

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 28TH DAY OF JUNE, 2013

BEFORE

THE HON'BLE MR. JUSTICE H.N. NAGAMOHAN DAS

WRIT PETITION Nos. 12495-12498/2013 C/w.

WRIT PETITION Nos. 13191-13194/2013 &

WRIT PETITION Nos. 13410-13450/2013 (LB-BMP)

W.P. Nos. 12495-12498/2013

BETWEEN :

1. Sri. SHIVANNA
AGED ABOUT 42 YEARS
S/O NANJAPPA
R/AT NO.7/4
11TH A CROSS
MALLESWARAM
BANGALORE- 560 003
2. Sri. SHIVAJI RAO
AGED ABOUT 41 YEARS
S/O B L ANANDA RAO
R/AT NO. 75, 13TH CROSS
1ST TEMPLE ROAD
MALLIKARJUNAPURA
MALLESWARAM
BANGALORE- 560 003

3. Sri. RAMAKRISHNAIAH
AGED ABOUT 40 YEARS
S/O CHIKKANNA
R/AT NO. 928/6
11TH C CROSS, VYALIKAVAL
MALLESWARAM
BANGALORE- 560 003.

... PETITIONERS

(By Sri. K S DEVARAJ, ADV.)

AND

1. STATE OF KARNATAKA
DEPARTMENT OF URBAN
DEVELOPMENT
VIKASA SOUDHA
BANGALORE 560 001
REP. BY ITS SECRETARY.
2. BRUHATH BANGALORE
MAHANAGARA PALIKE
N R SQUARE
BANGALORE- 560 002
REP. BY ITS COMMISSIONER.
3. BANGALORE DEVELOPMENT
AUTHORITY
T CHOWDAIAH ROAD
KUMARA PARK WEST
BANGALORE- 560 020
REP. BY ITS COMMISSIONER.
4. EXECUTIVE ENGINEER
INFRASTRUCTURE-V
BANGALORE DEVELOPMENT

AUTHORITY, T CHOWDAIAH ROAD
KUMARA PARK WEST
BANGALORE- 560 020.

5. Sri. P VIJAYAKUMAR
AGED MAJOR
FLAT NO. 201
MARGOSA MANSION
NO.96, MARGOSA ROAD
MALLESHWARAM
BANGALORE- 560 003.
6. Sri. ASHWATHNARAYANA
MEMBER OF LEGISLATIVE ASSEMBLY
MALLESHWARAM CONSTITUENCY
AGED ABOUT 41 YEARS
S/O T K NARAYANAPPA
R/AT NO. 97/2
4TH MAIN ROAD, 11TH CROSS
MALLESHWARAM
BANGALORE- 560 003.
7. Sri. G MANJUNATH RAJU
AGED ABOUT 50 YEARS
CORPORATOR
KADU MALLESHWARA WARD NO. 65
R/AT G-2, 4TH MAIN ROAD
GANESH RESIDENCY
MALLESHWARAM
BANGALORE- 560 003. ... RESPONDENTS

(By Sri. N B VISHWANATH, AGA, FOR R1
Sri. D M NANJUND REDDY, Sr. ADV., FOR
Sri. R SUBRAMANYA, ADV., FOR R-2 & 8
Sri. K KRISHNA, ADV., FOR R-3 & R-4

Sri. SAJJAN POOVAYYA, ADV, FOR R-5
Sri. H SANTHI BHUSHAN, ADV., FOR R-6 & 7)

THESE WRIT PETITIONS ARE FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA WITH A PRAYER TO QUASH THE COUNCIL RESOLUTION IN RESOLUTION NO.18/2010-11 DT.29.5.2010 AT ANNEX-E PASSED BY R-2 FOR THE RECONSTRUCTION/DEVELOPMENT OF THE SAID MARKET ALONG WITH THE LAND, INTO A MULTI-STOREYED COMMERCIAL COMPLEX AND ETC.

W.P. Nos. 13191-13194/2013 & 13410-13450/2013

BETWEEN :

1. Sri. RAVISHANKAR
AGED 35 YEARS
S/O. DODDEGOWDA
R/A. No. 17, 4TH 'C' MAIN ROAD
PALACE GUTTAHALLI
BANGALORE – 560 003.
2. Sri. P. HEMANNA
AGED 53 YEARS
S/O. PILLAPPA
R/A. No. 55/2, 6TH TEMPLE ROAD
12TH A CROSS, BALMURI
GANESHA TEMPLE ROAD
KODANDARAMAPURA
MALLESHWARAM
BANGALORE – 560 003.
3. Smt. MANJULA BAI
AGED 36 YEARS
W/O. SHIVAJI RAO
R/A. No. 7, 10TH MAIN ROAD

VYALIKAVAL
MALLESHWARAM
BANGALORE – 560 003.

