IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 17TH DAY OF OCTOBER 2026

PRESENT

THE HON'BLE MR. JUSTICE D K SINGH

AND

THE HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

WRIT APPEAL NO. 1672 OF 2025 (LB-BMP)

BETWEEN:

1. SHRI SHAILESH CHARATI
S/O. BASAVAPRABHU CHARATI,
AGED ABOUT 47 YEARS,
FLAT NO. 5P105, ARYA HAMSA APARTMENTS,
J. P. NAGAR 8TH PHASE,
BENGALURU-560 083.

2. SHRI. VISHWAS AVATHI GUNDURAO
S/O. AGED ABOUT 44 YEARS,
FLAT NO. 2D104, ARYA HAMSA APARTMENTS,
J. P. NAGAR, 8TH PHASE,
BENGALURU-560 083.

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Location: HIGH COURT OF KARNATAKA

3. SHRI. RAGHUNANDAN. K. V.
S/O. VENKATESH MURTHY,
AGED ABOUT 46 YEARS,
FLAT NO. 5M402, ARYA HAMSA APARTMENTS,
J. P. NAGAR, 8TH PHASE,
BENGALURU-560 083.

4. SHRI. AMARINDER SINGH
S/O. MR. GURDEVE SINGH,
AGED ABOUT 49 YEARS,
FLAT NO. A 109, BRIGADE MILLENIUM,
J. P. NAGAR 7TH PHASE,
BENGALURU-560 083.

5. SMT. VILASINI RAMKUMAR
W/O. RAMKUMAR GOPALAN,
AGED ABOUT 42 YEARS,
FLAT NO. 2A701, ARYA HAMSA APARTMENTS,
J. P. NAGAR 8TH PHASE,
BENGALURU-560 083.

6. KRISHNA MANJESHWAR PADAKANNAYA
S/O. SUBRAMANYA PADAKANNAYA,
FLAT NO. 3B, 302, ARYA HAMSA APARTMENTS,
J. P. NAGAR 8TH PHASE,
BENGALURU-560 083.

…APPELLANTS

(BY SRI. VIDYADHAR M. DURGEKAR, ADVOCATE)

AND:

1. COMMISSIONER
BRUHAT BENGALURU MAHANAGARA PALIKE (BBMP),
N.R. SQUARE, BENGALURU-560 002.

2. ASSISTANT EXECUTIVE ENGINEER
BBMP GOTTIGERE WARD (194),
1ST MAIN ROAD, J. P. NAGAR, 8TH PHASE,
BENGALURU-560 083.

3. COMMISSIONER
BANGALORE DEVELOPMENT AUTHORITY (BDA),
T. CHOWDAIAH ROAD,
BENGALURU-560 020.

…RESPONDENTS

(BY SRI. MONESH KUMAR K.B.,ADVOCATE FOR R1 & R2;
SRI. D.R.RAVI SHANKAR, SENIOR COUNSEL FOR
SRI. LOKESH L.N, ADVOCATE FOR
SRI. G.V.SUDHAKAR, ADVOCATE FOR
IMPLEADING APPLICANT IN IA 1/26)

THIS WRIT APPEAL FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT PRAYING TO A) ALLOW THIS APPEAL AND KINDLY SET ASIDE THE IMPUGNED ORDER DATED 01/07/2025 OF THE SINGLE JUDGE IN WP NO.15386/2025 AND B) CONSEQUENTLY KINDLY ISSUE THE WRIT OF MANDAMUS TO

ALL THREE RESPONDENTS TO TAKE NECESSARY ACTION TO DEMOLISH THE COMPLETED ILLEGAL BUILDING IN THE SURVEY NO.28/3 IN J.P. NAGAR 8TH PHASE MARKED AS OPEN SPACE IN THE RMP 2015 APPROVED BY THE RESPONDENT NO.3 WITH SPECIFIED TIMELINE TO COMPLY WITH THE HON'BLE SUPREME COURT GUIDELINE LAID DOWN IN RAJENDRA KUMAR BARAJATIYA VS U.P AVAS EVAM VIKAS PARISHAD AND ETC.,

THIS APPEAL HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 09.09.2026 AND COMING ON FOR PRONOUNCEMENT THIS DAY, ***HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN*** DELIVERED THE FOLLOWING:

CORAM: HON'BLE MR. JUSTICE D K SINGH
AND
HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN

CAV JUDGMENT

(PER: HON'BLE MR. JUSTICE H.SHANTHI BHUSHAN)

A person seeking relief from this Court must approach the Court with clear, specific and correct facts. The petitioner is required to verify the relevant records, exercise due diligence and place the complete factual position before the Court. Vague averments or general allegations, particularly against public authorities, without proper verification cannot form the basis for granting relief. In the present case, we express our displeasure at the manner in which the proceedings have been instituted and allegations have been made against the authorities without adequate verification of the relevant records. The material placed before us does not substantiate the allegations in the manner in which they have been pleaded. Such an approach has resulted in

unnecessary proceedings and has consumed valuable judicial time. Having regard to the manner in which the proceedings have been pursued and the lack of due diligence on the part of the petitioners, we deem it appropriate to impose costs of Rs.1,00,000/- upon the petitioners.

This intra-court appeal has been filed by petitioners in W.P.No.15386/2025 (LB-BMP), wherein the learned Single Judge, vide order 01.07.2025 had disposed of the petition with a direction to the respondent/BBMP to conclude the proceedings in accordance with the procedure prescribed under Section 248 of BBMP Act, 2020.

2. For convenience, the parties are referred to as per their ranking before the learned Single Judge.

3. The petitioners are residents of Arya Hamsa Apartments, J.P.Nagar 8th Phase, Bengaluru, and members of the Arya Hamsa Apartment Owners Co-operative Society. They are aggrieved by the alleged unauthorized construction being put up in a portion of Sy.No.28/3 of Kothanur Village, Uttarahalli Hobli, Bengaluru South Taluk, which, according to the petitioners, is shown as "Open Space/Park" in the Revised Master Plan, 2015 approved by the Bangalore Development

Authority. The petitioners state that in October 2024, certain persons entered the said open space after breaking the existing fence and commenced levelling, marking and digging for construction of columns. According to them, the construction was being carried out without any sanctioned plan and the area earmarked as open space could not be utilised for such construction.

4. The petitioners further state that, being the adjoining residents directly affected by the alleged construction, the Arya Hamsa Apartment Owners Co-operative Society submitted a complaint dated 29.10.2024 to the Assistant Executive Engineer, BBMP, Gottigere Ward. Complaints were also addressed to the Assistant Director, Town Planning, Commissioner, BBMP and Commissioner, BDA. The Assistant Director, Town Planning, by communication dated 26.12.2024, directed the Assistant Executive Engineer to take action. According to the petitioners, however, the construction continued. They also relied upon the RMP-2015 and the RTI response from BBMP stating that there was violation in respect of the construction and that action under Section 248 of the BBMP Act, 2020 was required. Since, according to them, no effective action was taken, they approached this Court seeking

protection of the open space and action against the alleged unauthorised construction.

5. The learned Single Judge, upon consideration of the pleadings and the material placed on record and after hearing the learned counsel appearing for the parties, disposed of the writ petition. The learned Single Judge noticed that the learned counsel appearing for the BBMP had placed on record a provisional order passed under Section 248(1) of the BBMP Act, 2020, along with the receipt evidencing compliance with Section 248(2) of the said Act. Taking note of the same, the learned Single Judge was of the opinion that the grievance of the petitioners had been duly addressed by the competent authority and that no further adjudication was warranted. Accordingly, the writ petition was disposed of with a direction to the BBMP to conclude the proceedings in accordance with the procedure prescribed under Section 248 of the BBMP Act, 2020.

6. Aggrieved by the said order, the petitioners have preferred the present intra-court appeal. It is contended that the writ petition came to be disposed of merely on the ground that the BBMP had issued a provisional order under Section 248 of the BBMP Act, 2020, without examining the substantive

questions of law and the constitutional issues raised by them. It is further contended that the impugned order does not address the reliefs sought in the writ petition and that the communication dated 11.02.2025 issued by the BBMP does not answer the prayer seeking cessation of the construction on Sy.No.28/3, which, according to the petitioners, is earmarked as open space, or the enforcement of the provisions of the Karnataka Parks, Playfields and Open Spaces (Preservation and Regulation) Act, 1985.

