



CNR: KAHC020199292026

NC: 2026:KHC-D:17585
WP No. 108899 of 2026
C/W WP No. 108901 of 2026
WP No. 108902 of 2026
AND 9 OTHERS

IN THE HIGH COURT OF KARNATAKA AT DHARWAD

DATED THIS THE 28TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MR. JUSTICE T.M.NADAF

WRIT PETITION NO.108899 OF 2026 (LB-RES)

C/W

WRIT PETITION NO.108901 OF 2026 (LB-RES)

WRIT PETITION NO.108902 OF 2026 (LB-RES)

WRIT PETITION NO.108903 OF 2026 (LB-RES)

WRIT PETITION NO.108904 OF 2026 (LB-RES)

WRIT PETITION NO.108905 OF 2026 (LB-RES)

WRIT PETITION NO.108906 OF 2026 (LB-RES)

WRIT PETITION NO.108907 OF 2026 (LB-RES)

WRIT PETITION NO.108908 OF 2026 (LB-RES)

WRIT PETITION NO.108909 OF 2026 (LB-RES)

WRIT PETITION NO.108910 OF 2026 (LB-RES)

WRIT PETITION NO.108911 OF 2026 (LB-RES)

IN WP NO.108899/2026
BETWEEN:

SHRI. SHIVKUMAR VASANT UMARANI,
AGE. 58 YEARS, OCC. BUSINESS,
R/O. SHOP NO.1, NEHRU COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT
TOWN MUNICIPAL COUNCIL,

Digitally signed by
THEJAS KUMAR N
Location: High
Court of Karnataka,
Dharwad Bench



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ATHANI-591304, ATHANI, DIST. BELAGAVI.

2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI-591304, ATHANI,
DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO 1) ISSUE A WRIT OF CERTIORARI AND QUASH THE IMPUGNED AUCTION NOTIFICATION DATED 06.10.2026 PUBLISHED IN DAILY NEWSPAPER VIJAYAWANI DATED 09-10-2026 VIDE ANNEXURE-D, BEARING NO.KRA-SAM.PUSA.KANDAYA:2026-27 RELATING TO THE SHOP NO.1, NEHRU COMMERCIAL COMPLEX, ATHANI IN THE INTEREST OF JUSTICE AND EQUITY, 2) ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO CONTINUE THE LEASE IN FAVOUR OF THE PETITIONER RELATING TO SHOP NO.G-1, NEHRU COMMERCIAL COMPLEX, ATHANI. 3) ISSUE ANY OTHER WRIT, ORDER OR DIRECTION TO WHICH THE PETITIONER IS FOUND ENTITLED TO IN THE PRESENT FACTS AND GROUNDS.

IN WP NO.108901/2026
BETWEEN:

ARUDHA JYOTI URBAN CO-OP. BANK, ATHANI,
R/BY MANAGER SIDRAY S/O. BASAPPA SHIRAGAR,
AGE. 53 YEARS, OCC. SERVICE,
R/O. SHOP NO.11 AND 12, NEHRU COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,



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TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS

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IN WP NO.108902/2026
BETWEEN:

SHRI. HAMIJA @ AMIRHAMAJA
HASIMSAB SATBACHHE,
AGE. 65 YEARS, OCC. BUSINESS,
R/O. SHOP NO.G-10, NEHRU COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS



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IN WP NO.108903/2026

BETWEEN:

SHRI. APPASAHEB GURUPADAPPA KUMBAR,
AGE. 64 YEARS, OCC. BUSINESS,
R/O. SHOP NO.G-8, NEHRU COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND



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227 OF THE CONSTITUTION OF INDIA, PRAYING TO 1) ISSUE A WRIT OF CERTIORARI AND QUASH THE IMPUGNED AUCTION NOTIFICATION DATED 06.10.2026 PUBLISHED IN DAILY NEWSPAPER VIJAYAWANI DATED 09-10-2026 BEARING NO. ಕ್ರ.ಸಂ:ಪುಸಲ:ಕಂದಾಯ 2026-27 VIDE ANNEXURE-D, RELATING TO THE SHOP NO.G-8, NEHRU COMMERCIAL COMPLEX, ATHANI IN THE INTEREST OF JUSTICE AND EQUITY. 2) ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO CONTINUE THE LEASE IN FAVOUR OF THE PETITIONER RELATING TO SHOP NO.G-8, NEHRU COMMERCIAL COMPLEX, ATHANI, 3) ISSUE ANY OTHER WRIT, ORDER OR DIRECTION TO WHICH THE PETITIONER IS FOUND ENTITLED TO IN THE PRESENT FACTS AND GROUNDS.