4. Sri. V. MUNIRAJU
AGED ABOUT 54 YEARS
S/O. VENKATAPPA
R/A. No. 1404
SAHAKARANAGAR C BLOCK
BANGALORE – 560 092.
5. Sri. T M SUBRAMANI
AGED ABOUT 45 YEARS
S/O. LATE MUNISWAMY &
LATE RANGAMMA
R/A. No. 14, 2ND FLOOR, 8TH CROSS
NARASIMHAIAH GARDEN
COCONUT AVENUE ROAD
MALLESHWARAM
BANGALORE – 560 003.
6. Smt. V UMA
AGED ABOUT 52 YEARS
W/O. K V K ASHOK KUMAR
R/A. No. 18/2, 1ST CROSS
S B M COLONY
BRINDAVANNAGAR
BANGALORE – 560 054.
7. Smt. ANURADHA RAJENDRAN
AGED ABOUT 40 YEARS
W/O. RAJENDRAN
R/A. No. 18/2, 1ST CROSS
S B M COLONY, BRINDAVANNAGAR
BANGALORE – 560 054.

8. Sri. KRISHNA K A
AGED ABOUT 27 YEARS
S/O. LATE K V K ASHOK KUMAR
R/A. No. 18/2, 1ST CROSS
S B M COLONY, BRINDAVANNAGAR
BANGALORE – 560 054.
9. Sri. M SUBRAMANY
AGED ABOUT 62 YEARS
S/O. MANIKACHAR
R/A. No. 2/40, 2ND MAIN
POOJARI LAYOUT
BANGALORE – 560 094.
10. Smt. PADMA
AGED ABOUT 55 YEARS
D/O. GOVINDACHARI
R/A. No. 2/40, 2ND MAIN
POOJARI LAYOUT
BANGALORE – 560 094.
11. Sri. C NATARAJAN
AGED ABOUT 55 YEARS
S/O. CHINNAPPA
R/A. No. 18, 6TH CROSS
BHUVANESHWARINAGAR
HEBBAL KEMPAPURA
DASARAHALLI MAIN ROAD
BANGALORE – 560 024.
12. Sri. M BALAN
AGED ABOUT 59 YEARS
S/O. MANIRRAACHAIR
R/A. No. 22, M.S. PALYA ROAD

BALAJI LAYOUT
VIDYARANYAPURA
BANGALORE – 560 097.

13. Sri. H N NAGARAJ
AGED ABOUT 41 YEARS
S/O. LATE H K NARAYANA SWAMY
R/A. No. 20, SOUTH BLOCK
SAMPIGE ROAD, MALLESHWARAM
BANGALORE – 560 003.
14. Sri. T RAMESH
AGED ABOUT 42 YEARS
S/O. THIMMEGOWDA
ERSTWHILE PARTNER
HARISHCHANDRA GOPAL NAYAK
R/A. No. 48, 3RD MAIN
KEMPEGOWDA NAGARA
LAGGERE, BANGALORE – 560 058.
15. Smt. PREMA
AGED ABOUT 47 YEARS
W/O. DASRATRAMAREDDY
R/A. No. 54, 12TH A CROSS
VYALIKAVAl, MALLESHWARAM
BANGALORE – 560 003.
16. Sri. CHANNAKESHA VA
AGED ABOUT 32 YEARS
S/O. CHANNAPPA
ERSTWHILE PARTNER
HARISHCHANDRA GOPAL NAYAK
R/A. No. 48, 3RD MAIN
KEMPEGOWDA NAGARA
LAGGERE, BANGALORE – 560 058.

