

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 25TH DAY OF JUNE, 2021

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.6774/2021 (BDA)

C/W

WRIT PETITION No.6199/2021 (BDA)

WRIT PETITION No.6953/2021 (BDA)

WRIT PETITION No.6955/2021 (BDA)

IN WRIT PETITION No.6774/2021

BETWEEN

1. SRI.M.MURALI KUMAR
S/O C MUNISWAMY
AGED ABOUT 47 YEARS,
2. SMT.SREEBRUNDA
W/O SRI M.MURALI KUMAR
AGED ABOUT 38 YEARS,

BOTH THE PETITIONERS ARE
R/O NO.924, 9TH CROSS,
27TH MAIN, SECTOR-1, H.S.R.LAYOUT,
BENGALURU – 560 102.

... PETITIONERS

(BY SRI D.P.MAHESH, ADVOCATE (VIDEO CONFERENCING))

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF URBAN DEVELOPMENT
M S BUILDING
BENGALURU – 560 001.
2. BENGALURU DEVELOPMENT AUTHORITY
REPRESENTED BY ITS COMMISSIONER
KUMARA PARK WEST
BENGALURU-560052.
3. THE DEPUTY COMMISSIONER
BENGALURU URBAN DISTRICT
KANDAYA BHAVANA
K G ROAD,
BENGALURU – 560 001.
4. THE SPECIAL LAND ACQUISITION OFFICER
DEPARTMENT OF REVENUE
VISHWESHWARAIHA TOWER
BENGALURU – 560 001.
5. THE TAHSILDAR
BENGALURU NORTH TALUK
KANDAYA BHAVANA
K G ROAD
BENGALURU – 560 001.

... RESPONDENTS

(BY SMT.M.C.NAGASHREE, AGA FOR R1, R3 TO R5;
SRI K.KRISHNA, ADVOCATE FOR R2 (VIDEO CONFERENCING))

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DECLARE THAT THE ACTION OF R-1 TO 5 IN FORCIBLE DISPOSSESSION OF THE PETITIONER FROM THE SCHEDULE PROPERTY AND FORMATION OF PROPOSED PARK OVER THE SAME IS ILLEGAL, ARBITRARY AND WITHOUT AUTHORITY AND THE SAME IS IN VIOLATION OF

PRINCIPLES OF NATURAL JUSTICE AND ARTICLE 14 AND 300-A OF
THE CONSTITUTION OF INDIA AND ETC.,

IN WRIT PETITION No.6199/2021

BETWEEN

MRS.ROOPA M.,
W/O LAKSHMIKANTHA B.K.,
AGED ABOUT 33 YEARS,
R/AT #356/B, 8TH CROSS, 9TH MAIN,
B.C.C. LAYOUT, ATTIGUPPE,
VIJAYANAGARA – 560 040.

... PETITIONER

(BY SMT.M.C.NAGASHREE, AGA FOR R1, R3 TO R5;
SRI K.KRISHNA, ADVOCATE FOR R2 (VIDEO CONFERENCING))

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF URBAN DEVELOPMENT
M.S.BUILDING,
BENGALURU – 560 001.
2. THE BENGALURU DEVELOPMENT AUTHORITY
REPRESENTED BY ITS COMMISSIONER
KUMARA PARK WEST
BENGALURU – 560 052.
3. THE DEPUTY COMMISSIONER
BANGALORE URBAN DISTRICT
KANDAYA BHAVANA
K.G.ROAD, BENGALURU – 560 001.
4. THE SPECIAL LAND ACQUISITION OFFICER
DEPARTMENT OF REVENUE
VISHWESHWARAIHA TOWER,
BENGALURU – 560 001.

5. THE TAHASILDAR
BANGALORE NORTH TALUK
KANDAYA BHAVANA
K.G.ROAD, BENGALURU – 560 001.

... RESPONDENTS

(BY SMT.M.C.NAGASHREE, AGA FOR R1, R3 TO R5;
SRI K.KRISHNA, ADVOCATE FOR R2 (VIDEO CONFERENCING))

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IN WRIT PETITION No.6953/2021

BETWEEN

SMT.LAKSHMAMMA
W/O A.B.SREEKANTAIHAH,
AGED ABOUT 68 YEARS,
RESIDING AT C/O NO.11,
11TH BLCOK, BANASHANKARI 6TH STAGE,
BENGALURU – 560 060.

... PETITIONER

(BY SRI D.P.MAHESH, ADVOCATE (VIDEO CONFERENCING))

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF URBAN DEVELOPMENT,
M.S.BUILDING,
BENGALURU - 560 001.
2. THE BENGALURU DEVELOPMENT AUTHORITY

REPRESENTED BY ITS COMMISSIONER,
KUMARA PARK WEST,
BENGALURU 560 052.

3. THE DEPUTY COMMISSIONER
BENGALURU URBAN DISTRICT,
KANDAYA BHAVANA,
K.G.ROAD,
BENGALURU – 560 001.
4. THE SPECIAL LAND ACQUISITION OFFICER
DEPARTMENT OF REVENUE,
VISHWESHWRAIAH TOWER,
BENGALURU – 560 001.
5. THE TAHASILDAR
BANGALORE NORTH TALUK,
KANDAYA BHAVANA,
K.G.ROAD,
BENGALURU – 560 001.

