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IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 26TH DAY OF FEBRUARY, 2026

BEFORE

THE HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 17679 OF 2024 (GM-KEB)

C/W

WRIT PETITION NO. 26870 OF 2023 (LB-BMP)

IN W.P.NO.17679/2024
BETWEEN

SRI NAGABHUSHANA
S/O A S RUDRAPPA
AGED ABOUT 66 YEARS,
NO.41, P AND T COLONY
NEAR GANESHA TEMPLE
HEMAVATHI NAGARA
SARASWATHIPURAM
HASSAN-573201

... PETITIONER

(BY SRI. RAMESHCHANDRA., ADVOCATE)

AND

1. CHIEF EXECUTIVE ENGINEER
   C R SECTION, K R CIRCLE
   BESCOM
   BENGALURU-560001.
2. ASSISTANT EXECUTIVE ENGINEER
   OFFICE OF THE ASSISTANT
   EXECUTIVE ENGINEER (ELEC)
   C4 SUB-DIVISION,
   NO.34, 1 MAIN ROAD, GANGANAGARA,
   BENGALURU 560 032
3. DGM (LAW)
   BESCOM
   CORPORATE OFFICE, 1ST FLOOR,

K.R.CIRCLE, BANGALORE -560001

4. L.M. SARVAMANGALA
D/O LATE L. MAHADEVAIAH,
AGED ABOUT 63 YEARS,
R/AT NO.118, JANAHAVI CLUSTERS,
F-2, 2^{ND} FLOOR, 6^{TH} MAIN,
P AD T COLONY,
SANJAYANAGAR,
BENGALURU-560094.

…. RESPONDENTS

(BY SRI. KARTHIKEYAN B.S., ADVOCATE FOR R1 TO R3;
SMT. L.M. SARVAMANGALA., PARTY-IN-PERSON FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ANNEXURE-A DATED 2-2-2024 AEE/C4/HBL/AET/1995/2023-24 OF THE AND CONSEQUENTLY WRIT IN THE NATURE OF MANDAMUS TO RESTORE ELECTRICITY SUPPLY TO THE METER C4EH34304 CONNECTION TO THE SCHEDULE PROPERTY AND ETC.

IN W.P.NO.26870/2023
BETWEEN

SRI NAGABHUSHANA
S/O A S RUDRAPPA
AGED ABOUT 66 YEARS,
NO.41, P AND T COLONY
NEAR GANESHA TEMPLE
HEMAVATHI NAGARA
SARASWATHIPURAM
HASSAN-573201

... PETITIONER

(BY SRI. RAMESHCHANDRA., ADVOCATE)

AND

1. CHIEF EXECUTIVE ENGINEER
C R SECTION, K R CIRCLE
BESCOM

BENGALURU-560001.

2. JOINT COMMISSIONER (EAST)
   MAYO HALL, BENGALURU-560001.
3. ASSISTANT REVENUE OFFICER,
   HEBBAL SUB-DIVISION,
   BBMP,
   BENGALURU-560024.

4. L.M. SARVAMANGALA
   AGED ABOUT 60 YEARS,
   R/AT NO.118, F-2, 2ND FLOOR,
   6TH MAIN, P AD T COLONY,
   SANJAYANAGAR,
   BENGALURU-560094.

…. RESPONDENTS

(BY SRI. KARTHIKEYAN B.S., ADVOCATE FOR R1 TO R3;
SMT. L.M. SARVAMANGALA., PARTY-IN-PERSON FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT IN THE NATURE OF CERTIORARI SETTING ASIDE THE ORDER PASSED BY THE 2ND RESPONDENT DATED 6TH MARCH 2023 IN CASE NO.3066/17-18 AS PER ANNEXURE-A1 AND ETC.

THESE WRIT PETITIONS COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 29.01.2026, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE SURAJ GOVINDARAJ

CAV ORDER

1. The petitioner in W.P.No.17679/2024 is before the Court seeking for the following reliefs:

   (a) Quash Annexure-A dated 2.2.2024 AEE/C4/HBL/AET/1995/2023-24 of the and consequently writ in the nature of mandamus to restore electricity supply to the Meter C4EH34304 connection to the schedule property.

   (b) Issue such other order or direction as deemed fit and proper under the facts and circumstances of the case, in the interest of justice and equity.

2. The petitioner in W.P.No.26870/2023 is before the Court seeking for the following reliefs:

   a) Issue a writ in the nature of certiorari setting aside the order passed by the 2^{nd} respondent dated 6^{th} March 2023 in case No. 3066/17-18 as per Annexure-A1;

   b) Consequently direct the BBMP authority to transfer khatha in petitioner's name.

   c) Issue such other order or direction as deemed fit and proper under the facts and circumstances of the case in the interest of justice and equity.

FACTS IN W.P. NO. 26870/2023:

3. The petitioners assert that the immovable property bearing No.118, P&T Colony Layout, First Stage, Geddalahalli, falling within Corporation Division No.100, Sanjay Nagar, Bengaluru (hereinafter

referred to as "the schedule property"), originally belonged to one Sri Prabhakar Sastri and Smt. Savita Sastri. The said owners are stated to have entered into a development arrangement with a builder during the year 1995, pursuant to which a sanctioned building plan and licence were obtained from the competent authority. In furtherance thereof, a residential apartment complex styled as "Janhavhi Clusters" was constructed on the said property.

4. It is contended that Flat No.3 situated on the third floor of the said apartment complex, together with the proportionate undivided share in the underlying land, was conveyed by the original owners in favour of Smt. Revathi, wife of Chitty Babu, under a registered sale deed dated 11.06.2003. Consequent upon the said registered conveyance, the Bruhat Bengaluru Mahanagara Palike (BBMP) effected transfer of khata in the name of Smt. Revathi on 30.07.2003 and assigned PID No.110-738-118/5, thereby recognising her as the person liable for property tax in respect of the said flat.

5. The petitioners further state that the said Smt. Revathi had created a mortgage over the subject

property in favour of the State Bank of India as security for financial assistance availed by her. Upon alleged default in repayment of the equated monthly instalments (EMIs), the loan account was classified as a Non-Performing Asset (NPA), and proceedings were initiated under the provisions of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as "**the SARFAESI Act**").

6. A demand notice under Section 13(2) of the SARFAESI Act was issued on 10.09.2011. Thereafter, upon compliance with the statutory procedure contemplated under Sections 13(4) and 14 of the Act, the secured asset was brought to sale by way of public auction. One Sri A.V. Naresh emerged as the highest bidder, and a sale certificate was issued in his favour in accordance with the Rules framed under the Act. The said A.V. Naresh subsequently conveyed the property to the present petitioner under a registered sale deed dated 07.01.2020, thereby transferring all his right, title and interest in the subject flat to the petitioner.

7. It is further averred that on 16.07.2011, one Ms. L.M. Sarvamangala, who is presently arrayed as

respondent No.4, had lodged objections before the BBMP in relation to the khata standing in the name of Smt. Revathi and sought cancellation thereof.

8. The petitioner, having acquired the property under the registered sale deed dated 07.01.2020, submitted an application on 10.05.2022 seeking transfer of khata in his name on the basis of the sale certificate and subsequent conveyance. Instead of adjudicating upon the petitioner's application for transfer of khata in accordance with law, the BBMP, by order dated 06.03.2023, proceeded to cancel the khata that stood in the name of Smt. Revathi.

9. The petitioners contend that the impugned order of cancellation has been passed without affording due opportunity to the petitioner, without adjudicating inter se title in an appropriate forum, and without considering the legal effect of the sale certificate issued under the SARFAESI Act and the subsequent registered conveyance in favour of the petitioner. It is this order dated 06.03.2023 cancelling the khata that is assailed in the present writ petition, wherein the aforesaid reliefs are sought for.

FACTS IN W.P NO. 17679/2024;

10. The factual matrix, up to and including the order dated 06.03.2023, cancelling the khata, remains identical to that narrated hereinabove and is not reiterated for the sake of brevity.

11. Subsequent to the cancellation of the khata, the respondents in W.P. No.17679/2024, namely the authorities of the Bangalore Electricity Supply Company Limited (BESCOM), initiated steps to disconnect the electricity supply to the subject premises. In the backdrop of such action, the petitioner informed the said authorities that W.P. No.26870/2023 had already been instituted, challenging the order of cancellation of the khata and that this Court had granted an interim order directing maintenance of the status quo.

12. Despite being apprised of the pendency of the said writ petition and the subsistence of the interim order of status quo, the BESCOM authorities issued a notice dated 02.02.2024 proposing the disconnection of electricity supply to the scheduled property.

13. Aggrieved by the issuance of the said notice, which is alleged to be contrary to the interim order passed by this Court and violative of principles of administrative

propriety, the petitioner has instituted the present writ petition seeking quashing of the notice dated 02.02.2024 and for consequential reliefs to protect the subsisting electricity connection pending adjudication of the dispute relating to the khata.

14. Shri. Ramesh Chandra, learned counsel for the petitioner, would submit that,

14.1. The power of review under Section 114A of the Karnataka Municipal Corporations Act and Section 150 of the BBMP Act can be exercised only within a period of three years from the date on which the transfer of title is recorded. In the present case, the khata was transferred to the name of Smt. Revathi on 30.07.2003. However, respondent No.4 filed objections only on 16.07.2011, nearly eight years after the entry was made. The impugned order cancelling the khata was ultimately passed on 06.03.2023, almost twenty years after the original transfer. It is therefore contended that both the initiation of proceedings and the passing of the order are clearly barred by limitation. Once the prescribed period of three years has expired, the authority cannot exercise its power of review at a later point in time.

14.2. It is further submitted that the khata in favour of Smt. Revathi was granted on the basis of a valid registered sale deed dated 11.06.2003. There was no fraud, misrepresentation, or suppression of material facts. Property tax has been regularly paid. The transfer was recorded in accordance with the law. Such an entry, which stood for nearly two decades, cannot be cancelled merely on the basis of a complaint by another occupant of the building.

