

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12<sup>TH</sup> DAY OF NOVEMBER 2021

BEFORE

THE HON'BLE MR.JUSTICE KRISHNA S.DIXIT

**WRIT PETITION No.19340 OF 2021 (GM-RES)**

**BETWEEN:**

1. SRI N V KRISHNAMURTHY  
S/O. LATE. NAMA VISHWANATHAIAH,  
AGED ABOUT 69 YEARS,  
R/O. PRABHU NURSING HOME,  
MG ROAD, CHINTAMANI,  
CHIKKABALLAPUR - 563 125
2. SMT. S. SUSHEELAMMA  
AGED ABOUT 46 YEARS  
W/O. N VENKATACHALAPATHI,  
RESIDENT OF. M G ROAD,  
CHINTAMANI TOWN - 563 125  
CHIKKABALLAPUR DISTRICT.
3. MR. N V GOPINATH  
S/O. LATE. NAMA VISHWANATHAIAH,  
AGED ABOUT 75 YEARS  
W/O. N VENKATACHALAPATHI,  
M G ROAD,  
CHINTAMANI TOWN - 563 125  
CHIKKABALLAPUR DISTRICT.
4. SRI. O P ANIL KUMAR  
AGED ABOUT 58 YEARS  
S/O LATE. O M PANDURAGIAH SETTY,  
RESIDENT OF M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
5. SRI. N R SANTOSH  
AGED ABOUT 45 YEARS  
S/O. N V RAMAMOHAN,  
RESIDENT OF M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.

6. SMT. MANJULA KRISHNA  
AGED ABOUT 56 YEARS  
W/O. LATE. G V KRISHNAIAH SHETTY,  
RESIDENT OF M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
7. SRI. C. VENKATARAMANIAH  
AGED ABOUT 82 YEARS  
S/O. LATE. DASA CHIKKARAMAIAH,  
RESIDENT OF M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
8. MR. RAVINDRA SINGH  
S/O. LATE. L NARAYANA SINGH,  
AGED ABOUT 63 YEARS,  
M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
9. MR. P N NAGARAJU  
S/O. LATE. BHATTI NAGRAJU,  
AGED ABOUT 66 YEARS,  
M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
10. MR. O P SUNIL KUMAR  
S/O. LATE. O M PANDURANGAIAH SETTY,  
AGED ABOUT 58 YEARS,  
M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
11. MR. N SRINIVASA  
S/O. NAMA NARAYANAIAH,  
AGED ABOUT 74 YEARS,  
M G ROAD, CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
12. MR. KASHI VISHWANATH  
S/O. LATE. NAMA GOVINDIAH,  
AGED ABOUT 65 YEARS,  
M G ROAD, CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.

13. MR. K N VARADARAJA  
S/O. K G NARAYANASWAMY,  
AGED ABOUT 55 YEARS,  
GEETA SHOPPING COMPLEX,  
M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
14. MR. K K HARINATH  
S/O. LATE. K V KRISHNAMURTHY,  
AGED ABOUT 62 YEARS,  
M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
15. MR. K SHANKARE GOWDA  
S/O. LATE. KENCHAPPA,  
AGED ABOUT 71 YEARS,  
M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
16. MR. G V SHANKAR SETTY  
S/O. G K VENKATAPPA SETTY  
AGED ABOUT 71 YEARS,  
M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
17. MR. G S KRISHNAMURTHY  
S/O. LATE. GOPALKRISHNAIAH SETTY,  
AGED ABOUT 61 YEARS,  
M G ROAD, CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
18. MR. B R RAVINDRANATHIAH SETTY  
S/O. LATE. B R RAJIAH,  
AGED ABOUT 57 YEARS,  
M G ROAD, CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
19. AFZAL PASHA  
S/O. MOHAMMAD ABBAS,  
W/O. ABHISARIS,  
AGED ABOUT 47 YEARS,  
M G ROAD, CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.

20. S. THIRUMALESH  
S/O. LATE. C K SUBRAMANYAM,  
AGED ABOUT 34 YEARS,  
R/O. NEAR GOVERNMENT HOSPITAL,  
M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
21. SRI. M G KRISHNAMURTHY  
AGED ABOUT 61 YEARS,  
S/O. LATE. SRI. M S GOPALAKRISNAIAH SETTY AND  
LATE SMT. M G BHAGYALAKSHMAMMA,  
RESIDENT OF M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
22. N R RANGAIAH SETTY  
S/O. SRI. NAMA LALITHAMMA,  
AGED ABOUT 67 YEARS,  
R/O M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
23. M N KASTURI  
W/O. LATE. M S NAGRAJ,  
AGED ABOUT 73 YEARS,  
R/O M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
24. SMT. NIRMALA SRIDHAR  
W/O. SRI. S V SRIDHAR,  
AGED ABOUT 53 YEARS,  
R/O. VASAVI KALYANA MANDIRA ROAD,  
NR EXTENSION,  
CHINTAMANI TOWN- 563 125,  
CHIKKABALLAPUR DISTRICT.
25. SRI. KANYAKA PARAMESHWARI CO-OP SOCIETY  
M G ROAD, CHINTAMANI - 563 125,  
CHIKKABALLAPUR DISTRICT,  
REP BY ITS SECRETARY,  
SRI K M ASWATHNARAYANA
26. M S RAGHUNANDAN  
S/O. LATE. M S RAMARATHNAMMA,  
AGED ABOUT 51 YEARS,

R/O M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.