7. It is also contended that the grievance of the petitioners was not confined to administrative inaction but related to the alleged violation of their fundamental right under Article 21 of the Constitution to a clean and healthy environment. The petitioners further contend that during the pendency of the proceedings the construction on the said open space had been completed and a school had commenced functioning therein. On these grounds, they seek setting aside of the order passed by the learned Single Judge and a direction to the respondents to take necessary action, including demolition of the completed construction put up on Sy.No.28/3, J.P. Nagar, 8th Phase, Bengaluru, which, according to them, is earmarked as open space under the RMP-2015.

8. We have heard Sri.Vidyadhar M.Durgekar, learned counsel appearing for the petitioners as well as Sri.Monesh Kumar, learned counsel for respondents/BBMP, Sri.B.S.Sachin, learned counsel for respondent No.3/BDA and Sri.D.R.Ravishankar, learned Senior Counsel appearing for the impleading applicant and perused the pleadings, the entire material placed on record and the order passed by the learned Single Judge.

9. The question that arises for consideration in this appeal is, *whether the order passed by the learned Single Judge calls for interference by this Court?*

10. During the course of hearing of the present writ appeal, having regard to the issues raised in respect of the alleged encroachment and construction over Sy.No.28/3, this Court directed the Commissioner, Greater Bengaluru Authority, to place on record an affidavit and to make the stand of the Authority clear with regard to the entire issue. In compliance with the said direction, Mr. Maheshwara Rao, M. IAS, Chief Commissioner, Greater Bengaluru Authority, filed his affidavit dated 25.03.2026. The affidavit refers to the reliefs sought by the petitioners, including cessation of the alleged unauthorised

construction in Sy.No.28/3, enforcement of the Karnataka Parks, Playfields and Open Spaces (Preservation and Regulation) Act, 1985 and the BBMP Act, 2020, and action against the alleged unauthorised construction. The affidavit also refers to the provisional order passed under Section 248 of the BBMP Act, 2020 and sets out the stand of the Authority with regard to the action taken in the matter.

11. During the pendency of the appeal, by order dated 09.04.2026, this Court directed the Commissioner, BBMP, to demolish every unauthorised or illegal construction put up on the alleged open space/public park in Sy.No.28/3, Kothanur Village, Uttarahalli Hobli, Bengaluru South Taluk, and to submit a compliance report. The BBMP was also permitted to seek police assistance, if required, for removal of the encroachment or unauthorised construction. Pursuant thereto, an application for impleadment under Order I Rule 10(2) read with Section 151 of the CPC was filed seeking impleadment as respondent Nos.4 and 5. An application under Section 151 of the CPC was also filed seeking recall of the order dated 09.04.2026, particularly the direction relating to demolition.

12. The impleading applicants state that the subject property forms part of Sy.No.28/3 of Kothanur Village, Uttarahalli Hobli, Bengaluru South Taluk. According to them, the original owner, Sri V. Natarajan Chettair, was the owner of 5 acres 31 guntas in the said survey number and had obtained conversion of the land from agricultural to non-agricultural residential use by conversion order dated 17.11.1999. It is their case that Sri Lakshman, as GPA holder of Sri V. Natarajan Chettair and other landowners, formed a residential layout known as "Royal County" in Sy.No.28/3 and other lands, which was approved by the Bangalore Development Authority on 15.11.2000 and subsequently modified on 11.11.2002. They further state that the BDA released Site Nos.677, 678, 679 and 680 under its communication dated 29.01.2002. According to the applicants, Sri V. Natarajan Chettair thereafter gifted the said sites to his daughter, Dr. Vasavi Rangadham, under Gift Deed dated 22.08.2007. The khatha was thereafter registered in her name by the BDA and, after the property came within the limits of BBMP, taxes were being paid to the BBMP.

13. The applicants rely upon the approved layout and the subsequent release of the sites by the BDA to contend that the sites were already formed and released by the competent

authority and, therefore, dispute the allegation that the construction amounts to encroachment upon an open space or public park. They refer to the BDA-approved layout, site-release proceedings and subsequent title documents in support of their claim over the subject sites. They contend that their rights and interests would be directly affected by the order of demolition and that they ought to be heard before any coercive action is taken.

