

Reserved on : 31.01.2024
Pronounced on : 08.02.2024



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 08TH DAY OF FEBRUARY, 2024

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.55797 OF 2017 (GM-SLUM)

BETWEEN:

CENTRAL RELIEF COMMITTEE
ADMINISTRATIVE OFFICE BUILDING
BEGGAR'S REHABILITATION CENTRE
MAGADI MAIN ROAD
BENGALURU - 560 091.
REPRESENTED BY ITS SECRETARY
CENTRAL RELIEF COMMITTEE
BENGALURU - 560 091.

... PETITIONER

(BY SRI. H.KANTHARAJA, SENIOR ADVOCATE A/W.,
SRI. RAVI H.K., ADVOCATE)

AND:

- 1 . THE DEPUTY COMMISSIONER
BENGALURU DISTRICT
K.G.ROAD, BENGALURU - 560 009.
- 2 . THE COMMISSIONER
KARNATAKA SLUM DEVELOPMENT BOARD
SHESHADRIPURAM

BENGALURU – 560 020.

3 . LATE DEVARAJURS COLONY SLUM DWELLERS
BY GANESH S
KOLAGERI SLUM JANARAKRIYAVEDIKE ,
KSDB COMPLEX,
KANTEERAVA STUDIO MAIN ROAD
BENGALURU 560096

... RESPONDENTS

(BY SRI. KIRAN KUMAR, HCGP FOR R1;
SRI. M.P.SRIKANTH, ADVOCATE FOR R2;
SRI.CLIFTON D'ROZARIO, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER AT ANNEX-P PASSED IN KSA/C.R.37/2014-15 DATED 22.09.2017 BY THE R-1; QUASH THE PRELIMINARY NOTIFICATION DTD 20.10.2014 VIDE ANNEX-M ISSUED BY THE R-1.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 31.01.2024, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

ORDER

The Petitioner/Central Relief Committee constituted under the Karnataka Prohibition of Beggary Act, 1975 (hereinafter referred to as 'the Act' for short) is calling in question an order dated 22-09-2017 passed by the 1st respondent declaring a particular

area as a slum. The preliminary notification so issued on 20-10-2014 is also called in question.

2. The facts adumbrated are as follows:-

The petitioner claims to be a Committee constituted by the Social Welfare Department for the purpose of administration and management of Beggars' Rehabilitation Centre established for rehabilitation and welfare of beggars. It is the averment in the petition that the then State of Mysore (now Karnataka) in the year 1944 had acquired 311 acres of land in several survey numbers of Sajjepalya and Srigandhakavalu Villages in Yeshwanthpur Hobli, Bangalore North Taluk and had handed them over to Beggars' Rehabilitation Centre. Out of the said land 63.02 acres of land at Sajjepalya Village was granted on lease for 30 years to Sumanahalli Leprosy Patients' Rehabilitation Centre by the Government in terms of an order dated 05-12-1977. It is the averment that several unauthorized persons were in occupation of the land that was granted to Beggars Rehabilitation Centre and one such encroacher i.e., Sri. K.V. Govindaraju had approached this Court claiming

regularization of his unauthorized occupation in W.P.No.11714 of 1987. This Court in terms of its order dated 25-01-1996 dismissed the writ petition which went up to the Apex Court only to meet failure.

3. Later, Rastrothan Sankalp filed a Public Interest Petition in W.P.No.9965 of 2011 against the State Government and Beggars Rehabilitation Centre for effective implementation of the provisions of the Act. The PIL comes to be disposed of observing that the land that is granted should be put to the same purpose and not to any other purpose. When things stood thus, it appears that need to develop or rehabilitate slum dwellers in the said area comes about. A preliminary notification is issued by the Karnataka Slum Development Board ('the Board' for Short) to develop one Devaraj Urs Colony where there were several slum dwellers and rehabilitate them by constructing houses. For the said purpose 27 guntas of land in Sajjepalya village was sought to be acquired by issue of a preliminary notification exercising its power under Section 3 of the Karnataka Slum Areas (Development) Act, 1973 (hereinafter referred to as 'the 1973 Act' for short). After issuance of

preliminary notification an order is passed on 22-09-2017 declaring 27 guntas of land in which the petitioner claims to be in possession to be a slum. It is this that has driven the Central Relief Committee constituted under the Act, to knock at the doors of this Court calling the said action in question.

4. Heard Sri H.Kantharaja, learned senior counsel appearing for the petitioner, Sri Kiran Kumar, learned High Court Government Pleader appearing for respondent No.1, Sri M.P. Srikanth, learned counsel appearing for respondent No.2 and Sri Clifton D. Rozario, learned counsel appearing for respondent No.3.

5. The learned senior counsel Sri H.Kantharaja would vehemently contend that this Court had clearly rejected the writ petition filed by an unauthorized occupant who went up to the Apex Court where also no relief was granted to the said unauthorized occupant who was one of the slum dwellers in the area. He would further contend that in a public interest litigation of 2011 this Court has clearly observed with regard to effective implementation of the provisions of the Act. With all this, he would contend that there is

no provision under the 1973 Act to issue a preliminary notification and then acquire any lands. Declaration of slum under Section 3 of the 1973 Act has to pass through the rigors of Section 11. Therefore, there is violation of the procedure and the order declaring it to be a slum should be set at naught on such violation. It is his further submission that the Central Relief Committee was not afforded an opportunity of hearing.

6. The learned counsel representing the 3rd respondent Sri Clifton D. Rozario takes this Court through the statement of objections so filed to contend that the petitioner is only a Central Relief Committee constituted under the Act and has no locus to maintain the writ petition. It is his submission that rehabilitation of slum dwellers is equally important, as that of rehabilitation of beggars. One wing of the State wanting to fight against the other wing and in the dispute between the two, the slum dwellers are caught for several years by way of interim order operating in the case at hand.

7. The learned counsel appearing for the 2nd respondent/Board would again take this Court to the statement of objections of the Board to contend that no fault can be found with the declaration of 27 guntas of land as a slum out of 63 acres that is granted to the concerned for effective implementation of the provisions of the Act. He would take this Court through a lease deed entered into by the petitioner with the Leprosy Centre. The lease has expired in the year 2007 itself. No subsequent lease is granted to the said Centre and while granting the lease, the Deputy Commissioner/ex-officio Chairman of the Central Relief Committee was also a party. Therefore, it is deemed that the petitioner is aware of the lease coming to an end. He seeks dismissal of the petition.

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

9. The afore-narrated facts are not in dispute. Before embarking upon consideration of the issue on its merits, it is

germane to notice who is the petitioner. The State of Karnataka has promulgated the Karnataka Prohibition of Beggary Act, 1975. The Central Relief Committee is constituted under Chapter-IV of the said Act. It reads as follows:

"CONSTITUTION AND ADMINISTRATION

4. Central Relief Committee.- (1) *The Government may by notification constitute a Central Relief Committee (hereunder referred to as the Committee).*

(2) *The Committee shall consist of,-*

(a)	<i>The Secretary to Government Social Welfare and Labour Department.</i>	<i>.. Member</i>
(b)	<i>The Director of Social Welfare in Karnataka</i>	<i>.. Member</i>
(c)	<i>The Secretary to Government, Finance Department.</i>	<i>.. Member</i>
(d)	<i>Four non-official members nominated by the Government.</i>	<i>.. Members.</i>

The Government may appoint one of the Members of the Committee as its Chairman and appoint a Secretary who may or may not be a member of the Committee.

