

Hand Delivery Copy

**NEXT DATE OF HEARING 13.12.2021  
AT 2:30 P.M.**

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU  
DATED THIS THE 10<sup>TH</sup> DAY OF DECEMBER 2021**

**BEFORE**

**THE HON'BLE MR. JUSTICE M. NAGAPRASANNA  
WRIT PETITION NO.22759/ 2021 [LB-BMP]**

**PETITIONER:**

1 .M/S ABHISHEK PROPBUILD PRIVATE LIMITED,  
(FORMERLY KNOWN AS ABHISHEK DEVELOPERS PRIVATE LIMITED )  
A PRIVATE LIMITED COMPANY INCORPORATED UNDER THE  
INDIAN COMPANIES ACT, HAVING ITS REGISTERED OFFICE AT  
NO. 41, VITTAL MALLYA ROAD, BANGALORE 50001.  
REPRESENTED BY ITS AUTHORIZED SIGNATORY  
SHRI GIRISH GUPTA.

2 .M/S HAMARA SHELTERS PVT LTD  
(A PRIVATE LIMITED COMPANY INCORPORATED)  
UNDER THE PROVISIONS OF INDIAN COMPANIES ACT 1956)  
HAVING ITS REGISTERED OFFICE AT NO. 41,  
VITTAL MALLYA ROAD, MANTRI HOUSE,  
BANGALORE 560001.  
REPRESENTED BY ITS AUTHORIZED SIGNATORY  
SHRI. GIRISH GUPTA.

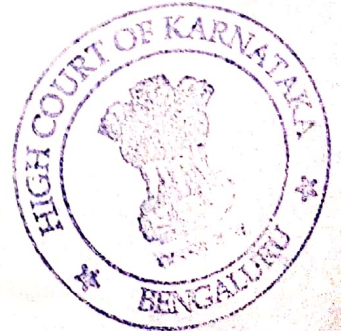
BY SRI M.S. SHYAM SUNDAR ADV....,  
V/S

**RESPONDENTS:**

1 .THE BRUHATH BENGALURU MAHANAGARA PALIKE  
REPRESENTED BY COMMISSIONER, BBMP  
OFFICE AT BBMP HEAD OFFICE, HUDSON CIRCLE  
BANGALORE-560002.

2 .THE REVENUE OFFICER BBMP  
(BRUHATH BENGALURU MAHANAGARA PALIKE)  
GANDHI NAGAR DIVISION, DR. TMC RAYAN ROAD,  
BENGALURU-560009

3 .THE JOINT REVENUE OFFICER BBMP  
(BRUHATH BENGALURU MAHANAGARA PALIKE)  
GANDHI NAGAR DIVISION, DR. TMC RAYAN ROAD,  
BENGALURU-560009



....(2)

4 .THE JOINT COMMISSIONER BBMP (REVENUE)  
THE BRUHATH BENGALURU MAHANAGARA PALIKE  
OFFICE AT BBMP HEAD OFFICE, HUDSON CIRCLE,  
BANGALORE-560002.

5 .THE JOINT COMMISSIONER BBMP (WEST)  
THE BRUHATH BENGALURU MAHANAGARA PALIKE  
OFFICE AT BBMP HEAD OFFICE, HUDSON CIRCLE,  
BANGALORE-560002.

6 .THE ASSISTANT COMMISSIONER BBMP (WEST)  
THE BRUHATH BENGALURU MAHANAGARA PALIKE  
OFFICE AT BBMP HEAD OFFICE , HUDSON CIRCLE  
BANGALORE-560002.

7. THE STATE OF KARNATAKA BY DEPARTMENT  
OF URBAN DEVELOPMENT , BY PRINCIPAL SECRETARY,  
VIDHANA SOUDHA, BANGALORE-560011.

(AMENDED AS  
PER ORDER  
DATED 10.12.2021)

SRI. B.S. KARTHIKEYAN FOR R1 TO 6,  
AGA FOR R7,

Whereas, a Writ Petition filed by the above named petitioner under Article  
226 & 227 of the constitution of India, has been registered by this Court.

