

IN THE HON'BLE HIGH COURT OF KARNATAKA**AT BENGALURU****(ORIGINAL JURISDICTION)**

W.P. NO. /2020

Between:

People's Union for Civil Liberties – Karnataka ... Petitioners

And:

Bruhat Bangalore Mahanagara Palike and Ors. ... Respondents

LIST OF DATES AND SYNOPSIS

Date	Event
05.01.2020	Respondents told the residents to immediately clear the sheds and vacate the premises Kariyammaagrahara, Devarabeesanahalli, and Kundalahalli, Bellandur, Ward No. 151, near Mantri Espana Apartments, Bengaluru – 560103, including Sy. No. 35/2. Despite repeated requests from the residents, the respondents informed them that they would have to vacate the premises themselves, failing which they would be evicted. The Petitioners begged and pleaded with the officials that any such action would result in them and their children being thrown to the streets and this would greatly harm them. However, despite their repeated pleas, the respondents refused to heed to them.
11.01.2020	Notice is issued by Marathahalli Police Station to owner of the lands in Sy. No. 35/2 bearing No. MaaPiS/CC/02/2020 The said notice states that the sheds are occupied by illegal Bangladeshi immigrants who do not have any valid documents and are unlawfully obtained shelter. It further refers to viral videos on this being circulated via social media and whatsapp that has become international news. It is submitted that the residents of the Property in question are not from Bangladesh but in fact are extremely poor migrant families, having migrated from districts of North Karnataka, including Raichur, Hubli and Dharwad and other states including Assam, Tripura, West Bengal, and Bihar.
12.01.2020	Representatives of the BBMP and Police respondents once again

	went to the homes of the residents and informed that they were to be evicted. Once again the residents begged them to let them stay, however, the respondents refused to pay heed to their requests and instead demolished about 200 homes, throwing these families to the street. It was only after much pleading that the respondents stopped demolition and left the homes.
18.01.2020	Letter issued by the Assistant Executive Engineer Marathahalli Police Station requesting police bandobast for eviction In the night of 18.01.2020, persons who claimed to be representatives of the BBMP and the Police came in the night and informed the residents of the Property in question that they would be evicting them from their homes.
19.01.2020	In the morning of 19.01.2020, persons claiming to be the representatives of the BBMP and the Marathahalli Police came to the Property in question and started again demolishing some of the homes. About 200 homes were demolished in this manner. The Petitioner organization became aware of the same and immediately went to spot, after which demolitions were stopped. It is submitted that during the demolitions, children were pulled out of their homes, people were assaulted and verbally abused. The Petitioner was informed that the eviction would commence again the next day.

The Petitioner is a civil society organisation that undertakes various activities to protect the civil and human rights of members of society, especially the economically and socially backward.

This Writ Petition is being filed in regard to the forcible evictions of families residing in tin sheds in various pockets in Kariyammaagrahara, Devarabeesanahalli, and Kundalahalli, Bellandur, Ward No. 151, near Mantri Espana Apartments, Bengaluru – 560103, including Sy. No. 35/2, that took place on 12.01.2020 and again on the night of 18.01.2020 and on 19.01.2020 and the threat of further eviction, which is very imminent.

The Petitioner Organisation became aware of the incidents in question on 19.01.2020 when its members, were informed about the ongoing demolitions and went to the spot of the incident. At the spot of the incident, members of the Petitioners organization witnessed the demolition taking place, spoke to the

residents and those conducting the demolitions. It is on the basis of the same that this Writ Petition is being filed. It is submitted that these evictions have been carried out by the officials of the Bruhat Bengaluru Mahanagara Palike and the officials of the Marathalli Police Station.