IN WP NO.108904/2026
BETWEEN:

SHRI. SHAMALAL S/O. DAULATRAO KALATARI,
AGE. 75 YEARS, OCC. BUSINESS,
R/O. SHOP NO.G-3, BASAVA COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304, DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304, DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

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THE SHOP NO.G-3, IN BASAVA COMMERCIAL COMPLEX, NEAR DR. AMBEDKAR CIRCLE, ATHANI IN THE INTEREST OF JUSTICE AND EQUITY, 2) ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO CONTINUE THE LEASE IN FAVOUR OF THE PETITIONER RELATING TO SHOP NO. G-3, BASAVA COMMERCIAL COMPLEX, NEAR DR. AMBEDKAR CIRCLE, ATHANI, 3) ISSUE ANY OTHER WRIT, ORDER OR DIRECTION TO WHICH THE PETITIONER IS FOUND ENTITLED TO IN THE PRESENT FACTS AND GROUNDS.

IN WP NO.108905/2026
BETWEEN:

SHRI. MUNIR S/O. ANWAR BHAGWAN,
AGE. 52 YEARS, OCC. BUSINESS,
R/O. SHOP NO.G-3, NEHRU COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO 1) ISSUE A WRIT OF CERTIORARI AND QUASH THE IMPUGNED AUCTION NOTIFICATION DATED 06.10.2026 PUBLISHED IN DAILY NEWSPAPER VIJAYAWANI DATED 09-10-2026 VIDE ANNEXURE-B RELATING TO THE SHOP NO.G-3, NEHRU COMPLEX, ATHANI IN THE INTEREST OF JUSTICE AND EQUITY, 2) ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO CONTINUE THE LEASE IN FAVOUR OF THE PETITIONER RELATING TO SHOP



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NO.G-3, NEHRU COMMERCIAL COMPLEX, ATHANI, 3) ISSUE ANY OTHER WRIT, ORDER OR DIRECTION TO WHICH THE PETITIONER IS FOUND ENTITLED TO IN THE PRESENT FACTS AND GROUNDS.

IN WP NO.108906/2026
BETWEEN:

1. SHRI. MALLINATH SHANTINATH MUDDEBIHAL,
AGE. 46 YEARS, OCC. BUSINESS,
R/O. SHOP NO.G-1, BASAVA COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.
2. SHRI. KUMAR S/O. KRISHNAPPA PATTAR,
AGE. 45 YEARS, OCC. BUSINESS,
R/O. SHOP NO.G-1, BASAVA COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONERS

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

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EQUITY, 2) ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO CONTINUE THE LEASE IN FAVOUR OF THE PETITIONER RELATING TO SHOP NO.G-1, BASAVA COMMERCIAL COMPLEX, DR. AMBEDKAR CIRCLE, ATHANI, 3) ISSUE ANY OTHER WRIT, ORDER OR DIRECTION TO WHICH THE PETITIONER IS FOUND ENTITLED TO IN THE PRESENT FACTS AND GROUNDS.

