

(2018) 06 KAR CK 0011
In the Karnataka High Court
Case No : Writ Petition No.57755 of 2016

**A.L. Premkumar @APPELLANT@Hash Bruhat Bengaluru Mahanagara
Palike and Anr**

Date of Decision : 11-06-2018

Acts Referred:

Constitution of India, 1950 — Article 226, 227
Prevention of Corruption Act, 1988 — Section 19(1), 22
Karnataka Municipal Corporations Act

Citation : (2018) 06 KAR CK 0011

Hon'ble Judges : B. VEERAPPA, J

Bench : Single Bench

Final Decision : allowed

Judgement

1. The unfortunate petitioner is before this Court for a writ of mandamus directing the respondents to delete the name of the previous owner â?" S.

Narayanmurthy in the â??owners name and property address columnâ? in Annexure-C and issue fresh property tax paid receipt in the name of the petitioner for the year 2015-16 and issue writ of mandamus directing the respondents to issue a fresh challan in the name of the petitioner to enable to pay tax for the year 2016-17 by giving 5% rebate.

I. FACTS OF THE CASE

2.It is the case of the petitioner that he has purchased the property bearing Municipal Corporation No.1731/1318/74 and PID No.072-WO629-20

situated at No.74, Prakrutinagar, 4th Cross, 2nd Stage, Bharatnagar, Bengaluru under the registered sale deed dated 10.10.2013 from the previous

owner â?" S. Narayanmurthy. Pursuant to the registered sale deed, he filed application for change of khata before the 2nd respondent. The 2nd

respondent transferred the khatha in favour of the petitioner and also issued the

khatha certificate and khatha extract vide Annexures â?" A and B

respectively on 18.11.2013. It is further stated that subsequent to change of khatha, the petitioner applied for sanction of the building plan and same

was approved by the Planning Authority. The petitioner constructed a house and on completion of the building, the petitioner paid property tax for the

year 2015-16 by issuing a cheque bearing No.037567 drawn on Nyayamitra Sahakara Bank Niyamita, Bengaluru. The same was received by the 2nd

respondent on behalf of the 1st respondent and informed the petitioner to collect the receipt only after encashment of the cheque. Accordingly, the

petitioner approached the 2nd respondent on 21.3.2016 and the 2nd respondent issued receipt in the name of the previous owner â?" S.

Narayanamurthy and same was brought to the notice of the 2nd respondent and requested for correction of the name in the ownerâ??s column of

the tax paid receipt. The 2nd respondent informed the petitioner to file one more formal application along with the sale deed, khatha extract and tax

paid receipt to enable to change the name in the ownerâ??s column and issue fresh tax paid receipt in the name of the petitioner.

3. Accordingly on 22.3.2016 the petitioner filed one more application along with the documents sought for and the tax paid receipt and requested the

2nd respondent to make necessary correction in the tax paid receipt issued for the year 2015-16 as per Annexure-C. Thereafter the petitioner went to

the office of the 2nd respondent on 6.4.2016 to ascertain the status of the application and also requested to issue challan to enable to pay property tax

for the year 2016-17. But it was surprise and shock to know that the challan was issued by the 2nd respondent in the name of the previous owner.

Again he contacted the 2nd respondent and explained the situation. The 2nd respondent and Office Manager â?" Janardhan directed the petitioner to

contact them on 11.4.2016 with an assurance that the name in the tax paid receipt would be corrected and fresh challan also would be issued.

4. When the petitioner went to the office of the 2nd respondent on 11.4.2016, the 2nd respondent has not considered the request and asked the

petitioner to contact him after a week by giving lame reason. In spite of the repeated requests made, the 2nd respondent has not issued the challan and

ultimately it was informed by the office of the 2nd respondent that the concerned Assistant Revenue Officer was suspended on the allegation of

corruption and that the Revenue Inspector â?" Shivanna was made in-charge to look after the day to day affairs. Again when the petitioner approached the office of the 2nd respondent, the Revenue Inspector viz., Shivanna and the Manager â?" Janardhan instead of issuing challan, furnished the Commissionerâ??s phone number directing him to contact the Commissioner. The petitioner though tried to contact the Commissioner, he could not contact the Commissioner. Therefore he sent message (SMS) to the Commissioner through cell phone with a request to take necessary action.

