IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 13TH DAY OF JANUARY, 2025

BEFORE

THE HON'BLE MR JUSTICE N S SANJAY GOWDA

WRIT PETITION NO. 17244 OF 2023 (LB-BMP)

BETWEEN:

1. M/S YOGA BUILDERS PVT LTD
A COMPANY INCORPORATED UNDER
THE PROVISION OF THE COMPANIES ACT 1956
REP BY ITS AUTHORISED SIGNATORY
MR DEEPAK THAKKAR
S/O SRI KARSAN DAS K THAKKAR
AGED ABOUT 61 YEARS.

2. M/S DHAM CONSULTANTS PVT LTD
A COMPANY INCORPORATED UNDER
THE PROVISIONS OF THE COMPANIES ACT 1956
REP BY ITS AUTHORISED SIGNATORY
MR DEEPAK THAKKAR
S/O SRI KARSAN DAS K THAKKAR
AGED ABOUT 61 YEARS

BOTH PETITIONERS HAVING THEIR
ADDRESSES FOR COMMUNICATION AT
SURAJ TOWERS, 27TH CROSS
JAYANAGAR 3RD BLOCK
BENGALURU 560 041.

...PETITIONERS

(BY SRI. DHANANJAY V JOSHI, SENIOR COUNSEL FOR
SRI. HARSH S PAREKH., ADVOCATE)

Digitally signed by KIRAN KUMAR R
Location: HIGH COURT OF KARNATAKA

AND:

1. STATE OF KARNATAKA
DEPARTMENT OF URBAN DEVELOPMENT
VIDHANA SOUDHA

DR B R AMBEDKAR VEEDHI
BENGALURU 560 001
REP BY PRINCIPAL SECRETARY.

2. BRUHAT BENGALURU MAHANAGARA PALIKE
HUDSON CIRCLE, BENGALURU 560 002
REP BY ITS COMMISSIONER.

3. THE JOINT COMMISSIONER
SOUTH ZONE, BRUHAT BENGALURU
MAHANAGARA PALIKE
BBMPT COMPLEX, 9TH CROSS
9TH MAIN, 2ND BLOCK
JAYANAGAR, BENGALURU 560 011.

4. ASSISTANT REVNUE OFFICER
BTM LAYOUT SUB DIVISION
BRUHAT BENGALURU MAHANAGARA PALIKE
HOSUR MAIN ROAD
NEAR AIYYAPASWAMY TEMPLE
MADIWALA, BENGALURU 560 068.

…RESPONDENTS

(BY SMT. SPOORTHI V, HCGP FOR R1;
SRI. K B MONESH KUMAR, ADVOCATE FOR R2 TO R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE UNDATED SURVEY REPORT TITLED TOTAL STATION SURVEY AND DOCUMENTING FLOOR WISE AREA STATEMENT OF SALARPURIA PROPERTIES PVT.LTD., LASKAR HOSUR ROAD, LAKSANDRA, BENGALURU PREPARED BY ALCON CONSULTING ENGINEERS (INDIA) PVT.LTD.(ANNX-A) AND ETC.

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

CORAM: HON'BLE MR JUSTICE N S SANJAY GOWDA

ORAL ORDER

1. This Writ Petition is filed challenging the demand notices raised by the Bruhat Bengaluru Mahanagara Palike (BBMP) in respect of commercial structures that was put up by the petitioners.

2. The demand notices that were issued claimed that the petitioners had built-up a total area of 3,26,207.84 sq.ft. and the demand was for a sum of Rs.32.67 crores.

3. This Court, during the course of this Writ Petition, passed several interim orders and ultimately on 15.11.2024 passed an order directing the concerned Engineer from the Town Planning Section to visit the property and ensure that the measurement be taken of the structures put up by the petitioners to ascertain whether the built-up area of 2,79,261.389 sq.ft. was inclusive of all the staircases and such

other areas which the BBMP contends was excluded from the earlier calculation.

4. This Court also directed the BBMP to state whether the excluded areas, if any, was relatable for assessment and lastly, whether the covered parked area would measure 10000 sq.ft. and was a part of 2,79,261.384sq.ft.

5. Pursuant to this order, it is admitted that an inspection was done and a built-up area statement of existing commercial buildings has now been placed on record.

6. According to this, the total built-up area is stated to be 27,298.81 sq.mts. Thus, the BBMP now admits that the present total built-up area was 27,298.81 sq.mts. and not that 3,26,207.84 sq.ft. that was mentioned in the demand notice earlier.

7. In view of this factual aspect being finalized by filing of this report, it would be appropriate to direct BBMP

to issue a demand notice based on the sketch which is prepared by the BBMP and which is approved by the Town Planner, Additional Director and the Deputy Director of the Town Planning.

8. It is needless to state that the tax payable would be on the basis of the built-up area as 27,298.81 sq.mts. and excess amount, if any, deposited by the petitioners before the BBMP, pursuant to the interim orders granted by this Court shall be accordingly adjusted and the excess shall be refunded to the petitioners within a period of two months after the determination is made.

9. It is made clear that the BBMP shall issue a demand notice to the petitioner within a period of four weeks from today and also file a copy of the revised demand notice before this Court signifying the compliance of this order.

10. This Writ Petition is, accordingly, ***disposed of.***

11. In view of the disposal of the petition, all pending interlocutory applications, if any, stand disposed of.

Sd/-
(N S SANJAY GOWDA)
JUDGE

HNM
List No.: 1 Sl No.: 18