



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 16TH DAY OF APRIL, 2024

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO. 23631 OF 2023 (LB-BMP)

BETWEEN

1. NAGABHUSHAN REDDY N

2. SRI.N.ASHWATHANARAYANA REDDY

...PETITIONERS

Digitally signed
by
NARAYANAPPA
LAKSHMAMMA

Location: HIGH
COURT OF
KARNATAKA

(BY SRI: BHARATH .K., ADVOCATE)

AND

1. THE BRUHAT BANGALORE MAHANAGARA PALIKE
OFFICE OF BBMP,
BOMMANAHALLI,
BENGALURU-560102
REPRESENTED BY ITS JOINT COMMISSIONER.
2. ASSISTANT EXECUTIVE ENGINEER, BBMP
BEHIND BDA COMPLEX,
HSR 6TH SECTOR,
9TH MAIN, 14TH A CROSS,



HSR LAYOUT-560102.

3. HSR TRAFFICE POLICE STATION

4. MR. NAGENDRA

...RESPONDENTS

(BY SMT. SUMANA BALIGA.M., ADVOCATE FOR R1 & R2;
SMT. SARITHA KULKARNI., HCGP FOR R2;
SMT. MAMATHA M.R., ADVOCATE FOR R4)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF THE CONSTITUTION OF INDIA PRAYING TO ISSUE A WRIT OF MANDAMUS DIRECTING THE 1ST RESPONDENTS TO CONSIDER THE REPRESENTATION DATED 27.07.2023 FILED BY THE PETITIONERS AS PER ANNEXURE-A AND TAKE NECESSARY ACTION AND ETC.

THIS WRIT PETITION COMING ON FOR ORDERS AND HAVING BEEN RESERVED FOR ORDERS ON 22.03.2024, THIS DAY, THE COURT PRONOUNCED THE FOLLOWING:

ORDER

1. The petitioners are before this Court seeking for the following reliefs:

I. Issue a writ of Mandamus directing the 1st Respondents to consider the representation dated 27.07.2023 filed by the petitioners as per Annexure-A and take necessary action.

II. Pass any other order or direction as this Hon'ble Court may deems fit to grant in the circumstances of the case in the interest of justice and equity.

2. The petitioners are residents of 19th 'A' Cross, 17th Main, HSR Layout, Bangalore for the last more than



10 years. There are more than 20 plots in 19th 'A' Main Road occupied by the respective owners. Four of the properties are vacant. One such property being Plot No.7 belongs to respondent No.4 who had let out the said property for the purpose of parking for two wheelers and four wheelers. Due to the said property was being used for parking, there is noise and air pollution, as also increased vehicle traffic on a residential road, parking problems on the said road, the persons who park doing so at all times of the day and night and taking out their vehicles at all times of a day and night, is causing immense inconvenience. It is in that background that the petitioner is before this Court seeking for the aforesaid reliefs.

3. The submission of Sri.Bharat Keshavamurthy, learned counsel for the petitioners, is that there is no particular provision under the Building Bye-Law and/or Zonal Regulations to use a residential plot for



parking purposes on a commercial basis by letting out the property to a third party. The residential property now being used for commercial purposes of parking of two wheelers and four wheelers. These vehicles come to the said property at all times during day and night resulting in heavy traffic in the said road causing inconvenience to the residents of the said road including the petitioners. Once the cars are parked, the drivers stay back in the property talking amongst each other, smoking etc., which spoils peace in the neighborhood. The nuisance which has been caused due to such parking is causing tremendous inconvenience to the petitioners and their family and all the persons residing on the said road.

4. Though a representation had been submitted to respondents No.1 to 3 on 27.07.2023, no action has been taken. Respondent No.4 has not paid attention to the complaints as also the inconvenience pointed



out. Respondent No.4 does not reside in the said area and having let out the property is merrily receiving rentals at the inconvenience of the petitioners.

5. Smt.Mamatha M.R., learned counsel for respondent No.4 submits that there is a malafide intention of the petitioner in filing the present petition. The previous owner not having sold the property to the petitioners and respondent No.4 having purchased the property, the petitioners are seeking to cause trouble to respondent No.4. Respondent No.4 is only using the property for parking purpose on a temporary basis. Respondent No.4 has been targeted by the petitioners. There are many other sites which are empty of which the owners have let out the property for usage for parking purposes. The petition therefore being filed only to harass respondent No.4 is required to be dismissed by imposing exemplary cost.



6. Smt.Sumana Baliga, learned counsel for respondents No.1 and 2 submits that there is no particular permission which has been granted by respondents No.1 and 2 for usage of the residential plot for the purpose of parking. The Directorate of Urban Land Transport has formulated Parking Policy 2.0 in December 2020 to cater to the parking requirements of the city of Bangalore. In pursuance of the said policy, the Area Parking Plan is under preparation so also the parking charges framework is under finalization. A concept of off-street parking is also part of the said parking policy for high usage area such as commercial areas. In that background, she submits that no permission having been granted to respondent No.4 for usage of the residential property for parking purpose, the same cannot be so permitted. As regards the allegation that other similarly situate plots are being used for commercial parking, she submits that necessary action will be taken against any violator.



