IN THE HIGH COURT OF KARNATAKA

KALABURAGI BENCH

DATED THIS THE 18TH DAY OF DECEMBER, 2023

PRESENT

THE HON'BLE MR. JUSTICE R.DEVDAS

AND

THE HON'BLE MR. JUSTICE C M JOSHI

CIVIL CONTEMPT PETITION NO. 200179 OF 2023
C/W
CIVIL CONTEMPT PETITION NO. 200178 OF 2023
WRIT APPEAL NO. 200188 OF 2023
WRIT APPEAL NO. 200189 OF 2023

IN C.C.C.NO.200179 OF 2023

BETWEEN:

1. SRI. RAMACHANDRASA
(SINCE DECEASED BY HIS LR.)

SMT. RAMABAI
W/O RAMACHANDRASA
SINCE DECEASED BY HER LRS.,

1A) SRI. NARAYANRAO PAWAR
S/O RAMACHANDRASA PAWAR,
AGED ABOUT 72 YEARS,
OCC: BUSINESS,

1B) SMT. SHOBHA PAWAR
W/O NARAYANRAO PAWAR,
AGED ABOUT 73 YEARS,
OCC: H.H.WORK

1C) SRI. NARASIMAH PAWAR
S/O NARAYANRAO PAWAR,
AGED ABOUT 34 YEARS,

Digitally signed by VARSHA N RASALKAR
Location: HIGH COURT OF KARNATAKA

ALL ARE R/O H.NO.32/33,
KALE LAYOUT, OPP. FIRE STATION,
KALABURAGI.

…COMPLAINANTS

(BY SRI PRABHULING K. NAVADAGI, SENIOR COUNSEL FOR
SMT. RATNA N. SHIVAYOGIMATH, ADVOCATE)

AND:

1. SRI. RAKESH SINGH, IAS
THE PRINCIPAL SECRETARY,
DEPT. OF URBAN DEVELOPMENT,
M.S. BUILDING, BENGALURU - 01.

2. MS. FOUZIA TARANUM, IAS
THE DEPUTY COMMISSIONER,
THE PRESIDENT,
SUPER MARKET COMMITTEE,
MINI VIDHANA SOUDHA,
STATION ROAD,
KALABURAGI – 585 101.

3. MALLIKARJUN H.
THE SECRETARY,
SUPER MARKET COMMITTEE,
AND THE EXECUTIVE ENGINEER,
PWD, GULBARGA DIVISION,
KALABURAGI – 585 101.

…ACCUSED / RESPONDENTS

4. THE PRINCIPAL SECRETARY
DEPT., OF URBAN DEVELOPMENT,
M.S. BUILDING, BENGALURU.

…PROFORMA PARTY

(BY SRI MALHAR RAO, AAG AND
SRI MALLIKARJUN C.BASAREDDY, GA FOR
A/R-1, A/R-2 & A/R-4;
SRI SHIVAKUMAR R. TENGLI, ADVOCATE FOR A/R-3)

THIS CCC IS FILED UNDER SECTIONS 11 AND 12 OF THE CONTEMPT OF COURT ACT-1971 READ WITH ARTICLE 215 OF THE CONSTITUTION OF INDIA, PRAYING TO INITIATE CONTEMPT OF COURT PROCEEDINGS AGAINST THE ACCUSED FOR DISOBEDIENCE AND DISRESPECTING THE ORDER DATED 02.02.2023 IN W.P.NO.86810/2012 (GM-RES), VIDE ANNEXURE-A.

IN C.C.C.NO.200178 OF 2023

BETWEEN:

1. SRI. RAMANANDSA
   S/O VEERANNASA BASUDE
   (SINCE DECEASED BY HIS LR.)

1A) SRI VIVEKANAND BASUDE
   S/O RAMANANDSA BASUDE
   AGED ABOUT 69 YEARS
   OCC: BUSINESS
   R/O H.NO.1-867/13/GF
   RAMSARAS KRUPA
   VENKATESH NAGAR
   UNICORN GRAND APARTMENT
   KALABURAGI - 585 102.

