



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 6TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE S SUNIL DUTT YADAV

WRIT PETITION NO. 20404 OF 2022 (LA-UDA)

BETWEEN:

N.B.SHIVAKUMAR
S/O MR.BHIMAPPA
AGED ABOUT 53 YEARS
R/A NO.1699/2
BIET COLLEGE ROAD
SIDDAVEERAPPA LAYOUT
DAVANAGERE-577 004.

...PETITIONER

(BY SRI.NAGARAJ B., ADVOCATE)

AND:

1. THE GOVERNMENT OF KARNATAKA
DEPARTMENT OF URBAN DEVELOPMENT
VIKASA SOUDHA
BANGALORE-560 001
REPRESENTED BY ITS SECRETARY
2. THE DEPUTY COMMISSIONER
THE OFFICE OF THE DY. COMMISSIONER
DAVANAGERE DISTRICT



ZILLADALITHA BHAVANA
PLOT NO.77, KARUR INDUSTRIAL AREA
OLD P.B.ROAD
DAVANAGERE-577 006

3. DAVANAGERE HARIHARA URBAN
DEVELOPMENT AUTHORITY
DEVARAJA URS LAYOUT
P B ROAD
DAVANAGERE-577006
BY ITS COMMISSIONER
4. DAVANAGERE HARIHARA
URBAN DEVELOPMENT AUTHORITY
DEVARAJA URS LAYOUT
P B ROAD
DAVANAGERE-577006
BY ITS ASSISTANT EXECUTIVE ENGINEER
5. DAVANAGERE MAHANAGARA PALIKE
P B ROAD
DAVANAGERE-577 006
BY ITS COMMISSIONER
6. DAVANAGERE MAHANAGARA PALIKE
P B ROAD
DAVANAGERE-577006
BY ITS ASSISTANT EXECUTIVE ENGINEER
7. M/S DAVANAGERE SMART CITY LTD.,



NEAR D.C.OFFICE,
KARUR INDUSTRIAL AREA
P B ROAD
DAVANAGRE-577 006
BY ITS MANAGING DIRECTOR

8. M/S DAVANAGERE SMART CITY LTD
NEAR D C OFFICE
KARURU INDUSTRIAL AREA
P B ROAD
DAVANAGERE-577 006
BY ITS ASSISTANT EXECUTIVE ENGINEER

9. M/S DAVANAGERE SMART CITY LTD
NEAR D C OFFICE
KARUR INDUSTRIAL AREA
P B ROAD
DAVANAGERE-577 006
BY ITS CONTRACTOR
MR.GURUPAADAPPA KUTRKOTI

10. MRS D.B.JYOTHI
W/O DR.DEEPAK BONDADE
AGED ABOUT 58 YEARS
R/A NO.1659, 3RD CROSS RAOD
TARALABALU LAYOUT
VIDYANAGARA
DAVANAGERE-577 005

...RESPONDENTS

(BY SMT.SVITHRAMMA, AGA FOR R1 & R2
SRI.RITHISH D.NAIK, ADVOCATE FOR



SRI.T.P.VIVEKANANDA, ADVOCATE FOR R3
SRI.A.P.ROHAN, ADVOCATE FOR
SRI.M.N.UMESH, ADVOCATE FOR R10
SRI.B.K.MANJUNATH, ADVOCATE FOR R5 & R6
R9- SERVED AND UNREPRESENTED)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE DIRECTION TO THE R3 TO 8, TO PUT UP CONSTRUCTION OF 80 FT. ROAD FROM BALAJI CIRCLE TO 1ST GATE OF KUNDUVADA LAKE, DAVANAGERE IN ACCORDANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN AND THE FINAL APPROVED RESIDENTIAL LAYOUT PLAN IN RESPECT OF R.S.NO.209/P OF KUNDUVADA VILLAGE, DAVANAGERE DATED: 24.05.2001, BY THE THEN COMMISSIONER, DAVANAGERE URBAN DEVELOPMENT AUTHORITY AND PRESENTLY THE R3 AS MENTIONED IN ANNEXURE-A SALE DEED DATED: 10.9.2014 AND ALSO APPROVED COMMERCIAL SINGLE LAYOUT PLAN IN RESPECT OF SY.NO.209/1A1 AND 209/1A4, IN FAVOUR OF THE R10 AS PER ANNEXURE-B TO D.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE S SUNIL DUTT YADAV



