HC-KAR

NC: 2026:KHC-D:15752-DB
WA No. 100261 of 2026

CNR: KAHC020070482026

IN THE HIGH COURT OF KARNATAKA, DHARWAD BENCH

DATED THIS THE 22ND DAY OF SEPTEMBER 2026

PRESENT

THE HON'BLE MR. JUSTICE M.NAGAPRASANNA

AND

THE HON'BLE MRS JUSTICE HEMA KULKARNI

WRIT APPEAL NO.100261 OF 2026 (LB-RES)

BETWEEN:

THE PANCHAYAT DEVELOPMENT OFFICER
MANGALORE VILLAGE PANCHAYATH,
TQ: KUKNUR, DIST: KOPPAL-583232.

...APPELLANT

(BY SRI.BASAVARAJ MATHAPATHI, ADVOCATE)

AND:

1. DHARMAVEER
S/O. SANNABASAPPA MARIBASAPPANAVAR,
AGE: 52 YEARS, OCC: AGRICULTURE,
R/O. MANGALORE VILLAGE,
TQ: KUKANOOR, DIST: KOPPAL-583231.

2. THE STATE OF KARNATAKA
BY ITS SECRETARY,
DEPARTMENT OF PUBLIC WORK,
M.S BUILDING, AMBEDKAR VEEDHI,
BENGALURU-560001.

3. THE DEPUTY COMMISSIONER
KOPPAL DISTRICT,
KOPPAL-583232.

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Location: HIGH COURT OF KARNATAKA DHARWAD BENCH
Date: 2026.10.15 14:30:05 +0530

4. THE CHIEF EXECUTIVE OFFICER
ZILLA PANCHAYAT,
KOPPAL DISTRICT,
KOPPAL-583231.

5. THE ASSISTANT EXECUTIVE OFFICER
ZILLA PANCHAYAT,
KOPPAL DISTRICT,
KOPPAL-583231.

6. THE EXECUTIVE OFFICER
TALUKA PANCHAYAT,
KUKANOOR, KUKANOOR TALUK,
KOPPAL DISTRICT-583231.

…RESPONDENTS

(BY SRI.SANTOSH B.MALLIGAWAD, ADVOCATE FOR R1;
SRI.RAKESH M.BILKI, AGA FOR R2 AND R3;
SRI.BHUSHAN B.KULKARNI, ADVOCATE FOR R4 TO R6)

THIS WRIT APPEAL IS FILED UNDER SECTION 4 OF KARNATAKA HIGH COURT ACT, 1961, PRAYING TO ALLOW THE WRIT APPEAL AND SET ASIDE THE ORDER DATED 12.02.2026 PASSED BY THE LEARNED SINGLE JUDGE, IN WP NO. 108599/2025; AND ETC.

THIS WRIT APPEAL COMING ON FOR ORDERS THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. JUSTICE M.NAGAPRASANNA

AND

HON'BLE MRS JUSTICE HEMA KULKARNI

ORAL JUDGMENT

(PER: **HON'BLE MR. JUSTICE M.NAGAPRASANNA**)

The appellant/Panchayath Development Officer of Mangalore Grama Panchayath, Koppal District, is before the Court calling in question an order of the learned Single Judge in Writ Petition No.108599/2025 disposed on 12.02.2026.

2. Heard the learned counsel Sri. Basavaraj Mathapathi appearing for the appellant, learned counsel Sri. Santosh B. Malligawad appearing for respondent No.1, learned Additional Government Advocate Sri. Rakesh M. Bilki appearing for respondent Nos.2 and 3 and the learned counsel Sri. Bhushan B. Kulkarni appearing for respondent Nos.4 to 6.

