



**IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH**
DATED THIS THE 31ST DAY OF AUGUST, 2024
BEFORE
THE HON'BLE MR. JUSTICE H.P.SANDESH
WRIT PETITION NO. 103539 OF 2024 (LB-RES)

BETWEEN:

BEERAPPA S/O. PARASAPPA DOLLI,
AGE: 50 YEARS, OCC: BUSINESS,
R/O. KANNOLLI, TQ: JAMKHANDI,
DIST: BAGALKOT-587330.

...PETITIONER

(BY SRI. GIRISH A. YADAWAD, ADVOCATE)

AND:

1. THE GRAM PANCHAYAT, KANNOLLI,
REPRESENTED BY ITS PDO,
KANNOLLI, TQ: JAMKHANDI,
DIST: BAGALKOT-587330.
2. THE POLICE SUB-INSPECTOR,
SAVALAGI RURAL POLICE STATION,
SALAVALAGI, TQ: JAMKHANDI,
DIST: BAGALKOT-587330.

...RESPONDENTS

(BY SRI. PRASHANT S. KADADEVAR, ADV. FOR R1;
SRI. ASHOK T. KATTIMANI, AGA FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS NOT DEMOLISH THE SHEDS PUT UP BY THE PETITIONER IN PROPERTY BEARING NO.12 OF KANNOLLI VILLAGE IN JAMKHANDI TALUKA WITHOUT FOLLOWING DUE PROCESS OF LAW AND NOT TO DISPOSSESS THE PETITIONER FROM THE SAID PREMISES, IN THE INTEREST OF JUSTICE AND EQUITY.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



ORAL ORDER

(PER: THE HON'BLE MR. JUSTICE H.P.SANDESH)

Heard the learned counsel for the petitioner and the learned counsel for the respondents.

2. The case of the petitioner is that the petitioner came in possession of the open space and put up a temporary shed and he also paid the tax to respondent No.1 and the petitioner put up a pakka shed with tin roof and continued to be in possession from 2002 and that on 23.03.2024. When the petitioner was in settled possession of the property and put up a shed abutting the existing shed and the respondents came along with men and JCB and threatened to demolish the shed put up by the petitioner. The request of the petitioner not to take high handed action went in vain and thereafter respondents forced the petitioner to submit in writing that he will immediately vacate the premises. Under immense pressure, the petitioner gave a letter in writing stating that he will vacate the premises as soon as possible and thereafter inserted the date in the said letter and have not given a copy of the same to the petitioner and respondents are making effort to



demolish the shed put up by the petitioner and hence, filed the present petition.

3. The learned counsel appearing for the petitioner would submit that the tax has been collected by respondent No.1 in terms of Annexures-A, B and C and he has been in settled possession and also produced the photographs at Annexures-C, C.1 and C.2 and so also Annexures-D, D.1 and D.2 which clearly discloses that they came along with JCB and also submits that in view of the pressure and threat of demolition Annexure-E letter is given for undertaking and the same has been pleaded in the petition and the petitioner may be permitted to give a representation to the respondents and a direction may be given to the respondents to consider the said representation.

4. *Per contra*, learned counsel for the respondents would submit that no such representation is given earlier and now question of giving fresh representation does not arise and apart from that learned counsel also contended that in terms of Annexure-A undertaking was given and now he cannot seek for any such direction and also the construction made by the petitioner is an illegal construction and not having any right and



hence, there cannot be any protection order in favour of the petitioner and petition is liable to be dismissed.

5. The learned counsel also would submit that before going to the spot with JCB, notices are given on 02.01.2024, 06.01.2024 and 08.02.2024 and these notices are suppressed by filing the writ petition and they have not stated anything about the same. Only memo was filed on 26.06.2024 before the Court and interim order was obtained by filing those memo and Court also granted the relief saying that in view of the materials entitled for some protection till the next date of hearing and pass the interim order and when the petitioner has suppressed the fact of issuance of notice, and in spite of notice he did not vacate the premises, went along with JCB to clear the illegal construction and in spite of undertaking was given that going to clear within five days, not cleared the same, and filed the present petition and obtained interim order and hence, the very petition itself is not maintainable.

6. Having heard the learned counsel for the petitioner and also the learned counsel appearing for the respondents and the memos given by the petitioner along with notices were also very clear that notices are given to the petitioner on different



occasions i.e., on 02.01.2024, 06.01.2024 and 08.02.2024 no reply was given and when the respondents went with the JCB to remove the illegal construction made by the petitioner, they also given an undertaking in terms of Annexure-E and also petitioner not placed any material before the Court claiming any right in respect of this property in which he had put up the construction, and only relies upon Annexures-A, B and photographs.

7. The very prayer sought in the petition is that to remove the same only with due process of Law and when there is no any permission is given to put up construction, when an unauthorized construction is made and question of invoking due process of law also does not arise, and tax paid receipt will not confer any right in favour of the petitioner as contended by the petitioner and when such undertaking was given to vacate the same, and instead of vacating the same, had approached this Court and obtained an interim order and when such notices are given before going to remove the same on 02.01.2024, 06.01.2024 and 08.02.2024, the petitioner has not responded to the same and when such being the factual aspects, the illegal construction made by the petitioner cannot be given any



such protection and hence, I do not find any ground made out by the petitioner to grant any relief as sought in the petition by issuing any mandamus to remove the illegal construction to remove the same under due process of law and hence, there is no merit in the petition. In view of the discussions made above, the petition is dismissed.

**Sd/-
(H.P.SANDESH)
JUDGE**

SSP
CT-MCK
List No.: 1 SI No.: 13