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S.NO. 92/5, MATTANAHALLI VILLAGE SARJAPURA HOBLI GOVERNMENT LAND SOLD TO EXCEL DWELLINGS PVT LTD AND M/S. EXCEL DWILINGS OXIZEN PVT LTD



By: M.S.Yatnatti: Editor and Video Journalist Bengaluru: BMTF Bengaluru is requested to file somotto case against the seller of Government land in Survey No. 92/5, an extent of 5 Acres 25 Guntas and 1 Acre A kharab, totally measuring 06 Acres 25 Guntas, situated at Mattanahalli Village, Sarjapura Hobli, Anekal Taluk, Bangalore Urban District as it is declared as Government land and it was sold to Excel Dwellings Pvt Ltd and M/s. Excel Dwellings Oxizen Pvt.Ltd., by owners after AC order LRF (83) (AS) 113 /2012-13 dated 02-09-2015 for declaring it as Government land. I have asked PIO The Public Information Officer O/O Anekal Planning Authority, (APA)Anna, #430 Hennagara Gate,Hosur Main Road Bangalore-560099 Tel : 080-27835122Tel/Fax : 080-27836569 Email - anekalplanning80@gmail.com provide me information and copy of approved layout plan in respect of OXIGEN Layout in Sarjapur By Excel Dwellings Pvt Ltd and M/s. Excel Dwellings Oxizen Pvt.Ltd., Bangalore. as approved by BMRDA in APA/LAO/188/2013-14 Dt:13.08.2014 for 47Acre 23Gts in survey numbers 68/1, 68/2, 68/3, 68/4, 69/2, 91, 92, 93, 95, 96, 97/1, 97/2, 97/3, 97/4, 98/1 in Gudigattanhalli village Sarjapur Hobli Anekal Taluka? After Removing Survey No. 92/5, from approved layout plan which is measuring an extent of 5 Acres 25 Guntas and 1 Acre A kharab, totally measuring 06 Acres 25 Guntas, situated at Mattanahalli Village, Sarjapura Hobli, Anekal Taluk, Bangalore Urban District as it is declared as Government land and it was sold to Excel Dwellings Pvt Ltd and M/s. Excel Dwilings Oxizen Pvt.Ltd., by owners after AC order LRF (83) (AS) 113 /2012-13 dated 02-09-2015 for declaring it as Government land.The BMRDA is THE PUBLIC AUTHORITY under obligation to provide information "PUBLICLY" under section 4(I) (a) (b) (c) (d) RTI Act. and also I have asked PIO The Public Information Officer O/O Anekal Planning Authority, (APA)Anna, #430 Hennagara Gate,Hosur Main Road Bangalore-560099 Tel : 080-27835122Tel/Fax : 080-27836569 Email - anekalplanning80@gmail.com provide me information and copy of approved layout plan in respect of OXIGEN Layout in Sarjapur By Excel Dwellings Pvt Ltd and M/s. Excel Dwilings Oxizen Pvt.Ltd., Bangalore. as approved by BMRDA in APA/LAO/188/2013-14 Dt:13.08.2014 for 47Acre 23Gts in survey numbers 68/1, 68/2, 68/3, 68/4, 69/2, 91, 92, 93, 95, 96, 97/1, 97/2, 97/3, 97/4, 98/1 in Gudigattanhalli village Sarjapur Hobli Anekal Taluka as how Many Sites Are Sitting On Rajakaluves, Storm Water Drains? How Many & Which Ones Are In The Buffer Zones That Will Be Demolished??? Or foe which plan sanction will not be given as per UDD circulars as per NGT orders as buyers need this information before investing money in buying the sites in such layouts promoted by Excel Dwellings Pvt Ltd and M/s. Excel Dwilings Oxizen Pvt.Ltd .Please provide me information and reasons under section 4(I) (a) (b) (c) (d) RTI Act not implementing UDD circular of NGT order in respect of Rajakaluves, Storm Water Drains? And lakes by BMRDA and issuing advertisements and maps for genral public such that builders cannot chaet them selling sites in Rajakaluves, Storm Water Drains.

