



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 26TH DAY OF MARCH, 2026
BEFORE
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT PETITION NO.8043/2022 (GM-CPC)

BETWEEN:

SRI. CHANNAVENKATAPPA
S/O LATE PILLAPPA
AGED ABOUT 69 YEARS
R/O. HAMPAPURA VILLAGE
KENGARI HOBLI
BENGALURU SOUTH TALUK.

...PETITIONER

(BY SRI. RAJAKUMAR G, ADV.,)

AND:

KARNATAKA HOUSING BOARD
CAUVERY BHAVAN BUILDING
K.G. ROAD, BENGALURU - 09
REP. BY ITS COMMISSIONER.

...RESPONDENT

(BY SRI. RAGHAVENDRA A. KULKARNI, ADV.,)

THIS W.P. IS FILED UNDER ARTICLE 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE IMPUGNED ORDER DTD. 23.07.2021 PASSED BY THE HONBLE II ADDITIONAL CIVIL JUDGE, BENGALURU RURAL DISTRICT, BENGALURU AT ANNEXURE-A IN O.S.NO. 1026/2014 THEREBY DISMISSING THE APPLICATION i.e., I.A.NO.IV FILED BY THE PETITIONER UNDER ORDER VI RULE 17 READ WITH SECTION 151 OF CODE OF CIVIL PROCEDURE CONSEQUENTLY ALLOW THE SAID APPLICATION & 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 challenging the order dated 23.07.2021 passed on IA.No.4 in O.S.No.1026/2014 by the II Additional Civil Judge, Bengaluru Rural District, Bengaluru, (for short 'the trial Court').

2. Sri.Rajakumar G., learned counsel for the petitioner submits that the petitioner filed a suit for permanent injunction against the respondent/Housing Board, alleging interference with his peaceful possession and enjoyment of the suit schedule property. It is submitted that the suit schedule property was granted to the petitioner and he is in lawful possession of the same. It is further submitted that during the pendency of the said suit, the individuals claiming to be employees of the respondent illegally encroached the suit schedule property, occupying an extent of 3 guntas of the land and put-up



barbed wire fencing along with stone pillars, which compelled the petitioner to file an application seeking amendment of the plaint to incorporate an additional relief of possession. However, the trial Court rejected the said application under the impugned order on the ground that it is a separate cause of action. Accordingly, he seeks to allow the petition.

3. Per contra, Sri.Raghavendra A. Kulkarni, learned counsel for the respondent/Housing Board vehemently opposed the writ petition and submits that the petitioner has no right or title over the suit schedule property. It is submitted that the jurisdictional Assistant Commissioner, after considering the records, cancelled the grant in favour of the petitioner by order dated 27.07.2016. It is further submitted that the petitioner cannot be regarded as a landless person and was, therefore, ineligible for such grant as he is the owner of more than 6 acres of the land and these aspects are required to be considered by the trial Court, hence, the



present application for amendment has no merit. Accordingly, he seeks to dismiss the writ petition.

4. I have heard the arguments on both the sides and meticulously perused the material on record.

5. The petitioner filed O.S.No.1026/2014 against the respondent/Housing Board seeking the relief of permanent injunction in respect of the suit schedule property measuring 1 acre in Sy.No.19 of Hampapura Village, Kengeri Hobli, Bengaluru South Taluk. In the plaint, the petitioner has made detailed averments regarding his ownership and lawful possession of the said property. During the pendency of the said suit, the petitioner filed IA.No.4 under Order VI Rule 17 read with Section 151 of the Code of Civil Procedure, 1908 (for short 'CPC') seeking amendment of the plaint. A perusal of the application and the accompanying affidavit indicate that the petitioner intends to bring on record the subsequent events. The proposed amendment at paragraph No.7(a)



states that the respondent's workmen, in colluding with one Sri.Basavaraju, filed a false complaint against the plaintiff, when he was busy in getting anticipatory bail. It further states that taking undue advantage of his absence, the respondent's workmen illegally encroached 3 guntas of land out of the suit schedule property and put-up a barbed wire fencing compound with stone pillars. This portion of the property is described as Schedule 'B' property. The application also seeks incorporation of an additional relief of possession in respect of the 3 guntas. It is to be noticed that the said events narrated in the affidavit and the amendment application are subsequent events during the pendency of the suit. It is admitted fact that the trial in the suit has not yet commenced. Having regard to the nature of the proposed amendment, which is founded on subsequent events, the petitioner cannot be compelled to institute a separate suit for recovery of possession. In my considered view, the trial Court has committed a grave error in rejecting the application for amendment.



6. The contention of the respondent/Housing Board that the petitioner has no title over the suit schedule property, that the grant in his favour was cancelled way back on 27.07.2016 and that he is the owner of more than 6 acres of land and therefore ineligible for such grant, are the matters required to be adjudicated by the trial Court while considering the relief sought in the plaint.

7. For the aforementioned reasons, the writ petition is **allowed**. Impugned order dated 23.07.2021 passed on IA.No.IV in O.S.No.1026/2014 by the II Additional Civil Judge, Bengaluru Rural District, Bengaluru is hereby set aside. Consequently, IA.No.IV is allowed. No orders as to costs.

Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE