HC-KAR

NC: 2026:KHC:62923
WP No. 9073 of 2025

CNR: KAHC010208792025

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF NOVEMBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE B.PRAMOD

WRIT PETITION NO. 9073 OF 2025 (GM-RES)

BETWEEN:

SMT RAJEEVI SHEDTHI
AGED ABOUT 85 YEARS,
W/O LATE MUDDANNA SHETTY
HEJAMADI PADUMANE
HEJAMADI
UDUPI DISTRICT - 574103

...PETITIONER

(BY SRI. RANJAN KUMAR K.,ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REP BY ITS
PRINCIPAL SECRETARY
KARNATAKA PUBLIC
WORKS DEPARTMENT
VIKASA SOUDHA
AMBEDKAR VEEDHI
BANGALORE – 560001

2. ASSISTANT EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT
NO.1 SUB DIVISION,
UDUPI DISTRICT - 576101

...RESPONDENTS

(BY SRI. MAHANTESH SHETTAR, AGA)

Digitally signed by SHARADAVANI B
Location: HIGH COURT OF KARNATAKA

CNR: KAHC010208792025

THIS WP IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE NOTICE DATED 17/02/2025 IN SA.KA.E/LOEUUVI/UDUPI/ UNAUTHORISEDENCROCH/HEJAMAADI/UPLOKAYAUKTAA/2024-25/A.E.(KA), ISSUED BY THE R2 (ANNX-A) IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE B.PRAMOD

ORAL ORDER

The petitioner in the present writ petition has called in question the notice dated 17.02.2025 issued by respondent No.2, produced at Annexure-A.

2. It is the case of the petitioner that she is a permanent resident of Hejamadi Village, Kapu Taluk, Udupi District, and is carrying on poultry business in accordance with the norms prescribed by the Gram Panchayat. The petitioner claims to be the owner of land bearing Sy.No.93/A, measuring 0.18 cents, situated at Hejamadi Village, Kapu Taluk, Udupi District. The revenue

records pertaining to the said property stand in the joint names of the petitioner and her children. A copy of the Record of Rights, Tenancy and Crops (RTC) is produced at Annexure-B. It is further contended that, except the aforesaid property, the petitioner and her family members do not own any other land.

3. It is further contended that the petitioner had applied for conversion of the aforesaid land from agricultural to non-agricultural purposes and obtained a conversion order dated 29.03.2019 from the Tahsildar, Kapu Taluk, a copy of which is produced at Annexure-C.

4. The petitioner further claims that she had applied to the Hejamadi Gram Panchayat seeking permission to establish a chicken stall in the aforesaid survey number. Accordingly, the Gram Panchayat issued a licence dated 28.09.2021 permitting the petitioner to operate a chicken stall, a copy of which is produced at Annexure-D. It is further stated that the Gram Panchayat had also issued a

No Objection Certificate dated 05.11.2020 for obtaining an electricity connection to Shop No.4-24/A(1)A, a copy of which is produced at Annexure-E.

5. It is further contended that the petitioner, who is aged about 85 years and is a senior citizen, is solely dependent upon the income derived from the chicken stall for her livelihood and that of her family members. It is submitted that the said business constitutes their only source of livelihood.

6. When matters stood thus, the petitioner received the impugned notice issued by respondent No.2 directing her to vacate the shop within seven days from the date of receipt thereof, on the ground that the shop had been constructed within the road margin.

7. It is further contended that, upon receipt of the impugned notice, the petitioner approached the office of respondent No.2 to ascertain the reasons for issuing the same without affording her an opportunity of hearing.

Upon verification, the petitioner learnt that certain private parties had lodged a complaint before the Karnataka Lokayukta, pursuant to which the Upa Lokayukta, Karnataka, had called for a report from the office of the Chief Executive Officer, Zilla Panchayat, Udupi, as referred to in the impugned notice.

8. It is the grievance of the petitioner that respondent No.2, without issuing any prior notice or affording her a reasonable opportunity of hearing, proceeded to issue the impugned notice directing her to vacate the shop within seven days from the date of its receipt. Being aggrieved by the same, the petitioner has approached this Court challenging the validity of the notice at Annexure-A.

9. Learned counsel for the petitioner principally contends that the impugned notice at Annexure-A has been issued in violation of the principles of natural justice, inasmuch as no reasonable opportunity of hearing was

afforded to the petitioner before directing her to vacate the premises. It is further contended that the impugned action of respondent No.2 is arbitrary, illegal and violative of Articles 14 and 21 of the Constitution of India and, therefore, warrants interference by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India.

