

In the High Court of Karnataka at Bangalore

W. P. No. 7107 / 2008

UNDER WRIT ORIGINAL JURISDICTION

Between:

Environment Support Group and ors.

.....**Petitioners**

And:

State of Karnataka and ors.

...

Respondents

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In the High Court of Karnataka at Bangalore

W.P. No. 7107/ 2008

UNDER WRIT ORIGINAL JURISDICTION

Between:

**Environment Support Group and others
...Petitioners**

And

**State of Karnataka and others
...Respondents**

List of Dates/Synopsis

Date	Detail
1976	The Karnataka State Legislature enacted 'The Karnataka Preservation of Trees Act 1976'. The act lays emphasis on regulation of tree felling and encourages planting of more trees to restore ecological balance and matters connected herewith. Under this Act, the State Government has to constitute a Tree Authority. The Chief Conservator of Forests has to appoint one or more officers as Tree Officer for each

Date	Detail
	urban and rural area. According to Section 8 of this Act only a Tree Officer can authorize felling of trees.
1976	Karnataka Municipal Corporation Act 1976 was enacted. According to Section 323 of this Act, the Commissioner of Bangalore Mahanagara Palike has powers to fell trees under emergency provision, and that only when they are likely to fall and thereby endanger any person or structure. The only purpose of this provision is to ensure that there is no danger to life and property. Clause 18 of Section 58 of this Act makes planting and maintenance of trees on road sides obligatory for the Commissioner of Bangalore Mahanagara Palike.
24 August 1991	The Government of Karnataka, i.e. Ministry of Science and Technology and Environment, vide its Order No. DEE 265 ECO 91 raised concerns over indiscriminate cutting of trees in and around the Corporation and Municipal limits and also at other places where preservation of trees is to be strictly observed in accordance with various Acts and Rules. The order states that the Commissioners and the Chief Officers of the Municipalities/ Municipal Corporations shall not cut down any trees for any purpose, without the permission from the Department of Ecology and Environment.
29 July 2003	In WA 8178/1999 (directions) dated 23.07.2003 the Hon'ble High Court of Karnataka has directed that before cutting a tree, two saplings have to be planted.
2 August 2003	In conformance with the aforementioned directions of the Hon'ble High Court of Karnataka and under Sec 8(1) of The Karnataka Preservation of Trees Act, 1976, the office of the Deputy Conservator of Forests, Bangalore Urban Division, Karnataka

Date	Detail
	<p>Forest Department, being Respondent – 8 in this petition, issued an order No.A9.V.CR.912/2003-04 dated 2.08.2003 to Director, Horticulture Department of Respondent – 6, withdrawing with immediate effect all orders issued previously to fell trees. Pursuant to this order, any tree felling or pruning in the city on private or public land required the permission of Respondent - 8. It also stated that two saplings have to be planted before a tree is cut and that failure to comply with these orders would invite imprisonment or heavy fine or both, in conformance with Sec 8 (22) of the Karnataka Preservation of Trees Act, 1976.</p>
19 August 2003	<p>A Helpline to Save Bangalore's Trees from unnecessary felling was set up by Environment Support Group, Petitioner - 1, to encourage progressive citizen engagement for protecting Bangalore's trees and facilitate corrective action. Since then the Tree Helpline has been very active in dealing with large number of complaints from concerned citizens regarding tree felling in public and private places in violation of existing laws.</p>
2005	<p><i>Hasiru Usiru</i>, a network of concerned members of the public and various organisations, was initiated to explore creative means to conserve and protect the heritage trees and public spaces of Bangalore garden city from threat of unplanned development. This group has evolved from a loose informal group to one which is now recognised and appreciated for its approach on addressing city's environmental concerns and social justice related issues.</p>
22 February 2005	<p>The Chief Minister of Karnataka held a meeting with Senior Cabinet colleagues and senior State Officials, during which a Task Force was set up to tackle problems related to traffic management in</p>

Date	Detail
	<p>Bangalore. The Principal Secretary of Home Department was given the responsibility of heading the task force. This Task Force was constituted to identify problematic areas and to come up with solutions which would be implemented by the respective agencies.</p> <p>Widening of roads, shifting bus stands that hinder traffic movement, building flyovers, removing other obstacles including trees on roads and so on are part of the action plan. The task force also invited public comments and suggestions in this regard.</p>
14 April 2005	<p>A protest was held by environmental groups and activists demanding withdrawal of permission for cutting close to 700 trees on road sides across the city. Concerns were raised over trees due to be felled on Residency Road.</p>
16 April 2005	<p>In response to a letter dated 14-5-2005 by Environment Support Group, the Deputy Conservator of Forests of the Bangalore Mahanagara Palike passed an order by way of a letter No.A9:Y.K:CR:2004-5, to the Regional Forest Officer, Tree Branch (North) guiding him to take appropriate action against felling of trees on Residency Road and report the matter to his office.</p>
19 April 2005	<p><i>Hasiru Usiru</i> made a representation to the Chief Minister Of Karnataka to bring to his attention the authorised plan by Respondent – 6 to fell over 700 trees in Bangalore city for widening of roads. It also requested that citizens be invited to participate in meetings of the Task Force on traffic management and be given an opportunity to get involved in creating long term transport solutions to the increasing traffic problems of Bangalore.</p>
26 April 2005	<p>Environment Support Group filed a Writ Petition WP.No.14104/2005 in the Hon'ble High Court of</p>

Date	Detail
	Karnataka against indiscriminate and illegal tree felling in Bangalore.
2 December 2005	The Hon'ble High Court of Karnataka in Writ Petition WP No.14104/2005 (Environment Support Group vs. State of Karnataka) decided that all decisions relating to protection of trees or according permission to fell them would be as per the Karnataka Preservation of Trees Act 1976. The judgement also recognised the positive involvement and deep concerns of the public and highlighted that the <i>Hasiru Usiru</i> network should be involved by the Government in all its decision relating to preservation and felling of trees.
5 April 2006	The Union Cabinet gave its approval for the adoption of the National Urban Transport Policy (NUTP). The objective of the policy is to ensure safe, affordable, quick, comfortable, reliable and sustainable access for the growing number of city residents to jobs, education and recreation. The salient features of this policy include incorporating urban transportation as an important parameter at the urban planning stage, rather than being a consequential requirement.
10 April 2006	Environment Support Group (Petitioner – 1) and <i>Hasiru Usiru</i> by way of a letter urged the Respondent – 7, Tree Officer (Deputy Conservator Of Forests), Bruhat Bangalore Mahanagara Palike to inspect trees earmarked for cutting/ pruning on Airport Road for better visibility of hoardings and to take action against the parties indulging in vandalism of trees for their personal profit and gain.
12 April 2006	In response to a representation made by Petitioner – 1, the Bangalore Metro Rail Corporation Ltd (BMRCL), Respondent – 9, by way of letter No.BMRCL/PRO/2006 /36, stated that during

Date	Detail
	<p>execution of the Metro Rail Project all precaution will be taken to minimise felling of trees and only in unavoidable and inevitable locations due to technical reasons, tree cover will be removed only after complying with the provisions of Karnataka Preservation of Trees Act. It also stated that compensatory afforestation programmes will be launched to compensate loss of green cover and as per their environment management plan ten trees will be planted for each tree cut. Respondent – 9 committed to associate with Respondent – 8 for this purpose.</p>
5 June 2006	<p>Environment Support Group by way of a letter informed Respondent – 8, that Public Works Department Contractors commissioned to widen roads by Respondent – 6 were felling more trees than permitted by Respondent – 8 on Kanakapura Road in between Laxmipura and Yelachenahalli and suggested that spot inspection be taken and action initiated against the concerned.</p>
5 June 2006	<p>Respondent – 8 in response to the representation made by Petitioner - 1, passed an order vide Order No.D.O.NO.A9(5).Tree.CR-/04-05 to the Range Forest Officer, Kaggalipura Range and Asst Conservator of Forests (South Sub Division), Bangalore, directing them to take spot inspection and initiate action against the concerned, if unpermitted trees are being felled.</p>
5 July 2007	<p>Respondent – 7 by his Order No. DCF/PR2154/07-08 permitted the felling of road side trees on Palace Road which were obstructing the road widening work.</p>
19 July 2007	<p>By way of a letter, Petitioner - 1 sent a notice to the Respondent 6 and 7 and brought to their notice that felling of avenue trees in Central Bangalore was in violation of the order passed by</p>

Date	Detail
	the Hon'ble High Court of Karnataka in WP NO.14104/2005(GM-PIL) and that such action amounted to Contempt of Court. Petitioner – 1 urged the authorities to stall felling of these trees and withdraw the order to fell such trees within 7 days of receipt of the letter, else Petitioner would be constrained to initiate contempt proceedings against Respondent 6 and 7.
09 August 2007	On the invitation of Respondent – 7, and involving the participation of engineers from Road Widening Division of Respondent 6, Petitioners and Dr.Subbarayan Prasanna, Urban and Regional Planner and Retd. Professor and Dean (IIM-Bangalore), a site inspection was conducted of road widening proposals of Palace Road and Sheshadri Road and the same were found to be of deficient design standards and would not meet the proposed objectives of widening.. Following this, the orders to fell trees on these two roads were withdrawn.
24 August 2007	The <i>Hasiru Usiru</i> group met with Respondent 7 and the key engineering staff of the Road Widening Division of Respondent – 6 to discuss the latter's proposals to widen 85 roads within Bangalore. The group submitted its concerns that the approach to de congesting city roads is not achieved by widening them, thereby causing needless felling of the city's trees which constitute its true heritage, while also compromising various socio-economic and human rights.
4 th September 2007	Respondent – 7 vide its Order No. OO.AA.SUM/PR.351/2007-08 issued an order permitting the felling of 9 trees in front of Hebbal Police Station on Bellary Road claiming these were in danger of falling, posed a threat to pedestrians

Date	Detail
	and hampered traffic. The order directed that only 20 saplings be planted at appropriate points of the road in replacement of the one's lost.
20th December 2007	A Public Consultation was organised by Petitioner 1 and 3 along with Alternative Law Forum on 'Road widening schemes of Bangalore: Impacts and Alternatives' at the Senate Hall Central College, Bangalore University. The discussion was chaired by Mr. P. S. S. Thomas, former Secretary General of the National Human Rights Commission and involved the participation of Mr. Krishna Reddy, Chief Engineer (Road Widening Cell) of BBMP, Mr. Veeranna, Director, Karnataka Town Planning Department, Mr. Shekhar, IFS, Deputy Conservator of Forests and Tree Officer of BBMP (Respondent - 7) and Mr. Eshwar Prasad, Assistant Commissioner, Central Traffic Division, Bengaluru City Police.
18 March 2008	By way of a letter, a representation was made by Petitioner - 1 to the Commissioner of Urban Land Transport, Karnataka Urban Land Development Department to draw his attention to the gross irrationalities and irregularities in the current road widening schemes in Bangalore City being undertaken by Respondent - 6. Petitioner - 1 also submitted a representation to Respondent - 1 requesting involvement of <i>Hasiru Usiru</i> in the decisions relating to the ongoing road widening schemes in Bangalore. This representation was made to intervene and stop the road widening proposals as they will destroy the character of the city, making road use unsafe for pedestrians and vehicle movement

SYNOPSIS

This Writ Petition arrays a range of legal concerns relating to the ongoing road widening programme in Bangalore and exposes that such actions are opposed to settled legal norms relating to management and conservation of urban greenery. In addition it is submitted that the road widening programmes are being advanced without any due public consultation even when a variety of rights of the public and certain traditional and customary rights are adversely affected. The petition presents a variety of evidence in support of its averments that the ongoing road widening programme is based on faulty designs, that such a programme will not serve in de congesting traffic as is being claimed, that such widening will increase significant risks to pedestrians and other road users, and that the special rights and privileges of street vendors would be adversely affected. The Petition submits that a major casualty of such poorly conceived road widening programme are thousands of trees in Bangalore, which constitute the irreplaceable heritage of this city. The Petitioners substantiate these averments by stating that the road widening schemes *per se* are illegal as they have not been evolved in conformity with the Karnataka Town and Country Planning Act, in particular, and various other related legislations and policies defining the purpose and development of roads in urban areas. The Petitioners seek this Hon'ble Court's indulgence in quashing various notifications issued by Respondent – 6 to widen roads in Bangalore and the subsequent felling of trees permitted by Respondent- 7. The Petitioners pray that besides the quashing of the aforementioned orders and Notifications, the Respondents may be directed to undertake traffic management, road management and urban greenery management only by involving the public and in full conformance with related laws and policies.

