Sri Lingesh K S Vs. State Of Karnataka By

Sri Lingesh K S Vs. State Of Karnataka By

SooperKanoon Citation : sooperkanoon.com/1235607

Court : Karnataka

Decided On : Sep-13-2024

Judge : M.Nagaprasanna

Appeal No. : CRL.P 5030/2023

Appellant : Sri Lingesh K S

Respondent : State Of Karnataka By

Judgement :

1 R Reserved on :

30. 08.2024 Pronounced on :

13. 09.2024 IN THE HIGH COURT OF KARNATAKA AT BENGALURU DATED THIS THE13H DAY OF SEPTEMBER, 2024 BEFORE THE HON'BLE MR. JUSTICE M. NAGAPRASANNA CRIMINAL PETITION No.5030 OF 2023 BETWEEN:

1. . SRI LINGESH K. S., S/O LATE SRI SOMASHEKARAPPA AGED ABOUT64YEARS EX-MEMBER OF LEGISLATIVE ASSEMBLY(MLA) AND CHAIRMAN COMMITTEE FOR REGULARIZATION OF UNAUTHORIZED OCCUPATION (BAGAIR HUKUM SAGUVALI SAMITHI) BELUR ASSEMBLY CONSTITUENCY(195) HASSAN DISTRICT - 573 115. ALSO AT KARIKATTEHALLY VILLAGE CHATCHATNAHALLI HASSAN - 573 121. 2 . SRI

G.K.KUMAR S/O KENCHEGOWDA AGED ABOUT57YEARS MEMBER OF COMMITTEE FOR REGULARIZATION OF UNAUTHORIZED OCCUPATION (BAGAIR HUKUM SAGUVALI SAMITHI) BELUR TALUK, HASSAN DISTRICT - 573 115. ALSO AT HALEGENDEHALLY2HASSAN DISTRICT - 573 115. 3 . SMT. SHAILA MOHAN W/O SRI MOHAN AGED ABOUT52YEARS MEMBER OF COMMITTEE FOR REGULARIZATION OF UNAUTHORIZED OCCUPATION (BAGAIR HUKUM SAGUVALI SAMITHI) BELUR TALUK, HASSAN DISTRICT - 573 115. ALSO AT KERAGODU, AREHALLY VILLAGE BELUR TALUK, HASSAN - 573 101. 4 . SRI T.R.RAMESH S/O RUDRAIAH AGED ABOUT40YEARS MEMBER OF COMMITTEE FOR REGULARIZATION OF UNAUTHORIZED OCCUPATION (BAGAIR HUKUM SAGUVALI SAMITHI) BELUR TALUK, HASSAN DISTRICT - 573 115. ALSO AT THENDEKERE VILLAGE IBBEDU, HASSAN - 573 216. 5 . SRI PARVATHA GOWDA S/O KALLEGOWDA AGED ABOUT52YEARS EX-MEMBER OF COMMITTEE FOR REGULARIZATION OF UNAUTHORIZED OCCUPATION (BAGAIR HUKUM SAGUVALI SAMITHI) BELUR TALUK, HASSAN DISTRICT - 573 115. ALSO AT KELEHALLI VILLAGE BENNUR, HASSAN - 573 115. 6 . SMT. CHETANA M. R., W/O G.K.KUMAR AGED ABOUT40YEARS3EX-MEMBER OF COMMITTEE FOR REGULARIZATION OF UNAUTHORIZED OCCUPATION (BAGAIR HUKUM SAGUVALI SAMITHI) BELUR TALUK, HASSAN DISTRICT - 573 115. ALSO AT GENDEHALLI VILLAGE HASSAN - 573 115. 7 . SRI ESHWAR PRASAD S/O KASHAIAH AGED ABOUT45YEARS EX-MEMBER OF COMMITTEE FOR REGULARIZATION OF UNAUTHORIZED OCCUPATION (BAGAIR HUKUM SAGUVALI SAMITHI) BELUR TALUK, HASSAN DISTRICT -537 115. ALSO AT HAGARE VILLAGE HASSAN - 573 216. 8 . SRI S.N.LINGESH S/O LATE NANJEGOWDA AGED ABOUT63YEARS EX-MEMBER OF COMMITTEE FOR REGULARIZATION OF UNAUTHORIZED OCCUPATION (BAGAIR HUKUM SAGUVALI SAMITHI) BELUR TALUK, HASSAN DISTRICT - 573 115. ALSO AT NO.697/1, 11TH CROSS K.R.PURAM, HASSAN - 573 201. 9 . SRI RANGANATH B. R., S/O RANGANAYAK AGED ABOUT57YEARS EX-MEMBER OF COMMITTEE FOR REGULARIZATION OF UNAUTHORIZED OCCUPATION (BAGAIR HUKUM SAGUVALI SAMITHI) BELUR TALUK, HASSAN DISTRICT - 573 115. 4 ALSO AT NO.175, HOSANAGARA BELUR TALUK, HASSAN - 573

115. ... PETITIONERS (BY SRI ASHOK HARANAHALLI, SR. ADVOCATE FOR SRI SRINIVAS RAO S. S., ADVOCATE) AND:

1. . STATE OF KARNATAKA BY BELUR POLICE STATION REPRESENTED BY SPP HIGH COURT BUILDING BENGALURU - 560 001. 2 . K.C.RAJANNA S/O LATE CHIKKAMUNISWAMY AGED ABOUT42YEARS RESIDING AT3D MAIN ROAD GANDHINAGAR, KOLAR - 563 101. ... RESPONDENTS (BY SRI B.N.JAGADEESHA, ADDL. SPP FOR R1; SRI UMAPATHI S., ADVOCATE FOR R2) THIS CRIMINAL PETITION IS FILED UNDER SECTION482OF CR.P.C/528(BNSS) PRAYING TO QUASH THE FIR IN CR.NO.98/2023 REGISTERED BY BELUR POLICE STATION AGAINST THE PETITIONERS FOR THE OFFENCES P/U/S468 464, 465, 471, 409, 420 AND120 OF THE IPC, 1860, PENDING ON THE FILE OF THE XLII ADDITIONAL CHIEF METROPOLITAN MAGISTRATE, BENGALURU (SPL. COURT FOR TRIAL OF CASES FILED AGAINST SITTING AS WELL AS FORMER MP/MLAS TRIABLE BY THE MAGISTRATE), BENGALURU. THIS CRIMINAL PETITION HAVING BEEN HEARD AND RESERVED FOR

ORDER
S ON3008.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:- 5 CORAM: THE HON'BLE MR JUSTICE M.NAGAPRASANNA CAV

ORDER
The petitioners/accused Nos. 1 to 9 are knocking at the doors of this Court calling in question registration of a crime in Crime No.98 of 2023 for offences punishable under Sections 468, 464, 465, 468, 471, 409, 420 and 120B of the IPC, pending before the XLII Additional Chief Metropolitan Magistrate, Bengaluru.

2. Facts, in brief, adumbrated are as follows:- The petitioners at the relevant point in time i.e., between 2016 and 2023 were in the Council, all of them being political entities appointed as Chairman and Members of a particular Committee; the Committee known as Bagair Hukum Saguvali Samithi (hereinafter referred to as the Samithi for short). Accused No.1 / 1st petitioner was at the relevant point in time a Member of the Legislative Assembly of Belur constituency. He was the

Chairman of the Samithi. Accused Nos.2 to 4 were its members and accused Nos.5 to 10 were the erstwhile members. Accused Nos.11 to 14 are the Tahsildars who were functioning at the relevant point in time at the said place and were Secretaries of the Samithi. The 6 allegation revolves around the functioning of the said Samithi. It is alleged that the Samithi has created records and bartered away Government lands to an extent of 2750 acres to 1430 bogus beneficiaries, which are valued at more than `750/- crores in the constituency of accused No.1, who was the Chairman of the Samithi. Based upon this allegation, the 2nd respondent/complainant seeks to knock at the doors of the jurisdictional Police to register the complaint. No action was taken. He knocks at the doors of the learned Magistrate invoking Section 200 of the Cr.P.C. seeking a reference for conduct of investigation into the allegations so made. The complaint is referred for investigation to the jurisdictional Police under Section 156(3) of the Cr.P.C., after which a crime comes to be registered in Crime No.98 of 2023 for the afore-quoted offences. This Court by its order dated 16.06.2023 directed that no precipitate action be taken against the petitioners and the same is subsisting even as on date.

