

Smt J Uma Devi vs the Commissioner

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SooperKanoon Citation : sooperkanoon.com/1729792

Court : Karnataka

Decided On : Jul-01-2025

Judge : Sachin Shankar Magadum

Appeal No. : WP/17650/2022

Appellant : Smt J Uma Devi

Respondent : The Commissioner

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF JULY, 2025 BEFORE THE HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM WRIT PETITION NO. 17650 OF 2022 (LB-BMP) C/W WRIT PETITION NO. 9268 OF 2023 (LB-BMP) IN W.P.No.17650/2022 BETWEEN:

1. SMT. J. UMA DEVI W/O SRI. H.N. ASWATHA NARAYANA AGED ABOUT 67 YEARS R/AT NO.445/2, CAUVERY COLLEGE ROAD SHANKARA NAGAR BANGALORE-5600092. PETITIONER (BY SRI. MITHUN .G.A, ADVOCATE) AND:

1. THE COMMISSIONER Digitally signed by AL BHAGYA BRUHAT BENGALURU MAHANAGARA PALIKE Location: HIGH N R SQUARE, BENGALURU -560 002. COURT OF KARNATAKA

2. JOINT COMMISSIONER KODIGEHALLI SUB DIVISION BBMP, BENGALURU -560 092.

3. THE ASST REVENUE OFFICER

KODIGEHALLI SUB DIVISION BBMP, SHAKARANAGAR 9TH MAIN ROAD, BENGALURU -560 092. RESPONDENTS (BY SRI. JAGADEESWARA .N.R, ADVOCATE FOR R1 TO R3) -2- THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE NOTICES DATED 01.08.2022 VIDE BEARING NO.BBMP/YAVA/SA.KA.AA/KO.VU.VI/PR/74/22-23 ANNEXURE-A AND NOTICES DATED 24.5.2022 VIDE BEARING NO.BBMP/SA.KAM.A./KO.VU.VI/.P.R./47/22-23 ANNEXURE-F AND ETC. IN W.P.No.9268/2023 BETWEEN 1 . SMT. J. UMA DEVI

W/O SRI. H.N.ASWATHA NARAYANA AGED ABOUT 67 YEARS R/AT NO. 67, DUO RESIDENCY NEAR JAKKUR AERODROME YELAHANKA BANGALORE-560 064. ...PETITIONER (BY SRI. MITHUN .G.A, ADVOCATE) AND:

1. THE COMMISSIONER BRUHAT BENGALURU MAHANAGARA PALIKE N.R.SQUARE BENGALURU - 560 002.

2. THE JOINT COMMISSIONER KODIGEHALLI SUB-DIVISION BBMP, BENGALURU-560 092.

3. THE ASST REVENUE OFFICER KODIGEHALLI SUB-DIVISION BBMP, SAHAKARANAGAR 9TH MAIN ROAD, BENGALURU- 560 092. -3-

4. REGIONAL COMMISSIONER

AND COMPETENT AUTHORITY BENGALURU DIVISION BENGALURU. RESPONDENTS (BY SRI. K.B. MONESH KUMAR, ADVOCATE FOR R1 TO R4)

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 25.02.2023 BEARING CASE NO.MUN/RP 07/2023 VIDE ANNEXURE-A AND ETC. THESE PETITIONS, COMING ON FOR PRELIMINARY HEARING 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER: CORAM: HON'BLE MR. JUSTICE SACHIN SHANKAR MAGADUM

ORAL ORDER

These two petitions are filed assailing the impugned notice under Section 134 of the Bruhath Bengaluru Mahanagara Palike Act, 2020 (BBMP Act). The respondents in both the petitions are asserting that petitioner is laying a claim over a portion of the designated park area on the strength of the sale deed. These two petitions pertain to the same petitioner and the subject matter involved is also one and the same. Therefore, both the petitions are taken up together. -4-

2. Though, Sri. K.B.Monesh Kumar, learned

counsel has strongly resisted, contending that the observations made by the Contempt Court in CCC.No.819/2021 has no relevancy to the case on hand, however, this Court is not inclined to accede to the objections raised by the learned counsel appearing for the BBMP. Para 2 of the order of the contempt court is relevant and for easy reference, the same is extracted which reads as under:

"2. An affidavit of compliance dated 17.11.2022 is filed by the Chief Commissioner, BBMP, Bengaluru which clearly depicts that subsequent to the notices issued by the BBMP, the persons to whom the notices were issued, have submitted their documents thereby indicating as to how they have claimed ownership and have acquired title over the properties and some of them have already filed ten suit which are pending adjudication before Court Hall Nos.26 and 27 morefully described in paragraph-5 of the affidavit. It is further stated in paragraph-7 that apart from issuance of notices and insofar as temporary structures which were situated on the lands in question have been removed as per -

Annexures-R-23 to R-29. The complainant vide rejoinder, dated 27.10.2022, has indicated that there are certain constructions which are allowed to continue. However, the structures which are indicated in the photographs produced by the complainant and the construction activities therein have been stopped. Thereby, the undertaking given before the learned Single Judge of this Court has been complied with. The said affidavit along with copies of the order sheets of 10 suits filed as per Annexures-R-13 to R-22 and photographs, Annexures-R-23 to 29 are placed on record."

3. The findings recorded in the contempt

proceedings have effectively given a quietus to the issues

raised in the present writ petitions. While the petitioner asserts title to the subject property on the strength of a registered sale deed dated 04.04.2005 (Annexure-E), the respondent-BBMP contends that the petitioners vendor lacked saleable title, as the land in question being a part of Sy.No.15/1 was long ago acquired by the State Government, and the beneficiary of the acquisition was the CQAL Employees House Building Co-operative Society. -6-

4. Upon a careful reading of the observations

made in the contempt proceedings, particularly in light of the compliance affidavit filed by the then Chief Commissioner of BBMP, Bengaluru, it is evident that the Contempt Court has directed the parties to pursue their respective claims in the pending civil suit.

5. In the present petitions, although the petitioner

had initially instituted a suit for a bare injunction, the records disclose that the suit has subsequently been converted into a comprehensive title suit. By way of amendment, the petitioner has sought a declaration that she is the absolute owner

of the property in question. In view of the pendency of this comprehensive suit, and considering that BBMP is a party to the same, this Court is of the opinion that the issuance of notices by the BBMP in both petitions, is premature and unwarranted.

6. The undertaking given by the then

Commissioner of BBMP in the contempt proceedings binds -7- the officials of the BBMP. Once the matter is sub-judice before a competent Civil Court, the BBMP cannot engage in parallel proceedings or continue to issue fresh notices concerning the same subject matter. Accordingly, the impugned notices are liable to be set aside.

7. For the foregoing reasons, this Court proceeds to pass the following:

ORDER

(i) The writ petitions are allowed;

(ii) The impugned notice dated 01.08.2022

(Annexure-A) and notice dated 24.05.2022 (Annexure-F) in W.P.No.17650/2022, and the notice dated 25.02.2023 (Annexure-A) in W.P.No.9268/2023, are hereby quashed;

(iii) Liberty is reserved to the respondent-

BBMP to contest the pending civil suit and to adduce evidence, if any, to establish that the petitioners vendor had no saleable title and that the entire extent of land was the subject matter of acquisition proceedings; -8-

(iv) All rival contentions are left open to be adjudicated by the competent Civil Court in the pending suit. Sd/- (SACHIN SHANKAR MAGADUM) JUDGE CA List No.: 1