Advocate for Petitioners

Date:

Place: Bangalore

Petitioner - 2

In the High Court of Karnataka at Bangalore

W. P. No. /2008

UNDER WRIT ORIGINAL JURISDICTION

Between:

1. Environment Support Group,
(Trust Registered under Indian Trust Act)
Represented by Dr. Robert John Chandran, Trustee
S/o Late Mr. John Chandran
105, East End B Main Road
Jayanagar 9th Block East
Bangalore – 560069
2. Mr. Leo Saldanha
S/o S. J. Saldanha
Aged about 40 years
1, Pearl Gardens
Vajarahalli, Kanakapura Road
Bangalore 560062
(Appearing in Person)
3. CIVIC Bangalore
(Trust Registered under the Indian Trust Act)
Represented by its Executive Trustee Ms. Kathyayini Chamaraj
D/o Dr. BN Lingaraju
Aged about 57 years
Apt.# 6, 2nd Floor, Kasturi Apts.,
35/23 (Old 35/11) Langford Road Cross,
Shanthinagar,
Bangalore- 560025

.....**Petitioners**

And:

1. State of Karnataka
Vidhana Soudha
Bangalore 560001
Represented by its Chief Secretary
2. Department of Urban Development
Multistoreyed Building
Dr. Ambedkar Veedhi
Bangalore 560001
Represented by its Principal Secretary
3. Department of Forests, Ecology and Environment
Multistoreyed Building
Dr. Ambedkar Veedhi
Bangalore 560001
Represented by its Principal Secretary
4. Department of Home and Transport
Vidhana Soudha
Bangalore 560001
Represented by its Principal Secretary
5. Bangalore Metropolitan Land Transport Authority
Directorate of Urban Land Transport
Room No. 340, Vikas Soudha
Bangalore 560001
Represented by its Member Secretary
6. Bruhat Bangalore Mahanagara Palike
N. R. Square
Bangalore 560002
Represented by its Commissioner
7. Deputy Conservator of Forests and Tree Officer
Bruhat Bangalore Mahanagara Palike

N. R. Square
Bangalore 560002

- 8.** Deputy Conservator of Forests
Bangalore Urban Division
Karnataka State Forest Department
Aranya Bhavan
18th Cross, Malleswaram
Bangalore 560003
- 9.** Bangalore Metro Rail Corporation Ltd.
3rd Floor, BMTC Complex, K.H.Road,
Shanthinagar
Bangalore- 560 027
Represented by its Managing Director
- 10.** Commissioner of Police
Infantry Road
Bangalore 560001
- 11.** Department of Town Planning
Multistoried Building
Dr. Ambedkar Veedhi
Bangalore 560001
Represented by its Director
- 12.** Bangalore Development Authority
T. Chowdiah Road
Bangalore 560020
Represented by its Commissioner
- 13.** Ministry of Urban Development
Government of India
Nirman Bhavan
New Delhi 11000

Represented by its Secretary

14. Ministry of Environment and Forests

Paryavaran Bhavan

CGO Complex

Lodi Road

New Delhi

Represented by its Secretary

15. Department of Road Transport and Highways

Union Ministry of Shipping, Road Transport and Highways

Transport Bhavan

1, Parliament Street

New Delhi-110001

Represented by its Secretary (RT & H)

.....**Respondents**

**MEMORANDUM OF WRIT PETITION UNDER ARTICLES
226 AND 227 OF CONSTITUTION OF INDIA**

The Petitioner submits as follows:

- 1) The Petitioner – 1 is registered under the Indian Trusts Act vide Reg. No.: Book IV 8/98-99. The Petitioner – 1 is represented by its Trustee who is also specifically authorized to represent the Trust in the above said litigation. A copy of the resolution authorising the Trustee to institute the present proceedings is annexed at **Annexure A.**

- 2) The aforesaid Petitioner – 1 has been involved in a wide variety of environmental issues and campaigns. Acknowledging its competence in addressing environmental law and policy matters and technical issues pertaining to ecology and environment, the Hon'ble High Court of Karnataka and Karnataka Judicial Academy enlisted its services along with Environmental Law Institute (USA) in organizing a unique workshop on "*Judicial Enforcement of Environmental Law in Karnataka*" during August 2002. The organisation has assisted the State in a variety of public interest initiatives relating to environmental management, and is an active collaborator with a wide range of national and international research, academic and campaign organizations. Inherent to the organisation is a wide range of expertise from the areas of urban planning, ecology, public health, environmental law and policy, etc.

- 3) This Petitioner – 1 has also been actively involved in and initiated several campaigns against indiscriminate tree felling in various parts of Bangalore. In order to encourage progressive citizen engagement for protecting Bangalore's trees, and facilitate corrective action, Petitioner – 1 has set up a *Tree Helpline* and thus support the efforts of Respondent 7 and 8 and various civic

agencies. The Tree Helpline has been very active in dealing with the complaints regarding tree felling in public and private places in violation of the existing laws. Press reports regarding the Tree Helpline is enclosed at **Annexure B**.

- 4) Petitioner – 2 is a full time Coordinator and Trustee of the Petitioner – 1. Much prior to his association with the Petitioner - 1, he has been associated with various initiatives of the State Government, in particular the Karnataka State Forest Department, in advancing joint forest management and urban forestry initiatives. He has been one of the key proponents of the Tree Court that was established by Respondent – 8 in lieu of the Tree Authority that is needed to be set up under the Karnataka Preservation of Trees Act, 1976. A copy of the cover and the main contents of "*Formation of Village Forest Committees: Some Guidelines*" co-authored by Petitioner – 2 and produced by Karnataka Forest Department is annexed at **Annexure C**. In addition, he has played a creative role in many initiatives, both with the Government and wider civil society, in advancing people centred and appropriate urban governance and planning.

- 5) Petitioner - 3, CIVIC Bangalore, is a major participant in civil society processes of Bangalore from the early nineties. This petitioner has played a fundamental role in advancing decentralized urban governance, especially in operationalising the Constitutional 74th (Amendment) Act in Karnataka, and more recently in popularizing the Right to Information Act. Petitioner - 3 has also been actively involved with various neighbourhood and civic issues of Bangalore and other urban areas of Karnataka. In particular, it has played a key role in advancing public participation in decision making on the issue of road widening, Sakrama 2007, ensuring fair elections are held, grievance redressal mechanisms on health and public distribution system, etc. The said petitioner is authorised to institute the present proceedings and copy of the resolution is enclosed at **Annexure D**.

- 6) The Petitioners are part of a network called *Hasiru Usiru*, which was formed as a result of a campaign initiated by the Petitioner -1, amongst others, during 2005. *Hasiru Usiru* is a network of concerned individuals, community organizations, NGOs and experts drawn from various fields to find creative means to conserve and protect greenery and public spaces in Bangalore and promote sound urban design and planning. Some of the major initiatives of this network included campaigning through 2005 (and ever since) against the many ill-thought out and badly conceived programmes of road widening by various civic agencies. The overall objective of this initiative is to promote protection of forest tracts and public spaces and also help evolve economically, socially and ecologically sensitive rationales for planning and development. A key focus of this network is to ensure that short sighted planning does not encroach and adversely affect the rights of pedestrians, cyclists, street vendors, senior citizens, children, physically challenged, etc. Towards this end the network has advanced a range of dialogues with various government and non-governmental agencies in order to sensitise them to the diverse uses of the street landscape, and thus protect such uses. The network, along with the Petitioners, is also actively engaged in challenging the current programme of road widening as it promotes the motorist over all else. *Hasiru Usiru* has argued that such a scheme is illogical, constitutes poor urban design, and is a concept of urban infrastructure development that is contrary to many statutes, standards, circulars and guidelines of both Central and State governmental agencies.
- 7) Keeping such a rationale in view, the first Petitioner Trust, on behalf of *Hasiru Usiru*, filed a Writ Petition WP. No.14104/2005 in the Hon'ble High Court of Karnataka against Karnataka Government's initiative to fell over 702 trees as part of a road widening strategy during 2005. A key contention in this PIL was that the road-widening programme, which needlessly destroys hundreds of trees, was in abject violation of Sections 8 r/w 15, 17, 19 and 22 of the Karnataka Preservation of Trees Act, 1976.

Petitioner – 1 approached this Hon'ble court to declare the then proposal to fell 702 trees as illegal and direct Respondent – 6 to seek necessary approvals from Respondent – 8 under the Karnataka Preservation of Trees Act before embarking upon any felling of trees within its jurisdiction. It also brought to the attention of this Hon'ble Court that besides the illegality of the proposals to widen roads in abject violation of the Karnataka Preservation of Trees Act, the proposal was not in keeping with basic tenets of planning and urban design. In demonstration of the fact that it had elucidated such concerns before the relevant authorities, Petitioner – 1 annexed a copy of its letter to the Home Secretary of the Government of Karnataka dated 2nd March 2005, a copy of which is enclosed at **Annexure E**. Respondent – 3 initiated action on this representation advising Principal Chief Conservator of Forests, Karnataka Forest Department to take suitable action, per letter dated 23 March 2005, which is also annexed at **Annexure F**.

- 8) This Hon'ble Court delivered its judgement on 2nd December 2005 in the said WP No.14104/2005 and was pleased to dispose the petition taking cognizance of a letter dated 6th June 2005 issued by Respondent – 1 that endorsed the prominence of the Karnataka Preservation of Trees Act over the Karnataka Municipal Corporations Act, 1976. The letter also committed to involving the public in decisions relating to road widening and in particular identified *Hasiru Usiru* as a necessary participant in such decision making. The Hon'ble Court in fact put it beyond any doubt that the submission of the Chief Secretary was binding as it expressed "hope and trust that the authorities concerned will obey and comply with the directions issued in the letter dated 6.6.2005 of the State Government, in its letter and spirit." A copy of the said judgement is annexed at **Annexure G**.

- 9) Ever since, the Petitioners have been consistently following up with all Respondents to ensure their conformance with the aforesaid

order of this Hon'ble Court. In this regard the Petitioners have also brought to the attention of the Respondents the need to comply with related orders of this Hon'ble Court in WA 8178/1999, typed copy of which is annexed at **Annexure H**. Further, the petitioners have extended all cooperation to the Respondents to ensure that the road widening schemes, if truly necessary, are developed with adequate competence, foresight, compliance with law, and after taking into consideration all impacts, especially those on urban greenery, vendor rights, and that of pedestrians, cyclists, senior citizens, children, physically challenged, etc. To advance these progressive features of urban planning, the Petitioners have extended a range of competent services *pro bono* to the Respondents, involving some of the best expertise in urban design from Bangalore. They have also repeatedly interacted with the Respondents in various meetings and at various levels to highlight several progressive policies on urban development and design evolved by the Government of India. The Petitioners have repeatedly drawn the attention of the Respondents to the progressive features of the National Urban Transport Policy, National Policy for Street Vendors, and a range of circulars, memos and advisories issued by the Union Ministry of Urban Development, Respondent – 13 in this petition. Clearly, there has not been any limitation for the Respondents to engage with an evolved public and ensure road widening schemes, and such other schemes, are truly in the wider public interest and meeting the evolving standards of urban design and development in order to meet present and future needs.

- 10) One instance of this is with Bangalore Metro Corporation Ltd., Respondent – 9 in this petition. On 12th April 2006, in response to a representation made by Petitioner - 1, Respondent - 9 by way of its letter No. BMRCL/PRO/2006 /36 committed that “during execution of the Metro Rail Project this company will take all precautions to minimise felling of trees and only in case of unavoidable and inevitable locations due to technical reasons, tree cover will be removed taking into consideration the provisions of

Karnataka Preservation of Trees Act. Compensatory afforestation programmes will be launched to compensate the loss of green cover and as per our Environment Management Plan (EMP), ten trees will be planted for each tree cut. The Forest Department will be associated for this purpose.” Respondent – 9 also added, “Instructions found in the letter dated 06.06.2005 from the Forest Department are noted for action in this regard.” A copy of issued by Respondent No-9 letter is enclosed at **Annexure J**. However, in the Environment Impact Assessment (EIA) of the aforesaid Metro project there is absolutely no action plan to demonstrate where and how the loss in greenery will be compensated. All that is revealed in the Metro EIA document of a mere 39 pages, much of which is recantation of theory of writing EIA reports, is that less than Rs. 1 crore is the fund allocated for the overall environmental management programme.

- 11) The apathy amongst agencies in protecting urban greenery is deep set and is best evident in the silence of Respondent – 6 about the complicity of its officials in causing the unnecessary felling of trees based on poorly conceived road widening schemes. This came to light in response to a letter submitted by the Petitioner – 1 to Respondent – 8 expressing apprehensions that the contractors employed to fell trees as part of a road widening programme on Kanakapura Road were felling more number of trees than permitted between the chainage No. KM-458 (Laxmipura) to 468 (Yelachenahalli) in NH-209. Respondent – 8 authorised an investigation on 5th June 2006 per order No. D.O.NO.A9(5).Tree.CR-/04-05 directing the Range Forest Officer, Kaggalipura Range and Asst Conservator of Forests, South Sub Division “to take spot inspection and initiate action against the concerned, if the unpermitted trees are being felled and action taken report be submitted to the office”. A copy of the said order of Respondent - 8 is enclosed at **Annexure K**. But no subsequent action has been initiated in this regard to the knowledge of the Petitioners.

- 12) As is evident, the Petitioners and other members of the *Hasiru Usiru* network have consistently engaged with various agencies of the government on the basis of the aforesaid order of this Hon'ble High Court. As a consequence of this action, the Government in its wisdom thought it fit to appoint an official of the rank of Deputy Conservator of Forests of Karnataka State Forest Department as Tree Officer and exclusively designated the official to work on issues related to Respondent - 6. It is evident from this initiative that the objective has been to assist the BBMP to plan its projects creatively and without substantially affecting the ecological and socio-economic characteristics of Bangalore. In ensuring that this objective is met, Petitioners along with the *Hasiru Usiru* network have systematically worked with Respondent - 7 to minimize the loss of greenery in the city. In particular they have worked to promote a range of intelligent and creative designs as well as management options that would enable smooth and safe traffic flow without necessarily adopting generally destructive road widening schemes.
- 13) Respondent - 12 published the draft Comprehensive Development Plan - 2015 during September 2005 and also displayed the same for public inspection at Yavanika, Nrupathunga Road, Bangalore. During this period the Petitioners inspected these proposals and discovered that there was absolutely no indication of the proposed width of any roads in their plans. By implication, therefore, it is to be assumed that there is no proposal whatsoever for widening roads till 2015. A sample copy of the proposed land use map for Gandhinagar (Sheet 1.03) and Malleswaram (Sheet 2.03) is annexed at **Annexure L and M**. In contra distinction, the maps relating to the same areas in the final Revised Master Plan - 2015 (Proposed Land Use Plans) issued by Respondent - 12 with the approval of Respondent - 1 vide GO No. UDD 540 BEM AA SE 2004, dated 25 June 2007 found at Sheet 1.03 for Gandhinagar and 2.03 for Malleswaram, annexed at **Annexure N and P**, clearly depict the proposed width of all roads shown in the maps. The Petitioners had infact objected to the draft Comprehensive

Development Plan in general, raising specifically that the maps were poorly developed and presented, did not in any manner meet the specification or standards prescribed in the Karnataka Town and Country Planning Act. To express the widespread displeasure over the manner in which Respondent – 12 was conducting affairs of such critical importance, the Petitioners even organised a protest at Yavanika on 9th September 2005 and subsequently submitted a widely endorsed representation to the Chief Minister of Karnataka on the matter. A copy of this representation is annexed at **Annexure Q**. No corrective action was effected in this regard by Respondent – 12.

