


**ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತು**

ಚುಕ್ಕೆ ಗುರುತಿಲ್ಲದ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ:	: 2152
ಸದಸ್ಯರ ಹೆಸರು	: ಶ್ರೀ ಗೋವಿಂದರಾಜು (ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರದಿಂದ ಚುನಾಯಿತರಾದವರು)
ಉತ್ತರಿಸಬೇಕಾದ ದಿನಾಂಕ	: 26.03.2026
ಉತ್ತರಿಸಬೇಕಾದ ಸಚಿವರು	: ಉಪ ಮುಖ್ಯಮಂತ್ರಿರವರು

ಕ್ರಮ ಸಂಖ್ಯೆ	ಪ್ರಶ್ನೆ	ಉತ್ತರ
(ಅ)	ನಗರಾಭಿವೃದ್ಧಿ ಇಲಾಖೆಯಲ್ಲಿ ಮಾಸ್ಟರ್ ಪ್ಲಾನ್ (Master Plan) ಅನ್ನು ಎಷ್ಟು ವರ್ಷಗಳಿಗೊಮ್ಮೆ ಪರಿಷ್ಕರಣೆ (Revise) ಮಾಡುವ ನಿಯಮವಿದೆ; ಇದರ ಪ್ರತಿಯನ್ನು ಒದಗಿಸುವುದು.	<ul style="list-style-type: none"> <li>ಕರ್ನಾಟಕ ನಗರ ಮತ್ತು ಗ್ರಾಮಾಂತರ ಯೋಜನಾ ಕಾಯ್ದೆ 1961ರ ಕಲಂ 13(ಡಿ) ರಡಿಯಲ್ಲಿ 10 ವರ್ಷಗಳಿಗೊಮ್ಮೆ ಪರಿಷ್ಕರಣೆ ಮಾಡುವ ನಿಯಮವಿದೆ.</li> <li>ಸ್ಥಳೀಯ ಯೋಜನಾ ಪ್ರದೇಶಕ್ಕೆ ಮಾಸ್ಟರ್ ಪ್ಲಾನ್ ಸಿದ್ಧಪಡಿಸುವ ಸಂದರ್ಭದಲ್ಲಿ ಕರ್ನಾಟಕ ನಗರ ಮತ್ತು ಗ್ರಾಮಾಂತರ ಯೋಜನಾ ಕಾಯ್ದೆ 1961ರ ಕಲಂ 9 ರಿಂದ 13ರನ್ವಯ ಕ್ರಮವಹಿಸಲಾಗುತ್ತಿದೆ. ಪ್ರತಿಯನ್ನು ಅನುಬಂಧದಲ್ಲಿ ಒದಗಿಸಲಾಗಿದೆ.</li> <li>ಮಹಾಯೋಜನೆಯನ್ನು ಸಂಬಂಧಿತ ಯೋಜನಾ ಪ್ರಾಧಿಕಾರದ ನಗರ ಯೋಜಕ ಸದಸ್ಯರು ಅಥವಾ ಸದಸ್ಯ ಕಾರ್ಯದರ್ಶಿ ಹಾಗೂ ನಗರ ಯೋಜನಾ ವಿಭಾಗದ ಅಧಿಕಾರಿಗಳು ಉಪಸ್ಥಿತರಿದ್ದು ಪರಿಶೀಲಿಸಿ ಸಿದ್ಧಪಡಿಸುತ್ತಾರೆ.</li> </ul>
(ಆ)	ಮಾಸ್ಟರ್ ಪ್ಲಾನ್ ಸಿದ್ಧಪಡಿಸುವ ಸಂದರ್ಭದಲ್ಲಿ ಸರ್ಕಾರ ಅನುಸರಿಸುತ್ತಿರುವ ಮಾನದಂಡಗಳೇನು; ಹಾಗೂ ಮಾಸ್ಟರ್ ಪ್ಲಾನ್ ಸಿದ್ಧಪಡಿಸುವ ಸಂದರ್ಭದಲ್ಲಿ ಉಪಸ್ಥಿತರಿರುವ ಅಧಿಕಾರಿಗಳು ಯಾರಾರರು;	<ul style="list-style-type: none"> <li>ಕಳೆದ 3 ವರ್ಷದಲ್ಲಿ ಬೆಂಗಳೂರು ನಗರ ಹಾಗೂ ಗ್ರಾಮಾಂತರ ಜಿಲ್ಲೆಗಳಲ್ಲಿ ಮಾಸ್ಟರ್ ಪ್ಲಾನ್‌ನಲ್ಲಿರುವಂತೆ ಎಷ್ಟು ಎಕರೆ ಪ್ರದೇಶವನ್ನು ಭೂಪರಿವರ್ತನೆ (Change of Land use) ಮಾಡಲಾಗಿದೆ;</li> </ul>
(ಇ)	ಕಳೆದ 3 ವರ್ಷದಲ್ಲಿ ಬೆಂಗಳೂರು ನಗರ ಹಾಗೂ ಗ್ರಾಮಾಂತರ ಜಿಲ್ಲೆಗಳಲ್ಲಿ ಮಾಸ್ಟರ್ ಪ್ಲಾನ್‌ನಲ್ಲಿರುವಂತೆ ಎಷ್ಟು ಎಕರೆ ಪ್ರದೇಶವನ್ನು ಭೂಪರಿವರ್ತನೆ (Change of Land use) ಮಾಡಲಾಗಿದೆ;	<ul style="list-style-type: none"> <li>ಕಳೆದ 3 ವರ್ಷದಲ್ಲಿ ಬೆಂಗಳೂರು ನಗರ ಹಾಗೂ ಬೆಂಗಳೂರು ಗ್ರಾಮಾಂತರ ಜಿಲ್ಲೆಗಳಲ್ಲಿ ಒಟ್ಟು-4560ಎಕರೆ, 38.55ಗುಂಟೆ ಭೂಉಪಯೋಗ ಬದಲಾವಣೆ ಮಾಡಲಾಗಿರುತ್ತದೆ.</li> </ul>
(ಈ)	ಭೂ ಪರಿವರ್ತನೆ (Change of Land use) ಮಾಡುವಾಗ ಅನುಸರಿಸುವ ಮಾನದಂಡಗಳೇನು; ಹಾಗೂ ಭೂಪರಿವರ್ತನೆ ಮಾಡುವ ಅಧಿಕಾರ ಯಾರಿಗೆ ನೀಡಲಾಗಿದೆ?	<ul style="list-style-type: none"> <li>ಕರ್ನಾಟಕ ನಗರ ಮತ್ತು ಗ್ರಾಮಾಂತರ ಯೋಜನಾ ಕಾಯ್ದೆ 1961ರ ಕಲಂ-14(ಎ)ರಡಿಯಲ್ಲಿ ಹಾಗೂ ಮಾರ್ಗಸೂಚಿ ಸಂಖ್ಯೆ:UDD 165 BMR 2012, ದಿನಾಂಕ: 12.10.2012ರನ್ವಯ ಸರ್ಕಾರದ ಪೂರ್ವಾನುಮತಿಯೊಂದಿಗೆ ಆಯಾ ಪ್ರಾಧಿಕಾರಗಳಿಂದ ಭೂ ಉಪಯೋಗ ಬದಲಾವಣೆಗೆ ಅನುಮೋದನೆ ನೀಡಲಾಗುತ್ತಿದೆ.</li> </ul>

ಸಂಖ್ಯೆ: ನಅಇ 161 ಬೆಂಆಸೇ 2026(ಇ)

  
 (ಡಿ.ಕೆ. ಶಿವಕುಮಾರ್)  
 ಉಪ ಮುಖ್ಯಮಂತ್ರಿ

regarding present land-use and other prescribed particulars made in the map under Section 6 shall be conclusive evidence of the correctness of such entries on the specified date.

CHAPTER III  
[Master Plan]

79. 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.

(2) If the master plan is not prepared, published and submitted to the State Government by the Planning Authority within the period specified in sub-section (1), the State Government may authorise the Director to prepare and publish such plan in the prescribed manner and direct the cost thereof to be recovered from the Planning Authority out of its funds, notwithstanding anything contained in any law relating to the said fund.

(3) Notwithstanding anything contained in sub-section (2), if any Planning Authority is converted into, or amalgamated with any other Planning Authority or is sub-divided into two or more Planning Authorities, the master plan prepared for the area by the planning authority so converted, amalgamated or sub-divided shall, with such alterations and modifications as the State Government may approve, be deemed to be the master plan for the area of the new Planning Authority or authorities into or with which the former Planning Authority was converted, amalgamated or sub-divided.

(4) A copy of the master plan with the report sent to State Government under sub-section (1) or sub-section (2) shall be kept open for inspection by the public at the head office of the Planning Authority.]

