

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU**

**DATED THIS THE 6<sup>TH</sup> DAY OF JANUARY, 2023**

**BEFORE**

**THE HON'BLE MR JUSTICE R DEVDAS**

**WRIT PETITION NO. 25992 OF 2022 (KLR-RES)**

**BETWEEN:**

SMT. NALINAKSHI. N. K.  
AGED ABOUT 49 YEARS,  
W/O. KANTHARAJ. N. N,  
R/AT BADUBANAHALLI VILLAGE,  
ANKANAHALLI,  
SOMWARPET TALUK,  
KODAGU DISTRICT-571 235.

...PETITIONER

(BY SRI. PUNDIKAI ISHWARA BHAT., ADVOCATE)

**AND:**

1. THE STATE OF KARNATAKA  
REP. BY ITS SECRETARY,  
DEPARTMENT OF REVENUE,  
M.S. BUILDING,  
BANGALORE-560 001.
2. THE DEPUTY COMMISSIONER  
KODAGU DISTRICT,  
MADIKERI-571 235.
3. THE TAHSILDAR  
SOMWARPET TALUK,  
SOMWARPET,  
KODAGU DISTRICT-571 236.
4. THE REVENUE INSPECTOR  
SHANIVARASANTHE HOBLI,

SOMWARPET TALUK, SOMWARPET,  
KODAGU DISTRICT-571 236

5. THE COMMITTEE FOR REGULARISATION  
SOMWARPET TALUK, SOMWARPET,  
KODAGU DISTRICT-571 236,  
REP. BY ITS CHAIRMAN.
6. SRI. N. S. HARISH  
MAJOR, S/O. SRI. SIDDAPPA,  
R/AT NAGAWARA VILLAGE,  
ANKANAHALLI POST, SOMWARPET TALUK,  
KODAGU DISTRICT-571 235.

...RESPONDENTS

(BY SRI. SESHU V., HCGP FOR R1 TO R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 &  
227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE  
ORDER DATED 05.12.2022 PASSED BY THE TAHSILDAR/ R3 IN  
PROCEEDINGS NO. TST/ JAGA/ITARE/02/2013-14 AT  
ANNEXURE- A. AND ETC.,

THIS WRIT PETITION COMING ON FOR PRELIMINARY  
HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

**R.DEVDAS J., (ORAL):**

Learned HCGP takes notice for respondents No.1 to  
5.

Notice to respondent No.6 is not necessary for the  
following reasons:

2. The petitioner is aggrieved of the impugned order dated 05.12.2022 at Annexure 'A' passed by the Tahsildar, Somwarpet Taluk, directing that the petitioner shall be evicted from the land in question as the petitioner is in unauthorized occupation of the same.

3. The learned HCGP has furnished a copy of the order dated 17.08.2022 passed by the Deputy Commissioner, Kodagu District, rejecting the application filed in Form No.57 filed by the petitioner on 19.12.2018 seeking regularization of unauthorized occupation of the land in question. A copy of the same is also furnished to the learned Counsel for the petitioner.

4. Learned Counsel for the petitioner submits that the grounds raised in the writ petition is that while the impugned order was passed by the Tahsildar, regard is not had to the application filed by the petitioner in Form No.57. It was therefore sought to be contended that the impugned order could not have been passed by the Tahsildar, since the application filed by the petitioner in Form No.57 seeking regularization of unauthorized

occupation was yet to be considered by the competent authority. Now, however, it appears that the Deputy Commissioner has passed an order on 17.08.2022 rejecting the said application. Learned Counsel submits that apparently the order passed by the Deputy Commissioner is without notifying the petitioner and without giving opportunity of hearing. Moreover, it is sought to be contended at the hands of the petitioner that the Deputy Commissioner could not have rejected the application.

5. Having regard to the subsequent developments, this Court is the considered opinion that the petitioner is required to be given an opportunity to challenge the order passed by the Deputy Commissioner by raising proper grounds. Till then, the possession of the petitioner is also required to be protected.

6. Consequently, the writ petition stands disposed of granting liberty to the petitioner to raise a challenge to the order dated 17.08.2022 said to have been passed by the Deputy Commissioner along with the impugned order

herein dated 05.12.2022 at Annexure 'A', by raising proper grounds. In order to enable the petitioner to challenge the orders, the respondent-authorities are hereby directed not to precipitate the matter any further and not to evict the petitioner from the land in question for a period of six weeks to enable the petitioner to raise a challenge to the said orders.

Ordered accordingly.

**Sd/-  
JUDGE**

JT/-