
**Jinesh D Vs Bruhat Bengaluru Mahanagar Palike N. R. Square, Bengaluru
560009 Represented By Its Commissioner & Ors.**

Writ Petition No. 31396 Of 2024 (LB-BMP)

Court: Karnataka High Court At Bengaluru

Date of Decision: Nov. 25, 2024

Acts Referred:

Bruhat Bengaluru Mahanagara Palike Act, 2020 " Section 144#Property Tax Assessment, Recovery And Management] Rules, 2024 " Rule 9, 9[2]

Hon'ble Judges: B M Shyam Prasad, J

Bench: Single Bench

Advocate: Jwala Kumar, Pawan Kumar

Final Decision: Disposed Of

Judgement

B M Shyam Prasad, J

1. The petitioner is the owner of the property in No.5[PID No. 12-1-5] within Bruhat Bengaluru Mahanagara Palike Ward No.68, Mahalaxmipuram,

Sri Ganesha Block Main Road, Nandini Layout, Bengaluru [the Subject Property]. The petitioner has filed this writ petition because the second

respondent has sealed the building in the subject property. Sri Pawan Kumar, a learned standing counsel for the BBMP and its officials [the

respondents herein] are heard for final disposal of the petition with Sri Jwala Kumar, the learned counsel for the petitioner, contending that the

building is sealed without due opportunity to the petitioner to show cause against such action and despite payment of taxes for the relevant years 2018-

19 to 2020-21.

2. Sri Pawan Kumar submits that the proceedings under Section 144 of the Bruhat Bengaluru Mahanagara Palike Act, 2020 [BBMP Act] are

concluded in the month of September 2024 and in terms of such concluded proceedings, the petitioner will have to pay for each year [between 2018-

10 and 2020-21], tax, penalty and interest in a sum between Rs.1,50,000/- to Rs.3,00,000/-, and the learned counsel also submits that if the petitioner

avails the One Time Settlement, which would be open till 30.11.2024, will only have to pay Rs.2,27,226/-for the entire period.

3. Sri Jwala Kumar, in response, submits that the petitioner has offered taxes for the subject property during the relevant years declaring that he is in

possession of the subject property as all the tenants had vacated the premises in the subject property with the onset of Covid-19 and also for other

reasons, and that it is only recently that the petitioner has been able to let out certain premises in the construction.

4. This Court must opine that whether the premises in the petitioner's subject property were vacant and therefore in self occupation of the petitioner

will have to be examined by the concerned if appropriate proceedings are initiated against the concluded assessment for the relevant years. However,

in terms of the Bruhat Bengaluru Mahanagara Palike Act [Property Tax Assessment, Recovery and Management] Rules, 2024 [for short' 2024

Rules'], if certain property is to be sealed for failure to pay tax dues, in terms of Rule 9[2] thereof, the concerned Revenue Officer or the Authorized

Officer, before proceeding to seal the premises, must examine whether distraint would be possible or sufficient, and only if distraint is not possible or

insufficient, the concerned property can be attached for such dues. In the present case, nothing is placed on record, despite opportunity, to justify that

the decision to seal the petitioner's subject property is after consideration of the afore circumstances.

5. This Court, therefore, is inclined to interfere with the decision to seal the petitioner's subject property but directing the petitioner to file a detailed

response with the second respondent within a week and subject to depositing 30% of the total amount. The second respondent, if the petitioner files

such response, must be directed to consider the representation in the light of the provisions of Rule 9 of the 2024 Rules and pass just orders. This

Court must also observe that as against the assessment of tax for the relevant years, the petitioner must necessarily avail alternative remedy. Hence,

the following:

ORDER

[a] The petition stands disposed of directing the second respondent to break open the seal of the petitioner's subject property immediately after the

petitioner deposits 30% of the tax arrears in terms of the concluded proceedings under Section 144 of the BBMP Act.

[b] The petitioner will be at liberty to pay 30% as aforesaid immediately after receipt of a certified copy of this order.

[c] The petitioner is also reserved with liberty to file response/show cause against sealing of the subject property within a week, and the second

respondent shall consider the response in the light of the provisions of Rule 9[2] of the 2024 Rules.

[d] The petitioner is also reserved with liberty to avail appropriate remedy as against the concluded assessment proceedings for the years 2018-19 to

2020-21.