IN WP NO.108907/2026
BETWEEN:

SHRI. RAJKUMAR S/O. TULASIDAS BAMANE,
AGE. 55 YEARS, OCC. BUSINESS,
R/O. SHOP NO.G-9, NEHRU COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO 1) ISSUE A WRIT OF CERTIORARI AND QUASH THE IMPUGNED AUCTION NOTIFICATION DATED 06.10.2026 PUBLISHED IN DAILY NEWSPAPER VIJAYAWANI DATED 09-10-2026 BEARING NO.ಕೃ.ಸಂ:ಪುಸಅ:ಕಂದಾಯ 2026-27 VIDE ANNEXURE-D, RELATING TO THE SHOP NO.G-9, NEHRU COMMERCIAL COMPLEX, ATHANI IN THE INTEREST OF JUSTICE AND EQUITY, 2) ISSUE A WRIT OF MANDAMUS DIRECTING THE RESPONDENTS TO CONTINUE THE



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LEASE IN FAVOUR OF THE PETITIONER RELATING TO SHOP NO.G-9, NEHRU COMMERCIAL COMPLEX, ATHANI, 3) ISSUE ANY OTHER WRIT, ORDER OR DIRECTION TO WHICH THE PETITIONER IS FOUND ENTITLED TO IN THE PRESENT FACTS AND GROUNDS.

IN WP NO.108908/2026
BETWEEN:

SMT. SHAILAJA W/O. MAHADEV NAIK,
AGE. 46 YEARS, OCC. BUSINESS,
R/O. SHOP NO.G-4, NEHRU COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

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AND GROUNDS.

IN WP NO.108909/2026

BETWEEN:

SHRI. MAHADEV S/O. BHIMAPPA NAIK,
AGE. 54 YEARS, OCC. BUSINESS,
R/O. SHOP NO.G-7, NEHRU COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

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IN WP NO.108910/2026
BETWEEN:

SHRI. NARAYAN S/O. PRALHAD GUNDA,
AGE. 64 YEARS, OCC. BUSINESS,
R/O. SHOP NO.5, BASAVA COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

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IN WP NO.108911/2026
BETWEEN:

SHRI. RAJU S/O. PARASMAL RATHOD,
AGE. 52 YEARS, OCC. BUSINESS,
R/O. SHOP NO.4, BASAVA COMMERCIAL COMPLEX,
NEAR DR. AMBEDKAR CIRCLE, ATHANI, DIST. BELAGAVI.

...PETITIONER

(BY SRI. SANGRAM S.KULKARNI, ADVOCATE)

AND:

1. THE PRESIDENT,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.
2. THE CHIEF OFFICER,
TOWN MUNICIPAL COUNCIL,
ATHANI, ATHANI-591304,
DIST. BELAGAVI.

...RESPONDENTS

(BY SRI. ARAVIND D.KULKARNI, ADVOCATE FOR R1 AND R2)

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THESE WRIT PETITIONS, COMING ON FOR PRELIMINARY HEARING, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:



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CORAM: HON'BLE MR. JUSTICE T.M.NADAF

ORAL ORDER

Heard, Sri.Sangram S.Kulkarni, learned counsel appearing for the petitioner and Sri.Aravind D.Kulkarni, learned counsel appearing for the respondents, in all the petitions.

2. These Writs Petitions are filed seeking a Writ of Certiorari to quash the impugned Auction Notification dated 06.10.2026 ಕ್ರ.ಸಂ.:ಪುಸ-ಅ:ಕಂದಾಯ 2026-27 published in Daily Newspaper, Vijayawani dated 09.10.2026, relating to respective Shop of the petitioners and also a Writ of Mandamus directing the respondents to continue the lease in favor of the petitioner relating to respective Shop of the petitioners.

3. Brief facts leading to file these Writ Petitions are as under:



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- 3.1 The petitioners were allotted with respective shops as Licensees in the shopping complexes belonging to the respondent authorities.
- 3.2 As per the petitioners, the lease executed in favor of the petitioners expired in the year 2010. Thereafter, on one or the other pretext, the petitioners continued in the premises by paying rents to the respondents. In other words, the petitioners continued in the premises as tenants by holding over.
- 3.3 In the meanwhile, the petitioners approached the Civil Court by filing separate suits seeking permanent injunction against the respondents, restraining the respondents from dispossessing them from the premises without due process of law. The suits are pending consideration. However, no interim order has been granted in those suits.
- 3.4 It is the case of the petitioners that, on the earlier occasion, Auction Notification came to be issued on



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03.07.2025. Against which, the petitioners approached this Court by filing several Writ Petitions. At the first instance, the Coordinate Bench of this Court granted interim order and subsequently disposed of all the Writ Petitions, holding that due to efflux of time, the notification has been spent itself and the Writ Petitions have rendered infructuous.

