HC-KAR

CNR: KAHC010647802026

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 12TH DAY OF NOVEMBER, 2026

BEFORE

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

WRIT PETITION NO.29451 OF 2026 (KLR-RES)
C/W
WRIT PETITION NO.10011 OF 2022 (GM-KEB)

IN WP No. 29451/2026

BETWEEN:

1. SRI. BHIMASETHU MUNIVRUNDA MATHA
BHIMANAKATTE MULUBAVILU VILLAGE.
DOORVASAPURAM POST,
THIRTHAHALLI TALUK,
SHIVAMOGGA DISTRICT,
KARNATAKA - 577 432.

REPRESENTED BY ITS DIWAN
SRI. SAGAR BHAT
S/O HARISH KUMAR P.S.
AGED ABOUT 33 YEARS,
NO.25/1, RAGHUNANDANA,
NEAR BHIMANAKATTE
RAGHAVENDRA SWAMY MATHA,
VENKATAGIRIYAPPA LAYOUT,
DODDABOMMASANDRA,
VIDYARANYAPURA,
BENGALURU - 560 097.

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

(NOTE AS THE PETITIONER IS A RELIGIOUS INSTITUTION, THERE IS NO REGISTRATION)

…PETITIONER

(BY SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SRI. S. HEMANTH BHARWAJ, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
DEPARTMENT OF REVENUE
ROOM NO. 505, 5TH FLOOR,
M.S. BUILDING,
BENGALURU - 560 001
REPRESENTED BY ITS
PRINCIPAL SECRETARY.

2. THE DEPUTY COMMISSIONER,
'A' BLOCK, RAJATADRI,
MANIPAL, UDUPI DISTRICT,
UDUPI - 576 104.

3. THE TAHSILDAR,
CIRCUIT HOUSE ROAD,
BANANJE, UDUPI DISTRICT,
UDUPI - 576 101.

4. THE MANGALORE ELECTRICITY SUPPLY COMPANY
LIMITED,
MESCOM BHAVANA, BEJAI,
KAVOOR CROSS ROAD,
MANGALURU,
DAKSHINA KANNADA,

KARNATAKA - 575 004.
REPRESENTED BY ITS
MANAGING DIRECTOR.

…RESPONDENTS

(BY SRI. ADITYA DIWAKARA, AGA FOR R1 TO R3;
SRI. SHABHAAZ HUSSAIN, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO DIRECT THE RESPONDENTS TO CONSIDER THE REPRESENTATIONS DATED 14.02.2023, 07.12.2023 AND 08.09.2026 VIDE ANNEXURE-A TO A2.

IN WP NO. 10011/2022

BETWEEN:

1. SRI. BHEEMA SETU MUNIVRUNDA MUTT
BHEEMANAKATTE DHRUVASAPURA
THIRTHAHALLI TALUK
SHIVAMOGGA DISTRICT
KARNATAKA - 577432
REP. BY SRI SAGAR HARISKUMAR DIWAN
ADMINISTRATOR AND GPA HOLDER.

...PETITIONER

(BY SRI. D.R. RAVISHANKAR, SENIOR COUNSEL FOR
SRI. S. HEMANTH BHARWAJ, ADVOCATE)

AND:

1. GOVERNMENT OF KARNATAKA
   VIDHANA SOUDHA
   DR. B.R. AMBEDKAR VEEDHI
   BENGALURU - 560001
   REPRESENTED BY ITS
   CHIEF SECRETARY.

2. DEPARTMENT OF ENERGY
   GOVERNMENT OF KARNATAKA
   ROOM NO.236, 2ND FLOOR
   VIKASA SOUDHA
   BENGALURU - 560001
   REPRESENTED BY ITS SECRETARY.

3. KARNATAKA POWER TRANSMISSION
   CORPORATION LIMITED
   CORPORATE OFFICE
   KAVERI BHAVAN, K G ROAD
   BENGALURU - 560009
   REPRESENTED BY ITS
   MANAGING DIRECTOR.

4. THE MANGALORE ELECTRICITY SUPPLY COMPANY
   LIMITED
   MESCOM BHAVANA
   BEJAI KAVOOR CROSS ROAD
   MANGALURU,
   DAKSHINA KANNADA
   KARNATAKA - 575004
   REP. BY ITS MANAGING DIRECTOR.

...RESPONDENTS

(BY SRI. ADITYA DIWAKARA, AGA FOR R1 & R2;
SRI. H.V. DEVARAJU, ADVOCATE OF R3

SRI. SHABHAAZ HUSSAIN, ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO RESPONDENT NO.4-COMPANY, NAMELY, MESCOM TO COMPLY *INTER ALIA* WITH THE PROVISIONS OF THE TRANSFER OF PROPERTY ACT, 1882 AND OTHER APPLICABLE LAWS, AND NOT TO ASSERT RIGHTS UNLAWFULLY AS THREATENED IN THE REPLY NOTICE DATED 31.03.2022 (ANNEXURE-A); AND ETC.

