

IN THE HIGH COURT OF KARNATAKA  
KALABURAGI BENCH

DATED THIS THE 31<sup>ST</sup> DAY OF MAY, 2017

BEFORE

THE HON'BLE MR. JUSTICE B.VEERAPPA

**WRIT PETITION NOS.201844/2017**  
**& 201945-47/2017 (LB-RES)**

BETWEEN

THE COMMISSIONER  
KALABURAGI URBAN  
DEVELOPMENT AUTHORITY  
KALABURAGI – 585 102

... PETITIONER

(BY SRI SHIVAKUMAR TENGLI, ADV.)

AND

1. THE DEPUTY COMMISSIONER  
VIKAS BHAVAN  
KALABURAGI – 585 102
2. THE TAHSILDAR  
KALABURAGI – 585 102
3. THE VILLAGE ACCOUNTANT  
KUSNOOR VILLAGE  
TQ. DIST. KALABURAGI – 585 102
4. THE SUB REGISTRAR  
VIKAS BHAVAN  
KALABURAGI – 585 102
5. M/S SAHARA PRIME CITY LTD.,  
"SAHARA INDIA SADAN" 2-A  
SHAKESPEARE SARANI

KOLKATA WEST BENGAL -529048  
THROUGH ITS AUTHORIZED SIGNATORY  
SRI. SANJAY KUMAR SINGH

6. MR RAMPAL RAWAT S/O FAKIRE RAWAT  
AGE: 41 YEARS, R/O H.NO.529-48  
KHURRUM NAGAR, LAKHNOW U.P.
7. M/S KALASKAR AND ASSOCIATES  
A REGISTERED PARTNERSHIP FIRM  
NO.1-22 TO 1-25 SHARADHA RESIDENCY  
OPP: DIVISIONAL FOREST OFFICE  
SB TEMPLE ROAD, KALABURAGI – 585 102  
REPRESENTED BY ITS PARTNERS
  - I) SRI. HANUMANTA S/O SAMBHANNA NAYAK  
AGE 34 YEARS,  
OCC: KODEKAL TQ: SHORAPUR,  
DIST. YADGIR – 585 202
  - II) SRI. SHANKAR S/O KONDAPPA NAYAK  
AGE 38 YEARS, R/O H.NO.5-2-37  
SHETTY MOHALLA, SHORAPUR  
DIST YADGIR – 585 202
  - III) SRI. UMAPATHY S/O M.SRINIVASA  
AGE 30 YEARS  
R/O NO.2/7, 22<sup>ND</sup> CROSS  
15<sup>TH</sup> MAIN  
HSR CLUB ROAD, HSR LAYOUT  
SECTOR 3, BANGALORE - 02
  - IV) SMT LAXMI W/O DATTATRAYA PATIL  
AGE 34 YEARS  
R/O H.NO.1-892/73/23/1,  
DATTA NILAYA  
OLD JEWARGI ROAD  
SADASHIV NAGAR, KALABURAGI – 585 102
  - V) SRI ALOK S/O LATE CHANDRASHEKAR PATIL  
AGE 32 YEARS  
R/O H.NO.1-892/73/23/1

DATTA NILAYA, OLD JEWARGI ROAD  
SADASHIV NAGAR, KALABURAGI – 585 102

- VI) SRI. ANIL S/O SHANKAR RAO KALASKAR  
AGE 53 YEARS, R/O H.NO.4-601/65 C1  
MAHATMA BASAVESHWAR NAGAR  
KALABURAGI – 585 102
- VII) SRI.SUNIL S/O SHANKAR RAO KALASKAR  
AGE 49 YEARS  
R/O H.NO.4-601/65 C1  
MAHATMA BASAVESHWAR NAGAR  
KALABURAGI – 585 102

... RESPONDENTS

(BY SRI R.V. NADAGOUDA, AAG FOR  
SRI A. SYED HABEEB, AGA FOR R1 TO R4;  
SRI A. VIJAY KUMAR ADV., FOR C/R-7)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENT NO.2 AND 3 NOT ENTER THE NAME OF THE RESPONDENT NO.7 AND ITS PARTNERS OR ANYONE CLAIMING THROUGH OR UNDER THEM IN THE ROR ON THE BASIS OF J FROM ISSUED ON THE SALE DEED ANNEXURE-J AND ETC.