The evictions are taking place on the basis of a notice issued by the Inspector, Marathahalli Police Station and a communication of the Assistant Executive Engineer, BBMP, Maratahalli Sub-division claiming that Bangladeshi immigrants are residing in the said area referencing some whatsapp videos. It is submitted that such notice is blatantly illegal and arbitrary. The residents residing herein are migrants from North Karnataka, West Bengal, Assam, Tripura and Bihar and are being victimized on the basis of their vulnerable socio-economic status.

Any action of the respondents towards demolishing the houses of the respondents and evicting them is arbitrary, without any jurisdiction and would result in the violation of their fundamental right to life, shelter and livelihood. Hence, this Petition.

Advocate for the Petitioner

Maitreyi Krishnan

Place: Bengaluru

Date: 20.01.2020

**IN THE HON'BLE HIGH COURT OF KARNATAKA
AT BENGALURU
(ORIGINAL JURISDICTION)**

W.P. NO. /2020 (LB)

BETWEEN:

People's Union for Civil Liberties – Karnataka

No. 15/1, 1st Cross, Post office road,

Sampangiram Nagar, Bengaluru – 560027

Represented by its President Prof. Y. J. Rajendra

... Petitioners

AND:

1. State of Karnataka

Represented by its Chief Secretary

Vidhana Soudha,

Dr. B.R. Ambedkar Veedhi

Bengaluru – 560001.

2. State of Karnataka

Represented by the Principal Secretary

Department of Home

Vidhana Soudha,

Dr. B.R. Ambedkar Veedhi

Bengaluru – 560001.

3. State of Karnataka

Represented by the Principal Secretary

Department of Housing

Vikasa Soudha,

Dr. B.R. Ambedkar Veedhi

Bengaluru – 560001.

4. The Commissioner of Police

Ali Asker Road, Vasanth Nagar,

Bengaluru - 560051

5. Inspector of Police
Marathahalli Police Station,
Marathahall, Bengaluru - 560037
6. Bruhat Bengaluru Mahanagara Palike,
BBMP Head office,
Corporation circle, Hudson Circle,
Bengaluru – 560002
Represented by its Commissioner
7. Assistant Executive Engineer,
Marathalli Sub Division, BBMP
Marathahall, Bengaluru - 560037

...Respondents

**MEMORANDUM OF WRIT PETITION FILED UNDER ARTICLE 226 OF
THE CONSTITUTION OF INDIA**

The Petitioners above named submit as follows.

1. The addresses of the Petitioner for the purpose of service of summons, notices, etc. from this Hon'ble Court is as stated in the cause title and that of their Counsel Clifton D' Rozario, Maitreyi Krishnan, Raghupathy S. and Avani Chokshi at Manthan Law, No. 18, First Floor, Bharat Bhavan, No. 35, Infantry Road, Bengaluru - 560 001.
2. The Petitioner is a civil society organisation that undertakes various activities to protect the civil and human rights of members of society, especially the economically and socially backward. The Petitioner organization is the Karnataka Chapter of the national-level organization People's Union for Civil liberties (PUCL), which was founded by Shri Jayaprakash Narayan in the late 1970s as an organization for the defence of civil liberties and human rights. It was originally known as People's Union for Civil Liberties and Democratic Rights (PUCLDR). After the lifting of the emergency in 1977, it was re-christened as PUCL. The Petitioner organization has a state-level PUCL unit in Karnataka and district-level units across the State. The Petitioner organization is non-partisan and is

not a member of any political party. The Petitioner organization is membership-based organization and has branches all over the country. The Petitioner organization is a non-funded organization and run entirely on the contributions of its members, office bearers and activists. The Petitioner organization has, as part of its activities taken up the cause of the workers employed in the cleaning of manholes and maintenance of sewage systems all across the country. One of the primary functions of the Petitioner organisation is to intervene directly in cases where gross violations of human rights take place. The Petitioner organization has authorized its President to represent them in this Public Interest Litigation.