CASE LAW

Sections 9, 12, 13 and 14-A - Karnataka Planning Authority Rules, 1965, Rule 30 - Petitioners seeking to quash special permission granted by Bangalore Development Authority to establish a college as it comes within purview of residential area - Planning Act, 1961 enacted for achieving purpose of a planned growth of land use and its development with a view to provide civic and social amenities. - Under Section 81-B, Bangalore Development Authority has been designated as Planning Authority for planning area of City of Bangalore. - Comprehensive Development Plan (CDP) published containing zoning, land use regulations of Bangalore Development Authority in exercise of powers under Sections 12 and 21 of Act - In this case CDP does not provide for using this land for purpose of putting up a college - Permission granted does not inspire confidence that it

Substituted for the words "Outline Development Plan by Act No. 1 of 2005, w.e.f. 14-2-2005"

was made with best of public interest apart from being against to provisions of Planning Authority Act - Permission granted at Annexure-H quashed - respondents for change of land use under Section 14-A of Act after hearing Petitioners and such other residents - Petitions allowed - [Constitution of India, Articles 226 and 227 - Writ jurisdiction]

*11 Kangaiahachar, J., Held:* The Karnataka Town and Country Planning Act, 1961 was enacted by the State Legislature for achieving the purpose of a planned growth of land use and its development with a view to provide civic and social amenities for the people in the State, to preserve and improve the existing recreational facilities and other amenities contributing towards balanced use of land and to provide for environmental, health, hygiene and general standard of living through a legislation. . . . The ODP has to be forwarded to the State Government under Section 13 by the Planning Authority. The same shall be published for general information by inviting objections or comments. The State Government, after applying its mind to the contents of the ODP and the objections submitted after giving its approval, shall publish it on the notice board for information of the general public, which becomes final and enforceable under Section 14 of the Act. Since Section 14(1) and (2) with the proviso also has a bearing to the facts of the case. . . . By a reading of Section 14, it is clear that on and from the date on which the ODP has been published, every owner of land shall use/should develop his land strictly in accordance with the permitted use. However, if he wants to use the land for a different purpose than what is mentioned in the ODP, he has to apply and obtain permission from the Planning Authority under Section 14-A of the Act. . . . Under Section 81-B, the Bangalore Development Authority has been designated as the Planning Authority for planning area of the City of Bangalore. Bangalore Metropolitan Area is also governed by the provisions of Section 12 and other relevant sections. . . . The Government of Karnataka has framed rules in exercise of its power under Section 74 known as the Karnataka Planning Authority Rules, 1965. . . . The Section 74 states the particulars that a map prepared by the Planning Authority should contain. It has divided the areas and the uses in the map under the headings called as residential, commercial, industrial, transport and communication, public utilities, public and semi-public uses, open spaces, agricultural land, (Under the heading public and semi-public uses, is included the educational, cultural) and religious institutions, etc. . . . The permissible uses in a residential zone both under ordinary and special circumstances should form part and parcel of the ODP or the CDP map or plan. If after the plan or map is so published and becomes final and any owner of the land seeks for any deviation, from the permissible uses stated in the said plan, such a owner has to necessarily resort to Section 14-A of the Planning Act. Other than resorting to the said section, there is no provision either under the Planning Act or Rules to which the owner of the land can look to. . . . Reverting to the facts of this case, there is no denial that the 3rd respondent acquired a residential site from one of the allottees of the BDA. Equally there is no denial that the

high rise multi-storeyed buildings under the impugned licences had *locus standi* to maintain the petitions. AIR 1974 SC 2177 *rel. on.*

(2) The effect of Section 81-A of the Planning Act was to treat the ODP prepared by the erstwhile Bangalore Metropolitan Planning Board as a draft ODP prepared by the BDA under the Act and to take further steps in accordance with the provisions of the Act.

(3) Rule 32 did not require that the entire ODP should be published in the official Gazette. On the other hand, according to sub-rule (2) the publication should be in the proforma prescribed in Form II. The notification published in the Gazette was in conformity with Rule 32.

(4) By a notification widely published, the publication being not only in the Official Gazette but also in two newspapers, English as well as Kannada, the attention of the public was invited to the publication of the provisional ODP as approved by the Government and they were given time to file objection and suggestion and they were also told that the provisional ODP as approved by the Government was available for inspection in the office of the Planning Authority pursuant to such publication as many as six hundred objections and suggestions were filed. Further printed copies of the provisional ODP were available for purchase by anyone. The defect namely, non-publication of the entire ODP under Section 13(1) and Section 13(4) was cured by Section 76, 76-J of the Act. AIR 1970 SC 58 *rel. on.*

(5) The plan as approved by Government would be effective and enforceable notwithstanding the date on which it is published. The ODP including the regulations had come into force on 22-5-1972.

Section 14(1) provided that no land use can be permitted in contravention of the ODP as approved by Government.

Therefore the ODP including the Zonal Regulations were valid and enforceable and in view of Section 505 of the Corporations Act, the Corporation had no authority to grant a licence in contravention of the Zonal Regulations appended to the ODP.

The impugned licences were contrary to the Zonal Regulations, as the maximum number of floors permitted in respect of residential buildings in the whole of the planning area, was only five whereas licences granted were for eight and seven storeys.

Having regard to the cornulative language of Section 14, the Zonal Regulations, relating to maximum number of floors were mandatory. AIR 1969 SC 369 para 21 *rel. on.*

(6) Though the area of the site on which the building was to be constructed exceeded the ceiling limit under the Urban Land Ceiling Act, in view of the unqualified exemption granted by Government any question of violation of that Act, did not arise nor was the construction of the building violative of Section 29 of that Act as the plan had a area of each dwelling unit in the proposed construction was far less than 300 square metres.

understood this position of law when he made the application under Section 14-A of the Planning Act. As required under the said section, Planning Authority published the contents of the application on 5-6-2002 in local Dailies and inviting objections. The residents of the locality on 19-6-2000 filed their objections. When the said application of the 3rd respondent thus became fully ready for consideration, what factors influenced him to change his mind and abandon the said application and change his course by resorting to Annexure-II(b) of the Zoning Regulations, is difficult to guess and his explanation that when he realised the correct position of law, he made the application for permission to use the land under special circumstances is too artificial to accept. Another factor requires to be noted is though the official members insisted that the public be heard in the matter, the non-official members prevailed upon them not to resort to such a course and without any further consideration, granted permission *vide* their endorsement dated 19-10-2002 produced at Annexure-H by the petitioner along with his application under Order 6, Rule 17 of the CPC. Having regard to these facts, the order under Annexure-H certainly does not inspire confidence that it was made with best of public interest apart from being against to the provisions of the Planning Authority Act. Therefore, the order against to Annexure-H deserves to be quashed. — *Dr. H. Jayaram Reddy and Another v Bangalore Mahanagara Palike and Others*, 2004(3) Kar. L.J. 122 : ILR 2003 Kar. 2682.

Ss. 9, 13(1), 13(4), 14, 76(j) and 81-A and Rule 32 — Licence to construct multi-storeyed buildings exceeding five floors — Legality — Outline Development Plan for Bangalore City — If in force and effective: non-compliance with publication requirements under Section 13(1) and (4) — Effect

*M.N. Venkatachalaiah and M. Raina Jois, Jj.*—The Corporation had sanctioned plans for construction of high rise residential buildings consisting of seven and eight floors. Petitioners questioned the legality of the licences, on the grounds that they contravened (i) the zonal regulations under the Outline Development Plan (ODP) promulgated under the Karnataka Country and Town Planning Act, 1961, (ii) Sections 20 and 29 of Urban Land Ceiling and Regulation Act, 1976; and (iii) the layout of the Rajmahal Vilas Extension prepared under the City of Bangalore, Improvement Act, 1945. The petition was resisted only by the Builders, who contended (a) that the petitioners had no *locus standi* (b) that there were informities in the promulgation of the ODP as (i) there was no preparation and publication as required by Section 9(ii) No publication of the ODP after provisional approval by the Government under Section 13(1), and no publication of the plan and the Regulations under Section 13(4) as finally approved by Government, and the provisional and final ODP as such in full were not published in the Gazette, and (ii) the WP 3386 and 3387 were liable to be dismissed on the ground of delay and laches.

... in the planning

(7) The agreement between allottees of sites in Rajmahal Vilas Extension and the erstwhile Trust Board was only an agreement between the parties which could be varied by the Trust Board. Further there was no statutory restriction on construction of more than one dwelling unit on a site by the allottees. Thus there was no contravention of the Bangalore City Improvement Act.

(8) The impugned licences could not be upheld on the ground that several other illegal licences had been or deemed to have been granted.