THESE WRIT PETITIONS HAVING BEEN RESERVED FOR ORDERS, COMING ON FOR PRONOUNCEMENT THIS DAY, **E.S. INDIRESH J**., MADE THE FOLLOWING:

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

CAV ORDER

In W.P.No.29451 of 2026

1. The petitioner-Mutt has sought for direction to the respondent No.2-Deputy Commissioner, to consider the representations dated 14.02.2023,

07.12.2023, and 08.09.2026 (Annexure-A to A2) at the earliest.

In W.P.No.10011 of 2022

2. The petitioner-Mutt has sought for direction to respondent No.4- The Mangalore Electricity Supply company Ltd., ((hereinafter referred to as respondent-MESCOM) to comply with the provisions of the Transfer of Property Act, 1882 and to desist from setting up an electric sub-station or any other structure on the leased premises in violation of the Lease Deed dated 27.11.1937, (Annexure- B) and to direct the respondent No.4-MESCOM to deliver vacant possession of the leased premises to the petitioner-Mutt and such other reliefs;

3. Since common questions of law and facts arise for consideration in both the writ petitions, they have

been clubbed together, heard and are being disposed of by this common order.

4. The relevant facts for adjudication of the case, as averred in W.P. No. 10011 of 2022, are that the petitioner-Mutt had entered into a registered Lease Deed dated 27.11.1937 with the predecessors-in-interest of respondent No. 4 – MESCOM, in respect of the southern portion of the land bearing Sy. No. 130/2A3, situated at Mudanidamburu Village, Udupi Taluk, measuring to an extent of 1 acre and 35 cents, for a period of 99 years, on payment of an annual rent of Rs. 275/-, as per Annexure-B. The said lease was executed subject to the terms and conditions stipulated in the registered Lease Deed.

5. It is further stated that the erstwhile Udupi Electric Supply Corporation Limited was nationalised under the provisions of the Madras Electricity Supply

Undertakings (Acquisition) Act, 1949. Thereafter, electricity distribution in Udupi District was taken over by the Karnataka Electricity Board, which was subsequently succeeded by the Karnataka Power Transmission Corporation Limited (respondent No. 3) and thereafter, eventually by the Mangaluru Electricity Supply Company Limited (respondent No. 4 herein). It is the case of the petitioner that respondent No. 4 – MESCOM, a Government of Karnataka undertaking, is presently in occupation of the leased premises.

6. It is further stated in the writ petition that the petitioner-Mutt had addressed several letters to respondent No.4 – MESCOM, seeking enhancement of the annual rent since 2018, however, respondent No.4 – MESCOM has not taken any steps in that regard. It is also contended by the petitioner-Mutt that respondent No.4 – MESCOM had illegally cut down

trees situated on the leased premises, in violation of the terms and conditions of the Lease Deed. In this regard, the petitioner-Mutt had lodged a complaint dated 12.08.2020 (Annexure-D) before the Zonal Forest Officer, Udupi District.

7. It is further stated in the writ petition that, as per the report of the District Disaster Management Plan dated 20.09.2020 (Annexure-E), the leased premises are prone to excessive rainfall and flooding and are susceptible to natural disasters. It is also contended that respondent No. 4 – MESCOM has erected an electricity sub-station on the leased premises in violation of the terms and conditions stipulated in the Lease Deed, without obtaining the permission of the petitioner-Mutt. It is further contended that, since the demised premises are situated in a densely populated area, the establishment and commissioning of the

electricity sub-station are in violation of the provisions of the Indian Electricity Rules. On these grounds, the petitioner-Mutt has sought for interference of this Court.

8. It is further stated that the use of the leased premises for the establishment and operation of an electricity sub-station would result in the degradation and devaluation of the leased land. It is also contended that respondent No. 4 – MESCOM has failed to pay the outstanding arrears of lease rent due and payable to the petitioner-Mutt. In view of the same, the petitioner-Mutt issued a legal notice dated 18.02.2022 (Annexure-K) to respondent No. 4 – MESCOM. It is further contended that the land in question has not been converted for the purpose of establishing an electricity sub-station and, therefore, the reply notice dated 31.03.2022 (Annexure-A),

issued by respondent No. 4 – MESCOM, is contrary to law. On these grounds, the petitioner-Mutt has sought for interference of this Court.

9. In W.P. No. 29451 of 2026, the petitioner-Mutt has sought a direction to respondent No. 2 – Deputy Commissioner, to consider the representations dated 14.02.2023, 07.12.2023 and 08.09.2026, produced at Annexures-A, A1 and A2, respectively, and to pass appropriate orders thereon at the earliest.

10. Heard Sri. D.R. Ravishankar, learned Senior Counsel appearing on behalf of Sri. S. Hemanth Bharadwaj, learned counsel for the petitioner-Mutt; Sri. Aditya Diwakara, learned Additional Government Advocate appearing for the respondent-State; Sri. H.V. Devaraju, learned counsel appearing for the respondent No.3- Karnataka Power Transmission

Corporation Ltd., and Sri. Shabhaaz Hussain, learned counsel appearing for the respondent No.4-MESCOM.

