

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 30<sup>TH</sup> DAY OF JANUARY, 2025****BEFORE****THE HON'BLE MR JUSTICE N S SANJAY GOWDA****WRIT PETITION NO. 4183 OF 2024 (LB-BMP)****BETWEEN:**

1. DR H M BASAVARAJA  
S/O LATE H.M. MALLIKARJUNAPPA,  
AGED ABOUT 70 YEARS,  
NO.100 (OLD NO. 52)  
RAILWAY PARALLEL ROAD,  
KUMAR PARK WEST, BANGALORE-560020

...PETITIONER

(BY SRI. M M ASHOKA., ADVOCATE)

**AND:**

1. CHIEF COMMISSIONER  
BRUHAT BENGALURU MAHANAGARA PALIKE,  
HUDSON CIRCLE,  
BENGALURU-560002
2. ASSISTANT EXECUTIVE ENGINEER  
VASANTH NAGAR SUB-DIVISION,  
BBMP, BENGALURU  
AND DELEGATED AUTHORITY,  
XJP2 8 CF, NOAH ST,  
SWAMY SHIVANANDAPURAM,  
SHIVAJI NAGAR, BENGALURU-560053

...RESPONDENTS

(BY SRI. BATHE GOWDA K.V., ADVOCATE)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA., PRAYING TO QUASH THE ANNEXURE-A IN DISMISSING THE APPEAL NO. 144/2022 DTD 4.03.2023 PASSED BY THE R-1 AND ALSO ANNEXURE-B THE CONFIRMATION OF THE PROVISIONAL ORDER DATED





31.05.2022 PASSED BY THE R-2 BEARING NO. AEE /VN CO/058/22-23, ETC.

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

CORAM: HON'BLE MR JUSTICE N S SANJAY GOWDA

**ORAL ORDER**

1. A provisional order was issued, which indicated that the petitioner had left more than the required setbacks in front of his property and to the left of his property, but there was a violation insofar as it related to the floor area ratio and the coverage and also the height of the building.
2. Learned counsel appearing for the petitioner points out that a reply was given by the petitioner to the provisional order in which the petitioner had actually sought for seven additional days time to file his reply and it is also stated there that an application for modification of the sanction plan was also made on 18.10.2019. However, despite this reply, a confirmatory order has been passed and the same has also been confirmed in appeal. In fact, the



appellate authority at paragraph No.11 of its order has stated that the petitioner has not filed his objections or his explanation to the provisional order and therefore, there was no merit in the appeal.

3. In my view, having regard to the fact that the petitioner had left more than the required setbacks and has also sought for additional time apart from contending that he had applied for modified sanction plan, the orders impugned cannot be sustained.
4. Consequently, the order of the appellate authority and the order of confirmation is set aside and the petitioner is permitted to file his objections to the provisional order within two weeks from today. If such objections are filed, the concerned authority shall consider the matter on merits and pass appropriate orders. If it is also permissible for the petitioner to seek for regularization or for applying for a modified sanction plan, the same shall also be



permitted and necessary orders be passed on the application, if any, pending regarding modification.

5. This writ petition is accordingly ***allowed***.
6. In view of the disposal of the petition, all pending interlocutory applications, if any, stand disposed of.

**Sd/-**  
**(N S SANJAY GOWDA)**  
**JUDGE**

GSR  
List No.: 1 Sl No.: 2