

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU****DATED THIS THE 16TH DAY OF JANUARY, 2025****BEFORE****THE HON'BLE MR JUSTICE M.G.S. KAMAL****WRIT PETITION NO. 34508 OF 2017 (BDA)****BETWEEN:**

1. SRI. A. RAMASUBBAIAH
AGED ABOUT 59 YEARS
S/O NAGIAIAH
R/AT NO.81, NEW ANDHRA LANE
VIVEKNAGAR
BENGALURU-560 047.

REPRESENTED BY HIS GPA HOLDER
SRI N.S.JANAKIRAMAN
AGED ABOUT 75 YEARS,
S/O N. SHAMANNA
R/AT NO.516, 'LAKSHMI NILAYAM',
5TH MAIN ROAD, JAI JAWAN NAGAR,
BANASWADI POST, BENGALURU-560 043.

2. SMT.S.LAKSHMIKANTHAMMA
AGED ABOUT 66 YEARS,
W/O N.S.JANAKIRAMAN
R/AT NO.516
LAKSHMI NILAYAM,
5TH MAIN ROAD,
JAI JAWAN NAGAR,
BANASWADI POST,
BENGALURU-560 043.

...PETITIONERS

(BY SRI. R. BHADRINATH.,ADVOCATE)

AND:

1. BANGALORE DEVELOPMENT AUTHORITY
T.CHOWDAIAH ROAD,





K.P.WEST, BENGALURU-560 020
BY ITS COMMISSIONER.

2. SRI. K. GOPALAKRISHNA
MAJOR IN AGE
S/O LATE KRISHNOJI RAO
R/AT NO.1, YAMUNA BAI ROAD
MADHAVANAGAR
BENGALURU - 560 001.
3. SMT. C.K. KUSUMA RANI
MAJOR AGE
W/O C.S. BALAKRISHNA
R/AT NO.173,
ADAGURU A. CHOLENAHALLI
KASABA HOBLI
CHENNARAYA PATNA TALUK
HASSAN DISTRICT - 573 116.

...RESPONDENTS

(BY SRI. B.S. KARTHIKEYAN.,ADVOCATE FOR R1;
V/O DATED 23.04.2024 NOTICE TO R2 DISPENSED WITH
SRI. H.S. RAGHAVENDRA, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF CONSITUTION OF INDIA PRAYING TO DIRECT THE
RESPONDENT/BDA TO EXECUTE AND REGISTER THE
ABSOLUTE SALE DEED IN RESPECT OF THE SCHEDULE SITE IN
FAVOUR OF EITHER THE P-1 AS REPRESENTED BY ITS GPA
HOLDER SRI.N.S.JANAKIRAMAN OR IN THE NAME OF SRI.N.S.
JANAKIRAMAN OR IN THE NAME OF THE P-2.

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

CORAM: HON'BLE MR JUSTICE M.G.S. KAMAL



ORAL ORDER

Petitioners are before this Court seeking following reliefs;

(a) to issue a writ of mandamus or such other appropriate writ or orders or directions, directing the respondent / BDA to execute and register the absolute sale deed in respect of the schedule site in favor of either the 1st petitioner as represented by its GPA holder Sri.N.S.Janakiraman or in the name of Sri.N.S.Janakiraman or in the name of the 2nd petitioner.

(b) to award costs and grant such other relief as this Hon'ble Court deems fit and expedient in the circumstances of the case, in the interest of justice and equity.

ADDITIONAL PRAYER

(c) To declare that the sale deed dated 20/02/2019 executed by the BDA/ 1st respondent in favor of the respondent No.2 Sri.K.Gopalakrishna, which deed is registered in the office of the Addl. Sub-Registrar, BDA, Bengaluru city district as No.BDA-1-08773-2018-19 in Book-I and stored in CD No.BDAD 274 dated 22/02/2019 (i.e. Annexure-R) as illegal and null and void ab-initio and to consequently direct the Addl. Sub-Registrar (BDA), Bengaluru city district to make an entry in all the concerned registers in this regard.

ADDITIONAL PRAYER

(d) To declare that the sale deed dated 14/08/2019 executed by the respondent No.2 in favor of the respondent No.3/Smt. Kusuma Rani, which deed is registered in the office of the senior sub register, Vijayanagara, Bengaluru city District as No.VJN-1-04387-2019-20 in Book-I and stored in C.D. No.VJND377 dated 14.08.2019 (i.e.



Annexure-S) as illegal and null and void ab-initio and to consequently direct the Addl. Sub-Registrar (BDA), Bengaluru city district to make an entry in all the concerned registers in this regard.

2. Case of the petitioners is that petitioner No.1 -A Ramasubbaiah was allotted with a site bearing No.732 situated at Nagarabhavi 2nd stage, 11th block, BDA layout, Yeshwanthpura, Bangalore, vide letter of allotment dated 22.03.1988 produced at Annexure-B. That the said Ramasubbaiah had executed a power of attorney dated 10.11.1992 in favour of one N.S.Janakiraman as per Annexure-C. That the said N.S.Janakiraman in turn had executed a deed of sale in favour of his wife - the petitioner No.2.

3. It appears that respondent -BDA had cancelled the allotment that was made in favour of the petitioner No.1-Sri.A Ramasubbaiah and thereafter allotted the site executing the deed of sale in favour of one K. Gopalakrishna -respondent No.2 herein who in turn has sold the property in favour of one Smt. C.K.Kusuma Rani- the respondent No.3 herein. Hence, the petitioners are before this Court the seeking reliefs as noted above.



4. Learned counsel for the petitioners submits that the allotment which was made in favour of the petitioner No.1 was in accordance with law. The petitioner No.2 had purchased the same through the power of attorney holder of the petitioner No.1 and respondent -BDA without following due process of law have illegally allotted the very same site and executed the sale deed in favour of the respondent No.2 who in turn has sold the same to the respondent No.3.

5. Counsel for the respondent -BDA in response submits that petitioner No.1- A. Ramasubbaiah had passed away as far as back in the year 1978 and a police complaint in this regard has also been registered before Sheshadripuram Police Station. He further submits that on realizing about the mischief played in the name of Ramasubbaiah, allotment was cancelled and subsequent allotment was made in favour of respondent No.2. A suit in this regard has also been filed by the respondent -BDA in O.S.No.662/2020 in which the petitioners herein have also been arrayed as parties. Hence, seeks for dismissal of the petition.

6. Heard. Perused the records.



7. From the averments made in the petition, documents enclosed and submission noted hereinabove it is clear that complicated question of facts are involved in this matter. That apart, a suit in O.S.No.662/2020 has also been filed by the respondent -BDA with regard to the very same subject matter which is pending consideration.

8. In that view of the matter this Court do not see any reason to show indulgence under Article 226 of the Constitution of India. No grounds are made out. Hence petition is ***dismissed.***

Notwithstanding the dismissal of the petition, petitioners at liberty to seek such remedy as may be available under law including the one in which suit is stated to have been pending consideration.

It is made clear no opinion is expressed with regard to the merits of the case of the parties.

**Sd/-
(M.G.S. KAMAL)
JUDGE**

RU, List No.: 1 SI No.: 24