

(2017) 12 KAR CK 0044
In the Karnataka High Court
Case No : 47113 of 2017 (LB-BMP)

**SRI. S.B. JAYASIMHA Vs THE COMMISSIONER? BRUHATH BANGALORE
MAHANAGARA PALIKE**

Date of Decision : 13-12-2017

Acts Referred:

Constitution of India, Article 226 -
Power of High Courts to Issue certain writs

Citation : (2017) 12 KAR CK 0044

Hon'ble Judges : Dr.Vineet Kothari

Bench : SINGLE BENCH

Advocate : RAJANNA L, T.M. VENKATA REDDY

Judgement

1. The petitioner - Sri.S.B.Jayasimha s/o late
S.B.Venkoba Rao without impleading his own Uncle
Mr.S.B.Ranga Rao has filed the present petition in this
Court under Article 226 of the Constitution of India on
13.10.2017 raising the grievance against the said uncle
Mr.S.B.Ranga Rao, who is alleged to have raised an
illegal construction and for which, the petitioner is said
to have filed a representation to the concerned authority
of the Respondents-BBMP namely, the Asst.Executive
Engineer, Malleshwaram Sub-Division, BBMP,
Bengaluru, which has not been decided, though it was
filed vide Annexure-F on 17.05.2017 and other
representations also.

2. The relevant extract from the said Annexure-F

Representation dated 17.05.2017 is quoted below for

ready reference:-

"Also as per the document of City survey office, since 1958, in the name of father only the House Society have entered the property. The brother of my father, S.B. Ranga Rao by creating all bogus records at all stages, by neglecting the judgment of the Court also (Judgment issued in O.S.1777/94 that in the name of S.B. Ranga Rao, either the right of said property or Title is not vested), during December 2000 by got sanction of the house plan from the then A.E.E. H.L. Ramada of your office (prior to that through newly introduced SAS for first time the house tax paid in Rajajinagar ARO office), later during 2002, by constructing 3 floor house, by got fixation of the tax (for own use) from the then ARO office, Malleswaram, was paying the tax. When I questioned in this regard, he started paying tax from 8 sq. feet to 10 sq. feet. But the plan sanctioned is for 8 sq. feet, but the house constructed is about 14 square feet.

Apart from this in some documents obtained under RTI from your office, in the face of

the Sale Deed submitted by S.B. Ranga Rao, the word "Execution Admitted" has been deleted. Hence, the said Sale Deed has not been registered. Also S.B. Ranga Rao during 1993, to make believe has got written on stamp paper. But not entered in any Book in the office of the Sub Registrar, Gandhinagar. Along with this, in the Affidavit, Indemnity Bond also, the name of his father is not shown. Hence, all the documents are bogus one. The sanctioning of the plan itself is violation of law.

At the same time, in the documents obtained from the BESCO office, he has submitted the plan for the building he has constructed. I have enclosed the copy of this plan and the two plans sanctioned from your office along with this letter.

To say that S.B. Ranga Rao has no right on the said property after hearing the arguments, counter arguments on the Sale deed on 25-4-2015 heard in the High Court, since S.B. Ranga Rao is not the member of the Housing Society, as a successor of my later father in the Court of the Registrar of Co-operative societies, the Managing Director (Officer on behalf of the Government) of the Society by submitting the Affidavit, has given the statement that the Sale Deed is made only in the name of my father S.B. Venkoba Rao. In the same way the document of City Survey office also shows.

By enclosing all these documents along with this letter, brought to your perusal. Since when I met you on 11-05-2017, I was asked in this regard.

From all the above reasons, S.B. Ranga Rao by creating bogus records, got sanction of the building plan, and after constructing the building against the plan and though obtaining the rents, paying the tax only as own use, by filing the same documents to the Mahanagara Palike and to the Court, is to miss lead the authorities on wrong way. Hence, I request that by taking the action against him

as per law and to reply to my letter under Right to Information Act, dated 27-3-2017".

3. After perusal of the record and after hearing the learned counsel for the petitioner, this Court is satisfied that not only the writ petition takes up an issue of the old construction raised by his uncle Mr.S.B.Ranga Rao, who has not been impleaded by the Respondents-BBMP, which happened way back in the year 2002, but it also appears that such civil disputes about the ownership and construction being illegal and without sanction from the competent authority of BBMP is sought to be raised after long gap of more than 10 years under the guise of seeking mandamus to the Respondents-BBMP Authority to consider the representation of the petitioner. Such family disputes touching upon the civil rights of the members of the family cannot be adjudicated by the High Court under Article 226 of the Constitution of India by unnecessarily rope in the public bodies like BBMP and trying to keep such lis alive in the name of representations filed to the public body like BBMP.

4. Nothing prevented the present petitioner or even his father prior to his death in the year 2004 to institute a proper civil suit in the matter. One such suit namely O.S.No.1777/1994 referred to in the quoted portion of the representation above, the details of which are not stated in the said representation nor the present status of the said civil suit is pending has also given, was one such remedy availed by the petitioner or his father.

5. Such controversy cannot be raised after a long lapse of period and trying to raise the dead issues between the parties. Therefore, this Court is not inclined to exercise its extraordinary jurisdiction in the present case.

6. The writ petition is found to be devoid of merit and is liable to be dismissed and accordingly, it is dismissed. No costs.

Copy of this order be sent to Mr.S.B. Ranga Rao at the address given in the writ petition.