HC-KAR

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 22ND DAY OF JANUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

WRIT PETITION NO.3121/2023 (GM-CPC)

BETWEEN:

GIRIDHAMA BADAVANE
NIVASIGALA VEDIKE (REGD.)
REP. BY ITS PRESIDENT
JOSEPH HOOVER
S/O JAMES HOOVER
AGED 63 YEARS
NO.114, 4TH MAIN
GIRIDHAMA LAYOUT
RAJARAJESHWARI NAGAR
BENGALURU - 560098.

Digitally signed by ARSHIFA BAHAR KHANAM
HIGH COURT OF KARNATAKA

...PETITIONER

(BY SRI. VINAYAK KULKARNI, ADV., FOR
SRI. NAGENDRA A, ADV.,)

AND:

1. SMT. B. HEMAVATHI
SINCE DEAD BY HER LEGAL HEIRS.

(a) SRI. H. SHARATH KUMAR
S/O LATE HARISCHANDRA
AGED ABOUT 50 YEARS.

(b) SRI. H. PUNEETH KUMAR
S/O LATE HARISCHANDRA
AGED ABOUT 49 YEARS.

(c) SMT. H. RASHMI
D/O LATE HARISCHANDRA

AGED ABOUT 48 YEARS.

(d) SRI. H. RAJESH
S/O LATE HARISCHANDRA
AGED ABOUT 47 YEARS.

(e) SMT. H. SUREKHA
D/O LATE HARISCHANDRA
AGED ABOUT 42 YEARS.

SL.NO.1(a) TO (e) ARE
R/AT. NO.45, PERIANNA AGRAHARA
NAIDU LAYOUT
RAJIV GANDHI ROAD
KANAKAPURA MAIN ROAD
BENGALURU-560078.

2. SRI. B. CHANDRASHEKAR
S/O LATE G.H. BANGERA
AGED 66 YEARS
R/AT NO.12/1, 2ND MAIN
9TH CROSS, CHAMARAJPET
BENGALURU - 560018.

3. SMT. MANGALA GOWRI
SINCE DEAD BY HER LEGAL HEIR.

3(a) SMT. R. SHILPA
W/O SRI. JOTHISH KUMAR
AGED ABOUT 39 YEARS
R/AT. NO.302, 5TH MAIN
6TH CROSS, CHAMRAJPET
BENGALURU-560018.

4. SRI. B. UTTAM KUMAR
S/O LATE G.H. BANGERA
AGED 56 YEARS
R/AT NO.404, BILVASHREE NILAYA
9TH CROSS, 1ST MAIN ROAD
PANCHASHEELA NAGAR
MUDALAPALYA, BENGALURU - 560072.

5. SRI. B. SUJATHA
W/O SRI. KUMAR
D/O LATE G.H. BANGERA
AGED 49 YEARS
R/AT C/O TANUJA SRINIVAS
DODDAGUBBI VILLAGE
BIDARA HOBLI VILLAGE
BAGALURU ROAD
BENGALURU EAST TALUK.

…RESPONDENTS

(BY SRI. H. MANJUNATH, ADV., FOR R1 (a to e), R2 R3 (a), R4 & R5)

THIS WRIT PETITION IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OF CERTIORARI OR ANY OTHER WRIT OR DIRECTION QUASHING THE ORDER DTD 8.11.2022 ON I.A.NO.24 IN O.S.NO.2849/2017 ON THE FILE OF LXVI ADDL. CITY CIVIL AND SESSIONS JUDGE, AT BENGALURU A COPY OF WHICH IS PRODUCED AT ANNEXURE-E AND ALLOW THE IA NO.24 AS PRAYED FOR TO MEET THE ENDS OF JUSTICE & ETC.

