HC-KAR

NC: 2026:KHC:37659
WP No. 5188 of 2022

CNR: KAHC010102692022

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 21ST DAY OF JULY, 2026

BEFORE

THE HON'BLE MR. JUSTICE R. NATARAJ

WRIT PETITION NO. 5188 OF 2022 (BDA)

BETWEEN:

1. SAI SRAVANTHI INFRA PROJECTS PVT. LTD.,
HAVING OFFICE AT S.V. SQUARE
5TH FLOOR, NO.8-293/82/A/792-B
ROAD NO.36, JUBLIEE HILLS
HYDERABAD - 500 033
REPRESENTED BY ITS AUTHORIZED SIGNATORY
P.V. RAGHAVA RAO

2. DSR INFRASTRUCTURE PVT. LTD.,
A PRIVATE LIMITED COMPANY
HAVING ITS REGISTERED OFFICE AT
NO.220, "DSR DIYA ARCADE",
1ST FLOOR, 9TH MAIN ROAD
H.R.B.R. LAYOUT, 1ST BLOCK,
KALYAN NAGAR
BANGALORE - 560 043

3. SRI. BHASKAR REDDY
AGED ABOUT 63 YEARS
S/O LATE RAMA RAGHAVA
RESIDING AT FLAT NO.A-3,
EVERSHINE TROPICAL ZONE APARTMENT
NO.93, DOOPANAHALLI MAIN ROAD,
INDIRANAGAR
BENGALURU - 560 008

4. SRI. M. VENKATA KRISHNA REDDY
AGED ABOUT 62 YEARS
S/O V. SIVA KOTA REDDY
RESIDING AT PLOT NO. 839/T
ROAD NO. 44A, JUBILEE HILLS
HYDERABAD

PETITIONER NOS.2 TO 4 ARE REPRESENTED BY
POWER OF ATTORNEY HOLDER
PETITIONER NO.1

...PETITIONERS

(BY SRI. SAMMITH. S., ADVOCATE)

AND:

1. THE STATE OF KARNATAKA
REPRESENTED BY ITS ADDITIONAL CHIEF SECRETARY
URBAN DEVELOPMENT DEPARTMENT
VIKASA SOUDHA
BENGALURU - 560 001

2. THE UNDER SECRETARY
MINISTRY OF LABOUR
VIKASA SOUDHA
BENGALURU - 560 001

3. THE COMMISSIONER
BANGALORE DEVELOPMENT AUTHORITY
T. CHOWDAIAH ROAD,
KUMARAPARK WEST
BANGALORE - 560 020

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

5. TECHNICAL ADVISOR - 4
BANGALORE DEVELOPMENT AUTHORITY
T. CHOWDAIAH ROAD,
KUMARAPARK WEST
BANGALORE - 560 020

...RESPONDENTS

(BY SRI. ADITYA DIWAKAR, ADDITIONAL GOVERNMENT ADVOCATE FOR RESPONDENT NOS.1 AND 2;

SMT. DEEPTI AYATHAN, ADVOCATE FOR RESPONDENT NOS.3 AND 5;

SRI. ARAVIND M. NEGLUR, ADVOCATE FOR RESPONDENT NO.4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE CIRCULAR ISSUED THE 3RD RESPONDENT-COMMISSIONER BEARING NO.ಬೆಂ.ಅ.ಪ್ರಾ/ಆಯುಕ್ತರು/ಟಿ–274/2015–16 DATED 16.10.2015 LEVYING FEES FOR ISSUE OF SANCTION PLAN VIDE ANNEXURE-C AND THE DEMAND NOTICE ISSUED BY THE 5TH RESPONDENT TECHNICAL ADVISOR-4 DATED 18.02.2022 VIDE ANNEXURE-D AND ETC.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE R. NATARAJ

