pratap Vs. State of Rajasthan, 1996 (3) SCC 1, it was reiterated that once the possession is taken and the land vests in the Government then the Government cannot withdraw from acquisition under Section 48 of the Land Acquisition Act. Same view was reiterated by this Court in Mohan Singh Vs. International Airport Authority of India , 1997 (9) SCC 132, and in Printers (Mysore) Ltd. Vs. M.A. Rasheed , 2004 (4) SCC 460.

The possession of the land in question was taken in the year 1966 after the passing of the award by the Land Acquisition Officer. Thereafter, the land vested in the Government which was then transferred to CITB, predecessor-in-interest of the appellant. After the vesting of the land and taking possession thereof, the notification for

acquiring the land could not be withdrawn or cancelled in exercise of powers under Section 48 of the Land Acquisition Act. Power under Section 21 of the General Clauses Act cannot be exercised after vesting of the land statutorily in the State Government.

The High Court also erred in holding that land acquisition process and the vesting process became incomplete since the land owners were asked to re-deposit the amount of compensation. High Court failed to take notice of Section 31 of the Land Acquisition Act. Section 31 contemplates that on making of an award under Section 11 the Collector shall tender amount of compensation awarded by him to the person interested and entitled thereto according to the award and shall pay to them unless prevented by any one or more of the contingencies mentioned in the subsequent clauses. None of those contingencies arose in the present case. Thus, once the amount was tendered and paid the acquisition process was complete. After making the award under Section 11 the Collector can take possession of the land under Section 16 which shall thereupon vest absolutely in the Government free from all encumbrances. In the instant case, after making the payment in terms of the award, possession was taken. The acquisition process stood completed. The subsequent development will not alter the fact that the acquisition was complete.

This brings us to the last contention raised by the counsel for the respondent. Respondent placed on record copy of the letter No.UDD/260/2005 dated 12.7.2005 addressed by the Principal Secretary to the Government, Urban Development Department, Bangalore to the Commissioner, Bangalore Development Authority, Bangalore. This letter was addressed by the Urban Development Department with reference to Chief Minister's note No.CM/SCM-2/49/BDA/05 dated 5.7.2005. The letter reads as under:-

"With reference to the above subject the copy of the note under reference is enclosed along with this Letter and the subject is self explanatory.

I have been directed to inform you that in the light of the order of the Hon'ble Chief Minister, an extent of 6 acres 20 guntas of Land should be re-conveyed to Sri. R. Hanumaiah in accordance with the decision rendered by the High Court of Karnataka in Writ Appeal No.727/1989, dated 9/10.7.2001, you should take necessary action immediately and send a report to the Government regarding the action taken."

The Bangalore Development Authority sent their reply contending inter alia that the directions issued by the Chief Minister were contrary to law and the third party rights had set in and therefore, not capable of being implemented. Thereafter, there has been no communication from the office of the Chief Minister to the BDA.

The letter was written on behalf of the Government in purported exercise of its power under Section 65 of the Act which reads:

"Section 65 : Government's power to give directions to the Authority. \026 The Government may give such directions to the authority as in its opinion are necessary or expedient for carrying out the purposes of this Act, and it shall be the duty of the authority to comply with such directions."

We do not agree with the contention raised by the counsel for the respondent that the directions issued by the Chief Minister through his note were binding on the BDA or that the BDA was bound in law to re-convey the land in terms of the directions issued in the impugned judgment. It has not been shown that the Chief Minister was authorised to issue the directions to the BDA to re-convey the land. Under Section 65 the Government can give such directions to the authority which in its opinion are necessary or expedient for carrying out the purpose of the Act. It is the duty of the BDA to comply with such directions. Contention that BDA is bound by all directions of the Government irrespective of the nature and purpose of the directions cannot be accepted. Power of the Government under Section 65 is not unrestricted. Directions have to be to carry out the objective of the Act and not contrary to the provisions of the Act. The Government can issue directions which in its opinion are necessary or expedient for "carrying out the purposes of the Act".

Directions issued by the Chief Minister in the present case would not be to carry out the purpose of the Act rather it would be to destroy the same. Such a direction would not have the sanctity of law. Directions to release the lands would be opposed to the statute as the purpose of the Act and object of constituting the BDA is for the development of the city and improve the lives of the persons living therein. The authority vested with the power has to act reasonably and rationally and in accordance with law to carry out the legislative intent and not to destroy it. Direction issued by the Chief Minister run counter to and are destructive of the purpose for which the BDA was created. It is opposed to the object of the Act and therefore, bad in law. Directions of the Chief Minister is to re-convey the land in terms of the decision rendered by the High Court in

the impugned judgment i.e. Writ Appeal No.727 of 1989. Since we are setting aside the impugned judgment, the BDA as per directions issued by the Chief Minister cannot re-convey the land to the respondent in terms of the decision rendered by the High Court in the impugned judgment i.e. Writ Appeal No.727 of 1989.