ORAL ORDER

The Petitioner has filed the present writ petition seeking for an order of restrain against Respondent Nos.3 to 8, restraining them from putting up construction of 80 feet road from Balaji Circle to first gate of Kunduvada lake, Davanagere. Petitioner has also sought for an order of restraining the respondent Nos. 3 to 8 not to construct 80 feet road by utilising the petitioner's immovable property as more fully described in the schedule. Petitioner sought for compensation in the light of the alleged illegal cutting of valuable teak trees planted in the scheduled property and for demolishing the concrete columns and slabs in the scheduled property as mentioned at Annexure-K & S.

2. The contention of the petitioner is to the effect that the laying of the road is by encroaching the petitioner's immovable property and without acquiring the property of the petitioner. It is noticed that the differences between the petitioner and the authorities are a matter of record and petitioner has been making several representations to the respondent-authority. This Court during the pendency of proceedings by order dated



16.11.2022, noticed the dispute with respect to identity, location and measurement of the scheduled property, qua the road being formed by the respondent Nos.3 to 8 and issued certain directions. The Order dated 16.11.2022 reads as follows:

After having heard the learned counsel for the petitioner and the learned counsel for the respondents, it is evident that there is a dispute with regard to the identity, location and measurement of the petition schedule property as described in the schedule to the petition herein qua the road allegedly being formed / asphalted by respondent Nos.3 to 8.

2. Under these circumstances, without prejudice to the rights and contentions of the parties and keeping all rival contentions open, I deem it just and appropriate to direct the jurisdictional Assistant Director Land Records (ADLR) to conduct a joint survey of the petition schedule property and the alleged road at 11.00 a.m. on 23.11.2022 in the presence of the petitioner, respondent No.10 and the officials of respondent Nos.3 to 9.

3. All the parties are directed to appear at the spot for the purpose of survey at 11.00 a.m. on 23.11.2022 without awaiting further notice from the ADLR.

4. Liberty is reserved in favour of the petitioner to submit Memorandum of Instructions before the jurisdictional ADLR for the purpose of survey.

5. The jurisdictional ADLR is directed to conduct the joint survey and submit the report to this Court on or before 30.11.2022.

6. The learned counsel for respondent Nos.5 and 6 has filed a memo along with documents. Same are received on record.

7. The interim order granted earlier is extended till the next date of hearing.

8. Re-list the matter on 30.11.2022.



9. The Registry is directed to furnish a copy of this order to all the parties including the learned Additional Government Advocate for immediate action.

3. The sketch pursuant to such order is produced before this court along with the memo dated 05.12.2022 by the Government Advocate. The survey sketch of the Assistant Director of Land Records makes certain observations regarding an extent of 233.86 Sq.mtrs. is denoted as L M N O P in the sketch and has made an observation that this is an area of encroachment by the petitioner.

4. Learned counsel for the petitioner would however submit that the survey is not proper and he has objections to the said survey. It is pointed out that the survey documents have not been taken note of including the village map. Such contention however is contraverted by Learned AGA who supports the sketch produced along with the memo. It is noticed that application for vacating stay along with Annexure-R-1 are photographs produced filed on 09.09.2024. The prima facie indicates that road is partially completed.



5. It is noticed that the contentions raised by the petitioner and that of the respondent would involve adjudication of disputed questions of fact. While the court commissioner's report also would indicate that there is encroachment by the petitioner. However petitioner would contend that the report of the Assistant Director of Land Record is without taking note of proper documents.

6. In light of such contentions raised, it may not be appropriate for this Court to enter into a full scale adjudication. It is made clear that the parties are at liberty to seek for appropriate relief before the Civil Court if so required.

7. In light of the disputed questions of fact as raised, the petition is ***disposed of*** while relegating parties to work out the remedy before the Civil Court. All contentions of both sides are kept open. The interim order passed earlier would stand vacated.

SD/-
(S SUNIL DUTT YADAV)
JUDGE