14) Following similar such protests against the manner in which Respondent – 12 was developing the Comprehensive Development Plan for Bangalore, the Chief Minister of Karnataka constituted an Advisory Committee chaired by Mr. P. S. S. Thomas to review all the plans and proposals of Respondent – 12 per the draft Comprehensive Development Plan – 2015. The Committee after several detailed rounds of discussions both with connected agencies and the public at large, presented to the Government a very comprehensive report with recommendations about how Respondent – 12 should develop the Master Plan – 2015 in strict conformance with law. In particular regard to the widening of roads, the summary of the Committee's recommendations are as follows:

22. "ROADS AND TRANSFER OF DEVELOPMENT RIGHTS:

The CDP of 1995 contained neat grids of roads, but these have not been realized. This should not happen in the Revised Master Plan. The roads/rights of way to be formed or widened should be clearly shown in the Proposed Land Use Maps. They should be demarcated on ground in order that land-owners are aware of the zoning.

23. The exercise of Transfer of Development Rights requires that the Authority shall publish annual programme for

road widening or construction of new road/rights of way or for any other public purpose specified in S. 14-B of the Act, for granting TDRs. There is need for a phasing of the road programme for purpose of TDR, which should then be followed scrupulously.

24. Considering the LPA of BMA as a single entity, it is recommended that the TDR should be made exercisable anywhere in the LPA if granted by the BDA in respect of a project undertaken by it. The Terms and Conditions state that a DRC shall be utilized in the same Zone or in the less intensified Zones but not vice-versa, wherever the city is divided into different zones based on the intensity of development. In the Revised Master Plan there are no such gradations. In view of this, the 1st ring may be taken as the most intensely developed, with 2nd ring areas as moderately developed and 3rd ring areas as sparsely developed.
25. The classification of road rights of way and their specifications also need to be stated in clear terms. In this regard, the committee recommends the note at Annexe 1 on Basic Transport Sector which has been suggested by Sri E.F.N.Ribeiro, member of the Committee. These may be adopted in planning all roads under the Revised Master Plan 2015.
26. The importance of access to the new airport is almost entirely ignored. The draft should indicate the route to the new Airport from different parts of the city, and the development which needs to be taken to improve such access. The airport may require rail connection also, and this needs to be pursued with either BMRTL or the Railways, or both. One immediate measure should be to connect Tumkur Road from the point of the BMICP Road, to the Devanahalli Road by taking up the 20 km stretch of the Proposed Peripheral Ring Road as first priority. "

Chapter 3 of the aforesaid report, pertaining to Infrastructure for the City is enclosed at **Annexure R**.

15) With regard to the applicability of Environment Impact Assessment Notification – 2006, Petitioner – 1 has made representation dated 30 June 2007 to Respondent – 12, annexed at **Annexure S** along with postal acknowledgement annexed at **Annexure S-1**, seeking information whether requirements of the aforesaid Notification have been fulfilled in the process of publishing the final Revised Master Plan – 2015. No response has been received by Petitioner – 1 till this date.

16) In July 2007 Respondent – 6 set up a date for auctioning 300 majestically grown Avenue trees on Race Course Road, Palace Road and such other roads in the Bangalore central district area. This was done without providing prior information to the public and without any consultation with the *Hasiru Usiru* network as directed by the High Court. On 19th July 2007, Petitioner – 1 sent a notice to Respondent – 6 and to Respondent – 7 pointing out that the auction of trees to be felled was in violation of the order in WP No.14104/2005 passed by this Hon'ble Court. Petitioner – 1 sought appropriate redressal and requested Respondent – 6 to stall and withdraw the order to fell trees failing which the said Petitioner would be forced to initiate Contempt of Court proceedings against Respondent - 6 and 7. The copy of this notice is enclosed at **Annexure T** and acknowledgement of fax dispatched is annexed at **Annexure T-1**. A relevant abstract of the representation are reproduced below:

“In the present instance it is the very same trees which have been auctioned for felling by BBMP without at all providing an opportunity stipulated in the order. Representatives of Environment Support Group and “*Hasiru Usiru*” network have repeatedly got in touch with BBMP, through the officers of the Commissioner and Tree Officer, to operationalise and implement the Hon'ble Court's directives. Several letters were

written in this regard, including those explicitly highlighting the compliance components of the aforementioned order per letters dated 04 February 2006 and 12 May 2006. Yet no response was received or any formal action initiated to implement the Hon'ble Court's directives as required.

Consequently the present action of BBMP in felling the very same trees which was the subject matter of the aforementioned Writ Petition amounts to a willful disobedience of the order of the Hon'ble Court exposing yourselves for appropriate action in the form of Contempt of Court proceedings."

- 17) The Petitioners humbly submit to this Hon'ble Court that there is sufficient evidence from highly competent sources that the present road widening proposals are deeply flawed and counterproductive. The Petitioners submit that a tremendous improvement could be achieved in redesigning these proposals if there was transparent and open engagement with the public at large. In fact there has been very poor review of road widening designs prior to issuing orders for tree felling on such identified roads. Consequently, sanctioning funds for such road widening schemes causing destruction of trees, properties, street furniture, utility spaces, etc. would result not only in a terrible loss of urban greenery, but also cause a clearly avoidable loss to the exchequer. The Petitioners also submit that in so approving the road widening proposals, a variety of Rights have not been considered, or anticipated even, by the engineers of Respondent - 6 who produced the designs. Such Rights include those of pedestrians and vendors whose interest are evident by their absence in the road widening proposals. Submitting to such rational and competent arguments put forth by the Petitioners, Respondent - 7 withdrew the tree felling orders that had been issued for Sheshadri and Palace Roads. A copy of the orders withdrawing tree felling permissions granted by Respondent - 7 to Respondent - 6 is annexed at **Annexure U**.

- 18) Respondent- 6 pressurised Respondent - 7 to once more reverse the latter's decision as set out in **Annexure U**. In an effort to

rationalise this repeated reversal of decisions perhaps, Respondent – 7 sought to involve the Petitioners and *Hasiru Usiru* to review whether or not to accord permission to fell over 300 magnificent trees on Sheshadri and Palace Roads of Bangalore, and invited the Petitioners for an official site inspection. To ensure that the most proficient, professional and competent advice was available to the Respondent 6 and 7, Petitioner – 1 requested Dr. Subbarayan Prasanna, Professor of Urban and Regional Planning and Former Dean of Indian Institute of Management, Bangalore to assist in the survey. Respondent - 6 shared the designs proposed to widen these roads in the form of an engineering design. Dr. Prasanna, Petitioner - 2 and Ms. Kathyayini Chamaraj representing Petitioner – 3 conducted this inspection in the presence of Mr. Chidanandayya, Exec Eng (Road Widening Cell) and Mr. Ashwathanarayana, Asst Exec Eng BBMP, representing Respondent - 6 on the one part and Mr. M. R. Suresh, Assistant Conservator of Forests representing Respondent – 7 on the other. It was obvious from this inspection that the proposal to widen these roads lacked even the most basic elements of urban planning and design. Consequently, besides being a wasteful investment of public money the proposal would not have helped in de congesting traffic as was intended. Most importantly, the poor designs would have resulted in an irreversible and irreparable loss of some of the best canopy cover in Bangalore centre, offered mainly by the trees lining these two roads. Such concerns are highlighted in a representation submitted by Petitioner 1 to Respondent – 6 that includes the review note of Dr. Subbarayan Prasanna along with the road designs developed by Respondent – 6 for Sheshadri and Palace Roads, and the same is annexed at **Annexure V**. Extracted below are the main submissions made in Dr. Prasanna’s review note:

“1. The road geometry, lanes and design are not given in the plan. Only the widening of the Right Of Way [ROW] is indicated. Thus it is difficult to establish how much of widening of what kind is needed. The same applies for cutting of trees etc.

2. It should be possible to add lanes by leaving the trees on a green strip between lanes on either side of the existing [Carriage Way] in the middle. This may involve slightly more land acquisition from the abutting properties.

3. The extra acquisition itself ought not to be a problem for the following reasons:
 - (a) The adjoining properties are mostly owned by the public domain, that is, government institutions and supported organizations, the Race Course that is leased public lands [there are plans to move the Race Course out of town anyway]. The set backs in these is quite large and the acquisition will not affect the building lines.
 - (b) The other properties are owned by big corporate enterprises that also have large setbacks. In fact the green strips can be maintained by the corporate enterprises with some controlled image advertising as they do all over the city in median and green strips.
 - (c) There are no small buildings and residences to be displaced.

4. No detailed design geometry is presented to justify the felling of trees and removal of vegetation/green cover in the proposed road expansion. Therefore, a public purpose cannot be established to justify the felling. On the contrary, any drastic felling of trees here would result in the loss of local ecology affecting the microclimate and green cover of Bangalore.

These are my preliminary findings from the plan maps presented and attached. If a detailed design with lane geometry and the like are presented I can assess the same and propose alternatives or modifications to save the trees without disturbing the traffic efficiency of the design." (emphasis added)

Prof. B. K. Chandrashekar, Hon'ble Chairman of the Karnataka Legislative Council, on being approached by the Petitioners to intervene in this matter and stop this faulty road widening

proposal, immediately responded with a letter to Mr. S. Krishnakumar, Advisor to His Excellency the Governor of Karnataka on Urban matters and to Respondent - 6 requesting them to consider the suggestions made by Dr. Subbarayan Prasanna and the appeal of the Petitioner - 1 against the road widening programme of Sheshadri and Palace Roads. Prof. Chandrashekar highlighted the importance of a careful study before any decisions to fell trees were taken and urged Respondent - 6 to consider suggestions made. A copy of these letters are annexed as **Annexure W.**

19) On 17 August 2007, Respondent - 7 sent an invitation to Petitioner - 1 for a meeting to "offer ... valuable suggestions in the matter" of:

- "1. Removal of trees for widening of road as per the instructions of Govt.
2. Removal of trees obstructing Metro rail Corporation works.
3. Removal of trees for developmental activities in BBMP area."

The copy of the invitation to the meeting held on 24 August 2007 is enclosed at **Annexure X.**

20) Petitioner - 1 conveyed the invitation to the aforesaid meeting to *Hasiru Usiru* members and there was very active and engaged participation in the meeting held on 24 August 2007 at the office of Respondent - 6. The meeting was chaired by Respondent - 7 and also involved a large delegation from the Road Widening Cell of Respondent - 6. The engineers present confirmed that 85 roads were taken up for widening, and that 45 of these would be undertaken immediately. The salient features of the discussion that ensued are well set out in the minutes prepared by Respondent - 7 which are enclosed at **Annexure Y** along with an English translation of the same. As is evidenced in the minutes, the Petitioners made the following submissions:

- a. That the ongoing road widening programme was irrational as similar exercises in the past had failed to mitigate congestion

and improve traffic flow. That the approach to de congesting city roads is not achieved by widening them, thereby causing needless felling of the city's trees which constitute its true heritage, while also compromising various socio-economic and human rights.

b. That road widening had become a major priority of the government because of its ill-conceived plans of intensifying urban development in the city centres, especially under the influence and pressures of builders, and without considering the deleterious consequences to the city's current and future populations. That despite widening of roads, the objective of de congesting traffic would not be met, given the increasing thrust to advantage private transport over public transport.

c. That road widening programmes fundamentally altered Bangalore's streetscapes. This in turn influences drastic and often unsustainable changes in the socio-economic and ecological functionality of the city, besides transforming its characteristics for the worse. Altering the city's representation in such an irreversible manner could not merely be the prerogative of the Executive and thus behoved them to engage in a detailed and transparent process of public consultation prior to forming any decision.

d. That the decision to grant tree felling permits by Respondent - 7 to Respondent - 6 was a short-sighted move, given past failures of many road widening programmes.

e. Especially in the lack of an Appellate body to contest the decision in the form of the Tree Authority, as mandated by the Karnataka Preservation of Trees Act, the action of Respondent 6 and 7 was without appeal and thus constituted a fundamental denial of the Right to Appeal.

f. That there were more progressive, creative and less expensive means of improving comfort of travel within the city, and this only required an intelligent and open engagement with the wide public who would be more than willing to participate and assist Respondent - 6 in evolving progressive ideas to manage the city's traffic.