The Land Acquisition Act, 1894 is a code by itself. It not only deals with acquisition of land but also deals with payment of compensation as also release of the acquired lands.

Bangalore Development Authority is a creature of statute. Its functions and duties are delineated by Bangalore Development Authority Act, 1976. Its jurisdiction to re-convey the land vested in it in exercise of its power. The said Act does not confer any power from the said authority to re-convey the land vested in it. Upon acquisition of the land, the same vests in the State. The State only in terms of Section 13 of the said Act can re-convey the said acquired land of the said authority.

It is not in dispute that Section 48 of the Land Acquisition Act would apply to the acquisitions made under the 1976 Act and in that view of the matter the State could exercise its jurisdiction for re-conveyance of the property in favour of the owner thereof only in the event possession thereof had not been taken. Once such possession is taken even the State cannot direct re-convey the property. It has been accepted before us that Section 21 of the General Clauses Act has no application but reliance has been sought to be placed on Section 65 of the 1976 Act which empowers the Government to issue such directions to the authority as in its opinion are necessary or expedient for carrying out the purpose of the Act. The power of the State Government being circumscribed by the conditions precedent laid down therein and, thus, the directions can be issued only when the same are necessary or expedient for carrying out the purpose of the Act. In a case of this nature, the State Government did not have any such jurisdiction and, thus, the Bangalore Development Authority has rightly refused to comply therewith.

Recently in Hindustan Petroleum Corpn. Ltd. Vs. Darius Shapur Chenai & Ors. [2005 (7) SCALE 386], this Court noticed:

" In Commissioner of Police, Bombay vs. Gordhandas Bhanji [AIR 1952 SC 16], it is stated :

"\005We are clear that public orders, publicly made, in exercise of a statutory authority cannot be construed in the light of explanations subsequently given by the officer making the order of

what he meant, or of what was in his mind; or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the actings and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

Yet again in Mohinder Singh Gill (supra), this Court observed :

"The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by additional grounds later brought out. We may here draw attention to the observations of Bose, J. in Gordhandas Bhanji."

Referring to Gordhandas Bhanji (supra), it was further observed :

"Orders are not like old wine becoming better as they grow older."

[The said decisions have been followed by this Court in Bahadursinh Lakhubhai Gohil Vs. Jagdishbhai M. Kamalia and Others [(2004) 2 SCC 65]."

Equally untenable is the plea of the Respondents that promise of the CITB to re-convey is enforceable in law.

Bangalore Development Authority has been constituted for specific purposes. It cannot take any action which would defeat such purpose. The State also ordinarily cannot interfere in the day to day functioning of a statutory authority. It can ordinarily exercise its power under Section 65 of the 1976 Act where a policy matter is involved. It has not been established that the Chief Minister had the requisite jurisdiction to issue such a direction. Section 65 of the 1976 Act contemplates an order by the State. Such an order must conform to the provisions of Article 166 of the Constitution of India.

Since the 1st respondent has re-deposited the

amount of compensation received and also withdrew his reference applications seeking enhancement of the compensation, the equities have to be balanced. As per the averments made in para 5.2 of the writ petition the question of compensation for lands acquired were finally decided by the High Court in MFA No. 217 of 1974 and MFA No. 219 of 1974 decided on 11th September, 1975 and MFA No. 545 of 1974 decided on 29th September, 1975. The High Court enhanced the compensation to Rs. 10,000/- per acre excluding interest and statutory allowances. On adding of interest and statutory allowances the amount would come approximately to Rs. 19,000/- per acre. But for the promise made by the appellant, the 1st respondent would have been entitled to compensation at the said rate for the extent of 6 acres 21 guntas 42 square yards as well.

In equity we deem it appropriate to direct the appellant to pay the amount of compensation which was determined by the Land Acquisition Officer along with enhanced compensation which may have been granted by the High Court in any of the reference filed either by the 1st respondent or any other land owner inclusive of statutory benefits with interest @ 9% per annum with effect from the date on which it became due till its payment. As the 1st respondent has been deprived of the amount due for quite some time we direct the appellant to re-deposit the entire amount within three months from today. In case the amount is not deposited within three months then the 1st respondent would be entitled to interest @ 12% per annum. On deposit of the amount the first respondent would be entitled to withdraw the same.

We accept this appeal and set aside the judgment of the High Court as well as the directions issued by the State Government on the asking of the Chief Minister vide letter dated 12th July, 2005 to the BDA to re-convey the land measuring 6 acres, 20 guntas and 42 Sq. Yds. to the 1st Respondent. The judgment under appeal is set aside and that of the Single Judge is restored. The writ petition is dismissed except to the extent that the 1st respondent would be entitled to re-claim the amount of compensation along with interest as indicated in the earlier paragraphs. Parties shall bear their own costs.