



CNR: KAHC010290322022

NC: 2026:KHC:40167
WP No. 13102 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

WRIT PETITION NO. 13102 OF 2022 (BDA)

BETWEEN:

1. SMT. SUJAYA JAYAPRASAD
W/O. MR. JAYAPRASAD,
AGED ABOUT 75 YEARS,
2. SRI. JAYA PRASAD SHETTY
S/O. MR. THIMAPPA SHETTY,
AGED ABOUT 82 YEARS,

BOTH RESIDING AT NO. 13/14,
PRASAD RESIDENCY,
I.T. LAYOUT,
BANGALORE-560 040.

...PETITIONERS

(BY SRI. SRIDHAR G., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
URBAN DEVELOPMENT DEPARTMENT,
4TH FLOOR, VIKASA SOUDHA,
DR. AMBEDKAR VEEDHI,
BENGALURU-560 001.
2. THE TOWN PLANNING MEMBER
THE BANGALORE DEVELOPMENT AUTHORITY,
T. CHOWDAIAH ROAD,
KUMARA PARK WEST,
BANGALORE-560 020.
3. THE BANGALORE DEVELOPMENT AUTHORITY
T. CHOWDAIAH ROAD,

Digitally
signed by
HEMALATHA
J
Location:
HIGH COURT
OF
KARNATAKA



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KUMARA PARK WEST,
BANGALORE-560 020.
REPRESENTED BY ITS COMMISSIONER.

...RESPONDENTS

(BY SRI.POOJA M KOORSE, HCGP FOR R1;
SRI.M.H.HANEEF, ADVOCATE R2 AND R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE
IMPUGNED DEMAND NOTICE BEARING NO.BDA/NOC/PRL-35/210-
11/198/2022-23 DATED 27.4.2022 AT ANNEXURE-A AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN
'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 a demand notice
bearing No.ಬೆಂಗಳೂರು/ನಯೋಸ/PRL-35/2010-11/198/2022-23 dated
27.04.2022 by which they were called upon to pay lake
rejuvenation fee. They have also challenged further demand
notice bearing No.ಬೆಂಗಳೂರು/ನಯೋಸ/PRL-35/2010-11/574/2022-23
dated 15.06.2022 claiming the lake rejuvenation fee.

2. (i) The petitioners contend that they were the
owners of land in Sy.Nos.111/3, 111/4, 111/7, 170 and 172 of
Ramasandra Village, Kegeri Hobli, Bengaluru South Taluk



measuring 24 acres 36 guntas. The petitioners entrusted the work of development of the aforesaid properties to form a residential layout to M/s.Pragathi Group and executed a power of attorney in its favour.

(ii) They contend that an application was filed for sanction of the residential layout plan on 18.11.2010 before the respondent No.3. The plan so submitted was sanctioned by the respondent No.3 vide a resolution on subject No.11/2011 dated 07.01.2011 and a demand was raised vide a letter No.BDA/NOC/PL-35/4261/2010-11 dated 27.01.2011 for payment of the applicable charges. The petitioners contend that the said demand was paid on 31.01.2011 pursuant to which the petitioners were called upon to execute the necessary relinquishment deeds in respect of parks and open spaces and the area reserved for roads.

(iii) The petitioners further contend that in line with above, they executed relinquishment deed dated 17/18.03.2011, which was duly registered in terms of which the parks and areas reserved for the road were relinquished. Thereafter, work order was issued on 16.05.2011 after



payment of Rs.39,53,550/- and execution and registration of the deed of relinquishment. The petitioners claim that the formation of the layout was completed in all respects in year 2012 and sites formed were also sold to third parties.

(iv) They contend that after nearly 10 years, the respondent No.2 issued a notice demanding fee for rejuvenation of lakes and water bodies within the local planning area amounting to Rs.24,90,000/- as per Section 18(1-A) of the Karnataka Town and Country Planning Act, 1961 (henceforth referred to as 'the Act, 1961'), which was amended with retrospective effect from 03.10.2009. The petitioners claim that Section 18(1-A) of the Act, 1961 was initially inserted by Act No.6 of 2012 with effect from 03.10.2009 and read as follows:

"Where an application for sanction of sub-division of his plot or make or layout a private street is submitted under Section 17 to any Planning Authority, such Planning Authority may levy and collect an additional fee at the rate of rupees one lakh per acre or land, for the purpose of rejuvenation of lake or water bodies within the planning areas".



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(v) They contend that the aforesaid provision was repealed and substituted by Act No.38 of 2015 dated 10.09.2015, which reads as follows:

"(1A) Where an application for permission for development of building or land or sanction for sub-division of plot or layout or private street is submitted under Section 15 or 17 to any Planning Authority such Planning Authority shall levy and collect an additional prescribed fee for rejuvenation of lakes or tanks, if any, in that local planning area."