27. M S GOVINDRAJU  
S/O. LATE. MEDA VENKATARAMAIAH SHETTY,  
AGED ABOUT 42 YEARS,  
R/O M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
28. MR. K RAMESH BABU  
S/O. LATE. KENCHAPPA,  
AGED ABOUT 56 YEARS,  
7<sup>TH</sup> CROSS, K. VINAYAKA LAYOUT,  
NAYANDALLI,  
BANGALORE - 560 039.
29. N K NAGENDRA  
S/O. NAMA KRISHNAIAH SETTY,  
AGED ABOUT 44 YEARS,  
R/O M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.
30. SRI. N S SATISH  
S/O. N N SRINIVAS.  
AGED ABOUT 41 YEARS,  
R/O M G ROAD,  
CHINTAMANI TOWN - 563 125,  
CHIKKABALLAPUR DISTRICT.

.. PETITIONERS

(By SRI G.KRISHNAMURTHY SR.COUNSEL FOR  
SRI. VARUN GOWDA, ADVOCATE)

**AND:**

1. UNION OF INDIA  
REPRESENTED BY ITS SECRETARY,  
MINISTRY OF ROAD  
TRANSPORT AND HIGHWAYS  
TRANSPORT BHAVAN, 1 PARLIAMENT STREET  
NEW DELHI - 110 001.
2. NATIONAL HIGHWAYS AUTHORITY INDIA  
REPRESENTED BY ITS CHAIRMAN  
G5 AND 6, SECTOR 10,  
DWARKA, NEW DELHI - 110 075.

3. OFFICE OF THE EXECUTIVE ENGINEER  
NATIONAL HIGHWAYS DIVISION  
NO. 13/4, 4<sup>TH</sup> FLOOR, CFC BUILDING  
NRUPATHUNGA ROAD,  
BANGALORE - 560 001.
4. THE STATE OF KARNATAKA  
REP BY ITS SECRETARY,  
PUBLIC WORKS DEPARTMENT,  
M.S. BUILDING,  
BANGALORE - 560 001.

...RESPONDENTS

(BY SMT. SHILPA SHA, PANEL COUNSEL FOR R1 TO R3,  
SRI. VINOD KUMAR, AGA FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO i) ISSUE A WRIT OF CERTIORARI TO QUASH THE IMPUGNED NOTICES ISSUED BY THE 3<sup>RD</sup> RESPONDENT DATED 16 08.2021 TO PETITIONER NO.1 AT ANNEXURE-A BEARING NO.EE/NHD/BNG/AE-1/NH-234/WP 24986/163/1081/2021-22; ii) ISSUE A WRIT OF CERTIORARI TO QUASH THE IMPUGNED NOTICES ISSUED BY THE 3<sup>RD</sup> RESPONDENT DATED 16.08.2021 TO PETITIONER NO.2 AT ANNEXURE-A1 BEARING NO.EE/NHD/BNG/AE-1/NH234/WP/24986/168/1086/2021-22 AND ETC.,

THIS WRIT PETITION, COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

### **ORDER**

Petitioners claim to be the owners of the respective properties which are sought to be taken away for the purpose of widening of National Highway in terms of the provisions of Control of National Highway (land and Traffic) Act, 2002. They

have produced copies of notices issued to them individually at Annexures-A, A1 to A30.

2. Learned panel counsel Smt.Shilpa Shah is requested to accept notice for respondent Nos.1 to 3; learned Additional Government Advocate Mr.Vinod Kumar on request accepts notice for respondent No.4; both the Panel Counsel and the Additional Government Advocate vehemently oppose the writ petition contending that regardless of their text, these Notices are only Show Cause Notices in character & substance; the view comes out clearly from their content and therefore it is open to the petitioners to show cause; instead of showing cause, they have hurriedly rushed to the Writ Court and therefore, the writ petition should be dismissed.

3. Having heard the learned Senior counsel appearing for the petitioners and the learned panel counsel & learned Additional Government Advocate for respondents and having perused the petition papers, this Court is inclined to grant a limited indulgence in the matter as under and for the following reasons:

a) The right to property is guaranteed constitutionally to every citizen vide Article 300-A; where property is the only source of livelihood, this right may figure in Part-III of the Constitution; that being the position, whenever property of private citizen is being meddled with, the jurisdictional authorities who answer the definition of State under Article 12 have to be doubly cautious; such meddling will not be spared unless it is supported by law and reasons, as rightly argued by Senior counsel Mr.G.Krishna Murthy.

b) The above having been said, it to be pointed out consistent with the stand taken by learned Panel Counsel & AGA that the notices in question although could have been couched in a proper language, have to be treated only as Show Cause Notices as has been done by the Apex Court and this Court in number of cases disregarding their textual effect; as already mentioned above meddling with the private property by the statutory Authorities is a serious matter. Be that as it may, if the subject notices are to be construed as show cause notices, all the petitioners will have right to send their response to the same along with necessary documents supportive of their version.



c) Mr.G.Krishna Murthy, learned Senior counsel points out that already they have filed such replies and they would also file additional replies, if any, the same needs to be permitted, consistent with the requirement of the principles of natural justice.

In the above circumstances, this writ petition is disposed of permitting the petitioners to file reply/additional reply along with supportive documents within a period of three weeks; if they are filed accordingly, the answering respondents shall look into the same and inform the petitioners the result of their consideration forthwith; till consideration takes place, the result of consideration is intimated to the petitioners and two weeks lapse thereafter, no precipitatory action shall be taken by the respondents in respect of such properties.

All contentions including the competence to issue the impugned Show Cause Notices are kept open.

No costs.

**Sd/-  
JUDGE**

RR