

Reserved on : 24.02.2025
Pronounced on : 04.03.2025



IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH

DATED THIS THE 04TH DAY OF MARCH, 2025

BEFORE

THE HON'BLE MR. JUSTICE M. NAGAPRASANNA

WRIT PETITION No.100199 OF 2025 (GM - POLICE)

BETWEEN:

UTTARADI MUTT
REPRESENTED BY ITS PEETHADHIPATHI
SRI SATYATMA TEERTHA SWAMIJI
REPRESENTED BY
CHIEF ADMINISTRATIVE OFFICER AND
GPA HOLDER NAMELY
SRI VIDYADHEESHACHARYA GUTTAL
PRESENTLY RESIDING AT NO.44,
SUBBARAMA CHETTY ROAD,
BASAVANAGUDI,
BENGALURU – 560 004.

... PETITIONER

(BY SRI MADHUKAR DESHPANDE, ADVOCATE)

AND:

1 . STATE OF KARNATAKA
DEPARTMENT OF HOME
VIDHANA SOUDHA,
AMBEDKAR VEEDHI,
BENGALURU – 560 001

REPRESENTED BY ITS
PRINCIPAL SECRETARY.

- 2 . CIRCLE POLICE INSPECTOR
KAMALAPURA POLICE STATION,
HOSPET TALUK,
VIJAYANAGAR DISTRICT – 583 221.
- 3 . RAJESH A. BATAGURKI
CIRCLE POLICE INSPECTOR,
KAMALAPURA POLICE STATION,
HOSPET TALUK,
VIJAYANAGAR DISTRICT – 583 221.

... RESPONDENTS

(BY SRI SHARAD V.MAGADUM, AGA FOR R1 & R2;
SRI B.C.JNANAYYASWAMI, ADVOCATE FOR R3)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA PRAYING TO - (A) ISSUE OF A WRIT IN THE NATURE OF MANDAMUS OR DIRECTION TO THE RESPONDENTS, NOT TO COERCE THE PETITIONER MUTT AND ITS MANAGER TO HAND OVER THE KEYS AS WELL AS CUSTODY AND CONTROL OF THE "SRI.NARAHARITEERTHA SWAMY" BRUNDAVANA SITUATED AT VENKATAPURA VILLAGE, HOSPET TALUK, VIJAYANAGAR DISTRICT TO ANY PERSON, WITHOUT THERE BEING ANY SPECIFIC JUDICIAL ORDER IN THAT REGARD; (B) DECLARE THAT THE ACTION OF THE RESPONDENTS IN COERCING THE PETITIONER MUTT AND ITS MANAGER TO HAND OVER THE KEYS AS WELL AS CUSTODY AND CONTROL OF "SRI.NARAHARITEERTHA SWAMY" BRUNDAVANA SITUATED AT VENKATAPURA VILLAGE, HOSPET TALUK, VIJAYANAGAR DISTRICT IS ILLEGAL AND CONSEQUENTLY DIRECT THE RESPONDENT NO.1 TO INITIATE DISCIPLINARY PROCEEDINGS AS AGAINST THE RESPONDENT NO.3.

THIS WRIT PETITION HAVING BEEN HEARD AND RESERVED FOR ORDERS ON 24.02.2025, COMING ON FOR PRONOUNCEMENT THIS DAY, THE COURT MADE THE FOLLOWING:-

CORAM: **THE HON'BLE MR JUSTICE M.NAGAPRASANNA**

CAV ORDER

The petitioner is before this Court seeking a direction by issuance of a writ in the nature of mandamus not to coerce the petitioner/Mutt or its Manager to hand over keys as well as custody and control of Sri Narahariteertha Swamy Brundavana situated at Ventapura Village. A further direction is sought for initiation of disciplinary proceedings against respondent No.3 who has been made a party by name.

2. Heard Sri Madhukar Deshpande, learned counsel appearing for the petitioner, Sri Sharad V. Magadum, learned Additional Government Advocate appearing for respondents 1 and 2 and Sri B.C. Jnanayyaswami, learned counsel appearing for respondent No.3.

3. Facts in brief, germane, are as follows:-

The petitioner/Uttaradi Mutt institutes O.S.No.15 of 1998 against Sri Raghavendra Swamy Mutt seeking relief of permanent injunction restraining Sri Raghavendra Swamy Mutt from disturbing the performance of Aradhana of Sri Naraharitheertha Swamy Brundavana. On 16-01-2003 it appears that the suit was decreed and a restraint order was passed against Sri Raghavendra Swamy Mutt. Sri Raghavendra Swamy Mutt is said to have preferred a regular appeal in R.A.No.11 of 2003 before the first Appellate Court challenging the judgment and decree passed in O.S.No.15 of 1998. The first Appellate Court, by its judgment and decree dated 05-08-2006 confirmed the decree as passed in O.S.No.15 of 1998. Being aggrieved by both the decrees in O.S.No.15 of 1998 and R.A.No.11 of 2003, Sri Raghavendra Swamy Mutt prefers regular second appeal in R.S.A.No.2892 of 2006. The said regular second appeal comes to be allowed by an order of the coordinate Bench on 9-01-2025 reversing the concurrent findings and dismissing the suit filed by the petitioner/Mutt.

4. The issue in the *lis* is not with regard to merit of those orders. It is the averment in the petition that the Manager of the petitioner/Mutt who is staying at Hospet receives a call from the 3rd respondent who is the Circle Inspector of Kamalapura Police Station, Hospet Taluk under whose jurisdiction the petitioner/Mutt comes. In the said call the petitioner/Mutt is said to have been directed by the 3rd respondent to hand over keys of Brundavana to the devotees of Sri Raghavendra Swamy Mutt. It is at this juncture, the petitioner/Uttaradi Mutt prefers the subject petition. This Court passed several orders from time to time, the first of which comes about on 15-01-2025. It reads as follows:

“Registry to print the name of the petitioners’ counsel appropriately as Madhukar Deshpande.

The petitioner is before this Court seeking a restraint order against the respondent-State from interfering with the petitioner’s custody and control of Sri Narahariteertha Swamy Brundavana, situated at Venkatapura village, Hospete Taluk, Vijayanagar District.

The issue relates to an order, in Regular Second Appeal passed by the Coordinate Bench on 09.01.2025 by which, concurrent finding of both the Courts, is reversed and the suit is dismissed. The order is passed on 09.01.2025. The petitioners herein, who were the defendants there, do have a right to file an appeal against the said order and the period of appeal is yet to get over. In the interregnum, it is the allegation of the petitioners that the appellant in R.S.A.No.2892/2006 with the help of the local police is wanting to frustrate the right of appeal

of these petitioners by seeking to take over the custody of Brundavana as described in the prayer.

In that light, there shall be an interim order of stay, as prayed for, till the next date of hearing.

The interim order sought is as follows:

"Pending disposal of the above writ petition, the Petitioner prays that this Hon'ble Court may be pleased to restrain the Respondents from interfering with the Petitioner's custody and control of "Sri. Narahariteertha Swamy" Brundavana and coercing the Petitioner to hand over the keys of the 'Sri. Narahariteertha Swamy" Brundavana, situated at Venkatapura village, Hospet Taluk, Vijayanagar District, in the interest of justice and equity."

Learned AGA is directed to accept notice for respondents No.1 and 2.

Issue emergent notice to respondent No.3.

The respondent No.3 shall respond to the allegations made by the petitioners by the next date of hearing.

List this matter on 10.02.2025."

(Emphasis supplied)

After the grant of the aforesaid order, it appears the petitioner/ Uttaradi Mutt prefers a special leave petition before the Apex Court. On 17-01-2025, the Apex Court in S.L.P.(C) No.1415 of 2025 passes the following order:

"UPON hearing the counsel the Court made the following

ORDER

Issue notice.

The sole respondent is represented through learned senior counsel, Mr. Raju Ramachandran and Mr. Narendra Hooda, are appearing on behalf of learned counsel Mr. Aljo K. Joseph, AOR on caveat, accepts and waives formal notice on behalf of respondent.