(3) *Subject to the pleasure of the State Government, the term of the office of the non-official members shall be for a period of three years:*

Provided that if a non-official member of the Committee absents himself without permission of the Committee for two consecutive meetings of the Committee, he shall cease to be a member.

(4) (a) Casual or other vacancies in the Committee shall be filled by the Government in the prescribed manner.

(b) During any vacancy in the Committee the continuing members may act as if no vacancy had occurred.

(5) The non-official members shall be paid such remuneration and allowances as may be prescribed.

(6) The Committee shall meet at least once in two months.

(7) Subject to the provisions of this Act and the rules made thereunder, the supervision, direction and control of all matters relating to the administration of relief shall vest in the Committee."

(Emphasis supplied)

The Committee is empowered to supervise, control all matters relating to administration and relief to beggars in terms of the provisions of the Act. The land that is granted for rehabilitation of beggars, did not spring yesterday. It sprang during pre-independence. In the year 1944, 311 acres of land was granted by the then State of Mysore in Sajjepalya and Srigandhakavalu Villages which now come within the Yeswanthpur Hobli. Out of the said land 63 acres was carved out of Sajjepalya village and granted to beggars rehabilitation centre. The beggars rehabilitation centre leased the said land to Sumanahalli Leprosy Patients Rehabilitation

Centre. The lease takes place on 05-12-1977. The deed of lease reads as follows:

"ORDER NO.SWL 18 SBR 77 BANGALORE, DATED THE
5TH DECEMBER 1977.

In modification of the Government Order dt: 13.10.77, Government are pleased to direct that the following S.Nos. with the areas mentioned against them along with the structures standing thereon may be pleased to "Sumanahalli" for a period of 30 years for the rehabilitation of leprosy patients subject to conditions mentioned below.

<u>Sl. No</u>	<u>Area</u>		<u>Remarks</u>
	A.	G.	
3	11	2	including structures
4	23	15	-do-
16	7	18	
17	7	7	
18	8	17	
19	5	23	

Conditions:

1. **The period of lease shall be 30 years;**
2. Annual rent for the land shall be Rs.1/- per acre per annum.
3. All taxes shall be borne by the lessees during the lease period.
4. The leased land shall be used only for the purpose for which it is leased, viz., for the rehabilitation of lepers and such other physically handicapped destitutes. Any breach of this condition shall entail immediate termination of the lease agreement without any further notice.

5. *The Deputy Commissioner, Bangalore District or his nominee shall have the right to inspect the leased property to satisfy himself that the land is utilised for the purpose for which it is leased;*
6. *The lease amount shall be paid to the Deputy Commission Bangalore District before the end of April every year.*
7. ***The Deputy Commissioner, Bangalore or his nominee and the Chairman, Central Relief Committee or his nominee shall be associated with the Committee administering the lepers colony on the leased land:***
8. *The lessees should lookafter the lepers who are already resident in the structures on the lease Land;*
9. *The lessees shall also undertake to lookafter leper beggars who may be rounded up in future to the extent accommodation is available in the colony on the lease land;*
10. *The lessees should undertake to abide by such further conditions as may be stipulated by Government from time to time for the purpose of promoting the welfare and rehabilitation of leprosy affected persons.*

The Deputy Commissioner, Bangalore is requested to hand over the possession of the land along with the structures standing thereon and obtain from the lessees a proper agreement incorporating the conditions stipulated in this order.

*By Order and in the name of the
Governor of Karnataka,*

*Sd/-
(SOMASHEKAR)
Under Secretary to Government,
Social Welfare Labour Department."
(Emphasis added)*

The lease was for a period of 30 years from 5-12-1977. The Deputy Commissioner/ex-officio Chairman or his nominee of the Central Relief Committee was also in the loop of lease. Therefore, it is deemed that he is aware of the lease and terms coming to an end in the year 2007.

10. It appears certain unauthorized occupant had constructed certain tenement in the area which was leased to Leprosy Rehabilitation Centre and had approached this Court in W.P.No.11714/1987 seeking his regularization. This Court dismissed the writ petition by the following order:

"O R D E R

The grievance of the petitioner in this Writ Petition filed under Articles 226 and 227 of the Constitution of India is that, without considering the application dated 05.01.1981 filed by him before the Tahsildar, Bangalore North Taluk, for regularisation of his unauthorised occupation of 2 acres of land in Sy.No.3 situated in Sajje palya, Bangalore North Taluk, at Annexure-G, the revenue authorities and in particular the first respondent Tahsildar is trying to evict or dispossess the petitioner from the land in question, by issue of a notice at Annexure-J.

2. 11 acres and 2 guntas of land including the Kharab land of 17 guntas, in Sy.No.3 situated in Sajjepalya, Yeshwanthpura Hobli, Bangalore North Taluk, was acquired by the Government in the year

1927 for Beggars Colony. This fact is reflected from the entry made in the revenue records at Annexures-R1 and R2. Thereafter, the Government by its order No.SWL 18 SBR 77 dated 30.10.1977, leased cut an extent of 73 acres of land including 11 acres and 2 guntas of land in Sy.No.3 of Sajjepalya occupant of the land, he has equally no right to continue in possession, contrary to the rights of respondent No.5, to whom the land has been leased as far back as in the year 1977 for a period of 30 years. There is, therefore, no merit in the writ petition.

22. Therefore, after giving my anxious consideration to the submissions made on both sides and after perusing the materials placed before the Court, I hold that the reliefs sought for in the writ petition are not available to the petitioner and there is no necessity or warrant for issuing a writ as prayed for by the petitioner. There is no merit in any of the contentions urged by the learned Counsel for the petitioner.

23. in the result, therefore, the writ petitions filed by the petitioner is hereby dismissed, but without any order as to costs."

(Emphasis supplied)

This travels up to Apex Court and the Apex Court dismisses the Special Leave Petition by the following order:

"UPON hearing counsel the Court made the following

O R D E R

The Special Leave Petition is dismissed with the direction to the State Government to consider the application dt. 5.10.1981 given by the petitioner for

allotment of some land to him. The State Government to dispose of that application within three months."

(Emphasis supplied)

The Apex Court dismisses the petition with a direction to the State Government to consider the application of the said petitioner for allotment of some land to him within 3 months.

11. The learned senior counsel for the petitioner seeks to place heavy reliance upon these orders to drive home his point that this Court did not entertain the plea of slum dwellers. This submission is unacceptable, as that is not the issue in the case at hand. If some unauthorised occupant has lost his claim, it is in personam. It cannot be painted to every situation and to every slum dweller. Then comes the second proceeding of public interest litigation in Writ Petition No.9965 of 2011. The petition itself was filed for effective implementation of the Act. The Division Bench by its order dated 03-04-2013 disposed of the petition by the following order:

" "

7. Having heard learned counsel appearing on both sides and on perusal of the material on record, it is expected that the respondents shall abide by the

assurances recorded herein and implement every step contained therein as early as practicable and preferably within a period of three months from today. It will be the duty of the respondents to ensure that the Beggary Cess is collected and deposited by the local authorities concerned without fail or delay and duly utilized for the purposes for which it is collected.

8. With these observations, the petition is disposed and interim relief operating herein is vacated with no order as to costs.

9. It will be open for the petitioner to raise, by way of fresh petition, any, Issue relating to the subject matter of the petition, for specific direction."

(Emphasis supplied)

The Division Bench observed that it was expedient that the respondent/State shall abide by the assurances as recorded in the course of the said order and implement every step contained therein as early as possible and it shall be the duty of the respondents to ensure that the beggary cess is collected and deposited by the local authorities and utilized for development and rehabilitation of beggars. Certain legal opinion emerged after the said order which again is not germane for consideration of the issue in the *lis*.

12. As observed hereinabove, there were certain unauthorised encroachers in the land that was allotted to the upliftment of

beggars since one K.V.Govindaraju had taken the matter up to the Apex Court when he was sought to be evicted. Several of those orders are appended to the petition. This is again neither here nor there as that is not the issue in the lis. This Court is not answering the claim of an unauthorised encroacher. Long thereafter it was found that there were several encroachers and proceedings were sought to be initiated to remove encroachment in the said area. One such proceeding of the State dated 25-03-2008 reads as follows:

"The Principal Secretary to Government, Social Welfare Department in his letter cited at reference above has informed that way back in 1944 and 1976, Government of Karnataka had acquired 308.03 acres of land, comprising different survey numbers of Sajjepalya, Shrigandhada kavalu and other surrounding village of Yeshwanthapura Hobli, Bangalore North Taluk, Bangalore District for the purpose of establishing a Central Relief Committee for rehabilitation of beggars (Copy of the letter is enclosed).

Out of 308.03 acres of lands, Social Welfare Department now proposes to construct hostels for SC/ST students, Morarji Desai Residential Schools, Dormitories for beggars, office complexes for Dr. B.R. Ambedkar Development Corporation, Bangalore, Karnataka Scheduled Tribes Development Corporation and hostels for Women employees. It is also stated that shortly Government's clearance will be given to this project and likely to get ₹ 200 crores for implementation of the project.

The Secretary, Central Relief Committee in his letter addressed to Principal Secretary, Social Welfare Department pointed out that certain pockets of lands acquired are under

encroachment by private persons. Further, he has given details of lands encroached by private persons.

- 1. Sri K.V.Govindaraju has encroached 1.06 acres and also constructed 15 houses unauthorisedly and the Principal Secretary, Social Welfare Department informed that though the encroacher has gone up to the Supreme Court, he has not succeeded and his entire family is deceased in an accident.*
- 2. Sri Dayananda Murthy has encroached 10 guntas and built a cement bricks factory unauthorisedly and approached Bangalore City Civil Court against eviction.*

Sri G.Krishnappa has encroached 2 acres of land and is not allowing Central Relief Committee to construct a compound wall, in this area.

- 3. In another case, relating to Sy.No.70/3c. Sri B.Krishnappa has encroached 4.20 acres and civil case is pending before the city civil Court against the eviction and in this case there is no stay or injunction by the court.*

In case of Sri Dayananda Murthy and Sri G.Krishnappa no stay is granted by the Civil Court. The Principal Secretary, Social Welfare Department has requested the Revenue Department to take action to evict the encroachers.

The Principal Secretary, Social Welfare Department has orally informed that at the time of acquisition and prior to the acquisition, the entire land was in the custody or possession of the Government (Revenue Department) and during that period some encroachment had taken place. Subsequently, the encroachment has not been removed for various reasons.

In the light of the above, I would request you to get the encroached area surveyed and also verify whether the land records are in the name of Central Relief Committee. If the encroached lands stand in the name of the CRC, you can take steps to evict the encroachers by invoking Public Premises (Eviction of

Unauthorised Occupants) Act, 1974. Action taken in the matter may be communicated to this office as early as possible.”

(Emphasis added)

13. When things stood thus, comes a proceeding to declare 27 guntas of Sajjepalya village in Sy.No.3 as a slum under the provisions of the Act. The proceeding results in a preliminary notification which reads as follows:

“....

....

....

ಮೇಲ್ಕಂಡ ಈ ಕ್ರಮದ ಬಗ್ಗೆ ಆಕ್ಷೇಪಣೆಗಳೇನಾದರು ಇದ್ದಲ್ಲಿ, ಆಯುಕ್ತರು, ಕರ್ನಾಟಕ ಕೊಳಗೇರಿ ಅಭಿವೃದ್ಧಿ ಮಂಡಳಿ, ಶೇಷಾದ್ರಿಪುರ, ಬೆಂಗಳೂರು-20 ರವರಿಗೆ ಲಿಖಿತವಾಗಿ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಸಲ್ಲಿಸಲು ಈ ಅಧಿಸೂಚನೆಯು ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪತ್ರದಲ್ಲಿ ಪ್ರಕಟವಾದ ದಿನಾಂಕದಿಂದ (15) ಹದಿನೈದು ದಿನಗಳ ಕಾಲಾವಕಾಶ ನೀಡಲಾಗಿದೆ. ನಂತರ ಬಂದ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಪರಿಗಣಿಸಲಾಗುವುದಿಲ್ಲ.

: : ಷೆಡ್ಯೂಲ್ : :

ಬೃಹತ್ ಬೆಂಗಳೂರು ಮಹಾನಗರ ಪಾಲಿಕೆಯ ರಾಜರಾಜೇಶ್ವರಿ ವಿಧಾನಸಭಾ ಕ್ಷೇತ್ರದ ವ್ಯಾಪ್ತಿಯಲ್ಲಿ ಬರುವ ದಿ|| ದೇವರಾಜ ಅರಸು ಕಾಲೋನಿ ಕೊಳಚೆ ಪ್ರದೇಶದ ಚಕ್ಕುಬಂದಿ ಮತ್ತು ಹದ್ದುಬನ್ನು ತುಪ್ಪೆ.

ಕ್ರ. ಸಂ.	ಕೊಳಚೆ ಪ್ರದೇಶದ ಹೆಸರು ಮತ್ತು ಸ್ಥಳ	ಕೊಳಚೆ ಪ್ರದೇಶ ದಲ್ಲಿರುವ ಜಮೀನಿನ ಮಾಲೀಕರ ಹೆಸರು	ಸರ್ವೆ ನಂ.	ವಿಸ್ತೀರ್ಣ	ಚಕ್ಕುಬಂದಿಗಳು			
					ಪೂರ್ವ	ಪಶ್ಚಿಮ	ಉತ್ತರ	ದಕ್ಷಿಣ
1	ದಿ //ದೇವರಾಜ ಅರಸು ಕಾಲೋನಿ ಸಜ್ಜೆಪಾಳ್ಯ ಸರ್ವೆ ನಂ.3	ಆರ್.ಟಿ.ಸಿಯಂತೆ ಸರ್ಕಾರಿ ಬೆಗ್ಗರ್ ಕಾಲೋನಿ ಹಾಗೂ ಸುಮ್ಮನಹಳ್ಳಿ ಕುಷ್ಠರೋಗಿಗಳ ಕೇಂದ್ರ	03	0-27 ಗುಂಟೆ	ರಿಂಗ್ ರಸ್ತೆ	ಮಾತಾಪುರ ದಲಿತ ಕಾಲೋನಿ	ಚರಂಡಿ ಮತ್ತು ಮಾತಾಪುರ ದಲಿತ ಕಾಲೋನಿ	ರಸ್ತೆ

ಸಹಿ/-

(ವಿ. ಶಂಕರ್)

ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು.