(9) It cannot be said that the ODP has become obsolete or unenforceable, as far as the requirement of periodical revision is concerned, in fact Section 25 of the Act provides for such revision of the Comprehensive Development Plan.

(10) Within four months from the date of which the impugned licence was granted and when the execution work had started, WP 3886 of 1981 was presented and the actual construction work had taken place only after filing of the petition and has been completed after giving an undertaking before the Supreme Court. The petitioners were not parties to the proceedings before the Corporation which culminated in the grant of licence to the builders. In those circumstances the petition could not be dismissed on the ground of delay.

WP 3887 of 1981 was filed after the ground floor had been constructed and column for the first floor had been cast.

According to the ODP including the Regulations and in view of Section 14 of the Act, the builders could not undertake the construction of any residential building beyond five floors. They cannot plead ignorance of the law, petitioners could not be expected to believe that licence in contravention of law had been granted until they came to know of it. They were not parties to the proceedings for grant of licence by the Corporation. Hence there was no justification to dismiss the petition on the ground of delay.

*Mandamus* was issued to the City Corporation to modify the plan in accordance with the ODP.

Certificate of fitness for appeal to the Supreme Court, refused. — *Narayan M.D. v State of Karnataka, 1982(2) Kar. L.J. 5h. N. 35 (DB).*

5. 9(3) — Planning Authority — Plan prepared for development of particular area within jurisdiction — Approval by Government — Plan deemed to be Outline Development Plan for planning area concerned — Bangalore Metropolitan Area — Use of which land could be put formulated in outline development plan — Land to be used only for residential purpose — Evident from entry in Outline Development Plan — No material on record for having obtained written permission of Planning Authority for purpose of putting up buildings for industrial purpose.

*H.G. Balakrishna, J., Held.* — In the instant case, the planning authority had prepared a plan for the development of the area within its jurisdiction before

Government for provisional approval within the stipulated time and, therefore, the plan which was approved by the Government is to be deemed to be the Outline Development Plan for the planning area concerned. In the Outline Development Plan, prepared by Madhava Rau Committee applicable to the Bangalore Metropolitan Area the use to which the land could be put had been formulated. The land was intended to be used for residential purpose only as is apparent from the entry in the Outline Development Plan.

Once the entry is made in the Outline Development Plan earmarking the area for residential purpose or use, the land is bound to be put to such use only. There is no material on record that any written permission of the planning authority contained in a commencement certificate was obtained from planning authority by the concerned respondents for the purpose of putting up buildings for industrial purpose. — *V. Lakshminipathy and Others v State of Karnataka and Others, 1991(2) Kar. L.J. 453A : ILR 1991 Kar. 1334.*

10. Declaration of intention of making [Master Plan]. — (1) A Planning Authority, before carrying out a survey of the area under its jurisdiction under sub-section (1) of Section 9, for the purpose of preparing a Master Plan for such area, shall make a declaration of its intention to prepare such plan and shall despatch a copy of such resolution with a copy of plan showing only boundary of the entire area proposed to be included in the master plan to the State Government. The planning authority shall publish a notice of such declaration in the Official Gazette and also in one or more local newspaper in the prescribed manner calling suggestions from the public within a period of sixty days.

Provided that no such declaration of intention need be made when the master plan is prepared and published by the Director under sub-section (2) of Section 9.]

(2) If within two months from the date of publication of the declaration under sub-section (1) any member of the public communicates in writing to the Planning Authority any suggestion relating to such plan, the Planning Authority shall consider such suggestion and may, at any time, before sending the Plan to the State Government make such modification in the plan as it thinks fit.

(3) A copy of the plan showing the boundaries of the area included in the master plan shall be opened to public at all reasonable hours at the office of the Planning Authority or Local Authority.]

1. 9 substituted for the words "Outline Development Plan" by Act No. 1 of 2005, w.e.f. 14-2-2005  
2. 9 substituted for the words "Outline Development Plan" by Act No. 1 of 2005, w.e.f. 14-2-2005

## CASE LAW

Ss. 16, 17 and 69 — Sanction for layout — Imposing of condition — Validity.

*Mulimath, J.* — A provisional approval for a layout was sanctioned under Section 10(1) subject to conditions, *inter alia*, that an area shown for district centre should be surrendered to the Municipal Corporation free of cost.

*Held.* — Any area designated and reserved for a public purpose had to be acquired by the planning authority under Section 69 of the Act. If the planning authority itself cannot acquire the area without paying the price for it in accordance with Section 69 it cannot direct the owner to handover the said area free of cost to the Corporation. Hence, the condition imposed was opposed to Section 69 of the Act and should be quashed. — *Belgaum, A.G. v Planning Authority, Hubli-Dharwad, ILR 1976 Kar. 1436: (1976)2 Kar. L.J. 178.*

Sections 10(1) and 14(1) — Constitution of India, Articles 14, 226 and 227 — User of land covered by development plan — Application for grant of approval for — Held — Such application is required to be decided in accordance with law applicable on the day on which approval is granted and within reasonable time — As provided in Section 14 of Act, once declaration is made of intention to prepare development plan for an area, every use of land in area must conform to plan as finally approved — Where planning authority had already published its declaration, when applicant sought approval for forming residential layout, Authority was justified in rejecting application, when it found that land on which layout is proposed to be formed was earmarked as agricultural land in plan — Fact that adjacent land on which residential houses were already existing when declaration under Section 10 of Act was made was treated as residential area in plan cannot be ground to hold that rejection of application in instant case was an act of discriminative against applicant.

*Mohini Shantanagoudar, J., Ibid:* So also, this Court does not find any ground to accept the contention of the petitioners that they are discriminated in the matter of designating their lands for agricultural purposes. The Master Plan could be prepared based on fact situation. *Mais fides* cannot be alleged against the respondents. It is clarified by learned Advocate General that certain portions of land over which the development had already taken place prior to the declaration made by the authority under Section 10(1) of the Planning Act are designated for residential purposes. According to the State, in those areas, the residential houses have already come up and are existing for years and that they will be treated as residential areas. There is nothing on record to controvert the said submission. . . . The Planning Authority prepares the plan in the interest of general public. There will have to be boundary line somewhere, to mark the zones such as agricultural zone, residential zone etc. The boundaries will be fixed on the basis of actual fact situation and not on whims and fancies of any person or organisation. Merely because the petitioners' lands are designated for agricultural

this Court declines to accept the said contention. — *Baba Developers Private Limited, Bangalore and Others v Bangalore International Airport Area Planning Authority, Bangalore and Another, 2011(3) Kar. L.J. 366B.*

Sections 10(1) and 14(1) — Karnataka Land Revenue Act, 1964, Section 95(2) — Constitution of India, Articles 14, 226 and 227 — Formation of residential layout in area covered by development plan — Rejection of application for grant of approval for — Held — When under master plan finally approved by Government, land on which residential layout is proposed to be formed is designated as agricultural land, Planning Authority is justified in declining to grant approval — Merely because Deputy Commissioner has given permission to use agricultural land for residential purpose it does not *ipso facto* entitle applicant to get approval of planning authority, as use of land in planning area must conform to plan — Court, in exercise writ jurisdiction cannot act as Appellate Authority to reconsider decision of Planning Authority.

*Mohini Shantanagoudar, J., Held:* It is not doubt true that conversion orders are passed in favour of the petitioners permitting the petitioners to convert the land for non-agricultural purpose *i.e.*, for residential purposes after publishing of the declaration under Section 10(1) of the Planning Act. Merely because the conversion orders are issued by the Revenue Authority under Section 95 of the Karnataka Land Revenue Act, the petitioners cannot claim that the Planning Authority *i.e.*, BIAAPA should permit them to form the layout pursuant to the conversion orders. The Planning Authority has to strictly proceed as per the provisions of the Planning Act and the Master Plan. Separate Planning Authority is created for Bangalore International Airport Area in order to regulate the development in the said area keeping in mind the health, security the safety of the air traffic and the like. The Planning Authority in its wisdom has earmarked or designated certain of the areas for agricultural purposes and certain of the areas for residential purposes etc. This Court while dealing with the writ petition cannot act as an Appellate Authority to reconsider the decision of the Planning Authority to come to a different conclusion. The experts in the field have prepared the Master Plan keeping in mind the object with which the enactment is made. Hence, no motives can be attached to the respondents. . . . Sub-section (1) of Section 14 of the Planning Act makes it amply clear that, on and from the date on which the declaration of intention to prepare the Master Plan is published under sub-section (1) of Section 10 of the Planning Act, every land use, every change in the land use and every development in the area covered by the plan shall conform to the provisions of the Planning Act, Master Plan and the report as finally approved by the State Government. Thus, it is amply clear that the every development and every change in land use made in between the period between the provisional Master Plan and the final Master Plan shall conform not only to the provisions of the Planning Act, but also to the final Master Plan. Meaning thereby, if the change in land use made in favour of the petitioners is contrary to the final Master Plan, such conversion orders

approved . . . . . Admittedly, in this matter, the lands in question are designated for agricultural use not only in provisional Master Plan, but also in final Master Plan. They are not designated for residential use. If it is so, the petitioners prayer for grant of approval of the layout plan cannot and will not be granted since the prayer runs contrary to the Master Plan. As aforementioned, the petitioners cannot take shelter under the conversion orders for getting approval of the residential layout by the Planning Authority. The conversion orders are subject to final Master Plan. Since the Master Plan does not provide for forming any residential layout over the lands which are designated for agricultural purpose, the prayer of the petitioners for grant of permission to form layout cannot be granted. . . . . The provisional Master Plan can be enforced in law and any developmental activity which has taken place after provisional Master Plan would be subject to the final Master Plan. — *Babri Developers Private Limited, Bangalore and Others v Bangalore International Airport Area Planning Authority, Bangalore and Another, 2011(3) Kar. L.J. 366A.*