We have heard Mr. Mukul Rohatgi, Mr. Maninder Singh, Mr. D.S. Naidu, Mr. Ameet K. Deshpande and Mr. Rahul Raushik, learned senior counsel appearing for the petitioner.

Respondents to file counter affidavit within four weeks. Rejoinder affidavit be filed, thereafter, within two weeks. List thereafter.

Until further orders, the parties to maintain status quo with regard to property in question."

(Emphasis supplied)

The Apex Court directs that until further orders the parties to maintain *status quo* in regard to the property in question. This was sought to be misinterpreted again. Therefore, this Court passed an order on 20-01-2025 reading:

"Heard the learned counsel Shri Madhukar Deshpande along with the learned counsel Shri B.S. Venkatanarayana and Shri Vinayak Kulkarni appearing for the petitioner.

This Court on 15.01.2025 answering the prayer sought and the State wanting to proceed against the petitioner, passed the following order:

"Registry to print the name of the petitioners' counsel appropriately as Madhukar Deshpande.

The petitioner is before this Court seeking a restraint order against the respondent-State from interfering with the

petitioner's custody and control of Sri Narahariteertha Swamy Brundavana, situated at Venkatapura village, Hospete Taluk, Vijayanagar District.

The issue relates to an order, in Regular Second Appeal passed by the Coordinate Bench on 09.01.2025 by which, concurrent finding of both the Courts, is reversed and the suit is dismissed. The order is passed on 09.01.2025. The petitioners herein, who were the defendants there, do have a right to file an appeal against the said order and the period of appeal is yet to get over. In the interregnum, it is the allegation of the petitioners that the appellant in R.S.A.No.2892/2006 with the help of the local police is wanting to frustrate the right of appeal of these petitioners by seeking to take over the custody of Brundavana as described in the prayer.

In that light, there shall be an interim order of stay, as prayed for, till the next date of hearing.

The interim order sought is as follows:

"Pending disposal of the above writ petition, the Petitioner prays that this Hon'ble Court may be pleased to restrain the Respondents from interfering with the Petitioner's custody and control of "Sri. Narahariteertha Swamy" Brundavana and coercing the Petitioner to hand over the keys of the 'Sri. Narahariteertha Swamy" Brundavana, situated at Venkatapura village, Hospet Taluk, Vijayanagar District, in the interest of justice and equity."

Learned AGA is directed to accept notice for respondents No.1 and 2.

Issue emergent notice to respondent No.3.

The respondent No.3 shall respond the allegations made by the petitioners by the next date of hearing.

List this matter on 10.02.2025."

The interim order as prayed for was granted and the interim order was not to interfere with the petitioner's custody

and control of Brundavan and coercing the petitioner to handover the keys.

Learned counsel submits that, on 15th, 16th and 17th January, 2025, the petitioners have performed the Pooja. In the interregnum, the petitioners, against the order passed by the Coordinate Bench in the aforesaid Regular Second Appeal has knocked at the doors of the Apex Court in SLP (C) No.1415/2025. The Apex Court passes the following order:

"UPON hearing the counsel the Court made the following

ORDER

Issue notice.

The sole respondent is represented through learned senior counsel, Mr. Raju Ramachandran and Mr. Narendra Hooda, are appearing on learned counsel Mr. Aljo K. Joseph, AOR behalf of on caveat, who accepts and waives formal notice on behalf of respondent.

We have heard MR. Mukul Rohatgi, Mr. Maninder Singh, Mr. D. S. Naidu, Mr. Ameet K. Deshpande and Mr. Rahul Kaushik, learned senior counsel appearing for the petitioner.

Respondents to file counter affidavit within four weeks. Rejoinder affidavit be filed, thereafter, within two weeks. List thereafter.

Until further orders, the parties to maintain status quo with regard to property in question."

It is directed that, until further orders, parties to maintain status quo with regard to the property in question.

Learned counsel submits that after the order in SLP, the Tahsildar in the interregnum calls for a peace meet to be held on 18.01.2025.

It is understandable as to how Tahsildar would get a jurisdiction to call for a peace meet when it was not sought by anybody muchless the petitioner.

Learned counsel takes this Court through the plethora of orders passed for the past 25 years in favour of the petitioner. Learned counsel further contends that at the time of Aradhana that is to be performed on 20th, 21st and 22nd of January, 2025, the respondents in whose favour the Regular Second Appeal was allowed has not performed Pooja or Aradhana from time immemorial.

In that light, noticing the fact that the Tahsildar has acted beyond jurisdiction, I deem it appropriate to direct the State not to precipitate the matter any more and render the order passed by this Court or the Apex Court redundant. It would be fringing on the borders of contempt, if the State would further indulge in precipitating the matter qua petitioner, as the status quo granted by the Apex Court in terms of its order dated 17.01.2025 would obviously be status quo as on the date of the judgment delivered in Regular Second Appeal on 09.01.2025.

Therefore, in the light of the aforesaid facts, the second respondent would accord appropriate Police protection for peaceful performance of Pooja or Aradhana for the next three days. Any untoward incident happening, the second respondent will be responsible.

List this matter on 10.02.2025 in the fresh matters list."

(Emphasis supplied)

The other prayers that are sought in the petition would not, for the present, survive on the score that the Apex Court has directed maintenance of *status quo* which is clarified by the Division Bench.

5. The learned counsel for the petitioner would now submit that the only issue that remains for consideration is the direction for initiation of disciplinary proceedings against the 3rd respondent.

6. The learned counsel for the petitioner would vehemently contend that the 3rd respondent is made a party by name attributing *mala fides* against him for having interfered in a religious dispute between the parties without any rhyme or reason. Conversations between the 3rd respondent and the petitioner are recorded. He has clearly directed the petitioner to hand over keys of the Brundavana. The coordinate Bench while passing the order in the RSA on 09-01-2025 never said so. On the morning of 10th, even before certified copy could reach the petitioner, a call was made by the 3rd respondent. Therefore, it is his submission that this is a fit case where this Court will have to direct initiation of departmental inquiry against the 3rd respondent.

7. Per contra, the learned Additional Government Advocate would seek to defend the action of the 3rd respondent, in wanting to protect law and order, and submits that there is no mistake on his

part. The 3rd respondent himself has filed his detailed statement of objections refuting every claim by contending that he has only done his duty to protect law and order. His action would not warrant any direction from the hands of this Court as sought for in the petition.

8. I have given my anxious consideration to the submissions made by the respective learned counsel and have perused the material on record.

9. The afore-narrated facts are not in dispute. The issue lies in a narrow compass as to the merit in the prayer that is sought by the petitioner. As observed hereinabove, the dispute first arose between two mutts pursuant to which a suit is instituted in O.S.No.15 of 1998 by the petitioner against Sri Raghavendra Swamy Mutt. The police had interfered with the dispute, which led to an order being passed on 25-08-1999 by a learned single Judge of this Court in W.P.No.34766 of 1997. The order reads as follows:

"First petitioner and 6th respondent are religious institutions. Second petitioner claims that he is the hereditary Archak of Sri Sri Narahari Theertha Swamiji, Moola Brundavana situate at Kamalapur, Hospet Taluk, Bellary District.

2. Petitioners are before this Court inter alia questioning the orders made by the Assistant Commissioner, Hospet, dated 30-01-1997. By the said order, he had directed the second petitioner and the 6th respondent to perform Aradhana on 30-01-1997, 31-01-1997 and 1-02-1997.

3. Petitioners in this writ petition seek the following reliefs. They are:

- (a) To quash the orders made by the Assistant Commissioner dated 30-01-1997.
- (b) For a direction to the respondents 2 to 5 not to interfere in the performance of annual Aradhana on 19th, 20th and 21st January, 1998 and on such Aradhanas being held every subsequent years during the same period.
- (c) Lastly, for a direction to the first respondent to hold an appropriate enquiry against respondents 3, 4 and 5 for their illegal action.

4. In my opinion, insofar as the first prayer is concerned, the order that was made by the Assistant Commissioner dated 30-01-1997 has already spent its life. Therefore, no purpose would be served by quashing the said order.