10. Learned Additional Government Advocate appearing for the respondents is unable to point out from the records any material to establish that the petitioner was afforded an opportunity of hearing prior to passing the impugned order at Annexure-A.

11. Having heard learned counsel for the parties and upon perusal of the material placed on record, the following point arises for consideration:

> *"Whether the impugned notice dated 17.02.2025 issued by respondent No.2 at Annexure-A, directing the petitioner to vacate the premises within seven days without affording her a reasonable opportunity of hearing, is sustainable in law?"*

12. It is not in dispute that the petitioner is carrying on business in the premises in question and that respondent No.2 has issued the impugned notice at Annexure-A directing her to vacate the same within seven days on the ground that the shop has been constructed within the road margin. The petitioner has produced the revenue records, conversion order, licence issued by the Gram Panchayat and the No Objection Certificate relating to the electricity connection in support of her claim that she is carrying on business in the premises in accordance with law.

13. The question as to whether the construction made by the petitioner falls within the road margin or constitutes an unauthorised encroachment is a matter requiring examination by the competent authority with reference to the relevant records and applicable provisions of law. This Court, in the present proceedings, does not propose to adjudicate upon the correctness of the

petitioner's claim of ownership or the legality of the construction.

14. Before initiating any action affecting the civil rights of the petitioner, the respondents ought to have afforded her a reasonable opportunity of hearing and of putting forth her contentions. In the present case, learned Additional Government Advocate appearing for the respondents is unable to point out from the records any material to establish that the petitioner was afforded an opportunity of hearing prior to passing the impugned order at Annexure-A. Thus, it is evident that the impugned order directing the petitioner to vacate the premises within seven days has been passed without affording her a reasonable opportunity of hearing. The procedure adopted by respondent No.2 is therefore in violation of the principles of natural justice and cannot be sustained in law.

15. Further, the action of respondent No.2 in directing the petitioner, who is a senior citizen aged about 85 years, to vacate the premises within seven days, without affording her a reasonable opportunity of hearing, is manifestly arbitrary and violative of Article 14 of the Constitution of India. It is also relevant to note that the petitioner claims that the business carried on in the premises constitutes the sole source of livelihood for herself and her family members. Any action resulting in deprivation of such livelihood, without following the procedure established by law and adhering to the principles of natural justice, would also offend the protection guaranteed under Article 21 of the Constitution of India. Thus, the impugned action, having been taken without affording the petitioner an opportunity of hearing, is unsustainable in law, being violative of the principles of natural justice and the constitutional guarantees under Articles 14 and 21 of the Constitution of India.

16. It is well settled that where an administrative action entails adverse civil consequences, the authority concerned is required to adhere to the principles of natural justice, unless expressly excluded by law. An order directing a person to vacate premises from which she claims to be carrying on her livelihood necessarily entails civil consequences. Therefore, before passing any final order directing removal or eviction, the competent authority is required to afford the affected person a reasonable opportunity of putting forth her objections.

17. In the facts and circumstances of the present case, this Court is of the considered view that the ends of justice would be met by directing that the impugned notice at Annexure-A be treated as a show-cause notice, thereby enabling the petitioner to submit her objections and the competent authority to consider the same in accordance with law. Such a course would safeguard the petitioner's right to a reasonable opportunity of hearing without

interfering with the statutory powers of the respondents to take appropriate action against any unauthorised construction or encroachment, if established in accordance with law.

18. Accordingly, the point framed for consideration is answered by holding that the impugned notice at Annexure-A, insofar as it directs the petitioner to vacate the premises without affording her a reasonable opportunity of hearing, cannot be acted upon as a final order of eviction. The same shall, however, be treated as a show-cause notice, subject to the directions issued hereunder:

ORDER

i. The writ petition is disposed of.

ii. The impugned notice dated 17.02.2025 issued by respondent No.2 at Annexure-A shall be treated as a show-cause notice.

iii. The petitioner is directed to submit her reply to the said notice within a period of four weeks from the date of receipt of a copy of this order.

iv. Upon receipt of such reply, respondent No.2 shall consider the same in accordance with law, afford the petitioner a reasonable opportunity of personal hearing and thereafter pass an appropriate order, in accordance with law, and communicate the same to the petitioner.

v. It is made clear that this Court has not expressed any opinion on the merits of the matter, and all contentions of the parties are kept open. This order shall not preclude the respondents from taking appropriate action in accordance with law, after complying with the aforesaid directions.

No order as to costs.

Sd/-
(B.PRAMOD)
JUDGE

BSV
List No.: 1 Sl No.: 8