ಬೆಂಗಳೂರು ಜಿಲ್ಲೆ, ಬೆಂಗಳೂರು"

The petitioner files his reply/objections, they read as follows:

"....

ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಉಲ್ಲೇಖ (1) ರ ಸರ್ಕಾರದ ಆದೇಶದಲ್ಲಿ ಬೆಂಗಳೂರು ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರಕ್ಕೆ ಸೇರಿದ ಜಮೀನಿನಲ್ಲಿ 63.03 ಎಕರೆ ಜಮೀನನ್ನು ಸರ್ಕಾರವು ಸುಮನಹಳ್ಳಿ ಶುಷ್ಕರೋಗಿಗಳ ಪುನರ್ವಸತಿ ಕೇಂದ್ರಕ್ಕೆ 30 ವರ್ಷಗಳ ಗುತ್ತಿಗೆಗೆ ಮಂಜೂರು ಮಾಡಲಾಗಿತ್ತು (ಪ್ರತಿ ಲಗತ್ತಿಸಿದೆ) ಸದರಿ ಸಂಸ್ಥೆಗೆ ಗುತ್ತಿಗೆ ನೀಡಲಾಗಿದ್ದ ಜಮೀನಿನಲ್ಲಿ ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 03 ರಲ್ಲಿ ಶ್ರೀ ಕೆ.ವಿ.ಗೋವಿಂದರಾಜು ಎಂಬುವವರು ಜಮೀನನ್ನು ಅನಧಿಕೃತವಾಗಿ ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡಿದ್ದು, ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡಿದ್ದ ಭಿಕ್ಷುಕರ ಕಾಲೋನಿಯ ಜಮೀನನ್ನು ಸ್ವಂತ ಉಪಯೋಗಕ್ಕಾಗಿ ಸದರಿಯವರ ಹೆಸರಿಗೆ ಮಂಜೂರು ಮಾಡಿಕೊಡುವಂತೆ ಸರ್ಕಾರಕ್ಕೆ ಆದೇಶ ನೀಡುವಂತೆ ಉಲ್ಲೇಖ (2)ರಂತೆ ಕರ್ನಾಟಕ ಉಚ್ಚನ್ಯಾಯಾಲಯದಲ್ಲಿ ರಿಟ್ ಅರ್ಜಿ ದಾಖಲಿಸಿದ್ದು, ದಿನಾಂಕ 25.01.1996 ರಲ್ಲಿ ಸದರಿ ಅರ್ಜಿಯನ್ನು ಉಚ್ಚನ್ಯಾಯಾಲಯವು ವಜಾಗೊಳಿಸಿದ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಉಲ್ಲೇಖ (3) ರಂತೆ ಸರ್ವೋಚ್ಚನ್ಯಾಯಾಲಯದಲ್ಲಿ ಮೇಲ್ಮನವಿ ಸಲ್ಲಿಸಿರುತ್ತಾರೆ. ದಿನಾಂಕ 27.08.1997 ರಲ್ಲಿ ಮೇಲ್ಮನವಿ ಸಹ ವಜಾಗೊಂಡಿರುತ್ತದೆ. (ಪ್ರತಿಗಳನ್ನು ಲಗತ್ತಿಸಿದೆ).

ತದನಂತರದಲ್ಲಿ ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ.3 ರಲ್ಲಿ ಶ್ರೀ ಕೆ.ವಿ ಗೋವಿಂದರಾಜು ಎಂಬುವರು ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡಿದ್ದ ಜಮೀನನ್ನು ಉಚ್ಚನ್ಯಾಯಾಲಯ ಮತ್ತು ಸರ್ವೋಚ್ಚನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ತೆರವುಗೊಳಿಸುವಂತೆ ಕೋರಿ ಉಲ್ಲೇಖ (4)ರಿಂದ (9)ರ ವರೆಗಿನ ಪತ್ರಗಳಲ್ಲಿ ಈ ಕಛೇರಿಯಿಂದ ಮತ್ತು ಸರ್ಕಾರದಿಂದ ಹಲವು ಬಾರಿ ವಿಶೇಷ ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಗೆ, ತಮಗೆ ಹಾಗೂ ತಹಶೀಲ್ದಾರ್. ಬೆಂಗಳೂರು ಉತ್ತರತಾಲ್ಲೂಕು, ಬೆಂಗಳೂರುವರಿಗೆ ಅನಧಿಕೃತ ಒತ್ತುವರಿಯನ್ನು ತೆರವುಗೊಳಿಸುವಂತೆ ಕೋರಿ ಪತ್ರ ವ್ಯವಹಾರ ಮಾಡಲಾಗಿದೆ. (ಪ್ರತಿಗಳನ್ನು ಲಗತ್ತಿಸಿದೆ) ಸುಮಾರು 15 ವರ್ಷಗಳಿಗೂ ಮೇಲ್ಕಂಡ ಪತ್ರ ವ್ಯವಹಾರ ನಡೆಸಲಾಗಿದ್ದರೂ ತಮ್ಮಿಂದ ಯಾವುದೇ ಕ್ರಮವಹಿಸದೆ ಎಲೆ ಇರುತ್ತದೆ.

ಉಲ್ಲೇಖ (10) ರಂತೆ ಬೆಂಗಳೂರು ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರಕ್ಕೆ ಸೇರಿದ ಜಮೀನನ್ನು ಇತರ ಇಲಾಖಾ ಸಂಸ್ಥೆಗಳಿಗೆ ಮಂಜೂರು ಮಾಡಿರುವ ಕ್ರಮವನ್ನು ಪ್ರಶ್ನಿಸಿ ಸಾರ್ವಜನಿಕ ಹಿತಾಸಕ್ತಿಯ 2 ರಿಟ್ ಅರ್ಜಿಗಳು ಕರ್ನಾಟಕ ಉಚ್ಚನ್ಯಾಯಾಲಯದಲ್ಲಿ ದಾಖಲಾಗಿದ್ದು, ಸದರಿ ರಿಟ್ ಅರ್ಜಿಯ ತೀರ್ಪಿನ ಬಗ್ಗೆ ಉಲ್ಲೇಖ(11) ರಲ್ಲಿ ಅಡ್ಡಕೇಸ್ ಜನರಲ್ ರವರು ಈ ಕೆಳಕಂಡಂತೆ ಅಭಿಪ್ರಾಯ ನೀಡಿರುತ್ತಾರೆ. ಪ್ರತಿಯನ್ನು ಈ ಪತ್ರಕ್ಕೆ ಲಗತ್ತಿಸಿದೆ.

