



IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 12TH DAY OF JANUARY, 2026
PRESENT
THE HON'BLE MRS. JUSTICE ANU SIVARAMAN
AND
THE HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL
WRIT APPEAL NO.416/2023 (LB-BMP)

BETWEEN:

1. G.T. CINEMAS PRIVATE LIMITED
A PRIVATE COMPANY INCORPORATED
UNDER THE PROVISIONS OF THE
COMPANIES ACT 1956
REP. BY ITS CHAIRMAN AND
MANAGING DIRECTOR
SRI S.T. ANAND
HAVING ITS REGISTERED OFFICE
AT. NO.92, MAGADI MAIN ROAD
OPP. MAGADI ROAD POLICE STATION
BANGALORE - 560023.
2. SRI. S.T. ANAND
S/O THIMMIAH
AGED ABOUT 60 YEARS
CHAIRMAN AND MANAGING DIRECTOR
G.T. CINEMAS PRIVATE LIMITED
NO.92, MAGADI ROAD
OPP. MAGADI ROAD POLICE STATION
BANGALORE - 560023.



...APPELLANTS

(BY SRI. OJASWI, ADV., FOR
SRI. DHANANJAY K.V. ADV.,)



AND:

1. STATE OF KARNATAKA
REP. BY THE ADDITIONAL CHIEF SECRETARY
URBAN DEVELOPMENT DEPARTMENT
VIKASA SOUDHA
AMBEDKAR VEEDHI
BANGALORE - 560001.
2. THE COMMISSIONER
BRUHAT BENGALURU MAHANAGARA PALIKE
N.R.SQUARE, BANGALORE - 560001

...RESPONDENTS

(BY SMT. SHWETHA KRISHNAPPA, AGA FOR R1
SRI. B.S. SATYANAND, ADV., FOR R2)

THIS WRIT APPEAL IS FILED U/S 4 OF THE KARNATAKA HIGH COURT ACT, PRAYING TO SET ASIDE THE FINAL ORDER DATED 10-MAR-2023 PASSED IN WRIT PETITION No.13689 OF 2021 (LB-BMP) BY THE LEARNED SINGLE JUDGE OF THIS HONBLE COURT. DECLARE THAT THE PROVISIONS OF THE BRUHAT BENGALURU MAHANAGARA PALIKE ACT, 2020 READ IN THE CONTEXT OF ARTICLES 246 OF THE CONSTITUTION WITH ENTRY 49, LIST II, SCHEDULE VII THEREOF DO NOT AUTHORISE THE BBMP (SECOND RESPONDENT) TO LEVY A TAX ON THE LAND AND BUILDING BELONGING TO THE APPELLANTS (SCHEDULE PROPERTY) DURING THE PERIOD OF LOCKDOWN IMPOSED TO CURB COVID. DECLARE THAT THE LEVY OF A TAX ON THE LAND AND BUILDING BELONGING TO THE APPELLANTS (SCHEDULE PROPERTY) BY THE BBMP IN TERMS OF SECTIONS 142 AND 144 OF THE BRUHAT BENGALURU MAHANAGARA PALIKE ACT, 2020 EVEN DURING THE PERIOD OF LOCKDOWN IMPOSED TO CURB COVID IS ARBITRARY AND VIOLATES ARTICLES 14 OF THE CONSTITUTION AND THAT IT IS CONFISCATORY IN NATURE AND IS THEREFORE, AN UNREASONABLE RESTRICTION ON THE CONSTITUTIONAL RIGHT OF THE APPELLANTS TO CARRY ON THEIR LAWFUL BUSINESS IN TERMS OF ARTICLE 19(6) OF THE CONSTITUTION AND HENCE, VOID & ETC.



THIS APPEAL, COMING ON FOR PRELIMINARY HEARING,
THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL

ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VIJAYKUMAR A. PATIL)

This intra Court appeal is filed challenging the order of the learned Single Judge dated 10.03.2023 passed in W.P.No.13689/2021 (LB-BMP), wherein the writ petition filed by the appellants was dismissed on the ground that the appellants did not possess *locus standi* to maintain the challenge.