3. Heard Sri Ashok Haranahalli, learned senior counsel appearing for the petitioners, Sri B.N. Jagadeesha, learned Additional State Public Prosecutor appearing for respondent No.1 7 and Sri S. Umapathi, learned counsel appearing for respondent No.2.

4. The learned senior counsel would seek to contend that the complaint is bald and vague. What are the lands that are granted or what are the documents that are fabricated to grant the lands in favour of fictitious persons is not forthcoming from the complaint. If the complaint is so bald, the learned senior counsel would submit that what investigation the police would do, is un-understandable. He would submit that all the allegations are untrue and some of the accused being Government servants, no sanction is accorded under Section 197 of the Cr.P.C. The learned senior counsel would submit that the present complaint is an abuse of the process of law and the members of the Samithi have acted strictly in consonance with law.

5. Per contra, the learned counsel for the complainant would take this Court through the statement of objections so filed by him and reports of Government servants filed by themselves when enquiry was directed to be held by the Assistant Commissioner into the illegalities. The Assistant Commissioner clearly holds that all the lands granted were bogus based upon fake genealogical tree 8 certificates and granted to fake beneficiaries. The Government land in this manner is illegally donated for personal gains of the members of the Chairman, members of the Samithi and officers. He would contend that the question of sanction would arise only after investigation. The matter should be permitted to be investigated.

6. The learned Additional Special Public Prosecutor would toe the lines of the learned counsel for the complainant and would contend that investigation is in progress and in the light of the direction not to precipitate, the investigation is stalled. Therefore, he seeks dismissal of the petition and allowing the investigation to go on.

7. I have given my anxious consideration to the submissions made by the respective learned counsel and perused the material on record.

8. The Samithi which is known as Bagair Hukum Saguvali Samithi was constituted for the purpose of regularization of lands by unauthorized occupants as obtaining under Section 94A of the 9 Karnataka Land Revenue Act, 1964. The Chairman of the Samithi was the 1st petitioner, a then sitting Member of the Karnataka Legislative Assembly. In terms of the provisions of law, three members can be appointed to the Samithi. They were appointed by accused No.1. They are accused Nos. 2, 3 and 4; Accused Nos.5 to 10 are previous members of the Samithi and accused Nos.11 to 14 were Tahsildars working at the relevant point in time at Belur. The petitioners who have knocked at the doors of this Court are accused Nos.1 to 9. The Tahsildars are not before this Court. The Samithi assessed the applications submitted before it. There were 1430 applicants who wanted their unauthorized occupation to be regularized of about 2750 acres of Government lands as those applicants claimed that they were in unauthorized occupation of Government lands. The applicants are said to have given several documents in support of their claim. Those documents are alleged to be fictitious,

fabricated and that they were never unauthorized occupants of Government lands. The lands are granted to those 1430 applicants ranging 2750 acres. 10

9. The smoke of illegality went up the air which led to an inquiry being conducted at the hands of the jurisdictional Assistant Commissioner. The Assistant Commissioner directs the Tahsildar to submit a report after conduct of spot inspection of all the lands and verification of records. The Tahsildar conducts a spot inspection, draws up a report and submits the same to the Assistant Commissioner. The report of the Tahsildar reads as follows: A. CwPt.12/20-21 AP:17/11/2020 fPjU f ig.... :- (cid:1) (cid:4)(cid:11)(cid:13)(cid:14)(cid:16)(cid:13)(cid:18)(cid:20)(cid:21)(cid:22)(cid:26)(cid:29 !"(cid:16)(cid:13) $% (cid:31)(cid:16)(cid:13)) **(cid:11)+ , (cid:22)-. GR:- 1. /* (cid:1)1-234+, 5) (cid:1)1 vz AS : J.J.r 31/2019/2019-20 AP:

15. 06/2019.

2. (cid:4) (cid:11)(cid:13)(cid:14)(cid:16)(cid:13) (cid:26)(cid:29) (cid:31) !" : 9:%-.;<=3?.(cid:20)A* (cid:26) < 08 JfZ 2020(s-1), AP:

19. 09/2020.

3. /* E5(cid:13)234 (cid:31) A*: IJ<(2)61/2019- 20, AP:

06. 10/2019. ******** 11 1. 2017-2018 859 U(cid:29) (cid:1)3(cid:29) 2=(cid:11) 9 V(cid:16)(cid:16)(cid:13) 4/ (cid:31)+ $% (cid:29)(cid:20) (cid:20) (cid:14) X, 4 (cid:31)Y (cid:29)(cid:20)(cid:31)%-.Y4Z(cid:16)=(cid:20))**(cid:11)+ , (cid:16)(cid:13)(cid:22)X **(cid:11)[- 2=(cid:11) \ ].(cid:20) 34 , /*(cid:1)1-234[-(cid:31)$5%X /*(cid:1)1-234+ (1) 5(cid:13) (cid:31)(cid:16)(cid:13) (cid:29)(cid:20) (cid:31) % (cid:4)(cid:14) [- , 2=(cid:11) Y4Z(cid:16)=^].A(cid:21)=(cid:20)9: , (cid:26)(cid:29)(cid:31)!"(cid:20)<= !"9Y(cid:21) (cid:29)(cid:20)(cid:31)%-.(cid:31)].(cid:20)?.].<(cid:11)\$.

2. (2) (3) 5(cid:13) \ (cid:11)(cid:4)(cid:11)(cid:13)(cid:26)(cid:29)(cid:31)!"Y9 -53 /<9 (cid:16)(cid:13)(cid:4)(cid:14)E?.Y(cid:1)5a4/(cid:26)(cid:29)(cid:31)!"(cid:20)<=(cid:31)3-+d-.5(cid:13)e(cid:31)(cid:16)(cid:13) . 859 f=(cid:11)\$ (cid:11)(cid:18)(cid:20) (cid:31)+$%(cid:29)(cid:20)(cid:31) ,

%(cid:20)(cid:4)(cid:14)(cid:31)[-2=(cid:11)/*(cid:1)1-234+ 5)(cid:1)1].(cid:20)?.(cid:11)Y(cid:11)\Ug4=(cid:16)=(cid:20) . (cid:16)(cid:13)) **(cid:11)+ (cid:22)\(cid:20) (cid:16)(cid:13) *a% 4- 94( ) 94( ) 2=(cid:20)(cid:11)9?.(cid:20)3jX \ k(cid:11)\ 3?.) 333(cid:29) ;<= (cid:11)\5(cid:11) $"- Y =I<(cid:4)3%X, =I<= Y (cid:26) (cid:29)A (cid:31) !" (cid:20) <= !" 9 "\(cid:16)(cid:13) (cid:31) 34 9Y (cid:21) -54 9 Y -(cid:31)(cid:16)(cid:13) (cid:31) <= 4 (cid:31)3(cid:29) 2=(cid:11) :)(cid:20)-(cid:31)^4no+(cid:4)(cid:20)X(cid:16)(cid:13))9"\-!" (cid:20) <= 9 (cid:21) $"- vU PgP wPAq AdjzgjU Uan r PzR P %(cid:4)3%\(cid:20) 2 V[/"\ (cid:31) , /(cid:4)3%a 4(cid:4)3(cid:31)a%X 5(cid:13)(cid:21)[Y(cid:26) (cid:29) (cid:31) !" (cid:21)[Ai z PqAiVgvz, Dzg F Az AdgVg 859 (cid:31)[- AAzAv !" (cid:21)(cid:22) -. (cid:16)(cid:13) (cid:22)=X, Dzg Ug PA P wAi qg U q Ai Aiiz z E)(cid:22)(cid:13), (cid:31)+ F Az AdgVg (cid:31)(cid:16)(cid:13) PAqAgvz. EAv PgtU P dgV U /* (cid:1)1UPjU zzAv 12 wAi Az <= (cid:29)(cid:20) (cid:31)% -. 9 (cid:21) . (cid:29)(cid:20)5(cid:31)%5%\(cid:20) 3. (cid:4) (cid:11)(cid:13)(cid:14)(cid:16)(cid:13) 9:% Ug PA P wAi Az Ar F (cid:11)(cid:14)(cid:16)(cid:13) r 9-53 (cid:16)(cid:13) 11275 E?.+ =s-