5. Insofar as the second prayer is concerned, it appears, the Assistant Commissioner and Sub-Divisional Magistrate, Hospet has passed an order directing the second petitioner and 6th respondent to perform "Aradhana" in a particular manner. That order is not before me. Therefore, it is difficult to grant the second prayer sought for by the petitioners in this writ petition.

6. Insofar as the other request made in the second prayer itself, that is, to direct respondents 2 to 5 not to interfere with the performance of annual Aradhana to be held on Pushya Bahula Shashti, Saptami and Ashtami and to be held every year during the same period, in my opinion since the parties have already approached the civil Court for resolving the civil disputes between them, it may not be appropriate for this Court to pass any order.

7. Insofar as the third prayer is concerned, in my opinion, the revenue authorities and the Police authorities should not interfere with the religious activities of the religious institution. It is only when there is disobedience of law and order, the authorities should make appropriate arrangements. Even otherwise also, since I have not granted prayers 1 and 2 to the petitioners in this writ petition, it may not be proper for me at this stage to direct the first respondent to hold appropriate enquiry against respondents 3 to 5 for their so-called illegal action in permitting respondent-6 to perform Aradhana in Sri Narahari Theerta Swamiji Brundavana, situate at Kamalapura Village, Hospet Taluk. If for any reason, respondents 3 to 5 interfere with the religious activities in future, petitioners are at liberty to approach the appropriate forum for redressal of their grievances.

8. With these observations and directions writ petition is disposed off. It is made clear that I have not decided the civil rights of either the petitioners or the respondents in this writ petition, since petitioners have already filed an appropriate civil suit for that purpose before the civil Court. The disposal of the writ petition should not be taken as deciding the case either in favour of the petitioners or in favour of the 6th respondent. Ordered accordingly."

(Emphasis supplied)

The learned Judge, insofar as the third prayer was concerned, holds that revenue authorities and police authorities should not interfere with religious activities of religious institutions. It is only when there is disobedience of law and order, the authorities should make appropriate arrangements. Even otherwise, prayers 1 and 2 therein are not granted. The Court observes that it is not initiating any proceedings against the Police. The prayer therein was identical to

the prayer here to initiate enquiry against respondents 3, 4 and 5 who were Assistant Commissioner, Tahsildar and Deputy Superintendent of Police, Bellary District. Therefore, this Court, on the dispute between the two, had already observed way back in 1999 that the Police should keep out of religious disputes, unless situation warrants. Whether the situation had warranted in the case at hand is what is required to be considered.

10. The coordinate Bench only upturns the judgment and decree dated 16-01-2003 passed in O.S.No.15 of 1998 and concurrent finding in R.A.No.11 of 2003 passed in the year 2006. Therefore, at no point in time Sri Raghavendra Swamy Mutt was in possession of the property. The suit had been decreed in favour of the petitioner, regular appeal was dismissed and the finding in the regular second appeal by the coordinate bench was 19 years after the dismissal of the regular appeal. The certified copy of the judgment in R.S.A.No.2892 of 2006 was yet to be released. The 3rd respondent has no jurisdiction to seek the petitioner Mutt to hand over keys. The conversation between the two is as follows:

ಶ್ರೀ ರಾಜೇಶ್ ಸಿಪಿಐ: ಸಣ್ಣ ವಿಚಾರ ಮಾಡೋದು ಬೇಡ. ಅದೇನಿದೆ ಅದು peaceful ಆಗಿ judgement ಏನಿದೆ, high court judgement ಆ ಪ್ರಕಾರ ನಡೆದುಕೊಂಡರೆ ಆಯ್ತು.

ಶ್ರೀ ರಾಮಾಚಾರ್ ಉಮ್ಮೇರ್ಜಿ: ನಮ್ಮದ್ ಇನ್ನು ಅದು writing ಅಲ್ಲಿ ಬಂದಿಲ್ಲ ಅದು, ಅದಕ್ಕೆ ನಾವು wait ಮಾಡ್ತಾ ಇದ್ದಿಲ್ಲ.

ಶ್ರೀ ರಾಜೇಶ್ ಸಿಪಿಐ: order ಇದೆ ಅವರು ಬಂದಿದ್ದಾರೆ ನೋಡಿ. ಅದು ಇನ್ನೇನು ಮಾಡ್ತೀರಾ ಹೇಳಿ, ಮಾತಾಡಿ convey ಮಾಡಿ, ಅವರು writing ಅಲ್ಲಿ ಬರೋದೇ ಇಲ್ಲ ಅದು. ಈಗ ಯಾರು ಬಿಟ್ಟು ಕೊಡೋಕೆ ಯಾರು writing ಅಲ್ಲಿ ಕೊಡೋದಿಲ್ಲ. Writing ಅಲ್ಲಿ ಬರದೇನೇ ಇವರನ್ನ ಸತಾಯಿಸೋಕೆ ಅಗಲ್ಲ. ಅವರು ಹೇಳ್ತಾ ಇದ್ದಾರೆ, ಅದಕ್ಕೆ ಆಯಿತು ಅದೇನಿದೆ key ಇದನ್ನ ಮಾಡಿ, ತೊಗೊಂಡ್ ಬನ್ನಿ.

ಶ್ರೀ ರಾಮಾಚಾರ್ ಉಮ್ಮೇರ್ಜಿ: ತೊಗೊಂಡ್ ಬಂದ್

ಶ್ರೀ ರಾಜೇಶ್ ಸಿಪಿಐ: ಅದೇನಿದೆ ಅದರ ಪ್ರಕಾರ ನಡ್ಕೊಂಡ್ರ ಆಯಿತು. high court ಮುಂದೆ ಯಾರು ದೊಡ್ಡವರಲ್ಲ. ನೀವು ಬೇಕಾದ್ರೆ ಅಮೇಲೆ supreme court ಗೆ ನೀವು ಅಪೀಲ್ ಹೋಗಿ, ಅವಾಗ ನಿಮ್ಮಂತೆ order ಆದ್ರೆ ಅದೇನು ಅವಾಗ ಅದರ ಪ್ರಕಾರ ನಡ್ಕೊಳ್ಳೋಕೆ ಆಗುತ್ತೆ. ಈಗ ಅದೇನಿದೆ ಅವರಿಗೆ ಅವಕಾಶ ಮಾಡಿ ಕೊಡಬೇಕು ಪೂಜೆ ಗೆ ಅದನ್ ಮಾಡಿ ಆದ್ರೆ.

ಶ್ರೀ ರಾಮಾಚಾರ್ ಉಮ್ಮೇರ್ಜಿ: ಆಯ್ತು ಆಯ್ತು

ಶ್ರೀ ರಾಜೇಶ್ ಸಿಪಿಐ: ನುಮ್ಮ ಇಲ್ಲಿ issue ಆಗೋದು ಬೇಡ. ಸಣ್ಣ ವಿಚಾರಕ್ಕೆ ಸುಮ್ಮನೆ ಗಲಾಟೆಗಳು ಆಗೋದು ಬೇಡ.

ಶ್ರೀ ರಾಮಾಚಾರ್ ಉಮ್ಮೇರ್ಜಿ: ಅದೇ ಅದೇ

ಶ್ರೀ ರಾಮಾಚಾರ್ ಉಮ್ಮೇರ್ಜಿ: ನಾವು ಈಗ ಏನು ಮಾಡಬೇಕು ಹೇಳಿ ನಾವೀಗ

ಶ್ರೀ ರಾಜೇಶ್ ಸಿಪಿಐ : ಅಲ್ಲಾ, ಅದೇನು ಸುಪ್ರೀಂ ಕೋರ್ಟ್ ಗೈಡ್ಲೈನ್ಸ್ ಇದೆ, ಆರ್ಟಿಕಲ್ ಏನಾಗಿದೆ, ಅವರಿಗೆ ಪೂಜೆ ಮಾಡೋಕೆ ಅನುಕೂಲ ಮಾಡಿ ಕೊಡಿ, ವ್ಯವಸ್ಥೆ ಮಾಡಿ ಕೊಡಿ.

