

ಕರ್ನಾಟಕ ವಿಧಾನ ಪರಿಷತ್ತು

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| ಚುಕ್ಕೆ ಗುರುತಿಲ್ಲದ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ | 744 |
| ಸದಸ್ಯರ ಹೆಸರು | ಶ್ರೀ ಪಿ.ಆರ್.ರಮೇಶ್ |
| ಉತ್ತರಿಸುವ ದಿನಾಂಕ | 22/02/2023 |
| ಉತ್ತರಿಸುವವರು | ಧಾರ್ಮಿಕ ದತ್ತಿ, ಹಜ್ ಹಾಗೂ ವಕ್ಫ್ ಸಚಿವರು |

| ಕ್ರ. ಸಂ | ಪ್ರಶ್ನೆ | ಉತ್ತರ |
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| ಅ) | <p>ಬೆಂಗಳೂರು ಹಲಸೂರು ಪೇಟೆಯಲ್ಲಿರುವ ಶ್ರೀ ಧರ್ಮ ರಾಯಸ್ವಾಮಿ ದೇವಸ್ಥಾನಕ್ಕೆ ಸೇರಿದ ಸ್ವತ್ತುಗಳಾದ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ನೀಲಸಂದ್ರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್-79 ಹಾಗೂ ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಬೇಗೂರು ಹೋಬಳಿ, ಹೊಂಗಸಂದ್ರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ:33ರ ಬಗ್ಗೆ 2017 ರಿಂದ ಇಲ್ಲಿಯವರೆಗೂ ಸದನದಲ್ಲಿ ಹಲವು ನಿಯಮಗಳಡಿಯಲ್ಲಿ ಪ್ರಸ್ತಾಪಿಸಿದ್ದು, ಸರ್ಕಾರವು ಉತ್ತರಿಸಿ ಆಶ್ವಾಸನೆ ನೀಡಿದ ಪ್ರಕಾರ ಕ್ರಮಗಳನ್ನು ಕೈಗೊಳ್ಳಲಾಗಿದೆಯೇ: (ಕೈಗೊಂಡಿದ್ದಲ್ಲಿ, ಸಂಪೂರ್ಣ ಮಾಹಿತಿಯನ್ನು ದಾಖಲಾತಿಯೊಂದಿಗೆ ಒದಗಿಸುವುದು)</p> | <p>ಬೆಂಗಳೂರು ಹಲಸೂರು ಪೇಟೆಯಲ್ಲಿರುವ ಶ್ರೀ ಧರ್ಮರಾಯಸ್ವಾಮಿ ದೇವಸ್ಥಾನಕ್ಕೆ ಸೇರಿದ ಸ್ವತ್ತುಗಳಾದ, ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ನೀಲಸಂದ್ರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್-79 ಹಾಗೂ ಬೆಂಗಳೂರು ದಕ್ಷಿಣ ತಾಲ್ಲೂಕು, ಬೇಗೂರು ಹೋಬಳಿ, ಹೊಂಗಸಂದ್ರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ:33ರ ಬಗ್ಗೆ 2017 ರಿಂದ ಇಲ್ಲಿಯವರೆಗೂ ಸದನದಲ್ಲಿ ಹಲವು ನಿಯಮಗಳಡಿಯಲ್ಲಿ ಪ್ರಸ್ತಾಪಿಸಿದ್ದು, ಸರ್ಕಾರವು ಉತ್ತರಿಸಿ ಆಶ್ವಾಸನೆ ನೀಡಿದ ಪ್ರಕಾರ ಕೈಗೊಂಡ ಕ್ರಮದ ವಿವರ ಈ ಕೆಳಕಂಡಂತಿದೆ.</p> <p>1) ಈ ಹಿಂದೆ ಚುಕ್ಕೆ ಗುರುತಿನ ಪ್ರಶ್ನೆ ಸಂಖ್ಯೆ 989 ವಿವರದಿ. ದಿನಾಂಕ:19-12-2018ರಲ್ಲಿ ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ನೀಲಸಂದ್ರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್-79ರ 6-12 ಎಕರೆ/ಗುಂಟೆ ಸುಮಾರು 216 ಮಂದಿ ಅನಧಿಕೃತದಾರರ ಮನೆಗಳನ್ನು ತೆರವುಗೊಳಿಸುವ ಕುರಿತು ಕರ್ನಾಟಕ ಭೂ ಕಬಳಿಕೆ ವಿಶೇಷ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪ್ರಕರಣ ದಾಖಲಿಸಲು ಧಾರ್ಮಿಕ ದತ್ತಿ ಇಲಾಖೆಯ ವತಿಯಿಂದ ಕ್ರಮ ಕೈಗೊಳ್ಳಲಾಗುತ್ತಿದೆ ಎಂದು ಮಾನ್ಯ ಗಣಿ ಮತ್ತು ಭೂ ವಿಜ್ಞಾನ ಹಾಗೂ ಮುಜರಾಯಿ ಸಚಿವರು ಸದನದಲ್ಲಿ ತಿಳಿಸಿರುತ್ತಾರೆ.</p> <p>ಪ್ರಶ್ನಿತ ಜಮೀನಿನಲ್ಲಿ ಈ ಹಿಂದೆ ಇದ್ದ 216 ಅನಧಿಕೃತದಾರರ ಜೊತೆ ಹೊಸದಾಗಿ 13 ಜನ ಒತ್ತುವರಿದಾರರನ್ನು ಗುರುತಿಸಿದ್ದು, 229 ಅನಧಿಕೃತದಾರರ ಪೈಕಿ 13 ಜನ ಅನಧಿಕೃತದಾರರ ವಿರುದ್ಧ ಸಂಬಂಧಪಟ್ಟ ಪೊಲೀಸ್ ಠಾಣೆಯಲ್ಲಿ ಮೊಕದ್ದಮೆಯನ್ನು ದಿನಾಂಕ:04-11-2020 ರಂದು ದಾಖಲು ಮಾಡಲಾಗಿರುತ್ತದೆ.(ಪ್ರತಿ ಲಗತ್ತಿಸಿದೆ)</p> <p>ಸದರಿ ಅನಧಿಕೃತ ಮನೆಗಳನ್ನು ತೆರವುಗೊಳಿಸುವ ಕುರಿತು ಕರ್ನಾಟಕ ಭೂ ಕಬಳಿಕೆ ನಿಷೇಧ ವಿಶೇಷ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪ್ರಕರಣ ದಾಖಲಿಸಲು ದೇವಾಲಯದ ಪರವಾಗಿ ಖಾಸಗಿ ವಕೀಲರನ್ನು ನೇಮಕಾತಿ ಮಾಡಲಾಗಿರುತ್ತದೆ.</p> |