Builders and buyers of property and land owners need to respect NGT orders as it protects environment and at the same time Builders and buyers of property and land owners need experts advice to solve the impact of NGT order in lawful manner and meet ends of justice .National Green Tribunal Act, 2010 has been enacted to fulfill the long felt need of alternative forum to deliver speedy and inexpensive justice. The philosophy of public interest litigation is echoed in the legislation, a welcome direction for the class of victims who are unable to knock the doors of judiciary. According to research papers The National Green Tribunal (NGT) has emerged as an important player in Indian environmental regulation. It has issued orders on a variety of issues—ranging from pollution to deforestation to waste management. It recently directed the Delhi government to de-register all diesel vehicles more than 10 years old—a decision being opposed by many stakeholders, including the Central Government.According to reports and experts advice please beware at the time buying property abutting a storm drain , it is somebody else's Villa, somebody else's Apartment, somebody else's Plot, somebody else's House that gets demolished and you are not affected . It is never yours. Next time, it could be yours.You have read enough number of stories in news papers and might have seen in TV Channels about several gut wrenching, stomach churning demolition stories of all kinds of real estate all over Bangalore for either Storm Water Drain Encroachments or Lake Encroachments. Despite all this, with great heroism and bravery, you have gone ahead and blindly invested in all kinds of layouts all over Bangalore without getting anything checked by legal experts for Storm Water Drain Encroachments or Lake Encroachments or buffer zone Encroachment or SWD encroachment?.The issues related about Storm Water Drain Encroachments or Lake Encroachments or buffer zone Encroachment or SWD encroachment?.are the kind that will give cause for demolition of your property/building/house/villa/apartment or rejection of plan sanction/building construction plan approval by BBMP/BDA/BMRDA/BIAAPA/APA or NPA/KPA/MPA/BMICAPA/HPA etc. This means that if you buy a site/plot abutting any of the categories of water bodies, you will be sitting on some dead investment since you will not get any house construction plan approved. Even after demolishing your existing old house/building, you will not get any new plan approval for new construction if the site in question is abutting any of the categories of water bodies. Hence it becomes pertinent on your part to get the property first investigated by legal experts .Be sure that the property you have identified to buy is not too close to a Primary storm water drain? Too close to Secondary storm water drain? Too close to a Tertiary storm water drain? Either way, you will problem when the demolition squad comes to bulldoze your house/villa/apartment. Another way you can get surprise is when the BBMP or BMRDA will not even give you any License or Plan Sanction (Approval) to construct your house/villa, assuming you blindly end up buying a plot/site without consulting with experts on buffer zone problems for Rajakaluve closeness or encroachment or for the fact that the Plot you bought is actually in the buffer zone of a lake. The National Green Tribunal (NGT) was established in 2010 by the National Green Tribunal Act. It replaced National Environment Appellate Authority. It was set up to handle cases and speed up proceedings of cases related to environmental issues. Experts are busy in research on NGT order's impact on Real Estate industry in Bangalore. In this article I am reporting analysis of many experts and the developments that happened post this order and the impact this order will have on city development, landowners, builders & property buyers.NGT order at a glance: As per Bangalore Development Authority (BDA) CDP 2015 a setback of 30 meters is required from the boundary of lake i.e. no construction is permitted within this 30 meters buffer zone. For primary drains the buffer zone was 50 meters measured from the centre of the drain.NGT order changed the buffer zone of lake from 50 meters to 75 meters. For primary drains it made the buffer zone of 50 meters from the boundary of drains rather than centre of the drain. The order overruled BDA rules and thus jeopardised interest of several stakeholders. The order is retrospective in nature & affects all projects whether approved or not approved or commencement certificates issued or not issued as The Bruhat Bengaluru Mahanagara Palike (BBMP) and Karnataka Urban Development Department (UDD) tendered an unconditional apology to the principal bench of the National Green Tribunal at the time of hearing , and undertook to withdraw with immediate effect, a circular laying out exemptions from the buffer zone ruling of the tribunal.A UDD letter to the BBMP, dated February 16, 2017, interpreting the NGT ruling too has been withdrawn. Citing the UDD communication, the BBMP had issued the circular, dated March 30, 2017, exempting projects which had already received plan approvals from the buffer zone ruling. The department and BBMP submitted affidavits and were represented by additional chief secretary Mahendra Jain and joint commissioner Sarfaraz Khan, respectively. Reportedly the NGT order on tier apologies is awaited