14.3. The learned counsel further submits that after the petitioner purchased the property under a registered sale deed dated 07.01.2020, he filed an application on 10.05.2020 seeking transfer of the khata in his name. The Corporation was required to consider this application and pass appropriate orders within a reasonable time. However, no decision was taken. Instead of deciding the petitioner's application, the authority proceeded to cancel the earlier khata. In these circumstances, it is submitted that this Court may issue a writ of mandamus directing the Corporation to consider the petitioner's application and transfer the khata in his name.

14.4. It is also contended that the impugned order passed by the Joint Commissioner is without jurisdiction and contrary to law. The khata had remained in existence for nearly twenty years. During this period, the property was mortgaged to a bank, brought to sale under the SARFAESI Act, purchased in auction, and thereafter conveyed to the petitioner. The petitioner purchased the property bona fide, relying upon the existing municipal records. At this stage, the cancellation of the khata adversely affects his rights and unsettles transactions that have already taken place.

14.5. It is therefore submitted that in the absence of any allegation or finding of fraud, the power of review could not have been exercised. The cancellation of the khata is illegal and liable to be set aside, and consequential relief ought to be granted in favour of the petitioner.

14.6. He relies upon the Judgment of a coordinate Bench of this Court reported in ***Jayamma vs.***

***The Assistant Revenue Officer & Others*[1]**, more particularly para 5 and 6 thereof, which are reproduced hereunder for easy reference:

> ***5.*** *For the purpose of this case, suffice it to notice that Sub-Section (12) of Section 114 requires the transferor and the transferee to give a notice in writing to the Commissioner of the City Corporation over the change in right title and interest in the property, falling within the territorial limits of the Corporation. Section 114A empowers the Commissioner to review the order under Section 114, within a period of three years therefrom, if satisfied that the transfer of title was got recorded in the corporation register by fraud, mis-representation or suppression of facts or by furnishing false, incorrect or incomplete material.*
>
> ***6.*** *The word "katha' is not found in the Act, but in common parlance, over the years, is synonymous with the certificate issued by the Corporation in exercise of jurisidiction under Section 114 of the Act, recording the name of the owner/occupier of the immovable property, primarily responsible to pay the Corporation taxes. It is also true that this 'katha', is important on account of its relevancy for variety of purposes, be it securing a gas connection, telephone line, driving licence, ration card, mortgage by deposit of title deeds, conveyance of immovable property, licence to erect building, so on and so forth, though does not confer right title or interest in the immovable property.*

14.7. By placing relaince on **Jayamma** it is submitted that in the said decision, this Court has clearly explained the scope of Sections 114 and 114A of the Karnataka Municipal Corporations Act.

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[1] 2008 Supreme (Kar) 616

14.8. This Court has observed that Section 114(12) requires both the transferor and the transferee to give notice in writing to the Commissioner regarding any change in right, title or interest in respect of property situated within the limits of the Corporation. Section 114A empowers the Commissioner to review such an order of transfer, but only within a period of three years, and that too only if it is found that the transfer of title was recorded in the Corporation register by reason of fraud, misrepresentation, suppression of facts, or by furnishing false, incorrect, or incomplete material.

14.9. It has been further clarified that though the word "khata" is not expressly used in the Act, it is commonly understood as the certificate issued by the Corporation under Section 114, recording the name of the owner or occupier of the immovable property who is prmarily liable to pay property tax. The Court has also observed that while khata is relevant for several practical purposes, such as obtaining utilities, effecting conveyances, or creating a mortgage, it does not by itself confer title to the property.

14.10. Relying on the above observations, the learned counsel submits that the law is well settled that the power of review under Section 114A can be exercised only within three years and only in cases involving fraud, misrepresentation, or suppression. In the present case, there is neither any allegation nor any finding of fraud in the recording of the khata in favour of Smt. Revathi in the year 2003. Therefore, the cancellation of khata after nearly two decades is clearly contrary to the principles laid down in the aforesaid judgment and is liable to be set aside.

14.11. The learned counsel submits that the power under Section 114A can be exercised only within a period of three years from the date of recording the transfer of title, and that too only if the authority is satisfied that such transfer was recorded in the Corporation register on account of fraud, misrepresentation, suppression of facts, or by furnishing false, incorrect, or incomplete material.

14.12. It is contended that none of these statutory conditions is present in the case at hand. The khata was entered in favour of Smt. Revathi, in the year 2003, on the basis of a registered sale deed. There is no allegation of fraud or misrepresentation in the recording of the said entry. In such circumstances, the jurisdiction under Section 114A could not have been invoked.

14.13. He relies on the decision in ***Sri. Chowdeshwari Togajaveera Kshatriya Sangha vs. The Joint Commissioner Bruhut Bangalore Mahanagara Palike, N.R. Square Bangalore and Ors***.[2], more particularly para 5 thereof, which is reproduced hereunder for easy reference:

> ***5.*** *In the facts of the instant case, there is no dispute that way back on 05.07.1994 name of the appellant Sangha was recorded in the khata of the property and the same is continued as on today. In such circumstance, if order passed by the learned Single Judge directing the Joint Commissioner to undertake an enquiry by providing reasonable opportunity to both parties relating to the entry to be made in the khata of the property is given effect to, it would tantamount to clothing the Joint Commissioner with the jurisdiction which is not vested in him under law. Indeed, as per the provision contained in Section 114A of the Act, it is made explicit that Joint Commissioner has no such power or jurisdiction to examine the matter after a lapse of three years from the date of recording of khata in the name of any*

[2] (2018) Supreme Karnataka 203

person even if the allegation in the petition pertained to misrepresentation, fraud etc...

14.14. Placing reliance on the decision of this Court in **Sri. Chowdeshwari Togajaveera Kshatriya Sangha,** he submits that in the said decision, this Court has clearly held that where a khata entry had been made and continued for several years, the Joint Commissioner cannot assume jurisdiction to reopen or examine the matter beyond the statutory period of three years prescribed under Section 114A of the Act. The Court observed that directing the Joint Commissioner to conduct an enquiry in such circumstances would amount to conferring jurisdiction which the statute itself does not vest in him.

14.15. The judgment specifically makes it clear that even where allegations of fraud or misrepresentation are raised, the power under Section 114A cannot be exercised after the expiry of three years from the date of recording the khata.

14.16. By placing reliance on this decision, he seeks to emphasise the scope and limitation of the statutory power under Section 114A. She submits that the authority must act strictly within the framework of the Act and cannot assume powers beyond what is expressly provided.

14.17. He accordingly contends that the statutory scheme governing khata entries and their review must be strictly adhered to, and any action taken must fall within the bounds of jurisdiction conferred by law.

14.18. He relies on the decision in ***Smt. R.M. Pushpa vs. Bruhat Bangalore Mahanagara Palike (BBMP), Bangalore and others[3],*** more particularly para 2 thereof, which is reproduced hereunder for easy reference:

> ***2.*** *Undoubtedly, the review jurisdiction under Section 114-A of the Act ought to be invoked within three years from the date of the order recording the transfer of title so as to reopen the case and pass such orders with respect thereto as the Commissioner thinks fit. In the instant case, the recording of the transfer of title in favour of the 4th respondent was on 1-4-2004 while the petition for review was filed on 2-8-2007, beyond the period of three years and therefore, the petition was not maintainable and its rejection by the order Annexure-F as communicated by the letter Annexure-F1 cannot be found fault with.*

[3] 2010 Supreme Karnataka 216

14.19. Placing reliance on ***R.M. Pushpa*** he submits that in the said judgment, this Court has categorically held that the review jurisdiction under Section 114-A of the Act must be exercised within three years from the date of the order recording the transfer of title. If a petition seeking review is filed beyond the prescribed period, it is not maintainable.

14.20. In that case, the transfer of title had been recorded on 01.04.2004, whereas the petition for review was filed on 02.08.2007, i.e., beyond three years. This Court held that such a petition was barred by limitation and upheld its rejection. When a four-month delay was not condoned, his submission is that in the present case 8 years delay can never be condoned.

14.21. Relying on the above principle, he submits that the statutory limitation under Section 114-A is mandatory and cannot be relaxed. The power of review is not an open-ended power and cannot be exercised beyond the period prescribed by the statute.

14.22. He therefore contends that the legal position is settled that review of khata entries must strictly conform to the limitation period provided under Section 114-A, and any action taken beyond that period would be without jurisdiction.

14.23. He relies on the decision in ***Krishnappa and Ors. vs. REMCO (BHEL) House Building Co-operative Societies Ltd., and Others***[4], more particularly para 18 and 19 thereof, which are reproduced hereunder for easy reference:

> ***18.*** *Thus from perusal of Section 114-A of the Karnataka Municipal Corporation Act, it is evident that the power of review can be exercised subject to fulfilment of following conditions:*
>
> *i) The Commissioner arrives at the satisfaction either suo moto or otherwise after such inquiry which he considers necessary.*
>
> *ii) Transfer of title under Section 114-A of the Act was got recorded in the corporation register by fraud, misrepresentation or suppression or by furnishing false, incorrect or incomplete material.*
>
> *iii) Power has to be exercised within a period of 3 years from the date of recording of transfer of the title.*
>
> ***19.*** *Now we may advert to the impugned Orders dated 19.04.2010 and 05.04.2012 passed by the Additional Commissioner in purported exercise of powers under Section 114-A of the Act. From close scrutiny of aforesaid orders it is evident that the proceedings under Section 114-Ahave been initiated in view of direction contained in the communication issued by Principal Secretary to the Government as well as Special Deputy Commissioner, Bangalore dated 16.02.2006 and 07.02.2007 respectively. The*

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[4] (2021) SCC Online Karnataka 11863

aforesaid orders have been passed on the ground that the layout plan prepared by the Society has not been approved by the competent authority and the layout has been illegally developed as well as the sites have been illegally allotted and conversion fee, and betterment charges have not been paid. In other words, no finding has been recorded that transfer of title was either made by fraud, misrepresentation, or suppression of facts or by furnishing false, incorrect or incomplete material. Thus, the condition precedent for invocation of power under Section 114-A of the Act has not been fulfilled. Admittedly, the power under Section 114-A of the Act has not been exercised within a period of 3 years from the date of recording of transfer of title. Therefore, the orders passed under Section 114-A of the Act cannot be sustained in the eye of law, on this ground alone and therefore, it is not necessary for us to examine other grounds of challenge in the aforesaid orders. Thus, the aforesaid orders have rightly been quashed by the Learned Single Judge.

14.24. Placing reliance on the judgment of this Court in **Krishnappa**, he submits that in the said decision, this Court has clearly identified the conditions that must be satisfied before invoking the power of review under Section 114-A of the Karnataka Municipal Corporations Act. The Court has held that:

14.24.1. The Commissioner must arrive at satisfaction, either suo motu or otherwise, after conducting such inquiry as deemed necessary;

14.24.2. The transfer of title must have been recorded in the Corporation register by fraud, misrepresentation, suppression of facts, or by furnishing false, incorrect, or incomplete material; and

14.24.3. The power must be exercised within three years from the date of recording of transfer of title.

14.25. He further submits that in paragraph 19 of the said judgment, this Court examined orders passed under Section 114-A and found that there was no finding of fraud, misrepresentation, or suppression. It was also noted that the power had not been exercised within three years from the date of recording of transfer. On those grounds alone, the Court held that the orders could not be sustained and upheld their quashing.

14.26. Relying on this decision, he submits that the exercise of power under Section 114-A is strictly conditional and cannot be invoked merely because there are irregularities in layout approval or other planning violations. The authority must record a clear finding of fraud or misrepresentation in the recording of the khata entry, and the action must be taken within the prescribed period of limitation.

14.27. He therefore contends that the statutory requirements are mandatory in nature and any order passed without satisfying these conditions would be liable to be set aside.

14.28. It is further submitted that the objection filed by respondent No.4 in the year 2011 was itself beyond the period of limitation. The impugned order having been passed only in the year 2023, nearly twenty years after the original entry, is clearly without authority of law. The statutory power of review having not been exercised within the prescribed period, it stood extinguished.

14.29. On this basis, it is submitted that the relief sought in W.P. No.26870 of 2023, namely quashing of the order cancelling the khata, deserves to be granted.

14.30. It is further contended that once the cancellation order is set aside, the electricity connection cannot be disturbed. The action initiated by the BESCOM authorities is entirely consequential to the impugned cancellation of khata. Therefore, if the relief in W.P. No.26870 of 2023 is granted, the authorities would have no justification to disconnect the electricity supply, and consequently, the reliefs sought in W.P. No.17679 of 2024 also deserve to be allowed.

15. Ms.M.Sarvamangala, party in person, respondent No.4 in both the matters submits that:

15.1. The sanctioned plan obtained by the landowner and the builder permitted construction only up to the ground floor, first floor and second floor. The flat in question, namely Flat No. F3, is situated on the third floor. According to her, there was no sanctioned plan permitting the construction of a third floor. Therefore, the construction of Flat No. F3 is wholly illegal and unauthorised. When there was no approved plan for such construction, the question of lawful construction or valid transfer of the said flat would not arise.

15.2. She further submits that the developer, in order to create documents and give an appearance of legality, executed a release deed dated 11.06.2003 in favour of his wife, Smt. Revathi. Based on this inter se transaction between husband and wife, the khata was entered in her name. It is contended that the transaction was not a genuine arms-length sale, but one executed only for the purpose of creating records. But for this document, the name of Smt. Revathi would not have been entered in the municipal records.

15.3. It is also submitted that the property was mortgaged to the State Bank of India and subsequently assigned to M/s J.M. Financial Asset Reconstruction Company Private Limited. The said company brought the property to auction, and Sri A.V. Naresh purchased it on 07.01.2020. However, prior to such auction, the BBMP had issued a notice dated 10.03.2016 declaring that Flat No. F3 was an illegal and unauthorised construction. The notice specifically called upon J.M. Financial Asset Reconstruction Company not to bring the flat to auction. It was also indicated that a demolition notice had already been issued in respect of the said flat. According to her, this notice was even painted on the wall of the building, thereby giving public notice of the illegality.

15.4. Despite such clear warning and knowledge of the unauthorised nature of the construction, the asset reconstruction company proceeded with the auction and Sri A.V. Naresh purchased the property. It is contended that both the auctioneer and the auction purchaser had sufficient notice of the violations and therefore cannot claim any equitable interest in the property.

15.5. She further submits that even while the property stood in the name of Smt. Revathi, respondent No.4 had initiated proceedings seeking revocation or cancellation of the khata. Sri A.V. Naresh was aware of these proceedings and was also impleaded therein.

15.6. It is then submitted that having realised the legal complications and the fact that the construction was unauthorised, Sri A.V. Naresh sold the property to the present petitioner. The petitioner, according to her, also purchased the property with full knowledge that the third floor had no sanctioned plan and that the construction was illegal. Therefore, the petitioner cannot claim to be a bona fide purchaser without notice.

15.7. She submits that it is after considering all these aspects, namely, absence of plan sanction for the third floor, the earlier demolition notice, the warning issued to the auctioning authority, and the pendency of cancellation proceedings, that the Joint Commissioner passed the order cancelling the khata in respect of the unauthorised construction.

15.8. She further points out that the petitioner had earlier filed O.S. No. 880 of 2021 seeking a permanent injunction against the official respondents. The plaint in the said suit was rejected. Against the said rejection, the petitioner filed C.R.P. No. 205 of 2022, which was subsequently withdrawn. According to her, these proceedings show that the petitioner has been attempting to delay the demolition and prolong the matter through successive legal actions.

15.9. She relies on the decision of the Hon'ble Apex Court in ***Rajendra Kumar Barjatya vs. U.P.***

Avas Evam Vikas Parishad & Ors.[5], more particularly para 21 thereof, which is reproduced hereunder for easy reference:

> ***21.*** *Therefore, in the larger public interest, we are inclined to issue the following directions, in addition to the directives issued by this Court in Re: Directions in the matter of demolition of structures (supra):*
>
> *(i) While issuing the building planning permission, an undertaking be obtained from the builder/applicant, as the case may be, to the effect that possession of the building will be entrusted and/or handed over to the owners/beneficiaries only after obtaining completion/occupation certificate from the authorities concerned.*
>
> *(ii) The builder/developer/owner shall cause to be displayed at the construction site, a copy of the approved plan during the entire period of construction and the authorities concerned shall inspect the premises periodically and maintain a record of such inspection in their official records.*
>
> *(iii) Upon conducting personal inspection and being satisfied that the building is constructed in accordance with the building planning permission given and there is no deviation in such construction in any manner, the completion/occupation certificate in respect of residential / commercial building, be issued by the authority concerned to the parties concerned, without causing undue delay. If any deviation is noticed, action must be taken in accordance with the Act and the process of issuance of completion/occupation certificate should be deferred, unless and until the deviations pointed out are completely rectified.*
>
> *(iv) All the necessary service connections, such as, Electricity, water supply, sewerage connection, etc., shall be given by the service provider / Board to the*

[5] 2024 INSC 990

buildings only after the production of the completion/occupation certificate.

(v) Even after issuance of completion certificate, deviation / violation if any contrary to the planning permission brought to the notice of the authority immediate steps be taken by the said authority concerned, in accordance with law, against the builder / owner / occupant; and the official, who is responsible for issuance of wrongful completion /occupation certificate shall be proceeded departmentally forthwith.

(vi) No permission /licence to conduct any business/trade must be given by any authorities including local bodies of States/Union Territories in any unauthorised building irrespective of it being residential or commercial building.

(vii) The development must be in conformity with the zonal plan and usage. Any modification to such zonal plan and usage must be taken by strictly following the rules in place and in consideration of the larger public interest and the impact on the environment.

(viii) Whenever any request is made by the respective authority under the planning department/local body for co-operation from another department to take action against any unauthorised construction, the latter shall render immediate assistance and co-operation and any delay or dereliction would be viewed seriously. The States/UT must also take disciplinary action against the erring officials once it is brought to their knowledge.

(ix) In the event of any application / appeal / revision being filed by the owner or builder against the non-issuance of completion certificate or for regularisation of unauthorised construction or rectification of deviation etc., the same shall be disposed of by the authority concerned, including the pending appeals / revisions, as expeditiously as possible, in any event not later than 90 days as statutorily provided.

(x) If the authorities strictly adhere to the earlier directions issued by this Court and those being passed today, they would have deterrent effect and the quantum of litigation before the Tribunal / Courts relating to house / building constructions would come down drastically. Hence, necessary instructions should be issued by all the State/UT Governments in the form of Circular to all concerned with a warning that all directions must be scrupulously followed and failure to do so will be viewed seriously, with departmental action being initiated against the erring officials as per law.

(xi) Banks / financial institutions shall sanction loan against any building as a security only after verifying the completion/occupation certificate issued to a building on production of the same by the parties concerned.

(xii) The violation of any of the directions would lead to initiation of contempt proceedings in addition to the prosecution under the respective laws.

15.10. By relying on ***Rajendra Kumar Barjatya***, her submission is that, insofar as illegal constructions are concerned, no khata could be issued nor could an electricity connection be provided. She submits that the Hon'ble Apex Court, in the said judgment, has issued detailed and mandatory directions in the larger public interest to curb unauthorised constructions and to ensure strict compliance with building laws. Placing emphasis on the principles laid down therein, she contends as follows:

15.10.1. Building possession should be handed over only after obtaining a valid completion or occupation certificate.

15.10.2. The approved plan must be displayed at the construction site, and authorities must carry out periodic inspections.

15.10.3. Completion or occupation certificate must not be issued where deviations are noticed, unless the same are fully rectified.

15.10.4. Essential service connections such as electricity, water, and sewerage must be provided only upon production of a valid completion or occupation certificate.

15.10.5. No trade licence or business permission should be granted in unauthorised constructions.

15.10.6. Authorities are required to take strict action against deviations and against erring officials who permit such irregularities.

15.10.7. Banks and financial institutions must sanction loans only after verifying the completion or occupation certificate.

15.10.8. Any violation of the directions would invite contempt proceedings.

15.11. Relying on the above directions, she submits that the construction of Flat No. F3 on the third floor, without sanctioned plan approval, is an unauthorised construction. In the absence of a valid completion or occupation certificate for the third floor, no municipal recognition by issuance of a Khatha could have been granted and no essential services could have been continued.

15.12. She therefore contends that the cancellation of khata is in consonance with the principles laid down by the Hon'ble Supreme Court. According to her, municipal authorities are duty-bound to prevent recognition of unauthorised constructions and cannot perpetuate illegality by continuing entries in municipal records.

15.13. On this basis, she submits that the petitioner cannot claim any equitable or legal protection in respect of a construction which, according to her, is admittedly unauthorised and contrary to the sanctioned plan.

15.14. As regards Section 114, her submission is that the construction being illegal and unauthorised, BBMP can cancel such khata at any time, the period of three years would not be applicable in relation thereto.

16. Sri.B.S.Karthikeyan, learned counsel for the BBMP supports the case of respondent No.4 and justifies the action taken by the municipal authorities by submitting that:

16.1. The khata entry in respect of the subject property is not legally sustainable since the construction itself is illegal and unauthorised. According to him, the sanctioned building plan permitted construction only up to the ground floor, first floor, and second floor. The flat in question, namely Flat No. F3, is situated on the third floor, for which no plan sanction was ever granted. Therefore, the very construction of the third floor is in clear violation of the sanctioned plan and the applicable building regulations.

16.2. He contends that when there is no valid plan sanction permitting construction of a particular portion of a building, such construction cannot be recognised in law. In such circumstances, the municipal authorities cannot continue to maintain or recognise a khata entry in respect of an unauthorised structure. The purpose of maintaining municipal records is to reflect lawful properties within the jurisdiction of the Corporation. If an illegal construction is allowed to remain reflected in the records, it would amount to legitimising or perpetuating an illegality.

16.3. He further submits that the power exercised by the Joint Commissioner in cancelling the khata was in furtherance of the statutory duty cast upon the BBMP to regulate building activity and ensure compliance with planning laws. The cancellation of khata, according to him, does not determine title to the property but merely corrects municipal records so as to ensure that unauthorised constructions are not accorded official recognition.

16.4. Learned counsel emphasises that municipal authorities are under an obligation to act in public interest and to prevent unauthorised constructions from continuing with the support of official documentation. If the construction is contrary to the sanctioned plan, the Corporation cannot be compelled to continue the khata entry merely because it existed earlier.

16.5. He also submits that once the construction is found to be illegal and unauthorised, the petitioner cannot claim continuation of essential services as a matter of right. Provision of electricity and other civic amenities is subject to compliance with building laws. Therefore, the action initiated by the BESCOM authorities to disconnect the electricity supply cannot be termed arbitrary or unlawful. According to him, the service provider is entitled to act upon the communication and findings of the municipal authority regarding the unauthorised nature of the construction.

16.6. On these grounds, he submits that the order passed by the Joint Commissioner cancelling the khata is lawful and justified. Consequently, the challenge to the cancellation order is liable to be rejected. He further submits that since the electricity connection pertains to an unauthorised construction, no interference is called for with the action proposed by the BESCOM authorities.

16.7. Accordingly, he prays that both the writ petitions be dismissed.

17. Heard Sri.Ramesh Chandra, learned counsel for the petitioner in both matters. Ms.M.Sarvamangala, party in person in both matters and Sri.B.S.Karthikeyan, learned counsel for the BBMP. Perused papers.

18. In both matters, the points that would arise for consideration are;

i. **Whether the proceedings initiated under Section 114A of the Karnataka Municipal Corporations Act, 1976 or Section 150 of the BBMP Act for cancellation of khata were barred by limitation, having been commenced beyond three years from the date of recording of transfer of title?**

ii. **Whether the jurisdictional requirements for exercise of power under Section 114A / Section 150, namely fraud,**

misrepresentation, suppression of facts, or furnishing of false, incorrect or incomplete material, were established in the present case?

iii. **Whether the Joint Commissioner had the authority in law to cancel the khata entry made in the year 2003 by passing the impugned order dated 06.03.2023?**

iv. **Whether alleged illegality or unauthorised nature of construction can justify cancellation of khata independent of, or beyond, the statutory limitation prescribed under Section 114A / Section 150?**

v. **Whether the petitioner, having purchased the property pursuant to SARFAESI proceedings and under a registered sale deed, is entitled to seek transfer of khata in his favour?**

vi. **Whether the action initiated by the BESCOM authorities in issuing notice dated 02.02.2024 proposing disconnection of electricity supply is sustainable in law?**

vii. **Whether the petitioner is entitled to the reliefs sought in W.P. No. 26870/2023 and W.P. No. 17679/2024?**

viii. **What order?**

19. I answer the above points as follows:

20. **<u>Answer to Point No. (i):</u> Whether the proceedings initiated under Section 114A of the Karnataka Municipal Corporations Act, 1976 or Section 150 of the BBMP Act for cancellation of khata were barred by limitation, having been**

commenced beyond three years from the date of recording of transfer of title?

20.1. Sri. Ramesh Chandra, learned counsel for the petitioner, submits that the power of review under Section 114A of the Karnataka Municipal Corporations Act, 1976 (hereinafter referred to as the KMC Act) and the corresponding provision under Section 150 of the BBMP Act can be exercised only within a period of three years from the date on which the transfer of title is recorded in the Corporation register. He emphasises that this limitation period is mandatory in nature and not merely directory.

20.2. The learned counsel points out that in the present case, the khata was transferred to the name of Smt. Revathi on 30.07.2003. However, respondent No.4 filed her objections only on 16.07.2011, which is nearly eight years after the entry was made in the Corporation register. Further, the impugned order cancelling the khata was passed on 06.03.2023, which is almost twenty years after the original transfer was recorded. It is therefore contended that both the initiation of proceedings and the passing of the cancellation order are clearly and unambiguously barred by limitation.

20.3. He further submits that once the prescribed period of three years has expired, the statutory authority loses its power to exercise the review jurisdiction. The statute does not confer any residual or inherent power upon the authority to reopen a khata entry beyond the prescribed period, regardless of the grounds urged.

20.4. In support of this contention, the learned counsel relies upon the decision of a Co-ordinate Bench of this Court in **Jayamma's** case [supra], wherein this Court explained the scope of Sections 114 and 114A of the KMC Act. In the said decision, this Court has observed that Section 114(12) requires both the transferor and the transferee to give notice in writing to the Commissioner regarding any change in right, title or interest in respect of property situated within the limits of the Corporation. Section 114A empowers the Commissioner to review such an order of transfer, but only within a period of three years, and only if it is found that the transfer of title was recorded in the Corporation register by reason of fraud, misrepresentation, suppression of facts, or by furnishing false, incorrect, or incomplete material.

20.5. The learned counsel also relies upon the decision in **Sri. Chowdeshwari Togajaveera Kshatriya Sangha's case** [supra]. In the said decision, this Court has clearly held that where a khata entry had been made and continued for several years, the Joint Commissioner cannot assume jurisdiction to reopen or examine the matter beyond the statutory period of three years prescribed under Section 114A of the Act. The Court observed that directing the Joint Commissioner to conduct an enquiry in such circumstances would amount to conferring jurisdiction which the statute itself does not vest in him. The judgment specifically makes it clear that even where allegations of fraud or misrepresentation are raised, the power under Section 114A cannot be exercised after the expiry of three years from the date of recording the khata.

20.6. Reliance is further placed on the decision in **Smt. R.M. Pushpa**. In that case, the transfer of title had been recorded on 01.04.2004, whereas the petition for review was filed on 02.08.2007, that is, beyond three years. This Court held that such a petition was barred by limitation and upheld its rejection. The learned counsel submits that when a four-month delay was not condoned in the said case, in the present case, where the delay is approximately eight years (from the date of objection) and twenty years (from the date of the cancellation order), there can be no justification whatsoever for the exercise of the review power.

20.7. The learned counsel further relies on the decision in **Krishnappa and others** [supra]. In the said decision, this Court identified the three conditions that must be satisfied before invoking the power of review under Section 114A: (i) the Commissioner must arrive at satisfaction, either suo motu or otherwise, after conducting such inquiry as deemed necessary; (ii) the transfer of title must have been recorded by fraud, misrepresentation, suppression of facts, or by furnishing false, incorrect, or incomplete material; and (iii) the power must be exercised within three years from the date of recording of transfer of title. In paragraph 19, this Court found that the orders passed under Section 114A were unsustainable because there was no finding of fraud and the power had not been exercised within three years.

20.8. On the basis of the aforesaid judgments, the learned counsel for the petitioner submits that the legal position is well-settled that the power of review under Section 114A / Section 150 is strictly time-bound and cannot be exercised beyond the period of three years prescribed by the statute. In the present case, the proceedings having been initiated and the cancellation order having been passed far beyond the prescribed period, the same are clearly barred by limitation.

20.9. Smt. L.M. Sarvamangala, respondent No.4 appearing as party-in-person, submits that the construction of Flat No. F3 on the third floor is wholly illegal and unauthorised, as the sanctioned plan permitted construction only up to the ground floor, first floor, and second floor. She contends that where the very construction is illegal, the question of limitation does not arise because an illegal act cannot acquire legitimacy merely by the passage of time.

20.10. She relies upon the decision of the Hon'ble Apex Court in **Rajendra Kumar Barjatya** [supra], wherein the Hon'ble Supreme Court issued comprehensive directions in the larger public interest to curb unauthorised constructions. According to her submission, the said judgment mandates that essential service connections such as electricity, water, and sewerage must be provided only upon production of a valid completion or occupation certificate. She contends that since the third floor was constructed without plan approval, no completion certificate could have been issued, and therefore, no khata ought to have been granted in the first place.

20.11. Her submission is that the limitation period prescribed under Section 114A / Section 150 would not apply where the khata itself was granted in respect of an unauthorised construction. According to her, the municipal authority is duty-bound to correct its records at any point of time when it becomes aware that an illegality has crept in, and the statutory limitation cannot operate as a shield to protect an entry that was void ab initio.

20.12. Sri. B.S. Karthikeyan, learned counsel for respondents No.1 to 3, supports the case of respondent No.4 on this aspect. He submits that the construction of the third floor is in clear violation of the sanctioned plan and therefore the khata entry in respect of the same is not legally sustainable. He contends that the municipal authorities are under a statutory duty to ensure that only lawful constructions are reflected in municipal records, and therefore the limitation period under Section 114A cannot operate as a bar to the correction of records pertaining to an illegal construction.