…COMPLAINANTS

(BY SRI PRABHULING K. NAVADAGI, SENIOR COUNSEL FOR SMT. RATNA N. SHIVAYOGIMATH, ADVOCATE)

AND:

1. SRI. RAKESH SINGH, IAS
   THE PRINCIPAL SECRETARY
   DEPT. OF URBAN DEVELOPMENT
   M.S. BUILDING, BENGALURU - 01.

2. MS. FOUZIA TARANUM, IAS
THE DEPUTY COMMISSIONER
THE PRESIDENT
SUPER MARKET COMMITTEE
MINI VIDHANA SOUDHA
STATION ROAD
KALABURAGI – 585 101.

3. MALLIKARJUN H.
THE SECRETARY,
SUPER MARKET COMMITTEE,
AND THE EXECUTIVE ENGINEER,
PWD, GULBARGA DIVISION,
KALABURAGI – 585 101.

…ACCUSED / RESPONDENTS

4. THE PRINCIPAL SECRETARY
DEPT., OF URBAN DEVELOPMENT,
M.S. BUILDING, BENGALURU.

…PROFORMA PARTY

(BY SRI MALHAR RAO, AAG AND
SRI MALLIKARJUN C. BASAREDDY, GA FOR A/R-1 & A/R-2
SRI SHIVAKUMAR R. TENGLI, ADVOCATE FOR A/R-3)

THIS CCC IS FILED UNDER SECTIONS 11 AND 12 OF THE CONTEMPT OF COURT ACT-1971 READ WITH ARTICLE 215 OF THE CONSTITUTION OF INDIA, PRAYING TO INITIATE CONTEMPT OF COURT PROCEEDINGS AGAINST THE ACCUSED FOR DISOBEDIENCE AND DISRESPECTING THE ORDER DATED 02.02.2023 IN W.P.NO.85572/2012 (GM-RES), VIDE ANNEXURE-A.

IN W.A.NO.200188 OF 2023

BETWEEN:

1. THE STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF HOUSING &

URBAN DEVELOPMENT
M.S. BUILDING,
BENGALURU - 560 001.

2. THE SUPER MARKET COMMITTEE
OFFICE OF DEPUTY COMMISSIONER
MINI VIDHAN SOUDHA
STATION ROAD,
KALABURAGI - 585 101
BY ITS PRESIDENT

3. THE SECRETARY
SUPER MARKET COMMITTEE
OFFICE OF EXECUTIVE ENGINEER
PWD, KALABURAGI DIVISION
KALABURAGI - 585 101.

...APPELLANTS

(BY SRI MALHAR RAO, AAG AND
SRI MALLIKARJUN C. BASAREDDY, GOVT. ADVOCATE)

AND:

SRI. RAMCHANDRASA
(SINCE DECEASED BY HIS LR.)

1. SMT. RAMA BAI
W/O RAMCHANDRASA PAWAR
AGE: 80 YEARS,
OCC: HOUSEHOLD
R/O SARAF BAZAR,
KALABURAGI - 585 101.

2. SRI. NARAYANRAO PAWAR
S/O RAMCHADRASA PAWAR
AGE: 61 YEARS, OCC: BUSINESS,
R/O. H.NO.32/33, KALE LAYOUT
OPP. FIRE STATION, KALABURAGI

3. SMT. SHOBHA PAWAR
S/O DATTARAY PAWAR

AGE: 62 YEARS, OCC: HOUSEHOLD,
R/O. H.NO.32/33, KALE LAYOUT
OPP. FIRE STATION, KALABURAGI

4. SRI. NARASIMAH PAWAR
S/O NARAYANRAO PAWAR,
AGE: 23 YEARS, OCC: STUDENT
R/O H.NO.32/33,
KALE LAYOUT, OPP. FIRE STATION,
KALABURAGI.

.....RESPONDENTS

(BY SMT. RATNA N. SHIVAYOGIMATH, ADV., FOR R1 TO R4)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE HIGH COURT ACT-1961, PRAYING TO CALL FOR RECORDS AND SET ASIDE THE ORDER OF THE LEARNED SINGLE JUDGE DATED 02.02.2023 PASSED IN WRIT PETITION NO.86810/2012 (GM-RES).