Castigating the BBMP for tweaking its order on the buffer zone around lakes, the NGT had on Tuesday directed that any such attempts in future would be subjected to contempt proceedings. The tribunal also deterred the officials from interfering with the NGT judgment in future, and from using impertinent language with regard to it.On March 30, 2017, nearly a year after NGT ordered increasing the no-build buffer zone around lakes in Bengaluru from 30metres to 75metres, BBMP issued a fresh circular reinterpreting the order. The circular had stated that the new buffer zone of 75metres for lakes and wetlands won't apply for building constructions in layouts which have sanction from the planning authority, before the order was issued on May 4, 2016.The green bench also noted that the intention behind the BBMP circular and legal opinion approved in the UDD letter dated February 16, was clearly to frustrate the NGT judgment. It observed that the language used in the letter and comments given on the judgment dated May 4, 2016, are unacceptable. "The opinions expressed in the BBMP circular and UDD letter are completely contrary to the tribunal's judgment. We wish the government on its own should take some action to show they have some respect for law," the green bench noted.The tribunal told the UDD that it should know the law correctly and that NGT is not a quasi-judicial body. The NGT has been described as a civil court in the NGT Act, it pointed out. The circular issue was brought to the notice of the principal bench in New Delhi on Tuesday, by intervener Namma Bengaluru Foundation, when it was hearing the [Bellandur Lake](#) case. The bench took exception to the circular and the UDD letter, and ordered all officials connected to them to appear before it on Wednesday.

Reactions reportedly to the NGT order:When this order came out people including city developers thought this was specific to a particular project of Mantri Developers. So there was no industry specific reaction to this order. However within a week of this NGT order the Government of Karnataka passed a circular stating that they are going to abide by this NGT order which sent shock waves across the industry. The circular clearly indicated that BDA / BBMP will not give approvals to any project abutting lake & drains that do not conform with new requirements of buffer zone as per the NGT order. Suddenly the industry realized the seriousness of impact of this order & subsequent circular by the govt. As per estimate over 150 projects are adversely impacted by this NGT order in Bangalore amounting to around Rs. 30,000 Cr of inventory!

Builders Property buyers Landowners are impacted by this order & How?

A. Builders: Obviously the worst affected are the builders. Imagine you abide by the local building laws, buy land, pay for initial expenses & submit the plans for sanction. But BDA refuses to give you approvals citing NGT order. A number of builders bought land abutting lakes to get the "prime" factor. Builders are not at fault as they abided by 30 meters setback norms. Who is going to compensate the builders for the losses? Many builders borrowed expensive money from NBFCs and Private Equity Funds to buy the land. What about the fate of those financial institutions who may not be able to recover their investments? More litigations?

B. Property buyers: Experts pity buyers who bought properties in projects affected by NGT order. Though ongoing approved projects are safe, people who bought in Pre-Launch would be affected by this order. They have the right to cancel their bookings but refunds might be delayed as the builders can say they are not at fault or are contesting the matter in the court. Such orders create confusion in the minds of property buyers. How will a property buyer know whether the project won't get adversely impacted from some other order in future? I have already started observing the growing preference among buyers for ready to move in projects. Investors will also stay away from the market putting more stress on the sector.

C. Landowners:Imagine you were a proud owner of a lake facing property worth several crores. Suddenly NGT order makes this value ZERO as no project can come up on this land. What if somebody had invested his life savings & bought a plot in a layout approved by BDA which now falls within 75 meters buffer zone? Suddenly he or she can't build his or her dream house on it. Who will compensate such landowners? What about the fundamental rights of these landowners? Ideally the government should buy the land from landowners to create the buffer zone. It would be win-win for them.