20.13. I have carefully considered the rival submissions of the parties and perused the material on record. The core question under this Point is whether the proceedings initiated by the municipal authority for cancellation of the khata entry were barred by limitation, having been commenced far beyond the three-year period prescribed under Section 114A of the KMC Act / Section 150 of the BBMP Act.

20.14. At the outset, it is necessary to extract and analyse the relevant statutory provisions. Section 114A of the Karnataka Municipal Corporations Act, 1976 reads as follows:

> ***114A. Review by the Commissioner****.- Where the Commissioner, either suo motu or otherwise, after such enquiry as he considers necessary is satisfied that any transfer of title under section 114 was got recorded in the Corporation register by fraud, misrepresentation, or suppression of facts or by furnishing false, incorrect or incomplete material, he may within a period of three years from the date of such recording of transfer of title reopen the case and pass such order with respect thereto as he thinks fit:*
>
> *Provided that no such order shall be made except after giving the person likely to be affected thereby a reasonable opportunity of being heard.*

20.15. Similarly, Section 150 of the BBMP Act reads as follows:

> ***150. Review by the Chief Commissioner.-*** *Where the Chief Commissioner, either suomotu or otherwise, after such enquiry as he considers necessary is satisfied that any transfer of title under section 149 was got recorded in the Corporation register by fraud, misrepresentation, or suppression of facts or by furnishing false, incorrect or*

incomplete material, he may within a period of three years from the date of such recording of transfer of title reopen the case and pass such order with respect thereto as he thinks fit:

Provided that, no such order shall be made except after giving the person likely to be affected thereby a reasonable opportunity of being heard.

20.16. A careful reading of the aforesaid provisions reveals that the power of review is hedged with specific conditions and limitations. The following essential ingredients emerge from a plain reading of Section 114A / Section 150:

20.16.1. First, the Commissioner (or the Chief Commissioner, as the case may be) must arrive at a satisfaction, either suo motu or on the basis of a complaint, that the transfer of title was recorded in the Corporation register by reason of fraud, misrepresentation, or suppression of facts or by furnishing false, incorrect or incomplete material. This is the jurisdictional prerequisite for the exercise of the review power.

20.16.2. Second, before exercising the power, the Commissioner must conduct such enquiry as he considers necessary. This implies that the satisfaction must be arrived at after due application of mind and not on a mere ipse dixit.

20.16.3. Third, and most critically for the present purpose, the power of review must be exercised within a period of three years from the date of recording of the transfer of title. This is a statutory limitation expressly prescribed by the Legislature.

20.16.4. Fourth, before passing any order, the person likely to be affected must be given a reasonable opportunity of being heard. This is a mandatory requirement of natural justice enshrined in the proviso.

20.17. Now, applying the aforesaid statutory framework to the facts of the present case, the following undisputed facts emerge:

20.17.1. The khata was transferred in the name of Smt. Revathi on 30.07.2003 pursuant to a registered sale deed dated 11.06.2003.

20.17.2. Respondent No.4 filed her objections/complaint before the BBMP on 16.07.2011, which is approximately eight years after the recording of the transfer.

20.17.3. The impugned order cancelling the khata was passed by the Joint Commissioner on 06.03.2023, which is approximately twenty years after the original recording of the transfer.

20.18. The statutory period of three years prescribed under Section 114A / Section 150 is computed from the date of recording of the transfer of title, which in this case is 30.07.2003. The three-year period therefore expired on 30.07.2006. The objection filed by respondent No.4 on 16.07.2011 was itself filed approximately five years after the expiry of the limitation period. The impugned cancellation order dated 06.03.2023 was passed approximately seventeen years after the expiry of the limitation period. The exceeding of the statutory limitation is therefore manifest and beyond any doubt.

20.19. The decision of this Court in **Jayamma's** case is directly applicable to the present case. In the said decision, this Court has clearly explained the scope of Sections 114 and 114A of the KMC Act. This Court observed that Section 114A empowers the Commissioner to review the transfer of title recorded under Section 114, but only within a period of three years from the date of such recording, and only if the transfer was got recorded by fraud, misrepresentation or suppression of facts. The Court further observed that while khata is relevant for several practical purposes, it does not by itself confer title to the property. The principle that emerges from this decision is that the power of review under Section 114A is strictly circumscribed both in terms of the grounds on which it can be exercised and the time within which it must be exercised. In the present case, the review was initiated and concluded far beyond the three-year period, and therefore, applying the principle laid down in **Jayamma**, the proceedings were without jurisdiction.

20.20. The decision in **Sri. Chowdeshwari Togajaveera Kshatriya Sangha** [supra] further reinforces this position. In that case, the khata had been recorded way back in 1994 and continued for several years. This Court held that the Joint Commissioner could not assume jurisdiction to reopen or examine the matter beyond the statutory period of three years. The Court specifically observed that directing the Joint Commissioner to conduct an enquiry in such circumstances would amount to clothing him with a jurisdiction which is not vested in him under law. The Court made it explicit that the Joint Commissioner has no such power or jurisdiction to examine the matter after a lapse of three years from the date of recording of khata, even if the allegations pertain to misrepresentation or fraud. In the present case, the cancellation has been effected twenty years after the original recording, which is manifestly beyond the statutory period. Applying the ratio of **Sri. Chowdeshwari Togajaveera Kshatriya Sangha**, the Joint Commissioner clearly lacked jurisdiction to pass the impugned order.

20.21. The decision in **Smt. R.M. Pushpa** is equally applicable. In that case, the recording of the transfer of title was on 01.04.2004 and the review petition was filed on 02.08.2007, that is, approximately three years and four months after the recording. This Court held that the petition was not maintainable, having been filed beyond the period of three years. If a delay of merely four months beyond the statutory period was held to be fatal in **Smt. R.M. Pushpa**, the present case, where the delay runs into approximately seventeen years beyond the statutory period, admits of no argument whatsoever. The principle laid down in **Smt. R.M. Pushpa** is directly applicable and conclusively establishes that the proceedings in the present case are hopelessly barred by limitation.

20.22. The decision in **Krishnappa and Ors.** [supra] provides a comprehensive analysis of Section 114A and its conditions. In that case, this Court identified the three essential conditions for the exercise of the review power and found that the orders passed under Section 114A were unsustainable because there was no finding of fraud, misrepresentation, or suppression, and because the power had not been exercised within three years. The Court held that on the ground of limitation alone, the orders could not be sustained. The said principle squarely applies to the facts of the present case.

20.23. As regards the submissions of respondent No.4 and Sri. B.S. Karthikeyan that the limitation period should not apply because the construction itself is illegal, this Court is unable to accept such a contention. The Legislature, in its wisdom, has specifically prescribed a limitation period of three years for the exercise of the review power under Section 114A / Section 150. This limitation is an integral part of the statutory scheme and is intended to bring finality to administrative decisions regarding khata entries. The Legislature has not carved out any exception to the limitation period based on the nature of the construction or the illegality thereof. Had the Legislature intended that the limitation period would not apply in cases involving unauthorised constructions, it would have expressly so provided. The absence of any such exception in the statute indicates that the limitation of three years is absolute and applies regardless of the nature of the grounds urged.

20.24. Furthermore, it must be noted that Section 114A / Section 150 deals specifically and exclusively with the review of transfer of title recorded in the Corporation register. The grounds on which the review can be exercised are limited to fraud, misrepresentation, suppression of facts, or furnishing of false, incorrect or incomplete material in the recording of the transfer. The illegality or unauthorised nature of a construction is not one of the enumerated grounds under the section. If the municipal authority wishes to take action against an unauthorised construction, there are separate and distinct statutory provisions available for such purpose, such as those relating to building regulations, demolition, and penalties. Those provisions operate in their own sphere and cannot be made part of the review power under Section 114A / Section 150.

20.25. As regards the reliance placed by respondent No.4 on the decision of the Hon’ble Apex Court in **Rajendra Kumar Barjatya** [supra], while the directions contained therein are undoubtedly significant in the context of regulation of unauthorised constructions, they do not in any manner override or dilute the statutory limitation prescribed under Section 114A / Section 150. The said judgment deals with prospective directions to be followed by authorities in the future for prevention and regulation of unauthorised constructions. It does not, and indeed could not, override the express limitation prescribed by the Legislature in a specific statutory provision. The directions in **Rajendra Kumar Barjatya** operate in the realm of regulation of building activity and service connections, which is distinct from the question of statutory limitation for review of khata entries.

20.26. In the considered view of this Court, the statutory limitation prescribed under Section 114A of the KMC Act and Section 150 of the BBMP Act is mandatory in nature. The word "may" used in the section in relation to the three-year period is not to be read as conferring a discretion on the authority to act beyond the prescribed period. Rather, the phrase "he may within a period of three years" qualifies and restricts the power itself. Once the three-year period expires, the power ceases to exist. This is a well-settled principle of administrative law, namely, that where a statute prescribes a time limit for the exercise of a power, the power cannot be exercised beyond that period.

20.27. **For all the aforesaid reasons, I answer Point No. (i) by holding that the proceedings initiated under Section 114A / Section 150 for cancellation of the khata were clearly and unambiguously barred by limitation, having been commenced far beyond three years from the date of recording of transfer of title on 30.07.2003.**

21. **Answer to Point No. (ii): Whether the jurisdictional requirements for exercise of power under Section 114A / Section 150, namely fraud, misrepresentation, suppression of facts, or furnishing of false, incorrect or incomplete material, were established in the present case?**

21.1. Sri. Ramesh Chandra, learned counsel for the petitioner, submits that the khata in favour of Smt. Revathi was granted on the basis of a valid registered sale deed dated 11.06.2003. Property tax has been regularly paid. The transfer was recorded in accordance with the procedure prescribed under the Act. There was no fraud, misrepresentation, or suppression of material facts in the recording of the transfer.

21.2. He further submits that the impugned order of cancellation does not record any finding of fraud, misrepresentation, or suppression in relation to the recording of the transfer of title. The cancellation has been ordered on the ground that the construction of the third floor is unauthorised and in violation of the sanctioned plan. However, the illegality of the construction, even if assumed to be correct, is not one of the grounds enumerated under Section 114A / Section 150 for the exercise of the review power.

