



CNR: KAHC010668432024

NC: 2026:KHC:40329
WP No. 33361 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE E.S.INDIRESH

WRIT PETITION NO.33361 OF 2024 (KLR-RES)

BETWEEN:

1. S.NAGARAJ RAO
AGED ABOUT 86 YEARS,
S/O LATE NAGAPPA,
RESIDENT OF HULIMANGALA VILLAGE,
JIGANI HOBLI, ANEKAL TALUK,
BANGALORE URBAN DISTRICT,
BENGALURU

...PETITIONER

(BY SRI. SHIVARAMU H C., ADVOCATE)

AND:

Digitally signed
by CHAYA S A
Location: HIGH
COURT OF
KARNATAKA

1. STATE OF KARNATAKA
REPRESENTED BY ITS
PRINCIPAL SECRETARY,
DEPARTMENT OF REVENUE,
M.S.BUILDING, 6TH FLOOR,
BENGALURU - 560 001.
2. THE DEPUTY COMMISSIONER,
BANGALORE URBAN DISTRICT,
K.G.ROAD, BENGALURU - 560 009.



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3. THE ASSISTANT COMMISSIONER,
BANGALORE SIB-DIVISION,
K.G.ROAD, BENGALURU - 560 009.
4. THE ASSISTANT EXECUTIVE ENGINEER,
PUBLIC WORKS DEPARTMENT,
ANEKAL TALUK,
ANEKAL-560 105.
5. THE THASILDAR,
ANEKAL TALUK, ANEKAL,
BANGALORE URBAN DISTRICT - 560 105.

...RESPONDENTS

(BY SMT. B.P. RADHA, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE COMMUNICATION DATED 17.08.2024 ISSUED BY THE FIFTH RESPONDENT TO THE SECOND RESPONDENT IN NO.LND/CR/269/627/2022-23 AT ANNEXURE - G; AND ETC.

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

CORAM: HON'BLE MR. JUSTICE E.S.INDIRESH

ORAL ORDER

In this writ petition, the petitioner has assailed the Communication dated 17.08.2024 (Annexure-G) and the Endorsement dated 13.09.2024 (Annexure-



G1). The petitioner has, inter-alia, sought a direction to respondent Nos.2 and 5 to allot alternative land measuring 8 guntas in Sy. No.155 or Sy. No.156 of Hulimangala Village in lieu of the petitioner's land, which has been utilised by the respondent-authorities for the formation of a road.

2. I have heard Sri. H.C. Shivaramu, learned counsel appearing for the petitioner, and Smt. B.P. Radha, learned Additional Government Advocate appearing for the respondent-State.

3. Learned counsel for the petitioner, by referring to the judgment and decree dated 21.03.2009 passed in O.S. No.219 of 1990 (Annexure-B), submitted that the petitioner had instituted the said suit seeking declaration of title and recovery of possession of the property in question. The suit came to be decreed in favour of the petitioner, and the



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defendants therein were directed to hand over possession of 8 guntas of land in Sy. No.5 of Maragondanahalli Village, Jigani Hobli, Anekal Taluk.

4. It is further contended by the learned counsel for the petitioner that, as is evident from paragraphs 13 to 15 and paragraph 30 of the judgment and decree, a Court Commissioner had been appointed by the Trial Court. The report of the Court Commissioner reveals that the defendants had formed a new road in Sy. No.5 to an extent of 10 guntas, including 2 guntas of Karab land. By referring to Exhibits P-26 and P-27, as well as the evidence of D.W.1, it is submitted that D.W.1 admitted during the course of cross-examination that the earlier Bandi Dari existed in Sy. No.5 and that subsequently an asphalt road had been formed. The said admission is reflected in Exhibit P-25. On the basis of these materials,



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learned counsel for the petitioner, sought interference by this Court.

5. Learned counsel further submitted that, as per Annexure C-1, spot mahazar was conducted and a report (*Varadi*) was submitted by the Village Accountant of Hulimangala Village, Anekal Taluk. The report indicates that no surplus Government land is available in Maragondanahalli Village, where the petitioner resides. Consequently, steps were initiated to identify alternative land in Hulimangala Village, and a sketch was prepared, which is produced as Annexure-C series. It is therefore contended that, since the petitioner's land has been utilised by the respondent-authorities for the formation of a public road, the impugned communication at Annexure-G and the endorsement at Annexure-G1 are liable to be



set aside, with a consequential direction to allot alternative land to the petitioner.