168. (cid:20)3jX (cid:11)\3?.(cid:20)A* (cid:26)< IEw 2014, 17/03/2018 3 . (cid:20)(cid:11))1 a*w\(cid:133) (cid:14)! - , !Y / 3(cid:1))(cid:22)(cid:13) Y V\ (/?.a%Y4(cid:131)(cid:4)3a9Y 4I) ,

11. (cid:1)(cid:139)a%(cid:4);[(cid:140)[d-(cid:31)3(cid:29)2=(cid:11)(cid:22)9 02-1994g (cid:21)[(cid:11) r 51 4- (cid:26)(cid:29) (cid:31) !"(cid:16)(cid:13) , 31 2017-2018 $%X |(cid:14) 4-(cid:18)(cid:20) 9V(cid:16)(cid:16)(cid:13)V[. , f~(cid:1)4=(cid:11)\$ $44(cid:29)(cid:20)5%)(cid:22)(cid:13) (cid:31)Y : 4Z(cid:16)=(cid:20)4$"Y/(cid:31)E5(cid:13)234+(cid:20)A* (cid:26). 53-57/98-99, (cid:22)9:

30. 06/2003 (cid:141)-, (cid:20)(cid:16) 4 -(cid:31)3(cid:29) 2=(cid:11) (cid:142) U5) (cid:26) (cid:29) (cid:31) , !"(cid:20)<=4-.(cid:31)3-+d(cid:11)].(cid:20)?.Z=(cid:20)Z=X $ F (cid:18)(cid:20) % !" (cid:21)[(cid:11) V[f~(cid:1)4=(cid:11)\$. -(cid:31)))s a*w\(cid:133) / 2 (cid:14). ! a\(cid:20), (cid:31)[-(cid:29)(cid:20) (cid:21) **(cid:11)+ (cid:31)(cid:16)(cid:13) (cid:22)\(cid:20). 10.-.53

9 (cid:16)(cid:13)=s-

24.37 dgV Pzg 9- Ml 6.15 04 * kJ202 JPg d * PVz , Czg Dg.n.A iAv 4.14 JPg U i gvz E GP 2.01 JPg PVg vz, F jw DU Pgt w PqvP AA zAv P vAiij gzjA z. Ml 6.15

4.14 JPg JPg ---- (cid:31)(cid:31)(cid:31)(cid:31)3333(cid:29)(cid:29)(cid:29)(cid:29)2222====(cid:11)(cid:1 xxxxxx 17 iw d +(cid:21) (cid:31)^4- (cid:22)9:

04. 03/1971 ;<= -(cid:141)(cid:144) CZ (cid:16)(cid:13) (cid:4) (cid:11)(cid:13)(cid:14)(cid:16)(cid:13) r 5 -(cid:31) (cid:1)(cid:1) a?. (cid:26) (cid:31)(cid:20)Y - Pjz, v (cid:22)9:

26. 09/1970 /* E5(cid:13)234+ grz 29(cid:16)(cid:13)(cid:4)(cid:11)(cid:13)(cid:14)(cid:16)(cid:13)(cid:1)(cid:1)- (cid:31)!Y3(cid:133)X45%(cid:20) , 29+ - (cid:145)%X (cid:128)(cid:146)r 34 (cid:1)(cid:139) , , , Vs29234+ ;/"5(cid:130)9 ;4-(cid:31)$5%\(cid:20) ;/"\f5(cid:130)9+(cid:21)(cid:31)^4-!(cid:16)r(cid:31)(cid:20)(cid:16)(cid:13) ;/EV].4- !(cid:16)~r(cid:31)(cid:20)(cid:16)(cid:13)(cid:18)(cid:20)(cid:26)(cid:29)(cid:31)!"(cid:16)(c , (cid:21)[(cid:21))(cid:31)+$%V[f~(cid:1)4=(cid:11)\$ $, (cid:29)(cid:20)5%)(cid:22)(cid:13) U(cid:29) 5(cid:13) **(cid:11)+ 3 3) [, "5%X ;(cid:16) !" (cid:20) -(cid:31)a 4 Y <= ?.a%X$ /(cid:31) 9 (cid:21) (cid:29)(cid:20)5 (cid:31) %5) ; . **(cid:11)+(cid:22)-.(cid:11)\Ug4Z(cid:16)=(cid:22)(cid:16)(cid:13)5) - /- vg (cid:4)(cid:11)(cid:13)

(Emphasis added)

The Assistant Commissioner forwards the report along with his analysis to the Deputy Commissioner. The said communication dated 19-12-2020, reads as follows: A.JJr.(2)294/2019-20 AP:19/12/2020 , (cid:1)1-234 , 5)(cid:1)1 . 5) 18 , /*$ Ai: g vQ F Az qg Ug PA U (cid:31)!!"(cid:16)(cid:13)$%(cid:31)(cid:16)(cid:13))**(cid:11)+ . (cid:22)4 5(cid:13): Z5X(cid:26) (cid:4) (cid:31) ."(cid:31).12/2020-21 AP:17/11/2020. ******* U(cid:29) (cid:1)3(cid:29) 2= (cid:4) (cid:11)(cid:13) Ug PA U (cid:31)! !"(cid:16)(cid:13) $% ; / (cid:4)(cid:14) PgtU g vU (cid:22))(cid:20)% 5(cid:13)(cid:11) Z5X(cid:26) (cid:4) (cid:22) . , 2017-2018 (cid:16)(cid:13)=(cid:11)\$ 4(cid:22)Y4Z(cid:16)5%