3. The petitioners claim that since the demand was unsustainable, they filed their objections to the above notice. Despite that, they received a further demand notice bearing No. ಬೆಂಗಳೂರು/ನಯೋಸ/PRL-35/2010-11/574/2022-23 dated 15.06.2022. Being aggrieved by the same, the petitioners are before this Court.

4. The learned counsel for the petitioners submitted that the Amending Act 6 of 2012 was given retrospective effect from 03.10.2009, and was later repealed and substituted by Act No.38 of 2015 dated 10.09.2015. He contends that the notice in question is issued after nearly 7 years from the date



of the repeal of Amending Act 6 of 2012. He therefore submits that the impugned notices issued invoking a repealed provision is unconscionable and an overreach and hence, is liable to be set aside.

5. (i) The writ petition is opposed by the respondent Nos.2 and 3, have filed a statement of objections, wherein they have contended that the petitioners have an alternate remedy under Section 18(2) of the Act, 1961 by filing a revision/appeal before the jurisdictional District Court and therefore, the writ petition under Articles 226 and 227 of the Constitution of India is not maintainable.

(ii) It is also claimed that the impugned notice dated 15.06.2022 is issued pursuant to Amendment Act No.6 of 2012 to Section 18 of the Act, 1961, whereby the planning authority was empowered to levy an additional fee at the rate of Rs.1,00,000/- per acre for the purpose of rejuvenation of lakes and water bodies within the planning area with effect from 03.10.2009. The said amendment was notified vide Gazette notification dated 03.01.2012 issued by the State Government.



(iii) They contend that under Section 18 of the Act, 1961, the respondents are entitled to recover a fee in certain cases of permission for change in the use of land. They contend that the respondents have therefore initiated steps for collection of the said additional fee in compliance with the observations and directions issued in the audit report of the Comptroller and Auditor General for the year 2012-13. Hence, it is contended that the impugned demand notice is in accordance with the statutory provisions and does not warrant any interference by this Court.

6. The learned counsel for the respondent Nos.2 and 3 reiterated the above submissions and submitted that the petitioners were bound to pay the rejuvenation fee as the Amending Act 6 of 2012 was with effect from 03.10.2009, at which point of time, the petitioners had not even filed their applications seeking for sanction of a layout plan. He therefore contends that the demand raised is in accordance with Amending Act 6 of 2012 and hence, the petitioners are bound to pay the lake rejuvenation fee as demanded.



7. The learned counsel for the respondent Nos.2 and 3 submitted that the Amending Act 6 of 2012 was given retrospective effect so as to validate the collection of fee pursuant to the Government letters dated 03.10.2009, 04.05.2010 and 29.09.2010. He therefore contends that the respondent Nos.2 and 3 are entitled in law to demand and collect the late rejuvenation fee.

8. I have considered the submissions made by the learned counsel for the petitioner and the learned counsel for the respondents.

9. The respondent Nos.2 and 3 have issued the impugned demand notices purportedly in exercise of their power under Section 18(1-A) of the Act, 1961, which was inserted by Amending Act 6 of 2012 with effect from 03.10.2009, which enabled the collection of Rs.1,00,000/- per acre of land for the purpose of rejuvenation of lake or water bodies within the planning areas, whenever an application for sanction of subdivision of a plot or to make a layout of private street is submitted under Section 17 of the Act, 1961 to any Planning Authority. The rationale for giving retrospective effect



to Amending Act 6 of 2012 with effect from 03.10.2009 is contained in the preamble to the Amending Act 6 of 2012 which is to *"Validate the collection of such fee in pursuance to the Government letters dated 03.10.2009, 04.05.2010 and 29.09.2010."* The petitioners had filed an application seeking for sanction of a layout plan on 18.11.2010. They were called upon to pay improvement fee, slum improvement fee, supervisory fee, scrutiny fee etc., which were accordingly paid. The petitioners were not called upon to pay the lake rejuvenation fee as per the letter of the State Government dated 03.10.2009. 04.05.2010 and 29.09.2010. Though, this Court is not going into the question whether there was justification for the State Government to give retrospective effect to Section 18(1-A) of the Act, 1961, suffice it to say that the demand made against the petitioners in this present case was fully unconscionable, as on the date of filing the application, there was no prescription in the law enabling the respondent Nos.2 and 3 to demand or collect lake rejuvenation fee.



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10. In that view of the matter, the impugned notices are liable to be interfered with. Consequently, the following order is passed:

ORDER

- i. The writ petition is ***allowed***;
- ii. Impugned demand notices bearing No. ಬೆಂಗಳೂರು/ನಯೋಸ/PRL-35/2010-11/198/2022-23 dated 27.04.2022 and bearing No. ಬೆಂಗಳೂರು/ನಯೋಸ/PRL-35/2010-11/574/2022-23 dated 15.06.2022 issued by the respondents are quashed.

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