HC-KAR

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 1ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE C.M. POONACHA

WRIT PETITION NO.147135 OF 2020 (KLR-REG)

BETWEEN:

1. GANGAPPA S/O. GOPAL HUKKERI,
AGE: 62 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

2. SMT. HOUSAVVA W/O. BALAKRISHNA KALAL,
AGE: 49 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

3. VASANT S/O. VITHAL PUJERI,
AGE: 51 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

4. SMT. GANGAVVA W/O. YALLAPPA SULLANNAVAR,
AGE: 71 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

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5. VITHAL S/O. SHASAPPA HUKKERI,
AGE: 43 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

6. MARUTI S/O. HALAPPA HOSUR,
AGE: 44 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

7. PANDU S/O. SIDDAPPA HUKKERI,
AGE: 36 YEARS, OCC: AGRICULTURE,

R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

8. SANGEETA W/O. ASHOK GADIWADDAR,
AGE: 35 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

9. MANJUNATH S/O. PRABHAKAR POTADAR,
AGE: 37 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

10. SIDDAPPA S/O. HALAPPA HUKKERI,
AGE: 75 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

11. BASAPPA S/O. ISHWAR SHETTI,
AGE: 43 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

12. SHIVANAND S/O. ISHWAR SHETTI,
AGE: 38 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

13. MAHANING S/O. ISHWAR SHETTI,
AGE: 75 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

14. SHRINATH S/O. PRABHAKAR POTADAR,
AGE: 44 YEARS, OCC: AGRICULTURE,
R/O: KANKANAWADI,
TQ: RAIBAG, DIST: BELAGAVI.

…PETITIONERS

(BY SRI. MAHESH WODEYAR, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY
TO GOVERNMENT,

REVENUE DEPARTMENT,
VIKAS SOUDHA, BENGALURU.

2. THE REGIONAL COMMISSIONER,
BELAGAVI DIVISION, DIST: BELAGAVI.

3. THE ASSISTANT COMMISSIONER,
CHIKODI SUB-DIVISION, CHIKODI,
DIST: BELAGAVI-590001.

4. THE TAHASILDAR, RAIBAG,
TQ: RAIBAG,
DIST: BELAGAVI-590202.

5. THE CHIEF EXECUTIVE OFFICER,
PATTAN PANCHAYAT KANKANAWADI, KANKANWADI,
TQ: RAIBAG, DIST: BELAGAVI-591222.

…RESPONDENTS

(BY SMT. NANDINI SOMAPUR, AGA FOR R1 TO R4;
SRI. V.S. KALASURMATH, ADVOCATE FOR R5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO I) ISSUE A WRIT ORDER OR DIRECTION IN THE NATURE OF CERTIORARI TO QUASH THE IMPUGNED ORDER DATED: 10.06.2020 PASSED BY THE RESPONDENT NO. 2 IN FILE NO: PRAAABE/BHOOMI-2:NCR:/VIVA-02/2020-21 AS PER ANNEXURE-S AND THE SUBSEQUENT NOTICE DATED 02-07-2020 ISSUED BY THE RESPONDENT NO 4. IN FILE NO.LND/VIVaA-11/2020-21 VIDE ANNEXURE- T TO THE WRIT PETITION IN SO FAR AS PETITIONERS ARE CONCERNED IN THE INTEREST OF JUSTICE AND EQUITY. II) A WRIT ORDER OR DIRECTION IN THE NATURE OF MANDAMUS DIRECTION TO THE RESPONDENT NO.4 TO CONSIDER THE REPRESENTATION DATED 25/06/2020 VIDE ANNEXURE- V ISSUE A WRIT ORDER OR DIRECTION IN THE NATURE OF WRIT OF MANDAMUS DIRECTING THE RESPONDENTS NO. 2 TO 5 NOT TO DISPOSES THE PETITIONERS FROM THE PROPERTY IN QUESTION and etc.