D. City Development: Million dollar question is who is going to protect the buffer zone in future? What about subsequent illegal slum development on this buffer zone? If you travel across Bangalore you will see rampant encroachments by slum dwellers on several lakes. You can't even clear these illegal settlements by going to courts. Other big issue is the ongoing and planned work on Sewage Treatment Plants on several lakes. What happens to them? Govt has already cancelled allotment of lands given to private agencies for building STP which now falls within the new buffer zone. While the NGT order was passed to "protect" the lakes the ambiguity over the fate of these STPs will delay the work and pollution & destruction of lakes will continue unabated.

Current Status: Supreme Court has rejected the representation made by Bangalore chapter of CREDAI to quash this NGT order and asked affected builders to approach the court individually. It will hear their cases on individual basis and pass judgment accordingly. Bangalore now has a "NGT aggrieved Builders Group" which is meeting regularly to strategize their fight in Supreme Court.



The members of the Tribunal are a mix of persons with a legal/judicial background and those with knowledge and expertise in environmental issues or with administrative experience. There is a principal bench of the Tribunal in New Delhi and four regional benches in Bhopal, Kolkata, Pune and Chennai. These are 'co-equal benches' i.e. the principal bench is not 'higher' in a judicial hierarchy than the other benches. Each bench has a specified geographical jurisdiction. For instance, cases arising from Kerala, Tamil Nadu, Karnataka, Andhra Pradesh, Pondicherry, and Lakshadweep have to be filed in the Southern bench in Chennai. Occasionally 'circuit benches' are also constituted. These are specially constituted benches, which visit a particular city for a few days to hear cases relating to that state.

The Tribunal has original (to be the first judicial forum to hear a case) and appellate (review a regulatory authority's decision) jurisdiction with regard to the implementation of seven environmental laws. These are the Water (Prevention and Control of Pollution) Act, 1974, the Water (Prevention and Control of Pollution) Cess Act, 1977, the Forest (Conservation) Act, 1980, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, the Public Liability Insurance Act, 1991, and the Biological Diversity Act, 2002. The notable exception is the Wildlife (Protection) Act, 1972 which is not included. A significant number of cases that may arise under the Wildlife (Protection) Act are criminal cases—and the Tribunal has no jurisdiction over criminal cases. A judge of the Supreme Court of India or Chief Justice of High Court are eligible to be Chairperson or judicial member of the Tribunal. Even existing or retired judge of High Court is qualified to be appointed as a Judicial Member. A person is qualified to be an expert member if he has Master of Science with a Doctorate degree or Master of Engineering or Master of Technology and has an experience of fifteen years in the relevant field including five years practical experiences in the field of environment and forests in a reputed National level institutions. Anyone who has administrative experience of fifteen years including experience of five years in dealing with environment matters in the Central Government or a State Government or in National or State level institution is also eligible to be an expert member.

The Tribunal has original jurisdiction over all civil cases raising a substantial question relating to environment and which arise out of the implementation of the seven laws. This makes the Tribunal a crucial avenue for grievance redressal for persons who wish to highlight environmental issues which have serious implications but are not linked to a single government decision. For instance, cases relating to the widespread pollution in the River Ganga and Yamuna, increasing air pollution in the National Capital Region, and illegal mining activities in different parts of the country have all been brought before the Tribunal under its original jurisdiction. While exercising its appellate jurisdiction, the Tribunal decides cases in which a regulatory approval or consent granted (or rejected) by the relevant government agency is being challenged. These approvals or consents are those issued under the seven laws. For example, environmental clearances under the EIA Notification 2006, forest clearances under the Forest (Conservation) Act, and consents issued by the State Pollution Control Boards under the Water Act and the Air Act are included. According to the NGT Act, an aggrieved person can file a case before the Tribunal, and could be an individual, a company, a firm, an association of persons (like an NGO), even if not registered or incorporated, a trustee, a local authority (like a municipal corporation), or a government body (like the State Pollution Control Board). The person need not be directly affected by the project or development in question, but could be any person who is interested in protecting and preserving the environment. There is a time period within which the case has to be brought before the Tribunal, which varies according to the type of case.