Petitioner – 3 made a detailed submission to Respondent – 6 demanding that “the onus to establish the rationale... for the current ad hoc decision to widen roads and fell trees, lies on the current decision-makers. Until the rationale and justification for the current decision is established, we request that the plans to fell trees be put on hold”. A copy of this representation is annexed at **Annexure Z**. Apart from these hortatory discussions, no material decision whatsoever was taken in this meeting. The main result of this meeting was that Respondent – 7 assured the gathering that he would spare no effort in representing to Respondent 1 the urgent need to constitute a Tree Authority. In addition it was confirmed that Public Hearings would be conducted for all road widening proposals prior to taking a decision on sanctioning tree felling.

21) While the Petitioners waited for the Respondents to take initiative and repeatedly conveyed to them their intention to help organise the promised Public Hearings, it was learnt from newspaper reports that a major road widening programme was initiated on Bellary Road, T. Chowdiah Road and its interconnecting roads, as evidenced by newspaper reports annexed at **Annexure AA**. None of the promised public consultations had preceded this programme of road widening. It was also highlighted in these reports that the overall widening of 85 prominent roads involving a road length up to 400kms would also be initiated immediately. Such a massive programme of action would involve felling of thousands of trees besides adversely affecting open spaces and private properties. In short, this would cause a drastic and irreversible change in the landscape and environment of the city. Even as the wider public was coming to terms with the scale of the changes that would follow, and calling upon various agencies of the Government seeking clarifications and demanding that all details of this scheme should be made public, Respondent – 6 rushed into the widening of the Bellary and T. Chowdiah Roads.

22) The Petitioners respectfully submit that it would have been fit and proper for Respondent 6 to withdraw all road widening proposals in

light of the fact that Sheshadri Road and Palace Road proposals had convincingly and competently been proven to be bad proposals. Considering that the very same engineers who prepared these drawings had also prepared the road widening schemes for other roads, such as Bellary Road, based on the very same assumptions that were not competently reviewed, it would be fair to assume that the subsequent proposals are highly likely to be faulty and thus cause clearly avoidable damage to public property and interest. However, no corrective action was at all initiated by Respondent – 6 in this matter. Concerned about such *ad hoc* decisions of Respondent – 6, members of *Hasiru Usiru* approached Respondent – 1 by way of a letter on 19th October 2007, annexed at **Annexure AB**, urging him to initiate a more public and transparent process of decision making with regard to the road widening programme. Meanwhile, Petitioner – 3 preferred an appeal to the office of His Excellency the Governor of Karnataka, dated 30 October 2007 and annexed at **Annexure AC**, highlighting that:

“(w)e are anguished that tree-felling is being carried out even before the setting up of the Tree Authority (with three non-official members as per the Act) and without taking Hasiru-Usiru into confidence, as directed by the Hon’ble High Court of Karnataka. In the light of this, the withdrawal of the order for tree-felling on Sheshadri Rd. and Palace Rd. is poor consolation. *Hasiru Usiru* never agreed to any resumption of tree-felling at the meeting convened in August. We had made it abundantly clear that there should be no resumption until our concerns were adequately addressed. It has also been agreed at the meeting that public hearing would be held in each area where tree-felling was being proposed. No such hearing has been held at Bellary Rd. or now at St. John’s Hospital Road.”

- 23) Bangalore Metropolitan Land Transport Authority, Respondent – 5 in the petition being an inter-departmental coordinating body chaired by Respondent – 1, invited *Hasiru Usiru* network members and the Petitioners for a discussion on 30th November 2007. The copy of the letter inviting participation in the aforesaid meeting is

enclosed at **Annexure AD**. This meeting involved representation from the highest levels of all the concerned government agencies and was chaired by Respondent - 1. The Petitioners made several presentations to highlight the importance of public involvement in planning schemes to manage traffic. Many progressive and tested ideas were brought to the attention of the authorities and a fervent appeal was made to institute a process wherein the *Hasiru Usiru* network could work as an agency of gathering public opinion along with the agencies towards resolving traffic management issues. Presentations also included various progressive ideas promoting the objective of widening roads as a last resort, and after exhausting all other remedies. As a sample of the various presentations made, the Petitioners submit the presentation made by Petitioner -3 which is annexed at **Annexure AE**. However, the officials did not address any of these concerns in a coordinated and responsive manner. Many in fact promoted their independent departmental agendas without consideration for widespread concerns over the technically deficient approach adopted by road widening schemes. Clearly disappointed by the unresponsive approach of leading officials of the Government, a detailed representation was submitted by Petitioner - 1 to Respondent - 1, annexed at **Annexure AF**, and a relevant extract is provided hereunder:

“Considering all this, it seemed reasonable to us to expect some result to flow out of this meeting - a result that would help build a systematic process of engagement between the Government, its agencies and the wide public focused on delivering neighborhood, zonal and city wide solutions so that traveling would be a pleasant, safe and proud experience for all. In every one of the positive instances of traffic and urban planning that yourself and several others cited today, the fundamental base of it all is transparent and rational interaction between the Government agency concerned and the affected public. For without the latter's appreciation of the objective or acceptance of the proposal, no solution can work. As a matter of fact, in every one of the cities that have worked to produce

such positive outcomes, it is because of transparent planning and execution of traffic management approaches that one finds cities that are full of trees, a pleasure to walk in, cycle in, motor about and also provide public transport as a first choice of travel.

Keeping all this in view, we requested you to initiate a process of forming neighbourhood and zone wise forums for regular interaction between agencies and the public that would develop traffic plans in a transparent manner, and based on public review of design and consequent input, road, sidewalk and traffic management projects would be implemented. But we did not receive any affirmative response at all to this considered proposal. This deeply disappoints us as disregard for such fundamental process of design, public enquiry and delivery of projects is infact what has caused so much chaos in Bangalore.

You will certainly appreciate that complex problems require complex solutions. And that public involvement, engagement and acceptance of proposals cannot be replaced by mere expert and investor driven proposals. It is therefore very essential for us to know for certain that this high powered meeting that we were invited to will produce some result that will serve in delivering both short term and long term solutions. We are very serious about our participation and collaboration with the Government and its various agencies, and commit to raising public awareness and contribution to ensure our city remains charming and becomes livable once more for all - and not just the elite.

Thereby, we once more urge you to affect a productive end to today's proceedings. We suggest that this can be achieved by constituting a small Joint Committee from amongst those gathered today to prepare a proposal that would clearly identify a set of local and public processes that can systematize public and government engagement on the issue of tree protection, road widening, ensuring pedestrian and traveller safety, all key

constituents of traffic management. We assure you that to move in this direction will save enormous resources, protect life, provide us all a better quality of life and ensure Bangalore will become an example for other cities in India in addressing issues of traffic congestion and its terrible consequences.”

24) On 6th December 2007, Respondent - 7 organised a meeting with the Chief Engineer (Road Widening) of Respondent - 6 and his technical staff along with members of *Hasiru Usiru* and the Petitioners. The meeting also involved the participation of Dr. Subbarayan Prasanna. A copy of the invitation for this meeting is annexed at **Annexure AG**. In this meeting the Chief Engineer shared the designs for Airport Road, Bellary Road, Jayamahal Road, Devanga Hostel Road, Hosur Road, Nrupathunga Road, Kasturba Road, Palace Road, Sheshadri Road and Race Course Road in their electronic formats. During this meeting the Petitioners and members of *Hasiru Usiru* highlighted that these road widening designs carried the same deficiencies as in the case of the designs for Sheshadri and Palace Roads which had been rejected earlier. The Chief Engineer was requested to comprehensively review all designs, and do so by engaging with the wide public. Respondent - 6 was urged to make these draft proposals for road widening public in conformance with relevant law, particularly the Karnataka Town and Country Planning Act and the Karnataka Municipal Corporations Act. It was also submitted that such transparent processes of dialogue would result in rational and visionary choices and limit the possibility of avoidable waste of public and private resources and conflicts. The Chief Engineer and Respondent - 7 committed to invite public comment on such proposals as required per law. In addition they agreed to a suggestion that Public Consultations should be organised prior to taking a decision in every road, or its sub-sections in case of lengthy roads. In preparing for such engagements, *Hasiru Usiru* gave wide publicity to the drawings by posting the designs on the website of Petitioner - 1 for free downloading.

25) As there was no formal response to such appeals for a wider consultation and involvement of the public, Petitioners 1 and 3 and another voluntary initiative, Alternative Law Forum, organised a Public Consultation on "*Road Widening Schemes of Bengaluru: Impacts and Alternatives*" on behalf of *Hasiru Usiru*. This consultation was held at the Senate Hall on 20 December 2007 for about 4 hours and witnessed the active and coherent participation of over 150 people from different parts of the city and as well the media. The discussion was chaired by Mr. P. S. S. Thomas, former Secretary General of the National Human Rights Commission and a widely respected senior bureaucrat of the State of Karnataka. Senior functionaries of the Respondent - 5 did not participate in this hearing despite many fervent requests. However, the Government and its agencies were well represented by Mr. Krishna Reddy, Chief Engineer (Road Widening Cell) of BBMP, Mr. Veeranna, Director, Karnataka Town Planning Department, Mr. Shekhar, IFS, Deputy Conservator of Forests and Tree Officer of BBMP (Respondent - 7) and Mr. Eshwar Prasad, Assistant Commissioner, Central Traffic Division, Bengaluru City Police. The Public Consultation was aimed at instituting a process of public engagement with the Government Agencies and ensure that road widening schemes or projects are undertaken only after fully incorporating views of the wider public, especially the affected community. A detailed report of this consultation is annexed at **Annexure AH**.

26) On 22nd January 2008, *Hasiru Usiru* and Petitioner Trusts participated in a meeting of the Biodiversity Management Committee of Respondent - 6 under the Chairmanship of Shri A. N. Yellappa Reddy (IFS Retd.) held on 22nd January 2008. A copy of this meeting invitation is annexed at **Annexure AJ**. In this meeting the Petitioner - 2 made a fervent request that the act of tree felling must not precede any other actions in the case of road widening. It was submitted that trees as living entities have to be valued far more than any other infrastructure such as electric poles, electric transformers, street furniture, telephone switch boxes, etc. Thereby, permission to fell trees, if at all necessary,

must only be given after all utilities have shifted their infrastructure in road widening programmes. Similarly, all existing pedestrian, vendor and such other rights have to also be considered prior to according sanction for road widening programmes. It was highlighted that the current practice was to fell trees first while none of the utilities and street furniture items are shifted even after several years. In almost every case there was absolutely no consultation to determine existing vendor and pedestrian rights.

27) In highlighting the implications of such inaction on the part of Respondents, the Petitioners submit a representative sample of certain roads in Bangalore wherein even after years after trees were felled under the ruse of widening roads, no improvement of right of way has been effected while encroachments have been allowed that constrain the very traffic and pedestrian movement. In addition, none of the utilities have shifted their infrastructure, thus absolutely undoing the very objective of road widening. The loss in this case is irreparable as Bangalore lost some of the oldest hardwood and fruit bearing avenue trees of Bangalore that were planted several decades ago. In this case the Respondent – 6 has also turned a blind eye on many encroachments that have subsequently taken place. These, without exception, are places of religious worship that have been built into the right of way of traffic resulting in many deaths and scores of injuries to pedestrians and motorists due to accidents. A detailed photographic examination of these roads is annexed at **Annexure AK – 1 to AK - 5**. It is respectfully submitted, therefore, that the problem of congestion cannot be addressed by removing trees and extinguishing or restraining pedestrian and vendors' rights. The Petitioners submit that the solution is to be found in careful and transparent urban designing and infrastructure development involving the public at large with the focus on limiting the need for movement of traffic into the city centre, and enhancing opportunities for public transport.

28) In this regard the Petitioners respectfully wish to draw the attention of this Hon'ble Court to a study entitled: "Whither Open

Spaces? A Politico-Economic analysis of Open Space Provisioning in Bangalore, India” as part of the thesis submitted to Indian Institute of Management, Bangalore for partial fulfilment of degree Post Graduate Programme in Public Policy and Management by Dr. D. S. Ravindran, PGDPPM (IIMB)., Ph.D.(Wales), I.F.S. and currently working as Conservator of Forests (Working Plans) Mysore in the Karnataka State Forest Department. In this study Dr. Ravindran analysed the overall provisioning and actual availability of open spaces in Bangalore through the three Comprehensive Development Planning periods of 1983, 1995 and 2005. An abstract from his analysis is provided hereunder:

DP	Existing land use (ha)			Planned land use (ha)		
	Year of land use analysis	Conurbation	Open space	Target Year	Conurbation	Open space
CDP -1984	1983	20283	2050	2001	43927	5960
CDP -1995	1990	28400	2132	2011	56463	7788
MP - 2015	2003	56530	1580	2015	76836	8622

Source: CDP, 1984; CDP, 1995 and Data from BDA

It is clearly evident from this analysis that far from increasing the *per capita* availability of open space in Bangalore, as is proposed in the plans, the actual availability and *per capita* availability of open space in Bangalore has substantially been reduced. It is shocking to note that the actual availability of open space in 2015 per the CDP is lower than what was available as open space during the early eighties. Considering that the population of the city has almost doubled from about 40 lakhs residents to almost 70 lakhs today, the net decrease in public open spaces would mean a significant decline in green cover. Complicating this devastating situation is the fact that most of the city’s greenery was available

in private gardens in the city centre and horticulture farms on the outskirts, almost all of which have been transformed into dense concrete clusters for residential and commercial use, thereby causing a further decline in green cover. In the result, the only green cover left in the core built areas of the city is along the roads and streets of Bangalore. Any loss of this green cover, incrementally and substantially will have a devastating consequence on the city's micro-climatic factors resulting in increased heat trapped by built structures, leading to increased need for cooling of buildings (which in turn contribute to the heat through exhausts from DG sets and Air conditioners) and thus unnecessarily make a demand on the electricity grids and intake of diesel. Clearly therefore, the need remains for the protection of our avenue trees, as they are not merely shade giving and increase aesthetic values, but also substantially limit the need for energy consumption. There are additional values in terms of dust suppression and noise suppression, all environmental values that simply cannot be replaced by replanting trees miles away from the city in tree parks.