21.3. Relying on the decision in **Krishnappa's** case, the learned counsel submits that in that case, this Court examined the orders passed under

Section 114A and found that no finding of fraud, misrepresentation or suppression had been recorded. The orders were based on the ground that the layout plan had not been approved and the sites had been illegally allotted. This Court held that such grounds do not satisfy the condition precedent for invocation of power under Section 114A, and on that ground alone, the orders were liable to be set aside.

21.4. Smt. L.M. Sarvamangala, respondent No.4, submits that the developer executed a release deed dated 11.06.2003 in favour of his wife Smt. Revathi, and that this was not a genuine arms-length transaction but one executed only for the purpose of creating records. She contends that the very obtaining of khata on the basis of such a document, in respect of a floor that was never sanctioned, constitutes misrepresentation and suppression of facts.

21.5. She further submits that since the construction of the third floor was never sanctioned, the builder/developer could not have validly conveyed a flat on the third floor, and the obtaining of khata on the basis of such a deed amounts to furnishing incorrect or incomplete material to the Corporation.

21.6. Sri. B.S. Karthikeyan, learned counsel for respondents No.1 to 3, supports the case of respondent No.4 and submits that the khata entry in respect of the subject property is not legally sustainable since the construction itself is illegal and unauthorised. He contends that maintaining a khata entry in respect of an unauthorised structure would amount to legitimising or perpetuating an illegality.

21.7. I have carefully considered the submissions of all parties on this Point. The question is whether the jurisdictional prerequisites for the exercise of the power of review under Section 114A / Section 150 were established in the present case.

21.8. As already analysed under Point No. (i), the jurisdictional prerequisites for the exercise of the review power are: (a) the Commissioner must be satisfied that the transfer of title was got recorded in the Corporation register by fraud, misrepresentation, suppression of facts, or by furnishing false, incorrect or incomplete material; and (b) the power must be exercised within three years. Both conditions are cumulative and mandatory.

21.9. In the present case, the impugned order dated 06.03.2023 proceeds on the basis that the construction of the third floor is unauthorised and in violation of the sanctioned building plan. The order does not record any finding that the transfer of title in favour of Smt. Revathi was got recorded in the Corporation register by fraud, misrepresentation, or suppression of facts. The ground of cancellation is the illegality of the construction, not any fraud or misrepresentation in the process of recording the transfer of title.

21.10. There is a fundamental distinction between the two concepts. Section 114A / Section 150 is concerned with the integrity of the process by which the transfer of title was recorded in the Corporation register. It is designed to provide a remedy where the recording was obtained by fraud, misrepresentation, or suppression. It is not concerned with the legality or illegality of the underlying construction. The illegality of the construction, if any, is to be dealt with under the provisions relating to building regulation, demolition, and other enforcement mechanisms available under the Act. The review power under Section 114A / Section 150 cannot be used as a substitute for enforcement of building regulations.

21.11. The decision in **Krishnappa and Ors** [supra] is squarely applicable on this point. In that case, this Court examined the orders passed under Section 114A and found that the proceedings had been initiated on the basis that the layout plan had not been approved by the competent authority and the layout had been illegally developed. The Court held, in paragraph 19, that no finding had been recorded that the transfer of title was either made by fraud, misrepresentation, or suppression of facts or by furnishing false, incorrect or incomplete material. The Court held that the condition precedent for the invocation of power under Section 114A had not been fulfilled. Similarly, in the present case, the impugned order is based on the ground of unauthorised construction and not on any finding of fraud or misrepresentation in the recording of the transfer. The ratio of **Krishnappa** is directly applicable, and the jurisdictional prerequisite stands unfulfilled.

21.12. As regards the submission of respondent No.4 that the execution of the release deed by the developer in favour of his wife constituted misrepresentation, this Court observes that the said submission is in the nature of an ex post facto justification. The impugned order itself does not record any such finding. More importantly, the recording of khata in the name of Smt. Revathi was on the basis of a registered instrument. The validity or genuineness of a registered sale deed/release deed cannot be adjudicated upon in proceedings under Section 114A. That is a matter for determination by a competent civil court. The power under Section 114A is limited to reviewing the administrative act of recording the transfer in the Corporation register and does not extend to adjudicating title disputes or the validity of conveyance deeds.

21.13. The principle laid down in **Jayamma's** case [supra] is also relevant here. In the said decision, this Court observed that khata does not confer right, title or interest in the immovable property. It is merely an administrative record maintained by the Corporation for the purpose of tax collection. Correspondingly, the review of khata under Section 114A cannot be used as a forum for determining title disputes or adjudicating upon the legality of constructions. The power is limited to correcting entries that were obtained by fraud or misrepresentation in the recording process.

21.14. **For the aforesaid reasons, this Court answers Point No. (ii) by holding that the jurisdictional requirements for the exercise of the power of review under Section 114A / Section 150, namely fraud, misrepresentation, suppression of facts, or furnishing of false, incorrect or incomplete material, were not established in the present case. The impugned order is based on the ground of unauthorised**

construction, which is not one of the grounds enumerated under the section.

22. **<u>Answer to Point No. (iii):</u> Whether the Joint Commissioner had the authority in law to cancel the khata entry made in the year 2003 by passing the impugned order dated 06.03.2023?**

22.1. Sri. Ramesh Chandra, learned counsel for the petitioner, submits that the impugned order passed by the Joint Commissioner is without jurisdiction and contrary to law. He contends that the Joint Commissioner did not possess the authority to cancel a khata entry that had been in existence for nearly twenty years, particularly when the statutory conditions for the exercise of the review power under Section 114A / Section 150 were not satisfied.

22.2. Relying on the decision in **Sri. Chowdeshwari Togajaveera Kshatriya** [supra], the learned counsel submits that this Court has explicitly held that the Joint Commissioner has no power or jurisdiction to examine the matter after a lapse of three years from the date of recording of khata, even if the allegations pertain to misrepresentation or fraud. He further submits that exercising such power would amount to clothing the Joint Commissioner with a jurisdiction which is not vested in him under law.

22.3. Smt. L.M. Sarvamangala submits that the Joint Commissioner was acting in the discharge of a statutory duty to correct municipal records. She contends that the power exercised was in furtherance of the obligation to ensure that municipal records do not reflect unauthorised constructions.

22.4. Sri. B.S. Karthikeyan submits that the power exercised by the Joint Commissioner in cancelling the khata was in furtherance of the statutory duty cast upon the BBMP to regulate building activity and ensure compliance with planning laws. He contends that the cancellation does not determine title to the property but merely corrects municipal records so as to ensure that unauthorised constructions are not accorded official recognition.

22.5. This Point is, in substance, a corollary of Points No. (i) and (ii). The question whether the Joint Commissioner had the authority to cancel the khata entry depends upon whether the statutory conditions for the exercise of the review power were satisfied.

22.6. As already held under Point No. (i), the proceedings were barred by limitation, having been initiated and concluded far beyond the three-year period prescribed under Section 114A /Section 150. As held under Point No.(ii), the jurisdictional prerequisite of fraud, misrepresentation, or suppression was not established, and the impugned order was based on the ground of unauthorised construction, which is not one of the statutory grounds.

22.7. The decision in **Sri. Chowdeshwari Togajaveera Kshatriya Sangha** [supra] is directly on point. In that case, this Court held in clear and unambiguous terms that the Joint Commissioner has no such power or jurisdiction to examine the matter after a lapse of three years from the date of recording of khata, even if the allegations pertain to misrepresentation or fraud. The Court observed that exercising such power would amount to clothing the Joint Commissioner with a jurisdiction which is not vested in him under law. This principle applies with full force to the present case. The Joint Commissioner, having passed the impugned order approximately twenty years after the recording of the khata, and without any finding of fraud or misrepresentation, clearly acted without jurisdiction.

22.8. Further, applying the principles laid down in **Krishnappa and Ors.** [supra] where this Court held that orders passed under Section 114A without a finding of fraud and beyond the limitation period could not be sustained in the eye of law, the impugned order in the present case is equally unsustainable. The Joint Commissioner did not have the authority in law to pass the impugned order dated 06.03.2023 cancelling the khata entry made in the year 2003.

22.9. The submissions of respondent No.4 and Sri. B.S. Karthikeyan that the Joint Commissioner was acting in discharge of a statutory duty to correct records are not without force in principle. However, the manner of exercising such power must conform to the statutory framework. If the municipal authority is of the view that a construction is unauthorised, the remedy lies in taking action under the appropriate provisions relating to building regulations and demolition. The review power under Section 114A / Section 150, which is a specific and limited power, cannot be invoked as a catch-all provision to correct all manner of irregularities in municipal records.

22.10. **For the aforesaid reasons, this Court answers point No. (iii) by holding that the Joint Commissioner did not have the authority in law to cancel the khata entry made in the year 2003 by passing the impugned order dated 06.03.2023. The impugned order was passed without jurisdiction, both on account of the expiry of the limitation period and on account of the non-fulfilment of the jurisdictional prerequisites under Section 114A / Section 150.**

23. **<u>Answer to Point No. (iv):</u> Whether alleged illegality or unauthorised nature of construction can justify cancellation of khata independent of, or beyond, the statutory limitation prescribed under Section 114A / Section 150?**

23.1. Sri. Ramesh Chandra, learned counsel for the petitioner, submits that the statutory limitation prescribed under Section 114A / Section 150 cannot be bypassed on any ground, including the alleged illegality of the construction. He contends that the Legislature has prescribed a specific time limit for the exercise of the review power and has not carved out any exception for cases involving unauthorised constructions. He submits that if the municipal authority wishes to take action against an unauthorised construction, it must resort to the appropriate statutory provisions relating to building regulations and demolition, and not to the review power under Section 114A / Section 150.

23.2. Smt.L.M.Sarvamangala submits that the construction of the third floor is wholly illegal and without any sanctioned plan. She contends that illegality cannot be perpetuated merely because a limitation period has expired. She relies upon the decision of the Hon'ble Apex Court in **Rajendra Kumar Barjatya** [supra] to submit that the Hon'ble Supreme Court has issued mandatory directions that no khata should be issued and no essential services should be provided in respect of unauthorised constructions. She further submits that the following directions are relevant:

23.2.1. Building possession should be handed over only after obtaining a valid completion or occupation certificate.

23.2.2. Essential service connections such as electricity, water, and sewerage must be provided only upon production of a valid completion or occupation certificate.