5. Thereafter on 5.7.2016, the petitioner again went to the office of the 2nd respondent and requested the Revenue Inspector â?" Mr. Shivanna and Office Manager â?" Mr. Janardhan to issue challan with corrected version of the tax paid receipt. At that time, Mr. Janardhan showed one person and asked the petitioner to talk with him. The said person introduced himself as Mr. Ramesh and demanded Rs.10,000/- from the petitioner to get his work done and also told that if the amount is paid, he would get the work done within half an hour and get the challan to enable him to pay tax etc., Hence, on the same day petitioner met the 1st respondent â?" Commissioner personally and explained the situation and the Commissioner directed the petitioner to give a complaint in writing to the Special Commissioner who was assigned with the revenue collections of the 1st respondent. Accordingly on 5.7.2016, the petitioner made a written complaint to the Special Commissioner, Bengaluru Mahanagara Palike (â??BBMPâ?? for short), N.R. Road, Bangalore giving all the details about demand of illegal gratification by the BBMP officials through agents etc., In spite of the complaint/representation, the respondents have not considered nor passed any orders. Therefore petitioner is before this Court for the reliefs sought for.

II. OBJECTIONS FILED ON BEHALF OF THE RESPONDENTS

6. The respondents have filed statement of objections supported by an affidavit of one Sri Anantramaiah s/o late Nanjundaiah, aged about 58 years, working as Assistant Revenue Officer, BBMP, Herohalli sub-Division, Bangalore, stating that the prayer sought in the writ petition has been met with and the name of the previous owner has been deleted and the challan for having changed name has been produced as per Annexure-R1 and sought to

dismiss the writ petition.

III.ARGUMENTS ADVANCED BY THE LEARNED COUNSEL FOR THE PARTIES

7.I have heard the learned counsel for the parties to the lis.

8.Sri Pramod, learned counsel for the petitioner vehemently contended that inspite of the registered sale deed dated 10.10.2013 and khatha having

been transferred to the name of the petitioner as long back as on 18-11-2013 and inspite of the representation made as per Annexure-D dated

22.3.2016 and specific complaint made to the Special Commissioner as per Annexure-F dated 5.7.2016, the respondents have not corrected and issued

fresh property tax paid receipt for the year 2015-16 in the name of the petitioner and further have not issued fresh challan in the name of the petitioner

to enable him to pay property tax for the year 2016-17. Because of the inaction on the part of the respondents, especially the 2nd respondent, the

petitioner is unnecessarily driven before this Court. Therefore he sought to allow the writ petition by imposing heavy costs on the respondents.

9.Per contra, Sri I.G. Gachchinamath, learned counsel for the respondents submits that in view of Annexure R1 "a" challan issued by the respondents,

the prayer sought in the writ petition has been acceded by the respondents. Therefore he sought to dismiss the writ petition.

IV. CONSIDERATION OF BOTH ORAL ARGUMENTS & DOCUMENTS

10.I have given my anxious consideration to the arguments advanced by the learned counsel for the parties and perused the entire material on record carefully.

11.It is an undisputed fact that the petitioner become the owner of the property under the registered sale deed dated 10.10.2013 and on the basis of

the registered sale deed, khatha certificate was issued in the name of the petitioner as long back as on 18.11.2013. The petitioner has paid a sum of

Rs.6,284/- towards property tax for the year 2015-16. The respondent "a" authorities wrongly entered the name of the previous owner (i.e, vendor of

the petitioner) in the owner's column in the tax paid receipt for the year 2015-16 vide Annexure-C as well as in the challan issued for the year

2016-17 vide Annexure-E. It is also not in dispute that though the representation and complaint made by the petitioner on 22.3.2016 and 5.7.2016

respectively, the respondents have not taken action, thereby they have not discharged their institutional responsibility by rectifying small mistake

committed by the officers of BBMP and the petitioner was made to run from the pillar to post for the years together and ultimately driven the

petitioner before this Court for the reliefs sought for.

12. Though the learned counsel for the respondents sought to justify the action by filing objections along with Annexure-R1 correcting the name of the

petitioner in the challan for the year 2016-17, the amount payable is shown as Rs.9,129/- though as per the original challan issued as per Annexure-E

dated 6.4.2016, the petitioner has to pay Rs.7,559/- only. The enhancement of the property tax payable for the year 2016-17 is not explained in the

statement of objections and the Assistant Revenue Officer who is present before the Court is also unable to explain the same.