ಶ್ರೀ ರಾಮಾಚಾರ್ ಉಮ್ಮೇರ್ಜಿ: ಹಾ ಹಾ ಹಾ..

ಶ್ರೀ ರಾಜೇಶ್ ಸಿಪಿಐ : ಈಗ ಅದು ಆಗಿದೆ, ಅವರು ನಮಗೆ ಈಗ ಮಾಡಿ ಕೊಡೋಕೆ ಕೀ ಹಾಕಿದರೆ ಅಂತ ಬಂದಿದಾರೆ ಅವರು. ಅದು ಏನಿದೆ ಅದನ್ನ ಮಾಡಿ. Peacefully ಸುಮ್ಮನೆ ಸಣ್ಣ ಪುಟ್ಟ ವಿಚಾರ ಮಾಡಿಕೊಂಡು, ಗಲಾಟೆ ಮಾಡಿಕೊಳ್ಳೋದು ಬೇಡ. ಸುಮ್ಮನೆ ಸಣ್ಣ ಸಣ್ಣ ವಿಚಾರ ಮಾಡ್ತಾ ಇದ್ದಾರೆ, ಕೇಳುವರನ್ನ ನೋಡಿದೆ ನಾನು, ಅದು ಸರಿ ಅಲ್ಲಾ.

ಶ್ರೀ ರಾಮಾಚಾರ್ ಉಮ್ಮೈರ್ಚಿ: ಹೌದ!

ಶ್ರೀ ರಾಜೇಶ್ ಸಿಪಿಐ: ಅದೇನಿದೆ.

ಶ್ರೀ. ರಾಜೇಶ್ ಸಿಪಿಐ: ಬಂದಿದ್ದಾರೆ ರಾಘವೇಂದ್ರಾಯ ಮಠದವರು ಬಂದಿದ್ದಾರೆ ಅವರು ಆರ್ಡರ್ ಕಾಪಿ ತಗೊಂಡು ಲೆಟರ್ ಕೊಟ್ಟಿದ್ದಾರೆ. ನಿಮಗೆ ಹೇಳಿದ್ದಲ್ಲ, 5:00 ಗಂಟೆಗೆ ಬನ್ನಿ ಅಂತ.

ಶ್ರೀ. ರಾಮಾಚಾರ್ ಉಮ್ಮೈರ್ಚಿ: ಅದೇ ಹೌದು ನಾನು ಬರಬೇಕು ಅಂತ ಅಂದೆ ನಮಗೆ ನಮ್ಮ ಅಡ್ಡಕೇಟ್ ಫೋನ್ ಮಾಡಿದ್ದರು ಫೋನ್ ಮಾಡ್ತಿತ್ತು ಒಂದು ಸ್ವಲ್ಪ ವೇಟ್ ಮಾಡಿ ನಾನು ಹೇಳುತ್ತೀನಿ, ನಾನು ಅವರ ಜೊತೆ ಮಾತಾಡುತ್ತೀನಿ ಅಂದರು. ನಿಮ್ಮ ಜೊತೆ ಏನಾದರೂ ಮಾತನಾಡಿದಾರೆ, ಇಲ್ಲ ಅಲ್ಲಾ, ಅವರು ಏನು ಮಾತನಾಡಿಲ್ಲಾ?

ಶ್ರೀ. ರಾಜೇಶ್ ಸಿಪಿಐ: ಇಲ್ಲ ಮಾತನಾಡಿಲ್ಲ

ಶ್ರೀ. ರಾಮಾಚಾರ್ ಉಮ್ಮೈರ್ಚಿ: ಅವರು ಮಾತಾಡ್ತೀನಿ ಅಂತ ಅಂದರು ಅದಕ್ಕೆ ನಾನು ವೇಟ್ ಮಾಡ್ತಾ ಇದ್ದೆ.

ಶ್ರೀ. ರಾಜೇಶ್ ಸಿಪಿಐ: ನೋಡಿ ಫೋನ್ ಮಾಡಿ ಕಠಿಣತಾ ಇದ್ದಾರೆ ಹೋಗದ ಅಂತ ಕೇಳಿ. ನಾನು ನಿಮಗೆ ಐದು ಗಂಟೆಗೆ ಅದೇ ಹೇಳಿದ್ದೆ.

ಶ್ರೀ. ರಾಮಾಚಾರ್ ಉಮ್ಮೈರ್ಚಿ: ನಾನು ಅದೇ ಬರಬೇಕು ಅಂತ ಮಾಡಿದ್ದೆ, ನಮ್ಮ ಅಡ್ಡಕೇಟ್ ಫೋನ್ ಮಾಡ್ತಿತ್ತು ಒಂದು ನಿಮಿಷ ವೇಟ್ ಮಾಡಿ ನಾನು ಮಾತನಾಡುತ್ತೇನೆ ಎಂದರು. ಅದಕ್ಕೆ ನಿಮ್ಮ ಜೊತೆ ಮಾತಾಡಿದರೆ ಅಂದುಕೊಂಡೆ, ನನಗೆ ಗೊತ್ತಿಲ್ಲ.

ಶ್ರೀ. ರಾಜೇಶ್ ಸಿಪಿಐ: ಫೋನ್ ಮಾಡಿದ್ದರು ಅವರು ಬೇರೆ ವಿಷಯಕ್ಕೆ ಮಾಡಿದ್ದರು ಬಟ್ ಇದರ ಬಗ್ಗೆ ಬರಲ್ಲ ಗಿರಲ್ಲ ಅಂತ ಹೇಳಲಿಲ್ಲ

ಶ್ರೀ. ರಾಮಾಚಾರ್ ಉಮ್ಮೈರ್ಚಿ: ಹೌದಾ ಸರಿ ಒಂದು ಐದು ನಿಮಿಷ ನಿಮ್ ಜೊತೆ ಮಾತನಾಡುತ್ತೀನಿ

ಶ್ರೀ. ರಾಜೇಶ್ ಸಿಪಿಐ: ಮಾತಾಡಿ ಬೇಗ ಬನ್ನಿ."

The conversation is clear that the 3rd respondent asks the petitioner/Nutt to hand over keys. The petitioner says that it has not received the certified copy of the judgment and asks the 3rd

respondent to hold the proceedings. The 3rd respondent has filed his statement of objections. Along with the statement of objections a representation dated 10-01-2005 is enclosed. It reads as follows:

ರೆ,
ಸರ್ಕಲ್ ಪೊಲೀಸ್ ಇನ್ಸ್ಪೆಕ್ಟರ್,
ಹಂಪಿ ಸರ್ಕಲ್,
ಕಮಲಾಪುರ

ವಿಷಯ : ನಂಜನಗೂಡು ಶ್ರೀರಾಘವೇಂದ್ರಸ್ವಾಮಿಗಳವರ ಮಠದ ಪೀಠಾಧಿಪತಿಗಳಿಗೆ ಪೊಲೀಸ್
ರಕ್ಷಣೆ ನೀಡುವ ಕುರಿತು.

