



CNR: KAHC010039702022

NC: 2026:KHC:40008
WP No. 1741 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

WRIT PETITION NO. 1741 OF 2022 (GM-PP)

BETWEEN:

1. SRI. P. SAKTHIVADIVEL
S/O LATE K. PERIYANDAVAN
AGED ABOUT 45 YEARS
RESIDING AT NO.71/118,
"GEETHALAYA"
4TH MAIN, 3RD B CROSS,
B. CHANNASANDRA, BANASWADI
BANGALORE - 560 043
2. SRI. SRIBALAJI G.I.
S/O LATE GOVINDASWAMY NAIDU
AGED ABOUT 58 YEARS
RESIDING AT OLD NO.14, NEW NO.15,
'SHAKTHI NIVAS', 4TH MAIN
O.M.B.R. LAYOUT, BANASWADI
BANGALORE - 560 043

...PETITIONERS

(BY SRI. M.S.BHAGWAT, SENIOR ADVOCATE FOR
SRI. SATISH K., ADVOCATE)

AND:

THE BANGALORE DEVELOPMENT AUTHORITY
REPRESENTED BY ITS SECRETARY,
KUMARA PARK WEST,
T.CHOWDAIAH ROAD,
BANGALORE-560020.

...RESPONDENT

(BY SMT. POONAM PATIL, ADVOCATE)

Digitally
signed by
HEMALATHA J
Location:
HIGH COURT
OF
KARNATAKA



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THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS FROM THE RESPONDENT PERTAINING TO THE IMPUGNED ORDER DATED 19.01.2022 (ANNEXURE-A) AND QUASH THE IMPUGNED ORDER DATED 19.01.2022 ISSUED UNDER SECTION 5(1) KARNATAKA PUBLIC PREMISES (EVICTION OF UNAUTHORIZED OCCUPANTS) ACT, 1974 BEARING NO.NIL ISSUED BY THE RESPONDENT (ANNEXURE-A).

THIS PETITION, COMING ON FOR PRELIMINARY HEARING B - GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

The petitioners have called in question an order dated 19.01.2022 passed by the respondent under Section 5(1) of the Karnataka Public Premises (Eviction of Unauthorized Occupants) Act, 1974 (henceforth referred to as 'Act, 1974').

2. (i) The petitioners claim that one Sri. Yelevenkatappa Reddy was the owner of 02 acres 6 ½ guntas of land in Sy.No.27 of Banaswadi Village, K.R. Puram Hobli, Bengaluru East Taluk, Bengaluru. However, in view of coming into force of Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954, the aforesaid land was vested with the



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Government and the said Sri. Yelevenkatappa Reddy claimed occupancy rights in respect of the said land which was later granted to him. Subsequently, the said land bearing Sy.No.27 was thereafter phoded and an extent of 2 acres 6 ½ guntas of land in the said Sy.No.27 was assigned with new hissa number i.e., Sy.No.27/11, where the said Sri. Yelevenkatappa Reddy formed the sites and sold few sites formed in the said Sy.No.27/11.

(ii) When things stood thus, a preliminary notification dated 03.11.1977 was issued by the respondent for acquiring the aforesaid property along with land in other survey numbers for the purpose of forming 'Old Madras Road – Banaswadi Road' (O.M.B.R) Layout. This was followed by a final notification dated 13.11.1980. However, the land bearing Sy.No.27/11 measuring 2 acres 6 ½ guntas was not purportedly notified and the possession of the property purportedly remained with Sri. Yelevenkatappa Reddy. After the death of Sri. Yelevenkatappa Reddy, all the records in respect of the aforesaid property was mutated in the name of his son Sri. Anjaneya Reddy. The said Sri. Anjaneya Reddy sold the site bearing new Municipal No.15,



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PID No.88-280-15 (Previously Site No.14), HL khata No.1249/1292, measuring east to west 40 feet and north to south 61 ½ feet in all measuring 2460 sq. ft. situate at Ward No.88, 4th Main Road, OMBR Layout Banaswadi, K.R. Puram Hobli, Bengaluru East Taluk, to one Sri. K. Periyandavan (father of the petitioner No.1) in terms of a sale deed dated 13.12.1993. Thereafter, revenue records pertaining to aforesaid property was transferred in the name of Sri. K. Periyandavan (father of petitioner No.1).