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

CORAM: HON'BLE MR. JUSTICE C.M. POONACHA

ORAL ORDER

The present writ petition is filed seeking for the following reliefs:

> *"The Petitioner most respectfully prays as under:*
>
> *i) Issue a writ order or direction in the nature of certiorari to quash the impugned order dated: 10.06.2020 passed by the respondent No. 2 in file No: PraAaBe/bhoomi-2:NCR:/Viva- 02/2020-21 as per ANNEXURE-S and the subsequent notice dated 02-07-2020 issued by the respondent No 4 in file No.LND/ViVaA-11/2020-21 vide Annexure- T to the Writ Petition in so far as Petitioners are concerned in the interest of justice and equity.*
>
> *ii) A writ order or direction in the nature of Mandamus direction to the respondent No.4 to consider the representation dated 25/06/2020 vide Annexure- V Issue a writ order or direction in the nature of writ of mandamus directing the respondents No. 2 to 5 not to disposes the petitioners from the property in question.*
>
> *iii) Issue any other writ or order or direction which this Hon'ble court deems under the circumstances of the case."*

2. It is the case of the petitioners that they are the owners of the house properties as stated in the schedule to the writ petition. That the predecessors in title of the petitioners

were allotted the respective house properties pursuant to a resolution dated 12.11.1998 passed by the Grama Panchayat, Kankanawadi. Consequent thereto, residential houses were constructed in the said properties. The properties that were allotted to the predecessors in title of the petitioners formed part of Survey No.94/1A measuring 27 acres 26 guntas and R.S.No.3/1 measuring 02 acres 22 guntas situated in Kankanawadi village of Raibag Taluk, which were government lands.

3. It is the further case of the petitioners that the properties were allotted by the Gram Panchayat, Kankanawadi under the Ashraya Scheme, wherein, house sites were distributed to the weaker sections of society and that the predecessors of the petitioners were the beneficiaries under the said Ashraya Scheme. That the predecessors of the petitioners have been issued with *'Hakku Patras'* while allotting the said sites. That consequent to the allotment of sites, buildings have also been constructed.

4. Learned counsel for the petitioners submits that no proceedings as contemplated under Section 39 of the

Karnataka Land Revenue Act, 1964[1], have been initiated and hence, the direction by the respondent No.2-Regional Commissioner under the impugned communication dated 10.06.2020 (Annexure-S to the writ petition), which has been given to the respondent No.4-Tahsildar to take recourse to Section 192(A) of the KLR Act does not arise. However, it is the submission on behalf of the respondents that the impugned communication dated 10.06.2020 is an internal communication and rights of the petitioners are not affected by the same.

5. It is forthcoming that in the said communication dated 10.06.2020, the respondent No.2-Regional Commissioner has directed, *inter alia*, the respondent No.4-Tahsildar, to take action in terms of Section 192(A) of the KLR Act. Admittedly, no proceedings have been initiated under Section 39 of the KLR Act.

6. In this context, it is pertinent to note that Section 39 of the KLR Act stipulates the manner of evicting any person wrongfully in possession of land. The said Section 39 reads as under:

[1] Hereinafter referred to as the "KLR Act"

"39. Manner of evicting any person wrongfully in possession of land.— *Whenever it is provided by this Act or any other law for the time being in force that the Deputy Commissioner may or shall evict any person wrongfully in possession of land or where any order to deliver possession of land has been passed against any person under this Act, such eviction shall be made or such order shall be executed, as the case may be, in the following manner, namely:—*

(i) by serving a notice on the person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and

(ii) if such notice is not obeyed, by removing or deputing a subordinate officer to remove any person who may refuse to vacate the same, and

(iii) if the Officer removing any such person is resisted or obstructed by any person, the Deputy Commissioner or the Revenue Officer, as the case may be, shall hold a summary inquiry into the facts of the case and, if satisfied that the resistance or obstruction was without any just cause and that such resistance and obstruction still continues, may, without prejudice to any proceedings to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, take or cause to be taken, such steps and use or cause to be used, such force as may, in the opinion of such officer, be

reasonably necessary for securing compliance with the order."

7. Section 192(A) of the KLR Act, contains the stipulations of offences and penalties. In the present case, in the absence of any action under Section 39 of the KLR Act, no further precipitative action can be taken against the petitioners.

8. Although, it is the contention of the learned counsel for the respondents that the impugned communication dated 10.06.2020 is an internal one, having regard to the direction issued by the Resp.2-Regional Commissioner, Tahsildar, the relief sought for in the writ petition merits consideration. However, the respondents are at liberty to initiate such action against the petitioners as may be permissible under law and in the manner contemplated under law.

9. Hence, the following:

ORDER

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

ii. The impugned order bearing No.PraAaBe/bhoomi-2:NCR:/Viva-02/2020-21, dated 10.06.2020 issued

by the respondent No.2-Regional Commissioner is quashed.

iii. Liberty is reserved to the respondents to take action against the petitioners as may be permissible under law and in accordance with law.

SD/-
(C.M. POONACHA)
JUDGE

YAN
CT:PA
LIST NO.: 2 SL NO.: 37