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Copy of letter No. AB.91.LGP.85 dated 9-11-1987 from the Rev. Com, Bangalore to the Deputy Commissioner, BK, Mangalore and copy to this office.

Subj:-Sanction of diversion/conversion of Agril Lands into Non-Agril Use within the zones of "Green belt"clarification-

With ref to your D.O. letter No. LHM/III/CR.114/87-88 dated 14-9-1987 seeking clarification as to whether the Deputy Commr stands divested of the powers under section 95 of the KLR Act or not, in such areas where ODP/CDP has not been approved in view of the High Court Judgement in W.A.No.1938-39/86

I am therefore, directed to clarify that the High Court Judgement in question clearly lays down (i) that the D.Cs stands divested of his powers under section 95 of KLR Act wef date of issue of the notification bringing into being the respective ODP/CDP if any. By implication therefore the powers of the Deputy Commr, under Section 95 may be validly exercised in cases where the ODP/CDP has not yet been brought into effect. And (ii) that where the DC no longer has the necessary authority to act under Sec.95 vide (i) above, you may await the result of review petition filed by the Government before the High Court in the High Court Judgement in W.A.1938-39/86

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No. ALM.144/87-88 Dated 28-11-1987  
Copy to all the Assistant Commissioners and Tahsildars in the District for strict guidance and necessary action.

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30/11/87  
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ಪರಿಶೀಲಿಸಿ  
30/11/87

For Deputy Commissioner,  
Bassan District

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D.No.91.LOP.(B-2)85

Karnataka Government Secretariat,  
M.S.Bldg, Mira Stage, 5th Floor,  
Bangalore, dated 26th May 1988

C I R C U L A R.

Subi-sanction of diversion/Conversion of Agricultural  
lands in to non agricultural use within the Zones  
(Greenbelt) clarification of

Ref:-Circular No.85.91.LOP.85 dated 26-5-1987

-1-

The High Court of Karnataka in their judgement the Special  
Deputy Commissioner versus Bhargavi Mahavan (ILR,1987 Karnataka  
1260) has held that wherey the OIP and CIP have been approved by the  
Town and Country planning Department the Deputy Commissioners are  
not empowered to grant permission for change of land use under Section  
95 of the Karnataka Land Revenue Act,1964. Accordingly, Circular in-  
structions were issued in the Circular cited above, the Deputy Commr  
stands divested of their powers under Section 95 of the KLR Act and it  
is directed to not to entertain such applications for permission under  
Section 95 of the KLR Act,1964 until such time as to high court judge-  
ment is reviewed or set aside in appeal.

The Supreme Court in Civil appeal No.1984-85 of 1988  
has vacated the judgement of the Division Bench of the Karnataka  
High Court in writ appeal No.1938-1939/86 and remitted the case  
to the Division Bench for fresh disposal. In the circumstances, the  
enunciation of the law by the Division Bench of High Court of Karnataka  
in Bhargavi Mahavan's case No longer holds the field. Therefore,  
the statusquo which prevailed prior to the Division Bench ruling of the  
Karnataka High Court is restored.

In the circumstances, instructions issued in the Circular  
cited above are withdrawn and further Deputy Commissioners are  
instructed to exercise powers under Section 95 of the KLR Act,1964  
subject to various conditions laid down therein and the provisions  
of the Town and Country Planning Act.

sd/-Sachdevrajan,  
Under Secretary to Government,  
Revenue Department.

Dated 13-5-1988

No.ILR.144/87-88

Copy of the above Circular is forwarded to all the Assistant Commissioners  
and Inspectors in the District for information and necessary action.

Formerly Commissioner,  
Hassan District.

Handwritten notes: 6/5/88, 15/5/88

Handwritten notes: 2m, 2190

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