

**IN THE HIGH COURT OF KARNATAKA AT BANGALORE**

DATED THIS THE 5<sup>TH</sup> DAY OF AUGUST 2014

PRESENT

THE HON'BLE MR.D.H.WAGHELA, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE ASHOK B HINCHIGERI

WP No.17464/2013(GM-RES-PIL)

BETWEEN :

1. PEOPLE'S CAMPAIGN FOR RIGHT TO WATER-  
KARNATAKA  
HAVING ITS OFFICE AT NO.745,  
9<sup>TH</sup> CROSS, 7<sup>TH</sup> MAIN, RAJENDRA NAGAR  
BANGALORE-560047  
REP BY ITS CONVENOR  
SRI RAJENDRAN PRABHAKAR
2. SARAKKI LAKE AREA IMPROVEMENT TRUST  
BANGALORE,  
REP. BY ITS CHAIRMAN AND MANAGING TRUSTEE  
SHRI R.JAGANNATHAN, IPS,  
RETIRNED DIRECTOR GENERAL OF POLICE (GOK)  
S/O.SHRI R.RAGHAVACHARI  
R/O.NO.C-1009, BRIGADE GARDENIA  
J.P NAGAR, 7<sup>TH</sup> PHASE  
BANGALORE-560 078

... PETITIONERS

(By Sri CLIFTON D ROZARIO &  
Sri Y.HARIPRASAD, ADVS.)

AND :

1. STATE OF KARNATAKA  
REP BY ITS CHIEF SECRETARY  
VIDHANA SOUDHA  
BANGALORE 560 001
2. BRUHAT BENGALURU MAHANAGARA PALIKE  
REP BY ITS COMMISSIONER  
N R SQUARE,  
BANGALORE 560 002

3. LAKE DEVELOPMENT AUTHORITY  
2<sup>ND</sup> FLOOR, PARISARA BHAVAN  
NO 49, CHURCH STREET,  
BANGALORE 560 001  
REP BY ITS CHIEF EXECUTIVE OFFICER
4. BANGALORE DEVELOPMENT AUTHORITY  
REP BY ITS COMMISSIONER  
T CHOWDAIAH ROAD,  
BANGALORE 560 020
5. DEPARTMENT OF ECOLOGY  
ENVIRONMENT AND FORESTS  
REP BY ITS PRINCIPAL SECRETARY  
GOVERNMENT OF KARNATAKA  
MULTISTOREYED BUILDING  
BANGALORE 560 001
6. KARNATAKA STATE FOREST DEPARTMENT  
REP BY ITS PRINCIPAL CHIEF  
CONSERVATOR OF FORESTS  
ARANYA BHAVAN, 18<sup>TH</sup> CROSS, MALLESWARAM  
BANGALORE 560 003
7. KARNATAKA REVENUE DEPARTMENT  
REP BY THE TAHSILDAR  
BANGALORE SOUTH TALUK  
5<sup>TH</sup> FLOOR, KIDS KEMP  
K G ROAD,  
BANGALORE 560 009
8. BANGALORE WATER SUPPLY & SEWAGE BOARD  
CAUVERY BHAVAN,  
BANGALORE-560001  
THROUGH THE CHAIRMAN
9. MRS. N. ANASUYA  
W/O MR. JAYANNA  
AGED ABOUT 60 YEARS  
R/O NO. 3<sup>RD</sup> MAIN ROAD,  
PUTTENAHALLI, J.P. NAGAR, 6<sup>TH</sup> PHASE,  
BANGALORE-560078.
10. MRS. GEETHA  
W/O MR. SRINIVAS  
AGED ABOUT 47 YEARS  
R/O NO.B-1, RAMAPPA LAYOUT,  
7<sup>TH</sup> BLOCK, J.P. NAGAR,  
BANGALORE-560078.