(cid:18)(cid:20) 9V(cid:16)(cid:16)(cid:13)/ 859 (cid:31)+ $% (cid:29)(cid:20)(cid:20) (cid:4)(cid:14)XY(cid:11)\Ug , 4=(cid:16)=(cid:20)(cid:16)(cid:13))**(cid:11)+(cid:22)X (cid:16)(cid:13)*a%4- 94( ) 94( ) 2=(cid:11)9?.(cid:20)3jX \ k(cid:11)\3?.) . 333(cid:29) ;<= (cid:11)\5(cid:11) (cid:31) %(cid:4)3%\(cid:20) $ (cid:18)(cid:20) 859 $% (cid:31)[- 2=(cid:11) !" (cid:21)(cid:22) -. (cid:16)(cid:13) (cid:22)=X, g(cid:29) (cid:31) !" (cid:21)(cid:22) -. (cid:21)[(cid:18)(cid:16)(cid:13) :)(cid:20) .)(cid:22)(cid:13) (cid:31)Y !" (cid:20) <= (cid:29)(cid:20) . (cid:31)%-.9(cid:21)(cid:29)(cid:20)5(cid:31)%5%\(cid:20) (cid:4) (cid:11)(cid:13)(cid:14)(cid:16)(cid:13) 9:% (cid:26)(cid:29) (cid:31) !" (cid:20) 4571 , < E?.+(cid:4)(cid:14))(cid:20)%(cid:31)"(cid:22)Y(cid:16)(cid:13)=X(cid:26)(cid:29)(cid:31) , !" (cid:20) < :)(cid:20) E?.+ 3:?. a*w\5(cid:13)(cid:16) , x4=y(cid:22)z=5X(cid:26) $s].4{\-(cid:31)53(cid:29)234[ )(cid:22)(cid:13), ; 4 E?. =^" -. 4Z(cid:16) (cid:1) (cid:18))(cid:22)(cid:13). 9-53 (cid:16)(cid:13) =s*- E?. |(cid:14) (cid:4)(cid:14) E?. F3?. a*w\(cid:16)(cid:13) *(cid:1))(cid:22)(cid:13). $ =s- E?.Y (cid:18) z irz. 4 (cid:18) (cid:20) U5 (cid:31) 3?. (cid:18)Az ' (cid:21)5%\(cid:20), $ 9-53 (cid:18)(cid:16)(cid:13) 3 -(cid:31);z4;%X4E?.(cid:1)+(cid:20)5%-.4Z(cid:16) V*a"\)(cid:22)(cid:13);Y3)-(cid:31)[-2=(cid:11)4-(cid:31)3(cid:29)4 . 34E?.Y(cid:22)=5X(cid:26)}4=)(cid:22)(cid:13)3)-(cid:31)(cid:16)(cid:13) , =5X(cid:26)}4=)E?.+(cid:22))(cid:20)%(cid:20)%\(cid:20) (cid:18)(cid:16)(cid:13) 19 , $(cid:22)) 3(cid:29) (cid:11)z)(cid:22)(cid:13) 4 E?.Y . 4(cid:131)(cid:4)3(cid:20)(cid:4)-(cid:145)%\(cid:20) -53 3?.(cid:11)\5(cid:11)9 (cid:16)(cid:13)=s-

30. 04/1999 , 4Z(cid:16)(cid:22)9 (cid:21)(cid:22)9a%\(cid:20) 9?.(cid:20) 94( ) 94( ) 18 3jX \ k(cid:11) ?.3(cid:29) E?.(cid:20)4- ?. (cid:130)!"

198. ;(cid:22)(cid:4) ; 4- 34 (cid:31)(cid:20)(cid:16)(cid:13) 4(cid:20) 9 , V(cid:16)].a%+U/<3<(cid:29)X(cid:18)(cid:20)$%(cid:31) 1987 Y 4Z(cid:16)=(cid:20) 9 V(cid:16)(cid:16)(cid:13) |(cid:31)\ (cid:29)4 $"- , 94( ) 94( ) 4(cid:131)5%(cid:20) 9?.(cid:20)3jX \ k s\ 3?.)333(cid:29);<=].<(cid:16)(cid:13)4(cid:31)3-d(cid:4)3%\(cid:20) . 94 $(cid:18)(cid:20)(cid:31)Y/<(cid:11)\$(cid:20)3jX (cid:11) :

168. 2014, 17/03/2018 \3?.(cid:20)A*(cid:26)< IEw (cid:20)(cid:11))1 3 . , a*w\(cid:133) (cid:14)!-!Y/3(cid:1))(cid:22)(cid:13)$ (cid:18)(cid:20) (cid:31)Y g(cid:29) (cid:31) !"(cid:16)(cid:13) /< V[. . f~].<(cid:11)\$$(cid:31)+(cid:29)(cid:20)5%)(cid:22)(cid:13) V 1111 ;;;;[[[[(cid:140)(cid:140)(cid:140)(cid:140). [[[[dddd ---- (cid:31)(cid:31)(cid:31)(cid:31)3333(cid:29)(cid:29)(cid:29)(cid:29) 2222====(cid:11)(cid:11)(cid:11)(cid:11) (cid:22)(cid:22)(cid:22)(cid:22)9999:

11. 02-1994 g, (cid:21)(cid:21)(cid:21)(cid:21)[[[[(cid:11)(cid:11)(cid:11)(cid:11) rrrr 51 4444---- (cid:26)(cid:26)(cid:26)(cid:26) (cid:29)(cid:29)(cid:29)(cid:29) (cid:31)(cid:31)(cid:31)(cid:31) !!!!""""(cid:16)(cid:16)(cid:16)(cid:16)(cid:13)(cid:13)(cid:13)(cid:13) $$$$%%%%XXXX, ||||(cid:14)(cid:14)(cid:14)(cid:14) 31 2017-2018 , 4444---- (cid:18)(cid:18)(cid:18)(cid:18)(cid:20)(cid:20)(cid:20)(cid:20) 9999VVVV(cid:16)(cid:16)(cid:16)(cid:16)(cid:16)(cid:16)(cid:16)(cid:16)(cid:13)(cid:13)(c $$$$. 44444444---- (cid:29)(cid:29)(cid:29)(cid:29)(cid:20)(cid:20)(cid:20)(cid:20)5555%%%%))))(cid:22)(cid: :

53. 57/98-99, :

30. 06/2003 ////****EEEE555522(cid:13)(cid:13)22(cid:13)(cid:13) 33334444++++(cid:20)(cid:20)(cid:20)(cid:20)AAAA**** (cid:26)(cid:26)(cid:26)(cid:26) (cid:22)(cid:22)(cid:22)(cid:22)9999 20 , (cid:141)(cid:141)(cid:141)(cid:141)---- [[[[====(cid:20)(cid:20)(cid:20)(cid:20)(cid:16)(cid:16)(cid:16)(cid:16)(cid:13)(cid:13)(cid:1 (cid:31)(cid:31)(cid:31)(cid:31)3333(cid:29)(cid:29)(cid:29)(cid:29)2222====(cid:11)(cid:1 (cid:29)(cid:29)(cid:29)(cid:29) (cid:31)(cid:31)(cid:31)(cid:31) !!!!"""" (cid:20)(cid:20)(cid:20)(cid:20) <<<<==== 4444 ----.... (cid:31)(cid:31)(cid:31)(cid:31) 3333----++++dddd(cid:11)(cid:11)(cid:11)(cid:11)].].].].(cid:20)(cid:20)(cid:20)(cid:20)?.?.?.?.ZZZZ==== , . (cid:20)(cid:20)(cid:20)(cid:20)ZZZZ====XXXX$$$$(cid:18)(cid:18)(cid:18)(cid:18)(cid:20 2 . . ---- (cid:31)(cid:31)(cid:31)(cid:31))))))))1111aaaa****wwww(cid:133)(cid:133)\\(cid:133)(cid:

//// (cid:14)(cid:14)(cid:14)(cid:14)!!!!aaaa(cid:20)(cid:20)\\(cid:20)(cid:20)\\
(cid:31)(cid:31)(cid:31)(cid:31)[[[[---- .-.53
(cid:29)(cid:29)(cid:29)(cid:29)(cid:20)(cid:20)(cid:20)(cid:20)(cid:21)(cid:21)(cid:21)(cid:2
(cid:16)(cid:16)(cid:16)(cid:16)(cid:13)(cid:13)(cid:13)(cid:13) ====ssss----<<<<
EEEE?.?.?.?.YYYY (cid:1)(cid:1)(cid:1)(cid:1)5555aaaa4444 ////
5555(cid:13)(cid:13)(cid:13)(cid:13) EEEE?.?.?.?.YYYY
4444(cid:131)(cid:131)(cid:131)(cid:131)==== 94( ) 94( ) 97
(cid:20)(cid:20)(cid:20)(cid:20) 3333jjjjXXXX \\\\ kkkk ;;;;].].].].
(cid:16)(cid:16)(cid:16)(cid:16)(cid:13)(cid:13)(cid:13)(cid:13) YYYY 9999---- ,
(cid:11)(cid:11)(cid:11)(cid:11)----
3333(cid:21)(cid:21)(cid:21)(cid:21)[[[[(cid:21)(cid:21)(cid:21)(cid:21)(cid:4)(cid:4)(cid:4)(c
$$$$----
(cid:31)(cid:31)(cid:31)(cid:31)3333(cid:29)(cid:29)(cid:29)(cid:29)2222====(cid:11)(cid:1
,
(cid:16)(cid:16)(cid:16)(cid:16)(cid:13)(cid:13)(cid:13)(cid:13)(cid:21)(cid:21)(cid:21)(cid:2
$$$$(cid:18)(cid:18)(cid:18)(cid:18)(cid:20)(cid:20)(cid:20)(cid:20)!!!!"""" ,
EEEE?.?.?.?.----
2222====(cid:11)(cid:11)(cid:11)(cid:11)(cid:21)(cid:21)(cid:21)(cid:21)[[[[(cid:21)(cid:21)
4444
rrrr(cid:1)(cid:1)(cid:1)(cid:1)====\\\\?.?.?.?.3333(cid:29)(cid:29)(cid:29)(cid:29)
(cid:11)(cid:11)(cid:11)(cid:11)zzzz . (cid:13)(cid:13)(cid:13)(cid:13)
(cid:11)(cid:11)(cid:11)(cid:11)$$$$""""].].].].5555%%%%(cid:20)(cid:20)(cid:20)(cid:20)5
(cid:11)(cid:11)(cid:11)(cid:11)\$\$\$\$ (cid:29)(cid:29)(cid:29)(cid:29) ----....
4444ZZZZ(cid:16)(cid:16)(cid:16)(cid:16)==== $$$$""""].].].].ssss].].].].////VVVV ,
////<<<<(cid:22)(cid:22)(cid:13)(cid:13)(cid:22)(cid:22)(cid:13)(cid:13)
(cid:31)(cid:31)(cid:31)(cid:31)YYYY """"==== $$$$""""].].].].ssss
(cid:31)(cid:31)(cid:31)(cid:31) , :

53. 57/98-99, :

30. 06/2003 3333----dddd;;;;EEEE555522(cid:13)(cid:13)22(cid:13)(cid:13)
33334444(cid:20)(cid:20)(cid:20)(cid:20)AAAA**** (cid:26)(cid:26)(cid:26)(cid:26)
(cid:22)(cid:22)(cid:22)(cid:22)9999 (cid:141)(cid:141)(cid:141)(cid:141)----[[[[====,
(cid:142)(cid:142)(cid:142)(cid:142) UUUU5555))))

g(cid:29)(cid:29)(cid:29)(cid:29) (cid:31)(cid:31)(cid:31)(cid:31) !!!!""""
(cid:20)(cid:20)(cid:20)(cid:20) - <<<<====4444----
....(cid:31)(cid:31)(cid:31)(cid:31)3333----
++++dddd(cid:11)(cid:11)(cid:11)(cid:11)(cid:20)(cid:20)(cid:20)(cid:20)ZZZZ====XXXX(
(cid:20)(cid:20)(cid:20)(cid:20)<<<<(cid:20)(cid:20)(cid:20)(cid:20)
VVVV[[[[ffff~~~~].].].].3333$$$$;;;;UUUU(cid:29)(cid:29)(cid:29)(cid:29)5555(cid:13)(cid:1
3333$$$$%%%% / 222233334444
9999(cid:1)(cid:1)(cid:1)(cid:1)llll].].].].////VVVV\\\\(cid:31)(cid:31)(cid:31)(cid:31)3333----
(cid:22)(cid:22)(cid:22)(cid:22)(cid:16)(cid:16)(cid:16)(cid:16)(cid:13)(cid:13)(cid:13)(cid:1
5555(cid:13)(cid:13)(cid:13)(cid:13) .
(cid:22)(cid:22)(cid:22)(cid:22)YYYY$$$$(cid:22)(cid:22)(cid:22)(cid:22)----
""""==\\==\\ ++++(cid:18)(cid:18)(cid:18)(cid:18)====(cid:20)(cid:20)(cid:20)(cid:20)
, g(cid:1)(cid:139)s= /- C E5(cid:13)234, , . ;E5(cid:13);

(Emphasis added)

The analysis is that original form 53 application is not there in 99% of the files presented to the Samithi during the period from 2016 to 2022. The file processing is based on hand written ledger extract 21 copy prepared by the Village Accountants and the Sheristedars. The Tahsildars spot inspection is indicative of the fact that the lands granted are not even present in the files, no inspection took place and in some cases records are destroyed to evade proof and lands were granted on fake family genealogical certificates notarized and have been granted to fake beneficiaries. A chart is also indicated as illustration. Several of the files were not even put up before the Samithi. Decision was taken by the Chairman and in some grants made to the persons were on the score that they were holding unauthorized lands did not even belong to Belur Taluk. Based upon this, further proceedings are on. The detailed report of the Assistant Commissioner dated 14.10.2022, addressed to the Deputy Commissioner, Hassan District, obtained by respondent No.2 under the provisions of the Right to Information Act, reads as follows: No.L.N.438/2021-22 Date:14/10/2022 To, The Deputy Commissioner, Hassan District, Karnataka Subject: Inquiry of land grants done during 2016 to 2022 in Belur Taluk-reg. 22 Reference:

1. Letter No.LND (2)294/2019-20 dated:

19. 12/2020 from the office of Deputy Commissioner, Hassan District.

2. Letter No.Athikramana:

12. 202-21 dated 17/11/2020 from office of Tahsildar, Belur Taluk, Hassan District. Respected Madam, 1. With reference to the subject cited above, the undersigned would like to bring to the notice of your kind authority the information regarding the Letter No.Athikramana:

12. 2020- 21 dated:

17. 11/2020 from office of Tahsildar, Belur Taluk, Hassan District. (shown below) 2. In response to the Letter No.Athikramana:

12. 2020-21 dated:

17. 11/2020 from office of Tahsildar, Belur Taluk, Hassan District, the undersigned has received a letter vide Letter No.LND(2)294/2019-20 dated:

19. 12/2020 from the office of Deputy Commissioner, Hassan District. (shown below) In your letter vide Letter No.LND (2)294/2019-20 dated:

19. 12/2020 from the office of Deputy Commissioner, Hassan District, directions have been issued to the undersigned to identify the land the land grants of Belur Taluk which are made in violations of Karnataka Land Revenue Act, 1964, Karnataka Land Revenue Rules, 1966 Karnataka Land Grant Rules, 1969 and circulars of Government of Karnataka regarding land grant rules. Also the directions have been issued by your kind office to identify the officials involved in such unscrupulous land grants and send the report to your kind office.

3. As per the directions by your kind authority, the undersigned has inspected the 1430 land grants files of Belur Taluk pertaining to the years 2016 to 2022 The details of the land grants with the remarks of the undersigned are enclosed (Annexure-1).

4. The findings of the inspections are as mentioned below:

23. a. A total of 2750.86 Acres of Government land has been granted (Saguvali Chit given) by the 05 Tahsildars namely, Puttashetty B.S, Parmesh H.S, B.A. Jagadeesh, J Umesh and U.M. Mohan Kumar who had worked in Belur Taluk, Hassan District during 2016 to 2022. Out of the 2750.86 Acres Government land (Presumptive value ` 6,87,71,48,750.00 i.e. ` Six Hundred and Eighty Seven Crores, Seventy One Lakhs Forty Eight Thousands and Seven Fifty) granted, Khatha entries have been made for 2560.80 Acres (Presumptive value ` 6,40,20,05,000.00 i.e. ` Six Hundred and Forty Crores, Twenty Lakhs and Five Thousands). The details are enclosed (Annexure-2). b. The 1430 inspected land grant files are categorized broadly into 03 colour codes which are Red, Yellow and Blue. The red category grant files are having major lapses in the grant procedure and also include illegal grants. The yellow category grants are having comparatively lesser lapses in the grant procedure but still require a detailed verification of grant. The blue category grant files are the files in which the grant procedure has either been completed fully or partially but the Saguvali chits are yet to be issued. Grant Number Sum of Presumptive value Sum of Category of of Government Land (25 Total Grants lakh per acre inclusive of Acres Maramalki) Blue 46 `17,88,46,875.00

