

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF JUNE, 2026

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

WRIT APPEAL NO.1175 OF 2023 (LB-RES)

BETWEEN:

THE CITY MUNICIPAL COUNCIL
DODDABALLAPURA
BENGALURU RURAL DISTRICT-561 203
RPTD. BY ITS COMMISSIONER

...APPELLANT

(BY SRI. SRINIVASA K N, ADVOCATE)

AND:

1. P.V. LAKSHMINARAYANA SETTY
S/O P.L. VENKATACHALA SETTY
AGED ABOUT 53 YEARS
RESIDING AT NO. 18
16TH CROSS
MANJUNATHA NAGAR
MAGADI ROAD
BENGALURU-562 123
2. P.V. SURESH BABU
S/O P.L. VENKATACHALA SETTY
AGED ABOUT 49 YEARS
R/AT VIKASA NIVASA

MA PRAKASH LAYOUT
SCOUT CAMP ROAD
NEAR RAILWAY STATION
DODDABALLAPURA
BENGALURU RURAL DISTRICT-561 203

3. THE DEPUTY COMMISSIONER
BENGALURU RURAL DISTRICT OFFICE
AT BEERASANDRA VILLAGE
DEVANAHALLI TALUK-562 110
4. ASSISTANT EXECUTIVE ENGINEER
CITY MUNICIPAL COUNCIL
DODDABALLAPURA
BENGALURU RURAL DISTRICT-561 203

...RESPONDENTS

(BY SRI. SHARATH S. GOWDA, ADVOCATE FOR R1 & R2;
SRI. KHAMROZ KHAN, AGA FOR R3 & R4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE KARNATAKA HIGH COURT ACT, 1961, PRAYING TO SET ASIDE THE ORDER DATED 22.06.2023 PASSED IN WRIT PETITION NO.7197/2021.

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR JUDGMENT ON 08.06.2026 AND COMING ON FOR PRONOUNCEMENT OF JUDGMENT THIS DAY, **ANU SIVARAMAN J.**, PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T

CAV JUDGMENT

(PER: HON'BLE MRS. JUSTICE ANU SIVARAMAN)

This writ appeal is filed challenging the Order of the learned Single Judge dated 22.06.2023 in W.P.No.7197/2021 (LB-RES).

2. We have heard Shri. Srinivasa K.N, learned counsel appearing for the appellant, Shri. Sharath S. Gowda, learned counsel appearing for respondent No.1 and 2 and Shri. Khamroz Khan, learned Additional Government Advocate appearing for respondents No.3 and 4.

3. Respondents No.1 and 2 are the absolute owners of the property bearing Katha No.1078/19/958/3642/19 and 1080/1080/1078/19 situated at Prakash Layout, Scout Camp Road, 7th Ward, Doddaballapura Town measuring 40 ft. × 60 ft., by virtue of a registered Sale Deed dated 06.11.2013. The predecessor-in-title - Shri. K. V. Venkatesh Bhat was allotted the said property by the appellant - City Municipal Council ('CMC' for short) for expansion of the old bus

stand through an Exchange Deed dated 09.03.2010 and the same was registered on 06.05.2010 before the Sub-Registrar, Doddaballapura. The boundaries of the exchanged property as mentioned in the deed are as follows:-

- East: Private property.
- West: Remaining portion of the CMC property.
- North: Road.
- South: Remaining portion of the CMC property.

Thereafter, Shri. K.V. Venkatesh Bhat sold the property to Shri N. Raghavendra under a registered Sale Deed dated 11.08.2011, who subsequently sold the same to respondents No.1 and 2.

4. It is submitted by the appellant that pursuant to the General Body Meeting Resolution dated 08.04.2015, the appellant developed the entire area of 300 ft. × 100 ft. (excluding the property of respondents No. 1 and 2) as a park and an alternative site was offered to respondents No.1 and 2 as per the direction of the Lokayukta. Respondents No.1 and 2 filed W.P.No.37443/2016 before

this Court, challenging the resolution dated 08.04.2015 and seeking licence to put up construction over the subject property. During the pendency of the writ petition, the CMC passed a General Body Meeting Resolution dated 01.08.2015, resolving to retain the allotment of the site as per the Exchange Deed. On the question of the diverted northern boundary and the utilisation of land on the western boundary, this Court directed the CMC to take necessary steps to ensure access to the public street from the property, and disposed of the writ petition on 03.01.2020. Respondents No.1 and 2 also filed O.S.No.38/2015 on the file of Additional Civil Judge, Doddaballapura seeking a decree of perpetual injunction restraining the defendants from formation of the park by encroaching upon the western portion of the subject property which is currently pending.

5. Respondents No.1 and 2 also filed C.C.C.No.271/2020 alleging wilful disobedience of the Order in W.P.No.37443/2016 which was dismissed by a Co-ordinate Bench of this Court on 20.08.2020.

Thereafter, respondents No.1 and 2 filed W.P.No.7197/2020 seeking a direction for formation of road towards the western side of the subject property. This Court by Order dated 22.06.2023 disposed of the writ petition with a specific direction to the appellant - CMC to take action regarding the complaints made by respondents No.1 and 2 relating to the unauthorized encroachment of a public street towards the northern side of the subject property, within a period of three months. Aggrieved by the said Order, the appellant has filed the present writ appeal.

6. The learned counsel appearing for the appellant contended that the sale deeds executed by Shri K.V. Venkatesh Bhat and Shri N. Raghavendra describe the Western boundary differently, denoting it as "Road left in remaining portion of CMC property". It is contended that without obtaining a Deed of Rectification, respondents No.1 and 2 or their predecessors-in-title have no authority to change the boundaries of the property in question. It is further submitted that the claim of the respondents to

construct a boundary is curtailed by the Order of this Court dated 20.08.2020 in C.C.C.No.271/2020. It is further contended that the layout sketch produced by respondents No. 1 and 2 reveals that no road exists on the northern boundary of the subject property, and that what is depicted therein is merely an access to the site.