11. Sri. D.R. Ravishankar, learned Senior Counsel appearing for the petitioner-Mutt, contended that respondent No. 4 – MESCOM has violated the conditions stipulated under Section 108 of the Transfer of Property Act, 1882, and that the establishment of an electric sub-station on the leased premises is contrary to the land-use provisions of the Karnataka Land Revenue Act, 1964, as well as the applicable regulations under the Karnataka Town and Country Planning Act, 1961. On these grounds, learned Senior Counsel sought for interference of this Court.

12. Learned Senior Counsel further contended that the land in question is situated in the heart of Udupi City and that respondent No.4 – MESCOM is paying

lease rent at a negligible rate, which is not commensurate with the prevailing market rent. Therefore, learned Senior Counsel submitted that this Court's interference under Article 226 of the Constitution of India is warranted for enhancement of the lease rent, in respect of subject premises.

13. Nextly, learned Senior Counsel for the petitioner contended that the Lease Deed dated 27.11.1937 was executed with erstwhile entities of respondent No. 4 – MESCOM for a period of 99 years and that the petitioner-Mutt had been receiving the lease rent in terms of the Lease Deed until 2017 and annual lease rent fixed under the Lease Deed was Rs. 275/- (approximately Rs.23/- per month), which is highly inadequate in the present circumstances and that apart, less than the tax paid by the petitioner-Mutt in respect of the subject land. Learned Senior Counsel

further contended that, with an intention to harass the petitioner-Mutt, the respondent authorities had sought for GST and PAN particulars of the petitioner-Mutt to pay the annual rent of Rs.275/-. On these grounds, learned Senior Counsel sought for interference of this Court.

14. The principal contention of the learned Senior Counsel is that this Court, vide order dated 14.02.2025, had directed respondent No. 4 – MESCOM to negotiate for enhancement of the lease rent. Learned Senior Counsel further submitted that this Court had also taken note of the fact that respondent No. 4 – MESCOM was in default of payment of even the meager amount of rent payable in respect of the leased property. Learned Senior Counsel for the petitioner further invited the attention of this Court to the order dated 21.02.2025 and

submitted that respondent No. 4 – MESCOM had been directed to pay the lease rent in accordance with the PWD norms. Hence, it is argued by the learned Senior Counsel that, no steps have been taken by the respondent authorities in this regard. On these grounds, learned Senior Counsel for the petitioner sought for interference of this Court.

15. Learned Senior Counsel appearing for the petitioner-Mutt also relied upon the following judgments in support of his contentions:

i) Craft Interiors (P) Ltd v. CCE, Bangalore and another reported in (2006) 12 SCC 250;

ii) Syed Mohummed Raziuddn v. Corporation of Culcutta in Crl. Rev.No.105 of 1919 dated 30.04.2019;

iii) Municipal Corporation of Greater Bombay and another v. Indian Oil Corporation Ltd reported in 1991 Supp (2) SCC 18;

iv) Ajay Hasia v. Khalid Mujib Sehrawardi reported in (1981) 1 SCC 722;

v) Pradeep Kumar Biswas v. Indian Institute of Chemical Biology and others reported in (2002) 5 SCC 111.

16. Per contra, Sri. H.V. Devaraju, learned counsel appearing for respondent No. 3 – KPTCL, contended that, since the petitioner-Mutt has instituted the present writ petition on the basis of the Lease Deed, it is required for the petitioner-Mutt to approach the competent Civil Court for redressal of its grievances relating to the payment of arrears of lease rent.

17. It is further contended by the learned counsel that the establishment and commissioning of the electricity sub-station on the schedule property is in the larger interest of the general public, as the same would improve voltage and prevent interruptions in the supply of electricity. Therefore, learned counsel submitted that there is no violation of the terms and

conditions of the Lease Deed and further argued that the petitioner-Mutt cannot invoke the writ jurisdiction of this Court under Article 226 of the Constitution of India for the purpose of recovery of outstanding lease rent. Accordingly, he sought for dismissal of the writ petition.

18. Sri. Shabhaaz Hussain, learned counsel appearing for respondent No.4 – MESCOM contended that, being a statutory body, respondent No.4 is required to maintain the necessary statutory and financial records and, therefore, had called upon the petitioner-Mutt to furnish its GST and PAN particulars and further contended that, the petitioner-Mutt is required to approach the competent Civil Court for redressal of its grievance. On these grounds, learned counsel sought dismissal of the writ petition.

19. Sri. Aditya Diwakara, learned Additional Government Advocate appearing for the respondent-State sought to justify the arguments of the respondent-MESCOM.