ORAL ORDER

The petitioners have sought for a writ in the nature of certiorari to quash the Circular bearing No.ಬೆಂ.ಅ.ಪ್ರಾ/ಆಯುಕ್ತರು/ಟಿ–274/2015–16 dated 16.10.2015 issued by the respondent No.3 levying fees under various heads for issue of sanction plan and the demand notice dated 18.02.2022 issued by respondent No.5. The petitioners have sought for an order or mandamus to direct the respondent Nos.3 and 5 to issue the sanction plan for construction of a multistoried building. They have also sought for a direction to declare that the ground rent, scrutiny fee etc., levied on the basis of the market value of the property, as per the guideline value fixed under Section 45(B) of the Karnataka Stamp Act, 1957 is bad in law and to declare that the upfront levy of labour welfare cess is bad in law. They have also sought for a declaration that respondent No.3 has no authority to impose/levy fee on the basis of market value of property fixed under Section 45(B) of the Karnataka Stamp Act, 1957, unless Bangalore Mahanagara Palike Building Bye-laws, 2003, is suitably amended and approved by the State Government and appropriate notification is issued allowing the respondent No.3 to assume responsibilities of the respondent No.4. They have also sought to declare that the authority to collect the taxes under the guise of collection of scrutiny fee and labour welfare cess under various heads without sanction of the State Government, is illegal. They have sought for a declaration that the ground rent levied on them for obtaining sanction plan is bad in law since they are not using the public land/property for stocking of building materials for construction purposes. They have sought for a writ in the nature of mandamus to direct the respondent No.5 to collect security deposit as per the Building Bye-law. They have sought to declare that upfront labour welfare cess on them for obtaining sanction plan is bad in law since their construction is not going to be complete within one year and therefore, it has to be collected in installments.

2. (i) The petitioners contend that the petitioner No.1 is the owner of Sy.Nos.21/1, 21/2, 21/3, 125/1 and 125/2, while petitioner Nos.2 to 4 are the owners of Sy.Nos.22, 23, 124/1, 124/2 of Seegehalli village, Bidarahalli Hobli, Bengaluru East Taluk, Bengaluru. The petitioner Nos.2 to 4 have executed a joint development agreement in favour of petitioner No.1. The petitioners claim that with an object to develop the aforesaid properties, they applied to respondent No.3 for sanction of a development plan in respect of the land in the aforesaid survey numbers. Respondent No.5 issued a demand notice calling upon the petitioners to pay the following:

ACCOUNT REFERENCE	**DETAILS**	**AMOUNT**
182	Scrutiny Fee	81,40,833.00
191	Ground Rent	1,03,17,016.00
189	Development Fee	6,29,652.00
183	Plan paper fee	64,000.00
	Total Amount	**1,91,51,501.00**
	CGST @ 9%	17,23,635.00

	SGST @ 9%	17,23,635.00
546	Labour Welfare Fund	1,26,56,282.00
493	Security Deposit	90,45,370.00
198	Round off	26.00
	Total Amount Payable	**4,43,00,450.00**

(ii) The petitioners being aggrieved by the aforesaid demand have filed this writ petition.

3. The learned counsel for the petitioners submitted as follows:-

(i) Respondent No.4 had issued a Circular bearing No.JDTP/C2/PR/54/07-08 dated 18.12.2007 fixing the ground rent, licence fee etc., payable for obtaining sanction plan for construction of residential, industrial and commercial buildings. It also issued a Circular bearing No.JDTP/C2/PR/54/07-08 dated 26.02.2008 revising the ground rent, licence fee etc., It issued yet another Circular bearing No.ಹೆನಿನಯೋ/ಜೆ.ಡಿ(ಉ)/ಡಿಎಮ್3/ಪಿಆರ್/320/2015–16 dated 04.09.2015 replacing the earlier Circulars dated 18.12.2007 and 26.02.2008 stipulating the rates of collection of ground rent and other fees for sanction of plan. The validity of the Circular dated 04.09.2015 came up for consideration before this Court in W.P.No.4601/2020 and connected petitions and the said Circular was quashed.

(ii) He contends that respondent No.3 issued a Circular bearing No.ಬೆಂ.ಅ.ಪ್ರಾ/ಆಯುಕ್ತರು/ಟಿ–274/2015–16 dated 16.10.2015 adopting the Circular dated 04.09.2015 issued by it and thereby adopted the fees stipulated by respondent No.4 fixing ground rent, scrutiny fee etc., payable in respect of obtaining sanction plan for construction of residential and commercial buildings.

(iii) He contends that petitioners were called upon to pay a sum of Rs.4,43,00,450/- towards ground rent, development fee, security deposit, labour welfare fund contribution, scrutiny fee, development fee etc., He contends that there is no provision under the Bangalore Development Authority Act, 1976 authorising respondent No.3 to collect ground rent.