3.5 It is their further case that, the respondents are insisting them to vacate the premises without any due process of law.

3.6 As the matter stood thus, the respondents, without taking any recourse under the law as contemplated under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971¹, issued Auction Notification on 06.10.2026, proposing to auction the shops, which were allotted and in the possession of the petitioners along with other shops, in all totally 39 shops in

¹ For short, 'the PP Act'



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number on 29.10.0226 and 30.10.2026, respectively.

Aggrieved by the Auction Notification, the petitioners are before this Court in this batch of Writ Petitions.

4. Sri.Sangram S.Kulkarni, learned counsel appearing for the petitioners submits that the authorities are bound under the Provisions of the PP Act, to evict the persons, which is a due process of law. However, without resorting to said exercise, they are indirectly trying to dispossess the petitioners, which is not permissible in law. To buttress his argument, learned counsel placed reliance on the Judgments of the Coordinate Bench of this Court in the case of **K.T.SURESH AND OTHERS VS. STATE OF KARNATAKA AND OTHERS**² and in the case of **SRI.D.RAJSHEKAR VS. STATE OF KARNATAKA AND OTHERS**³ and sought to allow the Writ Petitions.

5. In contrast, Sri.Aravind D.Kulkarni, learned counsel appearing for the respondents submits that

² W.P.No.12105/2022 along with connected matters, disposed of on 24.01.2024.

³ W.P.No.6296/2024 C/w. W.P.No.1200/2024, disposed of on 25.03.2024



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though the lease period expired in the year 2010, the petitioners, on one or the other pretext, are continuing in the premises. He submits that, as per the Law, any premises leased or licensed shall not exceed five years, and as per the Provisions of Municipalities Act and Circulars of the Government dated 19.07.2019 and 16.10.2026, any property belonging to the Municipalities, required to be allotted by means of Public auction. The continuation of petitioners is detrimental to the development and interest of the Municipality. Learned counsel further submits that, in the auction, the petitioners are given preferential right to bid for the shops.

6. On the contention of learned counsel for the petitioners that, the petitioners are paying rents regularly, Sri.Aravind D.Kulkarni, submits that rents are not paid to the account of the Municipality and sought to dismiss the Writ Petitions.



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7. Having heard the learned counsel for the respective parties, perused the entire Writ Petition papers in all the petitions.

8. The coordinate Bench of this Court in the case of **D.RAJSHEKAR** supra held that the action contemplated i.e., issuance of Auction Notification without resorting to the powers conferred under the PP Act is unsustainable in law and quashed the Auction Notification. The relevant paragraph of the Judgment starting with Paragraph No.3, read as under:

3. The petitioners are the licensees of the shops coming under the precincts of respondent No.3. They are now sought to be evicted without following due process of law, by issuing a impugned Tender Notification. The challenge to the tender notification need not detain this Court for long or delve deep into the matter. This Court, in identical circumstances in W.P.No.4750 of 2024 decided in 28-02-2024 has held as follows:

"9. The issue is whether the petitioners now can be evicted without following due process of law. The due process of law, as projected by the learned senior counsel is that, procedure stipulated under the Act should be followed. The issue need not detain this Court for long or



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*delve deep into the matter, as the co-ordinate Bench of this Court in **K.T. SURESH** (supra) has held as follows:*

"...."

18. *Having heard learned counsel for the parties, the points that would arise for consideration are:*

1. Whether on the expiry of a lease/license executed by the Corporation, Municipality or the like, would such Corporation, Municipality forcibly vacate the persons in occupation of the shops leased/licensed by the Corporation/Municipality or is required to follow any particular procedure?

2. Whether in the present case the handover of the premises by the respective petitioners can be said to be voluntarily handed over as per the submission of Ms. Geethadevi.M.P, learned counsel for the Municipality?

