

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 1ST DAY OF DECEMBER, 2021

PRESENT

THE HON'BLE MR. RITU RAJ AWASTHI, CHIEF JUSTICE

AND

THE HON'BLE MR.JUSTICE SACHIN SHANKAR MAGADUM

WRIT PETITION NO.7319 OF 2020 (LB-BMP) PIL

BETWEEN:

- 1 . YALAHANKA PUTTENAHALLI LAKE AND BIRD CONSERVATION TRUST (YPLBC TRUST) REPRESENTED HEREIN BY ITS MANAGING TRUSTEE SHRI N.C. KRISHNA DATTA, THE PETITIONER NO.2 HEREIN AT NO 9, 1ST MAIN, VINAYAKA LAYOUT PUTTENAHALLI, YELAHANKA BENGALURU - 560 064.
- 2 . SHRI N C KRISHNA DATTA S/O. MOHANDAS N C. AGED ABOUT 46 YEARS OCC: TECHNOLOGY CONSULTANT AND MANAGING TRUSTEE Y P L B C TRUST D - 7, S C C SAPPHIRE ANANTAPURA, PUTTENAHALLI YELAHANKA, BENGALURU - 560 064.
- 3 . SHRI SWAMYRAJ S/O GOPAL KULKARNI AGED ABOUT 42 YEARS OCC: SENIOR PROJECT MANAGER (IT) PRESIDENT SCINTILLA APARTMENT RESIDENCE WELFARE ASSOCIATION B-703, SCINTILLA APARTMENT, KHB LAYOUT YELAHANKA NEW TOWN BENGALURU - 560064.
- 4 . SMT. PADMA G PATIL S/O SHRI KRISHNAJI PATIL AGED ABOUT 46 YEARS OCC: VICE PRESIDENT

AND MANAGING TRUSTEE ECO FRENZ
C 1202, PURVA VENEZIA,
YELAHANKA NEW TOWN
BENGALURU - 560 064.

- 5 . SHRI K.T. GANGADHARAN
S/O K A CHANDRU MASTRAI
AGED ABOUT 75 YEARS
OCC: RETIRED ENGINEER RAMAN RESEARCH INSTITUTE
PRESIDENT CITIZENS FORUM YELAHANKA NEW TOWN
NO.220, SFS 407, K H B 1ST A MAIN ROAD
YELAHANKA NEW TOWN
BENGALURU - 560 064.
- 6 . DR K.S. SANGUNNI
S/O K.S. NAIR
AGED ABOUT 74 YEARS
OCC: FORMER PROFESSOR AT
INDIAN INSTITUTE OF SCIENCE AND CHAIRPERSON
YPLBC TRUST
NO. 65, 10TH A CROSS
YELAHANKA NEW TOWN
BENGALURU - 560 064.
- 7 . SHRI T.K. PUTTASWAMY
S/O KAREGOUD
AGED ABOUT 72 YEARS
RTD. LIBRARY PROFESSIONAL
138, 14TH B CROSS, 1ST PHASE
B SECTOR, YELAHANKA SATELLITE TOWN
BENGALURU - 560 064.
- 8 . SHRI H.L. MIRANDA
S/O BERNARD MIRANDA
AGED ABOUT 70 YEARS
OCC: RTD PROCUREMENT MANAGER
NCC MEADOWS, 1, D - 301
PUTTENAHALLI
YELAHANKA
BENGALURU - 560 064.
- 9 . SMT.SOUMYA N D
D/O K.KRISHNAPA
AGED 42 YEARS,
OCC: ORGANIC FARMER
AND TRUSTEE Y P L B C TRUST,
C-1103, NAGARJUN MEADOWS
1, PUTTENAHALLI, YELAHANKA
BENGALURU-560 064.