3. The Petitioner is filing this Writ Petition in regard to the forcible evictions of families residing in tin sheds in various pockets in Kariyammaagrahara, Devarabeesanahalli, and Kundalahalli, Bellandur, Ward No. 151, near Mantri Espana Apartments, Bengaluru – 560103, including Sy. No. 35/2, that took place on 12.01.2020 and again on the night of 18.01.2020 and on 19.01.2020 and the threat of further eviction, which is very imminent. The Petitioner Organisation became aware of the incidents in question on 19.01.2020 when its members, were informed about the ongoing demolitions and went to the spot of the incident. At the spot of the incident, members of the Petitioners organization witnessed the demolition taking place, spoke to the residents and those conducting the demolitions. It is on the basis of the same that this Writ Petition is being filed. It is submitted that these evictions have been carried out by the officials of the Bruhat Bengaluru Mahanagara Palike and the officials of the Marathalli Police Station.
4. It is submitted that the residents of the Property in question are extremely poor migrant families, having migrated from districts of North Karnataka, including Raichur, Hubli and Dharwad and other states including Assam, Tripura, West Bengal, and Bihar. They have migrated to Bengaluru seeking livelihood and have been residing with their families in the Property in question for between 5 to 10 years. Despite not having been provided basic amenities by the Bruhat Bengaluru Mahanagara Palike (BBMP), the residents of the Property in question have made efforts and taken pains to make their houses as habitable as possible. The women among them work as domestic workers. The men amongst them are daily wage labourers engaged in ragpicking, construction, painting, etc. Their children go to the neighbouring schools.

5. It is submitted that there are approximately 5,000 residents who reside in the property in question. The residents of the Property in question belong to economically backward sections of society and are migrant labours who have migrated to Bengaluru from various parts of the country in search of employment and a better life. They have been deprived of the basic amenities like water and drainage and a decent home and instead efforts are being made to illegally evict them. These are the most vulnerable of persons who are to be protected by the respondents and the State. Instead, steps are being taken which would render entire families homeless and even more vulnerable.
6. It is submitted that this being the case, on 05.01.2020, the residents were informed by the representatives of the BBMP and the Marathahalli Police that they would have to vacate the premises. On enquiring with the Respondents as to why such a step was being taken, they were not given any reason and informed that they would have to immediately vacate the premises. Despite repeated requests from the residents, the respondents informed them that they would have to vacate the premises themselves, failing which they would be evicted. The Petitioners begged and pleaded with the officials that any such action would result in them and their children being thrown to the streets and this would greatly harm them. However, despite their repeated pleas, the respondents refused to heed to them. Thereafter, on 12.01.2020, the representatives of the BBMP and Police respondents once again went to the homes of the residents and informed that they were to be evicted. Once again the residents begged them to let them stay, however, the respondents refused to pay heed to their requests and instead demolished about 200 homes, throwing these families to the street. It was only after much pleading that the respondents stopped demolition and left the homes.
7. Thereafter, the residents informed the Petitioner organization that from 13.01.2020, representatives of the BBMP and the Police have been coming to their homes and threatening them that they should immediately vacate the premises. They have been coming in the night and making such threats causing grave concern for the women and children. It appears that due to these threats, some persons have themselves vacated their homes with no option available and to safeguard their family from any possible violence.
8. It is submitted that in the night of 18.01.2020, persons who claimed to be

representatives of the BBMP and the Police came and informed the residents of the Property in question that they would be evicting them from their homes. In the night intervening 18.01.2020 and 19.01.2020, itself about 30 houses were demolished by these persons and these families were thrown to the streets.

