



**IN THE COURT OF THE II ADDITIONAL
DISTRICT AND SESSIONS JUDGE, MYSURU**

Dated this the 7th day of March, 2026

:: PRESENT ::

Sri Mallanagouda, B.Com., LL.M.,
II Addl. District & Sessions Judge,
Mysuru.

M.A.38/2020

APPELLANTS

:: Smt. Ambika,
W/o Suresha,
Aged about 35 years,
R/at #83, Dodda Rama
Mandira Road,
Behind Durga Devi Temple,
Nazarabad Mohall,
Mysuru.

[By : Sri.T.P.K., Advocate]

V/s

RESPONDENTS

- ::** 1. Zonal Commissioner,
Zonla Office No.6,
Mysuru
2. The Commissioner,
Mysuru City Corporation,
New Sayyaji Rao Road,
Mysuru.

[R1 & R2 by Sri. C.N.M.,Adv.,]

[R3&4 by Sri.S.A.,Adv.,]

Date and nature of decree or order appealed against : Orders on notice vide ಮೈಸೂರು/ವ.ಕೆ-06/1298/20-21 dated 07.10.2020 issued by The Zonal Officer, Nagarika Seva Kendra & Zonal office, Mysuru City Corporation, Mysuru.

Date of the institution of the appeal : 19.10.2020

Date of Pronouncing of judgment : 07.03.2026

Total duration of appeal : Year/s Month/s Day/s
05 04 18

[MALLANAGOUDA]

II Addl. District & Sessions Judge,
Mysuru.

:: JUDGMENT ::

This is the appeal filed by the Appellant under Section 443 of Karnataka Municipal Corporation Act challenging the final notice issued by Respondent No.1 dated 07.10.2020.

2. Appellant is the owner of the house bearing NO.365/51, N-4/1 situated at Jattibeedi, Durgadevi Gudi Road, Nazarabad Mohalla, Mysuru. The

Respondent No.3 is the owner of house No.365/5 situated at Durgadevi Temple road, Mysuru which is adjacent to house of the Appellant. The Appellant's property and property of Respondent No.3 was belonging to the family of Respondent No.3 and in a partition between Respondent No.3 and his brother the property of the Appellant has been allotted to mother of the Respondent No.3 namely Jayalakshamma, subsequently grand son of Jayalakshamma namely Ganesha Babu has sold it in favour of one Jayamma. Thereafter as per the Will Deed executed by Jayamma Appellants vendors became the owners of the said property and they have sold it to Appellant vide Sale Deed dated 14.01.2020. Property purchased by the Appellant is described as Corporation Door No.365/5 A1, N41 measuring East – West 18.6 feet North – South 19.6 feet bounded by East house of P. Narayana West private property, North 20 feet road, South property of P.Subramanya. which shows that towards South of the

Appellant property, property of Respondent No.3 is situated. Now on the basis of complaint of Respondent No.3 the Respondent No.1 has issued notice to Appellant to stop construction being made by the Appellant in encroached area.

3. Now challenging the said notice of the Respondent No.1 the Appellant has filed present appeal on the following grounds;

4. The Respondent has issued notice on the basis of complaint of P. Subramanya without looking to the documents of the Appellants, he has issued notice only on the basis of the construction of the compound wall. Further while replying to the notice of Respondent No.1 Appellant has produced all the documents including documents regarding suit filed by P. Subramanya in OS No.490/2020. In fact in the said suit there is no relief granted in favour of the P. Subramanya, hence he unnecessarily filed complaint to stop of construction of the Appellant. Respondent No.1

has issued notice without looking to document, hence same is illegal and perverse. Even though Appellant has applied for plan and license till this day Respondent No.1 has not issued any plan and license even if Appellant has deposited the amount. Further the construction to be under taken by the Karnataka Slum Development Board, even though said board is Government Authority, Respondent No.1 has issued notice acting upon the complaint of P. Subramanya without any enquiry. Therefore notice dated 07.10.2020 is bad in law, there is no any enquiry conducted by the Respondent No.1. Hence same is opposed to law and facts and probabalities of the case. Accordingly notice of the Respondent No.1 is liable to be set aside.

5. Respondent No.1 has appeared through his counsel and opposed the appeal contending that Municipal Corporation has every right to issue notice or to pass order under Section 321 of Municipal

Corporations Act if it is illegal construction. In fact Appellant has not at all obtained plan and license to construct as alleged in the appeal, entire construction of the Appellant is illegal. Hence Appellant has no right to challenge the notice of the Respondent No.1. Appellant has already constructed on her side without leaving setback and encroaching upon neighbors site. Hence Respondent has absolute right to restrain the illegal construction. The appeal is pre mature, infact after issuance of notice Respondent has to give opportunity to Appellant to demolish illegal construction after that only commissioner will pass provisional order, thereafter Appellant will get opportunity to question the same by preferring appeal. Therefore appeal is not maintainable.

6. The points that arises for my consideration are as here under :

POINTS

1. Whether the notice issued by the Respondent dated 07.10.2020 needs to be set aside ?
2. What order ?
7. Heard arguments. Perused the entire record.
8. My findings on the above points are as under:

Point No.1 : In the Negative,

Point No.2 : As per final order, for the following ;

:: REASONS ::

9. **POINT NO.1 :-** By looking to the appeal memo and documents produced by the parties it appears that the Plaintiff has purchased property measuring 18.6 feet x 19.6 feet and as per the Plaintiff she entrusted construction of the house to Slum Development Board. Now the Respondent No.3 has approached the Respondent No.1 claiming that Appellant is constructing her house by encroaching upon his property and on the basis of the said complaint Respondent No.1 has inspected property and issued notice dated 07.10.2020. Further on perusal of

documents produced by Respondent No.3 it appears that the objection of Respondent No.2 and 3 is regarding alleged construction under taken by the Appellant exceeding the area purchased by the Appellant. Even it is not the case of the Appellant also that she has right to construct over others area other than the property purchased by her. Therefore if Respondent No.1 inspected the property and come to the conclusion that Appellant is constructing by encroaching the others property and without obtaining any license same cannot be called as illegal. Therefore it is decided to dismiss the appeal with a clarification that the Respondent shall not obstruct for the construction of the Appellant in area purchased by her. ***Hence Point No.1 is answered in Negative.***

10. **POINT NO.2:-** In view of my findings on the above points, I proceed to pass the following :

ORDER

The Appeal filed by the Appellant under Section 443 of Karnataka Municipal Corporation Act is hereby ***Dismissed.***

It is clarified that the Appellant has got liberty to make construction in area measuring 18.6 feet East – West and 19.6 feet North – South as described in her Sale Deed dated 14.01.2020 and Respondent No.1 is at liberty to take action against the Appellant in case if she makes constructions other than area described in her Sale Deed.

Send back the Trial Court Record along with the copy of judgment in this Appeal.

File be consigned to the Record-Room.

[Dictated to the Stenographer, transcribed & computerized by her, transcript revised, corrected and then pronounced by me in the open Court on this the **7th day of March 2026**]

[MALLANAGOUDA]

II Addl. District & Sessions Judge,
Mysuru.