After hearing the Court made the following:



(COPY OF THE ORDER DATED 10.12.2021 IS ENCLOSED  
SEPARATELY)

SV 10.12.2021



MNPJ:  
10.12.2021

W.P. No.22759/2021

**ORDER**

Sri B.S.Karthikeyan, learned counsel is directed to accept notice for respondent Nos.1 to 6.

Learned Additional Government Advocate waives notice for respondent No.7.

Learned counsel appearing for the petitioners is directed to implead the Department of Urban Development as party respondent No.7, to these proceedings.

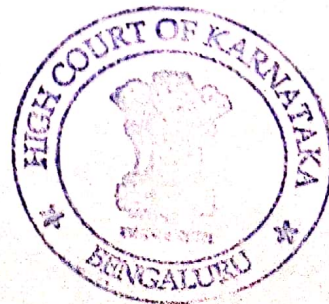
Learned counsel for petitioners to serve requisite sets of writ petition papers upon the aforesaid learned counsel, also to amend the cause title of the writ petition and file an amended writ petition, forthwith.

Learned counsel appearing for the petitioners would submit that a distress warrant was issued for payment of property tax amounting of Rs.6,77,78,286/-



on 14.02.2020. The petitioners have also paid a sum of Rs.1 crore on 14.09.2020 towards dues of property tax and contend that they have been paying Rs.2 crores month on month basis and presently, they are in due to the tune of Rs.4 crores. The act of the respondents - Bruhat Bengaluru Mahanagara Palike in locking the premises when the customers were inside the Mall is what is questioned by the petitioners *inter alia* along with questioning the demand of tax.

Learned counsel appearing for the petitioners Sri.Shyam Sundar.M.S. would emphasize on the fact that the locking of the premises by the Bruhat Bengaluru Mahanagara Palike on account of default of payment of tax is contrary to law, as there is no provision available under the Karnataka Municipal Corporations Act, 1976 or the Bruhat Bengaluru Mahanagara Palike Act, 2020 as the case would be, to lock a premise which has been in default in payment of property tax.

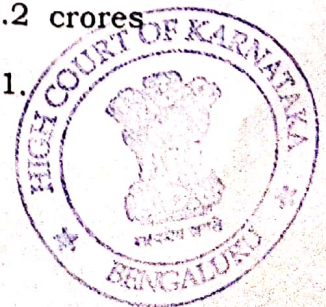




Sri.B.S.Karithikeyan, learned counsel appearing for Bruhat Bengaluru Mahanagara Palike would dispute the position of law and would vehemently refute the submissions.

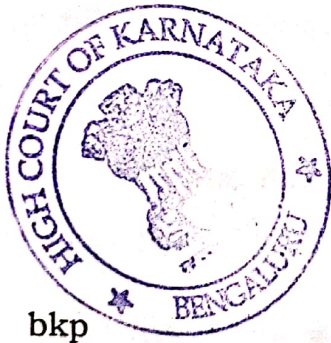
*Prima facie*, I find that the act of both the petitioners being in default of payment of tax and the Bruhat Bengaluru Mahanagara Palike locking the premises for non-payment of tax is contrary to law.

However to balance the situation, interim order as prayer for, with regard to opening of the mall, is granted subject to petitioner paying a sum of Rs.2 crores by the end of the day. Since the day has now come to an end and tomorrow and Sunday being holidays for the Bank, learned counsel would submit that he would deposit a cheque for Rs.4 crores with the Bruhat Bengaluru Mahanagara Palike before the end of the day and would replace the same with a demand draft of Rs.2 crores before 12.00 noon on Monday i.e., on 13.12.2021.



Learned counsel for the Bruhat Bengaluru Mahanagara Palike to place on record the documents with regard to all the submissions that he has made, that the demand of tax has been communicated to the petitioners year on year and the petitioner has been in default of payment of those taxes year on year and when the cup of default came to the brim, the Bruhat Bengaluru Mahanagara Palike has taken recourse to such an act of locking the premises.

List this matter on 13.12.2021 at 2.30 p.m.



**COPY**

M.V. Sushree 10/12/2021  
Assistant Registrar  
High Court of Karnataka  
Bengaluru - 560 001

*[Handwritten signature]*  
10/12

*[Handwritten signature]*  
10/12/2021

Sd/-  
JUDGE