ಉಳಿದ 216 ಅನಧಿಕೃತದಾರರ ಪೈಕಿ ಮೊದಲಿಗೆ 6 ಜನ ಅನಧಿಕೃತದಾರರ ವಿರುದ್ಧ ಕರ್ನಾಟಕ ಭೂ-ಕಬಳಿಕ ನಿಷೇಧ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪ್ರಕರಣಗಳನ್ನು ದಾಖಲಿಸಿದ್ದು, ಉಳಿದ ಒತ್ತುವರಿ ದಾರರ ವಿರುದ್ಧ ಪ್ರಕರಣ ದಾಖಲಿಸಲು ಕ್ರಮವಹಿಸಲಾಗುತ್ತಿರುತ್ತದೆ. ಈಗಾಗಲೇ ಭೂಕಬಳಿಕ ನಿಷೇಧ ವಿಶೇಷ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ದಾಖಲಾಗಿರುವ ಪ್ರಕರಣಗಳ ವಿಚಾರಣೆಯು ಈ ಕೆಳಕಂಡ ದಿನಾಂಕಗಳಂದು ನಿಗದಿಯಾಗಿರುತ್ತದೆ.

| ಕ್ರ. ಸಂ. | ಪ್ರಕರಣ ಸಂಖ್ಯೆ ಮತ್ತು ವಾದಿ / ಪ್ರತಿವಾದಿಗಳ ವಿವರ | ನಿಗದಿಯಾದ ದಿನಾಂಕ |
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| 1 | ಎಲ್‌ಜಿಸಿ (ಜಿ) ನಂ: 425/2021 ಶ್ರೀ ಧರ್ಮರಾಯ ಸ್ವಾಮಿ ದೇವಾಲಯ, ಶ್ರೀ ಸೋಮಶೇಖರ್ ಬಿನ್ ಶ್ಯಾಮ್ | 31.03.2023 |
| 2 | ಎಲ್‌ಜಿಸಿ (ಜಿ) ನಂ: 428/2021 ಶ್ರೀ ಧರ್ಮರಾಯ ಸ್ವಾಮಿ ದೇವಾಲಯ, ಶ್ರೀ ಕೆ.ಯಲ್ಲಪ್ಪ ಬಿನ್ ಕೃಷ್ಣಪ್ಪ | 31.03.2023 |
| 3 | ಎಲ್‌ಜಿಸಿ (ಜಿ) ನಂ: 424/2021 ಶ್ರೀ ಧರ್ಮರಾಯ ಸ್ವಾಮಿ ದೇವಾಲಯ, ಶ್ರೀ ಮುನಿರಾಜು | 31.03.2023 |
| 4 | ಎಲ್‌ಜಿಸಿ (ಜಿ) ನಂ: 426/2021 ಶ್ರೀ ಧರ್ಮರಾಯ ಸ್ವಾಮಿ ದೇವಾಲಯ, ಶ್ರೀ ರಾಜ ಬಿನ್ ಮುನಿಯಪ್ಪಗೌಡ | 31.03.2023 |
| 5 | ಎಲ್‌ಜಿಸಿ (ಜಿ) ನಂ: 427/2021 | 27.03.2023 |
| 6 | ಎಲ್‌ಜಿಸಿ (ಜಿ) ನಂ: 163/2022 ಶ್ರೀ ಧರ್ಮರಾಯ ಸ್ವಾಮಿ ದೇವಾಲಯ, ಮತ್ತು ಇನ್ನೊಬ್ಬರು | 28.03.2023 |

ಉಳಿದ ಅನಧಿಕೃತದಾರರ ವಿರುದ್ಧ ಕರ್ನಾಟಕ ಸಾರ್ವಜನಿಕ ಆವರಣಗಳ (ಅಧಿಭೋಗದಾರರನ್ನು ಹೊರ ಹಾಕುವ) ಅಧಿನಿಯಮ 1974 ರಡಿಯಲ್ಲಿ ಪ್ರಕರಣ ದಾಖಲಿಸಲು ಕ್ರಮ ವಹಿಸಲಾಗಿದ್ದು, ಈ ಬಗ್ಗೆ 50 ಜನ ಅನಧಿಕೃತ ಒತ್ತುವರಿದಾರರಿಗೆ ನೋಟೀಸ್ ಅನ್ನು ಜಾರಿ ಮಾಡಲಾಗಿರುತ್ತದೆ.

ಪ್ರಸ್ತುತ ಒತ್ತುವರಿ ತೆರವುಗೊಳಿಸಿರುವ 9 ಎಕರೆ ಜಮೀನಿಗೆ ಕಾಂಪೌಂಡ್ ನಿರ್ಮಿಸಲು ರೂ.80.00 ಲಕ್ಷಗಳ ಅಂದಾಜುಪಟ್ಟಿ ಮತ್ತು ನಕ್ಷೆಗೆ ಆಡಳಿತಾತ್ಮಕ ಮಂಜೂರಾತಿ ನೀಡಿ ಕಾಮಗಾರಿಯನ್ನು ಕೆ.ಆರ್.ಐ.ಡಿ.ಎಲ್ ರವರಿಗೆ ವಹಿಸಲಾಗಿರುತ್ತದೆ.

ಸದರಿ ಕಾಮಗಾರಿಯ 1/3 ಭಾಗದ ಮೊದಲನೇ ಕಂತಿನ ಬಾಬು ರೂ.26.00ಲಕ್ಷಗಳನ್ನು ಜಿಲ್ಲಾಧಿಕಾರಿಗಳು, ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ ರವರು ದಿನಾಂಕ:15.04.2017 ರಂದು ಕೆ.ಆರ್.ಐ.ಡಿ.ಎಲ್ ಗೆ ಬಿಡುಗಡೆ ಮಾಡಲಾಗಿದೆ.

ಪ್ರಸ್ತಾವಿತ ಸ್ಥಳವನ್ನು ಧಾರ್ಮಿಕ ದತ್ತಿ ಇಲಾಖೆಯ ಹಾಗೂ ಸಿಟಿ ಸರ್ವೆ ಇಲಾಖೆಯ ಮೋಜಣಿದಾರರು ಜಂಟಿ ಸರ್ವೆ ಮಾಡಿ ತಯಾರಿಸಿರುವ ನಕ್ಷೆಯಲ್ಲಿ ತೋರಿಸಿರುವಂತೆ ಕಾಂಪೌಂಡ್ ನಿರ್ಮಾಣ ಮಾಡಬೇಕಾಗಿರುವ ಸ್ಥಳವನ್ನು "ಭೂಮಿ ಹಸ್ತಾಂತರ ಪತ್ರದ ಮೂಲಕ ಕಾರ್ಯಪಾಲಕ ಅಭಿಯಂತರರು, ಕೆ.ಆರ್.ಐ.ಡಿ.ಎಲ್. ಸಂಸ್ಥೆ ಇವರಿಗೆ ದೇವಾಲಯದ ಕಾರ್ಯನಿರ್ವಾಹಕ ಅಧಿಕಾರಿಗಳು ದಿ:28-02-2019 ರಂದು ಜಮೀನನ್ನು ಹಸ್ತಾಂತರಿಸಿರುತ್ತಾರೆ.