7. Smt.Saritha Kulkarni, learned HCGP for respondent No.3 submits that the traffic police is concerned with regulating traffic on the roads; parking within a residential plot would not come within the purview of respondent No.3. It is in that background that respondent No.3 has not taken any action.

8. Heard of Sri.Bharat Keshavamurthy, learned counsel for the petitioners, Smt.Sumana Baliga, learned counsel for respondents No.1 and 2, Smt.Saritha Kulkarni, learned HCGP for respondent No.3 and Smt.Mamatha M.R., learned counsel for respondent No.4 and perused papers.

9. Having heard the learned counsel for the petitioners and respondents, the points that would arise for consideration are:
 - 1) Whether an empty plot in a residential area can be used on a commercial basis for parking of vehicles?



2) Whether respondents No.1, 2 and 3 can contend that since the private area is used for parking purposes, they cannot take any action?

3) What orders?

10. **Answer to Point No.1: Whether an empty plot in a residential area can be used on a commercial basis for parking of vehicles?**

10.1.It is not in dispute that plot No.7 where the vehicles are being parked is situated in a residential area. It is also not in dispute that the same is vacant and has been let out by respondent No.4 to a third party to run the business of parking where any person could park his/her vehicle two wheelers and four wheelers upon payment of certain monies at any point of time during the day or night and remove the vehicle anytime during the day or night.

10.2.In view of the constant mobility especially in a city like Bangalore, the use of vehicles being two or four wheelers, or the like has increased



in the City of Bangalore. The Building Bye-laws provide for making available a car parking space in any residential building which is constructed. Despite the same, there is always a perennial problem of parking in the City of Bangalore be it in the residential area or more so in the commercial areas. It is for this reason that certain of the empty site owners have come up with a novel idea of permitting two wheelers and four wheelers' owners to park in their empty sites by collecting parking charges.

10.3.A perusal of the photographs produced at Annexure-B would indicate that in the subject property nearly 17 cars are parked next to a residential houses. Though there may be a requirement of parking and though to some extent the plot of respondent No.4 would help in the parking requirements, the said methodology of allowing parking in a residential plot by collecting parking fees is not recognized



under law i.e., to say it is not permitted as a business to be run. There is no trade licence which the respondent No.4 has obtained for carrying out such a business nor the zonal regulations permit such a business.

10.4.Though learned counsel for respondents No.1 and 2 submits that a Parking Policy 2.0 has been brought into force in December 2020 under which various actions are proposed to be taken, the fact remains that even in the said parking policy such usage of residential parking is not recognized. In that view of the matter, respondent No.4 cannot use his empty plot for business purpose by allowing third parties to park in the said plot by collecting parking fees.

10.5.Hence, I answer Point No.1 by holding that an empty plot in a residential area cannot be used on a commercial basis for parking of vehicles.

11. **Answer to Point No.2: Whether respondents No.1, 2 and 3 can contend that since the private**



area is used for parking purposes, they cannot take any action?

11.1.Despite a representation having been submitted by the petitioners to respondents No.1 and 2 to take action against respondent No.4 and despite a representation having been submitted by the petitioners to respondent No.3 to take similar action, both of them i.e., BBMP or the traffic police have not taken any action, BBMP though contending that the said activity is not allowed.

11.2.BBMP being the municipal authority is required to maintain all the areas coming within its jurisdiction in a proper and required manner and see to it that the properties falling within its jurisdiction are used for permissible purposes in a proper manner and not in a manner as to cause inconvenience or nuisance to other residents.



11.3.The learned counsel for BBMP having categorically submitted that respondent No.4 could not use the empty plot for commercial purposes of parking, BBMP ought to have taken action. Similarly respondent No.3 traffic police cannot abdicate the responsibility by contending they are only concerned with the traffic on the road and not parking in an empty plot. So long as any illegal activity is being carried out, the concerned authorized officer of the BBMP or the traffic police would be required to take necessary action.

11.4.Hence, I answer Point No.2 by holding that respondents No.1, 2 and 3 cannot contend that since the private area is used for parking purposes, they cannot take any action.

12. **General directions:**



12.1.Though Parking Policy 2.0 is stated to have come into force in December 2020, the Area Parking Plan, parking charges framework, the streamlining of on-street parking, initiation of a pilot permit system etc., has not been carried out by the BBMP. The inaction on part of BBMP and/or Directorate of the Urban Land Transport in doing the needful has resulted in inconvenience to the general public as can be seen in the present matter and inconvenience is being caused to the petitioners.

12.2.It is therefore required that the Parking Policy 2.0 being implemented at the earliest. Hence, the Commissioner, BBMP is directed to place on record a detailed project report on the methodology of implementation of Parking Policy 2.0 within six weeks from today.

13. **Answer to Point No.3: What Order?**



13.1. In view of the above reasoning, I pass the following:

ORDER

- i) The Writ Petition is partly allowed.
- ii) A mandamus is issued directing respondents No.1 to 3 to consider the representation dated 27.07.2023 submitted by the petitioners and take necessary action against respondent No.4 so as not to permit the use of empty plot for commercial purposes in a residential area.
- iii) Though the above matter is disposed, re-list on 20th June 2024 for reporting compliance by the Commissioner, BBMP.

Sd/-
JUDGE

PRS
List No.: 1 SI No.: 1