29) It is a well considered matter world wide that urban greenery constitutes a critical component of urban development. The Roman poet Caecilius Statius more than 2000 years ago wrote "we plant trees not for ourselves, but for future generations." It is widely accepted that improvement in urban greenery has direct and favourable consequences to the quality of life of all urban residents. There is a plethora of scientific and planning material to substantiate the case that protecting urban greenery would fundamentally improve the environmental characteristics of an urban area regionally, and perceptibly improve microclimatic conditions. All these have very positive and long term consequences and are relevant factors to be considered where tree felling is involved.

30) The city of New York determined that largest cooling potential in an urban area was highest for street trees, followed by living roofs, light covered surface, and open space planting. From the

standpoint of cost effectiveness, light surfaces, light roofs, and kerbside planting have lower costs per temperature reduction. The Petitioners wish to respectfully draw the attention of this Hon'ble Court to a significant study conducted by New York State Energy Research and Development Authority on "*Mitigating New York City's Heat Island with Urban Forestry, Living Roofs, and Light Surfaces*" as part of the New York City Regional Heat Island Initiative, published as a Final Report 06-06 in October 2006. It is established beyond any doubt in this study that road side trees have a far greater value in reducing heat island effects in an urban area, than by establishing tree parks. This report was prepared by the Columbia University Center for Climate Systems Research at the Goddard Institute for Space Studies, Hunter College – CUNY, and SAIC Corporation in the course of performing work contracted for and sponsored by the New York State Energy Research and Development Authority (hereafter "NYSERDA"). The Petitioners submit the following remarks from this study that highlight the importance of avenue trees to improving the overall environmental quality and also of living in an urban area.

"New York City, like other large cities, is warmer than surrounding areas due to the urban heat island effect, which occurs when impervious built surfaces such as roads and buildings absorb solar radiation and re-radiate it in the form of heat. The development of a heat island has regional-scale impacts on energy demand, air quality, and public health. Heat island mitigation strategies, such as urban forestry, living (green) roofs, and lightcolored surfaces, could be implemented at the community level within New York City, but their effects need to be tested with comparable methodologies. Although the heat island effect occurs throughout the year, its occurrence during the summer months is of particular public policy concern because of the association of higher temperatures with increases in electric demand due to air conditioning, elevated air pollution and heat-stress related mortality and illness."

Raising key questions on the importance of urban greenery and the particular importance of trees on roads, the study confirms the following:

“1. What are the dominant climate factors, land-use patterns, and geographic conditions that affect New York City?

New York is a coastal city and thus is subject to sea-breezes. However, during heat waves, when the sea-breeze tends to be small, the urban heat island tends to intensify. In general, high temperature, low cloud cover, and low wind speed lead to more intense heat island conditions. Our results indicate that vegetation plays a more important role than albedo or other features of the urban physical geography (e.g. building heights, road density) in determining heat island potential in New York City. Therefore, the redevelopment of urban surfaces to increase vegetation cover should help to reduce New York City’s surface temperature. Since elevated surface temperatures are expected to lead to elevated air temperatures, land-cover modification could in turn affect the city’s near-surface air temperature.

2. Are there viable options for reducing elevated near-surface air temperature associated with the urban heat island?

Yes. Results show that significant reductions in New York City’s near-surface air temperature, generally defined as the air temperature 2 meters (6 feet) above the street or surface level, can be achieved by implementing heat island mitigation strategies. Effects vary in magnitude across scenarios, case study areas, and heat-wave days. A combined strategy that maximizes the amount of vegetation in New York City by planting trees along streets and in open spaces, as well as by building living (green) roofs (i.e. ecological infrastructure), offers more potential cooling than any individual strategy.

3. Which mitigation strategies offer the potential to reduce near-surface air temperature on a per unit area basis?

Model results indicate that the most effective mitigation strategy per unit area redeveloped is curbside planting (Table

S-3). The average difference in simulated nearsurface air temperature between impervious surfaces and trees was 3.5°F (1.9°C), higher than the differences between other surface-cover types. Therefore, street trees – which involve redevelopment of impervious surfaces – have the largest cooling potential per unit area, followed by living roofs, light-colored surfaces, and open space planting. This can also be thought of as the upper limit of mitigation potential if New York City were completely covered with impervious surfaces and then these surfaces were all replaced with trees, averaged over all times of day and ignoring feedbacks between the surfacecover alteration and regional meteorology.”

- 31) To draw the attention of key Respondents to such rationale and evidence, in particular to urge specialised agencies created by Respondent 1 to take appropriate action, the Petitioners and members of *Hasiru Usiru* met with the Commissioner of Urban Land Transport Department on 18th March 2008 and presented a detailed representation on how urban greenery could be protected along with all road users’ rights by developing intelligent designs. The meeting with Commissioner Urban Land Transport was followed up the same day by meeting with Mr. S. Krishnakumar, Advisor (Urban Affairs) to His Excellency the Governor of Karnataka, wherein he was requested to intervene and stop the ongoing road widening proposals for reasons set forth in the representation to Commissioner, Urban Land Transport. It was highlighted that the ongoing road widening programmes, besides being illegal, were also based on poor design approaches that would destroy the character of the city and would make road use unsafe for pedestrian and vehicle movement. The Petitioners also pointed out that these schemes would adversely impact life and livelihoods of thousands of residents, street vendors and businesses, a fact that has not at all been considered by Respondent - 6. Similarly a representation was submitted to Respondent – 1 and a copy of the same is annexed at **Annexure AL**. By way of this representation, the attention of the State of Karnataka was drawn to very recent circulars of Respondent - 13, especially circular No. K-14011/07/2007-UT dated 2nd

January 2008 to all Chief Secretaries wherein the need was emphasised to “promote pedestrianisation and non motorised transport”. This circular emphasised that “whatever pedestrians and non motorised transport (NMT) facilities are existing, they are being diminished while doing widening of roads to facilitate movement of personalised vehicles”. A copy of this circular issued by Respondent – 13, along with another related circular (dated 01 November 2006, No. 14011/44/2006-UT) is annexed at **Annexures AM – 1 and AM – 2** respectively.

32) The act of road widening also encroaches on various rights that are protected by the Constitution of India. Particularly recognising Rights of street vendors per Article 39 (a) and (b) of the Constitution, the Government of India evolved a *National Policy for Urban Street Vendors* in January 2004. A copy of this policy is annexed at **Annexure AN** and relevant objectives of the policy relevant to the issue of road widening are extracted hereunder:

“Provide and promote a supportive environment for earning livelihoods to the Street vendors, as well as ensure absence of congestion and maintenance of hygiene in public spaces and streets.

3.1 Specific Objectives

The basic objectives of the policy are:

- **Legal:** To give vendors legal status by amending, enacting, repealing and implementing appropriate laws and providing legitimate hawking zones in urban development/ zoning plans.
- **Facilities:** To provide facilities for appropriate use of identified space including the creation of hawking zones in the urban development/ zoning plans
- **Role in distribution:** To make Street vendors a special component of the urban development /zoning plans by

treating them as an integral and legitimate part of the urban distribution system.

- **Self Compliance:** To promote self-compliance amongst Street vendors.
- **Organization:** To promote, if necessary, organizations of Street vendors e.g. Unions / Co-operatives/ Associations and other forms of organization to facilitate their empowerment.
- **Participation:** To set up participatory mechanisms with representation by urban vendors' organizations, (Unions / Co-operatives/ Associations), Voluntary organizations, local authorities, the police, Residents Welfare Association (RWAs) and others for orderly conduct of urban vending activities."

33) In a similar manner, the Union Government after considerable debate has evolved a *National Urban Transport Policy* in 2006 which fundamentally proves against the current approach of road widening engaged by Respondent – 6 is against public law and policy. A copy of this policy is annexed at **Annexure AP**. Salient features of this policy relevant to the subject at hand are extracted hereunder:

“VISION

- To recognize that people occupy center-stage in our cities and all plans would be for their common benefit and well being
- To make our cities the most livable in the world and enable them to become the “engines of economic growth” that power India’s development in the 21st century
- To allow our cities to evolve into an urban form that is best suited for the unique geography of their locations and is best placed to support the main social and economic activities that take place in the city.

OBJECTIVES

The objective of this policy is to ensure safe, affordable, quick, comfortable, reliable and sustainable access for the growing number of city residents to jobs, education, recreation and such other needs within our cities. This is sought to be achieved by:

- Incorporating urban transportation as an important parameter at the urban planning stage rather than being a consequential requirement
- Encouraging integrated land use and transport planning in all cities so that travel distances are minimized and access to livelihoods, education, and other social needs, especially for the marginal segments of the urban population is improved
- Improving access of business to markets and the various factors of production
- Bringing about a more equitable allocation of road space with people, rather than vehicles, as its main focus
- Encourage greater use of public transport and nonmotorized modes by offering Central financial assistance for this purpose
- Enabling the establishment of quality focused multi-modal public transport systems that are well integrated, providing seamless travel across modes
- Establishing institutional mechanisms for enhanced coordination in the planning and management of transport systems
- Introducing Intelligent Transport Systems for traffic management
- Addressing concerns of road safety and trauma response
- Reducing pollution levels through changes in traveling practices, better enforcement, stricter norms, technological improvements, etc.
- Building capacity (institutional and manpower) to plan for sustainable urban transport and establishing knowledge management system that would service the needs of all urban transport professionals, such as planners, researchers, teachers, students, etc.”

34) The Petitioners respectfully submit that they have not spared any effort in appraising every relevant authority through meetings and

Public Consultations that the proposal to widen roads in Bangalore as a solution to traffic congestion is unlikely to meet the stated purpose. The Petitioners have repeatedly impressed on Respondent – 6 that its current approach would more likely destroy the very character of this city represented by the charming canopies of thousands of trees that line its streets. Removing these trees based on the current proposals that are fraught with inconsistency in law, policy and the science of planning, is a myopic agenda and opposed to public interest. That Respondent – 6 is undertaking such fundamental transformations of the city when there is no representative government which exposes its measures as being highly undemocratic and irrational. Despite all these submissions, Respondent – 6 has proceeded to budget about Rs. 40 crores to widening of 91 roads. Produced herewith is an extract from page 55 of the Budget Speech made by Respondent – 6 on 28th March 2008:

“Infrastructure initiatives for smoother flow of traffic :

Road widening

91 roads for a stretch of 144 kms identified for widening in a phased manner. Land is to be acquired under TDR scheme. Widening of following roads will be completed during the year:

- 1• Bellary Road
- 2• Race Course Road
- 3• Palace Road
- 4• Seshadri road

In addition, widening of the following other roads will be taken up:

- 1• Kasturba Road
- 2• Nrupathunga Road
- 3• Hosur Road (Lalbagh Main gate to Yankee factory)
- 4• Hosur-Laskar Road
- 5• Jaya Mahal road
- 6• Airport Road
- 7• Mysore Road (from Sirsi Circle to Ring Road)
- 8• Padarayanapura main road

- 9• Lower Agaram Road (HOSMAT to National Games Village, Koramangala)
- 10• Sarjapura Road (Kendriya Sadana upto Ring Road cross)
- 11• Hennur Road (Pottery road to Ring road)
- 12• Banaswadi Road
- 13• Wheeler Road

An allocation of **Rs.40 crore** is made in the budget in this regard.”

35) Mr. G. V. Dasarathi, a member of *Hasiru Usiru*, filed an Right to Information application with Respondent – 6 seeking various details relating the planning, implementation, budgeting and result of the proposed widening of roads in Bangalore. A copy of the response issued by Respondent – 6, dated 11 April 2008 No. KaPaAa/RaAa/P Aar/12/08-09, which is self explanatory, is enclosed at **Annexure AQ** along with relevant translated copy.

36) The Petitioners respectfully submit that the ongoing programme of road widening is inconsistent with the science of urban planning and design and discordant with urban governance principles. The current approach is also very muddled at resolving the crisis of congestion due to the erroneous and short-sighted approaches of the Respondents 1, 2, 4, 5, 6, 7 and 12 amongst others. The Petitioners have repeatedly worked collectively with a wide range of publics and various agencies of the Government to ensure the city of Bangalore benefits from progressive and sustainable programmes of traffic planning and transport management. Rather than considering these various progressive proposals, several of which have been promoted by citizen groups *pro bono*, a programme of road widening has been erroneously chosen which besides being regressive, would destroy the very character of the city. In addition it would extinguish various rights protected by the Constitution of India. Having exhausted all remedies, the Petitioners respectfully approach this Hon’ble Court espousing

public interest and seeking justice for this and future generations.
Hence this PIL.

37)The Petitioners state that no other petition has been filed under the same cause of action nor is pending.

38)This Petition is filed on the following amongst other grounds.

