



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JANUARY, 2023

BEFORE

THE HON'BLE MR JUSTICE R DEVDAS

WRIT PETITION NO. 2136 OF 2023 (KLR-RES)

BETWEEN:

1. SMT. KALYANI
W/O PURUSHOTHAM NAIDU,
AGED ABOUT 35 YEARS,
R/AT NO.220, A K G COLONY,
KACHANAYAKANAHALLI VILLAGE,
JIGANI HOBLI, HENNAGARA POST,
ANNEKAL TALUK,
BENGALORE URBAN DISTRICT – 560 105.

...PETITIONER

(BY SRI. MADHUSUDHAN M N., ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER
BENGALORE URBAN DISTRICT,
KANDAYA BHAVAN,
BENGALORE – 560 001.
2. THE TAHSILDHAR,
ANEEKAL TALUK, ANEKAL,
BENGALORE URBAN DISTRICT – 562 106.

...RESPONDENTS

(BY SRI.SESHU V., HCGP)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226
AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO SET

Digitally
signed by
JUANITA
THEJESWINI
Location:
HIGH
COURT OF
KARNATAKA



ASIDE THE IMPUGNED NOTICE DATED 11.10.2022 ISSUED BY R-2 IN FAVOUR OF THE PETITIONER BEARING NO.L.N.D/C.R/192/2022-23 VIDE ANNEXURE – E AND ETC.,

THIS PETITION COMING ON FOR ORDERS, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

R.DEVDAS J., (ORAL):

Learned High Court Government Pleader is directed to take notice for both the respondents.

2. Learned counsel for the petitioner submits that respondent No.2-Tahsildar, Anekal Taluk, Bengaluru Urban District, considered the grievance of the petitioner along with several other persons and in terms of the policy of the State Government regularized the unauthorized construction put up by the petitioner measuring 32 x 33 feet in Sy.No.100 of Kachanayakanahalli Village, Jigani Hobli, Anekal Taluk, on 06.10.2018 at Annexure-A. Thereafter, a sale deed was also executed in favour of the petitioner by the said Tahsildar and registered before the



Sub-Registrar on 23.02.2021 at Annexure-B. However, the very same Tahsildar has now issued the impugned notice dated 11.10.2022 at Annexure-E, calling upon the petitioner to demolish the construction and handover the vacant possession to the Tahsildar within a period of seven days from the date of notice.

3. Learned counsel submits that the petitioner gave a reply to the notice on 20.10.2022 bringing to the notice of the Tahsildar the 'Hakkupatra' and the sale deed executed by the Tahsildar in favour of the petitioner. In spite of the said reply, pressure is brought on the petitioner to demolish the building and hand over possession, while stating that action is taken in terms of directions issued by this Court in W.P.No.4722/2020 by order dated 25.07.2022. Learned counsel submits that the said writ petition was a Public Interest Litigation, and the Hon'ble Division Bench was of the opinion that though there is an allegation made by the petitioner that Sy.No.100 of Kachanayakanahalli, being a government



land it has been encroached upon by several persons, nevertheless, the Hon'ble Division Bench felt it appropriate to direct at the first instance, the Tahsildar to examine the grievance of the petitioner and take appropriate legal action in accordance with law, after due process and after affording an opportunity of hearing to the concerned persons.

4. Learned counsel points out to paragraph (ii) of the operative portion wherein it was directed that "*the Tahsildar shall cause an enquiry to be made into the grievance and shall be obliged to take an action against the encroachers for the removal of encroachments on the public property with utmost despatch by following the due process of law and by giving opportunity to all concerned.*"

5. Learned counsel would therefore submit that in spite of the petitioner bringing to the notice of the Tahsildar that he himself has passed orders regularizing the unauthorized construction made by the petitioner and



several other persons and that the Tahsildar has issued the certificate regularizing unauthorized occupation and executed a sale deed in favour of the petitioner, nevertheless, the respondent-Tahsildar is indiscriminately trying to take action without application of mind.

6. Learned High Court Government Pleader points out to the impugned notice at Annexure-E and submits that although the Tahsildar has called upon the petitioner to demolish the structure and handover possession, nevertheless, the Tahsildar has also called upon the petitioner to furnish any documents or give a representation on or before 21.10.2022 and the same would be considered.

7. Having heard the learned counsel for the petitioner, learned High Court Government Pleader and on perusing the petition papers, this Court is of the considered opinion that respondent No.2-Tahsildar, Anekal Taluk, has been acting indiscriminately without application



of mind. The Tahsildar could not have issued such a notice, since it is evident from the notice itself that the Tahsildar is aware that the petitioner is in occupation of a residential site measuring 32 x 33 feet. He is also aware that the construction put up by the petitioner has been regularized in accordance with law, and he could not issue such a general notice on the premise that a report was submitted by the concerned revenue officer saying that the petitioner has encroached upon the government land. Moreover, as rightly submitted by the learned counsel for the petitioner, when once the petitioner has issued a reply bringing to the notice of the Tahsildar that a certificate of regularization of unauthorized occupation has been issued in favour of the petitioner by the Tahsildar and further that a sale deed has been executed by the Tahsildar in favour of the petitioner in respect of the property in question, the Tahsildar was required to give an endorsement to the petitioner recalling the notice, having been convinced that the petitioner is not an encroacher of the property in question. On the other hand, pressure is sought to be



brought on the petitioner to demolish the construction and hand over the vacant possession; this action on the part of respondent No.2-Tahsildar, Anekal Taluk, needs to be deprecated.

8. Consequently, the writ petition is allowed. The impugned notice dated 11.10.2022 at Annexure-E is hereby quashed and set aside, nevertheless, if the Tahsildar is of the opinion that no such certificate of regularization was issued in favour of the petitioner or that no sale deed was executed by the Tahsildar in favour of the petitioner, then a fresh notice may be issued by the Tahsildar giving the complete details and thereafter, proceed in accordance with law.

Ordered accordingly.

**Sd/-
JUDGE**