IN W.A.NO.200189 OF 2023

BETWEEN:

1. THE STATE OF KARNATAKA
BY ITS PRINCIPAL SECRETARY
DEPARTMENT OF HOUSING &
URBAN DEVELOPMENT
M.S. BUILDING,
BENGALURU - 560 001.

2. THE SUPER MARKET COMMITTEE
OFFICE OF DEPUTY COMMISSIONER
MINI VIDHAN SOUDHA
STATION ROAD,
KALABURAGI - 585 101
BY ITS PRESIDENT

3 THE SECRETARY
SUPER MARKET COMMITTEE
OFFICE OF EXECUTIVE ENGINEER
PWD, KALABURAGI DIVISION
KALABURAGI - 585 101.

…APPELLANTS

(BY SRI MALHAR RAO, AAG AND
SRI MALLIKARJUN C. BASAREDDY, GOVT. ADVOCATE)

AND:

SRI. RAMANANDSA
S/O VEERANNASA BASUDE,
(SINCE DECEASED BY HIS LR.)

1. VIVEKANAND BASUDE
S/O RAMANANDSA BASUDE
AGE: 58 YEARS, OCC: BUSINESS
R/O H.NO.1-867/13/GF
RAMSARAS KRUPA
VENKATESH NAGAR
UNICORN GRANT APARTMENT
KALABURAGI - 585 102.

…..RESPONDENT

(BY SMT. RATNA N. SHIVAYOGIMATH, ADVOCATE)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF THE HIGH COURT ACT 1961, PRAYING TO CALL FOR RECORDS AND SET ASIDE THE ORDER OF THE LEARNED SINGLE JUDGE DATED 02.02.2023 PASSED IN WRIT PETITION NO.85572/2012 (GM-RES).

THESE CCCs AND WRIT APPEALS ARE COMING ON FOR ORDERS THIS DAY, ***R.DEVDAS J.,*** MADE THE FOLLOWING:

ORDER

R. DEVDAS J., (ORAL):

The parties are referred to as per their ranking before the writ petitions. Since these two contempt petitions are filed by the petitioners/complainants and these appeals are preferred by the respondent-State against the order dated 02.02.2023 passed by the learned Single Judge in W.P.No.86810/2012 C/w W.P.No.85572/2012, these appeals and contempt petitions are heard and disposed of by this common order.

2. The petitioners/complainants herein had approached the learned Single Judge seeking a direction to the respondent authorities to consider the representations given by the petitioners for allotment of alternative sites in the Super Market Area. The undisputed facts are that the petitioners had participated in an open auction conducted by the respondent authorities during the year 1988-89. The petitioners had paid the entire sale consideration

immediately after their bid was accepted by the respondent authorities. It is not disputed that a sum of Rs.1,25,000/- and Rs.1,34,000/- respectively were paid by the petitioners for a plot measuring 20x40 sq.ft. in the year 1988. However, there were some objections raised subsequently that the plots fell within the prohibited zone of the archaeological sites and remains and therefore, the petitioners were not put in possession of the properties and therefore, they were not able to develop the properties. Thereafter, the petitioners gave several representations to the respondent authorities for allotment of alternative sites in view of the peculiar facts and circumstances. The said representations not having been considered, the petitioners were forced to approach this Court.

3. During the course of the proceedings before the learned Single Judge, various information were placed before the learned Single Judge including the affidavits of

the petitioners stating that they had identified alternative plots, but it was told to them that the sites measured 30x40 sq.ft. and the value of the same as on the date when the affidavits were filed i.e., on 02.02.2023 was Rs.4,924/- per sq.ft. In terms of the said calculation, the value of 30x40 sq.ft. site in the Super Market Area would be Rs.59,08,800/- and the petitioners in W.P.No.86810/2012 came forward to pay the difference amount of Rs.57,83,800/- and the petitioner in W.P.No.85572/2012 came forward to pay the difference amount of Rs.57,74,800/- deducting a sum of Rs.1,25,000/- and Rs.1,34,000/- respectively which was already paid in the year 1988. The learned Single Judge recorded the submissions made on behalf of the respondent authorities that if the petitioners are willing to pay the difference amount for allotment of alternative sites then, the respondents are willing to allot the alternative sites to the petitioners. It has been recorded in the order impugned that the offer made by the respondents was

accepted by the petitioners and the petitioners undertook to pay the difference amount in terms of the affidavits filed by them before the Court. Consequently, the learned Single Judge proceeded to pass the impugned order recording that the petitioners have undertaken to pay the difference amount as undertaken in the affidavits and it was directed that the petitioners shall pay the said amount within a period of two weeks from the date of the order. The respondents were directed to receive the said amount and execute necessary documents in favour of the petitioners within a period of 30 days from the date of receipt of the amount at the hands of the petitioners.