(iv) He contends that Section 3 of the Building and other Construction Workers' Welfare Cess Act, 1996 (henceforth referred to as 'Cess Act') deals with levy and collection of cess at such rate not exceeding two percent, but not less than one percent on the cost of construction incurred by an employer. He contends that the local authority from whom a permission is obtained for construction of a building, is entitled to collect labour welfare cess at the prescribed rate. Therefore, the Municipal Corporation, which is a sanctioning authority for the building plan would have the power to collect labour welfare cess.

(v) He invited the attention of the Court to Section 14 of the Cess Act and submitted that a reading of Section 14 of the Cess Act suggest that Central Government is exclusively empowered by the Cess Act to enact rules *inter alia* to provide for the manner in which and the time within which the cess shall be collected. He contends that the respondent Nos.1 and 2 issued a Government Order bearing No.LC 300 LET 2006 dated 18.01.2007 transgressing the powers of the Central Government and regulated *inter alia* the mode, manner and time of collection of the labour welfare cess and specifying the exemptions therein.

(vi) He also contends that respondent Nos.3 and 4 have been demanding the labour welfare cess upfront as part of the requisite fees to be paid towards obtaining plan sanction.

(vii) He then invited the attention of the Court to Rule 4 of the Building and other Construction Workers' Welfare Cess Rules, 1998 (henceforth referred to as 'Cess Rules') and submitted that whenever construction of a building exceeds one year, then the cess shall be paid within 30 days of completion of one year from the date of commencement of work and thereafter at notified rates for the relevant period. Therefore, he contends that the respondents cannot demand cess in one lumpsum. Therefore, he contends that the Government Order dated 18.01.2007 and the Corrigendum dated 28.02.2007 as well as the demand notice dated 18.02.2022 are *ex-facie* illegal in the light of Rule 4 of the Cess Rules and the upfront levy of labour welfare cess is unreasonable, expropriatory and excessive. Therefore, he contends that the notice demanding cess, labour cess in one lumpsum upfront, is liable to be quashed.

(viii) He contends that the respondent No.5 based on the Circular dated 16.10.2015 has calculated the fee specified in the demand notice on the market value of the property as specified in guideline value fixed under Section 45B of the Karnataka Stamp Act, 1957 that too using incorrect guideline value figures. He contends that the scrutiny fee looses the character of regulatory fee once it is linked to the value of the property and not to the services rendered. Hence, he contends that the levy of scrutiny fee is unreasonable, expropriatory and excessive.

(ix) As regards security deposit, he contends that under the Bangalore Mahanagara Palike Building Bye-laws 2003, provision is made in clause 4.1.5 to collect security deposit which shall be refunded after two years after completion of the construction as per the approved plan. He contends that under the aforesaid clause, the authorities are entitled to collect security deposit of Rs.25/- per square meter of floor area. However, the respondent No.5 has demanded security deposit at the rate of Rs.50/- per square meter of total area, which is impermissible and therefore, expropriatory and illegal. He also contends that there is no supply of goods or provision of service in sanctioning the plan and hence, the demand of GST is also illegal. Further, he contends that there is no element of *quid pro quo* by respondent No.3 when the demand is in the nature of a fee. He submits that the entitlement of the Bruhat Bengaluru Mahanagara Palike (BBMP) to demand and collect the ground rent, scrutiny fee etc., were all considered *in extenso* by a Co-ordinate Bench of this Court in ***Mr.Sunderam Shetty and others vs State of Karnataka rep. by its Secretary, Urban Development and others* - *ILR 2021 KAR 3968 (W.P.No.4601/2020 and connected petitions)*** and the demand for scrutiny fee, ground rent etc., were quashed. He therefore, submits that the impugned demand is liable to be set at nought.

4. The learned counsel for the respondent Nos.3 and 5 on the other hand contended that the judgment passed in ***M/s Sapthagiri Shelters and others vs State of Karnataka and others* - *2025 SCC Online KAR 1216***