23.2.3. No trade licence or business permission should be granted in unauthorised constructions.

23.2.4. Banks and financial institutions must sanction loans only after verifying the completion or occupation certificate.

23.3. On this basis, she contends that the cancellation of khata is in consonance with the principles laid down by the Hon'ble Supreme Court, and that municipal authorities are duty-bound to prevent recognition of unauthorised constructions and cannot perpetuate illegality by continuing entries in municipal records.

23.4. Sri. B.S. Karthikeyan submits that when a construction is found to be illegal and unauthorised, the municipal authority is duty-bound to ensure that such construction is not accorded official recognition in the form of a khata entry. He contends that the limitation period under Section 114A cannot operate as a shield to protect an illegal construction from regulatory action.

23.5. This is the central and most contentious point in the present case. The question is whether the alleged illegality or unauthorised nature of the construction can justify the cancellation of khata independent of, or beyond, the statutory limitation prescribed under Section 114A / Section 150.

23.6. At the outset, it must be acknowledged that unauthorised constructions are a serious concern and that municipal authorities have a duty to enforce building regulations. The directions of the Hon'ble Supreme Court in **Rajendra Kumar Barjatya** are a manifestation of the highest judicial concern about the menace of unauthorised constructions. However, the question before this Court is not whether unauthorised constructions should be tolerated, but whether the specific statutory power of review under Section 114A / Section 150 can be invoked beyond the prescribed limitation period on the ground of unauthorised construction.

23.7. The answer, in the considered opinion of this Court, must be in the negative, for the following reasons:

23.7.1. First, Section 114A / Section 150 is a specific statutory provision with a defined scope, defined grounds, and a defined limitation period. The scope is limited to review of transfer of title recorded in the Corporation register. The grounds are limited to fraud, misrepresentation, suppression of facts, or furnishing of false, incorrect or incomplete material. The limitation period is three years from the date of recording. The illegality of the construction is not one of the enumerated grounds, and there is no provision for the extension or relaxation of the limitation period.

23.7.2. Second, the statutory scheme of the KMC Act and the BBMP Act provides separate and distinct provisions for dealing with unauthorised constructions. These include provisions relating to building plan approval, inspection, demolition orders, penalties, and other enforcement mechanisms. These provisions operate in their own sphere and are not dependent upon or connected with the review power under Section 114A / Section 150. The existence of these separate remedies confirms that the Legislature did not intend Section 114A / Section 150 to be used as a vehicle for enforcement of building regulations.

23.7.3. Third, the principle that a limitation period prescribed by statute cannot be overridden on the ground of illegality of the underlying transaction is well-established. A limitation period serves the important purpose of bringing finality to administrative and legal proceedings. It prevents the reopening of settled matters at distant points of time, when evidence may have been lost, witnesses may have become unavailable, and parties may have altered their positions in reliance upon the existing state of affairs. In the present case, the petitioner purchased the property through the SARFAESI process and under a registered sale deed, relying upon the existing municipal records. Permitting the cancellation of khata twenty years after its grant would cause serious prejudice to parties who have acted in good faith.

23.7.4. Fourth, if the interpretation urged by respondent No.4 and the BBMP were to be accepted, it would render the limitation period in Section 114A / Section 150 completely nugatory. Any khata entry could be cancelled at any time, however distant, merely by alleging that the underlying construction is unauthorised. This would defeat the legislative intent behind prescribing a specific limitation period and would create uncertainty in municipal records, thereby undermining the very purpose for which khata entries are maintained.

23.7.5. Fifth, the decision of the Hon'ble Apex Court in **Rajendra Kumar Barjatya's** case, while containing important and mandatory directions for the regulation of unauthorised constructions, must be understood in its proper context. The directions contained in paragraph 21 of the said judgment are primarily prospective in nature. They direct authorities to ensure that, going forward, service connections are provided only upon production of completion or occupation certificates, and that banks verify such certificates before sanctioning loans. These are directions aimed at preventing future irregularities and strengthening the enforcement framework. They do not, and indeed could not, retrospectively override the statutory limitation period prescribed by the Legislature for review of khata entries under Section 114A / Section 150.

23.7.6. Sixth, it must be borne in mind that the khata was granted in the year 2003. At that time, the directions contained in **Rajendra Kumar Barjatya's** case were not in existence, having been issued only in 2024. Holding that those directions can operate retrospectively to justify a cancellation of a khata that was lawfully granted twenty years ago would be contrary to fundamental principles of fairness and the prospective application of judicial pronouncements.

23.7.7. Having said the above, this Court must clarify that the finding under this Point does not in any manner condone or approve unauthorised construction. If the third floor of the building is indeed an unauthorised construction, the municipal authority is not without remedy. It can take appropriate action under the provisions relating to building regulation, demolition, and penalties. However, such action must be taken under the appropriate statutory provisions and in accordance with the procedure prescribed therein. The review power under Section 114A / Section 150, which is a limited and time-bound power, is not the appropriate tool for such action.

23.7.8. **For the aforesaid reasons, this Court answers point No. (iv) by holding that the alleged illegality or unauthorised nature of the construction cannot justify the cancellation of khata independent of, or beyond, the statutory limitation prescribed under Section 114A / Section 150.**

24. **<u>Answer to Point No. (v):</u> Whether the petitioner, having purchased the property pursuant to SARFAESI proceedings and under a registered sale deed, is entitled to seek transfer of khata in his favour?**

24.1. Sri. Ramesh Chandra, learned counsel for the petitioner, submits that the petitioner purchased the property from one Sri A.V. Naresh, who in turn had acquired it through a public auction conducted under the SARFAESI Act. The petitioner holds a registered sale deed dated 07.01.2020. Having acquired the property through a lawful process and under a registered conveyance, the petitioner is entitled to seek transfer of khata in his name. He submitted an application for the same on 10.05.2022, but instead of considering the application, the BBMP proceeded to cancel the khata.

24.2. The learned counsel further submits that the khata had remained in existence for nearly twenty years. During this period, the property was mortgaged to a bank, brought to sale under the SARFAESI Act, purchased in auction, and thereafter conveyed to the petitioner. The petitioner purchased the property bona fide, relying upon the existing municipal records. At this stage, the cancellation of the khata adversely affects his rights and unsettles transactions that have already taken place.

24.3. Smt. L.M. Sarvamangala submits that prior to the SARFAESI auction, the BBMP had issued a notice dated 10.03.2016 declaring that Flat No. F3 was an illegal and unauthorised construction. The said notice specifically warned the auctioning authority not to bring the flat to auction and indicated that a demolition notice had already been issued. She contends that this notice was even painted on the wall of the building, thereby giving public notice of the illegality.

24.4. She further submits that despite such clear warning, the asset reconstruction company proceeded with the auction and Sri A.V. Naresh purchased the property. According to her, both the auctioneer and the auction purchaser had sufficient notice of the violations. She submits that Sri A.V. Naresh, having realised the legal complications, sold the property to the present petitioner, who also purchased with full knowledge that the third floor had no sanctioned plan. Therefore, the petitioner cannot claim to be a bona fide purchaser without notice.

24.5. She further points out that the petitioner had earlier filed O.S. No. 880 of 2021 seeking a permanent injunction against the official respondents, the plaint in which was rejected. Against the said rejection, the petitioner filed C.R.P. No. 205 of 2022, which was subsequently withdrawn. According to her, these proceedings demonstrate that the petitioner has been attempting to delay proceedings through successive legal actions.

24.6. Sri. B.S. Karthikeyan submits that the petitioner cannot claim continuation of essential services as a matter of right in respect of an unauthorised construction. He contends that the provision of civic amenities is subject to compliance with building laws and that the petitioner is not entitled to seek transfer of khata in respect of a construction that is illegal.

24.7. The question under this Point is whether the petitioner, having purchased the property through the SARFAESI process and under a registered sale deed, is entitled to seek transfer of khata in his favour.

24.8. The undisputed factual position is as follows: Smt. Revathi held khata in respect of the subject property from 30.07.2003. She had created a mortgage over the property in favour of the State Bank of India. Upon default, the property was classified as an NPA and proceedings were initiated under the SARFAESI Act. After compliance with the statutory procedure under Sections 13(2), 13(4), and 14 of the SARFAESI Act, the secured asset was brought to sale by way of public auction. Sri A.V. Naresh emerged as the highest bidder and a sale certificate was issued in his favour. Sri A.V. Naresh subsequently conveyed the property to the present petitioner under a registered sale deed dated 07.01.2020.

24.9. The petitioner thereafter submitted an application on 10.05.2022 seeking the transfer of the khata in his name. Instead of deciding the said application on merits, the BBMP proceeded to cancel the khata that stood in the name of Smt. Revathi.

24.10. Now, the question of the petitioner's entitlement to seek transfer of khata must be examined in light of the findings already recorded under Points No. (i) to (iv).

24.11. It follows from the aforesaid findings that the impugned order of cancellation dated 06.03.2023 is without jurisdiction and is liable to be set aside. The consequence of setting aside the cancellation order is that the khata, which had stood in the name of Smt. Revathi since 30.07.2003, revives. If the khata is treated as having continued without interruption, the petitioner, who holds a registered sale deed and has acquired the property through a chain of transfers originating from the SARFAESI proceedings, is entitled to seek transfer of khata in his name.

24.12. As regards the submissions of respondent No.4 concerning the notice dated 10.03.2016 and the question of whether the petitioner is a bona fide purchaser, this Court observes as follows:

24.12.1. The question of bona fide purchase and the effect of notice is relevant in the context of title disputes, which are beyond the scope of writ jurisdiction. This Court, in the exercise of its jurisdiction under Articles 226 and 227 of the Constitution, is concerned with the legality and validity of the impugned order, not with adjudication of title. Whether the petitioner purchased the property with or without knowledge of the alleged illegality of the construction is a question that may be relevant in other proceedings, but it does not affect the legal validity of the impugned order under Section 114A / Section 150.

