NC: 2024:KHC:53243
WP No. 386 of 2022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 19TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 386 OF 2022 (CS-RES)

BETWEEN:

SHAVANDAIAH
S/O BYREGOWDA
AGED ABOUT 69 YEARS
R/AT NO.32, I MAIN, II CROSS,
AMCO LAYOUT. SAHAKARANAGAR
BANGALORE - 560092

...PETITIONER

(BY SRI. VIJAY SHETTY B.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
   REP BY PRINCIPAL SECRETARY
   CO-OPERATIVE DEPARTMENT
   VIDHANA SOUDHA
   BENGALURU-560001.

2. JOINT REGISTRAR OF CO-OPERATIVE SOCIETIES
   BENGALURU REGION
   SAHAKARA SOUDHA NO.146
   3RD FLOOR, 3RD MAIN
   8TH CROSS, MARGOSA ROAD
   MALLESHWARAM
   BENGALURU-560003.

3. THE ENGINEERS HOUSING CO-OPERATIVE
   SOCIETY LTD.,
   NO.D-24
   D DEVARAJ URS
   TRUCK TERMINAL LTD
   INDUSTRIAL SUBURB
   YESHWANTHPUR
   BANGALORE-560022

Digitally signed by SHWETHA RAGHAVENDRA
Location: HIGH COURT OF KARNATAKA

REPRESENTED BY ITS SECRETARY

4. THE PRESIDENT
THE ENGINEERS HOUSING CO-OPERATIVE
SOCIETY LTD.,
NO.D-24
D DEVARAJ URS
TRUCK TERMINAL LTD
INDUSTRIAL SUBURB
YESHWANTHPUR
BANGALORE-560022

5. THE SECRETARY
THE ENGINEERS HOUSING CO-OPERATIVE
SOCIETY LTD.,
NO.D-24
D DEVARAJ URS
TRUCK TERMINAL LTD
INDUSTRIAL SUBURB
YESHWANTHPUR
BANGALORE-560022

6. THE HONOURARY SECRETARY
THE ENGINEERS HOUSING CO-OPERATIVE
SOCIETY LTD.,
NO.D-24
D DEVARAJ URS
TRUCK TERMINAL LTD
INDUSTRIAL SUBURB
YESHWANTHPUR
BANGALORE-560022
(DELETED V/O/D 29.10.2024)

7. T S BHASKAR REDDY
S/O SRI T N SONNAPPA REDDY
NO.115/A I MAIN ROAD
OPPOSITE U A S LAYOUT
R M V II STAGE
BANGALORE-560094.

…RESPONDENTS

(BY SRI. YOGESH D. NAIK., AGA FOR R1 & R2;
SRI. R. CHANDRANNA. ADVOCATE FOR R3- R5;
V/O DATED 29.10.2024-R6 DELETED
R7- SERVED)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO CALL FOR RECORDS AND SET ASIDE THE ORDER PASSED BY THE HONBLE KARNATAKA APPELLATE TRIBUNAL AT BENGALURU (CH-5) IN COP RVN 38/2021 DATED 24.12.2021 IN PARTLY ALLOWING THE REVISION PETITION,BY MODIFYING THE ORDER PASSED BY THE R2 DATED 17.06.2021,ON THE APPLICATION FILED BY THE R3,4,5 FILED UNDER SECTION 71(3) OF K.C.S ACT,1959,R/W ORDER VII RULE 11 ALONG WITH SECTION 151 OF CPC IN DISPUTE NO.JRB/MD/2/2018-19 VIDE ANNEXURE-A AND ETC.

THIS WRIT PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE SURAJ GOVINDARAJ

ORAL ORDER

1. The petitioner is before this Court seeking for the following reliefs:

   a. *Call for records.*

   b. *Set aside the order passed by the Hon'ble Karnataka Appellate Tribunal at Bengaluru (CH-5) in COP.RVN-35/2021 dated 24.12.2021 in partly allowing the Revision Petition, by modifying the order passed by the R2 dated: 17.06.2021, on the application filed by the respondents No. 3, 4 & 5 filed under Section 71(3) of K.C.S Act, 1959, r/w order VII Rule 11 along with Section 151 of CPC in dispute No. JRB/MD/2/2018-19 vide Annexure-A;*

   c. *Issue any other writ, order or direction and grant such other and further reliefs as this Hon'ble Court deems fit and proper under the circumstances of this case, in the interest of justice and equity.*

2. Memo dated 19.12.2024 has been filed signed by the petitioner and the learned counsel for the petitioner which reads as under:

MEMO FILED BY THE PETITIONER

The petitioner in the above case most respectfully submits as follows;

1. it is submitted that, the petitioner enrolled as the member of the Engineers Housing Co-operative Society Ltd., Respondent No.3 in the writ petition. The petitioner also deposited a sum of Rs. 2,00,000/- with the 3rd respondent in anticipation of the allotment of residential site to him, during 2006. Inspite of expiry of all these years, the respondent No.3-Society couldn't form approved layout in the lands proposed to be formed a layout in view of the Civil disputes pending for consideration.

2. It is submitted that, in view of challenging the order dated 17-06-2021, which was of dismissal of the application filed by the respondents No. 1 to 3 herein and the respondent No. 5, which was sought for the dismissal of the main petition itself on maintainability, before the Hon'ble Karnataka Appellate Tribunal, at Bengaluru in COP.RVN-38/2021 dated 24-12-2021, the Tribunal was pleased to hold that, the prayer made by the petitioner for allotment of site was held to be premature as no layout has been formed by the Respondent No.3-Society. The said order has been challenged by the petitioner by filing the above writ petition.

3. It is submitted that, in view of the delay in forming the layout and allotment of sites, the petitioner is agreeable to take refund of the sital deposit together with accrued interest and thereby withdrawing the claim for the allotment of site from the Respondent No.3. Accordingly, today the Respondent No.3- Society has paid a sum of Rs. 4,03,000/- to the petitioner herein by way of a Demand Draft bearing No. No. 553920 dated 09-12-2024 drawn on The Karnataka State Co-op. Apex Bank Ltd., Mahalashmipuram branch for

an amount of Rs. 4,03,000/-, in favour of the petitioner herein towards the full and final settlement of the refund of sital deposit

Wherefore, the petitioner herein most respectfully prays that, this Hon'ble Court be pleased to dismiss the Writ Petition as withdrawn in view of the above said settlement, with no orders as to costs, in the interest of justice and equity.

3. Accepting the memo and submission, the petition is dismissed as withdrawn.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

LN
List No.: 2