IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 18TH DAY OF DECEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO. 26002 OF 2023 (GM-RES)

BETWEEN:

SMT.B G NALINI,
WIFE OF MADHUSUDAN S.,
AGED 45 YEARS,
RESIDING AT: #2924, E31,
1ST CROSS ROAD, EAST OF CHORD ROAD,
VIJAYA NAGAR, 2ND STAGE,
BENGALURU - 560 040.

…PETITIONER

(BY SRI. PRABHAKAR., ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER,
BENGALURU URBAN DISTRICT,
KANDAYA BHAVAN,
K.G. ROAD,
BENGALURU - 560 009.

2. THE TAHSILDAR,
BENGALURU NORTH TALUK,
KANDAYA BHAVAN,
GROUND FLOOR,
K. G. ROAD, BENGALURU - 560 009.

3. THE SPECIAL TAHSILDAR,
BENGALURU NORTH TALUK,
MINI VIDHANA SOUDHA,
2ND FLOOR, YELAHANKA,
BENGALURU - 560 064.

4. DR. K. BALARAMAN,
S/O V. L. KRISHNASWAMY,

Digitally signed by
R HEMALATHA
Location: High
Court of
Karnataka

AGED ABOUT 74 YEARS,
R/AT NO.559, RMV 2ND STAGE,
NEW BEL ROAD,
BENGALURU - 560 094.

…RESPONDENTS

(BY SRI. NAVEEN CHANDRASHEKAR., AGA FOR R1 TO R3;
SMT. AKSHATHA PRASAD M.D., ADVOCATE FOR
SRI. SANJAY H SETHIYA., FOR R4.)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUION OF INDIA PRAYING TO I) QUASH THE AUCTION PROCESS INITIATED BY THE 2ND AND 3RD RESPONDENT THROUGH PAPER PUBLICATION THE TIMES OF INDIA DATED 08/11/2023 (BEARING NO.MAC/RERA/CR/226/20-21 AND 11 OTHERS FILES DATED 07/11/2023) VIDE ANNEXURE-A IN RESPECT OF THE APARTMENT UNIT BEARING NO.A-7, MEASURING ABOUT 2947 SQ. FT. OF SUPER BUILT UP AREA (CARPET AREA-2505 SQ. FT) WITH TWO COVERED CAR PARKING SPACES ALONG WITH 630 SQ. FT. OF UNDIVIDED SHARE, RIGHT, TITLE AND INTEREST OWNED BY THE PETITIONER IN KRSNA LABURNUM PROJECT CONSTRUCTED ON THE PROPERTY BEARING MUNICIPAL NO. 28/7 MEASURING A TOTAL EXTENT TO 30,081,50 SQ FT CARVED OUT OF ERSTWHILE SY NO.24/5 OF CHIKKAMARENAHALLI VILLAGE KASABA HOBLI BENGALURU NORTH TALUK PRESENTLY IN BBMP WARD NO.100 SANJAYA NAGAR BENGALURU AND ETC.,

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

CORAM: HON'BLE MR JUSTICE HEMANT CHANDANGOUDAR

ORAL ORDER

Heard learned counsel for the parties.

2. The petitioner challenges the auction process initiated by Respondents 2 and 3, through which the petitioner's apartment unit was scheduled for public sale.

3. On November 24, 2023, this Court issued an interim order concerning the petitioner's registered apartment unit. Despite this, the petitioner has been dispossessed of the apartment, with the concerned Tahsildar and Respondents 2 and 3 sealing the unit, citing its attachment for recovery of dues from the developer as arrears of land revenue. The auction notice was issued following an order dated September 7, 2022, by the Karnataka Real Estate Regulatory Authority (RERA). The developer challenged the order passed by RERA before RERA Appeal No. 27/2023 before this Court. Subsequently, on January 9, 2024, a Division Bench of this Court set aside the RERA order and remanded the matter to the Karnataka Real Estate Appellate Tribunal for reconsideration.

4. Given that the order passed by RERA, which served as the basis for issuing the sale notice, has been set aside, the issuance of the sale notice by Respondents 2 and 3 is legally unsustainable. Accordingly, the following:

ORDER

i. The petition is ***allowed.***

ii. The impugned sale notice published in "The Times of India" dated 08.11.2023 at Annexure-A, in relation to Apartment Unit

bearing No.A-7, measuring about 2947 sq.Ft in 'KRSNA LABURNUM' project is hereby quashed.

III. The respondent No.2 and 3 are hereby directed to reseal the Apartment Unit in question and hand over vacant possession to the petitioner forthwith.

Sd/-
(HEMANT CHANDANGOUDAR)
JUDGE

AMA
List No.: 2 Sl No.: 39