THESE PETITIONS COMING ON FOR PRELIMINARY HEARING THIS DAY, THE COURT MADE THE FOLLOWING:

### **ORDER**

In all these writ petitions, the petitioner –  
Commissioner, Kalaburagi has sought for a writ of

mandamus directing respondent Nos.2 and 3 not to enter the name of respondent No.7 and its partners or anyone claiming through or under them in the ROR on the basis of 'J' form issued as per Annexure-J, the registered sale deed dated 10.04.2017.

2. The said prayer is vehemently opposed by the learned Additional Advocate General appearing for respondent Nos.1 to 4 stating that the negative prayer sought in the writ petitions directing the authorities not to discharge their duty under the provisions of the Karnataka Land Revenue Act. Such a prayer cannot be granted in the writ petitions, especially in view of the under the provisions of Section 128 (4) of the Karnataka Land Revenue Act, 1964.

3. Sri A.Vijay Kumar, learned counsel for respondent No.7 has filed an affidavit dated 31.05.2017 narrating the details, which reads as under:

"I, Anil S/o Shanker Rao Kalaskar, Age: 53 years, Occ: Business, R/o H.No.4-601/65 C-1, M.B.Nagar, Kalaburagi do hereby state on oath as under:

That, I represent M/s.Kalaskar Associates which is arrayed as respondent No.7 in the above case hence I am well acquainted with the facts of the case.

1. That, originally Sahara City Homes through its promoters were the owners and possessors of land Sy.No.78/4, 80/1, 80/2, 80/3, 90/2, 90/3 and 90/4 in all measuring 107 acres and 39 guntas situated at Kusnoor village, Tq. & Dist. Kalaburagi. The Deponent represented by its Partnership firm had purchased the above said survey numbers through sale deeds bearing document No.398, 399, 400 and 447/2017-18, all dated 07.04.2017. The property has been purchased for a valuable sale consideration pursuant to the order passed by the Hon'ble Supreme Court of India in the matter between SEBI and Sahara Group of

Companies. The sale consideration is deposited with SEBI Sahara refund account.

2. The above lands have been already converted into non-agriculture land through the orders of the Deputy Commissioner, dated 31.03.2006 and the layout plan was approved subject to the owners of the land complying with the conditions in the layout approval order. Since the owners could not comply with the conditions and final approval of the layout was not considered by the petitioner and the owners could not form the roads, demarcate the sites including all the civil work of drainage, park and also the CA sites. Though it is a non-agriculture land and since there was no infrastructure development and demarcation of all type of sites in the layout and therefore the deponent partnership firm had to purchase the entire land in the above said survey numbers as N.A. Land.
3. The deponent representing the partnership firm at respondent No.7 undertakes that, they would surrender the CA sites in favour

of the petitioner authority as per the previous approvals, however the deponent can apply afresh for the sanction of the approved layout plan as modified layout plan in so far as residential sites concern, since the erstwhile owners had already deposited the necessary fee for the approval of the layout.”

4. In view of the said affidavit filed by respondent No.7, the learned counsel for the petitioner submits that the writ petitions may disposed of especially in view of paragraph No.3 of the affidavit stated supra.

5. The said submission of learned counsel for the petitioner is placed on record.

6. In view of the undertaking affidavit filed by the respondent No.7, especially in paragraph No.3 of the affidavit dated 31.05.2017 stated supra, the writ

petitions are disposed of as not survive for consideration.

Ordered accordingly.

**Sd/-**  
**JUDGE**

Srt