11. Power of entry for carrying out surveys for preparing [Master Plan].—For the purpose of carrying out a survey for preparation of [the Master Plan] and for the purpose of preparing of such plan, any person authorised by the Director or the Planning Authority or any public servant or person duly authorised or appointed under this Act may, after giving such notice as may be prescribed to the owner, occupier or other person interested in the land, enter upon, survey and mark out such land and do all things necessary for such purpose.

112. 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;

1. Substituted for the words "Outline Development Plan" by Act No. 1 of 2005, w.e.f. 14-2-2005  
 2. Substituted for the words "an Outline Development Plan" by Act No 1 of 2005, w.e.f. 14-2-2005

- (c) 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 land in the manner provided by or under this Act;
- (i) 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 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.

- (2) The following particulars shall be published and sent to the State Government through the Director along with the master plan, namely:—
  - (i) a report of the surveys carried out by the Planning Authority before the preparation of such plan;
  - (ii) a report explaining the provisions of the Master Plan;
  - (iii) regulations in respect of each land use zone to enforce the provisions of such plan and explaining the manner in which necessary permission for developing any land can be obtained from the Planning Authority;
  - (iv) a report of the stages by which it is proposed to meet the obligations imposed on the Planning Authority by such plan
  - (v) Master Plan shall indicate "Heritage Buildings" and "Heritage Precincts" and shall include the regulations made therein for conservation of the same.]

CASE LAW

S 12 — CDP — Land uses — Prescription of limitations to achieve objectives with the Competent Authority — ODP/CDP prescribe the maximum limit within provisions under CTTB/BDA Act can impose conditions, restrictions, limitations to achieve its objectives — CTTB/BDA Act to that extent has overriding effect on Karnataka Town and Country Planning Act — Explained. — *Per Kay Constructions and Another v K Chandrashekar Hegde and Others, 1984(3) Kar. L.J. 543 (DB); ILR 1989 Kar 741*

S. 12 — Not applicable to a particular residential layout or a scheme established by a local authority like Bangalore Development Authority or its predecessor in title i.e., City Improvement Trust Board. — *K. Chandrashekar Hegde v Bangalore City Corporation*, ILR 1988 Kar. 356.

Section 12 — Whether there will be lapse in respect of acquisition for the purpose of laying road? — No — Specified lands were acquired for the purpose of laying major and minor roads — Court opined even if the said lands are not taken possession of roads are not laid, within a stipulated period of 5 years from the date of publication of master plan, such acquisition cannot be lapsed — Held, the respondents are well-within their power insisting on petitioner to leave the road under the impugned endorsement.

*H.N. Nagamohan Das, J., Held:* — I decline to accept this contention of the learned Counsel for the petitioner. Admittedly the land in question is situated in residential zone in the comprehensive development plan. Further the petitioner is intending to develop the land in question as educational complex and the same is evident from earlier plan and modified plan submitted by the petitioner. What is permitted in the residential zone is school offering general education up to secondary education. But in the instant case the petitioner is developing the lands in question as educational complex inclusive of colleges. Therefore conditions imposed by the Government in Annexure-J, dated 27-5-2008 permitting the change of land use is binding on the petitioner. Condition No. 5 in Annexure-J specifies that change of land use is always subject to the roads designated in the master plan. Therefore the petitioner is bound by the conditions in the order dated 27-5-2008, Annexure-J. . . . Section 12 of the Karnataka Town and Country Planning Act, 1961 specifies the contents of master plan. . . . A reading of the above section specifies that the lands designated for the purpose of major and minor roads, national highways, State Highways etc., shall not be lapsed even if they are not acquired within the stipulated time of 5 years from the date of publication of master plan. In the instant case in the master plan the lands in question are designated for the purpose of roads. Therefore even if the lands in question are not acquired, the designation of lands as roads will not lapse. Therefore the respondents are well-within their power insisting on the petitioner to leave the road under the impugned endorsement. — *Vidya Vilas Educational Trust, Mysore v State of Karnataka and Others*, 2013(5) Kar. L.J. 218.

Ss. 12 and 19 — Procedure adopted for preparation and finalisation of both ODP and CDP is the same — Till CDP is prepared specification mentioned in ODP will govern its use — ODP achieves what Master Plan intends to achieve. — *M.R. Jadhav v Special Deputy Commissioner*, ILR 1986 Kar. 3765.

Ss. 12(2)(iii) and 21 — Zoning Regulations for Bangalore Local Planning Area, Regulation 9 — Height and floor area ratio of building — Regulation of Height of building constructed on plot with common access from public road or street is regulated according to width of such exclusive

street, such exclusive access should not be more than 30 metres in length from public road or street, and its width should not be less than 3.5 metres. If such means of exclusive access exceeds 30 metres in length, height and floor area ratio are to be regulated according to width of such exclusive access irrespective of whether such exclusive access is private road subject to easementary rights or not so sub ect

*G.P. Shivaprakash, J., Held:* The regulation provides that if the "Means of access" to the building, is other than through public roads or streets, it shall not be of more than 30 meters length from the public roads or streets. However, if the "Means of access" exceeds 30 metres in length, in that event the width of the access road shall determine the various parameters prescribed under the Regulations. If the "Means of access" exceeds 30 metres in length, the Zonal Regulations clearly provide that it shall be regulated with reference to the width of such access road and not with reference to the public road. — *Godrej K. Dinecia and Others v Corporation of The City of Bangalore and Others*, 1997(7) Kar L.J. 208A : ILR 1997 Kar. 7.

¶13. Approval of the Master Plan. — (1) On receipt of the Master Plan with the reports referred to in Section 12 from the Planning Authority under sub-section (1) of Section 9, or after such plan and reports are prepared and published under sub-section (2) of Section 9, the State Government after making such modifications as it deems fit or as may be advised by the Director, shall return through the Director, the plan and the reports to the Planning Authority, which shall thereupon publish, by notification, the plan and the reports inviting public comments within sixty days of such publication.

(2) If within sixty days of the publication under sub-section (1), any member of the public communicates in writing to the Planning Authority any comments on the plan and the reports, the Planning Authority shall consider such comments and resubmit the plan and the reports to the State Government, through the Director with recommendations for such modifications in the plan and reports as it considers necessary in the light of the public comments made on the plan and reports.

(3) The State Government after receiving the plan and the reports and the recommendations for modifications from the Planning Authority, shall, in consultation with the Director, give its final approval to the plan and the reports with such modifications as the Director may advise in the light of the comments and the recommendations of the Planning Authority or otherwise.

(4) The Planning Authority shall then publish in the prescribed manner the Master Plan and the reports as finally approved by the State Government. The plan and the reports shall be permanently displayed in the offices of the Director and the Planning Authority and a copy shall be kept available for inspection of the public at the office of the Planning Authority.]

## CASE LAW

S. 13.-- It is true that under Section 13, the method of framing of Zonal Regulations is provided under which a maximum height of building can be provided by the impugned Act. The Legislature in its wisdom thought to provide a maximum height of a new building in the statute itself and it is no longer left to the discretion of the authority to provide a maximum height of a new construction by framing Zonal Regulations under the Act. Now, the outline Development plan as described in the schedule appended to the new Act, cannot even be amended by the procedure prescribed under Chapter III of the Planning Act. The impugned Act substituted the existing Regulations of the Planning Act. The impugned Act substituted the existing Regulations with a statutory Zonal Regulations to the extent it provided maximum height of new building. Further, this is done with retrospective effect. It is settled law that where a law is retrospectively amended, the consequences of such retrospective amendment are that all actions have to proceed on the premise that the law, as amended, was always the law in force. In that view of the matter there was neither any need for the Legislature to modify the maximum height of a new building in the manner provided in the Planning Act nor to amend the provisions of the Planning Act providing for method of framing Zonal Regulations. — *Balharwar Trust and Others v M.D. Narayan and Others*, AIR 2003 SC 2236 : 2003(3) Supreme 800.