20. In the light of the arguments advanced by the learned counsel appearing for the parties, it is not in dispute that the subject land belonged to the petitioner-Mutt and that the same was leased in favour of respondent No.4 (predecessor-in-interest of respondent No.4) for a period of 99 years under the registered Lease Deed dated 27.11.1937 (Annexure-B). Thereafter, the erstwhile Udupi Electric Supply Corporation Limited was nationalised under the provisions of the Madras Electricity Supply Undertakings (Acquisition) Act, 1949. Subsequently, the electricity distribution activities were taken over by the Karnataka Electricity Board, and thereafter, by

respondent No.3 – Karnataka Power Transmission Corporation Limited. It is also to be noted that respondent No.4 – Mangalore Electricity Supply Company Limited (MESCOM), is the successor-in-interest of the Karnataka Power Transmission Corporation Limited and is, accordingly, in possession of the leased land, paying an annual rent of Rs.275/-. A perusal of the terms and conditions of the Lease Deed indicates that the lessee, namely respondent No.4-MESCOM, is obligated to pay the rent regularly and without any default.

21. At this stage, it is relevant to mention that respondent No.4 – MESCOM is a statutory body under Article 12 of the Constitution of India and, being an 'authority' discharging public duties, is obliged to adhere to the terms and conditions of the Lease Deed in letter and spirit. It is forthcoming from the writ

petition that respondent No.4 – MESCOM had cut down the trees standing in the leased premises, which was objected to by the petitioner-Mutt. In this regard, the petitioner-Mutt lodged a complaint dated 12.08.2020, which is produced at Annexure-D. It is further contended that the leased premises is situated in an area prone to a high risk of flooding due to natural disasters, as indicated in Annexure-E to the writ petition. In this regard, the petitioner-Mutt addressed a representation dated 11.09.2021 to the Hon'ble Chief Minister, seeking appropriate action in the matter.

22. It is the specific case of the petitioner-Mutt that respondent No.4 – MESCOM has undertaken the erection and commissioning of an electric sub-station in the leased premises without obtaining the permission of the petitioner-Mutt, being the lessor of

the land in question. A perusal of the Lease Deed at Annexure-B indicates that an extent of 1 acre and 35 cents of land in Sy. No.130/2A3 was leased in favour of respondent No.4 and its predecessors-in-interest. The land in question continues to be classified as agricultural land. However, pursuant to the notice/representation submitted by the petitioner-Mutt, respondent No.3 addressed a letter dated 18.03.2022 (Annexure-M) to respondent No.4, calling upon it to desist from violating the terms and conditions of the Lease Deed in respect of the land in question.

23. It is also forthcoming from the statement of objections filed by respondent No.4 – MESCOM that the areas surrounding the leased premises have undergone considerable development, with several commercial complexes having come up in and around

Udupi town. In view of the increased demand for electricity, respondent No.4 – MESCOM has taken steps to augment the existing feeders to avoid frequent interruptions in the electricity supply to Udupi city and therefore, I am of the opinion that, non-payment of the rent by the respondent No.4-MESCOM is contrary to the Lease Deed and being a statutory body, respondent No.4 is required to pay the same without any demand made by the petitioner-Mutt.

24. In this regard, respondent No.4 – MESCOM has produced the proceedings of the 37th Technical Advisory Committee Meeting held on 28.11.2017 (Annexure-R3 of Statement of Objections filed by respondent No.4 in W.P.No.10011 of 2022), wherein a proposal was considered for establishing a 1 x 12.5 MVA, 33/11 KV Sub-Station in Udupi Division.

Thereafter, respondent No.4 addressed a letter dated 05.05.2021 (Annexure-R4) to M/s. Jyothi Electricals in connection with the award of proposed sub-station work.

25. At paragraph 6 of the statement of objections, respondent No.4 has stated that the existing building has been retained and renovated for the purpose of maintaining the same, as evident from the photographs produced at Annexures-R6 and R7. It is further stated that, out of the total extent of 1 acre and 35 cents of leased land, an extent of 33.94 cents has been utilised for establishing the sub-station and that the said portion has been enclosed with a fence, as reflected in Annexure-R8 of the Statement of Objections. It is also contended that the work has been completed, except for the installation of the transformer and spreading of jelly and if such being

the case, there is no impediment for rising rental value of the land in question, as the annual rent is being fixed at meager rent at the time of execution of the Lease Deed.

26. At paragraph 7 of the statement of objections, respondent No.4 – MESCOM has stated that rent was paid to the petitioner-Mutt up to the year 2017. However, the rent for the subsequent years has been withheld on the ground that the petitioner-Mutt failed to furnish its GST and PAN particulars. In this regard, I have carefully examined the letter dated 23.08.2004 addressed by the petitioner-Mutt to respondent No.4 – MESCOM and the reply dated 30.09.2005 issued by respondent No.4 thereto, which is produced at Annexure-R10 and after evaluating the same, as the respondent No.4-MESCOM intends to establish sub-station, which is not found place in the original Lease

Deed, then it is the duty of the respondent No.4 to pay the rent on prevailing market rate in the said area, after obtaining necessary inputs for the PWD.