24.12.2. Furthermore, the SARFAESI proceedings were conducted by a financial institution/asset reconstruction company under a statutory framework. The sale under the SARFAESI Act and the issuance of a sale certificate carry a presumption of regularity. The petitioner derives his title from a registered sale deed. His entitlement to seek transfer of khata arises from his ownership of the property as evidenced by the registered deed, and not from the question of whether the construction is authorised or unauthorised.

24.12.3. As observed in the case of **Jayamma**, khata does not confer title to the property. It is an administrative record for the purpose of tax collection. Conversely, the denial of khata does not extinguish title. The petitioner's title, derived from a registered sale deed, exists independently of the khata. He is entitled to seek transfer of khata in his name as the legal owner of the property.

24.12.4. As regards the filing and withdrawal of O.S. No. 880 of 2021 and C.R.P. No. 205 of 2022, the same cannot be a ground for denying the petitioner his legal rights. The petitioner is entitled to pursue such remedies as are available to him in law, and the mere fact that earlier proceedings were not successful does not preclude him from seeking appropriate relief in the present proceedings.

24.12.5. **For the aforesaid reasons, this Court answers Point No. (v) by holding that the petitioner, having**

purchased the property pursuant to SARFAESI proceedings and under a registered sale deed, is entitled to seek transfer of khata in his favour. The BBMP is directed to consider the petitioner's application for transfer of khata in accordance with law.

25. **<u>Answer to Point No. (vi):</u> Whether the action initiated by the BESCOM authorities in issuing notice dated 02.02.2024 proposing disconnection of electricity supply is sustainable in law?**

25.1. Sri. Ramesh Chandra, learned counsel for the petitioner, submits that the action initiated by the BESCOM authorities to disconnect the electricity supply is entirely consequential to the impugned cancellation of khata by the BBMP. He contends that if the cancellation order is set aside, the authorities would have no justification to disconnect the electricity supply. He further submits that the notice was issued in spite of being apprised of the pendency of W.P. No. 26870/2023 and the interim order of status quo passed by this Court, which demonstrates arbitrariness on the part of the BESCOM authorities.

25.2. Smt. L.M. Sarvamangala submits that the disconnection of electricity supply is justified in light of the unauthorised nature of the construction. She relies on the directions of the Hon'ble Apex Court in **Rajendra Kumar Barjatya's** case, particularly Direction (iv), which mandates that all necessary service connections, including electricity, water supply, and sewerage, shall be given by the service provider only after the production of the completion/occupation certificate. She contends that since the third floor has no completion certificate, the electricity connection cannot be sustained.

25.3. Sri. B.S. Karthikeyan submits that once the construction is found to be illegal and unauthorised, the petitioner cannot claim continuation of essential services as a matter of right. He contends that the service provider is entitled to act upon the communication and findings of the municipal authority regarding the unauthorised nature of the construction, and that the disconnection of electricity supply to an unauthorised construction is lawful and justified.

25.4. The question under this Point is whether the notice dated 02.02.2024 issued by the BESCOM authorities proposing disconnection of electricity supply is sustainable in law.

25.5. The factual position is that the BESCOM authorities issued the impugned notice consequent upon the cancellation of the khata by the BBMP. The said notice was issued in spite of the fact that the petitioner had informed the BESCOM authorities about the pendency of W.P. No. 26870/2023 and the interim order of status quo passed by this Court.

25.6. The sustainability of the BESCOM notice must be examined at two levels: first, whether the notice is sustainable on its own legal basis; and second, whether it is sustainable in light of the findings already recorded in these proceedings.

25.7. On the first aspect, the notice dated 02.02.2024 appears to have been issued primarily on the basis of the cancellation of the khata by the BBMP. The BESCOM authorities are not the authority competent to determine the legality or illegality of constructions. Their action of proposing disconnection was triggered by and was consequential to the BBMP's cancellation order. Since this Court has already held that the cancellation order dated 06.03.2023 is without jurisdiction and is liable to be set aside, the foundation upon which the BESCOM notice rests falls away. A consequential action cannot survive when the primary action upon which it is based is found to be illegal and without jurisdiction.

25.8. On the second aspect, the electricity connection in question was existing and operational at the premises for a considerable period of time. The meter bearing number C4EH34304 was a subsisting connection. The disconnection of an existing electricity connection has serious consequences for the occupant, and any such action must be based on a lawful and subsisting order.

25.9. As regards the reliance placed by respondent No.4 on the directions of the Hon'ble Apex Court in the case of **Rajendra Kumar Barjatya,** this Court has already observed under Point No. (iv) that the said directions are primarily prospective in nature. Direction (iv) thereof states that service connections shall be given to buildings only after the production of the completion/occupation certificate. The key word is "shall be given", which indicates a prospective application. It applies to new connections to be granted in future, not to existing connections that have been operational for years. The said direction cannot be read as mandating the disconnection of existing connections that were lawfully provided at the time they were granted.

25.10. Furthermore, the notice was issued at a time when the challenge to the khata cancellation was pending before this Court and an interim order of status quo was in operation. The issuance of the notice in the face of the pending proceedings and the interim order demonstrates a lack of sensitivity on the part of the BESCOM authorities to the judicial process.

25.11. **For the aforesaid reasons, this Court answers point No. (vi) by holding that the action initiated by the BESCOM authorities in issuing the notice dated 02.02.2024**

proposing disconnection of electricity supply is not sustainable in law. The said notice, being consequential to the khata cancellation order which has been found to be without jurisdiction, cannot be sustained. The notice dated 02.02.2024 is held to be not sustainable in law.

26. **<u>Answer to Point No. (vii):</u> Whether the petitioner is entitled to the reliefs sought in W.P. No. 26870/2023 and W.P. No. 17679/2024?**

26.1. Sri. Ramesh Chandra, learned counsel for the petitioner, submits that in W.P. No. 26870/2023, the petitioner seeks setting aside of the order dated 06.03.2023 cancelling the khata and a direction to transfer the khata in his name. In W.P. No. 17679/2024, the petitioner seeks quashing of the BESCOM notice dated 02.02.2024 and restoration of electricity supply. He submits that in light of the illegality of the impugned orders, the petitioner is entitled to both sets of reliefs.

26.2. Smt. L.M. Sarvamangala submits that the petitioner is not entitled to any relief because the construction is unauthorised and the petitioner purchased the property with full knowledge of the illegality. She prays that both writ petitions be dismissed.

26.3. Sri. B.S. Karthikeyan submits that both writ petitions be dismissed and the actions of the municipal and electricity authorities be upheld.

26.4. The question of the petitioner's entitlement to reliefs must be answered in light of the findings recorded under Points No. (i) to (vi).

26.5. In W.P. No. 26870/2023, the petitioner seeks the setting aside of the impugned order dated 06.03.2023, cancelling the khata and a direction to transfer the khata in his name. In light of the findings under Points No. (i) to (v), the impugned order is clearly without jurisdiction and is liable to be set aside. The petitioner, holding a registered sale deed, is entitled to seek transfer of the khata. However, this Court cannot directly order the transfer of khata but can direct the competent authority to consider and decide the petitioner's application in accordance with law.

26.6. In W.P. No. 17679/2024, the petitioner seeks the quashing of the BESCOM notice dated 02.02.2024 and restoration of the electricity supply. In light of the finding under Point No. (vi), the said notice is not sustainable in law and is liable to be quashed. Consequently, the electricity supply to the subject premises is to be restored/continued.

26.7. This Court must add an important caveat. The findings in these proceedings relate exclusively to the legality and validity of the impugned order of cancellation of khata and the consequential BESCOM notice. Nothing contained in this judgment shall be construed as a finding on the legality or otherwise of the construction on the third floor. If the municipal authority or any other competent authority is of the view that the construction is unauthorised, they are at liberty to take appropriate action under the relevant statutory provisions, including but not limited to provisions relating to building regulations, demolition, and penalties, in accordance with law and after affording due opportunity to all affected parties.

The present judgment does not operate as a bar to such proceedings.

26.8. **For the aforesaid reasons, this Court answers point no. (vii) by holding that the petitioner is entitled to the reliefs sought in both W.P. No. 26870/2023 and W.P. No. 17679/2024, subject to the caveat mentioned above.**

27. **<u>Answer to Point No. (viii):</u> What order?**

27.1. In view of the findings and conclusions recorded under Points No. (i) to (vii), this Court proceeds to pass the following order.

27.2. **In W.P. No. 26870/2023:**

27.2.1. The writ petition is allowed.

27.2.2. The impugned order dated 06.03.2023 passed by the 2nd respondent (Joint Commissioner, East, BBMP) in Case No. 3066/17-18, cancelling the khata in respect of the subject property bearing No. 118, Janhavhi Clusters, F-2, 2nd Floor, 6th Main, P&T Colony, Sanjayanagar, Bengaluru, is hereby quashed and set aside, being an order passed without jurisdiction and in violation of the statutory provisions of Section 114A of the Karnataka Municipal Corporations Act, 1976 and Section 150 of the BBMP Act.

27.2.3. The BBMP is directed to consider the petitioner's application dated 10.05.2022 seeking transfer of khata in his name, in accordance with law and on its own merits, within a period of eight weeks from the date of receipt of a certified copy of this order. While considering the said application, the BBMP shall afford due opportunity to all interested parties and shall pass a speaking order.

27.3. **In W.P. No. 17679/2024:**

27.3.1. The writ petition is allowed.

27.3.2. The impugned notice dated 02.02.2024 bearing reference No. AEE/C4/HBL/AET/1995/2023-24 issued by the BESCOM authorities proposing disconnection of electricity supply to the meter bearing No. C4EH34304 in respect of the subject property is hereby quashed and set aside.

27.3.3. The BESCOM authorities are directed to restore and/or continue the electricity supply to the subject premises, if the same has been disconnected, within a period of two weeks from the date of receipt of a certified copy of this order.

27.4. It is clarified that nothing contained in this judgment shall be construed as a finding on the legality or otherwise of the construction on the third floor of the building in question. If the competent municipal or statutory authority is of the view that the said construction is unauthorised and in violation of the sanctioned plan, they are at liberty to take appropriate action under the relevant statutory provisions, including but not limited to provisions relating to building regulations, demolition, and penalties, in accordance with law and after affording due opportunity of hearing to all affected parties.

SD/-
(SURAJ GOVINDARAJ)
JUDGE

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