ಜಮೀನಿನ ಸಂರಕ್ಷಣೆಗಾಗಿ ಕಾಂಪೌಂಡ್ ನಿರ್ಮಿಸುವ ಕಾಮಗಾರಿಯನ್ನು ಕೈಗೊಳ್ಳುವ ಕುರಿತು ಆಡಳಿತಾತ್ಮಕ ಮಂಜೂರಾತಿ ನೀಡಿ ಜಿಲ್ಲಾಧಿಕಾರಿ, ಬೆಂಗಳೂರು ನಗರ ಜಿಲ್ಲೆ ಇವರು ಹೊರಡಿಸಿರುವ ಅಧಿಕೃತ ಜ್ಞಾಪನಾ ಪತ್ರ ಸಂಖ್ಯೆ: ಡಿವಿಎಸ್. (ಎ)ಸಿಆ.10/1989-90 ದಿನಾಂಕ: 12.11.2020 ಅನ್ನು ಪ್ರಶ್ನಿಸಿ, ಶ್ರೀ ತಾಯವ್ವ ಎಂಬುವವರು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ರಿಟ್ ಅರ್ಜಿ ಸಂಖ್ಯೆ: 13506/2020 ಅನ್ನು ದಾಖಲಿಸಿದ್ದು, ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ಯಥಾಸ್ಥಿತಿಯನ್ನು ಕಾಪಾಡಲು ಮಧ್ಯಂತರ ಆದೇಶವನ್ನು ನೀಡಿರುತ್ತದೆ. ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ಈಗಾಗಲೇ ಲಿಖಿತ ಆಕ್ಷೇಪಣೆಗಳನ್ನು ಹಾಗೂ ಅಗತ್ಯ ದಾಖಲೆಗಳನ್ನು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸಲಾಗಿದೆ. ಈ ಪ್ರಕರಣವನ್ನು ದೇವಾಲಯದ ಪರವಾಗಿ ಜರೂರಾಗಿ ಇತ್ಯರ್ಥ ಪಡಿಸುವ ಕುರಿತು ಅಗತ್ಯ ಕ್ರಮ ವಹಿಸಲಾಗಿದೆ. ಪ್ರಕರಣವು ಇತ್ಯರ್ಥವಾದ ಕೂಡಲೇ ಕಾಂಪೌಂಡ್ ನಿರ್ಮಾಣ ಮಾಡಲು ಅಗತ್ಯ ಕ್ರಮ ಕೈಗೊಳ್ಳಲಾಗುತ್ತದೆ.

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| <p>ಆ) ಸದರಿ ದೇವಸ್ಥಾನಗಳ ಸ್ವತ್ತುಗಳಲ್ಲಿ ಒಂದಾದ ಬೆಂಗಳೂರು ಉತ್ತರ ತಾಲ್ಲೂಕು, ನೀಲಸಂದ್ರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್-79ಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಕಳೆದ ಆರು ತಿಂಗಳಲ್ಲಿ ಸರ್ಕಾರವು ಸ್ಥಳ ತಪಾಸಣೆ ಮಾಡಿದೆಯೇ: (ಮಾಡಿದ್ದಲ್ಲಿ, ಕೈಗೊಂಡಿರುವ ಕ್ರಮದ ಈ ದಿನದವರೆಗಿನ ಸಂಪೂರ್ಣ ಮಾಹಿತಿಯನ್ನು ನೀಡುವುದು)</p> | <p>ಹೌದು. ದಿನಾಂಕ:17.12.2022ರಂದು ಮಾನ್ಯ ಧಾರ್ಮಿಕ ದತ್ತಿ ಸಚಿವರು ಮತ್ತು ವಿಧಾನಪರಿಷತ್ತಿನ ಸದಸ್ಯರಾದ ಶ್ರೀ ಎನ್. ರವಿಕುಮಾರ್ ಹಾಗೂ ಆಯುಕ್ತರು, ಧಾರ್ಮಿಕ ದತ್ತಿ ಇಲಾಖೆ ಇವರುಗಳು ಒಳಗೊಂಡಂತೆ ಸ್ಥಳ ಪರಿಶೀಲನೆ ನಡೆಸಲಾಗಿದೆ.</p> <p>ಸ್ಥಳ ಪರಿಶೀಲನಾ ಸಮಯದಲ್ಲಿ ಮಾನ್ಯ ಸಚಿವರು ನೀಡಿರುವ ನಿರ್ದೇಶನದಂತೆ ಸ್ವತ್ತಿನಲ್ಲಿ ಅನಧಿಕೃತವಾಗಿ ಸ್ವಾಧೀನ ದಲ್ಲಿರುವ ಅತಿಕ್ರಮಣ ದಾರರನ್ನು ಹೊರ ಹಾಕಲು ಅಗತ್ಯವಿರುವ ಕ್ರಮಗಳನ್ನು ಕೈಗೊಳ್ಳಲಾಗಿದೆ. (i) ದೇವಾಲಯಕ್ಕೆ ಸೇರಿದ 4 ಎಕರೆ 22 ಗುಂಟೆಗೆ ಸ್ವತ್ತಿನ ಹಕ್ಕುದಾರಿಕೆಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಶ್ರೀ ಮುನಿಸ್ವಾಮಿ ಮತ್ತು ಇತರರು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ದಾಖಲಾಡಿದ ಪ್ರಕರಣ ಸಂ:ಆರ್.ಎಫ್.ಎ 1702/2006ರ ಪ್ರಕರಣವನ್ನು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ದಿ:30.11.2022 ರಂದು ವಜಾಗೊಳಿಸಿರುತ್ತದೆ.</p> <p>(ii) ಸದರಿ ತೀರ್ಪಿನ ಮೇಲೆ ಅಪೀಲುದಾರರು ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಪ್ರಕರಣ ದಾಖಲಿಸಿ ಏಕಪಕ್ಷೀಯವಾಗಿ ತಡೆಯಾಜ್ಞೆ ಪಡೆಯುವುದನ್ನು ತಪ್ಪಿಸುವ ಸಲುವಾಗಿ ದೇವಾಲಯದ ವತಿಯಿಂದ ಮಾನ್ಯ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಕೇವಿಯಟ್ ಅರ್ಜಿಯನ್ನು ದಾಖಲಿಸಲಾಗಿದೆ.</p> <p>(iii) ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಆರ್.ಎಫ್.ಎ ಪ್ರಕರಣ ಸಂ:1702/2006ರಲ್ಲಿ ದೇವಾಲಯದ ಪರವಾಗಿ ನೀಡಿರುವ ತೀರ್ಪಿನ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ರಿಟ್ ಅರ್ಜಿ ಸಂ: 13506/2020 ಅನ್ನು ಕೂಡ ವಜಾಗೊಳಿಸಲು ಕೋರಿ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ಮುಂದೆ ಮೆಮೋ ಅರ್ಜಿಯನ್ನು ದಾಖಲಿಸಲಾಗಿದೆ.</p> |
| <p>ಇ) ಸದರಿ ದೇವಸ್ಥಾನದ ಸ್ವತ್ತುಗಳ ಬಗ್ಗೆ ಅಂತಿಮವಾಗಿ ಸರ್ವೋಚ್ಚ ನ್ಯಾಯಾಲಯ/ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯ/ಕಂದಾಯ ನ್ಯಾಯಾಲಯಗಳು ನೀಡಿರುವ ತೀರ್ಪು, - ಆದೇಶಗಳು ಮತ್ತು ನಿರ್ದೇಶನಗಳನ್ವಯ, ಸರ್ಕಾರದಿಂದ ಕ್ರಮ ಕೈಗೊಳ್ಳಲಾಗಿದೆಯೇ: ಹಾಗಿದ್ದಲ್ಲಿ, ಸರ್ಕಾರ ಕೈಗೊಂಡ ಕ್ರಮಗಳ ಸಂಪೂರ್ಣ ಮಾಹಿತಿಯನ್ನು ದಾಖಲಾತಿಯೊಂದಿಗೆ ಒದಗಿಸುವುದು:</p> | <p>ಹೌದು. ದೇವಾಲಯಕ್ಕೆ ಸೇರಿದ ಸರ್ವೆ ನಂ:79ರ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದಲ್ಲಿ ಆರ್.ಎಫ್.ಎ ಸಂ:1702/2006 ಮತ್ತು ರಿಟ್ ಅರ್ಜಿ ಸಂ: 13506/2020ರ ಪ್ರಕರಣಗಳು ದಾಖಲಾಗಿದ್ದು, ಆರ್.ಎಫ್.ಎ ಸಂ:1702/2006 ರ ಪ್ರಕರಣವನ್ನು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ದಿ:30.11.2022 ರಂದು ವಜಾಗೊಳಿಸಿದ್ದು, ಸದರಿ ಸ್ವತ್ತು ಸೇರಿದಂತೆ ದೇವಾಲಯದ ಸ್ವತ್ತಿನ ಸಂರಕ್ಷಣೆಗಾಗಿ ಕಾಂಪೌಂಡ್ ಗೋಡೆಯನ್ನು ನಿರ್ಮಿಸಬೇಕಾಗಿರುತ್ತದೆ.</p> |