27. It is further contended by respondent No.4 – MESCOM that the sub-station has been enclosed with a fence and all safety measures prescribed under the relevant Regulations, 2010, have been duly complied with. It is also contended that only one-fourth of the demised premises has been utilised for the establishment of the sub-station and that the remaining extent of land has been retained in its original condition. On these grounds, respondent No.4 has sought dismissal of the writ petition, contending that the petitioner-Mutt has an efficacious alternative remedy of approaching the competent Civil Court for appropriate reliefs under Section 108 of the Transfer of Property Act and the said contention cannot be

accepted on the sole ground that the respondent No.4, being instrumentality of the State cannot itself behave as private parties (lessee) in paying annual rent.

28. In this regard, a perusal of the order sheet would indicate that this Court, vide order dated 14.02.2025, held as follows;

> *"I.A. No.1/2025 filed seeking permission to deposit the amount.*
>
> *Learned senior counsel appearing for the petition would contend that the application is not maintainable, and they would file a statement of objections to the said application.*
>
> *It is noticed that the rent agreement between the petitioner and respondent No.4 was entered in the year 1937. Rs. 237/- is the annual rent in respect of the property. The tenure of the lease would come to an end in 2036.*
>
> *It is also noticed that the respondent No.4 is a defaulter of the said petty amount of rent payable in*

respect of the property which is under lease. It is not in dispute that the property is a non-agricultural land i.e., in the heart of Udupi city.

It is stated that the officers of the respondent No.4 visited the office of the petitioner to negotiate the escalation of the rental amount. Respondent No.4 is the instrumentality of the State.

Under these circumstances, respondent No.4 is required to make an offer in writing as to how much rent they are going to pay to the petitioner for the remaining period of the lease and the offer should be communicated in writing within one week.

List this matter on 21.02.2025"

29. A perusal of the said order would indicate that an attempt was made by the petitioner-Mutt to negotiate with respondent No.4-MESCOM regarding the enhancement of the rental amount, particularly since respondent No.4-MESCOM is an instrumentality of the State. It is also relevant to refer to the order dated 21.02.2025, which reads as under:

"Heard learned counsel appearing for the petitioner as well as the learned counsel appearing for 4th respondent on the prayer made in the affidavit filed by 4th respondent.

4th respondent has filed an affidavit dated 10.02.2025. In the said affidavit 4th respondent prays this Court to take note of the said affidavit dated 10.02.2025, wherein it has made a request to complete the structure in the petition premises and 4th respondent has undertaken to de-commission the structure on or before the expiry of the lease period.

Learned counsel appearing for the petitioner has filed a counter to the said affidavit. The petitioner has objected to the said affidavit on the premise that this Court vide order dated 05.12.2022 has restrained 4th respondent from putting up any structure in the leased premises. It is further stated that an appeal is filed against the said order and the appeal is dismissed.

Learned counsel for 4th respondent does not dispute the fact that appeal is filed against the said order and appeal is dismissed.

After going through the contents of the affidavit, it is noticed that the prayer made in the affidavit (without any application) is to permit 4th respondent to put up the structure in the petition premises, which act is

restrained by this Court in terms of order dated 05.12.2022. The said order admittedly has attained finality.

Under these circumstances, this Court is of the view, that prayer made in the affidavit cannot be considered. Accordingly, the same is rejected.

This Court vide order dated 14.02.2025 has directed the respondent/Corporation to make an offer in writing as to how much enhanced rent the respondent/Corporation is willing to pay to the petitioner. The said direction was issued pursuant to the submission made by the learned counsel for respondent No.4 that respondent No.4 visited the office of the petitioner to negotiate the escalation of rental amount. It is also relevant to note that the direction is issued considering the fact that the lease agreement was entered into in the year 1937 considering the fair rent of the said era. The same rent at any stretch of imagination can be considered as a fair rent payable for the premises, in present times.

Learned counsel appearing for the respondent - Corporation seeks a short accommodation to obtain instructions from the PWD with regard to the rental value, and also necessary approval by the higher

officers of 4th respondent and to make an offer relating to prevalent fair rent.

Considering the submission made, ten days time is granted to 4th respondent to comply the order dated 14.03.2025."

30. Despite the aforementioned orders passed by this Court, it appears that the officials of respondent No.4 have remained adamant and have not taken any steps towards payment of the arrears of rent, which, incidentally, amounts to a meagre annual rent of Rs.275/- and such lethargic acts of the officials of respondent No.4 is hereby deprecated. At this juncture, it is relevant to note that respondent No.4 had preferred W.A. No.290 of 2023 before the Division Bench of this Court, challenging the interim orders referred to hereinabove. The said writ appeal came to be dismissed on 20.06.2023. Being aggrieved by the same, respondent No.4 approached the Hon'ble

Supreme Court by filing SLP (Civil) No.22621 of 2025. The said Special Leave Petition came to be disposed of by the Hon'ble Supreme Court on 04.08.2025, granting liberty to respondent No.4 to approach this Court for final disposal of the matter.