- 10 . SHRI PADMANABHA ARKALGUD
S/O LATE A.N. ANANTHRAMIAH
AGED ABOUT 83 YEARS,
FORMER VICE PRESIDENT I T C.,
TRUSTEE, Y P L B C TRUST
C/O FLAT NO.806/15 BLOCK
HERITAGE ESTATE APARTMENT,
PUTTENAHALLI, YELAHANKA,
DODDABALLAPUR ROAD
BENGLAURU-560 064.
- 11 . SHRI VISWANATHAN KANNAN
S/O KRISHNA IYER VISWANATHAN
AGED ABOUT 67 YEARS,
OCC: MANAGEMENT CONSULTANT
PRESIDENT, SOBHA A.A.A. OWNERS ASSOCIATION,
R/AT 2103, SOBHA ALTHEA AZALEA APARTMENT,
HAROHALLI,
YELAHANKA,
BENGALURU - 560 064.
- 12 . SHRI SWAMINATHAN GOPALAN
AGED ABOUT 64 YEARS,
OCC: SECRETARY,
SOBHA A.A.A. OWNERS ASSOCIATION
R/AT 2142, SOBHA ALTHEA AZALEA APARTMENT,
HAROHALLI,
YELAHANKA, BENGALURU - 560 064.
- 13 . SMT. MONALI BHARDWAJ
D/O SUKUMAR DAS,
AGED ABOUT 49 YEARS,
OCC: NEIGHBOUR HOOD TRUSTEE
Y P L B C TRUST AND PRESIDENT HERITAGE
ESTATE APARTMENTS,
NO.902/11, HERITAGE ESTATE, PUTTENAHALLI,
DODDABALLAPUR ROAD,
YELAHANKA, BENGALURU - 560 064.
- 14 . SHRI P.MURALIDHARA
S/O SHRI PATALIAH
AGED ABOUT 42 YEARS,
OCC: ADVOCATE,
NO.157, 4TH MAIN, VINAYAKA LAYOUT,
PUTTENAHALLI,
YELAHANKA, BENGALURU - 560 064.
- 15 . MRS. SIMMI KUMAR
D/O LATE M.K. PRASAD
AGED ABOUT 47 YEARS,

OCC: ENVIRONMENTALIST AND
TRUSTEE Y P L B C TRUST,
1104/15, HERITAGE ESTATE APARTMENT, PUTTENAHALLI,
YELAHANKA, BENGALURU - 560 064.

- 16 . PROF SANTANU DAS
S/O AMALENDU DAS
AGED ABOUT 43 YEARS,
OCC: PROFESSOR,
SESHADRIPURAM FIRST GRADE COLLEGE,
JOINT MANAGING TRUSTEE
Y P L B C TRUST
R/AT 504, 1ST FLOOR, 12TH A MAIN, 12TH CROSS,
A SECTOR,
YELAHANKA NEW TOWN,
BENGALURU-560 064.

... PETITIONERS

(BY SRI ASHOK R. KALYANASHETTY, ADVOCATE)

AND:

- 1 . THE STATE OF KARNATAKA
BY ITS CHIEF SECRETARY DEPARTMENT OF FOREST
ENVIRONMENT AND ECOLOGY
VIDHAN SOUDHA,
BENGALURU - 560 001.
- 2 . THE CHIEF WILD LIFE WARDEN/
PRINCIPAL CHIEF CONSERVATOR OF FORESTS
(WILD LIFE)
DEPARTMENT OF FORESTS, "ARANYA BHAVAN",
18TH CROSS, MALLESHWARAM,
BENGALURU - 560 003.
- 3 . THE CHIEF SECRETARY
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA,
BENGALURU - 560 001.
- 4 . THE STATE OF KARNATAKA
BY ITS SECRETARY
DEPARTMENT OF URBAN DEVELOPMENT AUTHORITY
VIDHANA SOUDHA,
BENGALURU - 560 001.
- 5 . THE BRUHAT BENGALURU MAHANAGAR PALIKE
BY IT'S COMMISSIONER

HUDSON CIRCLE,
BENGALURU.

- 6 . THE EXECUTIVE ENGINEER-4 (LAKES DIVISION)
BRUHAT BENGALURU MAHANAGAR PALIKE
ROOM NO. 309,
3RD FLOOR, NEW BUILDING
N.R. SQUARE,
BENGALURU - 02.
- 7 . THE BENGALURU WATER SUPPLY SEWERAGE BOARD
BY ITS SECRETARY/COMMISSIONER
2ND FLOOR, CAUVERY BHAVAN,
BENGALURU - 560 001.
- 8 . THE KARNATAKA TANK CONSERVATION AND DEVELOPMENT
AUTHORITY
BY ITS CHIEF EXECUTIVE OFFICER
GROUND FLOOR, "BEEJA BHAVAN",
BELLARY ROAD, HEBBAL
BENGALURU - 560 024.

