

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 05TH DAY OF SEPTEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE HEMANT CHANDANGOUDAR

WRIT PETITION NO.20013 OF 2019 (LB-BMP)

BETWEEN:

SRI K NARAYANASWAMY
SON OF LATE SRI KONDAPPA
AGED ABOUT 57 YEARS
RESIDING AT NO 12/1 NAGARABHAVI MAIN ROAD,
S V G NAGAR MOODALAPALYA
BENGALURU - 560072

... PETITIONER

(BY SRI THYAGARAJA B , ADVOCATE)

AND:

1 . THE PRINCIPAL SECRETARY
DEPARTMENT OF REVENUE
VIKASA SOUDHA, BENGALURU - 560001

2 . THE PRINCIPAL SECRETARY
HOUSING AND URBAN DEVELOPMENT
DEPARTMENT, VIKASA SOUDHA
BENGALURU - 560001

3 . THE ADDITIONAL COMMISSIONER
BRUHATH BENGALURU MAHANAGARA PALIKE
BBMP PROPERTIES, N R SQUARE
BANGALORE - 560001

... RESPONDENTS

(BY SRI R SRINIVASA GOWDA, AGA FOR R1 & R2,
SRI MOHAN KUMAR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ENDORSEMENT DT 14.3.2019 ISSUED BY THE RESPONDENTS AS PER ANNEXURE-L; DIRECT THE RESPONDENT BBMP TO CONSIDER THE PETITION/APPLICATION FILED AS PER ANNEXURE-K1 DTD.21.2.2019 BY THE PETITIONER FOR ACCEPTING THE KATHA IN HIS NAME IN THE RECORDS OF THE BBMP, IN RESPECT OF THE LAND BEARING SY NO.53/3 [OLD NUMBER-53/1] MEASURING 10 GUNTAS, SITUATED AT LINGARAJAPURA VILLAGE, KASABA HOBLI, BANGALORE NORTH TALUK [WARD NO.86 OF BBMP] IN ACCORDANCE WITH LAW AND ETC.

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

ORDER

The land bearing Sy.No.53/1 measuring 10 guntas of Lingarajapura is the subject matter of this writ petition and the subject property was conveyed to the petitioner by registered sale deed dated 06.09.2005 executed by B.K.Murthy Eshwaraiah and J.M.Srinivasan. Thereafter, the petitioner got the subject property converted for residential purposes under Section 95 of the Karnataka land Revenue Act and submitted an application to the respondent-BBMP to register khata in respect of subject property.

2. The respondent-BBMP issued impugned endorsement rejecting the application submitted by petitioner stating that the dispute is pending consideration in respect of the subject property in W.P.No.17141/2017, W.P.No.51194/2015, RFA No.2083/2016 and RFA No.7512/2016, against which, the present petition is filed.

3. Learned counsel appearing for petitioner submits that the Joint Director of Land records, City Survey, Bangalore has issued an endorsement stating that subject property bearing CTS No.599/1 exclusively belongs to the petitioner. He further submits that in the absence of any order of restraint the impugned endorsement issued by respondent-BBMP is contrary to Sub Section (3) of Section 114 of Karnataka Municipal Corporation Act.

4. On the other hand, learned counsel appearing for respondent BBMP submits that the petitioner is not entitled for registration of katha in his favour in respect of the subject property since the dispute in respect of the subject property is

pending consideration and the petitioner's application can be considered only after adjudication of the dispute.

5. I have considered the submission made by learned counsel for the parties.

6. The petitioner is claiming to be the owner by virtue of registered sale deed. Section 149 of Bruhat Bengaluru Mahanagara Palike Act, 2020 which is pari materia to the Section 114 of the Karnataka Municipal Corporation Act, 1976, specifies that:

"(1) Whenever the title of any person primarily liable for the payment of the tax on any premises to or over such premises is transferred, the person whose title is transferred and the person to whom the same is transferred shall, within three months after the execution of the instrument of transfer or after its registration, if it be registered or after the transfer is effected, if no instrument be executed, give notice of such transfer to the Chief Commissioner in such format as may be prescribed.

(3)Whenever such transfer comes to the knowledge of the Chief Commissioner or authorised officer through such notice, the name of the transferee shall be entered in the property tax register."

7. In the instant case, the petitioner claims to have acquired the title over the subject property by virtue of the registered sale deed and the respondent – BBMP is under an obligation to effect the name of the petitioner in the property tax register as specified under Section 149(3) of the BBMP Act since there is no order of restraint operating against the petitioner. Hence, the impugned endorsement issued by respondent-BBMP is contrary to Section 149 of the BBMP Act, 2020 and the same is not sustainable. Accordingly, I proceed to pass the following:

ORDER

Writ petition is allowed.

Impugned endorsement dated 14.03.2019 issued by respondent No.3 at annexure-L is hereby quashed.

Respondent No.3 is hereby directed to register the khata in favour of petitioner in respect of the subject property in pursuance of registered sale deed dated 06.09.2005 executed in his favour subject to petitioner satisfying other requirements of law.

The said exercise shall be completed within a period of eight weeks from the date of receipt of certified copy of this order.

The khata to be registered in favour of petitioner shall be subject to the out come of proceedings pending in respect of the subject property.

**Sd/-
JUDGE**

BH