(iii) The petitioners claim that the said Sri. K. Periyandavan gifted the aforesaid property to his daughter Smt. Geetha K. Kannan under a registered gift deed dated 02.09.2010. Thereafter, the said Smt. Geetha K. Kannan in turn gifted the said property to Sri. K. Periyandavan in terms of gift deed dated 27.08.2011. Later, Sri. K. Periyandavan gifted the same to petitioner No.1 under registered gift deed dated 24.02.2016. The petitioner No.1 sold the aforesaid property to petitioner No.2 in terms of a sale deed dated 05.12.2018. The khata of the property transferred to the name of petitioner No.2 and he has paid the property tax. It is claimed that after



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obtaining possession of the property from petitioner No.1, the petitioner No.2 demolished the old building constructed on the aforesaid property and obtained a fresh plan for construction of new building consisting of ground plus two floors on 09.03.2021. Accordingly, petitioner No.2 has put up construction as per the sanctioned plan. Petitioner No.2 had applied for regularization of the construction of the building on the property in question to the respondent - BDA on 21.10.2021 and the BDA had purportedly acknowledged the receipt of the said application.

(iv) A notification was then issued by the Government of Karnataka under Section 4 of the Karnataka Municipal Corporations Act, 1976 declaring that O.M.B.R area lies within the peripheral jurisdiction of Bangalore Mahanagara Palike (BMP), later known as Bruhat Bengaluru Mahanagara Palike (BBMP). Thereafter, the said property was transferred to BBMP in the year 1995. The petitioners contend that the respondent had issued a notice dated 24.09.2011 under Section 33 of the Bangalore Development Act, 1976 (for short, 'the BDA Act') to the owners of some of the properties in the same layout



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including the father of petitioner No.1 and to recover possession. The said notice/s was/were challenged by the father of petitioner No.1 and other owners of land in W.P.Nos.38306-308/2011. This Court in terms of an Order dated 12.10.2012, allowed the writ petitions and held that the petitioners therein were in settled possession and that the respondent cannot take possession of the properties without following the due process of law as provided under the Act, 1974 or by filing an appropriate suit. This was upheld by the Division Bench of this Court in Writ Appeal Nos.793-795/2013. The Division Bench in terms of its judgment dated 05.04.2014 passed in the said writ appeals, observed that it was open for the respondent herein to take action in accordance with law. The respondent then filed SLP (Civil) Nos.21300-21302/2015 challenging the judgment dated 05.04.2014 which were dismissed. However, on a submission made by the petitioners therein that they would proceed against the unauthorized occupants under the Act, 1974 liberty was reserved and it was observed that in such an event, none of the observations made



in any of the judgments in the said case would come in the way of the respondent.

(v) The petitioners claim that father of petitioner No.1 expired on 22.10.2019. The ownership of the property in question was transferred by Sri. K. Periyandavan in favour of his son i.e., petitioner No.1 in the year 2016 vide registered gift deed dated 20.04.2016. Thereafter, petitioner No.1 sold the property in question to petitioner No.2 in terms of a sale deed dated 05.12.2018. Therefore, the property in question stands in the name of petitioner No.2. The petitioners contend that the respondent has issued a show-cause notice dated 04.10.2021 to the deceased father of petitioner No.1 under Section 4(1) of the Act, 1974, calling upon him to show cause as to why the order of eviction should not be passed and further called upon him to appearing before it on 21.10.2021 at 12.00 noon to produce evidence, if any. The said show-cause notice was affixed on the wall of the property in question and it was only in December, 2021, the petitioner No.2 came to know about the said notice being issued against deceased father of petitioner No.1. The petitioners have challenged the said show-cause



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notice before this Court in W.P.No.1395/2022. Again, the respondent has issued another notice/provisional order dated 18.01.2022 under Section 33(1) of BDA Act to the deceased father of petitioner No.1 to show cause as to why the structure constructed on the property in question should not be demolished. It is claimed that the said provisional order is passed contrary to the order dated 12.10.2012 passed in W.P.Nos.38306-308/2011. The petitioner No.2 has challenged the said order dated 18.01.2022 is challenged before this Court in W.P.No.1223/2022, where there is an interim order of stay of the said order.