11. MRS. KAMALAMMA  
W/O MR. MARRE GOWDA,  
AGED ABOUT 40 YEARS  
R/O NO.43, 2<sup>ND</sup> CROSS,  
SAHARADA NAGAR,  
CHUNCHA GHATTA ROAD,  
ROONAKUNNTTE POST,  
BANGALORE-560062.
12. MR. NAGARAJ  
S/O VENKATA SWAMI  
AGED ABOUT 49 YEARS  
R/O NO.112, 18<sup>TH</sup> C MAIN ROAD,  
J.P. NAGAR, II STAGE,  
BANGALORE-560078
13. MRS. LAKSHMAMMA  
W/O MR. ELVARTHI NARASA RAJU  
AGED ABOUT 47 YEARS  
R/O NO. 136, 9<sup>TH</sup> CROSS, K.R. LAYOUT,  
J.P. NAGAR, 6<sup>TH</sup> PHASE,  
BANGALORE-560078

... RESPONDENTS

(By Sri R.DEVDAS, PRL.G.A FOR R1,5-7  
Sri R.SUBRAMANYA, ADV. FOR R.2  
Sri H S.SACHIDANAND, ADV. FOR R.3  
Sri K.KRISHNA, ADV. FOR R.4  
Sri K.B.MONESH KUMAR, ADV. FOR R.8  
Sri K.KIRAN KUMAR, ADV. FOR R.9-13

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS TO TAKE ALL STEPS NECESSARY TO RESTORE SARAKKI LAKE TO ITS ORIGINAL STATUS AS PER REVENUE RECORDS WITH ALL PROMPTITUDE BY CLEARING ALL ENCROACHMENTS THEREON IN ACCORDANCE WITH LAW AND ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:

**ORDER**

***D.H.WAGHELA, C.J. (Oral) :***

**1.** This petition in the nature of public interest litigation is filed by the People's Campaign for Right to Water and Sarakki Lake Area Improvement Trust in respect of the water body known as 'Sarakki Lake' or as 'Jaraganahalli Lake', which is located in between 6<sup>th</sup> and 7<sup>th</sup> Phase, J.P. Nagar, Bangalore. It is stated to be under the management and control of the Bangalore Development Authority (BDA) and it was stated to be facing the risk of complete destruction due to solid waste disposal therein and numerous encroachments. As alleged in the petition, the area of lake has been reduced from 87 acres to 60 acres over a period of time and the water level in the lake has been consistently going down on account of complete neglect in the matter of rejuvenation of the water body. On these broad premises, the petitioners prayed for a direction to the respondents to take all necessary steps to restore Sarakki lake to its original status as per revenue records and to direct the respondents to protect and retain Sarakki lake as a common property and a place for the enjoyment of all the residents of Bangalore city.

**2.** During the pendency and hearing of the petition from time to time, various interim orders have been made. On 14.06.2013, it was noted that the Tahsildar concerned was seized of the matter and after fixing the boundaries of the Sarakki lake, he was required to handover possession of the lake to BDA for the purpose of development. Therefore, a direction was issued on that date to the Tahsildar concerned to survey the extent of lake, fix its boundaries and submit a report to this Court. On 26.08.2013, the Bangalore Water Supply and Sewerage Board (BWSSB) was impleaded as respondent No.8 and affidavit of the Tahsildar was taken on record. On the basis of certain recent photographs produced before the Court, it was found that despite several authorities being in charge of the lake, the problem of dumping of solid waste and encroachments was persisting. There was a clear admission on the part of the authorities that there were encroachments on the peripheral area of the lake, sewage water was let into the lake and there was dumping of garbage and solid waste by the contractors working for the Bruhat Bangalore Mahanagara Palike (BBMP), as a result of which, rejuvenation of the lake has become even more difficult. By that time, survey of the lake was completed and boundaries were fixed by the Tahsildar concerned. It was noticed that

appropriate action for de-weeding and desilting of the lake was necessary on the one hand and the sewage water entering the lake was required to be diverted as much as dumping of solid waste and garbage was required to be stopped. It was stated before this Court on 20.01.2014 that the Tahsildar concerned was required to issue approximately 200 notices in respect of alleged encroachments in the area which was originally covered by the lake. Pursuant to those notices, hearing has taken place on the one hand and on the other hand it was submitted for the petitioner No.2 that fresh encroachments were also being made. By that time the respondent Nos.9 to 13 had been impleaded on the basis of their plea that they were not encroaching upon the area of the lake. Due to the intervening general elections, the task before the Tahsildar was interrupted and adjournments had to be granted.