S. 13 -- Outline Development Plan for Bangalore, if force. — Please refer 1982(2) Kar. L.J. 5h. N. 35.

S. 13 -- Publication under — Requirements. — Please refer 1982(2) Kar. L.J. 5h. N. 35.

S. 13 and 2(11) — Outline Development Plan and the Regulations are not distinct from each other — Regulations are born out of the Plan and the Plan thrives on the Regulations — Merely because the words "and Regulations" are added to the word "Plan", the Regulations are not to be treated as not constituting part of the Plan even as when a building is sold along with the fixtures, it does not mean that the fixtures are not treated as part of the building. — *B.K. Srinivasan v State of Karnataka*, ILR 1987 Kar. 1867 (SC).

Ss. 13 and 3 — A perusal of the Act reveals that the stipulated maximum height upto which a building may be constructed under the Zonal Regulations, 1972, has been retrospectively modified, thereby allowing a maximum height of any building above 165 ft., as opposed to the earlier permissible maximum height of 155 feet. The Legislature has, therefore, not merely negated the effect of any prior judgment; but it has removed the actual basis upon which the judgment was based and thereafter validated the actions. It would no more be possible for a Court to conclude that the concerned buildings violated the terms of Zonal Regulations, since the legal basis has now been altered through an enhancement of the maximum permissible height retrospectively. Therefore, the Act is constitutionally valid.

... of a particular statute is brought into

of Objects and Reasons. The Statement of Objects and Reasons may, therefore, be employed for the purposes of comprehending the factual background, the prior state of legal affairs, the surrounding circumstances in respect of the statute and the evil which the statute has sought to remedy. It is manifest that the Statement of Objects and Reasons cannot, therefore, be the exclusive footing upon which a statute is made a nullity through the decision of a Court of law. — *Balharwar Trust and Others v M.D. Narayan and Others*, AIR 2003 SC 2236 : 2003(3) Supreme 800.

Ss. 13, 14, 15 and 76-K and Rule 18 — Karnataka Outline Development Plan and Regulations of Planning Authority, Table IV — Grant of permission to scooter garage and showroom in residential area — Legality.

*V.S. Mainmath and M.S. Patil, J.* — Petitioners who were residents of the locality challenged an order made by the Town Planning Authority Mysore, granting commencement certificate under Section 15 of the Act in favour of Respondent 4 for putting up a showroom and service station for autorickshaws and scooters. According to the Outline Development Plan the premises in question was situate within the area designated as residential

A similar application made by Respondent 4 was rejected in December, 1978. The impugned order was made on 13/14th June, 1979.

*Held* — (1) Rule 18 of the Rules under the Act precluded the Planning Authority from making or cancelling within 3 months a decision earlier taken. It is not as though Rule 18 impose, an absolute bar on the Authority from taking a decision contrary to the decision taken earlier in this behalf. As the decision in the case was taken beyond a period of 3 months from the earlier decision, the bar contained in Rule 18 was not attracted.

(2) The Regulations framed by the Town Planning Authority duly approved by the State Government are to be regarded as part and parcel of the Outline Development Plan and have to be read together. Table IV of the Regulations contained a list of illustrative service industries that can be permitted on appeal in residential areas by the Planning Authority. Item 8 of Table IV read "Automobile, Scooter and Cycle service and repair workshops". In cases falling under Table IV it is the Town Planning Authority that can grant permission under Section 14(15) The word "appeal" is in factually used in Table IV to convey the meaning an application. It is not provided either in the Regulations or in Table IV that permission contemplated therein should be granted as per the directions of the State Government. From Section 15 and Section 76-K of the Act which refer to directions being issued by Government the inference cannot be drawn that it is only with the permission of the State Government that permission can be granted in respect of items in Table IV.

(3) The title of Table IV indicates that items specified in Table IV contain only an illustrative list and not an exhaustive list. If a particular premises can be used as a service station or repair workshop, the user of the premises as a showroom was permissible under Table IV.

(4) The Note restricting the area of the user to 2400 sq. ft. is confined to item 10 and is not applicable to item 8.

(5) As residents of the locality the petitioners had sufficient interest to maintain the writ petition.

(6) The existence of a number of non-residential premises in the area indicated that the residential area in question had already been put to considerable non-residential purpose. If that is also a factor which the Town Planning Authority had taken into consideration while granting permission to Rule 4, it cannot be said that it has acted unreasonably or improperly in the circumstances. — *H.L. Nanjundiah U.S. v Town Planning Authority, Mysore, 1980(2) Kar. L.J. Sh. N. 56 (DB)*.

Sections 13(1), 13-C, 13-D and 26 — Constitution of India, Article 226 — Public Interest Litigation — Execution of developmental work without informing public affected by it to enable them to have say in matter — Allegation that work of widening road from existing 27 mtrs. width to 30 mtrs. width, involving cutting down good number of trees and acquisition of private property, is taken up without publishing details as contemplated under Section 13(1) of the Act — As requisite details of work were given in Comprehensive Development Plan approved and published in 1984 after due consideration of comments received from public Authority, held, is under no obligation to give details once again in revised plan when there is no change in respect of this work — Hence, allegation of violation of law, held, not sustainable.

*N. Kumar and H.S. Kempan, J., Held:* Section 13-C provides the declaration of intention of making an Outline Development Plan published by the State Government under sub-section (1) of Section 10 immediately prior to the commencement of the Karnataka Town and Country Planning (Amendment) Act, 2004, shall be deemed to be the declaration of intention of making Master Plan under this Act. Therefore, it follows that the declaration of intention of making Outline Development Plan or Comprehensive Development Plan published prior to its amendment is deemed to be the declaration of intention of making Master Plan under the Act. Though it is not a Master Plan by virtue of Sections 12 and 13 and by virtue of Section 13-C, it is deemed to be a Master Plan. . . . It is clear from the scheme of the Act every time whether it be an Outline Development Plan or Comprehensive Development Plan or a Master Plan as finally approved, a draft requires to be published inviting comment from the public. But, once after hearing the public, the plan is approved, when it is sought to be revised, it is only in respect of those aspects concerning revision, the particulars are to be mentioned in the draft plan inviting objection. If at the time of revision, existing provision is not to be revised and it has become final, after hearing the public comments, it is not necessary to mention in the draft plan every time all the particulars, which are already concluded. Therefore, in the instant case, while preparing the Comprehensive Development Plan in the year 1984

when they revised the Comprehensive Development Plan there was no proposal for further widening of the road. Again in the year 2005, when the Master Plan was to be finalised, a draft Master Plan was duly published. In that Master Plan, the road in question is specifically mentioned, but they have not mentioned the width of the said road because, there was no proposal to alter the width of the road. Only in respect of alteration, additions, revision, particulars are to be mentioned in the draft plan inviting public comment and after hearing the public, the Master Plan is to be approved. Therefore, the contention that in the draft plan the measurement of 30 mtrs., is not mentioned, which finds place in the Master Plan and thus the public had no opportunity to have their say in the matter has no substance. From the facts of this case in the light of the statutory provision as they were not altering/modifying the width of the road in question in the Master Plan and the width of the road were finalised as long back in the year 1984, there was no obligation cast upon the Planning Authority, when it published the draft Master Plan to mention the width of 30 mtrs. Road. Therefore, non-mentioning the width of the road in the draft Master Plan will not in any way violate the provision of law and therefore, we do not find any substance in the first contention. — *Dr. Meenakshi Bharath and Others v State of Karnataka and Others, 2012(4) Kar. L.J. 248 (DB)*.

Ss. 13(4), 12(2) and 9(1) — Rules 32 and 33 of Karnataka Planning Authority Rules, 1965 — Scope explained. — *B.K. Shrinivasan v State of Karnataka, ILR 1987 Kar. 1867 (SC)*.

S. 13(4) and Rule 33 — Publication of notice would be sufficient compliance with Section 13(4) and Rule 33 Outline Development Plan and Regulations need not be bodily incorporated — Defect, any, curable by Section 76-f.

