HC-KAR

IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 23RD DAY OF JUNE, 2026

BEFORE

THE HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

WRIT PETITION NO.200875 OF 2026 (KLR-CON)

BETWEEN:

SMT. AASIA GUDNAL,
W/O AASEEF GUDNAL,
AGED ABOUT 40 YEARS,
R/O FLAT NO.806, STREET NO WINO 27,
DHANVANTHRI HOSPITAL, MANUGULI ROAD AREA,
VIJAYAPURA-586 101.

…PETITIONER

(BY SMT. RATNA N. SHIVAYOGIMATH, ADVOCATE)

AND:

1. THE DEPUTY COMMISSIONER,
   VIJAYAPURA, DIST. VIJAYAPURA-586 101.

2. THE COMMISSIONER,
   URBAN DEVELOPMENT AUTHORITY,
   VIJAYAPURA, DIST. VIJAYAPURA-586 101.

…RESPONDENTS

(BY SRI. VEERANAGOUDA MALIPATIL, AGA FOR R1;
SRI. S. S. HALALLI, ADVOCATE FOR R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO A) ISSUE A WRIT OR DIRECTION OR ORDER WRIT IN THE NATURE OF CERTIORARI, QUASHING THE

Digitally signed by SWETA KULKARNI
Location: HIGH COURT OF KARNATAKA

LETTER/RECOMMENDATION REPORT DATED 13-01-2026 IN NO. NAPRAVI/BISHE-378/2025-26 OF RESPONDENT NO.2 VIDE ANNEXURE-D B) ISSUE A WRIT OR DIRECTION OR ORDER WRIT IN THE NATURE OF MANDAMUS, DIRECTING THE RESPONDENT NO.1 TO ACCORD ORDER OF CONVERSION IN RESPECT OF SY NO. 353/14 MEASURING 1-20 GUNTAS, SITUATED AT TORAVI VILLAGE, TQ TIKOTA, DIST VIJAYAPURA, BY CONSIDERING THE APPLICATION NO. 821149 DATED 24-12-2025, VIDE ANNEXURE-C C) PASS ANY SUCH ORDER OR ORDERS AS DEEMED FIT BY THIS HON'BLE COURT UNDER THE FACTS AND CIRCUMSTANCES OF THE CASE IN THE INTEREST OF JUSTICE AND EQUITY.

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

CORAM: HON'BLE MR. JUSTICE S.R.KRISHNA KUMAR

ORAL ORDER

In this petition, petitioner seeks the following reliefs:

"a) Issue a writ or direction or order writ in the nature of certiorari, quashing the letter/recommendation report dated 13-01-2026 in no. NaPraVi/BiShe-378/2025-26 of respondent no.2 vide Annexure –D

b) Issue a writ or direction or order writ in the nature of mandamus, directing the respondent no.1 to accord order of conversion in respect of Sy No. 353/14 measuring 1-20 guntas, situated at Toravi Village, Tq. Tikota, Dist. Vijayapura, by considering the application no.821149 dated 24-12-2025, vide Annexure-C and

c) Pass any such order or orders as deemed fit by this hon'ble court under the facts and circumstances of the case"

2. Heard the learned counsel for the petitioner, learned Additional Government Advocate for respondent No.1 and learned counsel for respondent No.2 and perused the material on record.

3. A perusal of the material on record would indicate that the petitioner claims to be the owner in possession and enjoyment of the subject land bearing Survey No.353/14 measuring 3 acres situated at Toravi Village, Tikota Hobli and Taluk, Vijayapura District, in respect of which he submitted an application to respondent No.1/Deputy Commissioner for conversion/diversion of the subject land from agricultural purposes to non-agricultural purposes. In pursuance of the said application, the respondent No.1/Deputy Commissioner sought for a necessary report from the respondent No.2/Urban Development Authority, who

issued the impugned communication to the respondent No.1/Deputy Commissioner stating that conversion cannot be granted on the ground that the subject land falls within 100 metres of Fort wall, Vijayapura and the said Fort is a prohibited area under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (in short 'the Act, 1958). It is the grievance of the petitioner that without conducting joint survey of the subject land, in order to ascertain as to whether the subject land falls within 100 metres from the prohibited area under the Act, 1958, the respondent No.2 committed an error in issuing the impugned communication, which deserves to be quashed. The respondent No.2/Urban Development Authority is to be directed to conduct a joint survey/inspection and submit a report to the respondent No.1, so as to enable conversion of the subject land for non-agricultural purposes.