4. The respondent-State, the Committee of the Super Market Area have filed appeals raising various grounds *inter alia* but pressing on the ground that the petitioners had given a representation to the concerned Minister on 06.02.2012 accepting the fact that there is a great difference in the market value of the property which

was allotted to the petitioners and the sites proposed to be allotted to the petitioners. They undertook to pay the difference of the value of the properties and therefore, the learned Additional Advocate General submitted that when the petitioners themselves have accepted and undertaken before the concerned Minister that they would pay the difference amount of the sital value, they should be asked to pay the difference of the sital value having regard to the substantial increase in the market value of the properties which is proposed to be allotted to the petitioners.

5. *Per contra*, learned Senior Counsel, Sri.Prabhuling K. Navadagi, appearing on behalf of the petitioners would submit that the writ appeals filed at the hands of the respondent-State and the Super Market Committee is not maintainable since the impugned order has been passed on the basis of a settlement arrived at between the parties and concession made by the

respondent-State. The learned Senior Counsel would therefore submit that it is a settled position of law that if an order has been passed by the Court on the basis of a settlement between the parties or a compromise, no appeal would lie against such orders. Moreover, it is submitted that the writ petitioners had given an undertaking before the concerned Minister and therefore, they should be bound by that, is a contention which was required to be brought to the notice of the learned Single Judge and it cannot be permitted that such contentions be raised in a contempt proceedings or an appeal proceedings before this Court.

6. Having heard the learned Senior Counsel for the complainants, learned Additional Advocate General for the respondent-State and the learned Counsel for Super Market Committee and on perusing the appeal papers, this Court is of the considered opinion that the impugned order passed by the learned Single Judge is on the basis of

acceptance of the offer made by the petitioners in their respective affidavits. If the State and the Super Market Committee were not inclined to accept the offer made by the petitioners, then such objections should have been raised before the learned Single Judge. During the course of these proceedings, this Court had recorded the submission of the learned Counsel for the petitioners/complainants, on the basis of certain objections sought to be raised at the hands of the State and its authorities that a 30x40 sq.ft. site cannot be allotted to the writ petitioners, since what was allotted to them was only a 20x40 sq.ft. site, we had directed that if that is the contention then the respondents are required to allot the alternative sites measuring 20x40 sq.ft. to the petitioners/complainants. However, since it was undertaken by the writ petitioners/complainants that they were prepared to pay a sum of Rs.57,83,800/- and Rs.57,74,800/- as difference amount for 30x40 sq.ft. site, we had directed the respondent authorities to reconsider

the same. Now that the State and the Super Market Committee are of the opinion that the market value of 30x40 sq.ft. site in the Super market Area which is sought to be allotted to the petitioners would be of a very greater value and they are not in a position to allot the same, we are constrained to hold that the State and the Super Market Committee is bound to allot the alternative site measuring 20x40 sq.ft. site to the petitioners/complainants.

7. With this we dispose of the writ appeals, once again directing the State and the Super Market Committee to allot sites measuring 20x40 sq.ft. in the Super Market area to the writ petitioners/complainants as expeditiously as possible and at any rate, within a period of four weeks from the date of receipt of copy of this order.

8. It is made clear that no additional costs or value is required to be paid by the petitioners/complainants for such allotment.

9. Accordingly, contempt petitions are also disposed of.

10. Liberty is reserved to the complainants to revive the contempt petitions, if the orders passed by this Court are not complied with.

Sd/-
JUDGE

Sd/-
JUDGE

VNR
CT:VK
List No.: 1 Sl No.: 28