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| | | <p>ಆದರೆ ಕಾಂಪೌಂಡ್ ಗೋಡೆ ನಿರ್ಮಿಸುವ ಕಾಮಗಾರಿಗೆ ಆಡಳಿತಾತ್ಮಕ ಮಂಜೂರಾತಿ ನೀಡಿರುವ ಜಿಲ್ಲಾಧಿಕಾರಿ ಯವರ ಆದೇಶದ ಬಗ್ಗೆ ಯಥಾಸ್ಥಿತಿಯನ್ನು ಕಾಯ್ದುಕೊಳ್ಳಲು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ರಿಟ್ ಅರ್ಜಿ ಸಂ:13506/2020ರ ಪ್ರಕರಣವನ್ನು ತ್ವರಿತವಾಗಿ ಇತ್ಯರ್ಥಪಡಿಸಲು ಕ್ರಮ ವಹಿಸಲಾಗಿರುತ್ತದೆ.</p> <p>ಸರ್ವೆ ನಂ:79ರ ಸ್ವತ್ತಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ಒತ್ತುವರಿದಾರರನ್ನು ತೆರವುಗೊಳಿಸುವ ಕುರಿತು ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಕ್ರಮ ಕೈಗೊಳ್ಳಲಾಗುತ್ತಿದೆ.</p> |
| ಈ) | <p>ಸದರಿ ಪ್ರಕರಣಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಸರ್ಕಾರಕ್ಕೆ ಬರೆದ ಪತ್ರದ ದಿನಾಂಕ:27.09.2021ರ ಬಗ್ಗೆ ಇಲ್ಲಿಯವರೆವಿಗೂ ಸರ್ಕಾರದಿಂದ ಕೈಗೊಂಡಿರುವ ಕ್ರಮದ ಸಂಪೂರ್ಣ ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸುವುದು.</p> | <p>ಸದರಿ ಪ್ರಕರಣದಲ್ಲಿ ದಿನಾಂಕ:27.09.2021 ರಂದು ಸರ್ಕಾರಕ್ಕೆ ಯಾವುದೇ ಪ್ರಸ್ತಾವನೆಯನ್ನು ಸಲ್ಲಿಸಿರುವುದಿಲ್ಲ.</p> |
| ಉ) | <p>ರಾಜ್ಯ ಸರ್ಕಾರದಿಂದ ನೀಲಸಂದ್ರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ: 79 ಹಾಗೂ ಹೊಂಗಸಂದ್ರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂ: 33ರ ಸ್ವತ್ತುಗಳನ್ನು ಸಂರಕ್ಷಿಸಿ ಸ್ವಾಧೀನ ಪಡಿಸಿಕೊಳ್ಳಲು ಸರ್ಕಾರವು ದಿಟ್ಟ ನಿರ್ಧಾರಗಳನ್ನು ಕೈಗೊಳ್ಳಲಾಗಿದೆಯೇ? ಅಥವಾ ಕಾನೂನು ಬಾಹಿರವಾಗಿ ಹಾಗೂ ನ್ಯಾಯಾಲಯದ ಆದೇಶಕ್ಕೆ ವಿರುದ್ಧವಾಗಿ ಆಕ್ರಮಿಸಿಕೊಳ್ಳಲು ಮತ್ತು ಆಕ್ರಮಿಸಿ ಕೊಂಡಿರುವ ವ್ಯಕ್ತಿಗಳಿಗೆ ಪ್ರೋತ್ಸಾಹಿಸುತ್ತಿದೆಯೇ? (ಇದರ ಬಗ್ಗೆ ಸಂಪೂರ್ಣ ಮಾಹಿತಿಯನ್ನು ಒದಗಿಸುವುದು)</p> | <p>ಹೌದು.</p> <p>ಈ ಪ್ರಕರಣದಲ್ಲಿ ಸರ್ಕಾರವು ಮಾನ್ಯ ನ್ಯಾಯಾಲಯಗಳ ಆದೇಶದನ್ವಯ ಆಯುಕ್ತರು, ಧಾರ್ಮಿಕ ದತ್ತಿ ಇಲಾಖೆ ಇವರಿಂದ ಸರ್ಕಾರಕ್ಕೆ ಯಾವುದೇ ಪ್ರಸ್ತಾವನೆ ಬಂದಿರುವುದಿಲ್ಲ. ಈ ಬಗ್ಗೆ ಆಯುಕ್ತರ ಹಂತದಲ್ಲಿಯೇ ಕ್ರಮ ಕೈಗೊಳ್ಳಲಾಗಿದೆ ಹಾಗೂ ಒತ್ತುವರಿಯನ್ನು ತೆರವುಗೊಳಿಸಲು ಕಾನೂನು ರೀತ್ಯಾ ಸಕ್ರಮ ನ್ಯಾಯಾಲಯಗಳಲ್ಲಿ ಪ್ರಕರಣಗಳನ್ನು ದಾಖಲು ಮಾಡಿದ್ದು ಒತ್ತುವರಿ ತೆರವಿಗೆ ದಿಟ್ಟ ಕ್ರಮಗಳನ್ನು ಕೈಗೊಳ್ಳಲಾಗಿದೆ. ಕಾನೂನು ಬಾಹಿರವಾಗಿ ಹಾಗೂ ನ್ಯಾಯಾಲಯದ ಆದೇಶಕ್ಕೆ ವಿರುದ್ಧವಾಗಿ ಅತಿಕ್ರಮಣದಾರರನ್ನು ಪ್ರೋತ್ಸಾಹಿಸುವ ಪ್ರಶ್ನೆಯೇ ಉದ್ಭವಿಸುವುದಿಲ್ಲ.</p> |

ಸಂಖ್ಯೆ: ಕಂಇ 39 ಮುಸಪ್ರ 2023



(ಶಶಿಕಲಾ. ಅ.ಜೋಲೆ)