You can argue the matter yourself provided you are well acquainted with the facts and are reasonably knowledgeable about the law and procedures. The language of the NGT is English, and some guidelines related to dress apply. However, it would be best if a lawyer represents you since (s)he will be better equipped to argue and handle all procedural aspects. If a project proponent or any authority does not comply with the directions contained in an NGT order, the penalty can be imprisonment for three years or fine extending to 10 crores or both. Continued failure will attract a fine of twenty five thousand rupees per day. National Green Tribunal or the Environmental Court is not a new concept. Different courts in the country have recommended the establishment of Environmental Court to take up the cases related to environmental degradation. In M.C Mehta vs. Union of India case in 1986, Supreme Court observed that environmental cases involve assessment of scientific data. Setting up of environmental courts on regional basis would require professional judge and experts, keeping in view the expertise required for such adjudication. In a judgment 'Indian Council for Enviro-Legal Action vs. Union of India, 1996 the Supreme Court observed that Environmental Courts having civil and criminal jurisdiction must be established to deal with the environmental issues in a speedy manner. National Green Tribunal was set up under National Green Tribunal Act, 2010 with an aim to provide protection to environment, conservation of forests and other natural resources along with enforcement of legal rights for environment and giving relief and compensation for damages to persons and property. NGT since its inception have taken various steps in order to reduce the menace of pollution and other activities adversely impacting the environment. Some of the recent steps by the tribunal include order of banning diesel vehicles older than 10 years in the national capital along with ban on burning of solid waste. These steps have been taken owing to the rising pollution levels which is evident from the the list of most polluted cities where the national capital stands on the top. Other examples includes cancellation of coal block clearance in Hasdee-Arand forests overriding central government's decision, Sterlite case and Meghalaya rat hole mining.

However despite various proactive support being taken by the tribunal the pollution levels has been continuously rising over the years. This is due to lack of effective support from government both at the centre as well in states. Inefficiency of Central and State pollution control boards is another reason for it. This often results in delays in implementing the tribunal's decision. Without adequate support from the government side NGT is unable to have a vigilance throughout the country due to its limited capacity and staff. Further despite solving a long number of cases still there is a long list of pending cases in the tribunal which adds to the problem. Lastly the tribunal is not having suo-moto powers which also restricts its ambit in the area of environment. Citing the increasing pollution levels in the country having a adverse impact on health the role of NGT gains more importance. The Central and State government should work in collaboration with NGT to secure the environment with better, faster enforcement of NGT orders. Recently launched National Air Quality index can be used proactively for monitoring the pollution levels.

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No. ADTP/PR/608/2016-17 Date: 03.08.2016

PUBLIC NOTICE

Reg - Construction of buildings at the edge of Lakes and Rajkaluves

The National Green Tribunal in its judgment given on 04-05-2016 has ordered Competent authorities to give permission to construct the buildings only after confirming a buffer zone of 75 mtrs from edge of the lake. Further, it has ordered to give the approval for construction by maintaining a buffer zone of 50 mtrs, 35 mtrs and 25 mtrs for different categories of rajakaluve like primary drains, secondary drains and tertiary drains respectively from the edge of their boundaries.

It is unfortunate that, following heavy rain in Bengaluru, many buildings/residential complexes were surrounded by water causing havoc amongst the residents. Unauthorized construction of buildings at the edge of rajakaluves and near lake areas is the reason behind this exacerbation. In view of this, BBMP has considered unauthorized construction of Buildings at the edge of rajakaluves and lakes as a very serious issue and is taking all the necessary measures to take action against such unauthorized constructions.

Therefore, from now onwards, before carrying out any building construction activities, approval has to be taken from the competent authorities and such works should be carried out maintaining a buffer zone as specified above. People intending to buy properties should make sure that the said buffer is maintained before making purchase. This public notice is issued to inform the public that, if anybody fails to adhere to the above instructions, BBMP will not be responsible for any casualties or accidents that may happen.

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Everybody is facing Problems, Problems?

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