... RESPONDENTS

(BY SRI S. RAJASHEKARA, AGA FOR R1 - R4,
SRI K.B. MONESH KUMAR, ADVOCATE FOR R7,
SRI V. RAGHUNATH, ADVOCATE FOR R8 &
SRI S.H. PRASHANTH, ADVOCATE FOR R5 & R6)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE ORDER DATED 11.12.2019 AT ANNEXURE-K ISSUED BY THE RESPONDENT NO.4, THE DEPARTMENT OF URBAN DEVELOPMENT, GOVERNMENT OF KARNATAKA IN SO FAR AS IT APPLIES TO HANDING OVER THE PUTTENAHALLI BIRDS CONSERVATION RESERVE, YELAHANKA, BENGALURU-560 064 (DESCRIBED AS PUTTENAHALLI (YELAHANKA TANK/KERE THEREOF) TO BENGALURU BRUHAT MAHANAGAR PALIKE, THE RESPONDENT NO.5 HEREIN AND CONSEQUENTLY QUASH THE SHORT TERM TENDER NOTIFICATION DATED 17.04.2020 AT ANNEXURE 'M' ISSUED BY THE EXECUTIVE ENGINEER-4, LAKES DIVISION, BRUHAT BENGALURU MAHANAGAR PALIKE THE RESPONDENT NO.5 HEREIN AND RESTORE THE SAID PUTTENAHALLI BIRDS CONSERVATION RESERVE BACK TO THE CHIEF WILD LIFE WARDEN IN ACCORDANCE WITH THE PROVISIONS OF THE WILD LIFE (PROTECTION) ACT 1972 AND ETC.

THIS PETITION COMING ON FOR ORDERS THROUGH VIDEO CONFERENCING THIS DAY, **CHIEF JUSTICE** MADE THE FOLLOWING:

ORDER

This Public Interest Litigation is filed seeking the following reliefs:-

a) Issue a writ of certiorari or order or direction in the nature of a writ to quash the order dated 11.12.2019 at Annexure-K issued by respondent No.4, the Department of Urban Development, Government of Karnataka insofar as it applies to handing over the Puttenahalli Birds Conservation Reserve, Yelahanka, Bengaluru-560 064 (described as Puttenahalli (Yelahanka Tank/Kere thereof) to Bengaluru Bruhat Mahanagar Palike, the fifth respondent herein and consequently quash the Short Term Tender Notification bearing No.EE-4(Lakes)/TN-01/2020-21 dated 17.04.2020 at Annexure-M issued by the Executive Engineer-4, Lakes Division, Bruhut Bengaluru Mahanagar Palike-respondent No.5 herein and restore the said Puttenahalli Birds Conservation Reserve back to the Chief Wild Life Warden in accordance with the provisions of the Wild Life (Protection) Act, 1972 in the interest of justice and equity.

b) Issue a direction to the concerned Authority/the Government of Karnataka to take immediate steps to complete the pending needy works, as per the list at Annexure-R, in the Puttenahalli Birds Conservation Reserve, Yelahanka, Bengaluru-560 064 in the interest of justice and equity.

c) Issue directions to BWSSB the 7th respondent herein to take all the adequate and full measures to completely stop and prevent the leakage or seepage of sewage water in to Puttenahalli Birds Conservation Reserve, Yelahanka, Bengaluru-560 064 forth with for the safety of flora and fauna therein in the interest of justice and equity.

d) Issue such other directions as may be deemed fit, including accountability, to the Bruhut Bengaluru Mahanagara Palike, the 5th respondent for the purpose of maintenance and developments of all other Tanks entrusted to it to ensure their safety, keeping in mind ecology, environment and society at large in the interest of justice and equity.

e) Grant such other reliefs as this Hon'ble Court deems fit to grant in the facts and circumstances of the case.