**3.** It is now submitted by learned Principal Government Advocate Mr.R.Devdas, appearing for the State, by filing a memo in that behalf, that the order dated 10.07.2014 is already made by the Tahsildar in Case No.NCR.CR.47/2013-14, whereby it is ordered that 135 respondents mentioned in the order should voluntarily remove/vacate their

encroachments and/or unauthorised occupation of the portion of lands in Sy.No.7 situated at Jaraganahalli, Sy.No.5 situated at Puttenahalli Village and Sy.No.26 – Sarakki Kere, which are all classified as 'Tank and Tankbed', failing which further course of action was ordered to be taken to evict the respondents therein from their occupation/encroachment as also to demolish the unauthorised constructions put up by them on the said lands. Pursuant to that order, notices in Form-47 under Rule 149A of the Karnataka Land Revenue Rules, 1966, are also issued to 135 persons/entities mentioned in the notice. These notices required the addressees to vacate the lands in their occupation within a week from the receipt of the notice. The addressees are put on the specific notice that if the addressees fail to deliver possession of the lands in question, further action will be taken to evict them from the portions of lands in question by demolishing the constructions put up by them and the expenditure that may be incurred for such purpose would be recovered from them as arrears of land revenue.

**4.** Learned Principal Government Advocate submitted that in view of the scale of operations required to be carried out for removal of illegal encroachments and the resistance likely to

be put up by the persons in illegal possession of lands and constructions put up thereon, it may be necessary to have the help of Police Department.

**5.** Learned counsel Mr.K.B.Monesh Kumar appearing for BWSSB submitted that the Sewerage Board has been allocated 1.05 guntas of land for the purpose of laying pipelines and pumping station near or around the lake, so as to prevent the sewage from entering into the lake and that the BWSSB is in authorized occupation of the land by virtue of communication dated 01.03.2014 of the Lake Development Authority, Bangalore. Barring such occupation of the land by BWSSB, no other party appears to have established its right, interest or title to any part of the tank or tankbed before the Tahsildar who was seized of the matter in the aforesaid Case No.NCR.CR.47/2013-14.

**6.** It was, however, submitted by learned counsel Mr.K.Kiran Kumar appearing for respondent Nos.9 to 13 that those respondents have material and documents to establish their right and title to occupy parcels of lands, which are covered by the order in the aforesaid case and notice of eviction dated 21.07.2014. He further submitted that several other parties have filed their applications for being impleaded

as respondents, with a view to demonstrate that they have some legal right, title or interest due to which they are not to be summarily and forcibly evicted pursuant to the notice of eviction. It was, however, fairly conceded that such of the respondents who have already joined the proceedings or the applicants in the other impleading applications cannot claim in this proceeding any declaration of their right after adjudication of the material they propose to base their claims on.

**7.** In the above facts and circumstances, the petition is required to be disposed on the basis of the statements which are made by learned counsel for the respondents. It is stated on behalf of the State Government by learned Principal Government Advocate that upon conclusion of the proceedings before the Tahsildar as aforesaid, all necessary action will be taken to remove the encroachment which is found to be illegal and unauthorised in terms of the aforesaid order in Case No.NCR.CR.47/2013-14 and in case of necessity, the Home Department will be requested to provide sufficient police force for carrying out the operation of forcible eviction. He further stated that except the land occupied by BWSSB for the purpose of protecting the lake from being filled with sewage water, the other parties or persons in illegal occupation of the

tank or tankbed of Sarakki lake will be evicted and the constructions thereon shall be demolished as far as may be, within a period of six weeks.

**8.** Learned counsel appearing for the BDA submitted that by now the lake is protected by laying fences on the boundary of the land to the extent of 725 mtrs. and as soon as the encroachments on the lake bed are removed, the remaining area shall also be covered and protected by proper fencing.

**9.** Learned counsel appearing for the Lake Development Authority also submitted that upon the sewerage system around the lake becoming operational, they will provide necessary consultation and assistance in bringing about rejuvenation of the lake and restore the position of the lake as a water body containing clean water and open space for the people in general and the residents of Bangalore in particular.

**10.** As for the contentions of respondent Nos. 9 to 13 and other applicants who have made applications for being impleaded in the present proceeding, it is clarified that if they are aggrieved by the aforesaid order dated 10.07.2014 of the Tahsildar, Bangalore and/or the notice of eviction dated 21.07.2014, they will be at liberty to challenge the same and

seek adjudication of their claims in appropriate proceedings.

**11.** Recording the aforesaid statements, to be read as directions of this Court, the petition is disposed in those terms, with no order as to cost. In view of this order, the interim applications made in the petition do not survive for consideration and hence they stand disposed accordingly.

Sd/-  
CHIEF JUSTICE

Sd/-  
JUDGE

*mv*