

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL

AT CHENNAI

APPLICATION No. 165 OF 2024

BETWEEN:

A. SHIVAKUMAR

... PETITIONER

AND

VIJAYSHEKAR THANGAIAH & ORS.

... RESPONDENTS

MEMO

The undersigned counsel for the Petitioner humbly submits as follows:

1. This Hon'ble Tribunal vide order dated 16.05.2024 directed the Respondents No. 1-5, to stop any ongoing constructions and subsequently directed Respondent No. 6 to take appropriate action to clear the Nalags in the event that the BBMP report finds any constructions on the Schedule Property.
2. The Petitioner has obtained certified copies of a report dated 18.09.2024, prepared by the Zonal Commissioner (East), Bruhat Bengaluru Mahanagara Palike bearing No. ZC/EAST/PR/729/2024-25. The Zonal Commissioner in the said report, on the basis of an alleged Joint Inspection conducted by officials including Executive Engineer (Storm Water Drain, East), Executive Engineer (Sir C.V. Raman Nagar), Assistant Revenue Officer (Sir C.V. Raman Nagar), Assistant Engineer (Ward-58) and the Assistant Engineer (Storm Water Drain, East) and the Assistant Director of Town Planning (East), extracts the relevant portions of the report as follows:

"During joint inspection, done on 12-07-2024 at Sy. No.2/2, vacant land was found. No drain or pond were physically found to be present at the said Sy. No.2/2. There is no record of drain or pond in the revised master plan i.e BDA RMP-2015, which is in force at present. In the vicinity of the said Sy.No.2/2

there are no connecting drains to primary or secondary drains (Rajakaluve).

Also no construction activity was found at the said Sy.No.2/2. "

3. It is humbly submitted that the report by the Zonal Commissioner dated 18.09.2024, mentions that a joint inspection was done on 12.07.2024 at the behest of the Zonal Commissioner. However, there was no notice of the inspection served upon the Petitioner, the alleged inspection has been conducted in the Petitioner's absence, without any prior intimation or notice. The report also does not mention in whose presence the joint inspection was conducted and if there were any witnesses to the same.
4. The Zonal Commissioner in the aforesaid report also relies on the Tahsildar's report dated 17.09.2024 and alleges that even as per the Tahsildar's report, there is no encroachment on any water body. This statement is false, misleading and wholly erroneous. A copy of the Zonal Commissioner's report is attached herewith as Annexure A.
5. The Petitioner has obtained a certified copy of the report dated 17.09.2024 has been prepared by the Tahsildar, (Bangalore East Taluk) bearing No. N.C.R/C.R./01/2020-21 which explicitly states in Para No. 2 and 3 of the report that there is an encroachment of Government land in Sy No. 2/2 of Katte to the extent of 0- 10 guntas, Bandidaari (cart track) to the extent of 0-02 guntas and Saravina Bagge (water body) to the extent of 0-13 guntas. The report also goes on to mention that there is an encroachment of Saravina Bagge (water body) to an extent of 0-02 in Sy no. in Sy no. 7/1B, an extent of 0-02 guntas in Sy no. 7/1A1A2 and an extent of 0-01 guntas in Sy No. 7/1A1A3. A copy of the said report is attached here with as Annexure B and the official translation of the same is attached herewith as Annexure B1.

6. The Zonal Commissioner (East) in their report dated 18.09.2024 has deliberately misinterpreted and suppressed the Tahsildar's unambiguous observations on encroachment of water body by the Respondent Nos. 1-5. The report filed by the Zonal Commissioner is deliberately inconsistent with the report filed by the Tahsildar (Bangalore East Taluk).

7. Given the above, it is evident that the Zonal Commissioner has filed a report with incorrect observations in an attempt to deceive this Hon'ble Tribunal. It leaves the Petitioner with no choice but to infer that the Zonal Commissioner is acting in collusion with the Respondent Nos. 1-5. Such actions undermine the integrity and the effort of this Hon'ble Tribunal to meet the ends of justice and is a clear attempt to falsify the truth.

8. The Petitioner respectfully requests for the above submissions to be taken on record, and the report dated 18.09.2024 be rejected, in the interests of equity and justice.

DATE: 12.11.2024

PLACE: Chennai



ADVOCATE FOR THE PETITIONER