ಮಾನ್ಯರೆ,

ಹೊಸಪೇಟೆ ತಾಲೂಕಿನ ವೆಂಕಟಾಪೂರ ಗ್ರಾಮದಲ್ಲಿಯ ಸರ್ವೆ ನಂಬರ್ 897 ರಲ್ಲಿ ಇರುವಂಥಹ ಶ್ರೀನರಹರಿ ತೀರ್ಥರ ಸನ್ನಿಧಾನಕ್ಕೆ ಮಂತ್ರಾಲಯ ಶ್ರೀರಾಘವೇಂದ್ರಸ್ವಾಮಿಗಳವರ ಮಠದ ಪೀಠಾಧಿಪತಿಗಳು ದಿನಾಂಕ 12-01-2025 ರಂದು ಬೇಟೆ ನೀಡುತ್ತಿದ್ದು ಮತ್ತು ಸದರಿ ಪೀಠಾಧಿಪತಿಗಳು ಬೇಟೆ ನೀಡುವ ಸಮಯದಲ್ಲಿ ಧಾರ್ಮಿಕ ಕಾರ್ಯಕ್ರಮಗಳು ಆ ಸ್ಥಳದಲ್ಲಿ ನಡೆಯುತ್ತಿರುತ್ತವೆ. ಶ್ರೀ ಉತ್ತರಾಧಿ ಮಠ ದವರು ಆ ಸಮಯದಲ್ಲಿ ಅಡಚಣೆ ಮಾಡುವ ಸಂಭವವಿರುತ್ತವೆ ಮತ್ತು ಈಗಾಗಲೇ ಶ್ರೀ ನರಹರಿ ತೀರ್ಥ ಆರಾಧನೆ ಮಾಡುವುದಕ್ಕೆ ಅಡಚಣೆ ಮಾಡುವ ಉದ್ದೇಶದಿಂದ ದಾವಾ ಆಸ್ತಿಯಲ್ಲಿ ಶ್ರೀ ಉತ್ತರಾಧಿ ಮಠ ದವರು ಅನಧೀಕೃತವಾಗಿ ಅತಿಕ್ರಮಣ ಮಾಡುವ ಪ್ರಯತ್ನ ಮಾಡಿ, ಶಾಶ್ವತ ನಿರ್ಬಂಧಕಾಜ್ಞೆ ಕೋರಿ ಶ್ರೀರಾಘವೇಂದ್ರಸ್ವಾಮಿಗಳವರ ಮಠದ ವಿರುದ್ಧ ಸುಳ್ಳು ದಾವೆಯನ್ನು ಹೂಡಿದ್ದರು, ಆದರೆ ಮಾನ್ಯ ಕರ್ನಾಟಕ ಉಚ್ಚ ನ್ಯಾಯಾಲಯವು ಆರ್.ಎಸ್.ಎ ನಂಬರ್ 2892/2006 ರಲ್ಲಿ ಶ್ರೀ ಉತ್ತರಾಧಿ ಮಠ ದವರು, ಶ್ರೀರಾಘವೇಂದ್ರಸ್ವಾಮಿ ಮಠದ ವಿರುದ್ಧ ಶಾಶ್ವತ ನಿರ್ಬಂಧಕಾಜ್ಞೆ ಕೋರಿ ಮಾಡಿದ ಪ್ರಾರ್ಥನೆಯನ್ನು ತಿರಸ್ಕರಿಸಿರುತ್ತದೆ. ಆದ್ದರಿಂದ ಶ್ರೀ ರಾಘವೇಂದ್ರಸ್ವಾಮಿ ಮಠದವರಿಗೆ ಸದರಿ ಆಸ್ತಿಯಲ್ಲಿಯ ಶ್ರೀ ನರಹರಿ ತೀರ್ಥರ ಬೃಂದಾವಕ್ಕೆ ಪೂಜೆ ಮತ್ತು ಆರಾಧನೆ ಮಾಡಲು ಮತ್ತು ಸದರಿ ಆಸ್ತಿಯಲ್ಲಿ ಹೋಗಲು ಯಾವುದೇ ರೀತಿ ಕಾನೂನಿನ ಅಡಚಣೆ ಇರುವುದಿಲ್ಲ. ಆದ್ದರಿಂದ ಹೊಸಪೇಟೆ ತಾಲೂಕಿನ ವೆಂಕಟಾಪೂರ ಗ್ರಾಮದಲ್ಲಿಯ ಸರ್ವೆ ನಂಬರ್ 897 ರಲ್ಲಿ ಇರುವಂಥಹ ಶ್ರೀ ನರಹರಿ ತೀರ್ಥ ಬೃಂದಾವಕ್ಕೆ ವಿಶೇಷ ಪೂಜೆ ಮತ್ತು ಆರಾಧನೆ ಮಾಡಲು ದಿನಾಂಕ 12-01-2025 ರಂದು ಶ್ರೀರಾಘವೇಂದ್ರಸ್ವಾಮಿಗಳವರ ಮಠದ ಪೀಠಾಧಿಪತಿಗಳು ಬೇಟೆ ನೀಡುತ್ತಿರುತ್ತಾರೆ. ಆ ಸಮಯದಲ್ಲಿ ಯಾವುದೇ ರೀತಿ ಅಹಿತಕರ ಘಟನೆ ನಡೆಯದಂತೆ ದಯಮಾಡಿ ತಾವುಗಳು ಪೊಲೀಸ್ ರಕ್ಷಣೆಯನ್ನು ನೀಡಬೇಕಾಗಿ ವಿನಂತಿ.”

It is upon the said representation, the 3rd respondent is said to have called '*Shanthi Sabhe*'. The proceedings of *Shanthi Sabhe* are as follows:

“ಶಾಂತಿ ಸಭೆ – 2025

ದಿನಾಂಕ: 11.01.2025

ದಿ.09/01/2025 ರಂದು ಮಾನ್ಯ ಹೈಕೋರ್ಟ್ ಧಾರವಾಡ ಬೆಂಚ್ ಉತ್ತರಾಧಿ ಮಠ ಮತ್ತು ರಾಯರ ಮಠದ ಮಧ್ಯ ನರಹರಿತೀರ್ಥ ಬೃಂದಾವನದ ವ್ಯಾಜ್ಯ ಕುರಿತು ತೀರ್ಪು ನೀಡಿದ ಮೇರೆಗೆ ಇಂದು CPI ಹಂಪಿರವರ ನೇತೃತ್ವದಲ್ಲಿ PSI ಹಂಪಿಯವರು ಎರಡು ಮಠದವರನ್ನು ಶಾಂತಿ ಸಭೆಗೆ ಕರೆಸಿ ಸದರಿ ಎರಡು ಮಠದ ಭಕ್ತ ಹಾಗೂ ಆಡಳಿತ ಸದಸ್ಯರಿಗೆ ಯಾವುದೇ ಶಾಂತಿ ಭಂಗವುಂಟಾಗದಂತೆ ಎರಡು ಮಠದವರು ತಮ್ಮ ದಿನ ನಿತ್ಯದ ಪೂಜೆಯನ್ನು ನಿರ್ವಹಿಸಬೇಕು ಎಂದು ಸೂಚನೆಯನ್ನು ನೀಡಿರುತ್ತಾರೆ ಹಾಗೂ ಯಾವುದೇ ಅಹಿತಕರ ಘಟನೆ ಸಂಭವಿಸಿದರೆ ತಾವೇ ಜವಾಬ್ದಾರರು ಎಂದು ತಿಳಿಸಿ ಸೂಕ್ತ ಸಲಹೆಗಳನ್ನು ನೀಡಿ ಶಾಂತಿಯನ್ನು ಕಾಪಾಡಲು ಹಾಗೂ ಮಾನ್ಯ ಉಚ್ಚ ನ್ಯಾಯಾಲಯದ ಆದೇಶದಂತೆ ಮುಂದುವರೆಯಬೇಕು ಎಂದು ತಿಳಿಸಿರುತ್ತದೆ.”

Who directed him to call for a '*Shanthi Sabe*' is a mystery. The copy of the judgment is not yet released. Based on the representation by Sri Raghavendra Swamy Mutt, the 3rd respondent has not shown just indulgence, but has shown undue indulgence. There was no law and order problem. There was no warrant to have directed handing over of the keys.

11. What happens due to *Shanthi Sabhe* conducted by the 3rd respondent is that Sri Raghavendra Swamy Mutt would break open

the lock of Brundavana which was in possession of the petitioner/Uttaradi Mutt. The petitioner then registers a complaint on 11-01-2025. The complaint reads as follows:

"From
Sri Uttaradhi Mutt
Hospet Branch,
Rep by Sri Ramachar Umerji

11-01-2025

To
The Sub-Inspector,
Hampi Police Station,
Hampi.

Respected Sir,

Sub: Complaint of breaking open the lock and other
offences – reg.

