

(2025) 11 KAR CK 1794

In the Karnataka High Court, Principal Bench

Case No : Writ Petition No. 31787 Of 2025 (LB-RES)

K.T. Nagaraja

APPELLANT

Vs

State Of Karnataka & Ors

RESPONDENT

Date of Decision : 17-11-2025

Acts Referred:

Karnataka Panchayat Raj (Removal Of Obstruction And Encroachment) Rules, 2011 — Rule 4, 5

Citation : (2025) 11 KAR CK 1794

Hon'ble Judges : R. Nataraj, J

Bench : Single Bench

Advocate : Anikethana K.M, H.K. Kenchegowda, A. Nagarajappa

Final Decision : Disposed Of

Judgement

R. Nataraj, J

1. The petitioner has challenged a notice/order bearing No.TaPanTi/OoPra.5/2025-26/653 dated 10.10.2025 issued by respondent No.3. He has also sought for a writ in the nature of mandamus to direct respondent No.3 to consider the objections/reply submitted on 11.09.2025 and to pass appropriate orders.

2. The petitioner claims that the land bearing Sy.No.170/2 of Konanduru Village, Agrahara Hobli, Thirthahalli Taluk, measuring 05 acres was owned and possessed by one Gangayya Gowda who had permitted the villagers of the said village to put up residential houses thereon. The father of the petitioner had also constructed a house during the year 1971-1972 and the Panchayat effected E-Khatha in his name. The father of the petitioner died on 09.05.1996 leaving behind his wife, the petitioner and his siblings.

3. The mother of the petitioner proposed to utilise a portion of the said house for vending vegetables and therefore submitted an application before the Panchayat for issuance of licence. The Panchayat accordingly granted the licence on

28.12.1998. Based on the said licence, the mother of the petitioner put up a shed and carried on vegetable vending and eked out her livelihood.

4. The mother of the petitioner thereafter submitted an application on 11.06.2001 to enter her name in the property register maintained by the Panchayat. The Panchayat accordingly, entered her name in its records, and she continued to pay property tax, until her death on 26.09.2016. The petitioner claims that he is in possession of the said house and he has also continued vending vegetables started by his mother.

5. The petitioner claimed that when things stood thus, respondent No.3 issued a notice dated 19.08.2025 alleging that the petitioner had encroached a portion of Gramatana land in Sy.No.170/2 belonging to the Panchayat and directed the petitioner to appear before it on 28.08.2025. The petitioner appeared before the Panchayat and submitted his version along with documents.

6. It is claimed that respondent Nos.2 and 4 started interfering with the possession of the petitioner which forced him to file O.S.No.131/2025 for perpetual injunction. Respondent No.3 thereafter issued another notice dated 01.09.2025 directing the petitioner to appear before it on 11.09.2025. The petitioner states that he appeared before respondent No.3 and submitted his reply along with documents in support of his claim that there is no encroachment of Gramatana land. The petitioner claimed that without considering the reply and the documents furnished, respondent No.3 had passed a notice/order dated 10.10.2025 directing the petitioner to remove the encroachment failing which, steps would be taken for its removal.

7. Being aggrieved by the said notice/order, the petitioner is before this Court.

8. The learned counsel for the petitioner submits that though the petitioner submitted his reply to the notice dated 11.09.2025 and produced the relevant documents, the impugned order is passed holding that the petitioner failed to produce any documents. He submits that the impugned order is passed without due application of mind and therefore, the same is to be set at naught.

9. Per contra, the respondent No.3 has filed an elaborate statement of objections contending inter alia that the petitioner being an encroacher has no right to remain on the property belonging to the Panchyat. It is contended that Rule 4 of Karnataka Panchayat Raj (Removal of Obstruction and Encroachment) Rules, 2011 (henceforth referred to as 'Rules, 2011' for short) enables respondent No.3 to take necessary steps to evict the encroacher and that Rule 5 of Rules 2011 provides for an appellate remedy. Therefore, it is submitted that the petitioner ought to have availed the statutory remedy of an appeal instead of approaching this Court. It is further contended that the petitioner did not produce any documents to substantiate his claim that the portion where he has put up a shed is not part of the Gramatana land. It also contended that the petitioner in order to prevent the respondents from taking action in accordance with law, has filed O.S.No.131/2025.

10. The learned counsel for respondent No.3 reiterated the above and prayed that the writ petition may be dismissed.

11. I have considered the submissions of the learned counsel for the petitioner as well as the learned counsel for the respondent Nos.2 to 4.

12. A perusal of the impugned order shows that the respondent No.3 proceeded on the premise that the petitioner had failed to produce the documents in support of his claim that he had not encroached into Gramatana land. However, the petitioner contends that along with his reply he had produced the documents. A perusal of the reply submitted by the petitioner to the notice issued by respondent No.3 shows that except claiming that he was in lawful possession of property, he did not produce any documents. Having regard to the fact that the impugned order has civil consequence, it is appropriate that an opportunity is granted to the petitioner to produce documents in support of his claim that he has not encroached into Gramatana land.

13. In view of the above, the writ petition stands disposed off on the following terms:

(i) The petitioner shall furnish all the documents in support of his reply submitted on 11.09.2025 with respondent No.3 within a period of 15 days from today.

(ii) Respondent No.3 shall pass appropriate orders after considering the documents filed if any, within one month thereafter. Until then the respondent No.3 shall not take any action against the petitioner and shall not disturb the possession of the petitioner.

(iii) The petitioner shall withdraw O.S.No.131/2025 filed by him against respondent Nos.2 to 4.

(iv) The benefit of the interim protection of the possession of the petitioner would be available to him only if he withdraws O.S.No.131/2025 filed before the learned Civil Judge and JMFC, Thirthahalli, Shivamogga, within a period of 15 days from today, failing which, the respondent Nos.3 and 4 shall take necessary steps in accordance with law.

In view of disposal of main petition, pending interlocutory applications if any, do not survive for consideration and the same stand disposed off.