ಧಾರ್ಮಿಕ ದತ್ತಿ, ಹಜ್ ಹಾಗೂ ವಕ್ಫ್ ಸಚಿವರು

(65)



ಕರ್ನಾಟಕ ರಾಜ್ಯ ಪೊಲೀಸ್

ಸ್ವೀಕೃತಿ / Acknowledgement

ಸಂ.76ಎ ಮೂಲ ಪ್ರತಿ

ಉಲ್ಲೇಖ ಸಂಖ್ಯೆ / Reference No : NCR 429/2020

ಜಿ.ಎಸ್.ಸಿ(GSC No)ಸಂಖ್ಯೆ : PO1389200600546

ದಿನಾಂಕ / Date : 04/11/2020

ಆರ್ಟಿಕಲ್ ನಮೂನೆ : Non Cognizable

ಆರ್ಟಿಕಲ್(Petition No) ಸಂಖ್ಯೆ : 546/1389/2020

1. ಸಂದರ್ಶಕರ/ವಿಯಾದುದಾರರ/ಅಪ್ಪಾವಿಸಲಾದ ಸೂಚಕರ ಹೆಸರು : K V V Prasad

2. Father / Husband Name

3. Address : Assistant Commisionar, Mujarayi Works, City Corraparation Area
VV Towers, Podium Block, 3rd Floor Bengalore One
Bengaluru City
Karnataka, 560047

4. Mobile : 8861918825

5. ಸಂದರ್ಶನದ ಉದ್ದೇಶ

ದೂರದಾರರು ಮುಜರಾಯಿ ಕಾಮಗಾರಿ, ನಗರ ಸಭಾವಲಯ ಬೆಂಗಳೂರು ನಗರದ ಸಹಾಯಕ ಅಯುಕ್ತರಾಗಿರುತ್ತಾರೆ. ಈ ಮೇಲ್ಕಂಡ ವಿಷಯಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ಬೆಂಗಳೂರು ನಗರ ತಿಗಳರಜ್ಜಿಯಲ್ಲಿ ಈವ ಶ್ರೀ ಧರ್ಮರಾಯಸ್ವಾಮಿ ದೇವಾಲಯಕ್ಕೆ ಸೇರಿದ ನೀಲಸಂಪ್ರ ಗ್ರಾಮದ ಸರ್ವೆ ನಂಬರ್ 79 ರಲ್ಲಿ ಅನಧಿಕೃತವಾಗಿ ಒತ್ತುವರಿ ಮಾಡಿಕೊಂಡು ಮನೆ ಮತ್ತು ಮಳಿಗೆಗಳನ್ನು ನಿರ್ಮಾಣ ಮಾಡುತ್ತಿರುವ ಸದರಿ ಆವಾಹಿಗಳ ವಿರುದ್ಧ ಕಾನೂನು ಕ್ರಮ ಜರುಗಿಸಬೇಕೆಂದು ಕೊಟ್ಟ ದೂರು ಆರ್ಟಿ.

J. Kumar

ಕಾರ್ಯನಿರ್ವಾಹ ಅಧಿಕಾರಿ
'ಶ್ರೀರಾಯರಾಯ ಕಲ್ಯಾಣ ಪುಟಪ
ಮತ್ತು ಸಮೂಹ ದೇವಾಲಯಗಳು
ಚಾಮರಾಜ ಪೇಟೆ, ಬೆಂಗಳೂರು-560 018

66

6. Counter Party Details

Name : Shivani, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -

Name : Amulraaj, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -

Name : Ramesh, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -

Name : Smt Sugunamma, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -

Name : Raju, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -

Name : Selva, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -

Name : Rajanna, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -

Name : Smt Shashikala, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -

Name : Muragan, S/o
Address : Sumati Nilay, Sampangi Garden
Neelasandara, Bengaluru City
Karnataka -

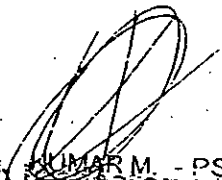
ಕಾರ್ಯನಿರ್ವಾಹ ಅಧಿಕಾರಿ
ಶ್ರೀರಾಯಣ್ಣಯ ಕಲ್ಯಾಣ ಮಂಟಪ
ಮತ್ತು ಸಮಾಜ ಧರ್ಮಾಲಯಗಳು
ಹಾವಣಕ ದೇಟೆ, ಬೆಂಗಳೂರು-560 018

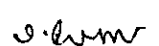
(67)

Name : Somashekar, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -
Name : Muniraju, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -
Name : Smt Jayamma, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -
Name : Smt Rajeshwari Raaj, S/o
Address : Servy No.79
Neelasandara, Bengaluru City
Karnataka -

Application/Doc : Yes

ಪ್ರಾಚಾರದ ಸಹಿ


Sub Inspector of Police
Ashok Ashoknagar PS Station
Bengaluru City.


ಕಾರ್ಯನಿರ್ವಾಹ ಅಧಿಕಾರಿ
ಶ್ರೀರಾಯರಾಯ ಕಲ್ಯಾಣ ಪಂಟಪ
ಮತ್ತು ಸಮೂಹ ದೇವಾಲಯಗಳು
ಚಾಮರಾಜ ವೇಟಿ, ಬೆಂಗಳೂರು-560 018

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 30TH DAY OF NOVEMBER, 2022

BEFORE

THE HON'BLE MR. JUSTICE V. SRISHANANDA

R.F.A.NO.1702/2006(DEC)

BETWEEN

SRI C MUNIYAPPA
SINCE DECEASED BY HIS LRS.,

1(a) SRI M.MUNISWAMY
S/O LATE C.MUNIYAPPA
AGED ABOUT 54 YEARS

1(b) SRI M.THAYAPPA
S/O LATE C.MUNIYAPPA
AGED ABOUT 55 YEARS

1(c) SRI B.M.LOKESH
S/O LATE C.MUNIYAPPA
AGED ABOUT 52 YEARS
DEAD LEAVING BEHIND 1(a), (b) AND (d)
AS LRS OF 1(c)

1(d) SRI M.RAJANNA
S/O LATE C.MUNIYAPPA
AGED ABOUT 45 YEARS

ALL ARE R/AT NO.1
MUNEGOWDA GARDEN, NEELASANDRA
BANGALORE - 560 047

...APPELLANTS

(BY SRI V VISHWANATH SHETTY, ADVOCATE FOR LRS OF
APPELLANT)

AND

- 1 . SRI DHARMARAYASWAMY TEMPLE
REPRESENTED BY
ITS COMMITTEE OF DHARMADARSHIES,
ULSOORPET
BANGALORE - 560 002
- 2 . SRI Y VASUDEV
CONVENOR
MAJOR
SREE DHARMARAYASWAMY TEMPLE
ULSOORPET,
BANGALORE - 560 002
- 3 . SRI M SUBBARAYAPPA
DHARMADARSHI
MAJOR
SREE DHARMARAYASWAMY TEMPLE
ULSOORPET,
BANGALORE - 560 002
- 4 . SRI B M RAMANNA
DHARMADARSHI
AGED ABOUT 60 YEARS
SREE DHARMARAYASWAMY TEMPLE
ULSOORPET,
BANGALORE - 560 002

...RESPONDENTS

(BY SRI K.N.NITHISH, ADVOCATE FOR
SRI K V NARASIMHAN, ADVOCATE FOR R1;
VIDE ORDER DATED 25.05.2010, APPEAL AGAINST R2
AND R3 IS STAND DISMISSED;
P4 IS SERVED BUT UNREPRESENTED)

THIS RFA IS FILED U/S 96 R/W ORDER 41 OF CPC
AGAINST THE JUDGMENT AND DECREE DT.02.03.2006
PASSED IN O.S.NO.6246/1997 ON THE FILE OF THE VIII

ADDL.CITY CIVIL JUDGE, BANGALORE CITY, (CCH-15)
DISMISSING THE SUIT FOR DECLARATION AND
PERMANENT INJUNCTION.

