



**IN THE HIGH COURT OF KARNATAKA,
KALABURAGI BENCH
DATED THIS THE 27TH DAY OF FEBRUARY, 2025
PRESENT
THE HON'BLE MR JUSTICE S.SUNIL DUTT YADAV
AND
THE HON'BLE MR JUSTICE RAJESH RAI K
WRIT PETITION NO. 201276 OF 2024 (KLGP)**

BETWEEN:

TANAJI S/O BHIMAPPA MASUTHI
AGE: 54 YEARS, OCC: AGRICULTURE,
R/O. THORAVI VILLAGE,
TQ. & DIST. VIJAYAPURA – 586108.

...PETITIONER

(BY SRI SHIVASHANKAR H MANUR, ADVOCATE)

AND:

1. THE GOVERNMENT OF KARNATAKA
THROUGH ITS PRINCIPAL SECRETARY
DEPARTMENT OF HOME AFFAIRS & RURAL
DEVELOPMENT & PANCHAYAT RAJ DEPARTMENT
M S BUILDING, BANGALORE – 560001.
2. THE DEPUTY COMMISSIONER
VIJAYAPURA – 586101.
3. THE TAHSILDAR, TIKOTA,
DIST: VIJAYAPURA – 586101.
4. PANCHAYATH DEVELOPMENT OFFICER
GRAM PANCHAYAT COMMITTEE
TORAVI VILLAGE,
TQ. & DIST. VIJAYAPURA – 586108.

...RESPONDENTS

(BY SRI SHIVAKUMAR TENGLI, AGA FOR R1 TO R3)



THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO ISSUE A WRIT OR ORDER OR DIRECTION IN THE NATURE OF THE WRIT OF CERTIORARI TO QUASH THE IMPUGNED ORDER 10-10-2023 INCLUDING ENTIRE PROCEEDINGS IN LGC (G) NO. 8251/2021 PASSED BY THE KARNATAKA LAND GRABBING PROHIBITION SPECIAL COURT, 3RD FLOOR, KANDAYA BHAVANA, KEMPEGOWGA ROAD, BENGALURU, VIDE ANNEXURE-A; ANY OTHER ORDER OR DIRECTION AS DEEMS FIT MAY BE GRANTED, IN THE INTEREST OF JUSTICE AND EQUITY. INTERIM PRAYER THE HONOURABLE COURT MAY BE PLEASED TO STAY ALL FURTHER PROCEEDINGS PURSUANT TO THE IMPUGNED ORDER DATED 10-10-2023 VIDE ANNEXURE-A, PENDING BEFORE THE KARNATAKA LAND GRABBING PROHIBITION SPECIAL COURT, 3RD FLOOR, KANDAYA BHAVANA, KEMPEGOWGA ROAD, BENGALURU, IN LGC (G) NO. 8251/2021, PENDING DISPOSAL OF THIS WRIT PETITION.

THIS PETITION, COMING ON FOR ORDERS, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MR JUSTICE S.SUNIL DUTT YADAV
AND
HON'BLE MR JUSTICE RAJESH RAI K

ORAL ORDER

(PER: HON'BLE MR JUSTICE RAJESH RAI K.,)

The petitioner, in this writ petition, has called-in-question the legality and correctness of the order passed by the Karnataka Land Grabbing Prohibition Special Court (hereinafter referred to as 'the Special Court'), whereby the Special Court has taken cognizance against the petitioner i.e., respondent/accused therein for the offences punishable under



Sections 4 and 5 of the Karnataka Land Grabbing Prohibition Act, 2011 (for short 'the Act') and issued summons against him in L.G.C.(G) No.8251/2021.