17. Sri. K S DODDAIAH
AGED ABOUT 55 YEARS
S/O. S SIDDAPPA
R/A. No. 37 (106/3) 5TH CROSS
LAKSHMINARAYAPURA
BANGALORE – 560 021.
18. Sri. R RANGASWAMY
AGED ABOUT 55 YEARS
S/O. REVANNA
R/A. No. 124, ANJANEYA BLOCK
SESHADRIPURAM
BANGALORE – 560 020.
19. Sri. V SONAPPA
AGED ABOUT 67 YEARS
S/O. VENKATAPPA
R/A. No. 4, 3RD CROSS
S P EXTENSION, 10TH CROSS
YELLAPPA GARDEN
MALLESHWARAM
BANGALORE – 560 003.
20. Smt. PUTTAHONNAMMA
AGED ABOUT 58 YEARS
W/O. GUNDAPPA
R/A. No. 59, 1ST MAIN
2ND CROSS, KAMALANAGAR
BANGALORE – 560 079.
21. Sri. N VEERASWAMY
AGED ABOUT 55 YEARS
S/O. MANNAN GATTI
R/A., No. 17/3, 2ND CROSS
ANJANEYA BLOCK

SESHADRIPURAM
BANGALORE – 560 020.

22. Smt. N PADMA
AGED ABOUT 38 YEARS
D/O. LATE POONGAVANAMMA
R/A. No. 8, 2ND FLOOR, 1ST CROSS
MUNESHWARA BLOCK
PALACE GUTTAHALLI
BANGALORE – 560 003.
23. Smt. JAYAMMA
AGED ABOUT 80 YEARS
D/O. ANGAMMA
R/A. No. 33, 12TH C CROSS
VYALIKAVAL
MALLESHWARAM
BANGALORE – 560 003.
24. Sri. M MURUGESH
AGED ABOUT 45 YEARS
S/O. MANICKAM
R/A. No. RIG B 33, BALD 151
KENGARI SUB TOWN
BANGALORE – 560 060.
25. Sri. V SRINIVAS
AGED ABOUT 45 YEARS
S/O. LATE M VENKATASWAMAPPA
R/A. No. 2, KEMPANNA LAYOUT
CHOLANAYAKANAHALLI
R T NAGAR POST
BANGALORE – 560 032.

26. Sri. G GANESH
AGED ABOUT 29 YEARS
S/O. LATE M GOPAL
R/A. No. 146/18, 7TH CROSS
COCONUT AVENUE ROAD
MALLESHWARAM
BANGALORE – 560 003.
27. Sri. RAVIKUMAR
AGED ABOUT 40 YEARS
S/O. LATE MUDDAPPA
R/A. No. 39/1, 3RD CROSS
BETWEEN 12TH MAIN ROAD
S P EXTENSION
MALLESHWARAM
BANGALORE – 560 003.
28. Sri. R HANUMANTHAPPA
AGED ABOUT 65 YEARS
S/O. HANUMARANCAPPA
R/A. No. 14/1, 4TH MAIN
A CROSS, BASAPPA GARDEN
PIPELINE, MALLESHWARAM
BANGALORE – 560 003.
29. Sri. VENKATESH M
AGED ABOUT 55 YEARS
S/O. MODALAGIRIYAPPA
R/A. No. 145, SAMPIGE ROAD
BETWEEN 8TH & 9TH CROSS
MALLESHWARAM
BANGALORE – 560 003.
30. Sri. DODDAIAH
AGED ABOUT 55 YEARS

S/O. SIDDAPPA
R/A. No. 37(106/3) 5TH CROSS
LAKSHMINARAYAPURA
BANGALORE – 560 021.

31. Sri. BALARAM
AGED ABOUT 28 YEARS
S/O. LATE D H RAMAIAH
R/A. No. 10, D MAIN ROAD
2ND CROSS, MUNESHWARA BLOCK
P G HALLI, BANGALORE – 26.
32. Smt. M SAROJAMMA
AGED ABOUT 43 YEARS
W/O. SUBRAMANYAM
R/A. No. 27/4, COCONUT AVENUE
ROAD, YELLAPPA GARDEN
MALLESHWARAM
BANGALORE -- 560 003.
33. Smt. R KRISHNAVENI
W/O. K RANGANATH
AGED ABOUT 48 YEARS
R/A. No. 13, 5TH TEMPLE ROAD
SIDHDHANTHI BLOCK
MALLESHWARAM
BANGALORE – 560 003.
34. Sri. VENKATESH
S/O. RAMEGOWDA
AGED ABOUT 40 YEARS
R/A. No. 1047, 7TH CROSS
PIPELINE
MALLESHWARAM
BANGALORE – 560 003.