31. Respondent No.4-MESCOM has been attempting to evade payment of even the meager rent payable in respect of the subject land, despite the fact that the said land is situated in the heart of Udupi City, and has been prolonging the matter by raising one reason or the other to avoid payment of rent. Such conduct on the part of respondent No.4-MESCOM is unreasonable and arbitrary, particularly having regard to the fact that it is an instrumentality of the State. In this regard, it is relevant to refer to the judgment of the Hon'ble Supreme Court in the case of ***Malpe Vishwanath Acharya and others v. State of***

Maharastra and another reported in ***AIR 1998 SC 602***, particularly paragraphs 22 to 28, which read as under:

> *"22. That the tenants are, by and large, now getting an unwarranted benefit or windfall can also be illustrated by taking an example of hypothetical tenant, i.e., an Assistant in the Government of India posted at Bombay in the year 1948. At that time the pay scale of the Assistant was Rs 160-10-300-15-450 + 20% HRA + Rs 15.50 CCA. On the basis that he was drawing the maximum of scale, his total monthly emoluments would be Rs 485.50 and if he had in 1948 taken premises on rent at Rs 100 per month, he would be paying approximately 20% of his total emoluments by way of rent, without taking into consideration any deduction for repairs. That Assistant in 1997, after the report of the 5th Pay Commission, would get a maximum basic salary of Rs 9000 + 30% HRA + Rs 200 p.m. as CCA making the total emoluments of Rs 11900 p.m. After taking into consideration the 1987 increase in rent, he would be paying about Rs 170 p.m. in respect of the same premises instead of Rs 100 which he was paying in 1948. This enhanced rent, would, however, represent only 0.9% of his salary. With the passage of time, the percentage of rent which*

would be paid by that hypothetical tenant would have gone down from 20% of his total salary to only 0.9% and this would be the case of most of the tenants as we can take judicial notice of the fact that from 1948 till now, incomes have increased considerably, whereas the rent has increased only from Rs 100 p.m. to Rs 170 p.m.

23. On the other hand, in the aforesaid example, the hardship to the landlord is that it was only in 1940 that he had agreed to accept rent of Rs 100 p.m. That was the real income from rent which he had agreed to receive. Now with the increase in taxes etc., he gets only Rs 54 p.m. whereas in 1940, he got Rs 100 minus Rs 21.54 (municipal tax) i.e. Rs 78.46. So not only is he getting lesser amount in hand but in terms of real value, after taking inflation into account, he is getting only a pittance. For Rs 100 p.m. of gross rent which he was getting in 1940, he now in 1997 gets a gross rent of about Rs 170 which in real money terms, after taking the inflation into account, will be only about Rs 2 p.m. of the 1940 value. Had the Rent Control Act not been in force the landlord today may have been able to get today's equivalent of Rs 100 of 1940 as rent i.e. about Rs 6600 p.m.

24. It is true that one of the reasons for enacting the rent control legislation is to prevent exploitation of the tenants by the landlords. One of the protections which has been provided to the tenants in the rent legislation throughout the country is the concept of standard rent. Each State has definite laws with regard thereto. In some case, like in Delhi, the Rent Control Act is not applicable if the rent is Rs 3500 or more while in the other States Rent Control Act is not applicable to certain categories of persons. In the Bombay Rent Act, with which we are concerned, the standard rent as on 1-9-1940 or the first rent of the premises which was let out thereafter is the standard rent. The pegging down of rent, coupled with the inability of the landlord to evict the tenants, has given rise to unlawful tendencies. In the Statement of Objects and Reasons annexed to LA Bill No. 79 of 1986 introduced in the Maharashtra Legislature providing for amendment to the Bombay Rent Control Act with regard to clause 3 it was, inter alia, stated as follows:

"The freezing of standard rent prevailing on 1st September, 1940 has deprived the landlords of getting reasonable and adequate return to undertake maintenance and repairs to the old buildings. Despite the penal provisions in the Act for charging any premium from a tenant, such freezing of rent results in

charging 'pugree' or deposit or similar illicit payments which are widely prevalent. The construction of new tenements on rental basis has considerably ceased with the result that low and middle income groups are not getting premises on rent…."

(emphasis added)

25. Notwithstanding the fact that the State Legislature was conscious of the illegal payments which are made because of the rent restriction law no effective steps have been taken so far to strike a balance between the interests of the landlords and the tenants.

26. It is true that whenever a special provision, like the Rent Control Act, is made for a section of the society it may be at the cost of another section, but the making of such a provision or enactment may be necessary in the larger interest of the society as a whole but the benefit which is given initially if continued results in increasing injustice to one section of the society and an unwarranted largess or windfall to another, without appropriate corresponding relief, then the continuation of such a law which necessarily, or most likely, leads to increase in lawlessness and undermines the authority of the law can no longer be

regarded as being reasonable. Its continuance becomes arbitrary.

