



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF APRIL, 2026

BEFORE

THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO. 38763 OF 2025 (GM-RES)

BETWEEN:

SRI. M. RAMESH NAIK
S/O LATE SRI. M. NAGAPPA NAIK
AGED ABOUT 67 YEARS
C/O NO. 3/2, I MAIN
MOUNT JOY EXTENSION,
HANUMANTHA NAGAR
BANGALORE - 560 004.

...PETITIONER

(BY SRI. M RAMESH NAIK, (PARTY IN PERSON))

AND:

1. COMMISSIONER
HARIHAR NAGARA SABHE
PB ROAD, HARIHAR - 577 601.
2. DEPUTY COMMISSIONER
DAVANGERE DISTRICT AND
COMMISSIONER, DAVANGERE
HARIHAR URBAN DEVELOPMENT AUTHORITY
JILLADALITA BHAVAN, PB ROAD
DAVANAGERE - 577 006.

Digitally
signed by
CHAITHIRA A
Location:
HIGH
COURT OF
KARNATAKA



3. SRI. BHARAT KUMAR
S/O LATE KARIAPPA,
WARD NO. 18, G DIVISION
NEAR 108, LINGESWARA TEMPLE,
TEGGINA KERI, HARIHAR - 577 601.

...RESPONDENTS

(BY SRI. MUDUKANAGOUDA R. PATIL, ADVOCATE FOR R1;
SMT. NAVYA SHEKAR, AGA FOR R2;
SRI. RUDRAPPA P, ADVOCATE FOR R3)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO THE PETITIONER PRAYS THE HONORABLE COURT TO ISSUE WRIT OF MANDAMUS DIRECTING RESPONDENTS 1, AND 2 TO TAKE ACTION AS PER LAW ON EMERGENT BASIS ON ALL ENCLOSED REPRESENTATIONS GIVEN BY PETITIONER AND OTHER CO OWNERS OF THE PROPERTY NO 108-103-108 WARD NO 18 G DIVISION TEGGINAKERI HARIHAR AGAINST SRI BHARAT KUMAR S/O LATE SRI KARIAPPA AND SUBMIT ACTION TAKEN REPORT TO HONORABLE COURT WITHIN 30 DAYS. AND TAKE ACTION AS PER LAW ON VIOLATIONS DONE BY 3RD RESPONDENT AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:
CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM



ORAL ORDER

The grievance projected in the present writ petition lies in a narrow compass, but raises an issue touching upon the statutory obligation of the Municipal Authority under the provisions of the Karnataka Municipalities Act, 1964 (for short "the Act"). The petitioner asserts that the third respondent, who is an adjoining owner, has encroached upon a portion of the petitioner's vacant site and has proceeded to put up construction without authority of law. It is further alleged that despite submission of a detailed representation to the first respondent-Commissioner, evidenced at Annexure-A, coupled with photographic material highlighting the alleged illegal construction, no action has been forthcoming. The inaction, according to the petitioner, is in the teeth of the statutory mandate cast upon the Commissioner.

2. This Court, at an earlier point of time, by order dated 13.01.2026, having noticed the absence of any response from the third respondent, had restrained the third respondent from proceeding with construction. However, the third respondent has now entered appearance and has placed on record the



building licence and sanctioned plan said to have been issued by the first respondent. Thus, the lis has now crystallized into a dispute between adjoining landowners, where the petitioner alleges encroachment and illegal construction, while the third respondent seeks to justify the construction on the strength of a licence granted by the municipal authority.

3. At this juncture, it becomes apposite to advert to Section 187 of the Act, which engrafts a specific statutory mechanism obligating the Commissioner to examine complaints relating to unauthorized or illegal constructions. The scheme of Section 187 clearly postulates that when information is laid before the Commissioner regarding construction undertaken in contravention of the Act, Rules, or sanctioned plan, the Commissioner is not only empowered but duty-bound to conduct a spot inspection, verify the factual position on the ground, and ascertain whether the construction is in deviation of the sanctioned plan or encroaches upon adjoining property. The provision is couched in a manner that casts a public duty on the Commissioner to act upon complaints, particularly when



raised by an aggrieved adjoining owner whose proprietary rights are alleged to be infringed.

4. In the case on hand, the material on record discloses that the petitioner has invoked the said statutory remedy by lodging a complaint. Once such a complaint is received, the Commissioner cannot remain a silent spectator. The authority is obligated to trigger the mechanism under Section 187, issue notice to all stakeholders, conduct a spot inspection, and record a finding as to whether the construction is lawful or in violation of the sanctioned plan or statutory provisions. The failure to undertake such an exercise would amount to abdication of statutory duty and would render the grievance of the petitioner unaddressed, thereby compelling recourse to writ jurisdiction.

5. This Court is of the considered view that disputed questions relating to alleged encroachment, adherence to sanctioned plan, and compliance with licence conditions are essentially matters which require factual adjudication by the competent authority under the statute. Section 187 provides a complete and efficacious remedy in this regard. Therefore, instead of this Court embarking upon a factual enquiry, it would



be appropriate to direct the statutory authority to discharge its obligation in accordance with law.

ORDER

(i) The writ petition is ***allowed in part.***

(ii) The first respondent-Commissioner is hereby directed to initiate proceedings under Section 187 of the Act and conduct a detailed enquiry in respect of the construction put up by the third respondent.

(iii) The first respondent shall issue notice to the petitioner and the third respondent and afford them reasonable opportunity of hearing within a period of four (4) weeks from the date of receipt of a certified copy of this order.

(iv) Upon such notice, the third respondent shall be at liberty to place on record the sanctioned plan, licence and all supporting documents to demonstrate that the construction is in conformity with the approval granted.



(v) The petitioner is also at liberty to produce all material, including photographs and title documents, in support of his allegation of encroachment and deviation.

(vi) The first respondent shall thereafter conduct a spot inspection, examine the rival claims, and pass a reasoned order strictly in accordance with law, expeditiously.

(vii) It is made clear that the Commissioner shall independently assess whether the construction is in deviation of the sanctioned plan or in violation of the provisions of the Act, and take consequential action as contemplated under law.

Sd/-
(SACHIN SHANKAR MAGADUM)
JUDGE