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

CORAM: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL ORDER

This petition is filed seeking the following reliefs:

"(i) ISSUE a writ of certiorari or any other writ or direction quashing the order dated 8.11.2022 on I.A.No.24 in O.S.No.2849/2017 on the file of LXVI Addl. City Civil and Sessions Judge, at Bengaluru a copy of which is produced at Annexure-E and allow the IA No.24 as prayed for to meet the ends of justice.

(ii) ISSUE any other writ or direction as this Hon'ble Court may deem fit in the facts and circumstances of the case."

2. Sri.Vinayak Kulkarni, learned counsel for Sri.Nagendra A., learned counsel for the petitioner submits that the petitioner has filed an application under Order I Rule 10 read with Section 151 of CPC seeking to implead in the suit in O.S.No.2849/2017 filed by the respondents, however, the trial Court, on the wrong premise, rejected the said application. It is submitted that the petitioner is the President of an Association formed for the purpose of protecting the interests of the site holders and the layout is formed by the said President and the roads and lanes

were laid by the Society. It is submitted that without impleading the Society, the respondents have filed a suit for mandatory injunction and if any decree is passed in the said suit, it would lead to multiplicity of proceedings and also affect the interests of the site holders, hence, the petitioner is a necessary and proper party to the said suit.

In support of his contention, he has placed reliance on the decision in the case of ***V.Narayana Reddy vs. Smt.Ani Narayanan***[1].

3. Per contra, Sri.H.Manjunath, learned counsel for respondents supports the impugned order of the trial Court and submits that the plaintiffs in the suit are asserting that the properties are the ancestral properties and without any authority of law, the Bruhath Bengaluru Mahanagara Palike ('BBMP') is forming the road and drains in the said properties and hence the suit for mandatory injunction is filed against the BBMP. The proposed defendant/petitioner is neither necessary nor a proper

[1] AIR 2009 AP 124

party to adjudicate the *lis* between the parties in the suit, which has been rightly appreciated by the trial Court and rejected the application, therefore, the same does not call for any interference. Hence, he seeks to dismiss the petition.

4. I have heard the arguments of the learned counsel the petitioner, learned counsel for the respondents and meticulously perused the material available on record.

5. The records indicate that the respondents have filed O.S.2849/2017 for the relief of mandatory injunction against the defendant Nos.1 to 4 from carrying out any development of roads and drains by way of tar, etc., in the suit schedule properties by virtue of work order dated 25.10.2016. In the said proceedings, the petitioner herein claiming to be the President of Giridhama Badavane Nivasigala Vedike (Regd.) has filed an application under Order I Rule 10 read with Section 151 of CPC seeking for impleading as a proposed defendant. The perusal of the

affidavit accompanying the application indicates that the petitioner claims to be the President of the Association and said Association is formed to protect the interests of the site holders and all these sites come within the suit schedule properties claimed by the respondents herein. It is asserted that the layout is formed by the said Association and he being the President of the said Association, is required to protect the interests of the site holders. Hence, he is a necessary and property party. It is to be noticed that the suit is for the relief of mandatory injunction filed with specific assertion in the plaint against the authorities of the BBMP and the contractor, seeking them not to form the roads and drains in the layout.

6. When things stood thus, the petitioner, who claimed to be a President of an Association, is neither necessary nor a proper party to adjudicate the *lis* between the plaintiffs and the defendants in the said suit. The trial Court, taking note of the nature of dispute pending before it and the relief sought, recorded a clear finding in paras

10 and 11 of the impugned order and rejected the application. I do not find any error in the said finding. It is also noticed that the trial Court has rightly recorded that when the matter was posted for arguments, at that stage, the present application was filed and proceeded to reject the application by the impugned order.

7. The judgment relied on by the learned counsel for the petitioner referred supra is not applicable to the facts of the case; in the said case, the proposed defendant was an agreement holder, intended to implead himself. However, the case on hand is different on facts.

8. For the aforementioned reasons, I do not find any merit in the case. Accordingly, the petition is ***rejected***.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE

BSR
List No.: 1 Sl No.: 35