13. It is also not in dispute that the respondents have not taken any action to change the name of the previous owner in the owner's column in the

property tax receipt for the year 2015-16 and challan for the year 2016-17 inspite of the repeated representations. Because of the mistake on the part

of the respondent officers, the petitioner has been penalized from 2013 till today and he approached this Court on 8.11.2016. On account of the

mistake committed by the officer by issuing challan contrary to the original sale deed and khatha, the petitioner has suffered both mentally and

physically and he has to spend litigation expenses by engaging a lawyer. Thus the petitioner has suffered from the inaction of the respondents for

rectification of name in the tax paid receipt for the year 2015-16 and challan for the year 2016-17. This clearly indicates that the officers of the

BBMP are not meant for public service. But they are harassing the public at large. The action of the respondents is in utter violation of Articles 14

and 21 of the Constitution of India.

14. It is also relevant to state at this stage that the present Assistant Revenue Officer "Anantramaiah s/o late Nanjundaiah who is present before

the Court submitted that there is no provision and possibility in the computer software for changing amount of the property tax even if there is an

error. This is a rather preposterous argument and shocks the conscience of Court. The computer software can definitely be developed to suit the

requirements of person or organization like the BBMP and the general public. It should be designed to serve the public cause and there should be

transparency in the functioning of the e-platform provided by BBMP. The

computer software cannot be allowed to be misused by the concerned officers. If there is a mistake in the calculation of the property tax, there has to be a provision to correct the same in the computer software and the respondent - officers should take necessary measures to correct such mistakes. The computers cannot be allowed to be used as tools to impose illegal tax levies and their errors have to be controlled and corrected by the humans who use the same as tools of public service.

15. In the complaint â?" Annexure-F dated 5.7.2016, the petitioner made categorical averments about corruption involved in the 2nd respondent office because of few Officers in the cadre of Assistant Revenue Officers. It is unfortunate that the Assistant Revenue Officers, who are educated, highly placed men holding responsible posts in the BBMP are betraying the confidence reposed in them by the general public. The specific allegations made in the complaint read as under:

I came out from the office of the ARO and it was told me that Mr. Janardhan was talking to some people outside the office. I requested him to talk, he reluctantly told me to talk by showing some person. Surprisingly I made an enquiry why should I talk. Immediately he left. The person showed to me was introduced himself as an agent if any work with revenue inspector or the manager or ARO has to go through him. The person introduced himself as Ramesh and he demanded Rs.10,000 to get my work done, and also he told that if the amount is paid that he would get the work done within half hour and get the Challan to enable me to pay the tax. I was surprised to know for a small work we have to pay bribe to get the things done. I sincerely state that as per the vide registered sale deed the Khata was changed to my name and khata certificate was given to me way back in 2013 and a khata extract also was given to me way back in 2013 itself. It is the bounded duty of the concerned Bill Collector, Revenue Inspector and Assistant Revenue Officer to correct the name in the ledgers maintained in the office of the BBMP to enable the people to pay the tax well in time. Due to the dereliction and Negligent duty of the officials of the BBMP made the people to run pillar to post to get a small thing done. It is the negligence and dereliction of the duty of the officials caused harassing the people, wasting the time of the public and also it is impossible to pay the taxes in time. The Acts of the officials clearly shows that they are dipped with corruption, without

corruption no work of the common people will be done by the callus officials of the BBMP.

16. In view of the specific allegations made by the petitioner as stated supra, it is high time for the State and the Commissioner for BBMP to curb the menace of corruption, which is more dangerous to the future generation and the disease of cancer of corruption, to implement the object and spirit of the Prevention of Corruption Act.

17. The allegations of bribery made in the writ petition against the respondent official/s is not denied by the respondents even though they have filed statement of objections, which clearly depicts that corruption in the offices of the BBMP has now reached a monstrous dimension in Bengaluru. Its tentacles have started grappling even the institutions created for the protection of the public at large. Unless those tentacles are intercepted and impeded from gripping the normal and orderly functioning of the BBMP offices, through strong legislative, executive as well as judicial exercises, the corrupt public servants could even paralyse the functioning of such institutions and thereby hinder the democratic policy. Proliferation of corrupt public servants in the offices of the BBMP could garner momentum to cripple the social order if such men are allowed to continue to manage and operate public institutions like BBMP.