2. Sri.Ojaswi, learned counsel appearing for Sri.Dhananjay K.V, learned counsel for the appellants submits that the learned Single Judge, without considering the fact in its proper perspective has dismissed the petition. It is submitted that the learned Single Judge failed to consider the scope of Section 153(2) of the Bruhat Bengaluru Mahanagara Pallike Act, 2020 (for short 'the BBMP Act) which clearly states that if any land is let



out for a term exceeding one year and if the tenant builds anything on that land, then the property tax assessed on the said land as well as the building shall be payable by the tenant or such person deriving title from the tenant. It is further submitted that the land-owners are the brothers who formed the Company which is appellant No.1 and the said fact is clearly stated in the writ petition. In support of his contentions, he placed reliance on the decisions of the Hon'ble Supreme Court in the case of **NATIONAL AND GRINDLAYS BANK LTD. Vs. MUNICIPAL CORPORATION OF GREATER BOMBAY¹** and **JASBHAI MOTIBHAI DESAI Vs. ROSHAN KUMAR, HAJI BASHIR AHMED AND OTHERS²**. Hence, he seeks to allow the appeal.

3. Sri.B.S.Satyanand, learned counsel for the respondent No.2 supports the order of the learned Single Judge and submits that the lease agreement dated

¹ (1969) 1 SCC 541

² (1976) 1 SCC 671



21.09.2010 now produced along with an application, was never placed before the learned Single Judge and it was always open for the appellants to file an impleading application to implead the owners of the property in the writ petition as the petitioners. It is further submitted that as per the BBMP records, the owners of the property in question are four brothers and not the appellant No.1- Company. It is also submitted that the matter may be remitted back to the learned Single Judge by permitting the respondents-BBMP as well as the State to file objections to the writ petition. Hence, he seeks to pass appropriate orders.

4. We have heard the submissions of the learned counsel for the appellants, the learned counsel for the respondent No.2 and meticulously perused the material available on record. We have given our anxious consideration to the submissions advanced by both the sides.



5. The appellant No.1 is a private limited company and the appellant No.2 is the Chairman and the Managing Director of the appellant No.1-Company. It has filed the writ petition seeking the following reliefs:

"a) Declare that the provisions of the Bruhat Bengaluru Mahanagara Palike Act, 2020 read in the context of Article 246 of the Constitution with Entry 49, List II, Schedule VII thereof do not authorise the BBMP (Second Respondent) to levy a tax on the land and building belonging to the Petitioners (Schedule Property) during the period of lockdown imposed to curb Covid.

b) Declare that the levy of a tax on the land and building belonging to the Petitioners (Schedule Property) by the BBMP in terms of Sections 142 and 144 of the Bruhat Bengaluru Mahanagara Palike Act, 2020 even during the period of lockdown imposed to curb Covid is arbitrary and violates Article 14 of the Constitution; and that, it is confiscatory in nature and is therefore, an unreasonable restriction on the constitutional right of the Petitioners to carry on their lawful business in terms of Article 19(6) of the Constitution and hence, void; and.

c) Consequently, in furtherance of issuance of prayer (a) or (b) above, to issue a Writ of Prohibition upon the BBMP from levying or



demanding a tax on the property belonging to the Petitioners (Schedule Property) in respect of the Covid lockdown period, in the interest of justice."

6. The learned Single Judge, under the impugned order dismissed the writ petition mainly on the ground that the appellant No.1 who is a private limited company apparently is not the owner of the property and as such, there is no *locus* for the petitioners to file the present petition or to seek any relief therefrom as such.