GROUNDS

39) The impugned orders found at **Annexures AR - 1 to AR - 15** issued by Respondent - 6 for widening of roads are as follows:

Annexure No.	Date	Order No.
AR - 1	05/12/2007	EE/Road Widening/Phase-II/Sector 11/PR/472/06-07
AR - 2	05/12/2007	EE/Road Widening/Phase-II/Sector 12/PR/472/06-07
AR - 3	05/12/2007	EE/Road Widening/Phase-II/Sector 13/PR/472/06-07
AR - 4	05/12/2007	EE/Road Widening/Phase-II/Sector 14/PR/472/06-07
AR - 5	05/12/2007	EE/Road Widening/Phase-II/Sector 15/PR/472/06-07
AR - 6	02/03/2005	JDTP//RW/Phase-I/Sector-1/C2/PR1/2004-05
AR - 7	02/03/2005	JDTP//RW/Phase-I/Sector-2/C2/PR2/2004-05
AR - 8	02/03/2005	JDTP//RW/Phase-I/Sector-3/C2/PR3/2004-05
AR - 9	02/03/2005	JDTP//RW/Phase-I/Sector-4/C2/PR4/2004-05
AR - 10	02/03/2005	JDTP//RW/Phase-I/Sector-6/C2/PR6/2004-05
AR - 11	02/03/2005	JDTP//RW/Phase-I/Sector-5/C2/PR5/2004-05
AR - 12	02/03/2005	JDTP//RW/Phase-I/Sector-8/C2/PR8/2004-05
AR - 13	02/03/2005	JDTP//RW/Phase-I/Sector-7/C2/PR7/2004-05
AR - 14	02/03/2005	JDTP//RW/Phase-I/Sector-9/C2/PR9/2004-05
AR - 15	02/03/2005	JDTP/RW/Phase-I/Sector-10/C2/PR10/2004-05

The Petitioners submit that the impugned orders are illegal as this exercise of road widening should have been preceded by procedure prescribed under Section 14 (A) of the Karnataka Town and Country Planning Act, which has not been done. By changing the width of the roads there will be consequential changes in the use of abutting properties, access to these properties, traditional access

rights, building lines and also a change in land use which would be in deviation from the existing Outline Development Plan. In the event of such a contingency the proviso (c) to Section 14 (A) (1) mandates that the proposals for such changes must be published in one or more daily newspapers inviting objections from the public. To the best of the Petitioners' knowledge there has been no publication as required above to fulfil the procedure under Section 14 (A). Section 14 (A) (2) makes it clear that the restrictions under Section 14 (2) and (3) are made applicable even with respect to actions undertaken under Section 14 (A) of the Karnataka Town and Country Planning Act 1961. Section 14 (2) and (3) r/w Section 505 (1) of Karnataka Municipal Corporations Act stipulate that any change in land use or development shall be accompanied by a commencement certificate with the written permission of the Planning Authority which has not been obtained in the present case. None of the impugned orders found at **Annexures AR- 1 to AR – 15** reflect that Respondent – 6 has obtained sanction and permissions as mentioned supra.

40) Respondent – 6 is authorised to widen roads by virtue of the power conferred under Sec 267 (1) (d) of KMC Act 1976 which provides that the Commissioner may “widen, open, extend or improve any public street”. Sec 175 r/w Sec 177 of the above mentioned Act provides for acquisition of land which has to be done in accordance with the procedure prescribed under the Land Acquisition Act 1894. It is also made clear that land shall vest in the corporation only after the compensation has been paid with respect to the lands sought to be acquired. In the present case the action of the Respondent – 6 in initiating civil works on a substantial number of roads as found in the impugned orders at **Annexures AR - 1 - to AR - 15**, that without completing the acquisition process, is illegal. Consequently the action of tree cutting by Respondent - 6 in collusion with Respondent – 7 is also illegal.

41) The Petitioners state that every action of implementing the existing Comprehensive Development Plan must follow the procedure as envisaged under Chapter V of the Karnataka Town and Country

Planning Act, 1961. This Chapter details the procedures that ought to be followed while implementing the Comprehensive Development Plan. A *sine qua non* for implementing the said Plan is the framing of the Scheme by following the procedure prescribed in Chapter V which has not been adhered at all by Respondent – 6 in any of the notifications and orders issued in the impugned orders annexed at **Annexure AR - 1 to AR - 15**. The particular import of this Chapter is to ensure that any implementation of programme or scheme by Respondent – 6 is strictly bound by the definition of land use as provided for in Comprehensive Development Plans. In the instant case, the ongoing road widening programmes and also the proposed road widening programmes of Respondent – 6 are not evolved under any scheme as required by the Karnataka Town and Country Planning Act for the purpose of implementing Comprehensive Development Plans for 1995 or 2015 developed by Respondent – 12.

42) The Petitioners state that the Draft Comprehensive Development Plan of Respondent – 12, as depicted in maps annexed at **Annexure L and M** have no material information with respect to the width of the roads. As a result of the absence of such information the Petitioners, and the public at large, were disabled from filing their objections to the proposed width of the roads which has suddenly appeared only in the Revised Master Plan – 2015 issued by Respondent – 12. Hence, the Revised Master Plan – 2015, in so far as it relates to the fixation of the proposed width of roads in all of the graphic depictions ought to be set aside as being in violation of principles of natural justice and in particular Section 10 of the Karnataka Town and Country Planning Act.

43) The Petitioners state that the ongoing widening of the roads by Respondent – 6 is an activity that falls within the category of a "Area Development Project" listed as Item 8 (b) of the Schedule of the Environment Impact Assessment Notification – 2006 issued by Respondent – 14 per the Environment Protection Act, 1986. As per procedure prescribed in the said Notification, such "Area Development Projects" ought to fulfil obtain environmental

clearance from the State Environment Impact Assessment Authority. The project of Respondent – 6 to widen roads in implementing the Comprehensive Development Plans of Respondent – 12 are subject to compliance as per the EIA Notification – 2006. In this context, given that there is absolutely no conformity with the Environment Impact Assessment Notification, the aforesaid action of Respondent – 6 in widening roads is patently illegal.

44) The Petitioners state that the road widening projects of Respondent – 6 are sans any financial planning. It has been clarified in **Annexure AQ** that the cost of road widening “will not be possible to assted (sic) as a general issue In general approximate cost of widening is Rs. 8-10 crores/Km.” Any action of a public authority which involves use of public funds and tax payers money cannot be embarked upon without clearly and specifically detailing the costs involved. Such action is clearly an arbitrary exercise of power. In the instant case, not only has Respondent – 6 embarked on the said road widening programme without any demonstrable logic, rationale, substance or vision, but has also proceeded to expend public money without clearly defined financial and budgetary parameters.

45) Without prejudice to what is stated in the preceding ground, and in view of the introduction of TDR (Transfer of Development Rights) through an amendment introduced to Sec 14 of the Karnataka Town and Country Planning Act in the form of Sec 14 (B), it is clear that as an alternative to compulsory Land Acquisition affected persons may surrender and relinquish their rights over property which may fall within the zone of road widening in return for Development Rights Certificate (DRC). An explanatory note of the said scheme issued by Respondent - 6 on its website is annexed at **Annexure AS**. The vesting of land required for public purposes stated in Section 14 B shall take place when the option of TDR is exercised by the affected persons on an invitation to offer made by Respondent - 6. On *consensus ad-idem* being reached with respect to the subject matter, DRC is issued in favour of persons affected.

Unless the issuance of such certificates is completed no scheme can be initiated. In the instant case there has been a clear violation of this process and underlying principles as Respondent – 6 has initiated tree felling and civil works without legal vesting of land and change of land use.

- 46) The action of tree cutting as per the impugned orders annexed at **Annexure AT - 1 to AT - 17** along with its translated copies, appears to have been carried out in haste and is premature since the legal formalities with respect to road-widening have not been concluded. As a matter of fact the process of preliminary surveys, investigations, estimates, alignment plans, and preparation of DPR for the roads under Phase I are still in progress as evidenced by letter of BBMP to a member of *Hasiru Usiru* Shri. Kanishka Lahari dated 4th April 2008, annexed at **Annexure AU – 1** and **AU - 2**.

Annexure No.	Date	Order No.
AT - 1	17-01-2008	No: OO. AA. SUM/ P.R 1057 (A)/2007-08
AT - 2	04-01-2008	No: OO. AA. SUM/ P.R 1028 (A)/2007-08
AT - 3	30-12-2007	No: OO. AA. SUM/ P.R 1021 (A)/2007-08
AT - 4	30-12-2007	No: OO. AA. SUM/ P.R 1022 (A)/ 2007-08
AT - 5	18/12/2007	No: OO.AA. SUM/P.R. 997 (A)/ 2007-08
AT - 6	18/12/2007	No: OO.AA. SUM/ PR 995/2007-08
AT - 7	18/12/2007	No: OO.AA.SUM/ PR 996 A / 2007-08
AT - 8	16/12/2007	No: OO.AA.SUM/ PR 992 A / 2007-08
AT - 9	16/12/2007	No: OO.AA.SUM/ PR 992 A / 2007-08
AT - 10	04/12/2007	No: OO.AQ.SUM/ PR 966 A / 2007-08
AT - 11	19/11/2007	No. OO.AA.SUM/ PR. 865 (A)/2007-08
AT - 12	03/11/2007	No. OO.AA.SUM/ PR 770 (A)/2007-08
AT - 13	25/10/2007	No. OO.AA.SUM/ PR 738/ 2007-08
AT - 14	27/09/2007	No. OO.AA. SUM/ PR 499 (A)/ 2007-08
AT - 15	26/09/2007	No. OO.AA. SUM/PR 485(A)/200-08
AT - 16	25/09/2007	No. OO.AA. SUM/P.R. /2007-08
AT - 17	04/09/2007	No: OO.AA. SUM/PR. 351/2007-08

- 47) The petitioners also state that the widening of roads as per **Annexure AR -1 to AR – 15** will result in curtailing or abrogating rights of persons such as street vendors, hawkers, pavement dwellers and others as enunciated by the Hon'ble Supreme Court in Olga Tellis and Others vs. Bombay Municipal Corporation and Others [1986 AIR(SC) 180].

48) The Respondents have violated the directions issued by this Hon'ble High Court in WP 14104/2005 which had relied upon the letter of the Respondent - 1 dated 6th June 2005 to Respondent - 6 and Principal Chief Conservator of Forests, Karnataka State Forest Department wherein it was discussed that "with regard to the cutting of the trees within the jurisdiction of the Bangalore city, a meeting was held under the Chairmanship of the Chief Secretary, and, in furtherance of the said meeting, it has been directed that with regard to the trees falling within the jurisdiction of the Bangalore Mahanagara Palike (including those on roads), it has been decided that permission has to be obtained under the Karnataka Preservation of Trees Act and permission will have to be given on top priority and that further with respect to every instance, the Bangalore Mahanagara Palike is to send details to the concerned Tree Officer in every case and the Tree Officer has to take a considered decision in a fair manner, after exercising due caution. The contents of the said letter would further indicate that, before granting permission to cut the trees, an opportunity would be given to the representatives of 'Hasire Usiru' wherever possible." Keeping this in view, the Hon'ble Court observed that "we hope and trust that the authorities concerned will obey and comply with the directions issued in the letter dated 6.6.2005 of the State Government, in its letter and spirit. With these observations, the Writ Petition stands disposed of". With this in view, the impugned orders do not reflect any application of mind as they only narrate various intra-departmental proceedings without specifying the reasons for felling trees. These orders do not in any manner connect the act of the tree felling with securing wider public interest objectives. The orders do not in any manner prove that such cutting of trees forms a reasonable nexus to the objective of solving traffic problems, if indeed there are any. The absence of this nexus between the action of cutting trees and the objective of solving the traffic problems results in an arbitrary exercise of power which is in violation of Article 14 of the Constitution of India.

- 49) The impugned orders are illegal in so far as none of the impugned orders annexed at **Annexure AT- 1 to AT- 17** contain the stipulation as provided under Sec. 8 (5) of the Karnataka Tree Preservation Act, which requires that in the case of issuing tree felling orders, "(w)here permission to fell a tree is granted, the Tree Officer may grant it subject to the condition that the applicant shall plant another tree or trees of the same or any other suitable species on the same site or other suitable place within thirty days from the date the tree is felled or within such extended time as the Tree Officer may allow". In the absence of such a mandatory condition, the impugned orders are liable to be set aside. This is also because the very preamble of the Karnataka Preservation of Trees Act demands actions to restore ecological balance, even if trees have to be felled. By not demanding the applicants' to restore the disturbed ecological balance by their act of felling trees violates the objective and intent of the Act as reflected in the Preamble.
- 50) The impugned orders at **Annexure AT -1 to AT - 17** are illegal as they are not speaking orders. The impugned orders do not spell out the reasons for treating such trees that are ordered to be felled as actually obstructing traffic flow. In the absence of such rational decisions that is apparent from the impugned orders, the said orders are illegal and violative of Article 14 of the Constitution of India.
- 51) Respondent - 6 and Respondent - 7 has demonstrated non-application of mind as revealed in the impugned orders annexed at **Annexure AR - 1 to AR - 15** and **Annexure AT - 1 to AT - 17** for the following reasons:
- a) There is no objective justification set forth to substantiate the proposition that felling of trees for widening of roads will result in the improvement of traffic flow and reduction in congestion of traffic.
 - b) There is no rationale explicated whatsoever to justify that granting permission to cut the trees as is permitted under Sec 8 (3) IV of Karnataka Tree Preservation Act is based on technical

and demonstrable ground that the tree to be felled 'constitutes obstruction to traffic'.

52) Respondents – 6, 7 and 10 keeping in mind the 'Precautionary Principle' and Article 48 A and 51 A (g) of the Constitution of India, ought to have considered a variety of technical designs and their conformance with requisite national standards, and thereon justified if the action of widening the roads would result in solving the traffic management problem. For that purpose Respondent - 7 ought to have called upon the applicant to place on record material justifying the need for removal of trees and tree lines. Respondent – 7 was also bound by his obligatory functions to invite critical review from experts and the affected public, so as to ensure that only such action would follow that would fulfil the obligations required per the 'Precautionary Principle' and the aforesaid Constitutional obligations while also serving the immediate object desired. In this context, the impugned orders annexed at **Annexure AR – 1 to AR – 15** and **Annexure AT – 1 to AT – 17** are illegal.