9. Thereafter, in the morning of 19.01.2020, persons claiming to be the representatives of the BBMP and the Marathahalli Police came to the Property in question and started again demolishing some of the homes. About 200 homes were demolished in this manner. The Petitioner organization became aware of the same and immediately went to spot, after which demolitions were stopped. It is submitted that during the demolitions, children were pulled out of their homes, people were assaulted and verbally abused. The Petitioners was informed that the eviction would commence again the next day.
10. It is submitted that when the members of the Petitioner Organisation spoke to the policemen present therein, they were given a copy of a notice bearing No. MaaPiS/CC/02/2020 dated 11.02.2020 that was issued by the Marathahalli Police Station to one Shri. Chetan (Babu). The said notice bearing No. MaaPiS/CC/02/2020 dated 11.01.2020 is titled as "Police Notice" and has been issued by the Police Inspector, Marathahalli Police Station, the 5th respondent herein. The said notice stated that the sheds are occupied by illegal Bangladeshi immigrants who do not have any valid documents and are unlawfully obtained shelter. It further refers to viral videos on this being circulated via social media and whatsapp that has become international news on the basis of which it appears that the police is acting. The "Police Notice" bearing No. MaaPiS/CC/02/2020 dated 11.01.2020 is produced herewith and marked as **Annexure - A**.
11. It is submitted that the Petitioner Organisation were also given a copy of notice dated 18.01.2020 bearing No. BBMP/SaKaaA/MaUVi/Va150/PiAr/264/2018-20 issued by the Assistant Executive Engineer, Marathalli Sub Division, BBMP that states that oral complaints have been given about the unhygienic conditions residing in the area. Reference is made to Bangladeshi migrants living in unauthorised sheds in Ward No. 150. As per the notice, the assistance of the police is requested in removing the said people. True and correct copy of the notice dated 18.01.2020 bearing No. BBMP/SaKaaA/MaUVi/Va150/PiAr/264/2018-20, issued by the Assistant Executive Engineer, Marathalli Sub Division,

BBMP is produced herewith and marked as **Annexure - B**.

12. It is submitted that none of the residents of the Property in question are Bangladeshis, but are largely from North Karnataka and several of them are also from Assam, Tripura, West Bengal, and Bihar. During the conversations held by the members of the Petitioner organisation with the residents, they were shown the identity cards of the residents showing that they were Indian citizens.
13. It is submitted that that no notice whatsoever has been issued to the residents prior to the demolition and the representatives of the Police and the BBMP have been using mere intimidation to evict them. It is submitted that the respondents have no jurisdiction whatsoever and are acting in a manner that is arbitrary, illegal and contrary to law. It appears that the bogey of Bangladeshi is being used to evict the innocent poor. The residents are apprehensive that the respondents may again initiate steps to evict them at any point of time and that they may be arbitrarily evicted.
14. It is submitted that the incidents of 19.01.2020 have been widely reported in the press. It is reported that the BBMP Commissioner has been quoted as saying that such an eviction drive should not have been conducted without it having been brought to his attention. The newsreports appearing in Deccan Herald, Times of India, The Hindu and Bangalore Mirror are produced herewith and marked as **Annexure – C (collectively)**.
15. It is submitted that the residents of this area have the fundamental right to life and liberty protected under Article 21 of the Constitution. They also have the right to move and reside and settle in any part of the country protected under Article 19(1)(d) and (e). They are extremely poor and are extremely financially unstable. The eviction of 5000 persons in the city of Bengaluru would result in a humanitarian crisis. These persons are extremely poor and have no access to any legal remedy. Hence, the Petitioner Organisation is filing this Petition to safeguard the residents' fundamental right to life and livelihood. The Petitioner has no other alternative and efficacious remedy except to approach this Hon'ble Court under Articles 226 of the Constitution of India.
16. The Petitioner has not filed any other Writ Petition in this regard. There are no other legal proceedings pending in connection thereof before any other Court or Forum. Therefore, the Petitioner beg to prefer this Memorandum of Writ Petition on the following amongst other grounds.

GROUNDS

17. That the entire eviction is being carried out by the police led by the 5th respondent. In fact even the purported police notice that has been allegedly issued to the landowner is by the 5th respondent. The actions of the 5th respondent in issuing the said notice and demolishing the homes of the poor people, is without jurisdiction and a blatant abuse of its authority.