71.54 Red 1261 `6,26,58,36,250,00 2506.33 Yellow 123 `61,13,12,500.00

244.53 Grand 1430 7055995625 2822.40 Total c. Out of 1430 grants files inspected, 1384 saguvali chits have been issued and 1260 Khatas have been done for Government land by various Tahsildars as shown below. (Annexure-3) Tahsildar Tahsildar Doing Khata 24 giving B.A H.S J.Umes N.V Puttashe U.M.Mohan Saguvali Grand Saguvali Jagde Parmesh h Natesh tty B.S Kumar Chit Total Chit esh Given, Khata to be done B.A20 0 0 0 0 1 3 Jagdeesh H.S0498 10 39 0 64 42 635 Parmesh J.Umesh 0 0 147 23 0 28 66 264 Puttashetty 0 42 10 9 279 35 15 390 B.S U.M.Mohan 0 0 0 0 0 74 0 74 Kumar Grand Total 2 540 167 71 279 201 124 1384 d. The total acres of Government land granted by each Tahsidars along with The presumptive value of the Government land so granted are enclosed (Annexure-4) e. For the Total acres of the Government land granted, Khata dorie by each ahsidars along with the presumptive value of the Government land granted are enclosed. (Annexure-

5) f. Total acres of Government land granted and its presumptive value Hobli wise and color code wise, granted by each Tahsildar is enclosed. (Annexures-6, 7, 8, 9, 10 and

11) 25 g. Total acres of Government land granted and Khata done, Hobli wise by each Tahsildar is enclosed (Annexures-12, 13, 14, 15, 16, 17, 18 and

19) 5. Analysis:

5. a. Original Form 53 application is not there in 99% of the files presented in Bagar Hukum Committee during the period from 2016 to 2022 in Belur taluk. File processing is based on handwritten ledger extract copy prepared by village accountants and Office Shirestedars themselves. b. Previous Committee proceedings are not verified regarding rejection of earlier applications. The original applications are not reviewed and file proceedings have started after about 15 to 18 years of receipt of the applications. In many of the cases the applications already rejected by the previous committee are again taken up and approved. c. Tahsildars spot inspection report for the land granted is not present in the files. Such spot inspections are ought to be done personally by the Tahsildars themselves or through their jurisdictional Deputy Tahsildars. In most of the files, Village Accountants have prepared sketches without any cross verification or approval by the concerned ADLR. This has led to the problem of grant of already previously granted land for which Phodi was not done, overlapping of sketches for the land grants proposed for more than one grantees and granting of land to ineligible persons. Sum of Presumptive value of Government Land Granted (Rs. 25 lakh per acre inclusive Maramalki) 26 d. In some cases Original 56 register entries are destroyed to evade the proof whether the applications have been rejected previously. Based on the Fake/ Notarized Family Genealogical Tree certificates lands have been granted to fake beneficiaries. Also previously rejected land grant applications are reconsidered after the applicant has portioned his property and transferred it to name of his relatives via registered partition deeds to show himself as eligible. Sum of Presumptive value of Government Land Khata done after Grant (Rs. 25 lakh per acre inclusive of Maramalki) 27 e. Two Tahsildars Puttashetty B.S and Parmesh H.S have made 390 (i.e., total 893.57

Acres and Presumptive value of Government land ````2,23,39,25,000.00) and 653 (i.e., total 1245.03 Acres and Presumptive value of Government land ```` 3,11,25,67,500.00) Government land grants respectively which comes out to be 75.36% (i.e. 1043 land grants) out of the total 1384 Saguvali chits issued from the Taluk Office Belur during 2016 to 2018. Many of these saguvali chits are issued with major lapses in the procedure or even without putting the applications in front of the Bagar Hukum Committee. Out of 390 government land grants made by Tahsildar Puttashetty B.S, 15 files are still pending for the Khata. Similarly out of 653 government land grants made by Tahsildar Parmesh H.S, 42 files are pending for the Khata. f. In more than 99% of files there has been no consideration made with regard to the cattle population and sufficiency of the land reserved for cattle (Gomala) in the village, while making the land grants. g. Land reserved for the Ex-service men, Hemavathi Reservoir Project and Yagachi Reservoir Project is also disposed illegally through Akrama Sakrama land grants. h. After the first of the Unauthorised Cultivation Regularization Committee the form 54 is not published as per law in the Grama Chavadi for taking public objections to the grant proposals put for the consideration. The signatures made on the Form-54 are suspected to be fake as neither the name nor the father's name has been mentioned of the villagers who have signed on the form -54. In some cases even if the objections are placed against making the land grants in favour of persons who already have excess land holding, such objections are not duly considered by the Tahsildars 28 while putting up the files for second meeting of the grants Unauthorised Cultivation Regularization Committee. i. In some of the grants the person in whose favour the land has been granted does not belong to the Belur Taluk. Land has been granted to people whose residence is in Bangalore and other Districts except Hassan. j. The file numbers have not been properly given for many of the grant files. The file numbers are changing in the revenue inspector report, Belur Taluk case worker report and the saguvali chit issue register for the same grant. In some of the files the grant processing has been initiated and done without even giving any file number to the file. k. The Mara Malki has not been deducted to the Government treasury most of the land grants files inspected causing loss of revenue to the Government of Karnataka.

6. The details of all the files inspected along with the remarks are enclosed along with this letter. All the files for the 1430 land grants inspected by this office have been sealed off in three trunks in 29 bundles and handed over to the Record Room of Taluk Office Belur. One set of the record of the land grants files inspected is shared in the soft copy with the Taluk Office Belur for their office perusal. All the files have been duly scanned and the records have been burnt into 5 sets of 11 DVDs for the purpose of further perusal and investigation. (One such set is enclosed herewith). One set of the records of the 1430 land grants inspected is shared and placed in two systems in the soft copy with the Taluk Office Belur for their office perusal.

7. This is submitted for your kind consideration and necessary action please. Yours sincerely, Sd/- 29 (Prateek Bayal IAS) Assistant Commissioner, Sakleshpura Sub-Division, Hassan District, Karnataka.

(Emphasis added)
The 2nd respondent/complainant then seeks to register a complaint before the jurisdictional Police on 24.01.2023. The complaint reads as follows: U, AP:24/01/2023 (cid:149)(cid:16)(cid:140)(cid:22){ ;E5(cid:13) ; - 571 231 , . . , 3=$(cid:151) V/E3?.?. 3 , 9*V\ -(cid:22) Pg - 563101 .7259880948 : :23/01/2023 (cid:1) (cid:22) (cid:152) $3(cid:29) (cid:22)= Y Lalith Kumari V/S9(cid:131) /(cid:20) 3 =s"].< Government of Uttar Pradesh and Other. Pgtz /* , (cid:153)?.(cid:154)9*:].<"w?./?.fY(cid:13)(cid:155)= . . 9*:].9/<(cid:4)(cid:149)(cid:16)(cid:140)].4{U5w= 166( ) . . . (cid:31)3(cid:157)(cid:26)(cid:20)(cid:16)34 30 :

1. 15011/91 :11/10/2014 5(cid:13) 13?.(cid:20)A* (cid:22) . fa(cid:11)\5 2. . . , /* 9?. 53\ k(cid:140)|~I Z(cid:31) . . , ;(cid:158)3$ (cid:149)(cid:16)(cid:140)].4{ ;(cid:159)(cid:160) 5(cid:144) (cid:149)(cid:16)(cid:140) o, (cid:4) 5(cid:132)/ k. =. =-1095/JDgJN - 01 AP:11/10/2021 gAz Nqv 5A- /< . Z|(cid:136) 3. :23/01/2023 271 (cid:22) 449(cid:22)-g(cid:16)(cid:13))(cid:16)(cid:13) .].< , :23/01/2023 U(cid:29)(cid:1)3(cid:29)(cid:22)=(cid:11) (cid:22) (cid:4)(cid:149)(cid:16)(cid:140)o , , . (cid:149)(cid:16)(cid:140)].4{ (cid:4)(cid:16)(cid:13)-X(cid:4)~].<].<4V$(cid:18)%(cid:20) 2016 2022 , , 4 9 V(cid:16)$- (cid:4) (cid:11)(cid:13)

