



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 24TH DAY OF FEBRUARY, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

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

WRIT APPEAL NO. 1776 OF 2025 (GM-RES)

BETWEEN:

1. SRI A NATARAJ
THE ASSISTANT EXECUTIVE ENGINEER (RETD)
PUBLIC WORKS DEPARTMENT
MAGADI SUB-DIVISION
MAGADI TALUK - 562 120
BENGALURU SOUTH DISTRICT

RESIDENCE ADDRESS:

SRI A. NATARAJ
S/O. ASHWATHNARAYANA MURTHY
AGED ABOUT 63 YEARS
R/AT SREE RAMA NILAYA
VIDHYANAGAR
TUMAKURU TOWN - 572 101

...APPELLANT

(BY SRI VIVEK S. REDDY, SENIOR ADVOCATE A/W
SRI H.B. RAJU, ADVOCATE)

AND:

1. SRI T.N. CHANDRASHEKAR
S/O. SRI N. NANJAPPA





AGED ABOUT 67 YEARS
PROP: SRI ASHWINI TEXTILE
NARASIMHA CIRCLE
KALYAGATE
MAGADI TOWN - 562 120
(RAMANAGARA DISTRICT)
BENGALURU SOUTH DISTRICT

2. THE GOVERNMENT OF KARNATAKA
BY ITS CHIEF SECRETARY
VIDHANA SOUDHA
BENGALURU - 560 001
3. THE DEPUTY COMMISSIONER
RAMANAGARA DISTRICT
RAMANAGARAM - 562 159
4. THE TAHSILDAR
MAGADI TALUK
MAGADI - 562 120
5. SRI M.S. NIRANJAN BABU
TAHSILDAR
MAGADI TALUK
MAGADI - 562 120
6. THE ASSISTANT EXECUTIVE ENGINEER
PUBLIC WORKS DEPARTMENT
MAGADI SUB-DIVISION
MAGADI TALUK - 562 120
7. THE MAGADI POLICE STATION
BY ITS INSPECTOR OF POLICE
MAGADI TALUK-562 120.



8. SRI H. RAVI
CIRCLE INSPECTOR OF POLICE
MAGADI TALUK - 562 120
9. SRI RAVI PRAKASH
SUB-INSPECTOR
MAGADI POLICE STATION
MAGADI - 562 120
10. MAGADI TOWN MUNICIPALITY
BY ITS CHIEF OFFICER
MAGADI TOWN
MAGADI - 562 120

...RESPONDENTS

(BY SMT. NAMITHA MAHESH B.G., AGA FOR R-2 TO 9;
RESPONDENTS 1 & 10 ARE SERVED &
UNREPRESENTED)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER DATED 04.07.2024 IN WRIT PETITION No.44001/2011
(GM-RES) PASSED BY THE LEARNED SINGLE JUDGE OF THIS
HON'BLE COURT AND ETC.

THIS APPEAL, COMING ON FOR PRELIMINARY
HEARING, THIS DAY, JUDGMENT WAS DELIVERED THEREIN
AS UNDER:



CORAM: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE)

1. For the reasons stated in the application - I.A.No.1/2025, the same is allowed and the delay caused in filing the appeal is condoned.

2. The appellant has filed the present appeal impugning an order dated 04.07.2024 passed by the learned Single Judge of this Court in WP.No.44001/2011 (GM-RES) [**the impugned order**]. By the impugned order, the learned Single Judge partly allowed the writ petition and directed respondent No.3 [**the Deputy Commissioner**] to conduct an enquiry and quantify the compensation/damages suffered by the writ petitioner. The operative part of the said impugned order is set out below:

“Order

- i) Writ Petition is allowed in-part.
- ii) Respondent No.2-Deputy Commissioner is directed to conduct an enquiry, quantify the compensation/damages suffered by the



petitioner due to the illegal acts of the respondents authorities in demolishing the building in contravention of law.

iii) The petitioner is at liberty to produce necessary evidence/material to justify the claim/quantum of compensation/damages.

iv) The Deputy Commissioner is directed to complete the exercise of quantification of compensation and disbursement of the same with applicable interest from date of demolition within three months from the date of receipt of copy of this order.

v) In view of the finding of this Court that demolition was illegal and in violation of the provisions of Karnataka Highways Act and also due to highhanded and arbitrary actions of the respondent-authorities, the Deputy Commissioner is directed to fix the liability on the concerned officials and recover the damages paid from the erring officials following due process of law and on compliance of principles of natural justice.

vi) The Deputy Commissioner to place the compliance report before this Court at the earliest.

This Court records appreciation of the assistance rendered by Mr. Harshith A, Law Intern."



3. It is material to note that the State Government has not filed an appeal against the said decision. It has, apparently, accepted the same. The Assistant Executive Engineer has filed the appeal, being aggrieved by the findings that the demolition of the property in question is illegal.