53) Respondent – 6 and 7 were sensitized on the implications and adverse impact of felling of a large number of trees on Sheshadri Road and Palace Road based on a joint site inspection with Petitioner 1 and 3 and Dr. Subbarayan Prasanna, Professor of Urban and Regional Planning and former Dean at Indian Institute of Management, Bangalore. Whereby a case was made by the Petitioners and Dr. Prasanna that the road widening could be undertaken based on enormously improved designs that would substantially minimise the number of trees that needed to be felled while meeting the intended purpose. A copy of the submission made in this regard by Dr. Prasanna is available in **Annexure V**. Respondent – 7 had earlier withdrawn the sanction to fell trees per its orders dated 27 July 2007 annexed at **Annexure U**. This clearly reveals that the respondent authorities do admit that their road widening proposals are not sufficiently backed by appropriate rationale and are incompetent in design. This action is also demonstrative of the fact that the objective of de congesting traffic

can be achieved without necessarily felling trees and entire tree lines or even resorting to road widening. In light of this withdrawal of the aforesaid order, a responsibility was cast on Respondent - 7 to comprehensively review all proposals of Respondent - 6 to widen roads. It was also necessary on the part of Respondents 6 and 7 to involve *Hasiru Usiru* and Petitioners in the said exercise as directed by this Hon'ble Court in WP 14014/2005, possibly engage the services of Dr. Prasanna which were offered on demand and *pro bono*, involve the public in design reviews through public consultations, and only then come up with an appropriate course of action. Instead by issuing the impugned orders annexed at **Annexure AR - 1 to AR - 15** and **Annexure AT - 1 to AT - 17**, Respondents 6 and 7 have precipitated a course of action which is opposed to the letter and spirit of the Karnataka Preservation of Trees Act. Such action is violative of the trust reposed by the framers of the Act. In addition it is contemptuous of the trust reposed by this Hon'ble Court on the competence and sincerity of Respondents - 6 and 7 to engage all concerned to come up with a decision that is justifiable and futuristic. Consequently, the action of Respondent - 7 in issuing the impugned orders annexed at **Annexure AT - 1 to AT - 17** is illegal and is an arbitrary exercise of power. The action of Respondent - 7 in now re-notifying the felling of trees on Palace Road as evidenced in **Annexures AT - 1 to AT - 17**, without assigning any change of circumstances from the previous order withdrawing the said tree felling, is blatantly an arbitrary exercise of power.

- 54) The action of the Respondent - 1 in not constituting a Tree Authority as mandated per Section 3 of the Karnataka Tree Preservation Act has resulted in rendering the wide public defenceless against the arbitrary action taken by Respondent - 7. All actions of Respondent - 7 are rendered arbitrary as the Appellate Authority before whom orders of the said Respondent can be challenged is non-existent.

55) Per Section 8 of The Karnataka Preservation of Trees Act Respondent - 7 can grant permission to fell trees under certain specified circumstances. Section 14 provides that an appeal can be preferred against any order passed by the Tree Officer in accordance with Sections 8, 8A, 9 or 10 of the Karnataka Preservation of Trees Act. In the absence of the constitution of the Appellate Authority, namely the Tree Authority, a substantive Right of redressal has been taken away. This has fundamentally denied the right of technical and competent review in the process of decision making which has the potential of immediately correcting a wrong, if committed. This exposes an aggrieved party to resort to a judicial review which cannot be a substitute for a department appeal. The deliberate inaction on the part of Respondent - 1 in not constituting the said Tree Authority for over two decades clearly indicates its purposeful intent of ensuring the decisions of the Tree Officer, whether right or wrong, is not corrected in the hierarchy of redressal provided for under the Act. The power of the Tree Officer ought not to have been exercised till the constitution of the Appellate Authority. Hence action of the Respondent - 7 is liable to be set aside and appropriate direction ought to be issued to ensure that no power can be exercised by the said Respondent till the Appellate Authority is constituted.

56) The non-constitution of the Tree Authority which as per Section 7 (e) has been conferred with the responsibility of 'planting and transplanting of trees necessitated by construction of new roads or widening of existing road' has resulted in the absence of a specialized body to lay down a policy or directions with respect to the manner in which proposals of road widening and removal of trees can be undertaken.

57) The Tree Authority is solely responsible for the following responsibilities per Section 7 of the Karnataka Preservation of Trees Act:

“(e) planting and transplanting of trees necessitated by construction of new roads or widening of existing roads or

replacement of trees which have failed to come up along roads or for safeguarding danger to life and property;

(f) Organisation of demonstration and extension service for the purposes of this Act and assisting private and public institutions connected with planting and preservation of trees;

(g) Planting and maintaining such number of trees as may be considered necessary according to the prescribed standards on roads, in public parks and gardens and on the banks of rivers or lakes or seashores; and

(h) Undertaking such schemes or measures as may be directed from time to time by the State Government for achieving the objects of the Act.”

In the absence of the Tree Authority, which is obligated to maintain optimum green cover and ecological balance in urban areas, any action of the Tree Officer in ordering felling of trees exacerbates environmental degradation and is an action that is arbitrary and violative of Article 14 of the Constitution of India. In the instant case, the very absence of the Tree Authority has caused a situation where no corrective action is being initiated as mandated under Section 9 of the Karnataka Tree Preservation Act.

58) The action of Respondent - 7 in permitting transplanting of trees removed from Bellary Road, M. G. Road, Sheshadri Road, etc. is clearly illegal in so far as the said Respondent has acted in excess of the authority conferred under Section 8 of the Karnataka Tree Preservation Act. The act of transplanting trees is within the exclusive jurisdiction of the Tree Authority as provided under Section 7 of the Karnataka Tree Preservation Act. The absence of the said Authority does not confer in any manner the right to the Respondent - 7 to perform the functions of the Authority. Thereby, the action of the Respondent - 7 is *ultra vires* Section 8 of the Karnataka Preservation of Trees Act.

59) There can be no felling of any trees as per the Government Order No. DEE 265, ECO 91, Bangalore District 24-8-1991 without the permission of the appropriate authority in the Department of Ecology and Environment as per **Annexure AV**. The said circular

would also be applicable to the Respondents 6 and 7 herein. Hence, the action of the Respondent 6 and 7 in felling trees indiscriminately is without the authority of law.

60) The action of the Respondent – 6 and Respondent - 12 in widening roads and consequently felling trees is in violation of the principles and guidelines issued by the Respondent – 13, Union Ministry of Urban Development and Poverty Alleviation, through their Office Memorandum dated 21st July 2000 (No. 5 – DDR/VIP/2000-DDVI) annexed at **Annexure AW**. As per the said guidelines there is a clear direction that second generation trees ought to be planted about two to three metres behind the existing road trees, that public participation ought to be encouraged in maintenance of green cover by the involvement of residence welfare associations, and to activate user groups. There are other directions issued with respect to greening of void areas and strategies to be adopted to preserve existing tree cover in urban areas. But none of the projects undertaken by the aforementioned Respondents 1, 6, 7 and 12 have conformed to the aforesaid guidelines.

61) Respondent – 1 is guilty of not initiating any action with respect to the advisories issued by Respondent – 13 and a copy of the reminder sent in this regard on 6th February 2008 (D.O.No.K-14011/28/2005-UT) is enclosed at **Annexure AX**. The inaction of Respondent – 6 and 12 in adhering to the guidelines issued by Respondent – 13 constitutes a violation in not complying with existing law.

62) The constitution of the Respondent – 9 with the Respondent – 1 as its head is extra constitutional and has no statutory backing. In view of the Constitutional 74th Amendment (Nagarpalika) Act dealing with urban planning, any action, as the one sought to be resorted to by Respondents, has interdepartmental ramifications, and hence the Government ought to have created the Metropolitan Planning Committee as per Article 243 ZE of the Constitution of India. It is very clear by the said article that the process of planning had to be done by Metropolitan Planning Committees

based on a participatory approach involving consultation with such organizations or institutions, as may be necessary, in order to achieve "coordinated dis-spatial planning of the area" especially with regard to "the integrated development of infrastructure and environmental conservation".

- 63) The impugned orders annexed at **Annexure AT -1 to AT 17** passed by the Respondent – 7 are malafide. This is because roles and obligations of a Tree Officer are to be met in accordance with the Karnataka Preservation of Trees Act as an officer constituted by the Principal Chief Conservator of Forests to act in a quasi-judicial capacity to meet with the obligations set forth per Rule 4 r/w Section 8 of the said Act. It is pertinent, therefore, that this officer functions in a manner that is truly independent. However, Respondent - 7 has an office situated within the complex of the head office of Respondent - 6. In view of the fact that the impugned orders annexed at **Annexure AT – 1 to AT - 17** are passed on the basis of the applications submitted by the Respondent - 6, the orders of Respondent – 7 are vitiated by bias and liable to be set aside as violative of Article 14 of Constitution of India. The possibility of bias when the Tree Officer who is exercising quasi-judicial powers (Sec 25 r/w with Sec 8) is imminent as the Respondent – 7 functions from the building of the Respondent – 6 thus enjoying benefits of administrative and infrastructure support.
- 64) Respondent – 7 in the Public Consultation held on "ROAD WIDENING SCHEMES OF BENGALURU: IMPACTS AND ALTERNATIVES" held on 20th December 2007 at Senate Hall, Bangalore, has admitted that he was under undue pressure from superior authorities such as Respondent – 1 and 6 to clear their applications for tree felling with due dispatch. He articulated the undue pressure that was brought over him by using the expression that he would "kicked" by such superiors and officers of Respondent - 6 if he failed to comply with their demands. Considering that the Respondent – 7 is acting in his capacity as a quasi-judicial authority, this clearly proves the overbearing

influence exercised by officers of Respondent - 6 over the decision making process of Respondent - 7. Hence, it cannot be said that the Tree Officer can take a decision independent of fear or favour. A detailed report of the consultation is annexed at **Annexure AH** and a transcript of the speech delivered by Mr. S. Shekar, Tree Officer is annexed at **Annexure AY**.

65) The impugned orders annexed at **Annexure AT – 1 to AT – 17** are also liable to be set aside as the Respondent – 7 has taken a decision on the basis of incomplete applications made by Respondent – 6 that does not conform to the requirements per Section 8 (2) of the Karnataka Preservation of Trees Act. Per this provision, an application for tree felling must contain "...site plan or survey sketch specifying clearly the site or survey nos, the number, kind and girth of the tree sort to be cut and the reasons therefore along with the consent of the owner or occupant." Rule 4 of the said act prescribes various details that require to be filled in and these are key requirements of Form 1 (application form), and these are abstracted as follows:

1. Sy.No. and extent of the land from which the trees are to be felled.
2. Location of the Sy.No. with Sy.sketch
3. Whether the boundary of Sy.No. is clear and demarcated properly on the ground.
4. The number and kind of trees intended to be felled with girth of each tree (detailed list to be attached).
5. The purpose for which the trees are to be felled (specific mention to be made about the purpose)
6. Khata extract and Certificate from the Tahasildar regarding the tenure of the Land (Hiduvali, Darkhast, Inam, Lease, Coffee/Cardamum, Malki, Bane and so on and whether the tree growth is redeemed or unredeemed) and the right over the Land and Tree growth.
7. Whether any tree proposed to be felled is reserved to Government, if so, details may be give.

8. Whether unconditional consent of the other owners having share in the right to land and the trees if any is obtained (Proof thereof to be enclosed).....”

In the absence of all such details, Respondent – 7 will not be in a position to take a rational decision based on relevant facts meeting the exact criteria demanded for decision making by a Quasi-judicial authority. The impugned orders at **Annexure AT – 1 to AT - 17**, therefore, do not in any manner reflect the quality and detail of examination demanded of a quasi-judicial authority, and are based merely on surmises and drawings that in no form meet the qualifications set forth in Rule 4 of the Karnataka Preservation of Trees Act. Thus the aforesaid impugned orders are invalid in law.

Grounds for Interim Prayer

66) The Petitioners state that *prima facie* the action of the Respondent – 6 in widening the roads through the impugned notifications is illegal as the mandatory procedure prescribed in Section 10, 14 A and Chapter V of the Karnataka Town and Country Planning Act, read with Section 505 (1) of the Karnataka Municipal Corporations Act, has not been followed. In view of illegalities concerning road widening, the consequential action of tree felling ought to be deferred till this Hon'ble Court is satisfied as to the legality of the ongoing road widening programme of Respondent - 6.

67) Keeping in mind the Precautionary Principle and the Public Trust Doctrine, this Hon'ble Court ought to defer the tree felling initiated by Respondent – 7 till all public utility infrastructure like electric poles, electric transformers, telephone junction boxes, water spouts, road signages, telecommunication conduits and cables, are shifted out of the proposed Right of Way.

68)The irreparable loss that may be occasioned by tree felling due to the ongoing irrational road widening programmes of Respondent – 6 must be taken into account and this Hon'ble Court ought to lean in favour of an interpretation that would sub serve the conservation of environment especially in its inter-generational context.