Our Mutt is the absolute owner and the custodian of area admeasuring around Ac.1.80 in Sy.No.897/2 of 76 Venkatapura (V), Hospet Taluk, Vijayanagara District, wherein the Moola Brundavana of Sri Narahari Theertharu is located on the banks of Tungabhadra River.

We filed the suit for perpetual injunction against Sri Raghavendra Swamy Mutt in respect of the above property in the year 1998 seeking restraining orders of injunction against them in O.S.No.15 of 1998. The said suit was decreed in our favour in the year 2003. The Regular Appeal filed by Sri Raghavendra Swamy Mutt was dismissed. The Regular Second Appeal filed by the said Mutt was allowed by the Hon'ble High Court, Karnataka, Dharwad Bench on 09-01-2025. We are contemplating the Appeal before the Hon'ble Supreme Court. However, it is the fact that for the last 600 years our Mutt has been performing the Pooja and Aaradhana of the said Brundavana till today. Even otherwise, Sri Raghavendra Swamy Mutt was not permitted to enter the property unauthorized in the said judgment.

We are claiming our rights through the Saguvali Chit granted in the year 1971 in our favour, which was challenged by Sri Raghavendra Swamy Mutt. However, the Karnataka Appellate Tribunal has confirmed the said grant, which is challenged by Sri Raghavendra Swamy Mutt in W.P.Nos. 100425 of 2024 (new) 39336 of 2018 (Old) and 100426 of 2024 (new) 39335 of 2018 (old) which are pending adjudication before the Hon'ble High Court of Karnataka, Dharwad Bench and scheduled to be listed on 22-01-2025. Hence, as on date the grant which was granted in our favour is in tact.

Today (11-01-2025) morning between 9.50 a.m. to 10 a.m. the local representatives of Sri Raghavendra Swamy Mutt by name Sumanth Kulkarni, local Manager of Sri Raghavendra Swamy Mutt, Vijayeendra Chellari, Archaka, Raghavendra, Watchman, Vijayendra, Manager Sri Sripadaraja Mutt and their associates have unauthorized trespassed into the property by breaking open the lock by making wrongful claims. The photographs and CC footage is enclosed herewith to substantiate our contention. In the process, Sumanath Kulkarni, local Manager of Sri Raghavendra Swamy Mutt, Vijayeendra Chellari, Archaka, Raghavendra, Watchman, Vijayendra, Manager, Sri Sripadaraja Mutt and their associates threatened us with dire consequences in the event we resist their attempts to forcefully break open the lock and trespass into the property by using criminal force and also used filthy language against us. He has also proclaimed that they are inviting their Swamiji to perform pooja tomorrow in the place. They have also dismantled the CC cameras installed by us for security purposes in order to erase the evidence of criminal trespass and criminal force. We reliably learnt that some of the police officials are hand in glove with the accused in facilitating them to achieve their criminal design.

Hence, you goodselves are requested to register the offences of trespass, breaking open the lock, criminal conspiracy, damaging the property against the culprits including Sumanth Kulkarni and his associates and provide protection to protect the property, which has been in our possession for more than 600 years.

(Emphasis added)

The complaint results in registration of a non-cognizable case against the accused on whom the petitioner had registered the complaint.

12. Based upon the complaint registered by the petitioner against the accused therein, what comes about is, initiation of the proceedings under Section 126 of the BNSS against the present petitioner. The only fault, perhaps, was registering a complaint against the Sri Raghavendra Swamy Mutt. All these happen due to the third respondent's undue indulgence shown in interfering in the functioning or the dispute between the two religious institutions. For the asking, the crime under Section 126 of the BNSS is registered against these petitioners, Section 126 of the BNSS is Section 107 of the Cr.P.C. The effect of registration of the crime under Section 107 of the Cr.P.C., would take away the right of those persons against whom crime is registered.

13. The Apex Court considers the purport and impact of the proceedings against Section 107 of the Cr.P.C. in the case of

MADHU LIMAYE v. SUB-DIVISIONAL MAGISTRATE¹ wherein

the Apex Court holds as follows:

"....

32. The gist of Section 107 may now be given. It enables certain specified classes of Magistrates to make an order calling upon a person to show cause why he should not be ordered to execute a bond, with or without sureties for keeping the peace for such period not exceeding one year as the Magistrate thinks fit to fix. The condition of taking action is that the Magistrate is informed and he is of opinion that there is sufficient ground for proceeding that a person is likely to commit a breach of the peace or disturb the public tranquilly or to do any wrongful act that may probably occasion a breach of the peace or disturb the public tranquillity. The Magistrate can proceed if the person is within his jurisdiction or the place of the apprehended breach of the peace or disturbance is within the local limits of his jurisdiction. The section goes on to empower even a Magistrate not empowered to take action, to record his reason for acting, and then to order the arrest of the person (if not already in custody or before the court) with a view to sending him before a Magistrate empowered to deal with the case, together with a copy of his reasons. The Magistrate before whom such a person is sent may in his discretion detain such person in custody pending further action by him.

33. The section is aimed at persons who cause a reasonable apprehension of conduct likely to lead to a breach of the peace or disturbance of the public tranquillity. This is an instance of preventive justice which the courts are intended to administer. This provision like the preceding one is in aid of orderly society and seeks to nip in the bud conduct subversive of the peace and public tranquillity. For this purpose Magistrates are invested with large judicial discretionary

¹ (1970) 3 SCC 746

powers for the preservation of public peace and order. Therefore, the justification for such provisions is claimed by the State to be in the function of the State which embraces not only the punishment of offenders but, as far as possible, the prevention of offences.

34. Both the sections are counter-parts of the same policy, the first applying when by reason of the conviction of a person, his past conduct leads to an apprehension for the future and the second applying where the Magistrate, on information, is of the opinion that unless prevented from so acting, a person is likely to act to the detriment of the public peace and public tranquillity. The argument is that these sections (more particularly Section 107) are destructive of freedom of the individual guaranteed by Article 19 (1)(a),(b),(c) and (d) and are not saved by the restrictions contemplated by clauses (2) to (5) of the Article. It is also contended that there are no proper procedural safeguards in the sections that follow. Before we deal with these contentions it is necessary to glance briefly at Sections 112, 119 of Division B and Sections 120-126-A of Division C.

35. We have seen the provisions of Section 107. That section says that action is to be taken 'in the manner hereinafter provided' and this clearly indicates that it is not open to a Magistrate in such a case to depart from the procedure to any substantial extent. This is very salutary because the liberty of the person is involved and the law is rightly solicitous, that this liberty should only be curtailed according to its own procedure and not according to the whim of the Magistrate concerned. It behoves us, therefore, to emphasise the safeguards built into the procedure because from there will arise the consideration of the reasonableness of the restrictions in the interest of public order or in the interest of the general public.

36. The procedure begins with Section 112. It requires that the Magistrate acting under Section 107 shall make an order in writing, setting forth the substance of the information received, the amount of the bond, the term for which it is to be in force and the number, character and class of sureties (if any)

required. Since the person to be proceeded against has to show cause, it is but natural that he must know the grounds for apprehending a breach of the peace or disturbance of the public tranquillity at his hands. Although the section speaks of the "substance of the information" it does not mean that the order should not be full. It may not repeat the information bodily but it must give proper notice of who was moved the Magistrate to take the action. This order is the foundation of the jurisdiction and the word "substance" means the essence of the most important parts of the information."

(Emphasis supplied)

The Apex Court holds that initiation of proceedings under Section 107 of the Cr.P.C., which is Section 126 of BNSS curtails freedom of a citizen. Therefore, it is taking away the liberty of movement of a citizen. The issue now is whether the 3rd respondent should be left off the hook.

14. It now becomes germane to notice the averments in the statement of objections of the 3rd respondent. The 3rd respondent has admitted all the allegations by wanting to clarify his position. Paragraphs 2, 3 and 4 of the statement of objections of respondent No.3 assume significance. They read as follows:

"....

