

ACTING CHIEF JUSTICE AND SACHIN SHANKAR MAGADUM 07/10/2021 ORDER ON IA.8/2021 I.A.No.8/2021 has been filed by the learned counsel for the petitioners and it has been stated that the Speaker of the Karnataka Legislative Assembly has held a press meeting announcing that a decision has been taken to have a 'Constitution Club' at Balabrooie Guest House and the Chief Secretary has been directed to take further action to construct the Club in question similar to the Constitution Club in New Delhi. 2. Learned counsel for the petitioners has argued before this Court that the Balabrooie Guest House is a historical building constructed in 1850s on a 14 acre campus by Mark Cubbon, who was serving as the Commissioner of the then Mysore State and he wanted to build a structure resembling to those in his hometown on an island in the Irish Sea. He has stated that the Guest House in question is the 'biggest water tower' in Bengaluru Township and as the century-old trees have roots spread over across 40 feet, the trees can absorb huge quantity of rain water. It has been further stated that many dignitaries like Sir M. Visvesvaraya, Sri Mahatma Gandhi, Sri Rabindranath Tagore, Prime Ministers, Chief Ministers have stayed in the Guest House in question; The Balabroorie Guest House is having more than 200 years old trees and the area adjoining to Balabrooie Guest house i.e., Chief Secretary's Residence, National Gallery of Modern Art and Ministers' Quarters are also having 100-200 years old trees. He has stated that the Guest House in question is of historical importance and its structure cannot be changed in the manner and method it is projected to be changed as per the Newspaper reports. He also states that no felling of trees should take place in the matter as they are very old trees and earlier, felling of trees has already taken place while widening of Sanky Tank Road and therefore, the respondents be restrained from felling of trees for construction of "Constitution Club" in Balabrooie Guest House and also in and around the Guest House in question. 3. Learned Additional Advocate General Sri Dhyan Chinnappa has vehemently argued before this Court that no decision has been taken so far in the matter and no felling of trees has taken place. 4. This Court has carefully gone through the material brought on record and the material brought on record prima facie reflects that there is a move to establish a 'Constitution Club' in the Balabrooie Guest House campus. As the building in question is of great historical importance, the Archeological Survey of India has to be impleaded as one of the respondents in the present case. 5. Accordingly, the petitioners are granted seven days time to implead the Archeological Survey of India. Let a notice be issued to the Archeological Survey of India. 6. We are aware of the scope of the present petition filed as a Public Interest Litigation(PIL). However, in the peculiar facts and circumstances of the case, we are enlarging the scope of the present PIL as the Balabrooie Guest House and its adjoining areas are having 150-200 years old trees. 7. The Bruhat Bengaluru Mahanagara Palike (BBMP) is directed to carry out tree census of the entire area in question. After carrying out tree census, the BBMP shall file a detailed and an exhaustive report within a period of four weeks. 8. Till the next date of hearing, the parties shall maintain status-quo in respect of the structure in question and other adjoining areas mentioned above. 9. The building shall not be allotted to any other organisation until further orders and no felling / trimming of trees, cutting of shrubs shall take place without the leave of this Court in respect of the entire areas referred to in the present order. 10. The Horticulture Department is also directed to ensure that the trees are protected, which are in existence and the Horticulture Department shall also file a detailed and an exhaustive report in the matter in respect of the existing green cover in the entire area which have been referred to in this order. 11. The learned counsel for the petitioners is directed to communicate this order to the learned counsel for the BBMP today itself and a complete set of documents along with the application filed today to the learned Standing Counsel for the Archeological Survey of India. 12. As we have already permitted the Archeological Survey of India to be impleaded as a party to this proceedings, only a formal application has to be filed in the matter. List the matter on 19.11.2021.