



IN THE HIGH COURT OF KARNATAKA  
DHARWAD BENCH

DATED THIS THE 25<sup>TH</sup> DAY OF JULY, 2023

BEFORE

THE HON'BLE MR JUSTICE PRADEEP SINGH YERUR

WRIT PETITION NO. 101438 OF 2021 (LB-RES)

**BETWEEN:**

SHRI NARAYAN S/O. HARISHCHANDRA PAI,  
AGE: 42 YEARS, OCC: BUSINESS,  
R/O: 229, RANADE ROAD,  
TILAKWADI, BELAGAVI-590006.

...PETITIONER

(BY SRI SOURABH HEGDE, AND SRI SHREEVATSA HEGDE,  
ADVOCATES.)

**AND:**

1. THE COMMISSIONER,  
CORPORATION OF CITY OF BELAGAVI,  
SUBHASH NAGAR,  
BELAGAVI-590016.
2. THE STATE OF KARNATAKA,  
BY THE UNDER SECRETARY,  
DEPARTMENT OF URBAN DEVELOPMENT,  
M.S. BUILDING, AMBEDKAR VEEDHI,  
BENGALURU-560001.

...RESPONDENTS

(BY SRI ARAVIND D. KULKARNI, ADVOCATE FOR R.1;  
SRI RAMESH CHIGARI, HCGP, FOR R.2.)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227  
OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT IN  
THE NATURE OF MANDAMUS DIRECTING THE 1<sup>ST</sup> RESPONDENT TO  
EXECUTE A PROPER DEED OF CONVEYANCE IN RESPECT OF THE  
LAND BEARING CTS NO.229, RANADE ROAD, TILAKWADI, BELAGAVI,  
WITH A FURTHER DIRECTION TO THE 2<sup>ND</sup> RESPONDENT TO





EXPEDITE THE PROCESS BY ACCORDING NECESSARY PERMISSIONS, ETC.,.

THIS PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP THIS DAY, THE COURT MADE THE FOLLOWING:

**ORDER**

This petition is filed by petitioner seeking a writ of mandamus for a direction to the 1<sup>st</sup> respondent to execute a proper deed of conveyance in respect of the land bearing CTS No.229, situated at Ranade Road, Tilakawadi, Belagavi and further direction to respondent No.2 to expedite the process by according necessary permission.

2. Heard the learned counsel for petitioner and learned counsels for respondents No.1 and 2.

3. It is the contention of the learned counsel for petitioner that father of petitioner was the absolute owner of property bearing CTS No.442, situated at Congress Road, Tilakwadi, Belagavi. He further contends that a sizable portion of approximately 2350 sq.feet of the said commercial property was illegally demolished by the



1<sup>st</sup> respondent without due process of law in the year 1994 for alleged road widening.

4. Learned counsel further contends that the said action of the 1<sup>st</sup> respondent of demolition was without any notice and adherence to due process of law. Ultimately the father of the petitioner was dispossessed from CTS No.442 stated hereinabove. It is further contended that the deceased father of the petitioner instituted proceedings in the Court of Prl. Civil Judge, Belagavi, in Miscellaneous No.12/1995 for compensation of Rs.24.00,000/-, pursuant to which the 1<sup>st</sup> respondent in order to compensate the father of petitioner, granted land bearing CTS No.229 situated at Ranade Road, Tilakawadi, Belagavi, vide resolution dated 14.12.1995. In the said resolution, a condition was imposed that the petitioner shall withdraw the proceedings in the Civil Court and shall not ask for any more compensation after getting the alternative plot allotted in his favour. Thereafter land measuring 3150 sq.feet situated in Mangalawarpeta, Tilakawadi, Belagavi,



was allotted on lease-cum-sale for a period of five years with annual rental value of Rs.900/-. The father of petitioner was not satisfied with the said allotment and sought for suitable land.

5. Pursuant to issuance of the resolution at Annexure-A, father of petitioner withdrew the proceedings instituted by him in Miscellaneous No.12/1995. After securing the property which was given on lease, subsequently the petitioner constructed house in the said property. But after realizing that there is no conveyance effected by the respondents, the petitioner's father realized that similarly placed persons who were dispossessed and whose property were demolished were provided alternative land and a deed has been executed in their favour, when such petitioner was dispossessed and deprived of property, filed a writ petition No.65886/2009 and an order came to be passed in favour of petitioner therein by this Court, vide Annexure-C.