27. The legislature itself, as already noticed hereinabove, has taken notice of the fact that pugree system has become prevalent in Mumbai because of the Rent Restriction Act. This Court was also asked to take judicial notice of the fact that in view of the unreasonably low rents which are being received by the landlords, recourse is being taken to other methods to seek redress. These methods which are adopted are outside the four corners of the law and are slowly giving rise to a state of lawlessness where, it is feared, the courts may become irrelevant in deciding disputes between the landlords and tenants. This should be a cause of serious concern because if this extra-judicial backlash gathers momentum the main sufferers will be the tenants, for whose benefit the Rent Control Acts are framed.

28. Insofar as social legislation, like the Rent Control Act is concerned, the law must strike a balance between rival interests and it should try to be just to all. The law ought not to be unjust to one and give a disproportionate benefit or protection to another section of the society. When there is shortage of

accommodation it is desirable, may, necessary that some protection should be given to the tenants in order to ensure that they are not exploited. At the same time such a law has to be revised periodically so as to ensure that a disproportionately larger benefit than the one which was intended is not given to the tenants. It is not as if the Government does not take remedial measures to try and offset the effects of inflation. In order to provide fair wage to the salaried employees the Government provides for payment of dearness and other allowances from time to time. Surprisingly this principle is lost sight of while providing for increase in the standard rent — the increases made even in 1987 are not adequate, fair or just and the provisions continue to be arbitrary in today's context."

32. In view of the declaration of law made by the Hon'ble Supreme Court in the aforementioned judgment, respondent No.4-MESCOM, being an instrumentality of the State, is obligated to pay the prevailing market rent in respect of the subject premises to the petitioner-Mutt. The respondent No.4, in its statement of objections, has admitted as to

withholding the annual rent of Rs.275/- payable to the petitioner-Mutt on the ground that the petitioner-Mutt had not furnished its PAN and GST particulars. It is relevant to note that the said demand was raised by respondent No.4 only after receipt of the legal notice issued by the petitioner-Mutt. Therefore, the said reason cannot be accepted as a justification for withholding the rent, which is a meagre amount, particularly having regard to the fact that respondent No.4 continues to be in possession and enjoyment of the entire extent of 1 acre and 35 cents of land situated in the heart of Udupi City and have established sub-station without the consent of the petitioner-Mutt.

33. In the circumstances, the conduct of respondent No.4-MESCOM amounts to a violation of the terms and conditions of the Lease Deed and warrants

appropriate consequences in accordance with law. Under similar circumstances, the Hon'ble Supreme Court, in the case of ***National Company v. Territory Managerr, Bharat Petroleum Coportaion Ltd***, reported in ***AIR Online 2021 SC 1014***, particularly at paragraphs 16 to 21, has held as under:

> *"16. This Court has upheld the orders passed by the High Court that the appellant tenants would not be entitled to the benefit and rights under the Tenants Act unless they are in actual physical possession of the building constructed by them. The position is amply made clear by observing that in case the appellants have let out or sublet the building or given it to third parties, including dealers or licensees, they would not be entitled to protection and benefit under the Tenants Act.*
>
> *17. Though Shri Kailash Vasdev, learned Senior Counsel, attempted to assail the correctness of the said judgment, such an exercise is not permissible in law. The said judgment of this Court in the case of R. Chandramouleeswaran (supra) is delivered by a*

Bench consisting of three judges and we are bound by the view taken therein.

18. We have perused the agreement between the re spondent No.1BPCL and the respondent No.2 herein. Shri Kailash Vasdev, learned Senior Counsel, fairly concedes that all the agreements between the respondent No.1BPCL and its dealers are identical. As such, when a Bench of three judges of this Court in the case of R. Chandramouleeswaran (supra), while considering a similar agreement between the appellantBPCL and the dealer, has held that since the appellant tenant was not in actual physical possession, it was not entitled to the protection under the Tenants Act, the said view is bound even in the facts of the present case.

19. In the result, we find that the view taken by the High Court, thereby relegating the appellant to the alternate remedy available in law, is not sustainable.

20. As observed by the High Court, the conduct of the respondent No.1BPCL in continuing with the occupation of the said premises without paying any rent from 31 st December, 2009 is unbecoming of a statutory corporation, which is a State within the meaning of Article 12 of the Constitution of India. We therefore find that while directing the respondents to

vacate the said premises and handover peaceful and vacant possession to the appellant, it will also be necessary in the interests of justice to direct the respondent No.1BPCL to pay arrears of market rent from 31st December, 2009, till the date of delivery of possession at the market rate.

21. In the result, the appeal is allowed in the following terms:

(i) The respondent No.1BPCL is directed to vacate and handover peaceful and vacant possession of the said premises to the appellant within a period of three months from today.

(ii) The respondent No.1BPCL is directed to pay arrears of market rent to the appellant from 31 st December, 2009 till the date of handing over of possession."