(W.P.No.23086/2022 and connected petitions) is challenged before the Division Bench in W.A.No.1226/2025, where there is an order of *status-quo*. She therefore, contends that the petitioners cannot rely upon the judgment of the Co-ordinate Bench. She contends that under Section 28C of Bangalore Development Authority Act, 1976, the authority is deemed to be a local authority for levy of cess under certain Acts. She also contends that under Section 28 of the Bangalore Development Authority Act, 1976, authority and the respondent No.3 are entitled to exercise power and functions under the Karnataka Municipal Corporations Act, 1976 in so far as it relates to levy of cess and collect property tax or exercise powers and functions of the Commissioner of Municipal Corporation under the Karnataka Municipal Corporations Act, 1976. She therefore, submits that the respondent Nos.3 and 5 are entitled to demand and collect such fee and charges that are authorized under the Bangalore Mahanagara Palike Building Bye-laws, 2003. She however, did not dispute the fact that the Co-ordinate Bench of this Court while considering the power of the Municipal Corporation, held that it was not authorized to demand Lake rejuvenation fee under Section 18(1A) of the Karnataka Town and Country Planning Act, 1961 either expressly or impliedly. Likewise, it was held that the linking of the levy based on the guidance value was illegal. It was also held that demand of ground rent was unauthorised. As regards labour cess, it was held that the demand of payment of labor cess upfront, is illegal as it runs completely contrary to the Cess Act and Rules.

5. I have considered the submissions of the learned counsel for the petitioners as well as the learned counsel for respondent Nos.3 and 5.

6. (i) Under Section 29 of the Bangalore Development Authority Act, 1976, the respondent No.3 is entitled to exercise power of a Commissioner of a Municipal Corporation under the Karnataka Municipal Corporations Act, 1976, after a notification is issued to that effect by the State Government. There are no provisions under the Bangalore Development Authority Act, 1976 that authorize it to collect ground rent, scrutiny fee, security deposit etc., The authority has imposed these charges, apparently in view of the BBMP

imposing such charges. A Co-ordinate Bench of this Court in ***Mr.Sunderam Shetty,*** referred supra, has held categorically as follows:

> *"30. Therefore, there is no power under Act to impose the impugned levies i.e., ground rent, licence fee, building licence fee, scrutiny fee and security deposit. It is trite that fee can be imposed only if there is quid pro quo. Quid pro quo in legal parlance is that 'fee' that can be imposed for a service that is rendered. The principle of quid pro quo or a fee chargeable for a service rendered as considered by the Apex Court (supra), wherein the Apex Court has held that there should be reasonable co-relation for imposition/collection of a fee, apart from the fact that it should be with authority of law."*

(ii) As regards labour cess under the Welfare Cess Act, it was held as follows:

> *"51. …….. Therefore, the petitioners are not required to pay labour cess upfront before construction takes place but would not escape such payment as mandated under the Act and as such the demand of labour cess by the BBMP at 1% being valid but the demand of it upfront is invalid."*

7. Later, amendments were made to the Bruhat Bengaluru Mahanagara Palike Act, 2020 to justify the levies

that were quashed by this Court in ***Mr.Sunderam Shetty***, referred supra. A Co-ordinate Bench of this Court in ***M/s Sapthagiri Shelters,*** referred supra, quashed the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2021 (Karnataka Act No.01 of 2022) and the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2023 (Karnataka Act No.37 of 2024). The Court quashed the notices raised by BBMP demanding the charges. It is no doubt true that the judgment passed in ***M/s. Sapthagiri Shelters,*** referred supra, is challenged in W.A.No.1226/2025 by the State Government, which is pending. Therefore, when the BBMP has no power to collect the ground rent, scrutiny fee, security deposit, the Bangalore Development Authority is not entitled to demand or collect the above imposts. As regards the labour welfare cess, the petitioners are bound to pay it not upfront but as provided under Rule 4 of the Cess Rules.

8. Consequently, the following order is passed :

ORDER

i. The petition is ***allowed in part***;

ii. The impugned demand dated 18.02.2022 made by the respondent No.5 for payment of scrutiny fee, ground rent, security deposit is quashed.

iii. The demand in so far as labour welfare fund is concerned, the respondent No.3 shall collect the same in the manner prescribed under Rule 4 of the Building and other Construction Workers' Welfare Cess Rules, 1998.

iv. The respondent No.3 is not entitled to collect CGST and SGST as there is no supply of goods or provision of services in sanctioning the building plan.

v. The above orders are subject to the outcome of W.A.No.1226/2025.

vi. The respondent No.3 shall now raise a fresh demand as regards the labour cess within a period of one month from the date of receipt of a copy of this order and the respondent No.3 shall release the plan after duly sanctioning it in favour of the petitioners within a period of one month from the date of receipt of a copy of this order.

vii. The petitioners shall file an affidavit undertaking that they shall pay the charges demanded, if they are held to be constitutionally valid in W.A.No.1226/2025.

Sd/-
(R. NATARAJ)
JUDGE

PMR
List No.: 1 Sl No.: 37