3. What order?

19. *I answer the above points as under:-*

20. **ANSWER TO POINT NO.1: Whether on the expiry of a lease/license executed by the Corporation, Municipality or the like, would such Corporation, Municipality forcibly vacate the persons in occupation of the shops leased/licensed by the Corporation/ Municipality or is required to follow any particular procedure?**

20.1 *It is not in dispute that the premises in question have been constructed by using IDSMT funds and that the petitioners have been put in possession of their respective shops by the Municipality where the petitioners are carrying on business of vending fruits and vegetables, cereals or the like, suffice to state that petitioners are all petty traders dealing with day-to-day requirements.*



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- 20.2 *All the petitioners claim to have been put in possession in the year 1999-2000, initially for a period of five years which has been extended from time to time on the basis of resolutions passed by the Municipality and in terms of the resolution dated 21.11.2011, it is claimed that the period of lease is extended till 2025 and as such the lease continues to be in existence. The aspect of this resolution need not hold this Court much longer inasmuch as the said resolution is subject to approval by the State Government. The State Government has rejected the said approval vide its letter dated 26-10-2009 and as such it cannot now be contended by the petitioners that the lease/license continues to be in force or in currency.*
- 20.3 *The lease having expired, the Municipality brought the shops for auction, an Auction notification having been issued, on a challenge being made to the auction notification, this Court vide its order dated 21.2.2022 in WP No.4084/2022 permitted the petitioners to participate in the said auction. Some of the petitioners did participate by themselves or through their near and dear ones, some of them succeeded, where most of them failed in the auction, third parties have succeeded as regards those shops.*
- 20.4 *In terms of **The Karnataka Grama Panchayat and Panchayathraj (Taluk Panchayat movable and immovable Properties Transfer) Rules, 2017**, Whenever a term of a lease of a shop or premises were to expire, it would but be required for the concerned Municipal Authority to bring it for auction where the current lease/license holder could also participate and if successful, lease/license could be executed in favour of such persons. Another option provided is that the lessee/licensee may choose not to participate in the said auction proceedings but could exercise right to first refusal, quoting higher than the bid*



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quoted by the successful bidder or auction purchaser. The right to first refusal has also not been exercised by the petitioners in this matter, most of the petitioners contending that the bids were on higher end and as such were false and the petitioners being small traders could not bid such higher amounts. Thus, categorically indicating that the petitioners were not interested in and did not exercise right to first refusal.

20.5 *From the aforesaid it is clear that the lease/license has come to end, the petitioner's have not succeeded in the auction nor exercised the right of first refusal. Thus, the lease/license having come to an end, looked at from any angle. Once the lease/license comes to an end, it would be for the lessee/licensee to vacate the premises and hand over the same to the lessor/licensor to the Municipality therein. That not having been done, the only option available to the Municipality is either to invoke the provisions of the T.P. Act for eviction or to invoke the provisions of **The Public Premises (Eviction of Unauthorised Occupants) Act, 1971**, to evict the lessee/licensees, since in this particular case there is no dispute that the property belongs to the Municipality and about the petitioner's being the lessee/licensor of the said premises.*

20.6 ***The authorities cannot take the law into their own hands and cause forcible eviction of the lessee/licensee but are required to follow the due process of law by initiating necessary proceedings and obtain judicial/quasi-judicial orders for eviction and thereafter enforce the same.***

20.7 ***Thus, the contention of Ms. Geethadevi.M.P. learned counsel for Municipality that on the expiry of the lease/license the Municipality could evict the lessee/licensee without any***



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particular order of a judicial or quasi judicial authority is rejected.

20.8 Hence, I answer point No.1 by holding that on the expiry of a lease/license executed by the Corporation, Municipality or the like, such Corporation, Municipality cannot forcibly vacate the persons in occupation of the shops leased/licensed by the Corporation/Municipality but is required to follow the procedure prescribed under the The Public Premises (Eviction of Unauthorised Occupants) Act, 1971, or The Transfer of Property Act.”

(Emphasis supplied)

The co-ordinate Bench holds that the licensees or lessees of shops cannot be evicted unilaterally. The procedure stipulated in terms of the Act or the Transfer of Property Act will have to be necessarily followed. Another co ordinate Bench of this Court in **K.MANJUNATH v. BANGALORE DEVELOPMENT AUTHORITY**⁴ considering a case where the Bangalore Development Authority had directed eviction of trespassers also directs following of the Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974. The coordinate Bench following judgments of the Apex Court and the Division Bench of this Court has held as follows:

“....

