



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF SEPTEMBER, 2024

BEFORE

THE HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.26905 OF 2024 (KLR-RES)

BETWEEN:

AFSATH BIBI H A
W/O ABDUL SALAM
AGED ABOUT 37 YEARS
R/AT NO.3RD CROSS
ACHANGI, HALASULIGE
SAKALESH PURA TALUK
HASSAN DISTRICT-573127

...PETITIONER

(BY SRI. SATHISHA D J, ADVOCATE)

AND:

1. STATE OF KARNATAKA
REPRESENTED BY ITS SECRETARY
DEPARTMENT OF REVENUE
VIDHANA SOUDHA
BENGALURU -560001
2. TAHASILDAR
EXECUTIVE MAGISTRATE OFFICE
ADALITHA SOUDHA
SAKALESH PURA
SAKALESH PURA TALUK
HASSAN DISTRICT-573127
3. THE ASSISTANT COMMISSIONER
SAKALESH PURA SUB DIVISION

Digitally signed
by CHAITHRA A
Location: HIGH
COURT OF
KARNATAKA



SAKALESH PURA
SAKALESH PURA TALUK
HASSAN DISTRICT-573127

...RESPONDENTS

(BY SMT.B.P.RADHA, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASHING THE IMPUGNED NOTICE AT ANNEXURE-E, BEARING NO.LND(KA) 130/2024-25, DATED 04-07-2024, ISSUED BY THE TAHASILDAR R2 AND ETC.

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

CORAM: HON'BLE MR JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

Learned AGA accepts notice for the respondents No.1 to 3.

2. The petitioner asserts ownership and possession of a property bearing No.36-504-125B, in Ward No.21, measuring 174.193125 square meter located in Achangi, Sakaleshpura. The petitioner claims that this property was allocated by the Grama Panchayath in favour of the vendor of the petitioner. Subsequently, the petitioner has purchased the property in question under a registered sale



deed dated 17.10.2019. The copy of the registered sale deed is produced as per Annexure-A. To support this claim, the petitioner has produced E-Katha as per Annexure-B, which is presented as evidence of the allotment. Moreover, the petitioner contends that a house has been constructed on this land, and that she has been consistently paying property taxes to the Gram Panchayath. This is substantiated by the tax paid receipt, marked as Annexure-D. Additionally, the petitioner asserts that she has obtained an electricity connection for the property and has been regularly paying the associated bills.

3. The petitioner is aggrieved by the issuance of a show cause notice by Respondent No.2, acting under Section 192A of the Karnataka Land Revenue Act, 1964. The petitioner argues that this notice, which appears to be an eviction order in its final form, was issued without any prior inquiry. This lack of inquiry is a central point of



contention for the petitioner, who argues that such an eviction notice is legally unsustainable in its current form.

4. In response, the learned Additional Government Advocate (AGA) has presented a counter-argument, drawing the Court's attention to the fact that the disputed property is part of what is known as Gomala land. The AGA contends that the documents upon which the petitioner is basing her claim of title are not valid, as the Gram Panchayath does not have jurisdiction over Gomala land. It is argued that the Gram Panchayath lacks the authority to divert revenue land for other uses, and any such allocation or grant made by the Panchayath is therefore without legal standing and jurisdiction.

5. The petitioner's counsel has referenced a previous judgment from this Court, where in a similar case, it was determined that an eviction notice issued without prior inquiry was not sustainable. In that instance, the Court directed that the eviction notice should be treated as a show cause notice, thereby giving the



petitioner an opportunity to be heard before any final order was passed.

6. In the present case, the facts appear to be strikingly similar. The eviction notice issued by Respondent No.2 also seems to have been issued without conducting a prior inquiry. The documents submitted by the petitioner along with the writ petition indicate, at least on a *prima facie* basis, that the petitioner's claim to the property is rooted in a grant or allotment made by the Gram Panchayath. The petitioner must be given an opportunity to prove that the property in question is not part of Gomala land. Simultaneously, it is incumbent upon Respondent No.2 to thoroughly verify whether the disputed property is indeed part of Gomala land. Only after such a detailed inquiry, in which the petitioner is given a fair chance to present evidence, should Respondent No.2 proceed to pass any orders. *Prima-facie*, the impugned eviction notice, having been issued without an inquiry, is unsustainable.



7. For the reasons stated above, this Court passes the following:

ORDER

i. The writ petition is allowed.

ii. The impugned eviction notice bearing No.LND(KA):130/2024-25 dated 04.07.2024 passed by respondent No.2 - Tahasildar as per Annexure-E is hereby quashed.

iii. The petitioner shall appear before Respondent No.2/Tahasildar on 11.11.2024. The petitioner is at liberty to submit all relevant documents in support of her contention.

iv. Respondent No.2/Tahasildar, after hearing the petitioner, shall pass appropriate orders in accordance with the law within an outer limit of three months from the date of receipt of the certified copy of this order. Until such time, Respondent No.2/Tahasildar shall not take any further action.

**SD/-
(SACHIN SHANKAR MAGADUM)
JUDGE**