... RESPONDENTS

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IN WRIT PETITION No.6955/2021

BETWEEN

THE JANATHA SEVA CO-OPERATIVE
BANK LIMITED
OFFICE AT NO.14, RAJATHA BHAVAN, 1ST MAIN,

HAMPINAGARA, VIJAYANAGARA,
BENGALURU – 560 104.
REPRESENTED BY ITS
CHIEF EXECUTIVE OFFICER,
SMT. BHAGYA S.

... PETITIONER

(BY SRI D.P.MAHESH, ADVOCATE (VIDEO CONFERENCING))

AND

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY,
DEPARTMENT OF URBAN DEVELOPMENT M.S.BUILDING,
BENGALURU – 560 001.
2. THE BENGALURU DEVELOPMENT AUTHORITY
REPRESENTED BY ITS COMMISSIONER,
KUMARA PARK WEST,
BENGALURU – 560 052.
3. THE DEPUTY COMMISSIONER
BENGALURU URBAN DISTRICT,
KANDAYA BHAVAN,
K.G.ROAD, BENGALURU 560 001.
4. THE SPECIAL LAND ACQUISITION OFFICER
DEPARTMENT OF REVENUE,
VISHWESHWARAI AH TOWER,
BANGALURU – 560 001.
5. THE TAHASILDAR
BENGALURU NORTH TALUK,
KANDAYA BHAVANA,
K.G.ROAD,
BENGALURU – 560 001.

... RESPONDENTS

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THESE WRIT PETITIONS COMING ON FOR FURTHER ORDERS THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

These petitions, though listed for orders, with the consent of the learned counsel for the parties, are taken up for final disposal.

2. These writ petitions are filed by the petitioners seeking a writ in the nature of *mandamus* directing the respondents not to dispossess them from their properties for formation of proposed park, which is contrary to its own approved residential layout plan. As the action of the respondents is without authority and violation of Articles 14 and 300A of the Constitution of India the petitioners seek to conduct a survey of the disputed property as per the official memorandum approving the layout plan and such relinquishment deed.

3. Heard Sri D.P.Mahesh, learned counsel appearing for the petitioners, Smt.M.C.Nagashree, learned Additional Government Advocate for first, third to fifth respondents and Sri K. Krishna, learned counsel appearing for the second respondent, in all the petitions.

4. Brief facts of the case leading to the filing of the petitions as borne out from the pleadings are as follows:

The petitioners claim to be the owners in possession of their respective sites. The sites are formed in survey No.30 of Kottigepalya, Vinayaka Layout, Nagarbhavi Village, Bengaluru North Taluk. Few of the petitioners have purchased from their earlier owners and few are the allottees of the Society. The petitioners have also placed on record certain sale deeds and Khata certificates issued by the Bruhat Bengaluru Mahanagara Palike, to establish their ownership on their respective sites, in these petitions. Therefore, the petitioners claim to have fenced their properties and have protected their ownership by doing so.

5. Learned counsel appearing for the petitioners would submit that the Society has submitted certain representations to the respondents - Bengaluru Development Authority (hereinafter referred to as 'the BDA' for short) and the said representations are placed before the Apex Court in the contempt case arising out of the action of non-implementation of its order dated 26.08.2019, in Civil Appeal No.3600/2011, which is pending consideration before the Apex Court. He would further submit that the petitioners therein are given an opportunity to submit their say before the Authorities and they would demonstrate that the properties come within the ambit of the judgment passed by the Apex Court and would rely on the judgment of a Co-ordinate Bench of this Court in writ petition No.15585/2020 connected with writ petition No.15601/2020 disposed on 01.02.2020, wherein, the Co-ordinate Bench after considering the judgment of the Apex Court has directed the petitioners therein to be heard in the matter and then pass appropriate orders to be passed in accordance with law.

6. Learned Additional Government Advocate submits that they have complied with the judgment of the Apex Court in its entirety with regard to the properties on the disputed area, but would submit that if the petitioners are to be heard, they would hear the petitioners and pass appropriate orders in accordance with law, as nothing is left for the State now, to protect the rights of the petitioners as the State has implemented the judgment of the Apex Court. Be that as it may.

7. The petitioners allege that the portion which the Apex Court has directed to be taken up for maintaining it as a park is totally different than that what the State has done in the case of the areas owned by the petitioners. Therefore, the third respondent – Deputy Commissioner is directed to pass appropriate orders in accordance with law, after hearing the petitioners and identifying the properties of the petitioners, if any.

8. Without expecting further notice, the petitioners are directed to appear before the third respondent - the Deputy

Commissioner, Bengaluru Development Authority on
05.07.2021 at 3.00 p.m.

9. It is made clear that this Court has not pronounced upon the merit of the matter or the right of the petitioners over and above the order passed by the Apex Court in Civil Appeal No.3600/2011.

10. The third respondent – the Deputy Commissioner shall comply with this order and pass appropriate orders within four weeks from 05.07.2021.

11. With the aforesaid observations, the writ petitions stand disposed.

**Sd/-
JUDGE**

nvj
CT:MJ