4. It is submitted by the learned counsel for the petitioner that under identical circumstances, in respect of

the adjacent lands bearing Survey No.354/2 measuring 11 acres 15 guntas and Survey No.354/1 measuring 13 acres 7 guntas, this Court directed Issuance of approved Layout Plan in favour of the petitioner/society in WP No.201060/2023 dated 27.11.2024 and the present petition deserves to be allowed and disposed of in terms of the said judgment.

5. *Per contra*, learned Additional Government Advocate for respondent No.1 and learned counsel for respondent No.2/Urban Development Authority jointly submit that they would conduct necessary joint inspection/survey of the subject land, in order to ascertain as to whether the subject land is located/situated within 100 metres from the prohibited area under the Act,1958 and thereafter, proceed further in the matter.

6. Before averting to the rival submissions contentions, it would be necessary to refer to the judgment of this Court under identical circumstances in

respect of the adjacent lands in WP No.201060/2023 dated 27.11.2024, wherein it was held as under:

> *" In this petition, petitioner seeks for the following reliefs:-*
>
> *"a) Issue a writ or direction or order writ in the nature of Certiorari, quashing the impugned proceedings in the Resolution dated: 06.02.2023 in Item No.5, vide Annexure-K.*
>
> *b) Issue a writ or direction or order writ in the nature of Mandamus, directing the Respondent No.3 to approve the layout plan of Sy No.354/2 measuring 11 acres 15 and Sy No.354/1 measuring 13 acres 7 guntas both situated at Toravi Village, Tq: Vijayapura, by considering the Application, vide Annexure-J and*
>
> *c) Pass any such order or orders as deemed fit by this Hon'ble Court under the facts and circumstances of the case in the interest of justice and equity."*

2. Heard learned counsel for the parties and perused the material on record.

3. A perusal of the material on record will indicate that after getting the subject lands bearing

Sy.Nos.354/1 and 354/2 of Toravi village, Vijayapura district, converted into non-agricultural residential purposes, the petitioner – Society submitted an application for approval of layout plan to the 3rd respondent – Vijayapura Urban Development Authority and deposited renewal fees in this regard. It is the grievance of the petitioner that though the subject lands did not fell either under the prohibited, protected or regulated area as described/classified under the Ancient Monuments and Archeological Sites and Remains Act, 1958 (for short 'the said Act of 1958'), the 3rd respondent has granted approval of the layout plan subject to the condition that a portion of the lands be treated as "Buffer Zone" because of the existing Fort Wall, which is said to be situated within the subject lands of the petitioner.

4. In this context, learned counsel for the petitioner invited my attention to the interim order dated 15.10.2024 to point out that in pursuance of the same, a joint survey was conducted and no portion of the subject lands are found to be situated within the prohibited, protected or regulated area and as such, the question of showing any portion of the subject lands as part of the "Buffer Zone" for the purpose of approval of the layout plan does not arise and the impugned condition No.3 in the proceedings vide Resolution at Annexure-K dated 06.02.2023, directing

portion of the subject lands be left for "Buffer Zone" deserves to be quashed.

5. Per contra, learned counsel for 3rd respondent as well as learned HCGP and learned DSGI submits that there is no merit in the petition and that the same is liable to be dismissed.

6. A perusal of the material on record will indicate that on 15.10.2024, this Court passed the following interim order:-

In this petition, the dispute between the parties is whether a portion of the subject land bearing Survey No.354/2 measuring 11 acres 15 guntas and Survey No.354/1 measuring 13 acres 7 guntas both situated at Torvi Village, Vijayapur Taluk and District falls within the buffer zone area in which no construction is permitted. In this regard, while petitioner contends that no portion of the subject lands falls within buffer zone, the respondents would contend that portion of the said lands falls within the buffer zone and no construction is permitted in the said area. In this regard, the contesting petitioner has filed IA No.3/2024 seeking appointment of a Court Commissioner for the purpose of conducting local inspection and to submit a report.