3. The parties to the appeal would be referred to as per their ranking in the writ petition.

4. Facts in brief, germane, are as follows:

4.1 The petitioner purchases the subject property bearing No.449/1 in terms of a registered sale deed dated 03.05.1967. The petitioner claims to be in possession of the said property, has constructed a shop and is running his

business in the said property, and on 22.10.2023, a notice comes to be issued for removal of the alleged 2 feet encroachment for the purpose of road widening. The petitioner rushes to this Court in Writ Petition No.106523 of 2023, where the learned Single Judge disposes of the Writ Petition by the following order on the following reasons:

> "4. On perusal of the content of the impugned notices issued by respondent No.5, this Court has noticed that, the respondent-authority has issued a final notice which is found in two folds; the notice indicates that, the respondent No.5 intends to undertake road widening project. Therefore, in terms of road width, the respondents claim that, from the centre of the road, the existing properties owned by the petitioners contravene the guidelines to maintain minimum distance from the centre of road. There is an encroachment to an extent of 2 feet. Whether the petitioners have encroached or existing properties on account of road widening, requires a new street alignment can be ascertained only by way of survey. It is in this context, this Court while granting protection to all the petitioners issued direction to the 5th respondent to carryout a survey and measure the property and identify the encroachment if any. This Court also made clear that, before survey is undertaken, individual notices have to be issued to all the concerned owners. This order is dated 27.10.2022. The respondent No.5 for the reasons best known to him, has not undertaken the survey till this date. Unless survey is done and the encroachments are ascertained, the respondent No.5 cannot proceed on an assumption that, there is an encroachment by the petitioners.
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> For the foregoing reasons, this Court passes the following:

ORDER

(i) The writ petition is disposed of;

(ii) The respondent No.5 shall not further precipitate by implementing impugned final notice issued as per Annexures-U to U17. These final notices stand deferred till survey is done and encroachment is ascertained.

(iii) If the properties owned by the petitioners are demolished, the extent of demolished portion shall also be ascertained by the concerned surveyor, while carrying out survey to enable the owners to seek appropriate compensation in that regard."

This learned Single Judge clearly indicated that until a survey is conducted, encroachment is ascertained, no further steps would be taken.

4.2 It transpires that without conduct of any survey, the shop or the alleged encroached area, the property belonging to the petitioner comes to be demolished by the Grama Panchayat. The petitioner rushes to this Court again in Writ Petition No.105669 of 2024 calling in question the said action of demolition without following due process of law, where the learned Single Judge, on the following reasons, passes the following order:

"9. It is further contended by the learned counsel for the respondent that as per section 72 of the Karnataka Panchayat Raj and Gram Swaraj Act, 1993, a report came to be submitted by respondent No.5 reporting the encroachment made by the petitioner. Thereafter on 14.08.2024 a notice was caused to the petitioner calling for objections if any for removal of the said encroachment. Thereafter a meeting was conveyed on 20.08.2024 which came to be postponed to 21.08.2024 on which day the petitioner along with five other people objected to the said survey the demolition and the unauthorized construction. The respondent thereafter requested the petitioner to produce necessary documents to show their right over the property which has been encroached over the guttar belonging to the respondents. Since no documents were furnished, the 5th respondent left with no other alternative had proceeded further in accordance with law for removal of the encroached portion of the property in accordance with the provisions of the Act.

10. It is further submitted that despite several notices and reminders, no documents in support of the claim is furnished by the petitioner. Therefore the respondents proceeded further to clear the encroachment after several notices were issued. Under the circumstances he contends that there is no illegality or arbitrariness or violation of any rights of the petitioner of alleged non issuing of notice, as notices were issued in accordance with law and the procedure is followed as per the prescribed guidelines.

11. Having heard the learned counsel for the petitioner and the learned counsel for the respondents, apparently it is seen that notices were issued pursuant to the order passed in the writ petition mentioned hereinabove and the petitioner had responded to the said notice by way of filing objections statement claiming his right over the property. It is the grievance of the petitioner that the petitioner is the absolute owner of the property and the respondent does no have any right or claim and there is no encroachment on the land belonging to the respondents.

12. Be that as it may, the survey was conducted by the petitioner through a private surveyor, so also by the respondents by the Government agency. The petitioner has participated in the survey that was conducted and present and thereafter due to non submitting of the documents, the respondents have proceeded further. It is the grievance of he petitioner that despite the petitioner having produced the statement of objection statement to the demolition, the same is not considered and in a hurried manner the respondents have demolished the residential portion of the property belonging to the petitioner.