(vi) It is claimed that this Court in the case of **OMBR Layout and others vs. The Revenue Officer and others [W.P.Nos.27635-37861/1999]**, while examining the issue of collection of property tax from the owners in respect of the very same layout which is in question, in case where the said property comes under the jurisdiction of BBMP, has held that the BDA does not have jurisdiction to collect the tax in respect of the building that lies within the jurisdiction of BBMP. Therefore, the petitioners claim that the impugned order dated



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19.01.2022 passed by the respondent directing the deceased father of petitioner No.1 to vacate the premises within 45 days from the date of publication of the order is illegal and without authority of law.

3. Learned Senior Counsel for the petitioners submitted that the acquisition of the petition schedule property was initiated in the year 1977 under Section 17 of the BDA Act, followed by a final notification dated 13.11.1980. He, therefore, contends that the proceedings initiated by the respondent in the year 2021 to recover possession of the site in question under the provisions of the Act, 1974 is barred by the law of limitation. In support of this contention, he relied upon the judgment of the Hon'ble Apex Court in ***New Delhi Municipal Committee v. Kaluram and Another [(1976) 3 SCC 407]***. He further submitted that notice impugned is issued to a dead person and is therefore, non-est in the eyes of law. He further submits that the provisional order was issued to the father of the petitioner No.1 who was dead and therefore, the petitioners did not have effective notice of the proceedings. He therefore,



contends that the impugned order passed by the respondent under Section 5(1) of the Act, 1974 is liable to be set aside.

4. Per contra, the learned counsel for the respondent submitted that the respondent has taken possession of the land measuring 06 acres 20 guntas in Sy.No.27 of Banaswadi village on 09.02.1983 and the acquisition is complete in all respects. He contends that a notification in this regard is issued under Section 16(2) of the L.A. Act was issued on 15.03.1983. He contends that the father of petitioner No.1 is an unauthorised occupant, who was occupying the land belonging to the respondent and therefore, the respondent is entitled to take over possession of the property in question under the Act, 1974. He contends that this action was taken pursuant to the order passed by the Hon'ble Supreme Court in SLP (Civil) Nos. Nos.21300-21302/2015.

5. I have considered the submissions of the learned Senior counsel for the petitioners and the learned counsel for the respondent.



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6. Amongst the two contentions urged in support of this petition, the first contention that the provisional order was passed against a dead person and therefore, the petitioners did not have an opportunity to file their objections, is a formidable one and merits consideration. No person in this country can be deprived of his right of being heard, that too in respect of a matter which has the consequence of losing rights over property. Consequently, the impugned order dated 19.01.2022 deserves to be set at naught. As regards the contention that the proceedings are barred by limitation, the same has to be urged before the respondent, who shall consider the same objectively and pass appropriate orders.

7. Hence, the petition stands ***allowed-in-part***. The impugned order 19.01.2022 passed by the respondent under Section 5(1) of the Karnataka Public Premises (Eviction of Unauthorized Occupants) Act, 1974, in respect of the property bearing Municipal No.14, 4th Main, OMBR Layout, Banaswadi Village, Bengaluru, Ward No.88/280/15 is set aside. The petitioners shall appear before the respondent on **20.08.2026 at 3.00 p.m.** along with the objections to the show-cause



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notice dated 04.10.2021. The respondent shall consider the objections in accordance with law after hearing the petitioners and pass appropriate orders within a period of three months from the date of filing the objections.

**Sd/-
(R. NATARAJ)
JUDGE**

PMR