18. The impugned Police Notice dated 11-01-2020 and BBMP Notice dated 18-01-2020 violate the right to shelter under Article 21, without due process of law

A. That every person has a right to shelter guaranteed under Article 21 of the Constitution of India as recognised by several judgments of the Hon'ble Supreme Court. The right to shelter itself is held to be more than a mere roof over one's head by three judges of the Supreme Court in *Chameli Singh v. State of U.P.*, (1996) 2 SCC 549:

"Shelter for a human being, therefore, is not a mere protection of his life and limb. It is home where he has opportunities to grow physically, mentally, intellectually and spiritually. Right to shelter, therefore, includes adequate living space, safe and decent structure, clean and decent surroundings, sufficient light, pure air and water, electricity, sanitation and other civic amenities like roads etc. so as to have easy access to his daily avocation. The right to shelter, therefore, does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable them to live and develop as a human being. Right to shelter when used as an essential requisite to the right to live should be deemed to have been guaranteed as a fundamental right. As is enjoined in the Directive Principles, the State should be deemed to be under an obligation to secure it for its citizens, of course subject to its economic budgeting. In a democratic society as a member of the organised civic community one should have permanent shelter so as to a physically, mentally and intellectually equip oneself to improve his excellence as a useful citizen as enjoined in the Fundamental Duties and to be a useful citizen and equal participant in democracy. The ultimate object of making a man equipped with a right to dignity of person and equality of

status is to enable him to develop himself into a cultured being. Want of decent residence, therefore, frustrates the very object of the constitutional animation of right to equality, economic justice, fundamental right to residence, dignity of person and right to live itself."

- B. This view of the Court is settled law as clear from *Shantistar Builders v. Narayan Khimalal Totame* (1990) 1 SCC 520, *Ahmedabad Municipal Corporation v. Nawab Khan* (1997) 11 SCC 121.
- C. That the right under Article 21 can only be deprived by way of a just fair and reasonable procedure established by law, which is absent in the present case. No order was issued by any statutory authority for the demolition of the said property.
- D. That the Fifth Respondents lack any authority or jurisdiction over the land in which the settlements were made, as the said land is undisputedly privately owned land as conceded by the Fifth Respondent in impugned Police Notice dated 11-01-2020. The impugned Police Notice dated 11-01-2020 is void for being without jurisdiction. The Notice states that the owner of the land on which the settlements were made has "illegally put up sheds on the property without any approval from the Government or any other permission ...". Since the said land is privately owned, it is outside the authority of the Fifth Respondent to order a demolition inside it.
- E. That the impugned notice issued by the Sixth Respondent fails to state the statutory power being exercised by the Assistant Executive Engineer in issuing it. It may be noted that the Commissioner of the BBMP has been quoted as saying, in newspaper reports annexed above, that such an eviction drive "should not have taken place" without it having been brought to his notice.
- F. That assuming but not conceding that the Fifth Respondents were authorized to carry out such demolition, the demolition of the aforesaid settlements was carried out without due process, in that no notice was giving to the residents of the settlements in question. Adequate notice was held to be a prerequisite in *Olga Tellis v. Bombay Municipal Corporation* AIR 1986 SC 180, as well as in *Ahmedabad Municipal Corporation* (supra).
- G. That this Hon'ble Court has recognized that the right to notice and to hearing is indispensable even for residents of informal settlements, in

Shakthivelnagara Gudisalu Nivasigala Kshemabhivrudhi Sangha, Bangalore v. State of Karnataka 1996 SCC OnLine Kar 511

I therefore see no reason to confine the right of hearing or notice only to those who own either the land or the buildings in the slum area. If what is important for any such right to accrue is a possible prejudice on account of the issue of a notification, there is no denial that such a prejudice is bound to be suffered even by a person who does not own the land nor even a building in the strict sense of the term but is simply surviving more often than not in sub human conditions, in some hut or such other structure which he may have put up for a shelter. After all how can we forget that a slum takes birth almost invariably by the poorest finding some open space for a small tent, a mud hut, or a wooden or other structure to take shelter in. Merely because such a structure may not be capable of being described as a 'building' can hardly warrant denial of a right which must belong to all no matter there station in life. In the circumstances therefore, an opportunity of being heard to all such persons as were dwelling in the slum area proposed to be declared as a Slum Clearance Area would be necessary even on the minimal requirement of the principles of natural justice.