A comprehensive reading of the orders passed by the Hon'ble court and the observations made during the course of hearing, very clearly emphasizes the fact that the property in question should be preserved and protected for the

inmates housed in the Beggars colony and it is the bounden duty of the Central Relief committee to make use of the property in question including collection of Beggary Cess for proper and effective implementation of the provisions of Karnataka Prohibition of Beggary Act, 1975. It is also amply clear from the reading of the orders that, no part of the property can be taken away without paying compensation, ಎಂದು ಅಭಿಪ್ರಾಯ ನೀಡಿದೆ.(ಪ್ರತಿಲಗತ್ತಿಸಿದೆ)

ಬೆಂಗಳೂರು ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರದ ಜಮೀನಿನ ಒತ್ತುವರಿ ಕುರಿತು ವಿಧಾನಮಂಡಲದ ಉಭಯ ಸದನಗಳಲ್ಲಿ ಚರ್ಚೆಯಾಗಿದ್ದು, ಅನಧಿಕೃತ ಒತ್ತುವರಿಯಾಗಿರುವ ಜಮೀನನ್ನು ತೆರವುಗೊಳಿಸುವುದಾಗಿ ಮಾನ್ಯ ಸಮಾಜ ಕಲ್ಯಾಣ ಸಚಿವರು ಸದನದಲ್ಲಿ ಭರವಸೆ ನೀಡಿರುತ್ತಾರೆ. ವಿಷಯವು ಭರವಸೆಗಳ ಸಮಿತಿಯ ಮುಂದೆ ಬಂದಿದ್ದು, ಒತ್ತುವರಿಯಾಗಿರುವ ಜಮೀನನ್ನು ತೆರವುಗೊಳಿಸಿ ಇಲಾಖೆಯ ವಶಕ್ಕೆ ಕೂಡಲೇ ಹಿಂಪಡೆಯುವಂತೆ ಸೂಚಿಸಿದ್ದು, ದಿನಾಂಕ 23.10.2014 ರಂದು ಸಮಿತಿಯು ಸ್ಥಳ ಪರಿಶೀಲನೆ ನಡೆಸಿ ಕೂಡಲೇ ಒತ್ತುವರಿಯನ್ನು ತೆರವುಗೊಳಿಸಿ ಸಮಿತಿಯ ಗಮನಕ್ಕೆ ತರುವಂತೆ ಸೂಚನೆ ನೀಡಿದೆ.

ಉಲ್ಲೇಖ (12)ರ ಆದೇಶದಲ್ಲಿ ಭಿಕ್ಷುಕರ ಪರಿಹಾರ ಕೇಂದ್ರಕ್ಕೆ ಸೇರಿದ ಸಜ್ಜೆಪಾಳ್ಯಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 03 ರಲ್ಲಿ ಒತ್ತುವರಿಮಾಡಿರುವ ಜಮೀನನ್ನು ಕೊಳಚೆ ಪ್ರದೇಶ ಎಂದು ಘೋಷಿಸಲು ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿದ್ದು, ಈ ಬಗ್ಗೆ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಸಲ್ಲಿಸಲು ಉಲ್ಲೇಖ (13)ರ ಪತ್ರದಲ್ಲಿ ಈ ಕಛೇರಿಯನ್ನು ಕೋರಿದೆ.

ಬೆಂಗಳೂರು ಭಿಕ್ಷುಕರ/ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರಕ್ಕೆ ಸೇರಿದ ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 03 ರ ಜಮೀನು 1987 ರಲ್ಲಿ ಒತ್ತುವರಿಯಾಗಿದ್ದು, ಕರ್ನಾಟಕ ಉಚ್ಚನ್ಯಾಯಾಲಯ ಮತ್ತು ಸರ್ವೋಚ್ಚನ್ಯಾಯಾಲಯಗಳ ತೀರ್ಪಿನ ನಂತರದಲ್ಲಿ ಸಹ ತೆರವುಗೊಳಿಸಲು ತಮ್ಮ ಇಲಾಖೆಯು ಕ್ರಮವಹಿಸದೆ ವಿಲೆ ಮಾಡಿದ್ದು, ತಮ್ಮ ಕಛೇರಿಯ ಪ್ರಿಲಿಮಿನರಿ ಅಧಿಸೂಚನೆ ದಿನಾಂಕ 20.10.2014 ರ ಶೆಡ್ಯೂಲ್‌ನಲ್ಲಿ ಕಾಣಿಸಿದಂತೆ ಜಮೀನಿನ ಮಾಲೀಕರಾದ ಬೆಂಗಳೂರು ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರದ ಗಮನಕ್ಕೆ ತಾರದೇ ಏಕಾಏಕಿಯಾಗಿ ಕೊಳಚೆ ಪ್ರದೇಶ ಎಂದು ಪರಿಗಣಿಸಲು ಏಕಪಕ್ಷೀಯವಾಗಿ ಕ್ರಮಕೈಗೊಂಡಿರುವುದು ಹಲವು ಅನುಮಾನಗಳನ್ನು ಹುಟ್ಟುಹಾಕುತ್ತಿದೆ.

ಸಜ್ಜೆಪಾಳ್ಯಗ್ರಾಮದ ಸರ್ವೆ ನಂ. 03 ರ ಜಮೀನು ಬೆಂಗಳೂರು ಭಿಕ್ಷುಕರ/ ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರಕ್ಕೆ ಸೇರಿದ್ದು, ಅನಧಿಕೃತವಾಗಿ ಒತ್ತುವರಿಯಾಗಿರುವುದಿಂದ ಈಗಾಗಲೇ ಉಲ್ಲೇಖ (4)ರಿಂದ (9)ರವರೆಗಿನ ಪತ್ರಗಳಲ್ಲಿ ಕೋರಿರುವಂತೆ ಕೂಡಲೇ ಅನಧಿಕೃತ ಒತ್ತುವರಿಯನ್ನು ತೆರವುಗೊಳಿಸಲು ಕ್ರಮವಹಿಸುವಂತೆ ಕೋರಿದೆ. ಸದರಿ ಜಮೀನಿನ ಕುರಿತು ಈಗಾಗಲೇ ಸರ್ವೋಚ್ಚನ್ಯಾಯಾಲಯ ಮತ್ತು ಉಚ್ಚನ್ಯಾಯಾಲಯದ ತೀರ್ಪಿನಂತೆ ಉಲ್ಲೇಖ (12)ರ ಅಧಿಸೂಚನೆಯನ್ನು ರದ್ದುಗೊಳಿಸುವಂತೆ ಕೋರಿದೆ. ಅನಧಿಕೃತವಾಗಿ ಒತ್ತುವರಿಯಾಗಿದ್ದು, ಹೈಕೋರ್ಟ್ ಮತ್ತು ಸುಪ್ರೀಂಕೋರ್ಟ್‌ಗಳಲ್ಲಿ ವಜಾಗೊಂಡ ಅರ್ಜಿಗಳ ಸಂಬಂಧ ಇರುವ ಭಿಕ್ಷುಕರ ಕಾಲೋನಿಗೆ ಸೇರಿದ ಜಮೀನನ್ನು ಕೊಳಚೆಗೆ ಪ್ರದೇಶ ಎಂದು ಪರಿಗಣಿಸುವ ಅಧಿಸೂಚನೆಯ ಪ್ರಕ್ರಿಯೆಯನ್ನು ಮುಂದುವರಿಸಿದಲ್ಲಿ ನ್ಯಾಯಾಲಯಗಳ ಆದೇಶದ ಉಲ್ಲಂಘನೆ ಮಾಡಿದಂತಾಗುತ್ತದೆ ಎಂಬ ವಿಷಯವನ್ನು ಸಹ ತಮ್ಮ ಅವಗಾಹನೆಗೆ ತರಲಾಗಿದೆ.