THIS APPEAL HAVING BEEN HEARD AND RESERVED
FOR JUDGMENT ON 20.10.2022, COMING ON FOR
'PRONOUNCEMENT OF JUDGMENT' THIS DAY, THE COURT
DELIVERED THE FOLLOWING:-

JUDGMENT

1. This appeal is by the unsuccessful plaintiff
challenging the judgment and decree passed in
O.S.No.6246/1997 dated 02.03.2006 on the file of VIII
Additional City Civil Judge, Bengaluru, whereby the suit of
the plaintiff came to be dismissed.

2. Parties are referred to as plaintiff and
defendants as per their original ranking before the Trial
Court for the sake of convenience.

3. Facts in brief as found in the plaint are as
under:

Plaintiff filed a suit seeking a declaration that he is the
absolute owner of portion of the property carved in

Sy.No.79 of Neelasandra village, Bengaluru North Taluk, Bengaluru District, measuring 4 acres 20 guntas with a farm house and structure bounded on East by portion of the remaining land in the same survey number in occupation of Aswathamma, west by property of Muthappa and Muthanna, North by property in Sy.No.75/5 belonging to plaintiff and also property of Muniraju, South by Koramangala Gadi and property in Sy.No.36 in occupation of the plaintiff (hereinafter referred to as suit property).

4. It is the case of the plaintiff that he has perfected his title by way of adverse possession and sought for injunction restraining the defendants from interfering with his peaceful possession and enjoyment of the property.

5. It is further contended that the Sy.No.79 originally belonged to one Rudrappa and after his death, his only son Chikka Veerappa succeeded to the said property. Chikka Veerappa divided the said property into

several portions and sold the same from time to time to different people.

6. Plaint averments further reveal that one Kannaiah, S/o Venkataswamy purchased a portion of Sy.No.79 under a registered sale deed dated 17.07.1944. Kannaiah sold the said property in favour of Ramaswamy, Subramnyam, Muniswamy and Mani under registered sale deed dated 17.02.1946. Those persons in turn sold the property to the plaintiff under a registered sale deed 22.06.1949. It is the specific case of the plaintiff that property sold under the said sale deed dated 22.06.1949 measures 46 feet on the Eastern side and 141 feet on the Western side and North to South 579 feet. Chikka Veerappa sold another portion of the property to Annaiappa, who in turn sold the same to Perumaiah under a registered sale deed dated 16.12.1944. Plaintiff purchased the said portion of the land from Perumaiah through a registered sale deed dated 24.09.1945, measuring 1 acre 22 guntas. After the purchase, he

applied for change of revenue entries and the land was given re-survey Number.79/7. Thus according to plaintiff, he purchased 4 acres 20 guntas of land in Sy.No.79/7 of Neelasandra village and he has been in possession and enjoyment of the same for more than 50 years.

7. It is the case of the plaintiff that in the year 1960, he came to know that land in Sy.No.79 was an Inam land and therefore, he applied for the re-grant of the land to the Special Deputy Commissioner for registering occupancy rights in respect of the suit property. His application was rejected by the Deputy Commissioner and he had approached the Appellate Tribunal, there also he was unsuccessful.

8. Left with no alternative, he approached the High Court with a writ petition. However, the writ petition was also dismissed on 04.05.1970. Plaintiff further contended that in the year 1975, plaintiff and others once again filed application before the Special Deputy Commissioner for grant of occupancy rights and Special

Deputy Commissioner granted occupancy certificate in favour of the plaintiff and others by order dated 22.12.1979. Being aggrieved by the said order, defendant NOs.1 to 4 challenged the said order in writ petitions before this Court in W.P.Nos.3791 to 8793/1978. A Single Judge Bench of this Court allowed the writ petitions, whereby plaintiff and others filed W.A.Nos.283 to 285/1988. Their writ appeals were dismissed on 09.02.1988 and the attempt made by the plaintiff and others to challenge the said order before the Supreme Court in SLP No.10278, 10278A, 10278B of 1988, were dismissed by the Hon'ble Supreme Court on 10.12.1988. Thus, the claim made by the plaintiff and others seeking occupancy rights under the provisions of Inam Abolition Act was negated.

9. Plaintiff further contended that despite the same, the possession of the suit property was retained by the plaintiff and therefore, he approached the land Tribunal for grant of occupancy rights. Land Tribunal granted

occupancy rights in favour of the plaintiff by order dated 27.01.1989. Defendant Nos.1 to 4 were again required to challenge the same before this Court in W.P.No.12850, 12850A to 12850G, of 1989. The writ petitions were allowed on 12.10.1990 and order passed by the land Tribunal was set aside. However, while so passing the order, the High Court held that, plaintiff is in possession of the suit property ever since the purchase though the possession is unlawful. Thus, the plaintiff claim that the plaintiff is in enjoyment of the suit property to the knowledge of the defendants for more than 50 years and he has perfected his title over the suit property by adverse possession against right, title and interest of defendant Nos.1 to 4 during the year 1964 itself and therefore sought for decreeing the suit.

10. On receipt of suit summons, the defendant Nos.1 to 4 appeared before the Court and filed a common written statement contended that the rights of the parties in respect of the suit property is conclusively decided by

the Special Deputy Commissioner and the same has attended finality by the plaintiff approaching the Hon'ble Apex court and the Special Leave Petition filed on behalf of the plaintiff got dismissed.

11. It is further contended by the defendants that thereafter words, the plaintiff approached the Land Tribunal which was also dismissed by the High Court and therefore, plaintiff cannot file any suit seeking an order of declaration that plaintiff is in possession of the property by adverse possession.

12. Defendants also contended that the plaintiff has filed frivolous suit with an intention to grab the valuable property by hook or crook and thus sought for dismissal of the suit.