7. We have perused the pleadings in the writ petition. Paragraph 3 of the writ petition indicates that the petitioner No.1 is a private limited company duly incorporated under the provisions of the Companies Act, 1956, and it is a family company as the shareholders and directors are the siblings. The petitioner No.2 Sri.S.T.Anand is the Chairman and Managing Director of the respondent No.1-Company. The petitioner No.1 establishes and operates a shopping mall in the city of Bengaluru. This shopping mall is known as 'GT World Mall'



which was established in the year 2016 and the BBMP has duly assessed the property tax in respect of the land on which it has been built along with the building that comprises the Mall. It is averred that the petitioner No.1- Company discharges the liability over the payment of property tax while the khatedars are the title holders of the land over which the shopping mall is constructed - besides also being the sibling shareholders and directors. We have also perused the registered deed of lease dated 21.09.2010 entered between Sri.Gangadhar T, Sri.Ramachandra T, Sri.Anand S.T. and Sri.Manjunath T and the appellant No.1-priviate limited company. Clause 9 of the aforesaid deed reads as under:

"9. OUTGOINGS: The Lessor shall on taking over the possession of the schedule property as stated above, shall pay all such outgoings such as revenue, taxes, cess, impositions, assessments, duties etc. payable in respect of the scheduled property and also the building to be constructed thereon to the Government of Karnataka, the Municipal Corporation or any other local authority or



public body from time to time levied as per the prevailing/existing law/s from time to time."

8. A perusal of the clauses of the registered lease deed indicates that the subject matter of the property was leased by four brothers who are the owners of the property in favour of the appellant No.1-Company and the duration of the lease is for 20 years. Clause 9 of the said deed extracted *supra* makes it further clear that the tenant is liable to pay all outgoings including the tax. It is noticed that in Clause 9 of the said deed, the word is referred as 'lessor' however it should be read and understood as 'lessee' in view of the covenants in the said clause.

9. It would be useful to extract Section 153(2) of the BBMP Act which reads as under:

"(2) If any land has been let for any term exceeding one year to a tenant and such tenant or any person deriving title how so ever from such tenant has built upon the land, the property tax assessed upon the said land and upon the



building erected thereon shall be primarily payable by the said tenant or such person whether or not the premises be in the occupation of the said tenant or the person."

10. The aforesaid provision of law makes it very clear that if any land has been let out to the tenant for any term exceeding one year and if the tenant has built upon the land and the property tax has been assessed upon the said land, the primary liability to pay the tax is on the tenant. In the case on hand, the pleading and material on record indicate that the property in question is leased for more than one year and an express clause is mentioned for payment of tax by the tenant in the lease deed. We are of the considered view that the grievance of the appellants in the writ petition is required to be considered on merit.

11. Learned counsel for the appellants as well as the learned counsel for the respondents fairly submitted that the aforesaid factual aspects and the lease deed were



not placed before the learned Single Judge and hence, they seek to remand the matter back to the learned Single Judge to consider the writ petition on merits.

12. Having considered the various contentions advanced and taking note of the relevant provision of the Act and the law laid down by the Hon'ble Supreme Court in the case of **NATIONAL AND GRINDLAYS BANK LTD.** referred *supra*, we are of the considered view that the grievance of the petitioner is required to be adjudicated on merits. Hence, we propose to remand the matter back to the learned Single Judge with a request to consider the writ petition on merits and in accordance with law.

13. At this stage, learned counsel for the appellants submits that except Covid-19 period, the property tax has been paid by the appellants till date. However, no receipts have been issued by the respondent-BBMP. In response, learned counsel for the BBMP submits that in view of non-payment of tax for a particular year i.e. during the Covid-



19 period, the BBMP is unable to generate the challan for the subsequent years. However, if any payment is made by the appellants, the same would be accounted. The said submission is placed on record.

14. For the aforementioned reasons, the writ appeal is partly allowed.

The impugned order dated 10.03.2023 passed in W.P.No.13689/2021 is set aside and the matter is remanded back to the learned Single Judge.

The learned Single Judge is requested to consider the writ petition on merits and in accordance with law.

No order as to costs.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VIJAYKUMAR A. PATIL)
JUDGE**

RV
List No.: 1 SI No.: 13