

**(2018) 02 KAR CK 0067**  
**In the Karnataka High Court**  
**Case No : 58230 of 2014**

Dr. S.C. SHARMA

APPELLANT

Vs

THE COMMISSIONER & ORS

RESPONDENT

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**Date of Decision :** 15-02-2018

**Acts Referred:**

**Citation :** (2018) 02 KAR CK 0067

**Hon'ble Judges :** Vineet Kothari

**Bench :** Single Bench

**Advocate :** L.M.CHIDANANDAYYA, G. LAKSHMEESH RAO, H. DEVENDRAPPA,  
NISHANTH A.V, SHIVARAMA A

**Final Decision :** Disposed off

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## **Judgement**

1. The petitioner-Dr.S.C.Sharma S/o Sri R.K.Sharma is assailing the impugned construction as well as the change of use of the property in

question by respondent Nos.3 to 9; and the respondent-Bruhat Bengaluru Mahanagara Palike (BBMP) and Bengaluru Development Authority

(BDA) having failed to take action in the matter is the reason for filing this writ petition.

2. Upon issuance of notices, the respondent-BBMP has filed a Status Report before this Court today and it has been brought to notice of this

Court that one of the private respondents i.e. Sri M.Ravi Raja Shetty had filed Review Petition No.1/2015 before the Karnataka Appellate

Tribunal (for short "Tribunal"), which had earlier decided Appeal No.816/2012 [Sri M.Ravi Raja Shetty Commissioner, Bruhat Bengaluru

Mahanagara Palike (BBMP)] on 14.01.2015 and dismissed the same. The said review petition is pending before the Tribunal and in the said

review petition the Tribunal has passed a status quo order on 30.01.2015. Therefore, the respondent- BBMP was prevented from taking any action against the private respondents in the matter.

3. Learned counsel for the petitioner, however, submitted that the private respondents are not allowed to carryout their commercial activities in the property in question and the construction raised by them is illegal.

4. Having heard the learned counsels, this Court is of the opinion that the parties should be relegated to the Tribunal for being heard in the matter

and then deciding the appeal/review petition of the parties finally. It is rather surprising that in a review petition entertained by the Tribunal wayback

in 30.01.2015, learned member of the Tribunal having passed a status quo order which has been in operation for the last more than two years and

the Tribunal is failing to decide the review petition expeditiously. Normally, review petition should have been entertained only if an apparent

mistake exists on the face of the record and the order passed in the appeal by the Tribunal. No such apparent mistake is atleast pointed out in the

interim order dated 30.01.2015. Therefore, it is expected of the said Tribunal to decide the review petition expeditiously. Since the present

petitioner is not a party in the said proceedings, it is appropriate that the Tribunal provides an opportunity to the petitioner also of being heard in

the matter.

5. Parties are, therefore, directed to appear before the Tribunal in the Review Petition No.1/2015 [Sri M.Ravi Raja Shetty The Commissioner,

BBMP and another], in the first instance, on 20.02.2018, and it is expected of the Tribunal to decide the said review petition on or before

31.03.2018 positively. Writ petition is disposed of accordingly.