Section 13(4) has prescribed the mode of publication of the Outline Development Plan and the Regulations. The 'prescribed manner' is what is prescribed by Rule 33, that is, publication in the official Gazette. In Sections 9(1) and 9(2) too the Outline Development Plan is required to be published in the prescribed manner. The prescribed manner for the purposes of Section 9(1) and 9(2) is that prescribed by Rule 32. If the entire scheme of the Act and the Rules is considered as an integral whole it becomes obvious that what Section 13(4) contemplates beside permanently displaying the plan and the particulars and keeping available a copy for the inspection of the public is a public notice to the general public that the plan and Regulations are permanently displayed and are available for inspection by the public. Such public notice is required to be given by a publication in the official Gazette. This appears to be a reasonable and a rational interpretation on Section 13(4) and Rule 33 in the setting and the scheme. Every one concerned, thought that publication of a notice in the Gazette inviting the attention of the public to the display and the availability for inspection of the plan and particulars was all that was contemplated by the provisions providing for publication. There is no reason or justification to add it an interpretation which demands that

is published and that such defect is cured by Section 76-J. Non-publication of the plan in the official Gazette was therefore a curable defect capable of being cured by Section 76-J.

Section 13(4) used the words "the Outline Development Plan and the Regulations" as well as the words "the plan and the Regulations". The Outline Development Plan and the Regulations are not distinct from each other. The Regulations are born out of the plan and the plan thrives on the Regulations. The plan is the basis for the Regulations and the Regulations are what make the plan effective, without the Regulations, the plan virtually becomes a dead letter. The reference in the four clauses of Section 13, whenever the word "plan" or the "Outline Development Plan" is used, is to the core plan without the particulars and the Regulations and not the whole of the Outline Development Plan which must include the Regulations. What the different phraseology is meant to convey is to emphasise the different parts of the plan which have to be forwarded to the Government, considered by the Government, made available for inspection by the public, as the case may be and to the extent necessary. Merely because the words "and Regulations" are added to the word "plan", the Regulations are not to be treated as not constituting part of the plan. The authority justifiably always treated the plan as including the Regulations and what was kept for inspection was the plan along with Regulations. *rel. on. 1990(4) SCC 178 - B. K. Srinivasan and Others v State of Karnataka and Others, (1987)1 SCC 658 : AIR 1987 SC 1059.*

13-A. Interim Master Plan.—(1) Pending the preparation of Master Plan, a Planning Authority may, where it considers it expedient, and shall, when so directed by the State Government, prepare and publish the interim Master Plan for the entire area within the jurisdiction of the Planning Authority, or for any part thereof, and thereupon, the provisions of Section 13 shall, so far as may be, but subject to the provisions of this section, apply in relation to such Interim Master Plan as they apply in relation to the preparation and publication of the Master Plan.

(2) The Planning Authority shall prepare and publish such plan not later than one year from the date of notice in the Official Gazette of its declaration of intention to prepare a Master Plan or not later than such further period not exceeding one year as may be extended by the State Government.

(3) The interim Master Plan shall provide only for matters mentioned in clauses: (a), (b) and (c) of Section 12, and if necessary, such other matters specified in that section as the Planning Authority may decide to include or as may be directed by the State Government.

(4) The interim Master Plan shall consist of such maps and such descriptive matters as the Planning Authority may consider necessary to explain and illustrate the proposals made in such plan.

13-B. Preparation of Master Plan for Additional Area.—If at any time after a Planning Authority has declared its intention to prepare a Master Plan

or after a Master Plan prepared by a Planning Authority has been sanctioned the jurisdiction of the Planning Authority is extended by inclusion of an additional area, the Planning Authority after following the provisions of an Act for the preparation of a Master Plan, prepare and publish a Master Plan for such additional area either separately or jointly with the provisional or final Master Plan prepared or to be prepared for the area originally under its jurisdiction, and submit it to the State Government for sanction after following the same procedure as it followed for submission of a Master Plan to the State Government for approval.

Provided that where a Master Plan for the additional area requires modification of the final Master Plan or where the State Government directs any such modifications, the Planning Authority shall revise the final Master Plan after following the procedure laid down in Section 9, so far as may be relevant.

13-C. Existing Outline Development Plan or Comprehensive Development Plan deemed to be Master Plan.—(1) The declaration of intention of making an Outline Development Plan published by the State Government under sub-section (1) of Section 10 immediately prior to the commencement of the Karnataka Town and Country Planning (Amendment) Act, 2004 (hereinafter in this section referred to as 'the Amendment Act'), shall be deemed to be the declaration of intention of making Master Plan under this Act.

(2) The Outline Development Plan or Comprehensive Development Plan prepared by any Planning Authority and provisionally or finally approved by the State Government under Section 13, or as the case may be, under Section 22 prior to the commencement of the Amendment Act shall be deemed to be the Master Plan provisionally, or as the case may be, finally approved under this Act.

(3) The Comprehensive Development Plan prepared by any Planning Authority revised under Section 25 prior to the commencement of the Amendment Act shall be deemed to be Master Plan revised under this Act.

13-D. Revision of Master Plan.—At least once in every ten years from the date on which the Master Plan has come into force, subject to the provisions of Section 13-C, the Planning Authority may and if directed so by the State Government shall, carry out a fresh survey of the area within its jurisdiction, with a view to revising the existing Master Plan and the provisions of Section 9 to Section 12 (both inclusive) shall *mutatis mutandis* apply in respect of such revision of the Master Plan.

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

14. Enforcement of the Master Plan and the Regulations].—(1) On and from the date on which a declaration of intention to prepare a Master

(3) Every application for permission under sub-section (2) shall be accompanied by a plan, drawn to scale showing the actual dimensions of the plot of land in respect of which permission is asked, the size of the building to be erected and the position of the building upon the plot and such other information as may be required in this behalf by the Planning Authority.

**CASE LAW**

S. 14 - Change in land use - Language of Section 14 which is pre-emptory, makes it clear that it is not possible without written permission of Planning Authority. - *Special Deputy Commissioner v Narayanaiah* 1968 Kar. 1398 (DB).

S. 14 - Commencement certificate - Respondent was granted permission for construction of a shop building on the ground floor. Later, permission was also granted for extension of the building for running a restaurant and lodging house - Whether a fresh commencement certificate should have been obtained for the altered use or development of the building.

S. *Kejendra Babu, J., Held.* - When the respondent had obtained permission or commencement certificate for the construction of a commercial building, the nature of the building remained the same, namely, "commercial" as contemplated under Section 12 of the Act. It continued to be so even when the first respondent wanted to run a restaurant or a boarding or lodging house. The concept of commercial use of a building includes not only the activities where a shop premises is located, it also covers a restaurant or a lodging house and the classification of the important or main purposes of land-use under Section 12 is commercial, residential, industrial and so on and not each sub-purposes have been entered in the definition. Each one of the purposes mentioned while defining the expression "commercial" cannot be stated to be a different purpose. It falls within the same genus and each purpose will only indicate the specie of the same genus. When a building is utilised for different purposes within the same genus of purpose it cannot be said that there has been a material change in the use of building or the land. Therefore, in the present case, just because the planning authority had earlier given a commencement certificate for construction of a commercial building on the land in question, the further requirement of another commencement certificate being granted to the respondent to put up a boarding and lodging house in the upper floors does not result in any material change. The restrictions imposed in the planning law though in public interest should be strictly interpreted because they make an inroad into the rights of a private person to carry on his business by construction of a suitable building for the purpose and incidentally may affect his fundamental right if too widely interpreted. The building bye-laws while sanctioning a plan will take care of what parking space should be provided in the area and whether the building itself would have such facility. But under the planning laws what is required to be seen is whether there is any change in the use of land and building from the one which was originally granted, and whether such change is a material change or not for the purposes of the Act. A material change occurs only when there is alteration of building from one major head to another major head and not in other circumstances. The purpose of the enactment is only the orderly growth of a city and it regulates each area of the city with regard

Plan is published under sub-section (1) of Section 10, every land use, every change in land use and every development in the area covered by the plan subject to Section 14-A shall conform to the provisions of this Act, the Master Plan and the report, as finally approved by the State Government under sub-section (3) of Section 13.

(2) [xxxxx] No such change in land use or development as is referred to in sub-section (1) shall be made except with the written permission of the Planning Authority which shall be contained in a commencement certificate granted by the Planning Authority in the form prescribed.

[Provided] Provided that where the use or change of land use under this section needs the diversion of agricultural land to non-agricultural purposes, such use or change of use shall not be permitted, unless permission is obtained in accordance with the provisions of the Karnataka Land Revenue Act, 1964 for such diversion.]