2. Learned counsel for the petitioners submits that the State Government vide Gazette Notification dated 29.04.2015 at Annexure-E declared the Birds Conservation, Puttenahalli Lake as the "Puttenahalli Lake Birds Conservation Reserve" under the provisions of the Wildlife (Protection) Act, 1972 (for short, 'the Act, 1972'). As such, the powers of the Chief Wild Life Warden are not taken away irrespective of the impugned notification. The Chief Wild Life Warden is the authority to have Control, Manage and Maintain the Puttenahalli Lake Birds Conservation Reserve (for short, 'Birds Conservation Reserve'). There are islands inside the Birds Conservation Reserve where the Birds nest. Now the Birds Conservation Reserve on account of impugned order has become a no man land where the miscreants are taking undue advantage. The birds, their

young ones, eggs and nests are required to be protected. It is also submitted that the impugned notification dated 11.12.2009 is totally wrong and illegal. The Bruhat Bengaluru Mahanagara Palike (for short, 'BBMP') has no authority or competence to maintain the Birds Conservation Reserve. Due to the negligence of the State Government, pending needy works in the Birds Conservation Reserve, are not been carried out. Earlier some amount was allotted, however, the same was not released. As such, no work has been carried out due to which the Birds Conservation Reserve is adversely effected.

3. Learned Additional Government Advocate appearing for State respondents submits that in pursuance of the Court's order, in compliance affidavit dated 24.11.2021, the Deputy Conservator of Forest and Member Secretary of the Birds Conservation Reserve has tendered his apology for inadvertently stating that a sum of Rs.25 lakhs has been released. In fact, the said amount was allotted for completing the pending works. The said mistake was *bona fide* and unintentional. The allotted sum of Rs.25 lakhs under the Official Memorandum dated 02.12.2020 is not yet released and the same would be utilized for the

pending works at the Birds Conservation Reserve. It is submitted that it is correct that the provisions of the Act, 1972 are fully applicable to the Birds Conservation Reserve and as per the said Act, the Chief Wild Life Warden is the Competent Authority to Control, Manage and Maintain the Birds Conservation Reserve. It is submitted that survey is being carried out to find out as to whether the land in question belongs to Forest Department or the BBMP.

4. We have considered the submissions made by learned counsel for the petitioners and also gone through the compliance affidavit dated 24.11.2021. The copy of the same has been placed before us by the learned Additional Government Advocate.

5. We are of the considered view that in view of the admitted position that the Chief Wild Life Warden is the Competent Authority to Control, Manage and Maintain the Birds Conservation Reserve in question, as such, we do not find any justification in handing over the Birds Conservation Reserve to the BBMP. We, therefore, quash the impugned notification dated 11.12.2009 and direct the Forest Department to look after the Puttenahalli Lake Birds Conservation Reserve, Yelahanka, Bengaluru. We, further,

direct the State Government to immediately release the sum of Rs.25 lakhs which has been allotted to carry out the pending works in the Birds Conservation Reserve and ensure that proper maintenance and development takes place at the Birds Conservation Reserve in order to preserve the Birds, their young ones, their eggs and nest. We also direct the Bengaluru Water Supply and Sewerage Board-responent No.7 to take all adequate and full measures to completely stop and prevent the seepage of sewage water into Birds Conservation Reserve forthwith for the safety of floral and fauna. BWSSB-responent No.7 in collaboration with the Chief Wild Life Warden shall visit the Birds Conservation Reserve in question in order to ensure proper maintenance and completion of pending works. We direct the BBMP-responent No.5 to co-operate with the Chief Wild Life Warden to maintain and develop the water tanks to ensure the availability of water in the Birds Conservation Reserve. Concerned authorities shall ensure that the Birds Conservation Reserve in question is maintained and the Birds are properly protected.

6. In view of the fact that we have already quashed the impugned notification dated 11.12.2019 vide

Annexure-K, consequently, the impugned notification dated 17.04.2020 vide Annexure-M shall also stands quashed.

Writ petition is accordingly, allowed.

7. In view of the disposal of the present writ petition, the pending interlocutory applications does not survive for consideration and is accordingly disposed of.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

KPS