7. The learned counsel appearing for respondents No.1 and 2 contended that the appellant had lost its right, title and interest over the subject property upon the execution of the registered Exchange Deed in favour of Shri. Venkatesh Bhat. It is further contended that the appellant has violated the layout plan and has allotted portion of the road on the northern side of the subject property to a third party. The appellant also issued a letter dated 06.01.2011 indicating the western boundary as road, yet they have now fenced the western boundary for park formation without leaving any road, which is arbitrary and unsustainable in law. It is further contended that respondents No.1 and 2 obtained a temporary injunction dated 25.04.2015 restraining encroachment. In

disobedience of the said Order, the appellant has continued its illegal activities.

8. We have considered the contentions advanced. It is an undisputed fact that by the Exchange Deed dated 09.03.2010, registered on 06.05.2010, the appellant - CMC itself conveyed the subject property to the predecessor-in-title of respondents No.1 and 2. The schedule to the said deed describes the northern boundary of the property as 'Road'. Respondents No.1 and 2 place reliance on Annexure 'C' - Letter dated 06.01.2011 issued by the Chief Officer, which amends the western boundary as 'Road'. Annexure 'C' is contested by the appellant herein. We notice that the layout having already been formed, the boundaries of the sites stood determined, and they could not thereafter be altered by a mere communication. The change in the boundaries could only be effected by a registered Deed of Rectification, which was not executed. Therefore, the boundaries laid down in the Exchange Deed, to which the CMC was itself a party, will have to be considered and as per the said deed the

northern boundary of the subject property is denoted as a 'Road'.

9. The question that falls for our consideration is whether the access available to the property of respondents No.1 and 2 stands obstructed. Respondents No.1 and 2 contend that though the northern boundary of the subject property is shown as a 'Road' in the Exchange Deed, the land on the northern side was illegally allotted to a private person, who has put up construction on it. On the western side, the land has been identified for the park and accordingly fenced, consequently leaving no proper means of ingress and egress to the subject property. It is pertinent to note that the CMC had passed a resolution dated 08.04.2015 for allotting an alternative site to respondents No.1 and 2. When the said resolution was challenged in W.P.No.37443/2016, the CMC passed a subsequent resolution dated 01.08.2015, resolving to retain the allotment as per the Exchange Deed. In view of this subsequent resolution, this Court disposed of the writ petition, directing the CMC to ensure that respondents

No.1 and 2 have access to the public street from their property.

10. Thereafter, respondents No.1 and 2 submitted a representation dated 23.01.2020 to the CMC seeking formation of a road on the western side, but to no avail. In response, the CMC issued an endorsement dated 12.03.2020, stating that since an access of 11½ feet towards north-western corner of the property is already available to the respondents and the same being evident from Annexure 'F' - Spot Sketch prepared by the CMC, no road can be formed therein. The northern side being allotted to a private person and the western side fenced for the park, the only access left to the subject property is the said 11½ feet, which adjoins a public street. Having itself cited this access as the reason for not forming a road, the CMC is bound to preserve it, especially in compliance with the direction of this Court in W.P.No.37443/2016.

11. The learned Single Judge has rightly held that the CMC cannot contend that the land on the northern side is private property and that any construction thereon is no concern of the CMC. According to the Exchange Deed, the northern side is a road and the same can be evidenced through Annexure 'B' - Sketch accompanying the Exchange Deed. There is absolutely no rectification of the Exchange Deed or the boundaries shown therein. Therefore, the communication issued by the CMC or the subsequent entries in private documents cannot be relied upon to contend that the boundaries have been changed and there is no road on the northern boundary of the subject property. Therefore, any obstruction on it must be removed. The learned Single Judge observed that though the person who has put up the construction is not a party to the proceedings that does not absolve the CMC of its responsibility. The learned Single Judge accordingly directed the Commissioner of the CMC to take note of the complaints of respondents No.1 and 2 regarding unauthorized encroachment of the public street on the

northern side, to issue a show cause notice to the encroacher and to take action in accordance with law under Section 216 of the Karnataka Municipalities Act, 1964 within three months. Section 216 of the Karnataka Municipalities Act empowers the Municipal Council to remove obstructions and encroachments upon public streets.

12. Having given our anxious consideration to all the materials placed on record, we find no material whatsoever to differ from the findings of the learned Single Judge. The appellant, who was a party to the Exchange Deed, is bound by the recitals and descriptions in the same. A communication by the CMC or recitals in later Sale Deeds cannot change the said position. In spite of repeated adjournments and time granted by this Court, to produce materials, the appellant is unable to produce any reliable material to show how the road on the northern boundary of the property has been changed as private property. It is also clear from the materials on record that the layout has been formed with a road on the

northern side of the subject property. The sketch produced along with the writ petition as Annexure 'B1', would clearly show the existence of this road on the northern side. The appellant has not been able to place any material on record to show that the said layout plan has been amended and the road on the northern side has been converted to any other use. In the circumstances, the only conclusion that can be drawn is that the allotment and construction on the northern boundary of the subject property is unauthorized.

13. Therefore, in the above view of the matter, we are of the opinion that no good grounds have been made out to interfere with the Order of the learned Single Judge. Accordingly, the appeal is ***dismissed***.

The records called for from the appellant which is in possession of the Registrar (Judicial) shall be returned to the appellant by the Registry.

All pending Interlocutory Applications shall stand
disposed of.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

cp*