**Explanation.** - For the purpose of this section, -

- (a) the expression "development" means the carrying out of building or other operation in or over or under any land or the making of any material change in the use of any building or other land;
- (b) the following operations or uses of land shall not be deemed to involve a development of any building or land, namely: -
  - (i) the carrying out of works for maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;
  - (ii) xxxxx
  - (iii) xxxxx
  - (iv) the use of any building or other land within the curtilage of a dwelling house for any purpose incidental to the enjoyment of the dwelling house as such;
  - (v) when the normal use of land which was being temporarily used for any other purpose on the day on which the declaration of intention to prepare the [Master Plan] is published under sub-section (1) of section 10 is resumed;
  - (vi) when land was normally used for one purpose and also on occasions for any other purpose, the use of the land for that other purpose on similar occasions.

1. The words "Subject to the rules or bye-laws made under the law constituting the local authority concerned" omitted by Act No. 14 of 1964.  
 2. Proviso to sub-section (2) inserted by Act No. 2 of 1991, w.e.f. 20-3-1991.  
 3. Section (2) and (iii) omitted by Act No. 3 of 2004, w.e.f. 3-6-2004

industrial or residential. When that respect is taken care of, rest of the matters should be left to the municipal authorities and other licensing authorities who regulate the trade or other activities. — *Sri Krishnapur Math, Udipi v N Vijayendra Shetty and Another, 1997(3) Kar. L.J. 326.*

5. 14 — Development Plan prepared under the Act would be for the benefit of the public — Corporation Authorities must strictly observe the norms and conditions of the Development Plan — They shall never issue licence to construct building contrary to the Zoning Regulations. — *Shantia Corporation, Corporation of the City of Bangalore, ILR 1966 Kar. 1036 (DB).*

5. 14 — Enforcement of Outline Development Plan and Regulations: — Every land use, every change in land use, and every development in area covered by plan shall conform to the provisions of Act, Outline Development Plan and Regulations as finally approved by State Government — Mandatory — Change in land use or development — Can be effected only with written permission of planning authority — Commencement of certificate to be granted by planning authority to comprise such permitted changes — Permission obtained from erstwhile CTB — CTB had no authority to issue land use certificate or Commencement Certificate — Upto 1976 Town Planning Authority was statutory body competent to issue such certificate for metropolitan area of City of Bangalore — Permission from erstwhile CTB has no legal warrant.

H.G. Balakrishna, J., *Held* — Since the Outline Development Plan was prepared by Madhava Rao Committee in 1961 and was declared to be applicable to the metropolitan area of the City of Bangalore, the erstwhile CTB had no authority to issue any land use certificate or commencement certificate. Upto 1976, there was a separate statutory body called the town planning authority for the metropolitan area of the City of Bangalore. It is, therefore, justifiable for the petitioners to contend that the permission obtained from erstwhile CTB had no legal warrant. — *V. Lakshminidhi and Others v State of Karnataka and Others, 1991(2) Kar. L.J. 453B : ILR 1991 Kar 1334.*

5. 14 — Green belt area — Prohibition of utilising lands within green belt area for industrial purpose — Power to relax provisions vest in Government — Mere acquisition of land, not prohibited.

S. Rajendra Babu and B. Patilnawaj, JJ., *Held* — It is no doubt true that when an area is earmarked as coming under the green belt area, it may not be possible for utilisation of such land for any industrial purpose. But, in the present case, part of the land has been allowed to be converted for an industrial purpose and therefore it obviously shows that the authorities concerned were not averse to allowing coming up of industries in the area. When in respect of an industrial land the conditions relating to non-establishing of industries in green belt area is relaxed, it is difficult to understand as to how that principle could not be extended to the petitioner's lands. Section 14 of the Act requires that the land needs to be utilised for a particular purpose, relaxation thereto has to be sought for under the Karnataka Town and Country Planning Act. Mere acquisition of land by itself is not prohibited. It is only when the land is sought to be developed involving provision of Section 14 of the Act would be attracted. — *S. S. Dhanian v State of Karnataka and Others, 1995(6) Kar. L.J. 327D (DB).*

Development Plan — Challenge as to — Held, in the absence of any proof of contravention of Outline Development Plan question of quashing commencement certificate issued does not arise.

*Held* — The attack is essentially on the ground that if the renovation is permitted, the floor area ratio or the width of the road prescribed for that particular zone in the Outline Development Plan will be contravened inasmuch as the required amount of car parking space will not be available in the renovated building. I do not think there is much substance in the contention advanced. It is nobody's case that the renovation now sanctioned by the Corporation has in any way increased the plinth area of the construction sought to be renovated by the 4th respondent. Even according to the documents produced (photographs) by the petitioners themselves, the 4th respondent has converted the existing building by change of facade by providing for steel rolling shutters fitted on to the existing pillars. The ceiling of the ground floor as well as the first floor are now of reinforced concrete in place of the original tiled roof in 3 and wooden ceiling common in that area. The Corporation will not sanction the renovation plan unless the commencement certificate is obtained from the Town Planning Authority. The 4th respondent is not offending the Outline Development Plan. He has not developed the land in any manner different in user assigned in the Outline Development Plan in that particular zone. A formal commencement certificate is issued by the Planning Authority to enable the 4th respondent to obtain the licence from the Corporation for renovation. As is clear from the language of the commencement certificate, it is subject to the Outline Development Plan or the restrictions imposed by such plan. In the absence of any proof of contravention of the Outline Development Plan, it is difficult to grant the prayers.

No building law of the Corporation prohibits the renovation. On the other hand, the Karnataka Municipal Corporations Act, 1976, clearly defines what constitutes renovation. The 4th respondent has the right to reconstruct the existing building as well as the walls of the building if he satisfies the other requirements of the building bye-laws of the Corporation. When there is no material placed before this Court that such building bye-laws are violated, question of quashing the licence granted by the Corporation, does not arise. — *Vasanth Nayak, M. and Another v Planning Authority, Mangalore and Others, 1987(2) Kar. L.J. 235.*

5. 14 — Section 95 of Karnataka Land Revenue Act, 1964 — Conversion of non agricultural land within OD or CDP of Planning Authority or BDA — Permission granted by Deputy Commissioner held to be non est. — *Venkateswaraiah M. v State of Karnataka and Others, 1988(3) Kar. L.J. 188 : ILR 1987 Kar. 2995.*

Sections 14, 14-A, 15, 12(2) (ii) and 21 — Zoning of Land use and Regulations of Bangalore Development Authority (Comprehensive Development Plan, 1965), Regulation 3, Annexure-II — Residential zone — Running of hotel within — Not permissible under Zonal Regulations, either under normal circumstances or under special circumstances — No change in land use can be permitted if such change does not conform to Outline Development Plan and Regulations approved by State Government — Such changes in land use not conforming Outline Development Plan can be permitted only if same is necessitated by topographical or cartographic or

*Investments v Commissioner, Corporation of City of Bangalore, ILR 1987 Kar. 1572 (DB).*

S. 14(1) and (2) — Bangalore Development Authority Act, 1976 — Lands earmarked for residential purposes in the CDP/ODP for the Metropolitan Planning area of Bangalore — 'Conversion' for purposes of residential use not necessary in view of entry in ODP/CDP earmarking land for residential use — Case-law discussed. — *Vishnu Bharathi House Building Co-operative Society Limited v Bangalore Development Authority, 1990(1) Kar. L.J. 392.*

S. 14(2) — Agricultural land — Ceasing to be used for agricultural purpose — Land declared to be meant for residential purpose — Seeking permission to change land use does not arise.

*S.P. Bharucha, C.J. and S.A. Hakeem, J., Held.* — It is not disputed that in pursuance of the declaration of the intention of making the Outline Development Plan, the land in question is meant for residential use. Even otherwise, the land is not being used for agricultural purposes. Sub-section (2) of Section 14 of the Planning Act provides that no change in land use shall be made except with the written permission of the Planning Authority. Since the land is declared to be meant for residential purposes under Section 10 of the Planning Act, the question of seeking permission to change the land use did not arise at all. Since the fact that the land in question falls within the Bangalore Planning Area and the declared use thereof being residential is not disputed, the question of seeking permission from the Planning Authority under the Planning Act to change the user of the land does not arise. — *Bangalore Development Authority v Vishnu Bharathi House Building Co-operative Society Limited, 1992(1) Kar. L.J. 23E (DB) : ILR 1991 Kar. 4401 (DB).*

S. 14(2), as amended by Karnataka Act 2 of 1991, with effect from 5-2-1991 — Land use — Change of — Diversion of agricultural land for non-agricultural purpose — Planning Authority cannot permit such change unless party seeking such change obtains written permission of competent authority in accordance with provisions of Karnataka Land Revenue Act, 1964 — Such permission is mandatory even if change in use of agricultural land is in accordance with Comprehensive Development Plan.