13. Based on the rival contentions, Trial Court raised the following issues.

- 1) *Whether the plaintiff proves that he has acquired the title by way of adverse possession?*
- 2) *Whether the suit is hit by the principles of resjudicata?*

- 3) *Whether the suit is not maintainable as pleaded In Paragraph 2(e) of the written statement?*
- 4) *Whether the plaintiff is entitled for the relief of declaration?*
- 5) *Whether the plaintiff is entitled for the relief of permanent injunction?*
- 6) *To What relief and order the parties are entitled for?*

14. In order to prove the case of the plaintiff, plaintiff got examined himself as P.W.1. He relied on 22 documents which were exhibited and marked as Exs.P.1 to P.22, comprising of Certified copy of the Sale deed dated 07.02.1946 -Ex.P.1, Certified Copy of the Sale Deed dated 22.07.1949 - Ex.P.2, Certified Copy of the Sale deed dated 16.12.1944 - Ex.P.3, Certified Copy of the Sale Deed dated 24.09.1945 - Ex.P.4, Certified copy of the order in W.P.No.12850/1989 and 12850-A to 12850-G - Ex.P.5, Extract of record of Rights - Ex.P.6, RTC extracts - Exs.P-7 to P.10, Copies of Demand

notices-Exs.P.11 to P.19, Receipt Patta-Ex.P.20, Copy of Notice -Ex.P.21, copy of Notice-Ex.P.22.

15. On behalf of the defendants, fourth defendant B.M. Ramana is examined as D.W.1 and he has produced 3 documents, which were exhibited and marked as Exs.D.1 to D.3, comprising of certified copy of the order passed in CCC 133/1992 - Ex.D.1, Certified copy of Mahazar - Ex.D.2, certified copy of RTC extract - Ex.D.3.

16. Learned Trial Judge on conclusion of recording of the evidence, heard the parties in detail and dismissed the suit of the plaintiff.

17. Being aggrieved by the dismissal of the suit, the unsuccessful plaintiff has presented the present appeal on the following grounds:

➤ The judgment and decree of dismissal passed by the Hon'ble Court below is opposed to law, facts and probabilities and the same is arbitrary, perverse, capricious and is liable to be set aside this Hon'ble Court.

The Hon'ble court below is solely influenced by the order of this Hon'ble Court passed in WP.Nos.12850, 12850A to 12850G/1990, wherein the subject matter involved was under Land Reforms Act. The Hon'ble court below failed to appreciate that the appellant's civil right of possession for over 50 years over the property in question has perfected his right by way of adverse possession and the decision passed in various other legal proceedings, which are pertain to Inam Abolition Act and Land Reforms Act has no bearing on the appellant's right of adverse possession. It is the settled position of law even a person in unlawful possession, whose possession is not disturbed for a statutory period is entitled to be declared as absolute owner having perfected the right. Therefore, the reasoning followed by the judgment and decree of the court below is opposed to law and the same is liable to be set aside.

The Hon'ble Court below having appreciated in his judgment that the possession of the appellant up to the year 83-84 is

established, failed to consider subsequent to 83-84, the appellant's possession whatever may be the status either as lawful or unlawful has been established. The very proceedings initiated by the Head Quarter Assistant Bangalore District against the appellant for eviction under the Karnataka Public Premises (Eviction and Unauthorised Occupants Act) 1974 cogently establishes the fact of possession of the appellant over the property in question. Even the evidence of DW1 is very clear that when he admits that "Muniyappa is in possession since 1950". The DW1 further admits that "I have taken copies of documents standing in the name of Muniyappa, Muniyappa is doing agriculture". This cogent evidence has been ignored by the court below.

➤ It is respectfully submitted that subsequent to the year 1983-84, the very nature of the property is changed as the same is included within the limits of Bangalore Mahanagara Palike. The appellants as well as other persons who are in possession of the property in Sy.No.79 have constructed several houses, besides growing vegetables to eke-out

their livelihood. The Hon'ble court below failed to consider the material evidence produced by the plaintiff/appellant in proof of his possession over the property. Therefore, the judgment and decree passed by the court below is against material evidence, and the same is liable to be rejected. Such other grounds which will be urged at the time of hearing.

18. Reiterating the grounds urged in the appeal memorandum, learned counsel for the appellant Sri. V. Vishwanath Shetty, vehemently contended that the Trial Court has not properly appreciated the material evidence on record while dismissing the suit of the plaintiff.

19. He further contended that when the writ petition filed by the defendant Nos.1 to 4 was allowed by this Court, wherein, the order passed by the Land Tribunal was challenged, this Court has recorded a finding that the plaintiff is in possession for a considerable length of time, though it is unlawful and the said aspect of the matter is

totally ignored by the Trial Court while dismissing the suit of the plaintiff and sought for allowing the appeal.

20. He also pointed out that in the year 1960 itself, plaintiff was in possession of the property and despite Inam Abolition Act came into force, his possession was not disturbed and therefore, he is in possession of the land from the date of the sale through out for more than 50 years and thereby, he has perfected his title over the suit property by adverse possession and sought for allowing the appeal

21. Per contra, learned counsel for the respondent Sri. K.N. Nithish, vehemently contended that the pleadings of the plaintiff with regard to the alleged adverse possession is totally lacking in establishing plea of adverse possession. He also contended that even from the year 1960, the plaintiff is litigating in respect of the suit property by approaching the Special Deputy Commissioner under the Land Tribunal Act, which has been dismissed and again he has approached the Special Deputy

Commissioner and got an order in his favour which was challenged by the defendants in writ petitions and writ petitions were allowed and writ appeal filed by the plaintiff came to be dismissed and the said order was challenged before the Supreme Court in Special Leave Petition which was also came to be dismissed and thereafter again the plaintiff has approached the Land Tribunal and some how, managed to get an order which was also challenged by the defendants in writ petition which came to be allowed and thereby, the contention of the plaintiff, they are in peaceful possession of the suit property for more than period of 12 years adverse to the title of the defendants cannot be countenanced in law and thus, sought for dismissal of the appeal.

22. In view of the rival contentions of the parties, following points would arise for consideration:

- 1) Whether the appellant has made out a case that he has perfected the right, title and

interest in respect of the suit property by adverse possession?

- 2) Whether the impugned judgment is suffering from legal infirmity or perversity and thus calls for interference?
- 3) What order?

23. In order to prove the case of the plaintiff, plaintiff got examined himself as P.W.1, wherein he has reiterated the contents of the plaint. In his further examination in chief, he has marked 22 documents referred to supra.

24. In his cross-examination on behalf of defendants, he denies the suggestion that the portion of Neelasandra village is now under the limits of Bruhath Bengaluru Mahanagara Palike. He admits that suit land is adjacent to a storm water drain. He admits that land on other side of the drain is in the limits of Corporation. He

admits that he does not know the total extent of land in Sy.No.79. He admits that his title was under the sale deed dated 22.06.1949 having purchased the same from Ramaswamy, Muniswamy and Subramanyam. He admits that to the Eastern side of his land, land of Dundappa, Muniyappa and Aswathamma are situated. He also admits that on the Western side of the suit land, land in Sy.No.52 and 53 and houses are situated. He admits that on the Southern side of the suit property, there is a drain and on the Northern side of there exists a land in Sy.No.75. He admits, about the Court proceedings, that took place between him and the defendants before the Special Deputy Commissioner, Land Tribunal. He has answered that after all the court proceedings were concluded, he still continued in the possession of the land by cultivating, with the help of 5 to 6 coolies. He has answered that about 30 coconut trees were in the suit land and as of now there are only 15 coconut trees and there is no income from those trees. He also answered that there are 25 guava trees in the suit land, but there is no trees available as of now. He admits

that the houses in and around the suit land is now provided with electricity and water connection. He has stated that he is collecting rent from the 7 to 8 houses situated in the suit land and his sons are collecting the rents from other houses. He has stated that he has not maintained any records in respect of the construction of the houses or the rents being derived by him. He admits that the houses were constructed subsequent to the order of the Special Deputy Commissioner. He also answered that he is residing in one of the houses and his sons are residing elsewhere.