ಗೌರವಗಳೊಂದಿಗೆ,"

It sought cancellation of the preliminary notification to declare the area as a slum.

14. The objections were considered and a detailed proceeding is drawn up by the Deputy Commissioner by registering it as a case in No. KSA/C.R 37/2014-15 and resolves the dispute by declaring 27 guntas of land as a slum under Section 3 of the Act. The order reads as follows:

“ಪ್ರಸ್ತಾವನೆ:

ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು ಯಶವಂತಪುರ ಹೋಬಳಿ, ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸ.ನಂ.3ರಲ್ಲಿ 27 ಗುಂಟೆ ಜಮೀನನ್ನು ಕೊಳಚೆ ಪ್ರದೇಶವೆಂದು ಘೋಷಿಸುವ ಸಲುವಾಗಿ ದಿ:20-10-2014ರಂದು ಪ್ರಾಥಮಿಕವಾಗಿ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿರುವ ಬಗ್ಗೆ ಲಿಖಿತ ಆಕ್ಷೇಪಣೆ ಸಲ್ಲಿಸಿರುವುದನ್ನು ಪರಿಶೀಲನೆ ಮಾಡುವ ಬಗ್ಗೆ ದಿ:12-01-2016ರಂದು ವಿಚಾರಣೆ ಪ್ರಾರಂಭಿಸಿದ್ದು ನಂತರ ಮುಂದೂಡುತ್ತಾ ಬಂದು ದಿ:27-04-2017ರಂದು ಉಭಯತ್ರರ ಪರ ವಕೀಲರು ಹಾರಾಗಿರುತ್ತಾರೆ. ಪ್ರಕರಣವನ್ನು ಆದೇಶಕ್ಕಾಗಿ ಕಾಯ್ದಿರಿಸಿದೆ.

ದಿ:20-10-2014ರಂದು ಈ ಪ್ರಾಧಿಕಾರದಿಂದ ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು ಯಶವಂತಪುರ ಹೋಬಳಿ, ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸ.ನಂ.3ರಲ್ಲಿ 27ಗುಂಟೆ ಜಮೀನನ್ನು ದಿ:ದೇವರಾಜ ಅರಸು ಕಾಲೋನಿ ಕೊಳಚೆ ಪ್ರದೇಶವೆಂದು ಘೋಷಿಸುವ ಸಲುವಾಗಿ ಪ್ರಿಲಿಮಿನರಿ ಅಧಿಸೂಚನೆಯನ್ನು ಹೊರಡಿಸುತ್ತಾ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಸಲ್ಲಿಸಲು 15ದಿನಗಳ ಕಾಲಾವಕಾಶವನ್ನು ನೀಡಿದ್ದು, ನಿಯಮಿತ ಕಾಲಾವಧಿಯಲ್ಲಿ ಯಾರೂ ಲಿಖಿತ ಆಕ್ಷೇಪಣೆಯನ್ನು ಸಲ್ಲಿಸಿರುವುದು ಕಂಡುಬರುತ್ತಿಲ್ಲ. ಆದರೂ ದಿ:6-12-2014ರಂದು ಕೇಂದ್ರ ಪರಿಹಾರ ಸಮಿತಿಯ ಕಾರ್ಯದರ್ಶಿಗಳು ಜಿಲ್ಲಾಧಿಕಾರಿಗಳಿಗೆ ಆರೆ ಸರ್ಕಾರಿ ಪತ್ರ ಬರೆದು ಸದರಿ ಪತ್ರದಲ್ಲಿ ಉಲ್ಲೇಖಿಸಿರುವಂತೆ ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ಯಶವಂತಪುರ ಹೋಬಳಿ ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸ.ನಂ.3ರಲ್ಲಿ ಬೆಂಗಳೂರು ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರಕ್ಕೆ 63ಎಕರೆ 3ಗುಂಟೆ ಜಮೀನನ್ನು 30 ವರ್ಷಗಳ ಗುತ್ತಿಗೆ ಮೇರೆಗೆ ನೀಡಿದ್ದು, ಸದರಿ ಜಮೀನಿನಲ್ಲಿ ಕೆ.ವಿ.ಗೋವಿಂದರಾಜು ಎಂಬುವರು ಅನಧಿಕೃತವಾಗಿ ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡು ಸದರಿ ಜಮೀನನ್ನು ಮಂಜೂರು ಮಾಡುವಂತೆ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ರಿಟ್ ಅರ್ಜಿ ದಾಖಲಿಸಿದ್ದು, ದಿ:25-1-1996 ರಂದು ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ:11714/87ರಂತೆ ರಿಟ್ ಅರ್ಜಿಯನ್ನು ವಜಾಗೊಳಿಸಿದ್ದು ಸದರಿ ಆದೇಶದ ವಿರುದ್ಧ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಸಿವಿಲ್ ಅಪೀಲ್ ನಂ. 20746/97

ರಂತೆ ಸಲ್ಲಿಸಿದ್ದ ಅರ್ಜಿಯನ್ನು ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯವು ದಿ:27-8-1997ರಂದು ವಜಾಕರಿಸಿರುವುದಾಗಿ ಮತ್ತು ಸದರಿ ಜಮೀನನ್ನು ತೆರವುಗೊಳಿಸಲು ಹಲವಾರು ಪತ್ರ ವ್ಯವಹಾರಗಳು ನಡೆದಿದ್ದು, ಸದರಿ ಪ್ರಕರಣವು ವಿಲೇ ಆಗಿರುತ್ತದಂತಲೂ, ರಾಷ್ಟ್ರೀಯ ಸಂಕಲ್ಪದ ನೊಂದಣಿಯಾದ ಟ್ರಸ್ಟ್ ವತಿಯಿಂದ ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ: 9965/2011(ಡಿ.ಎಂ.ಆರ್.ಇಎಸ್) ಪಿಐಎಲ್ ಅರ್ಜಿಯನ್ನು ರಾಜ್ಯ ಸರ್ಕಾರ. ಕೇಂದ್ರ ಪರಿಹಾರ ಸಮಿತಿ ಮತ್ತು ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರ, ಮಾಗಡಿ ರಸ್ತೆ, ರವರ ವಿರುದ್ಧ ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಸಲ್ಲಿಸಿದ್ದು, ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ದಿ:3-4-2013 ರಂದು ಆದೇಶ ಮಾಡುತ್ತಾ ಈ ಕೆಳಗೆ ನಮೂದಿಸಿರುವಂತೆ ಮಾಡಿರುವ ಆದೇಶವನ್ನು ಉಲ್ಲೇಖಿಸಿರುತ್ತಾರೆ.

A comprehensive reading of the order passed by the hon'ble court and the observation made during the course of hearing, very clearly emphasis the fact that the property in question should be preserved and protected for the inmates housed in the beggars colony and it is the bounden duty of central relief committee to make use of the property in question including the collection of beggary cess for proper and effective implementation of the provisions of Karnataka prohibition of beggary act 1975. It is also amply clear from the reading of the orders that, no part of the property can be taken away without paying compensation.