4. Learned Senior Advocate Sri. K. N. Phanindra, appearing for the counsel on record for the petitioner submits that the petitioner has been in the settled occupation of the site on which he has built the structure; his ownership and possession are vouched by the registered sale deed of 2006 followed by Katha Certificate, utara pathra and tax paid receipts; it has long been the settled position of law that in a State which is governed by the Rule of Law a statutory authority like the BDA cannot

⁴ W.P.No.25075 of 2016 decided on 30-01-2019



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*dispossess even a trespasser in settled occupation; the impugned notice coupled with the stand of the BDA in the Statement of Objections make out a prima-facie case of unauthorized interference warranting indulgence of writ Court to protect the poor citizen. He banks upon the Apex Court decision in the case of **MEGHMALA AND OTHERS VS., G. NARASIMHA REDDY AND OTHERS REPORTED IN (2010) 8 SCC 383.***

5. The learned Senior Panel Counsel for the respondent-BDA opposes the petition prayers stating that the entire property in which the suit site is situate was acquired by it in the land acquisition that culminated into a final award dated 12.12.1977; the BDA being the absolute owner of the said site, the version of the petitioner that he is the title holder to the same is apparently inadmissible inasmuch as the conveyance under which he claims to have acquired the property is of 2006 and thus the vendor had no title and therefore it is a case of *nemo dat quod non habet*; that being so the petitioner is liable to be non suited.

6. I have heard the learned Senior Advocate for the petitioner and the learned Senior Panel Counsel for respondent-BDA. I have perused the petition papers and the Statement of Objections. I have read relevant paragraphs of the ruling of the Apex Court in Megamala' case (*supra*).

7. The petitioner has produced a registered sale deed dated 22.02.2006 at Annexure-B, Uttara Patra dated 17.03.2006 issued by the BBMP at Annexure-B1 and Khatha Certificate dated 03.12.2012 at Annexure-C which specifically mention his name as being the owner of the property in question. Annexure-E and E1 are the original photographs which prima-facie show that a small shed does exist in the said site. Petitioner has also produced the title deeds of his predecessors in interest. All these prima-facie establish at least one fact that the petitioner gained entry to the property in question years ago; he has put up a small structure and that he has been in a settled



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occupation thereof with some semblance of rights.

8. The text and context of the impugned notice coupled with the stand of the respondent-BDA in its pleadings prima-facie justify the formation of a considered opinion that there is a potential threat of dispossession of the petitioner from the property in question by the respondent-BDA and its officials, which appears to be the lawful owner of the same having acquired it decades ago. Be that as it may, settled legal position is that even a trespasser in the settled possession of the property cannot be thrown out by the State or its instrumentalities except by a course of action in accordance with law. The removal of such trespassers by extra judicial methods strikes at the law, reason and justice.

9. The Division Bench of this Court in the case of M/S. PATIL EXHIBITORS (PVT) LTD. VS. THE CORPORATION OF THE CITY OF BANGALORE reported in ILR 1985 KAR 3700 has observed as under:

"10. The second aspect is this. It is part of the concept of "Rule of Law" that no claim to a right to dispossess by the use of force without recourse to procedure in accordance with law is recognized or countenanced by Courts. Such a right in the Respondent cannot be recognized regardless of the question whether or not the appellant itself has any subsisting right to remain in possession. the protection that the Court affords is not of the possession – which in the circumstances is litigious possession and cannot be equated with lawful possession – but a protection against forcible dispossession. The basis of relief is a corollary of the principle that even with the best of title there can be no forcible dispossession."

10. The Apex Court in the aforesaid Meghmala's case, at paragraph Nos.46 to 48 has observed as under:



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"46. Even a trespasser cannot be evicted forcibly. Thus a person in illegal occupation of the land has to be evicted following the procedure prescribed under the law. XXXXXXXX

47. In Nagar Palika, Jind v. Jagat Singh this Court observed that Section 6 of the Specific Relief Act, 1963 is based on the principle that even a trespasser is entitled to protect his possession except against the true owner and purports to protect a person in possession from being dispossessed except in due process of law.