V. DICTUM OF THE APEX COURT RELIED UPON

18. The Honâ??ble Supreme Court while considering the provisions of Sections 19(1) and 22 of the Prevention of Corruption Act, 1988 in the case of SUBRAMANIAN SWAMY vs. MANMOHAN SING reported in (2012)3 SCC 64 has strongly condemned the corruption in the country at paragraph-68 as under:

68. Today, corruption in our country not only poses a grave danger to the concept of constitutional governance, it also threatens the very foundation of Indian democracy and the Rule of Law. The magnitude of corruption in our public life is incompatible with the concept of a socialist, secular democratic republic. It cannot be disputed that where corruption begins all rights end. Corruption devalues human rights, chokes development and undermines justice, liberty, equality, fraternity which are the core values in our preambular vision. Therefore, the duty of the Court is that any anti-

corruption law has to be interpreted and worked out in such a fashion as to strengthen the fight against corruption. That is to say in a situation where

two constructions are eminently reasonable, the Court has to accept the one that seeks to eradicate corruption to the one which seeks to perpetuate

it.â??

VI. DIRECTION

19.It is also relevant to state that in these hard days, it is very difficult to purchase either a site of 20 feet x 30 feet or 30 feet x 40 feet by a common

man in Bengaluru. A common man has to invest his entire life time savings to purchase a site. Thereafter he has to struggle before the BBMP

authorities even after the registration of sale deed for transfer of khatha, payment of tax, getting plan approval etc., and after getting all the documents

in a correct and proper way from the BBMP authorities, by the time the construction of the dream house is completed with great difficulties, a major

part of life of the person would be over, suffering both physically and mentally and because of this, most of the citizens may not be able to enjoy the

property at all.

20.Now time warrants for the State Government and the Commissioner, BBMP to discharge the most basic duty of protecting the people and shall

ensure that whenever the public â?" citizens approach the authorities for change of khatha by producing registered sale deed and other relevant

documents, unless there is dispute with regard to title, jurisdictional Revenue Officer/concerned authority shall consider the application for change of

khatha within the time prescribed after collecting admissible fee in terms of the provisions of the Karnataka Municipal Corporations Act and the Rules

and the guidelines issued by the BBMP from time to time. The Officers should not harass the citizens of Bangalore city by demanding illegal

gratification and simply delay by bureaucratic ways of red-tape for effecting change of khatha in the records or to correct name of the owner in the

tax paid receipt/challan etc., It is high time for the State and the Commissioner - BBMP to control the Officers, especially some of the Assistant

Revenue Officers working in different Wards of BBMP, to maintain glory of the Bangalore city and to protect the honest officers of the BBMP and

citizens, otherwise the very existence of the BBMP will be at stake on one day because of the inaction and dereliction of duty by some of the officers

of BBMP.

21. In the present case, the conduct of the concerned Revenue Officer dragging the petitioner from pillar to post from 2013 till today and driving him

for filing the present writ petition spending huge expenses is highly condemnable and the act and conduct of the Officers of the BBMP is nothing but

abuse of the process of judicial system and threat to the majesty of law by creating unnecessary litigations between the citizens for the benefit of the

Officers. Therefore it is a fit case to impose costs on the concerned Officer/s who is/are responsible for the delayed tactics even to correct a small

mistake in the property tax paid receipt for the year 2015-16 and the challan issued for the year 2016-17, which will be quantified at Rs.25,000/-

(Rupees twenty-five thousand only). Costs shall be payable by the concerned Revenue Officer/s specifically mentioned by the petitioner in his

complaint "Annexure-F, from his/their own pocket and not either from the account of BBMP or from the State, within a period of four weeks from

the date of receipt of copy of this order. The Commissioner, BBMP shall ensure that the concerned Revenue Officer/s should pay costs from his/their

own pocket, failing which the petitioner is at liberty to initiate appropriate proceedings against the respondents in accordance with law.

VII. CONCLUSION

22. In view of the aforesaid reasons, the writ petition is allowed. The respondents are directed to delete the name of the previous owner "S.

Narayanamurthy in the "owner's name and property address column" and issue fresh property tax paid receipt in the name of the petitioner

for the year 2015-16 as he has already deposited the property tax in a sum of Rs.6,284/-. The respondents are also directed to issue fresh challan for

an amount of Rs.7,559/- (i.e., as mentioned in Annexure-E) in the name of the petitioner to enable him to pay property tax for the year 2016-17, in

accordance with law.

Registry is directed to send copy of this order to the concerned Prl. Secretary, Government of Karnataka and to the Commissioner, BBMP to take

appropriate steps in the interest of justice to protect the citizens of Bangalore city at large and take appropriate action against the erring official/s. This

Court hopes and trusts that the State Government and the BBMP will take appropriate steps by issuing necessary directions to all the concerned

officers forthwith.

Ordered accordingly.