*Chandrashekariah, J., Held.* The reading of the proviso to Section 14(2), it is clear that any person who intends to have the change of land use as contemplated under sub-section (2) of Section 14 of the Act 1961 is required to obtain permission from the Deputy Commissioner to use the agricultural land for non-agricultural purpose under Section 95 of the Act 1964. This proviso makes it clear that even though the land is covered under the C.D.P. conversion file is required to be paid to get the change of land use from agricultural to non-agricultural use, as provided under Section 95 of the Act 1964. The purpose of acquisition is to use the said land for non-agricultural purpose by the society. Therefore, the petitioners' societies are required to pay the conversion fine as contemplated under Section 95 of the Act 1964. The Deputy Commissioner before it uses the land for non-agricultural purpose. — *The Karnataka State Judicial Employees' House Building Co-operative Society Limited, Bangalore and Others v State of Karnataka and Others, 1997(1) Kar. L.J. 573B : ILR 1997 Kar. 3419.*

Ss. 14(2) and 14-A — Land use — Change of — Jurisdiction of Planning Authority to allow such change where change is from sanctioned Outline

14-A of Act. — *S.N. Chandrashekariah v Another v State of Karnataka and Others, 2006(2) Kar. L.J. 305A (SC).*

Ss. 14, 14-A, 24 and 76-M — Change of land use and development even by Municipality must conform to ODP and CDP — Change of land use contrary to ODP and CDP — Planning Authority competent to permit such changes with approval of State Government — Even if plan is prepared by Chief Architect of Government permission of Planning Authority necessary for change of land use — Approval given by Government is only administrative approval for incurring expenditure on construction — It does not constitute approval from Planning Authority under Section 14.

*J. Viswara Prasad, J., Held.* — The provisions of Sections 14 to 16 of the Development Plan are made applicable, *mutatis mutandis* to CDP's also, by virtue of Section 24 of the Act. Under sub-section (1) of Section 14, every development in the area covered by the plan shall conform to the provisions of the Act and the ODP and the Regulations. Under sub-section (2), no change of land use or development shall be made, except with the permission of the Planning Authority. Section 76-M of the Act confers an overriding effect on the provisions of the Town Planning Act over other Acts. Therefore, every change of land use and every development, even if done by a Municipality, should be in conformity with the ODP and CDP, as the case may be. If the development or change of land use is to be made contrary to the ODP or CDP, the Planning Authority, may with the previous approval of the State Government, allow such changes in the land use or development as provided under Section 14-A of the Act. It is therefore necessary that the first respondent should approach for necessary changes in the CDP in accordance with law. Without such a change in the land use or development, thereby permissible for the first respondent to proceed with the construction, there is no reducing the road width from the middle line about 12½ feet. It has to be noted that the Planning Authority is a Statutory Authority under the Town Planning Act with statutory duties to perform under the Act. Even if the Chief Architect of the State is the author of the plans, in case of any violation of the ODP or CDP or Town Planning Act which need change in the land use or development, the written permission of the Planning Authority has to be obtained. The approval given by the State Government which cannot be administrative sanction for incurring the expenditure which cannot be construed as approval in accordance with law, replacing the functions of Town Planning Authority under section 14. — *B.R. Baliga and Others v Town Municipal Council, Udipi, District and Another, 1995(4) Kar. L.J. 408C.*

Ss. 14, 24 and 76-M — Notifications dated 13-3-1984 and 6-4-1984 — Application for change of user of and within Comprehensive Development Plan has to be made to Planning Authority (BDA) and not to Deputy Commissioner under provisions of Karnataka Land Revenue Act, 1964 — *Special Deputy Commissioner v Bhargavi Madhavan, ILR 1987 Kar. 1260 (DB).*

Ss. 14 and 24(1) — Section 95 of Karnataka Land Revenue Act, 1964 — Change in land use in respect of land falling within area of ODP — Permission of Planning Authority to be secured — Authority of Deputy Commissioner under Section 95 stands ousted. — *Special Deputy Commissioner v State of Karnataka, ILR 1988 Kar. 1398 (DB).*

of State Government — Where owner of land has made application to Planning Authority for permission to change land use, it is for Planning Authority to grant permission after obtaining prior approval of State Government, if necessary, or to reject application — Duty of obtaining prior approval of State Government, if necessary for change of land use, is on Planning Authority and Planning Authority cannot direct applicant to obtain same himself.

*Hari Nath Tilihari, J., Held:* Section 14 A is a provision which empowers the Planning Authority to allow such changes, but granting of permission or allowing change of use of land has been made subject to prior approval of the State Government. Section 14-A cannot be taken that it makes granting of permission obligatory. In all Section 14-A is very clear that after coming into force of Outline Development Plan, this section empowers the Planning Authority to allow change in the land use or development from Outline Development Plan as may be necessitated in the circumstances as mentioned in the section. This section is an empowering provision which provides that the Planning Authority may or may not grant permission for change of use of land or development. But, in every case, when the authority has to allow the change of land use, no doubt, it may resolve to allow it, but the resolution of the authority may not be effective order until it is placed before the State Government for approval and approved by the Government. It is after the approval granted by the Government, it has to be communicated to the person concerned. It is the authority who has to take previous approval before communicating that order. In this view of the matter, Annexure-C requiring the petitioner to obtain permission from the Government deserves to be quashed. But direction to the petitioner to obtain approval from the Government is illegal. It is the duty of the respondent to get it. Use of land could not be changed except in accordance with Section 14 read with Section 14-A. — *Dr. Anand v State of Karnataka and Others, 1998(6) Kar. L.J. 722.*

**[14-A. Change of land use from the Master Plan].—(1)** At any time after the date on which the Master Plan for an area comes into operation, the Planning Authority may, with the previous approval of the State Government, allow such changes in the land use or development from the Master Plan as may be necessitated by topographical or cartographical or other errors and omissions, or due to failure to fully indicate the details in the plan or changes arising out of the implementation of the proposals in the Master Plan or the circumstances prevailing at any particular time, by the enforcement of the plan:

Provided that:—

1. Section 14-A inserted by Act No. 17 of 1991, w.e.f. 19-4-1991.
2. Substituted for the words "Outline Development Plan" by Act No. 1 of 2005, w.e.f. 14-2-2005
3. Substituted for the words "Outline Development Plan" by Act No. 1 of 2005, w.e.f. 14-2-2005
4. Substituted for the words "Outline Development Plan" by Act No. 1 of 2005, w.e.f. 14-2-2005

- (a) all changes are in public interest;
- (b) the changes proposed do not contravene any of the provisions of this Act or any other law governing planning, development or use of land within the local planning area; and
- (c) the proposal for all such changes are published in one or more daily newspapers, having circulation in the area, inviting objections from the public within a period of not less than fifteen days from the date of publication as may be specified by the Planning Authority.

(2) The provisions of sub-sections (2) and (3) of Section 14 shall apply *mutatis mutandis* to the change in land use or development from the Master Plan.]

[ (3) x x x x x.]

#### CASE LAW

**Section 14-A — Constitution of India, Articles 226 and 227 — Change of land use from residential to commercial — Public interest litigation challenging sanction given for — Where in response to notice inviting objections from public to such change of land use for which sanction was applied for by new owner of premises, there were no objections from public and on other hand, petitioners themselves had stated that they had no objection to user of premises for running vegetarian restaurant, same persons cannot maintain their public interest litigation challenging sanction given in application to use premises to run vegetarian restaurant — In absence of any contravention of statutory provisions in granting sanction to change of land use, sanction given cannot be faulted.**

*N.K. Jain, C.J. and V.G. Sabharwal, J., Held:* It is seen that notification under proviso (c) to Section 14-A(1) was issued calling for objections, for conversion of the dwelling house to Commercial purpose (Restaurant) as sought for by the 6th respondent. The publication was given on 13-3-1999 in Udayavani daily newspaper and on 14-3-1999 in Kannada Prabha as also Hindu and Indian Express newspapers. The only objection that was received was from the Jayragar V Block, Residents Welfare Association wherein also they only objected for starting any commercial complex or any bar and restaurant or non-vegetarian hotel and specifically stated that they have no objection or starting vegetarian restaurant. Having considered the said objections, the BDA in its meeting on 29-6-1999 after discussion held that the conversion was in public interest and necessary proposal should be made to the Government for conversion of user from dwelling to restaurant on the basis of the letter of the BDA dated 4-8-1999 the Government by order dated 7-10-1999 in exercise of the power under Section 14-A permitted the conversion of use from dwelling to commercial (restaurant) subject to the conditions mentioned in the order. Under the circumstances, in the absence of any objections filed by the petitioners, no direction, as prayed for, can be issued. In the facts and circumstances of the given case, it cannot be said

1. Substituted for the words "Outline Development Plan" by Act No. 1 of 2005, w.e.f. 14-2-2005