35. Sri. K PANDURANGAN
AGED ABOUT 65 YEARS
S/O. KESHAVAMURTHY
R/A. No. 110, 1ST CROSS
MILL QUARTERS
MALLESHWRAM
BANGALORE – 560 003.
36. Smt. SAROJAMMA
W/O. LATE M VENKATASWAMAPPA
AGED ABOUT 66 YEARS
R/A. No. 89, NEW MAIN MARKET
SAMPIGE ROAD
MALLESHWARAM
BANGALORE – 560 003.
37. Smt. LAKSHMAMMA
W/O. LATE YELLAPPA
AGED ABOUT 71 YEARS
R/A. No. 72, KANNAPPA HOUSE
C MAIN ROAD, PIPELINE
MALLESHWARAM
BANGALORE – 560 003.
38. Sri. K SUNDER
AGED ABOUT 44 YEARS
S/O. P KRISHNAPPA
R/A. No.21, 1ST MAIN ROAD
AAN BLOCK, NEAR MARAMMA TEMPLE
VYALIKAVAl, MALLESHWARAM
BANGALORE – 560 003.
39. J ANJALI
W/O. K JAYARAM
AGED ABOUT 40 YEARS

R/A. No. 27/1, 10TH CROSS
COCONUT AVENUE ROAD EAST
YELLAPPA GARDEN
MALLESHWARAM
BANGALORE – 560 003.

40. Smt. M LAKSHMI
W/O. KRISHNA
AGED ABOUT 50 YEARS
R/A. 403/2, 8TH CROSS
SAMPIGE ROAD
MALLESHWARAM
BANGALORE – 560 003.
41. Sri. GOVINDA @ GOVINDAPPA
S/O. BAGALUR MUNISHAMAPPA
AGED ABOUT 75 YEARS
R/A. No. 95, NEW No. 46, 1ST MAIN ROAD
8TH CROSS, MALLESHWARAM
BANGALORE – 560 003.
42. Sri. BHASKAR
S/O. NARASIMHALU NAIDU
AGED ABOUT 40 YEARS
R/A. No. 9, 11TH CROSS
VYALIKAVAJ, MALLESHWARAM
BANGALORE – 560 003.
43. Smt. N JAYAMMA
W/O. M NAGARAJA
AGED ABOUT 56 YEARS
R/A. No. 32/63, 11TH B CROSS
KODANDARAMAPURAM
MALLESHWARAM
BANGALORE – 560 003.

44. Smt. DHANALAKSHMI
W/O. LATE CHINNAPPA
AGED ABOUT 65 YEARS
R/A. No. 27/10
5TH TEMPLE ROAD
KONDANDARAMAPURAM
BANGALORE – 560 003.
45. Sri. P KRISHNAN
AGED ABOUT 56 YEARS
R/A. No. 27/10, 5TH TEMPLE
ROAD, KONDANDARAMAPURAM
BANGALORE – 560 003.
46. Sri. P KRISHNAN
AGED ABOUT 56 YEARS
S/O. PONNUSWAMY AND
Smt. PANCHAYAMMAL
R/A. No. 18, 11TH CROSS
J.C. NAGAR, KURUBARAHALLI
BANGALORE – 560 085.

... PETITIONERS

(BY Sri. K S DEVARAJ, ADV.)

AND :

1. STATE OF KARNATAKA
DEPT. OF URBAN DEVELOPMENT
VIKASA SOUDHA
BANGALORE – 01
REP. BY ITS SECRETARY.
2. BRUHATH BANGALORE
MAHANAGARA PALIKE
N R SQUARE

BANGALORE – 2
REP. BY ITS COMMISSIONER.

3. BANGALORE DEVELOPMENT
AUTHORITY, T. CHOWDAIAH
ROAD, KUMARA PARK WEST
BANGALORE – 560 020
REP. BY ITS COMMISSIONER.
4. EXECUTIVE ENGINEER
INFRASTRUCTURE DIVISION V
BANGALORE DEVELOPMENT
AUTHORITY, T. CHOWDAIAH
ROAD, KUMARA PARK WEST
BANGALORE – 560 020.
5. Sri. P VIJAYAKUMAR
FLAT No. 201, MARGOSA MANSION
No. 96, MARGOSA ROAD
MALLESHWARAM
BANGALORE – 560 003.
6. Sri. ASHWATHANARAYANA
MEMBER OF LEGISLATIVE
ASSEMBLY, MALLESHWARAM
CONSTITUENCY
AGED ABOUT 41 YEARS
S/O. T K NARAYANAPPA
R/A. No. 97/2, 4TH MAIN ROAD
11TH CROSS, MALLESHWARAM
BANGALORE – 560 003.
7. Sri. G MANJUNATH RAJU
AGED ABOUT 50 YEARS
CORPORATOR

KADU MALLESHWARA
 WARD No. 65, R/A. G-2
 4TH MAIN ROAD, GANESH
 RESIDENCY, MALLESHWARAM
 BANGALORE – 560 003.