6. Per contra, learned Additional Government Advocate, by referring to the affidavits filed before this Court by the Tahsildar, Anekal Taluk, Bengaluru Urban District, and by the Deputy Commissioner, Bangalore dated 27.07.2026 and 24.07.2025 respectively, submitted that the petitioner's land has never been acquired for the purpose of formation of the road and that no acquisition proceedings have been initiated. She, therefore, disputed the submissions made on behalf of the petitioner.

7. It is further contended by the learned Additional Government Advocate that, in the absence of acquisition proceedings in respect of the petitioner's land, there is no illegality or infirmity in the impugned Communication dated 17.08.2024 (Annexure-G) or



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the Endorsement dated 13.09.2024 (Annexure-G1), and accordingly, sought dismissal of the writ petition.

8. In the light of the submissions made by the learned counsel appearing for the parties, a careful examination of the records would indicate that the petitioner had instituted O.S. No.219 of 1990 before the Principal Civil Judge (Junior Division) and JMFC, Anekal. A perusal of the judgment and decree dated 21.03.2009 (Annexure-B), particularly, the findings recorded on Issue Nos.2 and 4, clearly establishes that an extent of 8 guntas out of the total extent of 11 guntas of land belonging to the petitioner had been utilised for the formation of a road.

9. The evidence of D.W.1, who was an officer of the respondent-State, clearly admits that a road had been formed in land belonging to the petitioner and thereafter, asphalted over the same was laid by



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the defendants therein. The report of the Court Commissioner further reveals that the defendants therein, who are the respondents herein, had formed a road in Sy. No.5 to an extent of 10 guntas, including 2 guntas of Karab land, which had earlier been recorded as bandi dari.

10. In that view of the matter, the findings recorded by the Trial Court unequivocally establish that the respondents had unauthorisedly formed a road over 8 guntas of land belonging to the petitioner. The said findings, particularly those recorded at page 15 of the judgment in O.S. No.219 of 1990, have attained finality and are binding on the parties.

11. It is true that the affidavit filed by the Deputy Commissioner states that no acquisition proceedings were initiated for the purpose of formation or widening of the road in Sy. No.5 of



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Maragondanahalli Village. However, the affidavit erroneously refers to Sy. No.5 of Hulimangala Village, which is factually incorrect. Be that as it may, the admitted position remains that the respondents have utilised the petitioner's land without initiating acquisition proceedings.

12. In this regard, the declaration of law made by the Hon'ble Supreme Court in ***Vidya Devi v. State of Himachal Pradesh and others***, reported in ***(2020) 2 SCC 569***, is squarely applicable to the case on hand. The Hon'ble Supreme Court has categorically held that the right to property is a constitutional and human right, and that no property belonging to a citizen can be appropriated by the State Government without following due process of law and without payment of compensation. The Hon'ble Supreme Court has further held that the State Government cannot



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take possession of private property without acquisition proceedings merely because the land has been utilised for a public purpose.

13. It is also relevant to refer to the declaration of law made by the Hon'ble Supreme Court reported in the case of ***Delhi Airtech Services Pvt. Ltd. v. State of Uttar Pradesh & Another*** reported in ***AIR 2012 SC 573***, wherein the right to property has been recognised as an important constitutional and human right, and it has been reiterated that the State Government cannot deprive a person of his property except in accordance with law.

14. Following the aforesaid principles laid down by the Hon'ble Supreme Court, and having regard to the findings recorded by the competent Civil Court, which have attained finality, I am of the considered opinion that, since an extent of 8 guntas of land



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belonging to the petitioner has been utilised by the respondent-authorities for the formation of a public road without resorting to acquisition proceedings, it is the bounden duty of respondent Nos.2, 4 and 5 either to restore the property or to provide the petitioner with equivalent alternative land or compensation in accordance with law.

15. The records further disclose that the respondent-authorities have already initiated steps for allotment of alternative land by conducting a spot mahazar and preparing a sketch, as reflected in Annexure-C series. Therefore, the respondent-authorities shall complete the said exercise and allot alternative land measuring 8 guntas to the petitioner in accordance with law within an outer limit of four months from the date of receipt of a certified copy of this order.



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16. It is needless to observe that, since the judgment and decree passed in O.S. No.219 of 1990 has attained finality and the respondent-authorities themselves have initiated the process for allotment of alternative land under Annexure-C series, the impugned Communication dated 17.08.2024 (Annexure-G) and the Endorsement dated 13.09.2024 (Annexure-G1) cannot be sustained under the law and are accordingly set aside.

Accordingly, the writ petition is ***allowed***.

SD/-
(E.S.INDIRESH)
JUDGE

SB
List No.: 1 Sl No.: 7