4. Respondent No.1 (the writ petitioner) had filed the writ petition seeking the following reliefs.

(i) to issue mandatory direction to the respondents for production of the Notification for widening the road and formation of drainage at B.K.Road, Magadi Town;

(ii) to declare that the demolition of the structure on the schedule B property in occupation of the petitioner by the respondents herein is illegal, unlawful and opposed to law without any notification whatsoever;

(iii) to direct the respondents to restore the suit building in O.S.No.307/2011 to the original position at the costs of the respondents;

(iv) to award compensation for illegal demolition of the schedule B property in a sum of Rs.72,00,000/-(Rupees seventy two lakhs)



(v) and prays for such other relief or relief's as this Hon'ble court deems fit in the circumstances of the case, including the costs of the above petition, in the interest of justice and equity."

5. It is the writ petitioner's case that he was a tenant in respect to the property bearing Municipal Katha No.1951/1822, situated at Narasimha Circle, Kalya Gate, Magadi Town, Magadi Taluk, Ramanagara District, which measured 19' East to West and 76' North to South. The said property is referred to as the Schedule 'B' property in the petition. The writ petitioner stated that the Schedule 'B' property was part of a larger property. The said larger property was referred to in the writ petition as the Schedule 'A' property.

6. The writ petitioner claimed that he entered into an agreement dated 09.09.2002 with the landlord (one Sri. K. S. Nataraj) for purchasing the Schedule 'B' property. The remaining property was in possession of one Smt. Radha Balakrishna, who was neither a party to the writ petition nor is a party in the present appeal.



7. Apparently, Smt. Radha Balakrishna purchased the Schedule 'B' property under the registered sale deed dated 13.04.2004. The writ petitioner claimed that the said sale deed was invalid, as it was entered into while the agreement of sale dated 09.09.2002 in his favour was subsisting.

8. It is material to note that the writ petitioner was running a textile shop in the Schedule 'B' property. The writ petitioner claimed that Smt. Radha Balakrishna was wife of Sri. H.C. Balakrishna, who was then the Member of Legislative Assembly. She was running a gas agency under the name of Bhagyalakshmi Gas Agency. The writ petitioner alleged that Sri. Balakrishna started harassing him for vacating the Schedule 'B' property and on 01.08.2011 had sent some rowdy elements to demolish the property. The writ petitioner also alleged that he was further harassed by filing of police complaints. He alleged that said rowdy persons had brought a Hitachi JCB and started demolishing the Eastern side of the Schedule 'B' property. Attempts were also made to demolish the entire



Schedule 'B' property. In the circumstances, the writ petitioner filed a civil suit, O.S. No. 307/2011, before the Additional Civil Judge, Magadi. The said court had granted protective interim orders dated 09.08.2011, restraining the demolition, dispossession and interference/obstruction with the plaintiff's possession of the Schedule 'B' property.

9. While these interim orders were subsisting, the appellant filed an application for impleadment in OS No. 307/2011. He also sought to implead the State of Karnataka through the Chief Secretary and the Assistant Executive Engineer, PWD, Magadi, as defendants. He sought vacation of the interim orders, claiming that the said order would impede public works. The said application was also accompanied by a notification and a sketch, which the appellant claimed had been issued for the widening of the road and drainage works. The writ petitioner filed his objections.

10. The appellant did not succeed in getting the interim orders vacated. Notwithstanding the same, he, along with certain other



officials, arrived at the Schedule 'B' property on 21.11.2011 at about 1.00 p.m. and started demolishing the property. The writ petitioner claimed that there were stocks of textile worth more than ₹50,00,000/- in the shop (Schedule 'B' property). He states that he, his brothers and the owners of the adjacent building resisted the attempt to demolish the Schedule 'B' property. However, the same was demolished. He claims that he had lost stock worth ₹50,00,000/- and ₹2,00,000/- cash, which were kept in the shop. He alleges that the schedule 'B' property was razed to the ground, resulting in the writ petitioner suffering a loss of over ₹72,00,000/-.

11. The writ petitioner alleged that the demolition was carried out without issuing any notice and despite an order passed by the Civil Court restraining the demolition of the subject property.

12. It is the appellant's case that the land for the State Highway had been encroached upon, and therefore the building was demolished for widening of the road and to ease traffic in the public interest.



13. Admittedly, neither any notice was issued nor any demolition order was passed by the competent authority. It is the appellant's case that no such notices were necessary, as the property owner had issued a 'No Objection Certificate' for carrying on the demolition.