13. The photographs have not been produced before this Court by both the parties to establish the portion of the property demolished is rightfully demolished or not. The question now arises as to whether portion of the property which is demolished is rightfully demolished by following the due process of law by the respondent authorities and whether the petitioner is the lawful owner of the portion of the property which is demolished and whether he would have any right over the said portion and whether the same is illegally demolished by the respondent authorities. The present petition is filed to consider the representation submitted by the petitioner dated 12.09.2024, vide Annexures-N, N1, N2 and N3.

14. The representation so filed by the petitioner would have to be considered in accordance with law by the respondent authorities, which has not been done. Learned counsel for the respondents submits that the said representation would be considered in accordance with law if reasonable time is granted.

15. In view of the above, this Court deems it appropriate to dispose of this petition. Accordingly, I pass the following:

ORDER

i) The petition is partly allowed.

ii) A writ of mandamus is issued directing respondents No.2 to 6 to consider the representation of the petitioner dated

12.09.2024 produced at Annexure-N, N1, N2 and N3 within a period of four weeks from the date of receipt of copy of this order.

iii) Respondents No.2 to 6 shall conduct a joint survey involving the petitioner.

iv) Respondent No.1 shall direct the Assistant Director Land Records to conduct a survey by issuing a notice to the petitioner in advance and ascertain the encroached and demolished portion of the house property bearing No.449/1 of Mangalore Village Gram Panchayat, Mangalore of Kukanur Taluk and furnish a copy of the same to the petitioner.

v) The petitioner is at liberty to participate in the said survey to be conducted by the ADLR, which shall be conducted within 8 weeks from the date of receipt of a copy of this order and furnish a copy of it to the petitioner.

vi) Liberty is reserved to the petitioner if aggrieved by the survey and the report submitted to claim any damages from the corporation if so advised, in accordance with law.

vii) Notice shall be issued to the petitioner by providing one week's time and if the petitioner does not participate, respondents shall proceed further in accordance with law."

The property was already demolished by then is what can be gathered from what is captured in the order passed in the writ petition also. The petition comes to be partly allowed, and a writ of *mandamus* is issued directing respondent Nos.2 to 6 to consider the representation and conduct a joint survey in the presence of the petitioner, along with several other directions. These directions were again not complied with, is the allegation.

4.3 The petitioner then approaches this Court again in Writ Petition No.108599/2025, the third in line. The learned Single Judge allows the petition by the order dated 12.02.2026, which reads as follows:

> "Pursuant thereto, a joint survey was conducted and a report was submitted (Annexure-F), which categorically establishes that (a) the total built-up area of the house tallies with the measurements mentioned in the title deed, and (b) an extent of 11-6/9 salagaja, approximately 105 sq. ft., of the petitioner's house has been demolished. It is the case of the petitioner that, despite the joint survey report, the respondents issued the impugned endorsements dated 02.09.2025 and 10.10.2025, falsely stating that no demolition had taken place and alleging encroachment by the petitioner, thereby denying compensation and acquisition benefits.
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> 3. Learned counsel for the petitioner submits that the demolition was carried out without initiating acquisition proceedings, without following due process, and in violation of the earlier orders of this Court, as the Court-directed joint survey report conclusively establishes the demolition and quantifies the extent demolished. It is submitted that the impugned endorsements (Annexures-G and G1) are contrary to record, arbitrary and issued only to evade the payment of compensation. It is further contended that the petitioner has lost not only a portion of his house but also his livelihood, as a cloth shop was being run in the demolished portion.
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> 4. Per contra, the learned counsel appearing for the respondents No.3 to 6-panchayat submits that no demolition has taken place and the petitioner's house has not been demolished and that in fact, the petitioner itself has encroached upon the road.
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> 5. This Court has carefully considered the rival submissions and perused the material on record.