25. On behalf of defendants, Third defendant - Ramanna B.N., is examined as D.W.1. He has filed an affidavit in lieu of examination in chief reiterating the contents of the written statement.

26. In his cross examination, he has answered that till 1976 he was the member of Dharmarayaswamy Management Committee and he is acquainted with the activities of the temple from the year 1960. He admits

that Krishnappa, Vasudeva, Subbrayappa, Ramakrishna and other few persons were the members of Management Committee. He admits that he has seen the documents filed by plaintiff like sale deeds, pahani and application seeking occupancy rights. He has stated that from the beginning, Tax is paid by the temple for the suit property and based on the same he is stating that the suit property is the temple property. He admits that first defendant temple is a Muzarai temple. He admits that pahani is in the name of Muzarai since many years. He answered that Mummadi Krishnaraja Wodeyar has given the suit property to the temple and no documents are produced to substantiate the same. He admits that some of the trespassers have filed the case and the land could not be put to best use by the temple in view of the trespassing activities. He denied the possession of the plaintiff over the suit property. He has answered that about 10 years earlier to date of cross-examination he visited the suit property. At that juncture, Muzarai department had measured the suit land and gave the documents. He

admits that he has not produced any documents before the Court. He admits that temple has not filed any cases for eviction against the illegal occupants. He denies the suggestion that Muniyappa had grown coconut trees, chikku trees and vegetables in the suit property. He denies that a Well is situated in the suit property, but he has specifically stated that Well is situated in some other portion of the property and not in suit property. He denies the suggestion that Muniyappa was drawing the water with the help of a pump to grow vegetables in the suit property. He has answered that by filing cases after the cases, they are illegally occupying the suit property. In his further examination in chief he has produced the order passed in C.C.No.133/1992 marked at Ex.D.1, certified copy of the mahazar marked at Ex.D.2 and certified copy of the RTC extract at Ex.D.3. However, with regard to the marking of these documents witness is not cross-examined.

27. In the case on hand, in order to prove the case of the plaintiff, he traced his title to the suit property by

virtue of the sale deed dated 24.09.1945 and 22.06.1949. According to him, the land was Inam land and which he did not notice till the year 1960 and when he came to know in the year 1960, the lands were purchased by him by erstwhile owners are the Inam lands, in view of the promulgation of Inam abolition Act, he immediately approached the Deputy Commissioner for grant of occupancy rights. It is not in dispute that at the first instance, the Deputy Commissioner rejected the application filed by the plaintiff and, so also his appeal came to be dismissed before the Appellate Tribunal.

28. However, the plaintiff and other land owners were successful in getting the occupancy rights before the Deputy Commissioner as referred to supra. But, defendant Nos.1 to 4 having come to know about the said order challenged the same and ultimately, the efforts made by the plaintiff till up to the Hon'ble Supreme Court, in getting the occupancy rights registered in their favour, was futile and the plaintiff was unsuccessful. Subsequent thereto,

plaintiff approached the Land Tribunal and plaintiff was successful in getting his name registered as an occupant in respect of suit land. However, defendants challenged the same and ultimately the occupancy rights in respect of the suit land under Land Reforms Act was also got dismissed.

29. However, it is unequivocal say of plaintiff that despite all these legal proceedings, plaintiff continued to being in possession of the suit property right from the year 1960 and as such, he has enjoyed the suit property for more than 50 years by way of adverse possession and thus he is entitled for the relief of declaration and sought for permanent injunction.

30. Admittedly, plaintiff has gone on litigating from the year 1960 from one proceeding or the other. In order to establish the right by adverse possession, plaintiff has to prove that he has invested the title in some body else other than himself and against the said right of the real owner of the property, the plaintiff has enjoyed the suit

property openly for a period of 12 years and more in case of a private litigant and 30 years in case of Government.

31. In the case on hand, till upto the stage where the plaintiff was unsuccessful before this Court in respect of his application seeking occupancy rights by resorting the Land Reforms Act after he exhausted his remedy before the Special Deputy Commissioner under the provisions of Inam Abolition Act.

32. Therefore, all requirements to prove that he is in possession and enjoyment of the suit land adversely to the interest of the defendant Nos.1 to 4 for a period of more than 30 years, is not established by the plaintiff. As such, he is unable to prove all ingredients that he is in adverse possession of the suit property for a period of more than 50 years. Accordingly, his prayer for declaration as cannot be countenanced in law.

33. The Trial Court has rightly appreciated the material evidence on record in this direction and dismissed the suit of the plaintiff.

34. Even after re-appreciation of the entire material on record, this Court is of the considered opinion that the plaintiff has not made out any case whatsoever to grant the relief to the plaintiff as claimed by him. Further, how to prove adverse possession and ingredients required to attract the proof of adverse possession is no longer *res integra*.

35. A coordinate Bench of this Court in the case of **Basavanth Rao dead by L.Rs., v. Rajkumar**, reported in ILR 2009 KAR 1099, in paragraph 14 has held as under:

"14. In so far as proof of adverse possession is concerned, it is a well-settled principle that a party claiming adverse possession must prove that his possession is "nec vi, nec clam, nec precario", that is, peaceful, open and continuous. The possession must be adequate in continuity, in publicity and in extent to show

that their possession is adverse to the true owner. Therefore, a person who claims adverse possession should show:

- (a) On what date he came into possession,*
- (b) What was the nature of his possession,*
- (c) Whether the factum of possession was known to the other party*
- (d) How long his possession has continued, and*
- (e) His possession was open and undisturbed.*

It is only on proof of all these ingredients the case of adverse possession is said to have been established. A person pleading adverse possession has no equities in his favour, since he is trying to defeat the rights of the true owner, it is for him to clearly plead and establish all facts necessary to establish his adverse possession."

36. Applying these principles to the case on hand, in view of foregoing discussion none of those ingredients are proved by plaintiff. Accordingly, the finding of trial court that has failed to prove that he is in possession of

the property adversely to the interest of the defendant Nos.1 to 4 is based on cogent and convincing reasons. Hence, point NOs.1 and 2 are answered in the Negative.

37. At this stage, learned counsel for the appellant Sri Vishwanath Shetty, submits that the defendant Nos.1 to 4 have not taken any action against any other trespassers and allowed the houses to be filled and therefore, plaintiff also be given similar relief. He also submits that he has filed a memo with copy of application made to the State of Karnataka, Deputy Commissioner, Bengaluru Urban District and Muzarai commissioner, Karnataka Religious and Charitable Endowment Department.

38. The copy of the said application filed by the appellant is received by the concerned department. It is always open for the concerned departments to process the application filed by the appellant in accordance with law uninfluenced by the finding recorded by the Court in the above appeal.

39. Regarding Point No.3 : In view of the finding on point Nos.1 and 2, following order is passed:

ORDER

Appeal is merit less and is hereby dismissed, in view of the observations made in paragraph 32 of this judgment.

No order as to costs.

**Sd/-
JUDGE**

MR