8. THE ASST. REVENUE OFFICER
 (MARKETS – WEST)
 MALLESHWARAM
 BANGALORE – 560 003. ... RESPONDENTS

(BY Sri. N B VISHWANATH, AGA, FOR R-1
 Sri. K KRISHNA, ADV., FOR R-3 & 4
 Sri. D M NANJUNDA REDDY, Sr. COUNSEL FOR
 Sri. R SUBRAMANYA, ADV., FOR R-2 & 8
 Sri. H SHANTHI BHUSHAN, ADV., FOR R-6 & 7
 Sri. SAJJAN POOVAYYA, ADV., FOR R-5)

THESE WRIT PETITIONS ARE FILED UNDER
 ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA
 WITH A PRAYER TO QUASH THE COUNCIL RESOLUTION
 IN RESOLUTION No. 18/10-11 DATED 29.06.2010 AND ETC.

THESE WRIT PETITIONS COMING ON FOR ORDERS
 THIS DAY, THE COURT PASSED THE FOLLOWING;

ORDER

In these writ petitions the petitioners have prayed for a writ in
 the nature of certiorari to quash the resolutions dated 29.05.2010 –
 Annexure E and 26.08.2010 – Annexure F, the communication dated

02.11.2010 – Annexure G and temporary allotment letters dated 06.03.2013 as per Annexure N, P and Q and for other reliefs.

2. Petitioners contend that they are in occupation of different shops in the Malleshwaram market situated at Sampige Road, Malleshwaram, Bangalore city. The respondents have now passed the impugned resolutions for demolition and reconstruction of the entire Malleshwaram market and to build a multistoried vegetable and commercial complex. Consequently the respondents have issued the impugned notices to the petitioners to vacate the shops in their occupation and also offered alternative temporary accommodation to enable them to carry on their day to day business activity. It is assured that after completion of construction the licensees will be accommodated in the newly constructed complex. At this stage the petitioners who are in occupation of some of the shops in the Malleshwaram market are before this Court to quash the resolutions to demolish and build a new structure in the existing market place and the consequent letters, notices for eviction and rehabilitation.

3. After arguing for some time respondents filed a memo on 24.06.2013 inter alia contending that temporary shops are ready for occupation and they will accommodate the petitioners in the temporary shops except petitioner Nos. 7, 11, 14, 16, 19, 21, 25, 29, 30, 34 and 38 (in all 11 in number). Learned counsel for the petitioners submits that the petitioners to whom respondents have offered to allot alternative shops are agreeable to occupy the same and to vacate the shops in their occupation subject to this Court putting the respondents on some terms and to complete the rehabilitation process within a time frame. The submission of the learned counsel for the petitioners is placed on record.

4. Insofar as the 11 petitioners referred to above are concerned, admittedly they are in occupation of certain shops in the Malleshwaram market. The respondents contend that these 11 petitioners are not the original licensees. On the other hand learned counsel for the petitioners contend that under valid legal transfers

these 11 petitioners are in occupation of shops and a right is vested with them. Be that as it may. For the present it is necessary to rehabilitate these 11 petitioners also. Learned counsel for the respondent fairly submits that for the present they will accommodate these 11 petitioners also as a temporary measure. Further it is submitted that their claim for allotment of shops in the newly built commercial complex will be considered by examining the evidence that they will produce. In view of these submissions on both the side the following;

ORDER

- i. Writ petitions are hereby disposed off.
- ii. Respondents are hereby directed to allot the temporary shops for all the petitioners within two weeks from today.
- iii. The condition of temporary shops to be allotted to the petitioners shall be reasonable to occupy.
- iv. Immediately within one week from the date of allotment the petitioners shall vacate the present shops in their occupation and occupy the temporary shops offered by the respondents.

- v. Insofar as 11 petitioners, that is petitioner Nos. 7, 11, 14, 16, 19, 21, 25, 29, 30, 34 and 38 are concerned, they are entitled to approach the respondent authorities for allotment of new shops in the newly constructed vegetable and commercial complex by producing necessary evidence in support of their claim.
- vi. Respondents to consider the claim of these 11 petitioners and the evidence that they produce and pass appropriate orders in accordance with law. Ordered accordingly.

Sd/-
JUDGE.

LRS.