6. The joint survey report (Annexure-F), conducted pursuant to the specific direction of this Court, clearly discloses that an extent of 11-6/9 salagaja (105 square feet) of the petitioner's house has been demolished. The said report also establishes that the measurements of the property are inconsonance with the registered sale deed and that the demolition occurred within the petitioner's titled property.

7. Once the joint survey report quantified the demolished portion, the respondents could not have brushed aside the same by issuing a bald endorsement denying the demolition. The impugned endorsement (Annexures-G and G1) issued by the respondents No.5 and 6 are not only contrary to joint survey (Annexure-F), but also contrary to the earlier orders passed by this Court (supra) and the impugned action on the part of respondents-authorities is ex-facie, arbitrary and unsustainable. The demolition of the residential/ commercial property of the petitioner without initiating acquisition proceedings or paying compensation amounts to deprivation of property and livelihood and is violative of Article 300A of the Constitution of India. The plea of encroachment is rendered untenable in view of the joint survey report (Annexure-F). Accordingly, this Court is of the considered view that the impugned endorsement, is unsustainable in law and pass the following:

ORDER

i. The writ petition is **allowed**.

ii. The impugned endorsements dated 02.09.2025 and 10.10.2025 issued by respondents No.5 and 6 (Annexure-G and G1), are hereby **quashed**.

iii. The respondents are directed to initiate appropriate acquisition proceedings in respect of the demolished portion of the petitioner's property, if not already initiated and to determine and pay compensation strictly in accordance with the joint survey report (Annexure-F).

iv. The entire exercise of acquisition proceedings and payment of compensation, shall be completed within a period of three months

from the date of the receipt of certified copy of this order."

5. On a conspectus of the orders passed by the learned Single Judges of this Court, which are 3 in number, what would be the unmistakable inference is that the property of the petitioner, without conduct of a joint survey as is observed by the Court, is demolished without any notification of acquisition, no acquisition proceedings having even been initiated. The learned Single Judge in the impugned writ petition in Writ Petition No.108599/2025 holds that the demolition of the residential and commercial property of the petitioner without initiating acquisition proceedings amounts to deprivation of property and livelihood as obtaining under Article 300A of the Constitution of India. The Panchayat Development Officer who undertook the exercise of demolishing the property of the petitioner despite the orders quoted hereinabove is now before us in the subject appeal contending that the learned Single Judge could not have passed the said order on the score that the portion of the property, to an extent of 11-6/9 salagaja, which is approximately 105 square feet, was an illegal encroachment.

6. The joint survey that is conducted clearly indicates that there is no encroachment in the case at hand. The petitioner has produced the sale deed pursuant to which the petitioner entered the property, which shows that it is 176 salagaja, which amounts to 1584 square feet, out of which 105 square feet is the alleged portion that has been demolished. That the demolition has taken place without due process of law is what can be discerned from the orders passed by the learned Single Judges of this Court, not once but thrice. Therefore, there is no warrant of interference with the order that is passed by the learned Single Judge directing initiation of acquisition proceedings and determination of compensation for the act of the appellant having demolished the property of the petitioner.

7. Directing payment of compensation alone would not be sufficient to render complete justice to the petitioner, whose property has been illegally demolished by the Panchayat Development Officer in the teeth of the orders of this Court. For the aforesaid action, adequate costs have to be imposed, taking into account the conduct of the appellant and the damage caused to a citizen whose property has been subjected to illegal

demolition, apart from which the demolition having been carried out without even waiting for a joint survey pursuant to the orders of this Court. Therefore, we deem it appropriate to dismiss the appeal with imposition of exemplary costs upon the Panchayat Development Officer for having acted contrary to the orders passed by this Court. The costs being assessed at ₹50,000/- to be paid by the appellant-Panchayath Development Officer from his pocket to the petitioner within an outer limit of 4 weeks from the date of receipt of a copy of this judgment.

Ordered accordingly.

Sd/-
(M.NAGAPRASANNA)
JUDGE

Sd/-
(HEMA KULKARNI)
JUDGE

KMV
CT:VH
List No.: 1 Sl No.: 9