2. The facts that are apposite for consideration as borne out from the pleadings are as follows:

A complaint has been lodged by respondent No.3 i.e., the Tahsildar, Tikota, Vijayapur District under Section 9(1) of the Karnataka Land Grabbing Prohibition Act, 2011 against petitioner before the Special Court, alleging that the petitioner has grabbed Government land in Sy.No.11/* /K to an extent of 0.04 guntas of Thoravi village, Tikota Taluk, Vijaypur District. Accordingly, a case has been registered in L.G.C.(G) No.8251/2021 before the Special Court against the petitioner. The Special Court, after obtaining necessary report from respondent No.3-Tahsildar, took cognizance of the offences punishable under Sections 4 and 5 of the Act and issued summons to the accused. The said order is challenged in this petition.



3. We have heard the learned counsel Sri Shivashankar H Manur for the petitioner and learned AGA Sri Shivakumar Tengli for respondents No.1 to 3.

4. The primary contention of the learned counsel for the petitioner that the complaint and report filed by the Tahsildar that the petitioner/accused has committed the offence under the Act is factually incorrect since the land in question is situated more than 13-14 kilometers from Tikota Town Panchayat. As such, as per the provisions of Section 2(d)(i) of the Act, the same does not come within the purview of Sections 4 and 5 of the Act. Accordingly, he prays to quash the order passed by the Special Court.

5. *Per contra*, learned AGA submits that the Special Court after considering the report filed by the complainant-Tahsildar and upon hearing the accused, took cognizance against him for the offences punishable under Sections 4 and 5 of the Act. As such, the veracity of the complaint has to be tested in a detailed trial before the Special Court. Accordingly, he prays to dismiss the petition.



6. We have carefully perused the material placed before us including the impugned order passed by the Special Court.

7. On perusal of the same, the Special Court has passed an order dated 10.10.2023 as under:

"Respondent absent.

"Learned counsel respondent is absent. for the

Report from Tahsildar, Thikota dated 21.07.2023 received through post.

In the said report it is stated that Sy.No.11/ /K of Thoravi village is at a distance of 1.00(one) kms. from Thikota pattana panchayath.*

By taking into consideration the report filed and the schedule land is within the notified jurisdiction as per the notification dated 13.10.2022 and this court gets jurisdiction to try the case.

Perused the complaint produced. contents of the and the documents

In the complaint, it is alleged that respondent has encroached 4 guntas of Government land constructed a Hotel in Sy.No.11/ /K of Thoravi village and thereby he has committed an offence punishable u/s 4 and 5 of K.L.G.P. Act.*



On perusal of the documents there is a prima facie material as against the respondent to take cognizance for the said offences.

Hence, we pass following:

ORDER

Cognizance for the offence punishable under Section 4 and 5 of the Karnataka Land Grabbing Prohibition Act, 2011, is taken against Respondent.

Hereinafter Respondent shall be called as "Accused".

Office is directed to notify on the notice board for having taken cognizance as against Accused under Section 9(7) of the K.L.G.P. Act.

Issue summons to the accused through PSI, Thikota police station and call on 20.12.2023."

8. Though the factual aspects were disputed by the learned counsel for the petitioner that the land in question is situated within a distance of 13 kilometers from the Town Municipal Authority by relying Annexure-'E', nevertheless, the report of the Tahsildar discloses that the land-in-question is situated within the radius of one kilometer from the Tikota Town Panchayat. As such, we are unable to accept the contention raised by the learned counsel for the petitioner for the simple reason that those factual assertion has to be



clarified by the Special Court after a detailed perusal of the documents.

9. In that view of the matter, we decline to interfere in the impugned order; however, the petitioner is at liberty to urge all his contention before the Authority by placing the relevant documents. In that view of the matter, the petition lacks merit and the same is ***dismissed***.

It is needless to mention, the findings of the Special Court in respect of taking cognizance is subject to re-consideration after perusal of the entire documents produced by both the parties during the subsequent proceedings.

**Sd/-
(S.SUNIL DUTT YADAV)
JUDGE**

**Sd/-
(RAJESH RAI K)
JUDGE**

HKV
List No.: 1 Sl No.: 12
CT: PS