34. At this juncture, it is relevant to refer to the declaration of law made by the Hon'ble Supreme Court in the case of *Malpe Vishwanath Acharya (supra)*, wherein the Hon'ble Supreme Court held that a statute which was justified at the time of its

enactment may, with the passage of time, become arbitrary and unreasonable, warranting reconsideration in the light of changed circumstances. The Hon'ble Supreme Court, taking into consideration the steep increase in the cost of living and the passage of time, emphasised the necessity of determining and ensuring payment of fair rent to the landlord. The Hon'ble Supreme Court, in unequivocal terms, emphasized the importance of ensuring that the landlord receives fair and reasonable rent.

35. The Hon'ble Supreme Court in the case of ***Hindustan Petroleum Corporation Ltd. and another vs. Dollydas*** reported in ***(1999) 4 SCC 450*** at paragraph 9 held as follows:

> *"9. We may now advert to the contention that the writ remedy is not appropriate in this case. Where interpretation of a contract arises in relation to immovable property and in working such a contract or*

relief thereof or any other fallout thereto may have the effect of giving rise to an action in tort or for damages, the appropriate remedy would be a civil suit. But if the facts pleaded before the court are of such a nature which do not involve any complicated questions of fact needing elaborate investigation of the same, the High Court could also exercise writ jurisdiction under Article 226 of the Constitution in such matters. There can be no hard and fast rule in such matters. When the High Court has chosen to exercise its powers under Article 226 of the Constitution we cannot say that the discretion exercised in entertaining the petition is wrong."

36. Recently, the Hon'ble Supreme Court in the case of ***Neha Chandrakanth Shroff and another vs. State of Maharastra and others*** reported in ***2025 SCC Online SC 777*** at paragraph 10 to 12 held as follows:

"10. To ask the appellants to file a suit and recover the possession would be like adding insult to the injury. At this point of time, if the appellants are asked to institute a suit, we wonder how many years it would take by the time the litigation would come to an end if

at all it reaches upto the highest Court of the country. These are the hard facts, the High Courts are expected to keep in mind in today's times.

11. The rule of exclusion of writ jurisdiction by availability of an alternative remedy is a rule of discretion and not one of compulsion. There can be many contingencies in which the High Court may be justified in exercising its writ jurisdiction inspite of availability of an alternative remedy.

12. This is one of those cases wherein the High Court should have readily exercised its writ jurisdiction. The constitutional powers vested in the High Court or the Supreme Court cannot be fettered by any alternative remedy available to the party concerned. Injustice, whenever and wherever it takes place, should be struck down as an anathema to the rule of law and the provisions of the Constitution."

37. In view of the declaration of law by the Hon'ble Supreme Court in the aforementioned judgments, I am of the considered opinion that the contention advanced by the learned counsel appearing for the respondent No.4-MESCOM, seeking to relegate the

petitioner-Mutt to the competent Civil Court for recovery of rent, particularly when the annual rent payable is a meagre sum of Rs.275/- is untenable and the respondent No.4-MESCOM is an instrumentality of the State within the meaning of Article 12 of the Constitution of India, cannot raise such objections contrary to Article 14 of the Constitution of India. The respondent No.4-MESCOM being acted arbitrarily in withholding payment of the annual rent of Rs.275/- payable to the petitioner-Mutt since the year 2017 and such conduct and attitude on the part of respondent No.4-MESCOM deserve to be deprecated.

38. In the facts and circumstances of the case, I am of the opinion that this is a fit case for exercise of the extraordinary, equitable and discretionary writ jurisdiction of this Court under Article 226 of the Constitution of India to grant appropriate relief to the

petitioner-Mutt. The petitioner-Mutt has made out a case for interference by this Court as to direct the respondent No.4-MESCOM to pay the arrears of rent due payable under the Lease Deed. Further, the conduct and callousness exhibited by respondent No.4-MESCOM in withholding the rent and failing to consider the petitioner's request for enhancement thereof despite the earlier orders passed by this court, referred to above, are contrary to the principles of fairness, reasonableness and legitimate expectation on the part of the petitioner-Mutt. Hence, I pass the following:

ORDER

i. The writ petitions are ***allowed***.

ii. Respondent No.4-MESCOM is directed to pay the arrears of rent due and payable to the petitioner-Mutt within a period of four

weeks from the date of receipt of a certified copy of this order.

iii. Respondent No.4-MESCOM shall maintain the nature and character of the subject land in accordance with the terms and conditions of the Lease Deed dated 27.11.1937, without undertaking any alteration or change thereto and further directed not to establish Sub-Station, without there being enhancement of fair and reasonable rent till the efflux of period stipulated in the Lease Deed.

iv. The Deputy Commissioner, Udupi, is directed to consider the representations dated 14.02.2023, 07.12.2023 and 08.09.2026 (Annexures-A to A2 in W.P. No.29451 of 2026) and take an appropriate

decision thereon in accordance with law, within an outer limit of four weeks from the date of receipt of a certified copy of this order.

v. Respondent No.4-MESCOM, is directed to pay cost of Rs.25,000/- to the petitioner-Mutt, as litigation expenses.

SD/-
(E.S.INDIRESH)
JUDGE

SB
List No.: 1 Sl No.: 70