14. In view of the applications for impleadment and recall, the matter was reconsidered and the demolition fixed for 22.04.2026 was postponed. This Court thereafter directed the BBMP, if the persons who had allegedly put up the unauthorised construction by encroaching upon the open space/public park were identified, to issue notice of hearing and serve the same by hand. The persons who had allegedly encroached upon the public open space/public park and had sought impleadment were directed to appear before the BBMP on 21.04.2026. The BBMP was directed to hear them and take a decision thereafter and, if it found encroachment upon the open space/public park, to proceed in accordance with law and carry out demolition. The BBMP was also directed to file a compliance report. Subsequently, this Court directed the Commissioner, BDA, to

make its stand clear on affidavit with regard to the alleged encroachment upon the open space/public park in Sy.No.28/3 and directed the BBMP to file a report on affidavit regarding the finding arrived at after hearing the concerned parties.

15. In compliance with the aforesaid order, the Commissioner, Bangalore Development Authority, filed an affidavit placing on record the stand of the Authority with regard to the official noting relied upon by the petitioners concerning the park/open space shown in a portion of Sy.No.28/3. It is stated that, upon verification of the records maintained by the Bangalore Development Authority and examination of the relevant records by the officers concerned, the lands comprising Sy.Nos.8/3, 13/1, 13/2, 16/2, 28/3, 30(p), 31/1, 31/2, 31/3, 31/4, 31/5, 6A, 6B, 7, 10, 32/1, 32/2, 35/1, 35/2, 35/3, 31/4, 36/4, 36/7 and 39/2, measuring about 55 acres and 05 guntas, were proposed for development of a private residential layout under the 70:30 scheme pursuant to the Government Order dated 17.11.1995.

16. It is further stated that the proposal was placed before the Bangalore Development Authority and, in the meeting held on 29.09.2000, the Authority approved the

residential layout subject to the conditions applicable to a private layout, including compliance with the 70:30 scheme. According to the affidavit, during execution of the layout, certain changes occurred having regard to the physical features and topography of the land. The changes were examined and necessary modifications were proposed while maintaining the prescribed land-use requirements. The affidavit specifically states that the park/open space was originally shown in a portion of Sy.No.28/3 and also in a portion of Sy.No.30(P), and that during execution of the layout, the portion of park/open space shown in Sy.No.28/3 was shifted to a portion of Sy.No.30(P), which also formed part of the same layout. The Authority states that the change was brought before the BDA and considered along with the proposal for approval of the modified layout.

17. The Commissioner has further stated that the official noting relied upon by the petitioners has to be read in the context of the subsequent examination of the layout, including the report of the Engineering Section, the land-use statement and the proceedings before the competent authority, and cannot be considered in isolation. It is also stated that, even prior to approval of the modified layout, certain sites

formed in the portion of the layout pertaining to Sy.No.28/3 had already been released in favour of the GPA holder. In particular, Site Nos.677, 678, 679 and 680, along with other sites, were released under the 70:30 scheme, as reflected in the records maintained by the BDA.

18. The affidavit further states that the modified layout plan was placed before the competent committee, which examined the original layout, the layout as executed, the proposed changes, the Engineering Section report and the applicable regulations. Upon such examination, the modified residential layout was approved by resolution dated 19.10.2002, subject to the conditions stipulated therein, and the modified plan was thereafter approved by the Commissioner on 11.11.2002. The stand of the Authority is that the requirement relating to the prescribed park/open space was not deleted, but the modification related to its representation or configuration within the layout. The modified layout plan reflected the changes which had occurred during execution of the layout and which were thereafter considered and approved by the competent authority.

19. With regard to the Revised Master Plan–2015, the Commissioner has stated that the original approval of the layout as well as the subsequent approval of the modified layout were granted prior to the coming into force of the Revised Master Plan–2015. Reliance is placed upon Regulation 3.16 of the Zonal Regulations, 2015, in support of the contention that permissions already accorded by the Bangalore Development Authority or the Government are required to be considered in the light of the said provision. The relevant records, including the modified layout plan and the documents relating to the approval, have been placed before this Court along with the affidavit.

