



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 23RD DAY OF APRIL, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.1637/2022 (GM-CPC)

BETWEEN:

1. SMT. A.H. BHAGYALAKSHMI
WIFE OF SRI. B.B. RAMASWAMY GOWDA
AGED ABOUT 58 YEARS.
2. SRI. B.B. RAMASWAMY GOWDA
SON OF SRI. B. BETTASWAMY GOWDA
AGED ABOUT 70 YEARS.

BOTH ARE RESIDING AT NO.780
LAKSHMI NIVAS, 5TH MAIN
10TH D CROSS, W.C.R. NAGAPURA
MAHALAKSHMIPURAM
RAJAJINAGAR
BENGALURU-560086.

...PETITIONERS

(BY SRI. SANTHOSH S. GOGI, ADV.,)

AND:

1. BANGALORE DEVELOPMENT AUTHORITY
T. CHOWDAIAH ROAD
KUMARA PARK WEST EXTENSION
BANGALORE-560020
REP. BY ITS COMMISSIONER.
2. EXECUTIVE ENGINEER
BANGALORE DEVELOPMENT AUTHORITY
T CHOWDAIAH ROAD



NC: 2026:KHC:22217
W.P. No.1637/2022

KUMARA PARK WEST EXTENSION
BANGALORE-560020.

...RESPONDENTS

(BY SRI. SURESH S. LOKRE, SR. COUNSEL FOR
SRI. UNNIKRISHNAN M, ADV., FOR R1
R2 SERVED AND UNREPRESENTED)

THIS W.P. IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO SET ASIDE THE ORDER OF THE TRIAL COURT DTD 17.01.2022 VIDE ANNEX-AW PASSED BY THE HONBLE XLI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU ON I.A.NO.1 FILED UNDER SECTION 64(2) OF BANGALORE DEVELOPMENT ACT AND I.A.NO.2 FILED UNDER ORDER 39 RULE 1 AND 2 READ WITH 151 OF CPC IN O.S.NO.382/2022, ON THE FILE OF THE HONBLE XLI ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU CCH-42 & 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 writ petition is filed challenging the order dated 17.01.2022 passed on IA.Nos.1 and 2 in OS.No.382/2022 by the XLI Additional City Civil and Sessions Judge, Bengaluru (CCH-42) (for short 'the trial Court').

2. Sri.Santhosh S. Gogi, learned counsel appearing for the petitioners submits that the petitioners had filed a



suit against the respondent Bengaluru Development Authority (BDA) seeking an order of injunction. In the said suit, the petitioners/plaintiffs had also filed an application for temporary injunction. However, the trial Court, without appreciating the averments made in the application, issued an emergent notice to the respondents/defendants, which compelled the petitioners to file this writ petition. It is submitted that the petitioners are in possession of the suit schedule property which is evident from the findings recorded by this Court in RFA.No.646/2021. It is further submitted that the trial Court, without considering the petitioners' application filed under Section 38(C) of the Bengaluru Development Authority Act, 1976 (for short 'the BDA Act'), cannot take any further steps and these aspects were not considered by the trial Court. It is also submitted that this Court, by order dated 28.02.2022, has protected the interest of the petitioners and if the said interim order is continued till the trial Court disposes of



the pending applications before it, the ends of justice would be met. Accordingly, he seeks to allow the petition.

3. Per contra, Sri.Suresh S. Lokre, learned Senior Counsel for Sri.Unnikrishnan M., learned counsel appearing for the respondent BDA vehemently opposed the writ petition and submits that the BDA completed the acquisition long back, an award has been passed, the compensation amount to the subject land has been deposited in RD account and possession has been taken. For having taken the possession, a notification under Section 16(2) has also been issued. It is submitted that the petitioners were called upon to produce the documents for consideration of their application filed under Section 38(C) of the BDA Act. In response, the petitioners submitted their reply on 03.01.2022, and immediately on 14.01.2022, filed a suit for injunction without there being any cause. It is further submitted that the trial Court, considering the pleadings rightly concluded that the petitioners' application is required to be considered after



hearing the defendants and accordingly issued emergent notice. However, the petitioners prematurely rushed to this Court on 19.01.2022, filed this writ petition on incorrect premises and obtained status quo order which is coming in the way of BDA from using the acquired property which has been earmarked for civic amenity. Hence, he seeks to dismiss the writ petition.

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

5. It is to be noticed that the present petition is filed by the plaintiffs in OS.No.382/2022, on the ground that the trial Court has neither considered the petitioners application nor granted an *exparte* temporary injunction. Admittedly, the applications in IA.Nos.1 and 2 filed by the petitioners under Order XXXIX Rules 1 and 2 of the Code of Civil Procedure, 1908 (for short 'CPC') as well as under



Section 64(2) of the BDA Act are pending before the trial Court. It is also to be noticed that this Court, vide order dated 28.02.2022 directed the parties to maintain status quo, and the said order continues to remain in force till this day. The respondent BDA has vehemently contended that the petitioners are in illegal possession based on a lease and that their application for regularization under Section 38(C) of the BDA Act has already been considered and the same was rejected vide endorsement dated 27.01.2025. Hence, the petitioners cannot contend that their possession cannot be disturbed till consideration of the applications. The BDA further contended that the petitioners without awaiting the response of the BDA, rushed to this Court and have continued with the possession illegally and such a suit filed by the petitioners is not maintainable. In my considered view, these contentions are required to be adjudicated by the trial Court and not in a petition filed under Article 227 of the Constitution of India.



6. It is to be noticed that the petitioners as well as the respondents have raised various contentions. The order sheet in the aforesaid suit indicates that the respondents herein, who are the defendants in the suit have been placed *exparte*. Until the said order is set aside on an application to be filed by the respondent BDA, they cannot contend that the status quo order granted by this Court cannot be continued. It is open for the respondent to move an application seeking to set aside *exparte* order. In view of the aforesaid fact, I am of the considered view that the trial Court needs to consider the pending applications filed by the petitioners in IA.Nos.1 and 2 on merits and in accordance with law and till consideration of the said applications the interim order granted by this Court on 28.02.2022 is required to be continued. Without expressing any opinion on the merits of the case, and for the aforementioned reasons, I proceed to pass the following:



ORDER

- i) The writ petition is ***allowed***.
- ii) The interim order granted by this Court dated 28.02.2022 shall continue till the trial Court considers the petitioners/plaintiffs application in IA.Nos.1 and 2 on merits.
- iii) It is open for the respondent BDA to file an appropriate application before the trial Court seeking to set aside the order placing them *exparte* as well as an objection to the applications filed by the plaintiffs.

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

ABK
List No.: 1 Sl No.: 21