(cid:20) 5A 9?. ( ) 3?.(cid:22)].!(cid:128)(cid:144)!!"*{ ;(cid:16)(cid:139) 23$, 26 , 2750.86 * *3?.Z?.z=5X(cid:26)+r 1Y(cid:21)= / . , , V(cid:1)$(cid:145)3?.4!Y5* ?. |(cid:31)\ (cid:4);$, , (cid:11)(cid:13)(cid:14)].a=[-(cid:16)(cid:20)5Y(cid:146)r= 9/(cid:20)X(cid:22) $(cid:22) , . , (cid:21)= +dV\aY=3 (cid:152)$a%(cid:11)\$, (cid:31)Y].A(cid:21)= (cid:18)(cid:22)5)(cid:1)1-234Z(cid:31)(cid:31)"(cid:132) . . (cid:4)I(cid:140)g].A(cid:22)(cid:16)(cid:13)U(cid:29)(cid:31)$"

775. 99,95,625/- /<3?.;g(cid:4)5 3~\a%(cid:20)j . ". (cid:20)E=(cid:11)\$ $41(cid:16)(cid:13)(cid:152)$a%\(cid:20) DzjAz, L... PA468 464, 465, 420, 471, 1206, 409 Pg Pgt , (cid:20)(cid:16)].<$ o234:% ; (cid:149)(cid:16)(cid:140)].4{ . (cid:4)(cid:149)(cid:16)(cid:140)o(cid:149)(cid:16)(cid:140)].4{"(cid:21)=s"].<(cid:11)\$ (cid:11) 3 9480804782 , (cid:4)4(cid:4)I (cid:149)(cid:16)(cid:140)].4{A*-(cid:14)?.= . . (cid:31) 9(cid:131) /44:%kY/<3(cid:26)(cid:20)(cid:16) .].$4=(cid:11)\$ 31 /* (cid:153)?.(cid:154) 9*: "w?. /?.f (cid:31)3 U(cid:29) L.. , + 3 41(cid:16)(cid:13) (cid:152) Z(cid:159)(cid:128) $a%)4 (cid:31) , (cid:20)(cid:16)(cid:20) /* (cid:153)?.(cid:154) 9*: /?.fY (cid:13)(cid:155)= 9*: . . 166( )].9/<(cid:4)(cid:149)(cid:16)(cid:140)].4(cid:132)U5w= (cid:31)3 . . . {(cid:157)(cid:26)(cid:20)(cid:16)3(cid:11)\9 /- (cid:18) (3. =. $t) :- , , (cid:31)"Y /* E5(cid:13)234+ ; *{ E5(cid:13) (cid:149)(cid:16)(cid:140) |(cid:31)(cid:22)3 , , ;E5(cid:13) ; (cid:1)l(cid:1)o(cid:21)=\Z\(cid:31)3(cid:29)Z|(cid:136)/ . 3(cid:31)%3(cid:11)\9 /- (cid:18) (3. =. $t) :- , , \(cid:31)3(cid:29)% (cid:149)(cid:16)(cid:140)].4{ (cid:4)(cid:149)(cid:16)(cid:140)o (cid:4)(cid:16)(cid:13)\ . (cid:31)3(cid:29)%].a(cid:22)=(cid:20) /- (cid:18) (3. =. $t) This was not acted upon. Further, a complaint was also made to the Superintendent of Police. Therefore, Section 154(1) and 154(3) of the Cr.P.C. stood complied. Even then, no action was taken. It is then a complaint comes to be registered before the learned Magistrate. The complaint did contain excerpts of the report quoted hereinabove. Therefore, quoting the complaint would become unnecessary. The concerned Court, on the complaint, takes 32 cognizance of the offence by a detailed order. The order reads as follows: 11. Point No.1: The complainant is alleging that the accused persons have committed the offences punishable under section 468, 464, 465, 471, 409, 420 and 120(b) of IPC as averred in the complaint, which is narrated above. On perusal of the complaint averments and also the documents produced along with the complaint, it goes to

show that the complainant has complied with the directions given by the Hon'ble Apex Court in Priyanka Srivastava's Case. The complainant has lodged a complaint before the Jurisdictional Police Station, but no action was taken. The complainant has also lodged a compliant in this regard to the Higher Authorities also, but no action is taken in respect of the complaint lodged by the complainant. The complainant has also filed his affidavit stating that the averments made in the complaint are true and correct. As such, the complainant has filed this Private Complaint with the prayer of refer the complaint under 156(3) of Cr.P.C for investigation.

12. The complainant has produced documents in compliance of section 154 of Cr.P.C and also filed Affidavit in that regard. The complainant has sought to refer this case to the Jurisdictional Police for investigation. As such, at this pre-cognizance stage, bar under section 197 Cr.P.C., will not come into play And, this court is guided by the decision of the Hon'ble High Court of Karnataka, in Crl.P.No.5659/2021 between Abharam T.J., Vs. B.S. Yediyurappa, Dated:

07. 09.2022. I feel this is a fit case to refer the complaint for investigation under section 156(3) of Cr.P.C. As such, Point No.01 is answered in the AFFIRMATIVE.

13. Point No.2: The counsel for the complainant has also pressed to pass necessary orders on the Second Prayer made in the complaint. The complainant has prayed to initiate action against the Police Inspector, Belur Police Station, Belur Taluk, Hassan District. He has also referred to the decision of the Hon'ble Apex Court, i.e., Lalita Kumari Vs Government of U.P and Ors. I have gone through the said decision. This court is constituted as a Special Court to deal with the cases filed 33 against the MPs/MLAs in the State of Karnataka. The Second Prayer sought in the complaint is an independent case in which any MPs/MLAs are not involved. The said prayer is sought to initiate action against the Police Officer who did not register the case based on the complaint lodged by the complainant before the Police Station. As such, this court will not get the jurisdiction to initiate any action against the said Police Officer in this case, as the same will be an independent case. If the complainant is aggrieved by the action of the said Police Officer and he may proceed against him separately before the

Jurisdictional Court. Accordingly, I answer this Point No.2 in the NEGATIVE.

14. Point No.3: For the reasons stated above, I proceed to pass the following:

ORDER

This complaint is referred to SHO of Belur Police Station, Belur Taluk, Hassan District, under section 156(3) of Cr.P.C for investigation. Taking of cognizance and issuance of summons has driven the petitioners to this Court in the subject petition.

10. If what is noticed/quoted hereinabove is considered, what would unmistakably emerge is, that persons who were not even from Belur Taluk and who had produced fake and bogus certificates, the Samithi has granted the lands or regularized those lands as the case would be. The report of the Tahsildar forwarded to the Assistant Commissioner and the detailed report of the Assistant Commissioner to the Deputy Commissioner all of which would 34 unmistakably, albeit prima facie, lead to a conclusion that Government lands are illegally bartered away, as if they are the personal properties of members of the Samithi and the office is treated as their personal fiefdom. It is not one, 10 or 100 acres; the lands that are bartered away are 2750 acres which then valued at ````750/- crores. If the petition is entertained and proceedings are closed against the petitioners, it would be putting a premium on the illegality committed by the Chairman and Members of the Samithi and accepting bartering away of Government lands as if they are self-acquired private properties of the Chairman and members of the Samithi. This is sans countenance, by any canon of law. This matter would require investigation in the least, as it involves maze of facts. The issue regarding sanction of public servants need not be gone into, as no public servant is before the Court.