6. In pursuance to the said order and due to inaction of respondent in not executing a deed of conveyance in his favour, the petitioner made a representation on 21.12.2012, vide Annexure-G, for a direction to the respondents to execute a deed of conveyance in his favour and thereafter applications came to be filed on 20.03.2014 and 23.05.2014. Despite several representations being made by petitioner, none of it was replied or any action taken in accordance with law as was promised in the other similar cases by he respondents. Left with no other alternative remedy, the petitioner is before this Court seeking the aforesaid relief.

7. It is the further contention of the learned counsel for petitioner that despite illegally having demolished the property and having provided with alternate site, the petitioner having put up house construction, but the respondents have not executed a proper deed of conveyance as was agreed earlier by way



of resolution by the respondent. Hence the present writ petition.

8. Per contra, learned counsel representing respondent No.1 contends that the property which is allotted in favour of petitioner is on lease cum sale basis and it is not absolute ownership. In accordance with section 176 of the Karnataka Municipal Corporation Act, 1976, he contends that no property can be transferred or disposed of by sale or by any other transfer except with the previous sanction of the Government as contemplated under section 176(6)(b)(iii) of the Act. He contends that if respondent No.2 has the necessary permission as contemplated under the above provision, they do not have any objection in executing the deed of conveyance in favour of the petitioner.

9. It is seen that Article 300A of the Constitution of India deals with '*persons not to be deprived of property save by authority of law*'. Therefore the right of the petitioner with regard to his property which was in his



absolute ownership is constitutionally valid under Article 300A and the constitutional right cannot be deprived of by authority, even if it is an agency of the State, by demolishing the same depriving the right of the petitioner for peaceful enjoyment of his property, without suitable compensation or an alternative site absolutely in favour of the petitioner. The respondents have conveniently demolished the property belonging to the petitioner and having accepted the same, have executed a lease cum sale document by allotting an alternative land bearing site No.229 situated at Ranade Road, Tilakawadi, Belagavi, by resolution No.19, dated 14.12.1995, at Annexure-A, but pursuant to the same, has not executed the deed of conveyance in favour of the petitioner either for the property which is given on lease cum sale or any other suitable property of similar dimension which was deprived of to the petitioner.

10. The respondent being an agency of the State cannot act irresponsibly by not awarding compensation to



the petitioner for the rightful claim which existed with him prior to the demolition of his property. Therefore it is the duty cast upon respondent No.1 to allot and convey by deed of conveyance by a registered deed of ownership in favour of the petitioner, the already allotted plot as mentioned hereinabove, in view of the fact that the petitioner in anticipation of the plot being allotted by way of a conveyance deed, has already put up a house in the said plot. In a similarly placed situation another land loser had approached this Court in W.P.No.65886/2009 and this Court vide Order dated 13.06.2012, held at paragraph No.4 of the order, which reads as under:

4. It is not in dispute that the petitioner is the owner of the property bearing CTS No.442/2 (442/B) situated at Congress Road, Tilakwadi, Belgaum. The said property was taken over by Respondent no.2-Corporation for widening of the road without paying any compensation and without recourse to land acquisition process. However, in order to rehabilitate the petitioner, he was allotted alternative site nos.8, 9, 10 and 11 by virtue of order at Annexure-A dated 11.5.94. Since the petitioner is not granted any compensation and as he is forcibly evicted, the petitioner is justified in asking either for allotting the



premises which is already given to him on lease basis or for perpetual lease basis. According to the petitioner, the property allotted in his favour on lease is lesser in extent than the property lost by him.

11. In the above said facts and circumstances of the case, this Court is of the opinion that there is no dispute with regard to the petitioner's absolute ownership of the property bearing CTS No.442, situated at Congress Road, Tilakawadi, Belagavi and the said property was demolished by respondent No.1 for the purpose of construction or widening of the road and also there is no dispute to the effect that as compensation to the demolished property belonging to the petitioner an alternative site is allotted by respondent No.1 in CTS No.229 situated at Ranade Road, Tilakawadi, Belagavi, vide resolution dated 14.12.1995.

12. Therefore under the above said facts and circumstances of the case, there would be no option for the respondents but to execute a deed of conveyance of the very same property i.e., CTS No.229 situated at



Ranade Road, Tilakawadi, Belagavi, as the petitioner has already constructed a house therein. Hence I pass the following:

ORDER

- i) The writ petition is allowed.
- ii) A writ of mandamus is issued. Respondent No.1 is directed to execute a deed of conveyance with regard to CTS site No.229 situated at Ranade Road, Tilakawadi, Belagavi, measuring to an extent of 3150 sq.feet in favour of the petitioner after obtaining necessary sanction from the Government i.e., respondent No.2. The same shall be completed i.e., registration of the sale deed including the sanction from the Government within a period of three months from the date of receipt of a copy of this order.

**Sd/-**  
**JUDGE**