2. The true facts of the case that on 10-01-2025 Sri Raghavendra Swamy Mutt gave a representation to the

respondent No.3 stating that there is judgment passed by this Hon'ble Court in RSA No.2892 of 2006 regarding to perform poojas and further brought the notice that, this Hon'ble Court has set-aside the judgment and decree dated 05-08-2006 passed by the Learned Additional Civil Judge (Senior Division) Hosapete in R.A.No.11 of 2003 and judgment and decree dated 16-01-2003 passed by the Additional Civil Judge and JMFC (Jr. Dn,) Hosapete in O.S.No.15 of 1998 Suit for permanent injunction filed by Uttaradi Mutt and they also requested to give protection at the time of perform the pooja. The copy of the representation is produced herewith and marked as **Annexure-R1.**

3. It is further submitted that after receiving the representation the respondent No.3 called and intimated to the Uttaradi Mutt Manager Sri Ramachar Ammerje. The Uttaradi Mutt Manager also admitted that he aware about the order passed by this Hon'ble High Court. It was also brought to 3rd respondent notice that Sri Uttaradi Mutt has put lock to the grill surrounding the said Brundavan and Uttaradi Mutt is not giving the keys to Sri Raghavendra Swamy Mutt so that they can perform poojas. To avoid law and order situation and also keeping in mind judgment of Hon'ble high Court, I gave instructions to Uttaradi Mutt Manager and Sri Raghavendra Swamy Mutt manger to conduct poojas to Sri Narahari Tirtha Swamiji in peaceful manner, for the said aspect the petitioner and the Manager of Sri Raghavendra Swamy Mutt both have came to the office of 3rd respondent and the meeting was conveyed (Shanti Sabhe) in the said meeting the respondent directed both parties to maintain law and order and also both parties have put their signature in said meeting. The copy of the meeting dated 11-01-2025 is produced herewith and marked as Annexure-R2.

4. It is further submitted that the Petitioner has produced a call record of 3rd respondent to this Hon'ble Court. It is important to state that 3rd respondent called Uttaradi Mutt Manager when the representation was given by Sri Raghavendra Swamy Mutt. The conversation itself reveals that 3rd respondent has not exerted any pressure on Sri Uttaradi mutt to hand over keys or possession to Sri Raghavendra Swamy Mutt. **But, in**

the writ petition they have stated that the 3rd respondent has pressurized them to hand over the key, the same is not correct because on 11-01-2025 Uttaradi Mutt Manager Sri Ramachar Ummerje gave a complaint that Sri Raghavendra Swamy Mutt has break open the lock and has trespassed into their property. When they himself stated in the complaint that Raghavendra Swamy Mutt has break open the lock, where is the question of pressuring to hand over the key or possession. The copy of the complaint is produced as Annexure-R3. After accepting the complaint 3rd respondent has given an endorsement. The copy of the endorsement is produced as Annexure-R4."

(Emphasis supplied)

In that light, it is as clear as noon day that the 3rd respondent acted beyond his powers and scope of litigation. He has sought to interfere with the functioning of religious institutions in their dispute. This Court way back in 1999 itself has warned that Police should not interfere with religious activities. Despite that, the 3rd respondent even before the ink on the judgment passed in R.S.A.No.2892 of 2006 could dry, has directed handing over of keys, while that is not the order in the regular second appeal. There was no order of any Court for the 3rd respondent to call the petitioner and ask handing over of the keys. In a purely civil matter, the Police have sought to interfere. It becomes germane to notice the circular issued by the State directing the police not to

interfere with the individual disputes or matters which are purely civil in nature. The circular reads as follows:

"ಸಂ: ಅಪರಾಧ-3/105/2018

ಮಹಾನಿರ್ದೇಶಕರು ಹಾಗೂ
ಪೊಲೀಸ್ ಮಹಾನಿರ್ದೇಶಕರವರ ಕಛೇರಿ,
ಕರ್ನಾಟಕ ರಾಜ್ಯ, ಬೆಂಗಳೂರು.
ದಿನಾಂಕ: 14.11.2018

ಸುತ್ತೋಲೆ

ವಿಷಯ: ಭೂಮಿ ಮತ್ತು ಕಟ್ಟಡಗಳಿಗೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ಇರುವ ವಿವಾದಗಳು ಮತ್ತು ವಿಷಯಗಳಿಗೆ
ಸಂಬಂಧಪಟ್ಟಂತೆ ಪೊಲೀಸ್ ಅಧಿಕಾರಿಗಳು ಅನುಸರಿಸಬೇಕಾದ ಮಾರ್ಗದರ್ಶಿ ಸೂತ್ರಗಳು.

ಭೂಮಿಗೆ (ಕೃಷಿಭೂಮಿ, ಕೃಷಿಯೇತರ ಭೂಮಿ, ಕಟ್ಟಡಗಳು ಮತ್ತು ನಿವೇಶನ) ಸಂಬಂಧಪಟ್ಟಂತೆ ಬಹು ಸಂಖ್ಯೆಯಲ್ಲಿ ಸಾರ್ವಜನಿಕರು ಪೊಲೀಸ್ ಠಾಣೆಗಳಿಗೆ ಭೇಟಿ ನೀಡಿ ದೂರುಗಳನ್ನು ನೀಡುತ್ತಿರುವುದು ದಿನದಿಂದ ದಿನಕ್ಕೆ ವೃದ್ಧಿಸುತ್ತಿದೆ. ಮಾಧ್ಯಮಗಳು, ಸಾರ್ವಜನಿಕರು ಮತ್ತು ವಿಧಾನ ಮಂಡಲದಲ್ಲಿ ಚುನಾಯಿತ ಪ್ರತಿನಿಧಿಗಳು, ಕರ್ನಾಟಕ ರಾಜ್ಯದಲ್ಲಿ ಪೊಲೀಸ್ ಅಧಿಕಾರಿಗಳು ಪೊಲೀಸ್ ಭೂವಿವಾದವನ್ನು ತೀರ್ಮಾನ ಮಾಡುವ ಮತ್ತು ಈ ಭೂಮಿ ವಿವಾದಕ್ಕೆ ಸಂಬಂಧಪಟ್ಟಂತೆ ದೊಡ್ಡ ಪ್ರಮಾಣ ಅಕ್ರಮ ಸಂಭಾವನೆ ವಡೆಯುತ್ತಿದ್ದಾರೆಂದು ಆಪಾದನೆಯನ್ನು ಮಾಡುವುದು ಸಾಮಾನ್ಯವಾಗಿದೆ. ಇದು ಪೊಲೀಸ್ ಇಲಾಖೆಯ ವರ್ಚಸ್ಸಿನ ಮೇಲೆ ಮಸಿ ಬಳಿದಂತಾಗುತ್ತಿದೆ. ಆದುದರಿಂದ ಕೃಷಿಭೂಮಿ, ಕೃಷಿಯೇತರ ಭೂಮಿ, ಕಟ್ಟಡಗಳು ಮತ್ತು ನಿವೇಶನಗಳ ಸಂಬಂಧವಾಗಿ ಸ್ವೀಕೃತವಾಗುವ ದೂರುಗಳನ್ನು ಕಟ್ಟುನಿಟ್ಟಾಗಿ ಮತ್ತು ನ್ಯಾಯ ಸಮ್ಮತವಾಗಿ ಇತ್ಯರ್ಥಗೊಳಿಸುವ ಕುರಿತಂತೆ ದೂರುಗಳನ್ನು ಸ್ವೀಕರಿಸಿ ವಿಚಾರಣೆ ಕೈಗೊಳ್ಳುವ ಪೊಲೀಸ್ ಅಧಿಕಾರಿಗಳಿಗೆ ಸೂಕ್ತ ತಿಳುವಳಿಕೆ ಹಾಗೂ ಮಾರ್ಗಸೂಚಿಗಳನ್ನು ನೀಡುವುದು ಅತ್ಯಾವಶ್ಯಕ ಎಂದು ಕಂಡು ಬಂದಿರುತ್ತದೆ. ಆದುದರಿಂದ ಕೆಳಕಂಡ ಮಾರ್ಗಸೂಚಿಗಳನ್ನು ರಾಜ್ಯದ ಎಲ್ಲಾ ಪೊಲೀಸ್ ಅಧಿಕಾರಿಗಳಿಗೆ ಮಾಹಿತಿಗಾಗಿ ಮತ್ತು ಕಟ್ಟುನಿಟ್ಟಾಗಿ ಅನುಷ್ಠಾನಗೊಳಿಸುವಂತೆ ನೀಡಲಾಗಿದೆ.