PRAYER

Wherefore it is prayed that this Hon'ble Court be pleased to:

- I. Issue appropriate writ or order to quash those impugned Notifications sanctioning road widening, enclosed as **Annexures AR – 1 to AR – 15** dated 2-03-05, 05-12-2007, herein detailed below:

Annexure No.	Date	Order No.
AR – 1	05/12/2007	EE/Road Widening/Phase-II/Sector 11/PR/472/06-07
AR – 2	05/12/2007	EE/Road Widening/Phase-II/Sector 12/PR/472/06-07
AR – 3	05/12/2007	EE/Road Widening/Phase-II/Sector 13/PR/472/06-07
AR – 4	05/12/2007	EE/Road Widening/Phase-II/Sector 14/PR/472/06-07
AR – 5	05/12/2007	EE/Road Widening/Phase-II/Sector 15/PR/472/06-07
AR – 6	02/03/2005	JDTP//RW/Phase-I/Sector-1/C2/PR1/2004-05
AR – 7	02/03/2005	JDTP//RW/Phase-I/Sector-2/C2/PR2/2004-05
AR – 8	02/03/2005	JDTP//RW/Phase-I/Sector-3/C2/PR3/2004-05
AR - 9	02/03/2005	JDTP//RW/Phase-I/Sector-4/C2/PR4/2004-05
AR – 10	02/03/2005	JDTP//RW/Phase-I/Sector-6/C2/PR6/2004-05
AR – 11	02/03/2005	JDTP//RW/Phase-I/Sector-5/C2/PR5/2004-05
AR – 12	02/03/2005	JDTP//RW/Phase-I/Sector-8/C2/PR8/2004-05
AR – 13	02/03/2005	JDTP//RW/Phase-I/Sector-7/C2/PR7/2004-05
AR – 14	02/03/2005	JDTP//RW/Phase-I/Sector-9/C2/PR9/2004-05
AR – 15	02/03/2005	JDTP/RW/Phase-I/Sector-10/C2/PR10/2004-05

- II. Consequently, issue writ or order in the nature of mandamus to set aside the impugned orders relating to tree felling annexed

at **Annexures AT - 1 to AT -17** along with its translated copies dated 17-01-08, 04-01-08, 30-12-07, 18-12-07, 16-12-0-7, 04-12-07, 19-11-07, 03-11-07, 25-10-07, 27-09-07, 26-09-07, 25-09-07, 04-09-07, herein detailed below:

Annexure No.	Date	Order No.
AT - 1	17-01-2008	No: OO. AA. SUM/ P.R 1057 (A)/2007-08
AT - 2	04-01-2008	No: OO. AA. SUM/ P.R 1028 (A)/2007-08
AT - 3	30-12-2007	No: OO. AA. SUM/ P.R 1021 (A)/2007-08
AT - 4	30-12-2007	No: OO. AA. SUM/ P.R 1022 (A)/ 2007-08
AT - 5	18/12/2007	No: OO.AA. SUM/P.R. 997 (A)/ 2007-08
AT - 6	18/12/2007	No: OO.AA. SUM/ PR 995/2007-08
AT - 7	18/12/2007	No: OO.AA.SUM/ PR 996 A / 2007-08
AT - 8	16/12/2007	No: OO.AA.SUM/ PR 992 A / 2007-08
AT - 9	16/12/2007	No: OO.AA.SUM/ PR 992 A / 2007-08
AT - 10	04/12/2007	No: OO.AQ.SUM/ PR 966 A / 2007-08
AT - 11	19/11/2007	No. OO.AA.SUM/ PR. 865 (A)/2007-08
AT - 12	03/11/2007	No. OO.AA.SUM/ PR 770 (A)/2007-08
AT - 13	25/10/2007	No. OO.AA.SUM/ PR 738/ 2007-08
AT - 14	27/09/2007	No. OO.AA. SUM/ PR 499 (A)/ 2007-08
AT - 15	26/09/2007	No. OO.AA. SUM/PR 485(A)/200-08
AT - 16	25/09/2007	No. OO.AA. SUM/P.R. /2007-08
AT - 17	04/09/2007	No: OO.AA. SUM/PR. 351/2007-08

III. Without prejudice to Prayer II above, to issue writ in the nature of mandamus to quash **Annexure AT - 1 to AT - 17** dated 17-01-08, 04-01-08, 30-12-07, 18-12-07, 16-12-0-7, 04-12-07, 19-11-07, 03-11-07, 25-10-07, 27-09-07, 26-09-07, 25-09-07, 04-09-07 which sanction tree felling, as detailed below:

Annexure No.	Date	Order No.
AT - 1	17-01-2008	No: OO. AA. SUM/ P.R 1057 (A)/2007-08
AT - 2	04-01-2008	No: OO. AA. SUM/ P.R 1028 (A)/2007-08
AT - 3	30-12-2007	No: OO. AA. SUM/ P.R 1021 (A)/2007-08
AT - 4	30-12-2007	No: OO. AA. SUM/ P.R 1022 (A)/ 2007-08
AT - 5	18/12/2007	No: OO.AA. SUM/P.R. 997 (A)/ 2007-08
AT - 6	18/12/2007	No: OO.AA. SUM/ PR 995/2007-08
AT - 7	18/12/2007	No: OO.AA.SUM/ PR 996 A / 2007-08
AT - 8	16/12/2007	No: OO.AA.SUM/ PR 992 A / 2007-08
AT - 9	16/12/2007	No: OO.AA.SUM/ PR 992 A / 2007-08
AT - 10	04/12/2007	No: OO.AQ.SUM/ PR 966 A / 2007-08

Annexure No.	Date	Order No.
AT - 11	19/11/2007	No. OO.AA.SUM/ PR. 865 (A)/2007-08
AT - 12	03/11/2007	No. OO.AA.SUM/ PR 770 (A)/2007-08
AT - 13	25/10/2007	No. OO.AA.SUM/ PR 738/ 2007-08
AT - 14	27/09/2007	No. OO.AA. SUM/ PR 499 (A)/ 2007-08
AT - 15	26/09/2007	No. OO.AA. SUM/PR 485(A)/200-08
AT - 16	25/09/2007	No. OO.AA. SUM/P.R. /2007-08
AT - 17	04/09/2007	No: OO.AA. SUM/PR. 351/2007-08

- IV. Issue writ or appropriate order directing the Respondent 1 to constitute a Tree Authority as mandated per Section 3 of the Karnataka Preservation of Trees Act, 1976.
- V. Issue writ or appropriate order directing Respondent 1 to constitute the Metropolitan Planning committee for the city of Bangalore as envisaged in Article 243ZE of the Constitution of India.
- VI. Issue writ or appropriate order calling for records from Respondent - 12 relating to the Revised Master Plan - 2015 and quash those proposals fixing the width of the roads.
- VII. Issue writ or appropriate order directing Respondent 1 to ensure that all road widening proposals of Respondent - 6 are in conformance with national policies annexed at **Annexure AN** **Annexure AP**, and the circulars issued by Respondent - 13 annexed at **Annexure AM - 1** dated 02-01-08 (D.O.No. K-14011/07/2007-UT), **AM - 2** dated 01-11-2006 (No.14011/44/2006-UT), **AV** dated 24-08-1991 (GO No: DEE 265 ECO 91) and **AW** dated 21-07-2000 (No.5-DDR/VIP/2000-DDVI).
- VIII. Issue writ or appropriate order in the nature of mandamus directing Respondent - 7 to ensure that every order of tree felling will contain appropriate directions for replanting of trees in necessary proportions so as to maintain the prescribed standards as stipulated under Section 7 (c) of the Karnataka Preservation of Trees Act, 1976.

- IX. Issue writ or appropriate order in the nature of mandamus directing Respondent 1 to set up a Tree Court involving representation in an advisory nature from the elected council of the Bruhat Bengaluru Mahanagara Palike, voluntary organisations, urban forestry experts, etc. to assist Respondent – 7 to arrive at accurate decisions in the nature of urban forestry in general, and tree felling in particular.
- X. Issue writ or appropriate order in the nature of mandamus directing Respondent 1, 6, 7, 8 and 12 to implement the Tree Patta Scheme as per GO No. FEE 50 FAP 2000 dated: 19/6/2002 annexed at **Annexure AV**.
- XI. Issue writ or appropriate order in the nature of mandamus directing Respondent 1 to ensure conformance with the principles enunciated by the Hon'ble Supreme Court of India in *Olga Tellis and ors. vs. Bombay Municipal Corporation and ors.* (AIR 1986 SC 180).
- XII. Issue writ or order in the nature of mandamus directing the Respondent - 6 to frame a scheme in accordance with, "guidelines for greening of urban areas and landscape" vide Official Memorandum issued by Respondent – 13 (No 5-DDR/VIP/2000-DDVI dated 21st July 2000, enclosed at **Annexure AW**.
- XIII. Pass any other writ or order as this Hon'ble Court deems fit in the facts and circumstances of this case.

Interim Prayer

Pending disposal of the above said petition, this Hon'ble Court be pleased to restrain Respondent – 6 from acting in pursuance of **Annexures AR – 1 to AR - 15**, dated 2-03-05, 05-12-2007 as detailed below, and consequently felling trees in pursuance of

Annexures AT – 1 to AT – 17 dated 17-01-08, 04-01-08, 30-12-07, 18-12-07, 16-12-0-7, 04-12-07, 19-11-07, 03-11-07, 25-10-07, 27-09-07, 26-09-07, 25-09-07, 04-09-07 also listed herein below.

Annexure No.	Date	Order No.
AR – 1	05/12/2007	EE/Road Widening/Phase-II/Sector 11/PR/472/06-07
AR – 2	05/12/2007	EE/Road Widening/Phase-II/Sector 12/PR/472/06-07
AR – 3	05/12/2007	EE/Road Widening/Phase-II/Sector 13/PR/472/06-07
AR – 4	05/12/2007	EE/Road Widening/Phase-II/Sector 14/PR/472/06-07
AR – 5	05/12/2007	EE/Road Widening/Phase-II/Sector 15/PR/472/06-07
AR – 6	02/03/2005	JDTP//RW/Phase-I/Sector-1/C2/PR1/2004-05
AR – 7	02/03/2005	JDTP//RW/Phase-I/Sector-2/C2/PR2/2004-05
AR – 8	02/03/2005	JDTP//RW/Phase-I/Sector-3/C2/PR3/2004-05
AR – 9	02/03/2005	JDTP//RW/Phase-I/Sector-4/C2/PR4/2004-05
AR – 10	02/03/2005	JDTP//RW/Phase-I/Sector-6/C2/PR6/2004-05
AR – 11	02/03/2005	JDTP//RW/Phase-I/Sector-5/C2/PR5/2004-05
AR – 12	02/03/2005	JDTP//RW/Phase-I/Sector-8/C2/PR8/2004-05
AR – 13	02/03/2005	JDTP//RW/Phase-I/Sector-7/C2/PR7/2004-05
AR – 14	02/03/2005	JDTP//RW/Phase-I/Sector-9/C2/PR9/2004-05
AR – 15	02/03/2005	JDTP/RW/Phase-I/Sector-10/C2/PR10/2004-05

Annexure No.	Date	Order No.
AT – 1	17-01-2008	No: OO. AA. SUM/ P.R 1057 (A)/2007-08
AT – 2	04-01-2008	No: OO. AA. SUM/ P.R 1028 (A)/2007-08
AT – 3	30-12-2007	No: OO. AA. SUM/ P.R 1021 (A)/2007-08
AT – 4	30-12-2007	No: OO. AA. SUM/ P.R 1022 (A)/ 2007-08
AT – 5	18/12/2007	No: OO.AA. SUM/P.R. 997 (A)/ 2007-08
AT – 6	18/12/2007	No: OO.AA. SUM/ PR 995/2007-08
AT – 7	18/12/2007	No: OO.AA.SUM/ PR 996 A / 2007-08
AT – 8	16/12/2007	No: OO.AA.SUM/ PR 992 A / 2007-08
AT – 9	16/12/2007	No: OO.AA.SUM/ PR 992 A / 2007-08
AT – 10	04/12/2007	No: OO.AQ.SUM/ PR 966 A / 2007-08
AT – 11	19/11/2007	No. OO.AA.SUM/ PR. 865 (A)/2007-08
AT – 12	03/11/2007	No. OO.AA.SUM/ PR 770 (A)/2007-08
AT – 13	25/10/2007	No. OO.AA.SUM/ PR 738/ 2007-08
AT – 14	27/09/2007	No. OO.AA. SUM/ PR 499 (A)/ 2007-08
AT – 15	26/09/2007	No. OO.AA. SUM/PR 485(A)/200-08
AT – 16	25/09/2007	No. OO.AA. SUM/P.R. /2007-08
AT – 17	04/09/2007	No: OO.AA. SUM/PR. 351/2007-08

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Bangalore 560009

Second Petitioner

Date:
Bangalore

**In the High Court of Karnataka at
Bangalore**

W.P. No. / 2008

UNDER WRIT ORIGINAL JURISDICTION

Between:

Environment Support Group and others

...Petitioners

And

State of Karnataka and others

...Respondents

Verifying Affidavit

I, Dr. Robert John Chandran, aged 39 years, S/o Late John Chandran, solemnly affirm and state on oath as follows:

1. That I am a Trustee of Environment Support Group, a non-profit public interest research, training, and advocacy initiative registered as a Public Charitable Trust and am authorized to swear to this affidavit on its behalf and also on behalf of the other Petitioners.
2. That what is stated above in Para 1 to 68 is true and correct to the best of my knowledge, information and belief, and as per the legal advice obtained.
3. I state that **Annexures A – AY** are true copies of their originals.

Date:

Deponent

Place: Bangalore

Dr. Robert John Chandran

Identified by me

Advocate