ಎಂದು ಅಭಿಪ್ರಾಯ ನೀಡಿರುತ್ತಂತಲೂ, ನಿರಾಶ್ರಿತ ಪರಿಹಾರ ಕೇಂದ್ರದ ಜಮೀನು ಒತ್ತುವರಿ ಕುರಿತು ವಿಧಾನ ಮಂಡಲದ ಉಭಯ ಸದನಗಳಲ್ಲಿ ಚರ್ಚೆ ಆಗಿದ್ದು, ಅನಧಿಕೃತ ಒತ್ತುವರಿಯಾಗಿರುವ ಜಮೀನನ್ನು ತೆರವುಗೊಳಿಸುವುದಾಗಿ ಸಮಾಜ ಕಲ್ಯಾಣ ಸಚಿವರು ಬರವಸೆಯನ್ನು ಸದನದಲ್ಲಿ ನೀಡಿರುವುದಾಗಿಯೂ, ಆದರಂತೆ ಒತ್ತುವರಿಯನ್ನು ತೆರವುಗೊಳಿಸಿ ಸಮಿತಿಯ ಗಮನಕ್ಕೆ ತರಲು ಸೂಚನೆ ನೀಡಿರುವುದಾಗಿಯೂ ಮತ್ತು ದಿ:ದೇವರಾಜ ಅರಸು ಕೊಳಚೆ ಪ್ರದೇಶವೆಂದು ಘೋಷಿಸಲು ದಿ:20-10-2014ರಂದು ಕೆಎಸ್‌ಎಸಿಆರ್.37/14-15 ರಂತೆ ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆಯನ್ನು ಹೊರಡಿಸಿದ್ದು, ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯ ಮತ್ತು ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯವು ಸಾರ್ವಜನಿಕ ಹಿತಾಸಕ್ತಿ ಅರ್ಜಿಯಲ್ಲಿ ನೀಡಿರುವ ನಿರ್ದೇಶನದಂತೆ ಅಧಿಸೂಚನೆಯನ್ನು ಅಂತಿಮಗೊಳಿಸುವ ಕ್ರಮ ಕೈಗೊಂಡಲ್ಲಿ ನ್ಯಾಯಾಲಯಗಳ ಆದೇಶ ಉಲ್ಲಂಘನೆಯಾಗುವುದಾಗಿ ತಿಳಿಸಿರುತ್ತಾರೆ. ಈ ಆಕ್ಷೇಪಣೆಯು ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿದ 45 ದಿವಸಗಳ ನಂತರ ಆಕ್ಷೇಪಣೆ ಸಲ್ಲಿಸಿರುವುದು ಕಂಡುಬರುತ್ತೆ. ಪ್ರಾಥಮಿಕ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸಿದ 15 ದಿವಸಗಳೊಳಗಾಗಿ ಆಕ್ಷೇಪಣೆ ಸಲ್ಲಿಸಲು ಅವಕಾಶವಿದ್ದು, ಈ ಆಕ್ಷೇಪಣೆಯನ್ನು ಪರಿಗಣನೆಗೆ ತೆಗೆದುಕೊಳ್ಳಲು ಅವಕಾಶವಿರುವುದಿಲ್ಲ.

ಬೆಂಗಳೂರಿನ ಮಾಗಡಿ ರಸ್ತೆಯಲ್ಲಿರುವ ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರ ಸ್ಥಾಪನೆಗಾಗಿ ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸ.ನಂ.3ರಲ್ಲಿನ ಜಮೀನನ್ನು 30 ವರ್ಷಗಳ ಗುತ್ತಿಗೆ ಮೇರೆಗೆ ನೀಡಿದ್ದು, ಸದರಿ ಅವಧಿಯು ಸಹ ಪೂರೈಸಿದ್ದು ನವೀಕರಣವಾಗಿರುವುದಿಲ್ಲವೆಂತಲೂ, ಆದಾಗಿ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಸಾರ್ವಜನಿಕ ಹಿತಾಸಕ್ತಿ ಅರ್ಜಿಯಲ್ಲಿ ನೀಡಿರುವ ನಿರ್ದೇಶನದಂತೆ ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರಕ್ಕೆ ನೀಡಿರುವ ಜಮೀನಿನ ಪೈಕಿ 27ಗುಂಟೆ ಜಮೀನಿನಲ್ಲಿ ದಿ:ದೇವರಾಜ ಅರಸು ಕಾಲೋನಿ ಕೊಳಚೆ ಪ್ರದೇಶ ಉದ್ಭವಿಸಿರುವುದರಿಂದ ಮತ್ತು ಸದರಿ

ಪ್ರದೇಶದಲ್ಲಿ 97 ಕುಟುಂಬಗಳು ಗುಡಿಸಲು ಹಾಕಿಕೊಂಡು ಅನಾರೋಗ್ಯ ಪರಿಸ್ಥಿತಿಯಲ್ಲಿ ವಾಸವಿರುವುದರಿಂದ ಕೊಳಚೆ ಪ್ರದೇಶವೆಂದು ಘೋಷಿಸುವುದು ಉಚಿತವೆಂತಲೂ ಮತ್ತು ಈ ಕೊಳಚೆ ಪ್ರದೇಶವು ಸರ್ಕಾರಿ ಜಮೀನಿನಲ್ಲಿ ನೆಲೆಗೊಂಡಿರುವುದರಿಂದ ನಿರಾಶ್ರಿತರ ಪರಿಹಾರ ಕೇಂದ್ರಕ್ಕೆ ಯಾವುದೇ ರೀತಿಯ ಪರಿಹಾರ ನೀಡುವ ಪ್ರಶ್ನೆ ಉದ್ಭವಿಸುವುದಿಲ್ಲವೆಂಬ ಅಭಿಪ್ರಾಯಕ್ಕೆ ಬಂದು ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸ.ನಂ.3ರಲ್ಲಿ 22ಗುಂಟೆ ಜಮೀನನ್ನು ದಿ:ದೇವರಾಜ ಅರಸು ಕಾಲೋನಿ ಕೊಳಚೆ ಪ್ರದೇಶವೆಂದು ಘೋಷಿಸುವ ಬಗ್ಗೆ ಅಂತಿಮ ಅಧಿಸೂಚನೆ ಹೊರಡಿಸುವುದು ಉಚಿತವೆಂದು ಕಂಡುಬಂದಿರುವ ಪ್ರಯುಕ್ತ ಈ ಕೆಳಕಂಡಂತೆ ಆದೇಶಿಸಿದೆ.

::ಆದೇಶ::

ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು ಯಶವಂತಪುರ ಹೋಬಳಿ, ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸ.ನಂ.3ರಲ್ಲಿ 27ಗುಂಟೆ ಜಮೀನನ್ನು ಕೊಳಚೆ ಪ್ರದೇಶವೆಂದು ದಿ:20-10-2014ರಂದು ಪ್ರಾಥಮಿಕವಾಗಿ ಹೊರಡಿಸಿರುವ ಅಧಿಸೂಚನೆಯನ್ನು ಮೇಲೆ ಉಲ್ಲೇಖಿಸಿರುವ ಕಾರಣಗಳಿಗಾಗಿ ಮತ್ತು ಕೇಂದ್ರ ಪರಿಹಾರ ಸಮಿತಿಯು ನಿಯಮಿತ ಕಾಲಾವಧಿಯಲ್ಲಿ ಆಕ್ಷೇಪಣೆ ಸಲ್ಲಿಸಿಲ್ಲವಾಗಿಯೂ ಮತ್ತು ಸಾರ್ವಜನಿಕ ಹಿತದೃಷ್ಟಿಯಿಂದ ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು ಯಶವಂತಪುರ ಹೋಬಳಿ, ಸಜ್ಜೆಪಾಳ್ಯ ಗ್ರಾಮದ ಸ.ನಂ.3ರಲ್ಲಿ 27ಗುಂಟೆ ಜಮೀನನ್ನು ಕರ್ನಾಟಕ ಕೊಳಚೆ ಪ್ರದೇಶಗಳ (ಅಭಿವೃದ್ಧಿ ಮತ್ತು ನಿರ್ಮೂಲನಾ) ಕಾಯ್ದೆ 1973 ರ ನಿಯಮ 3 ರಡಿ ಕೊಳಚೆ ಪ್ರದೇಶವೆಂದು ಘೋಷಿಸಿ ಅಂತಿಮ ಅಧಿಸೂಚನೆಯನ್ನು ಹೊರಡಿಸಲು ಆದೇಶಿಸಿದೆ.