....

ಮೇಲ್ಕಂಡ ವಿಷಯಗಳ ಹಿನ್ನೆಲೆಯಲ್ಲಿ ಈ ಕೆಳಗೆ ನಮೂದಿಸಿರುವ ಕಾಲಂ 2ರ ಅಂಕಣದಲ್ಲಿರುವ
ಸಂದರ್ಭಗಳಲ್ಲಿ ಕಾಲಂ 3ರಲ್ಲಿ ನಮೂದಿಸಿರುವ ಪ್ರಕಾರ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕು.

ಕ್ರಮ ಸಂ.	ಪ್ರಕರಣದ ವಿವರಗಳು	ರಾಣಿಯಲ್ಲಿ ಕೈಗೊಳ್ಳಬೇಕಾದ ಕ್ರಮಗಳು
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5	ಒಬ್ಬ ವ್ಯಕ್ತಿಯು ರಾಣಿಗೆ ಹಾಜರಾಗಿ ಕೃಷಿಭೂಮಿಗೆ ಸಂಬಂಧಿಸಿದಂತೆ ನ್ಯಾಯಾಲಯದ ನಿಖರವಾದ ಆದೇಶ ಅಥವಾ ತಡೆಯಾಜ್ಞೆ ಹಾಜರುಪಡಿಸಿ ರಕ್ಷಣೆ ಕೊಡಬೇಕೆಂದು ಕೋರಿದಾಗ	ನ್ಯಾಯಾಲಯ ಜಾರಿ ಮಾಡಿರುವ ಆಜ್ಞೆಯನ್ನು ತಮ್ಮ ಸ್ಥಳೀಯ ಕಂದಾಯ ಪ್ರಾಧಿಕಾರದ ಬಳಿ ಹಾಜರುಪಡಿಸಿ ಸದರಿ ಆಜ್ಞೆಯನ್ನು ಆಸ್ತಿಹಕ್ಕು ಪತ್ರದಲ್ಲಿ ನಮೂದಿಸಿರುವ ಬಗ್ಗೆ ಪ್ರಮಾಣೀಕೃತ ಪ್ರತಿಯನ್ನು ಹಾಜರು ಪಡಿಸಲು ಸೂಚಿಸಬಹುದು.
6	ಒಬ್ಬ ವ್ಯಕ್ತಿಯು ರಾಣಿಗೆ ಹಾಜರಾಗಿ ಕೃಷಿಯೇತರಭೂಮಿ/ಕಟ್ಟಡ/ನಿವೇಶನಕ್ಕೆ ಸಂಬಂಧಿಸಿದಂತೆ ನ್ಯಾಯಾಲಯದ ನಿಖರವಾದ ಆದೇಶ ಅಥವಾ ಹಾಜರುಪಡಿಸಿ ತಡೆಯಾಜ್ಞೆ ರಕ್ಷಣೆ ಕೊಡಬೇಕೆಂದು ಕೋರಿದಾಗ	ಅಂತಹ ವ್ಯಕ್ತಿಗೆ ರಕ್ಷಣೆಯನ್ನು ನೀಡಬಾರದು. ಅವರು ನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ಸ್ಥಳೀಯ ಪ್ರಾಧಿಕಾರದ ಮುಂದೆ ಹಾಜರುಪಡಿಸಿ ಅವರಿಂದ ಮುಂದೆ ಕೈಗೊಳ್ಳಬೇಕಾದ ಕ್ರಮಗಳ ಬಗ್ಗೆ ನಿಖರವಾದ ಸೂಚನೆಗಳನ್ನು ಪೊಲೀಸ್ ಅಧಿಕಾರಿಗಳಿಗೆ ನೀಡಲು ಕೋರಿ ಈ ಸಂಬಂಧ ಸಕ್ಷಮ ಪ್ರಾಧಿಕಾರದಿಂದ ಬಂದ ಸೂಚನೆಯ ಪ್ರಕಾರ ಕ್ರಮ ಕೈಗೊಳ್ಳಬೇಕು.
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10	ಒಬ್ಬ ವ್ಯಕ್ತಿಯು ಹಾಜರಾಗಿ ನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ಹಾಜರುಪಡಿಸಿದ ಪಕ್ಷದಲ್ಲಿ	ಯಾವುದೇ ನ್ಯಾಯಾಲಯದ ಆದೇಶದ ಆಧಾರದ ಮೇಲೆ ಪೊಲೀಸ್ ರಕ್ಷಣೆಯನ್ನು ನೀಡುವಂತೆ ರಾಜಾಧಿಕಾರಿಗಳಿಗೆ ಒತ್ತಾಯಪಡಿಸತಕ್ಕದ್ದಲ್ಲ. ನ್ಯಾಯಾಲಯವು ಪೊಲೀಸರಿಗೆ ಜಾಲ ಮಾಡಲು ಆದೇಶಿಸಿದ್ದ ಪಕ್ಷದಲ್ಲಿ ಅಂತಹ ನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ನಿರ್ದಾಕ್ಷಿಣ್ಯವಾಗಿ ಜಾರಿ ಮಾಡತಕ್ಕದ್ದು. ನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ಯಾವುದೇ ಕಾರಣದಿಂದಾಗಿ ಜಾರಿ ಮಾಡಲು ಸಾಧ್ಯವಾಗದಿದ್ದ ಪಕ್ಷದಲ್ಲಿ ಅಭಿಯೋಜನಾ ಸಹಾಯಕ ನಿರ್ದೇಶಕರು / ಉಪ ನಿರ್ದೇಶಕರು / ಕಾನೂನು ಸಲಹೆಗಾರರ ಸಲಹೆಯನ್ನು ಪಡೆದುಕೊಳ್ಳುವುದು. ನ್ಯಾಯಾಲಯದ ಆದೇಶವನ್ನು ಪರಿಪಾಲಿಸಲು ಸಾಧ್ಯವಾಗದಿರಲು ಕಾರಣಗಳನ್ನೊಳಗೊಂಡ ವರದಿಯನ್ನು ಸಂಬಂಧಪಟ್ಟ ನ್ಯಾಯಾಲಯಕ್ಕೆ ಸಲ್ಲಿಸತಕ್ಕದ್ದು.”

On all the aforesaid circumstances, it has now become necessary to unearth the truth as to, at whose instance the 3rd respondent was

acting to overreach orders passed by coordinate benches of this Court. There is material in the case at hand to demonstrate that the 3rd respondent has indulged in abuse of his power. Therefore, it becomes a fit case to direct the Commissioner, to initiate a departmental inquiry against the 3rd respondent. The departmental inquiry shall be guided to unearth the fact as to what led the 3rd respondent; who led the 3rd respondent; why was he led, to show over indulgence in the matter, in which he should not have been interfered, unless there was a law and order problem.

16. The departmental inquiry so directed shall be conducted in strict consonance with principles of natural justice and affording of reasonable opportunity to the petitioner.

17. For the aforesaid reasons, the following:

ORDER

- (i) Writ Petition is allowed in part.
- (ii) The Police Commissioner, Dharwad shall initiate a departmental inquiry against the 3rd respondent in

accordance with the observations made in the course of the order.

- (iii) The inquiry shall be conducted in consonance with the principles of natural justice and affording all reasonable opportunity to the 3rd respondent.
- (iv) The result of departmental inquiry shall be placed before this Court on its completion.
- (v) The proceedings of departmental inquiry shall be concluded within four months from the date of copy of this order.
- (vi) Copy of this order shall be forwarded to the Director General and Inspector General of Police, Karnataka for its implementation.

SD/-

JUSTICE M.NAGAPRASANNA

bkp
CT:MJ