20. The Assistant Executive Engineer, South Division, Bangalore Development Authority, has also referred to the communication dated 15.06.2026 addressed to the Bengaluru South City Corporation regarding Site Nos.677, 678, 679 and 680 in Sy.No.28/3. In the said communication, upon verification of the official records, the BDA stated that the layout had been approved under the 70:30 scheme and that the Commissioner, BDA, had approved the layout plan vide proceedings dated 11.11.2002. It was further stated that the said sites had been formed in the approved layout and that

khatha had been issued in respect thereof on 05.11.2007. The communication further records that the BDA records did not show the said sites as reserved for park, playground or open space and that the sites had been released under the approved 70:30 layout.

21. We have considered the affidavit filed by the Chief Commissioner, Greater Bengaluru Authority, the affidavit filed on behalf of the Bangalore Development Authority, the report/affidavit of the Assistant Executive Engineer, BBMP, the pleadings, the documents, the applications filed by the impleading applicants and the records produced by the BDA and the impleading applicants. The material placed before us shows that the sites in question were formed and released pursuant to the layout approved by the Bangalore Development Authority. The material does not establish the allegation that the impleading applicants have encroached upon the park or open space in Sy.No.28/3.

22. The records further disclose that certain changes were made in the layout during its execution having regard to the physical features and topography of the land and that those changes were thereafter considered by the competent authority

while approving the modified layout. Under the modified layout, the park/open space shown originally in a portion of Sy.No.28/3 was shifted to a portion of Sy.No.30(P), which also formed part of the same layout. The requirement relating to park/open space was not deleted; the modification was with regard to its location within the larger layout. The modified layout was thereafter approved by the competent authority and the sites of the impleading applicants formed part of the approved and released layout.

23. The reliance placed upon Regulation 3.16 of the Zonal Regulations, 2015 also assumes significance. The permissions already accorded by the competent planning authority or the Government are required to be considered in accordance with the said provision, notwithstanding the classification subsequently reflected in the Revised Master Plan, 2015. The subsequent communication dated 15.06.2026 issued by the Bangalore Development Authority, upon verification of its records, also records the approval of the layout and the release of Site Nos.677, 678, 679 and 680 and does not show the said sites as reserved for park, playground or open space.

24. In view of the above material, the very foundation on which the writ petition and the present appeal proceed, namely, that the construction put up on the sites of the impleading applicants constitutes encroachment upon a park/open space in Sy.No.28/3, is not borne out by the records placed before us. The writ petition, therefore, does not call for the relief sought by the petitioners. Consequently, we find no ground to interfere with the order passed by the learned Single Judge and the appeal is liable to be dismissed.

25. This Court was, at the first instance, inclined to impose a heavy cost of Rs.5,00,000/- upon the petitioner for having approached this Court without properly verifying the records, without exercising the necessary due diligence and by making allegations against the authorities which were not borne out by the material placed on record. Such a manner of approaching the Court has resulted not only in unnecessary proceedings but also in consumption of valuable judicial time. However, taking a lenient view of the matter, we refrain from imposing the proposed cost of Rs.5,00,000/- and confine the cost to Rs.1,00,000/-**.** The petitioner, having instituted the proceedings in the year 2025, was expected to verify the records and ascertain the factual position before making

serious allegations against the authorities and pursuing the matter before this Court. In the circumstances, we deem it appropriate to impose a cost of Rs.1,00,000/- upon the petitioner**.**

26. The petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) towards costs with the Air Force Command Hospital and produce the receipt evidencing such payment before the Registry of this Court within a period of one month from today. Upon production of the receipt, the Registry shall place the same on record. The appeal shall thereafter be listed before this Court after the expiry of the said period of one month, along with the receipt evidencing payment of the aforesaid cost, for passing further necessary orders.

Accordingly, we pass the following;

ORDER

The Writ Appeal stands ***dismissed***, subject to the aforesaid direction regarding costs.

We place on record our appreciation for the assistance rendered by the learned counsel appearing for the authorities. They have placed before us the relevant records, facts and

assisted the Court in bringing out the correct factual position. Their assistance has enabled us to examine the matter in its proper perspective and has considerably facilitated the Court in arriving at the conclusions recorded in this judgment.

Pending I.As. stand disposed of.

Sd/-
(D K SINGH)
JUDGE

Sd/-
(H.SHANTHI BHUSHAN)
JUDGE

KNM