



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF SEPTEMBER, 2023

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 38871 OF 2016 (LB-TAX)

BETWEEN:

K NARASIMHAMURTHY
S/O LATE T KRISHNAPPA
AGED ABOUT 50 YEARS,
NAGASANDRA VILLAGE,
SONDEKOPPA POST,
BANGALORE NORTH TALUK
BANGALORE URBAN DISTRICT – 562123.

...PETITIONER

(BY SRI. V P KULKARNI, ADVOCATE)

AND:

1. SONDEKOPPA GRAMA PANCHAYATH
SONDEKOPPA POST,
DASANAPURA HOBLI,
BANGALORE NORTH TALUK
BANGALORE URBAN DISTRICT – 562123.
BY ITS SECRETARY

2. PLANNING & DEVELOPMENT OFFICER
SONDEKOPPA GRAMA PANCHAYATH
SONDEKOPPA POST, DASANAPURA HOBLI,
BANGALORE NORTH TALUK
BANGALORE URBAN DISTRICT – 562123.

...RESPONDENTS

(BY SRI. M PRADEEP, ADVOCATE FOR R1 & R2)

THIS WP FILED UNDER ARTICLES 226 & 227 PRAYING TO DIRECT THE REFUND THE AMOUNT OF RS.59,551/- COLLECTED BY THE SONDEKOPPA GRAMA PANCHAYATH FROM THE PETITIONER VIDE ANNEX-D. QUASH THE NOTICE ISSUED BY THE SONDEKOPPA GRAMA PANCHAYATH ON 20.9.2013 VIDE ANNEX-A AND ETC.,





THIS PETITION, COMING ON FOR HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. The petitioner is before this Court seeking for the following reliefs:

- i. Refund the amount of Rs.59,551/- collected by the Sondekoppa Grama Panchayath from the petitioner vide Annexure-D with interest.*
- ii. Quash the notice issued by the Sondekoppa Grama Panchayath on 20.09.2013 in No.SO.GRA.Pa.28/13-14 vide Annexure-A in the interest of justice and equity.*
- iii. Pass such other order or orders as may be deemed fit and necessary in the facts and circumstances of the case.*

2. The petitioner is the absolute owner of the agricultural land bearing No.35 measuring 4 acres situated at Nagasandra Village, Sondekoppa Post, Dasanapura Hobli, Bangalore North Taluk, Bangalore Urban District. The petitioner has set up a poultry farm in a portion of the said land and as such, with an intention to obtain electricity connection, the petitioner had approached the Karnataka Electricity Board, which then the Karnataka Electricity Board



requested for a 'No Objection Certificate' from the Gram Panchayat to be secured and furnished.

3. When the petitioner approached the respondent No.1, the respondent No.1 made a demand of Rs.1,37,602/- on the ground that the petitioner would be liable to make payment of taxes on the property as if it is an industry which has been run therein. The petitioner at that time having no option had made a payment of sum of Rs.59,551/- but after realizing that the respondent did not have any authority to call for or demand such payment has filed the above Writ Petition challenging the said levy.

4. Sri.V.P.Kulkarni, learned counsel for the petitioner would submit that:

4.1. There is no authority vested with the Panchayat for levy of any amounts as sought for in Annexure-A. Any levy can only be made in terms of Section 199 of the Karnataka Gram



Swaraj and Panchayat Raj Act, 1993 (for short, the Act') read in conjunction with Schedule IV thereof. Neither Section 199 nor Schedule IV permit or authorize the Panchayat to levy any fee on the poultry farm since the poultry farm is not an item, which is covered under Schedule IV.

4.2. He also relies upon a Circular dated 28.02.1997 to contend that poultry farming and dairy activities could be agricultural based activity and would not require conversion of land from agricultural to non-agricultural purpose for carrying out such activities.

4.3. He further relies upon the decision of the Division Bench of this Court in the case of ***State of Karnataka, Rep by its Secretary, Revenue Department and others vs. E.Bhaskar Rao***¹ to contend that irrespective of size of the poultry farm, there would be no

¹ ILR 2003 KAR 2064



requirement for conversion of land since it is an agricultural activity. On that basis, he submits that the Writ Petition is required to be allowed. The amount deposited by the petitioner is required to be refunded and the notice issued at Annexure-A is required to be quashed.

5. Sri.M.Pradeep, learned counsel for respondents No.1 and 2 would submit that:

5.1. Running of a poultry farm is a commercial activity and as such, poultry farm in a commercial building in terms of Clause A(ii) of Schedule IV attracts tax and it is in that background that the levy has been made in terms of Annexure-A and this power being vested under Schedule IV read with Section 199 of the Act, the petitioner cannot challenge the same.



6. Heard Sri.V.P.Kulkarni, learned counsel for the petitioner and Sri.M.Pradeep, learned counsel for respondents No.1 and 2 and perused papers.
7. A short question that would arise for consideration of this Court is whether a poultry farm would be a commercial activity and the building used for the poultry farm would be a commercial building in terms of Clause A(ii) of Schedule IV of the Karnataka Gram Swaraj and Panchayat Raj Act, 1993?
8. Clause A of Schedule IV of the Act deals with Tax on Buildings. It sub-classifies the Buildings into Residential Buildings and Commercial Buildings. It is in that circumstances that the levy as prescribed in the Column 2 thereof has been specified. That is if any building is used for residential purpose, then the levy could be made on residential basis and if the building is used for commercial purpose, then the



levy could be made on commercial basis in terms of Clause A(i) and Clause A (ii) respectively.

9. As observed by this Court in ***E.Bhaskar Rao***'s case supra, a poultry farm is an agricultural activity and does not require the land to be converted to a commercial purpose for putting up a construction thereon and usage thereof for such business. If that be so, a building which had been put up on an agricultural land cannot be said to be a commercial building coming under Clause A(ii) of Schedule IV. The land continues to be an agricultural land and the poultry farm activity cannot be said to be a commercial activity entitling the Panchayat to levy any tax let alone under the said provisions.
10. Schedule IV does not contain any other classification of a poultry farm entitling the Panchayat to levy any tax. In that view of the matter, I am of the considered opinion that poultry farm being run on an



agricultural land not being a commercial activity but being an agricultural activity, the Panchayat would not have any power to levy any tax in terms of Schedule IV read with Section 199 of the Act. Hence, I pass the following:

ORDER

- i. The Writ Petition is allowed, a certiorari is issued.
- ii. Notice dated 20.09.2013 issued by respondent No.1 - Sondekoppa Gram Panchayat at Annexure-A is hereby quashed.
- iii. Respondent No.1 - Sondekoppa Gram Panchayat is directed to refund the amount of Rs.59,551/- deposited by the petitioner within a period of six weeks from the date of receipt of copy of this order.

**Sd/-
JUDGE**