11. It becomes apposite to refer to the judgment of the Apex Court in the case of KAPTAN SINGH v. STATE OF UTTAR PRADESH1, wherein, it has been held as follows:

1. (2021) 9 SCC3535 9.1. At the outset, it is required to be noted that in the present case the High Court in exercise of powers under Section 482 Cr PC has

quashed the criminal proceedings for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC. It is required to be noted that when the High Court in exercise of powers under Section 482 Cr PC quashed the criminal proceedings, by the time the investigating officer after recording the statement of the witnesses, statement of the complainant and collecting the evidence from the incident place and after taking statement of the independent witnesses and even statement of the accused persons, has filed the charge-sheet before the learned Magistrate for the offences under Sections 147, 148, 149, 406, 329 and 386 IPC and even the learned Magistrate also took the cognizance. From the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914]. passed by the High Court, it does not appear that the High Court took into consideration the material collected during the investigation/inquiry and even the statements recorded. If the petition under Section 482 Cr PC was at the stage of FIR in that case the allegations in the FIR/complaint only are required to be considered and whether a cognizable offence is disclosed or not is required to be considered. However, thereafter when the statements are recorded, evidence is collected and the charge-sheet is filed after conclusion of the investigation/inquiry the matter stands on different footing and the Court is required to consider the material/evidence collected during the investigation. Even at this stage also, as observed and held by this Court in a catena of decisions, the High Court is not required to go into the merits of the allegations and/or enter into the merits of the case as if the High Court is exercising the appellate jurisdiction and/or conducting the trial. As held by this Court in Dineshbhai Chandubhai Patel [Dineshbhai Chandubhai Patel v. State of Gujarat, (2018) 3 SCC104: (2018) 1 SCC (Cri) 683]. in order to examine as to whether factual contents of FIR disclose any cognizable offence or not, the High Court cannot act like the investigating agency nor can exercise the powers like an appellate court. It is further observed and held that that question is required to be examined keeping in view, the contents of FIR and prima facie material, if any, requiring no proof. At such stage, the High Court cannot appreciate evidence nor can it draw its 36 own inferences from contents of FIR and material relied on. It is further observed it is more so, when the material relied on is disputed. It is further observed that in such a situation, it becomes the job of the investigating authority at such stage to probe and then of the court to examine questions once the charge-sheet is filed along with such material as to how far and to what extent reliance can be placed on such material. 9.2. In Dhruvaram Murlidhar Sonar [Dhruvaram Murlidhar Sonar v. State of Maharashtra, (2019) 18 SCC191: (2020) 3 SCC (Cri) 672]. after considering the decisions of this Court in Bhajan Lal [State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC335:

1992. SCC (Cri) 426]. , it is held by this Court that exercise of powers under Section 482 Cr PC to quash the proceedings is an exception and not a rule. It is further observed that inherent jurisdiction under Section 482 Cr PC though wide is to be exercised sparingly, carefully and with caution, only when such exercise is justified by tests specifically laid down in the section itself. It is further observed that appreciation of evidence is not permissible at the stage of quashing of proceedings in exercise of powers under Section 482 Cr PC. Similar view has been expressed by this Court in Arvind Khanna [CBI v. Arvind Khanna, (2019) 10 SCC686: (2020) 1 SCC (Cri) 94]. , Managipet [State of Telangana v. Managipet, (2019) 19 SCC87: (2020) 3 SCC (Cri) 702]. and in XYZ [XYZ v. State of Gujarat, (2019) 10 SCC337: (2020) 1 SCC (Cri) 173]. , referred to hereinabove. 9.3. Applying the law laid down by this Court in the aforesaid decisions to the facts of the case on hand, we are of the opinion that the High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr PC.

10. The High Court has failed to appreciate and consider the fact that there are very serious triable issues/allegations which are required to be gone into and considered at the time of trial. The High Court has lost sight of crucial aspects which have emerged during the course of the investigation. The High Court has failed to appreciate and consider the fact that the 37 document i.e. a joint notarised affidavit of Mamta Gupta Accused 2 and Munni Devi under which according to Accused 2 Ms Mamta Gupta, Rs 25 lakhs was paid and the possession was transferred to her itself is seriously disputed. It is required to be noted that in the registered agreement to sell dated 27- 10-2010, the sale consideration is stated to be Rs 25 lakhs and with no reference to payment of Rs 25 lakhs to Ms Munni Devi and no reference to handing over the possession. However, in the joint notarised affidavit of the same date i.e. 27-10-2010 sale

consideration is stated to be Rs 35 lakhs out of which Rs 25 lakhs is alleged to have been paid and there is a reference to transfer of possession to Accused 2. Whether Rs 25 lakhs has been paid or not the accused have to establish during the trial, because the accused are relying upon the said document and payment of Rs 25 lakhs as mentioned in the joint notarised affidavit dated 27-10-2010. It is also required to be considered that the first agreement to sell in which Rs 25 lakhs is stated to be sale consideration and there is reference to the payment of Rs 10 lakhs by cheques. It is a registered document. The aforesaid are all triable issues/allegations which are required to be considered at the time of trial. The High Court has failed to notice and/or consider the material collected during the investigation.

11. Now so far as the finding recorded by the High Court that no case is made out for the offence under Section 406 IPC is concerned, it is to be noted that the High Court itself has noted that the joint notarised affidavit dated 27-10-2010 is seriously disputed, however as per the High Court the same is required to be considered in the civil proceedings. There the High Court has committed an error. Even the High Court has failed to notice that another FIR has been lodged against the accused for the offences under Sections 467, 468, 471 IPC with respect to the said alleged joint notarised affidavit. Even according to the accused the possession was handed over to them. However, when the payment of Rs 25 lakhs as mentioned in the joint notarised affidavit is seriously disputed and even one of the cheques out of 5 cheques each of Rs 2 lakhs was dishonoured and according to the accused they were handed over the possession (which is seriously disputed) it can be said to be entrustment of property. Therefore, at this stage to opine that no case is made out for the offence under 38 Section 406 IPC is premature and the aforesaid aspect is to be considered during trial. It is also required to be noted that the first suit was filed by Munni Devi and thereafter subsequent suit came to be filed by the accused and that too for permanent injunction only. Nothing is on record that any suit for specific performance has been filed. Be that as it may, all the aforesaid aspects are required to be considered at the time of trial only.

12. Therefore, the High Court has grossly erred in quashing the criminal proceedings by entering into the merits of the allegations as if the High Court was exercising the appellate jurisdiction and/or conducting the trial. The High Court has exceeded its jurisdiction in quashing the criminal proceedings in exercise of powers under Section 482 Cr PC.

13. Even the High Court has erred in observing that original complaint has no locus. The aforesaid observation is made on the premise that the complainant has not placed on record the power of attorney along with the counter filed before the High Court. However, when it is specifically stated in the FIR that Munni Devi has executed the power of attorney and thereafter the investigating officer has conducted the investigation and has recorded the statement of the complainant, accused and the independent witnesses, thereafter whether the complainant is having the power of attorney or not is to be considered during trial.

14. In view of the above and for the reasons stated above, the impugned judgment and order [Radhey Shyam Gupta v. State of U.P., 2020 SCC OnLine All 914]. passed by the High Court quashing the criminal proceedings in exercise of powers under Section 482 Cr PC is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. Now, the trial is to be conducted and proceeded further in accordance with law and on its own merits. It is made clear that the observations made by this Court in the present proceedings are to be treated to be confined to the proceedings under Section 482 Cr PC only and the trial court to decide the case in accordance with law and 39 on its own merits and on the basis of the evidence to be laid and without being influenced by any of the observations made by us hereinabove. The present appeal is accordingly allowed. (Emphasis supplied) In view of the preceding analysis, I hold that Bagair Hukum Committee has acted Bagair Kanoon, albeit, prima facie.

12. Finding no merit in the petition, the petition stands rejected. It is made clear that the observations made in the course of the order are only for the purpose of consideration of the case of petitioners under Section 482 of Cr.P.C. and the same shall not bind or influence the proceedings pending against them. Sd/- (M. NAGAPRASANNA) JUDGE nvj CT:SS