ಈ ಆದೇಶವನ್ನು ಶೀಘ್ರಲಿಪಿಗಾರರಿಗೆ ಉಕ್ತಲೇಖನ ನೀಡಿ ಗಣಕೀಕರಿಸಿದ ನಂತರ ಪರಿಷ್ಕರಿಸಿ ತೆರೆದ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ದಿನಾಂಕ: 22/9/2017 ರಂದು ಘೋಷಿಸಲಾಯಿತು.

ಸಹಿ/-
ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು,
ಬೆಂಗಳೂರು ಜಿಲ್ಲೆ,
ಬೆಂಗಳೂರು.”

It is this order that has driven the petitioner/Central Relief Committee before this Court.

15. It now becomes germane to notice the provisions of the 1973 Act. Section 3 reads as follows:

"3. Declaration of slum areas.- (1) Where the Government is satisfied, that,-

(a) any area is or is likely to be a source of danger to health, safety or convenience of the public of that area or of its neighborhood, by reason of the area being low-lying, insanitary, squalid, over-crowded or otherwise; or

(b) the buildings in any area, used or intended to be used for human habitation are,-

(i) in any respects, unfit for human habitation; or

(ii) by reason of dilapidation, over crowding, faulty arrangement and design of such buildings, narrowness or faulty arrangement of streets, lack of ventilation, light or sanitation facilities, or any combination of these factors, detrimental to safety, health or morals, it may, by notification, declare such area to be a slum area.

(2) In determining whether a building is unfit for human habitation, for the purposes of this Act regard shall be had to its condition in respect of the following matters, that is to say,-

(i) repair,

(ii) stability,

(iii) freedom from damp,

(iv) natural light and air,

(v) water-supply,

(vi) drainage and sanitary conveniences,

(vii) facilities for storage, preparation and cooking of food and for the disposal of waste water, and the building shall be deemed to be unfit as aforesaid, if it is so defective in one or more of the said matters that it is not reasonably suitable for occupation."

Section 3 deals with declaration of slum areas. It is the power of the Government, if it is satisfied that any area is or is likely to be a source of danger to health, safety or convenience of the public of that area or its neighbourhood can be declared as a slum. Section

11 deals with slum clearance and re-development and reads as follows:

"11. Power to declare any slum area to be slum clearance area.- (1) *Where the Government, on a report from the Board or the prescribed authority or the local authority concerned or the State Housing Board or an officer authorised by the Government for this purpose is satisfied as respects any slum area that the most satisfactory method of dealing with the conditions in the area is the clearance of such area and the demolition of all the buildings in the area, it may, by notification, declare the area to be a slum clearance area, that is to say, an area to be cleared of all buildings in accordance with the provisions of this Act:*

Provided that before issuing such notification the Government shall call upon the owners of the lands and buildings in such slum area to show cause why such declaration should not be made and after considering the cause if any, shown by such owners, it may pass such orders as it may deem fit.

(2) Any part of the slum area or any building in the slum area which is not unfit for human habitation or dangerous or injurious to safety, health or morals may be excluded from the notification under sub-section (1) if the Government considers it necessary.

(3) The notification under sub-section (1) shall specify each of the buildings to be demolished and the area to be cleared."

Whereupon a declaration under Section 3 the Government is empowered to clear such area, demolish the buildings therein and rehabilitate such slum dwellers. The procedure for demolition and execution of works for improvement of slum is all dealt with under

the Act. Therefore, the State is statutorily empowered to declare an area as a slum. It is no doubt true that rehabilitation of beggars is imperative, but rehabilitation of slum dwellers cannot take a back seat. If what is observed in the proceedings of the Deputy Commissioner which declares 27 guntas of land for development and rehabilitation of slum, it would completely come within the power and the reason as prescribed under Section 3 of the Act. Therefore, no fault can be found with the action of the State to declare, the area of 27 acres by the impugned proceedings of the Deputy Commissioner.

16. The other submission of the learned senior counsel for the petitioner is that issuance of preliminary notification is not found in the Act and therefore, the entire proceedings are illegal. This submission is again unacceptable. Merely because it is a preliminary notification, it would not clothe the petitioner/Central Relief Committee constituted under the Act to seek annulment of proceedings on the score that preliminary notification is erroneously issued. The State is empowered to declare an area as a slum. The assertion of the petitioner to contend that it is its own land cannot

be accepted. The effective implementation of the Act would come within the Social Welfare Department. It is a wing of the State. Effective rehabilitation of slum dwellers would come within the Slum Development Board, another wing of the State. One wing of the State fighting against the other wing has led to poor slum dwellers caught in the cross-fire who have not seen the light of the day of getting the houses constructed.

17. The learned counsel for the 3rd respondent has appended documents to his statement of objections to demonstrate that the land is being looted. The Central Relief Committee which claims to be in possession of the land has let several encroachers to encroach its land and is not pointing a finger at it, but is making hue and cry about 27 guntas of land being granted for rehabilitation of slum dwellers. It is rather surprising that one wing of the State is in squabble with the other wing of the State. It is submitted by the State that a dispute resolution mechanism is in place to resolve the dispute between any departments of the State. This could have been sorted out by the Government itself, but the Central Relief Committee chose to litigate. It is not a case where the Central

Relief Committee is divested off the entire 63 acres that is allotted to them. What is taken away by the impugned action is barely 27 guntas, out of the 63 acres. The Central Relief Committee has kept the pot of litigation boiling for the last 7 years and no rehabilitation of the slum dwellers has taken place. If major portion of the land had been taken away, it would have been a circumstance altogether different, which is not the one in the case at hand. Therefore, the challenge is rendered unsustainable and a direction must ensue to speed up the construction in the 27 guntas of land declared to be a slum by the impugned action.

18. For the aforesaid reasons, the following :

ORDER

- (i) Writ Petition stands rejected.
- (ii) Interim order subsisting stands dissolved.
- (iii) The Board shall now endeavour to rehabilitate the slum dwellers of the area, without brooking any further delay.

- (iv) It is made clear that 27 guntas of land acquired for the purpose of rehabilitation of slum dwellers shall be used only for the said purpose.
- (v) Beyond 27 guntas of land is not the scope of the present writ petition.

Consequently, I.A.No.1 of 2019 stands disposed.

**Sd/-
JUDGE**

Bkp
CT:SS