14. The learned Single Judge referred to Section 23 of the Karnataka State Highways Act, 1964 [**the Act**], which explicitly requires issuance of a notice to the person responsible for encroachment. Section 23 of the said Act is set out below:

23. Prevention of encroachment.—(1) When as a result of check of highway boundaries made or otherwise it transpires that an encroachment has taken place on a highway, the Highway Authority or the officer authorised under sub-section (1) of section 21 shall serve a notice on the person responsible for the encroachment or his representative requiring him to remove such encroachment and restore the land its original condition before the encroachment within the period specified in the notice.

(2) The notice shall specify the land encroached upon and the time-limit within which such encroachment shall be removed and shall also state that failure to comply within the specified period shall render the person liable to prosecution and also to summary eviction.



(3) If the encroachment is not removed within the time limit specified in the notice and no valid cause is shown for non-compliance, the Highway Authority or the authorised officer referred to in sub-section (1) may prosecute such person for his having made or caused the encroachment and for his failure to remove it within the specified time.

(4) Where the encroachment is made for the purpose of exposing articles for sale, opening temporary booths for vending or other like purpose of a trivial nature, the Highway Authority or the authorised officer referred to in sub-section (1) may with the help of the police, if necessary, have such encroachment summarily removed without issuing a notice as required by sub-section (1) or in lieu of removal of encroachment, may give the person responsible the encroachment option of executing a lease in favour of the Highway Authority on payment of rent for the area encroached.

(5) When the encroachment is of a temporary nature and can easily be removed, but is not such as can be described as trivial within the meaning of sub-section (4), the Highway Authority or the authorised officer referred to in sub-section (1) may in addition to or in lieu of prosecuting the person responsible for the encroachment under sub-section (3) have the encroachment summarily removed with the assistance of the police, if necessary.

(6) Where the encroachment is of such a nature that its immediate removal is considered essential in the interests of safety of traffic on the highway or the safety of any structure forming part of the highway, the Highway Authority or the authorised officer referred to in sub-section (1) may in addition to the prosecution of the person under sub-section (3), either,—



(i) have such protective work as may be feasible at a reasonable cost carried out so as to minimise the danger to traffic on the highway, or

(ii) have the encroachment removed with the help of the police, if necessary.

15. In the present case, admittedly, no notice had been issued, and the demolition had been carried out in contravention of the provisions of Section 23 of the Act.

16. The learned Single Judge also found that the 'No Objection Certificate' issued by the property owner - Smt. Radha Balakrishna did not cover the entire demolition. Smt. Radha Balakrishna had submitted her no objection "to free the encroached property measuring 12.5' on both sides for widening of the road for convenience of general public".

17. In view of the above, the learned Single Judge found that the demolition of the Schedule 'B' property was illegal and thus issued consequential directions.



18. The undisputed facts in this case are telling. First, that the appellant was aware that the writ petitioner was in possession of the schedule 'B' property and was operating a shop selling textiles, from the said premises; second, admittedly no notice was issued to the writ petitioner as required under Section 23 of the Act; third, no order has been produced for widening of the road in question, which would require the property to be demolished as claimed by the appellant; fourth, admittedly, the rudimentary principles of natural justice, which required that the petitioner be heard, was not followed; fifth, the appellant was fully aware of the disputes between the writ petitioner and Smt. Radha Balakrishna, yet he had acted on the 'No Objection Certificate' issued by her. More importantly, the Civil Court had passed an order, *inter alia*, restraining the demolition of the property in question. The appellant filed an application seeking impleadment in the said suit and had sought vacation of the interim order. Nonetheless, he had proceeded to demolish the property, notwithstanding that the interim order was subsisting.



19. Since it is admitted that the demolition was pursuant to the 'No Objection' given by Smt. Radha Balakrishna, *prima facie*, it does appear that the demolition was carried out at her instance. We are unable to accept that the appellant could demolish a property without any order, mainly on the basis of a 'No Objection Certificate' given by a party, which the appellant knew had been restrained from carrying out any such action. The action is clearly in violation of Section 23 of the Act, which explicitly requires the issuance of notice prior to any action for removal of encroachment.

20. The learned counsel appearing for the appellant did submit that the directions requiring the appellant or the State Authorities to compensate the writ petitioner overlooked the role of Smt. Radha Balakrishna. He submitted that the property was demolished at her instance. She is also liable to pay the compensation for the same.

21. There is no dispute that the demolition was carried out by the appellant and certain other persons. Therefore, in the first



instance, they would be liable to compensate the writ petitioner for an action carried out contrary to law. Since it is now contended that the appellant had acted at the behest of Smt. Radha Balakrishna, the appellant, is not precluded from availing of the remedies, if any, against Smt. Radha Balakrishna, albeit in accordance with the law.

22. In the given facts, we find no grounds to interfere with the impugned order.

23. The appeal is, accordingly, dismissed.

24. Pending application stands disposed of.

**Sd/-
(VIBHU BAKHRU)
CHIEF JUSTICE**

**Sd/-
(C.M. POONACHA)
JUDGE**

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List No.: 1 SI No.: 10