48. Even the State Authorities cannot dispossess a person by an executive order. The authorities cannot become the law unto themselves. It would be in violation of the rule of law. The Government can resume possession only in a manner known to or recognized by law and not otherwise. xxxxxxxx"

(only such portion of the paragraphs as are relevant to the fact matrix of the case are quoted, others being left out)

11. In the above circumstances, this writ petition succeeds in part; a writ of mandamus issues restraining the respondent-BDA and its officials from forcibly dispossessing the petitioner except in accordance with law.

12. This judgment shall not come in the way of the respondent-BDA taking of appropriate proceedings under the provisions of the Karnataka Public Premises (Eviction of Unauthorized Occupants) Act, 1974 or such other course before appropriate forum, in accordance with law."

(Emphasis supplied)

In the light of the issue standing answered by the aforesaid judgments, the petition deserves to succeed as the circular issued by the 1st respondent dated 19-07 2019 also makes reference to the successful auction bidders to



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be lessees. Therefore, the thin line between licensee and the lessee is so bleak that in the peculiar facts of the case and more so, in the light of the law laid down by the co-ordinate Benches of this Court.

10. Insofar as judgments sought to be relied on by the learned counsel appearing for the respondents that the licensees and lessees stand on a different footing and, therefore, the petitioners in terms of agreements were all licensees and protection under the Act or the Transfer of Property Act would not become applicable, those judgments in the first blush would merit acceptance, as the petitioners are undoubtedly licensees who entered shop premises on licence being granted to hold the shops for a fixed tenure. But, in view of the judgment rendered by the co-ordinate Benches of this Court (supra), those judgments would be inapplicable to the facts of the case. Therefore, the petition deserves to succeed and the petitioners are entitled for a declaration that they cannot be evicted except by following the procedure under the Act. It is open to the respondents/Palike to initiate such action and then proceed with the tender qua the shops that the petitioners are holding.

4. In the light of the judgment rendered by this Court following the Co-ordinate Bench decisions quoted in the course of the order supra, I deem it appropriate to dispose these petitions by granting the very same relief.

5. For the aforesaid reasons, the following:

ORDER

- (i) The writ petitions are allowed in part.*
- (ii) Tender notifications dated 21.12.2023 and the auction notification later issued dated 06.12.2023 stands quashed.*



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(iii) A direction is issued to the Town Municipal Council, Beluru to follow the procedure under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and then call for tender, after the petitioners are evicted by following the procedure under the Act.

All contentions shall remain open."

9. In the case on hand, no exercise as contemplated under the PP Act has been resorted. On the other hand, public Auction Notification has been issued by way of paper publication, proposing to auction the premises wherein the petitioners are licensees at the earlier point of time and now continued, proposing to hold auction on 29.10.2026 and 30.10.2026 respectively.

10. In view of the law laid down by the Coordinate Bench of this Court, the action contemplated is against the norms of law. In that view of the matter, in the light of the Judgments supra, this Court deems it appropriate to dispose of the Writ Petition by granting the same relief, as granted in the Judgments supra.



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11. For the aforesaid reasons, this Court proceeds to pass the following:

ORDER

- (i) The Writ Petitions are ***allowed in part.***
- (ii) The Auction Notification dated 06.10.2026 bearing No.ಕ್ರ.ಸಂ.:ಪುಸ-ಅ:ಕಂದಾಯ 2026-27, so far as the petitioners' shops are concerned stand quashed.
- (iii) Liberty is reserved to the Town Municipal Council, Athani to follow the procedure under the PP Act, 1971 and thereafter to take appropriate action to auction the shops in terms of the Karnataka Municipalities Act, 1964, in accordance with law, after evicting the petitioners in due process of law.
- (iv) The petitioners are directed to pay up to date rents and if there is any arrears, the



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same shall be made good, within two weeks from today. Failing which, the order passed today in favor of the concerned petitioners automatically stands recalled.

Sd/-
(T.M.NADAF)
JUDGE

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