2. In the aforesaid facts and circumstances, without prejudice to the rival contentions, I deem it just and proper to allow I.A. No.3/2024 and direct the

jurisdictional Additional Director of Land Records (ADLR) to conduct joint survey/inspection in the presence of petitioner and respondents and to submit a report in this regard by the next date of hearing.

3. Liberty is reserved in favour of the parties to submit their respective memos of instructions to the Court Commissioner/ADLR for the purpose of carrying out commission work.

4. The ADLR is directed to conduct joint survey/inspection on 28.10.2024 in the presence of parties and submit a report by the next date of hearing.

5. All parties are directed to be present at the spot on 28.10.2024 without awaiting further notice from the ADLR.

6. Re-list the matter on 11.11.2024.

7. As can be seen from the aforesaid interim order, the joint survey was directed to be conducted in order to point out whether any portion of the subject land falls within either the prohibited area, protected area or regulated area under the said Act of 1958. In this context, a perusal of the report dated 25.11.2024 submitted by the ADLR, Vijayapura, will indicate that no portion of the subject land falls within any portion of the aforesaid three areas and consequently, the question of approving the layout plan by treating the portion of the subject land as "Buffer Zone" as

indicated in the impugned proceedings, is clearly illegal, arbitrary and contrary to the fact situation obtaining in the spot and as such, the same deserves to be quashed.

8. In the result, I pass the following:-

ORDER

(i) Petition is hereby allowed.

(ii) The impugned proceedings in the Resolution dated 06.02.2023 at Annexure-K directing portion of the subject lands to be treated as "Buffer Zone" for the purpose of approval of the layout plan is hereby quashed; so also condition No.3 in the impugned communication / approval at Annexure-M dated 01.10.2022 directing portion of the subject lands to be treated as "Buffer Zone" is also hereby quashed.

(iii) The 3rd respondent is hereby directed to issue the approved layout plan in favour of the petitioner – Society without showing any portion of the subject lands as "Buffer Zone" or prohibited area, protected area or regulated area under the Ancient Monuments and Archeological Sites and Remains Act, 1958, within a period of four weeks from the date of receipt of a copy of this order."

7. As can be seen from the aforesaid order passed by this Court, this Court passed an interim order on

15.10.2024 directing conducting of survey in order to ascertain as to whether the lands which were the subject matter of the said petition fell within the buffer zone and after obtaining a report, quashed the resolution impugned therein and directed grant of approved Layout Plan in favour of the petitioner therein on the ground that the subject lands involved in the said petition did not fall within the buffer zone under the Act, 1958.

8. In the instant case, it is an undisputed fact and a matter of record that the subject land has not been surveyed or inspected by the respondent No.2/authority before issuing the impugned communication at Annexure-D dated 13.01.2026, submitted by respondent No.2 to the respondent No.1 for the purpose of conversion of the subject land for non agricultural purposes.

9. Under these circumstances, I deem it just and appropriate to quash the impugned communication at Annexure-D dated 13.01.2026 issued by the respondent No.2 and remit the matter back to the respondent No.2 to

conduct a joint inspection/survey of the subject land involved in the present petition, bearing Sy.No.353/14 and thereafter, reconsider the matter afresh in accordance with law within the stipulated time frame.

10. Accordingly, I pass the following:

ORDER

i. The writ petition is hereby ***allowed***.

ii. The impugned communication at Annexure-D dated 13.01.2026 is hereby set aside.

iii. The matter is remitted back to the respondent No.2/Urban Development Authority to conduct a joint survey/inspection of subject land by the jurisdictional ADLR, bearing Sy.No.353/14, after notifying the petitioner and in the presence of the petitioner and thereafter, submit a report to the respondent No.1 within a period of 3 months from the date of receipt of a copy of this order.

iv. Immediately upon the respondent No.2/Urban Development Authority conducting a joint inspection/survey as stated supra and submitting report to the respondent No.1, the respondent No.1 shall consider the application filed by the petitioner for conversion of land for non agricultural purposes and pass appropriate orders, within a period of 1 month from the date of receipt of the report from the respondent No.2, in accordance with law.

Sd/-
(S.R.KRISHNA KUMAR)
JUDGE

NJ
LIST NO.: 1 SL NO.: 6
CT;SI