It is submitted that the impugned notices issued by the Fifth and Sixth Respondents were not made to the residents of the settlements, and thus, their right to a hearing was deprived.

- H. That no alternative was offered by the State to the residents of these informal settlements, prior to the demolition. It has been held a viable alternative housing option must be offered by the State, in *Olga Tellis v. Bombay Municipal Corporation* AIR 1986 SC 180.
- I. That the Fifth Respondents have stated in impugned Police Notice dated 11-01-2010 that that the owner of the land on which the settlements were made was unlawfully providing shelter to "illegal migrants from Bangladesh". It is submitted that the right to shelter under Article 21 is guaranteed to all persons regardless of their citizenship, nationality, and legal status as migrants in the Indian state. In any event, the neighbours and other residents in the area have indicated that the said residents were migrants from North Karnataka.

- J. It is submitted that the impugned notices suffer from making a “presumption of criminality” of an entire settlement’s residents, which has no place in the eyes of Indian law. The branding of an entire collective of persons as “illegal migrants” is premised on collective criminality, has been struck down as “disproportionate and arbitrary” by a Constitution Bench of the Hon’ble Supreme Court in ***Puttaswamy v. Union of India***, (2019) 1 SCC 1.
- K. The residents are poor daily wage workers and due to the arbitrary actions of the respondents of evicting them, face a threat of losing their fundamental right to life, housing and livelihood. The Hon’ble Courts have held that an equally important facet of that right is the right to livelihood because, no person can live without the means of living, that is, the means of livelihood and any person who is deprived of his right to livelihood except according to just and fair procedure established by law, can challenge the deprivation as offending the right to life conferred by Article 21.
- L. The actions of the respondents violate the fundamental right to life of the concerned residents under Article 21 of the Constitution of India. The right to shelter is a fundamental right available to every person and is a crucial component of Article 21 of the Constitution of India. The eviction of the concerned residents would result in their becoming homeless, in total contravention of the said right.
- M. That the guarantee of the right to shelter under Article 21 imposes an obligation of the respondents to ensure proper shelter and habitation to the concerned residents. The right to shelter does not mean a mere right to a roof over one's head but right to all the infrastructure necessary to enable individual to live and develop as a human being. The respondent BBMP is under a constitutional obligation under Article 243W r/w Schedule 12 of the Constitution to ensure slum improvement and upgradation and urban poverty alleviation, and hence are required to ensure that the residences of all persons are habitable and with adequate basic amenities including water, sanitation, etc. However, the respondents have failed miserably to fulfil the mandate upon them, and are instead attempting to demolish the minimal shelter that the resident have managed to provide for themselves. The concerned residents are completely at the mercy of

these respondents who may attempt to evict them without due process.

- N. The residents have a right to housing which is an enforceable right which flows from the Universal Declaration Of Human Rights which now is accepted as *jus cogens* and so is enforceable. The right to shelter of the residents have also been guaranteed under various International Conventions and Covenants.
- O. That any action of the respondents to demolish the homes of the residents has rendered scores of children shelterless, and the proposed evictions would render scores of children more such, and this is violative of the obligations of the respondent under the Convention of the Rights of the Child to which India is a signatory and would result in a denial of their fundamental right to education under Article 21A of the Constitution. That the eviction is proposed to be carried out in the middle of the academic year of educational institutions which will detrimentally impact the fundamental right to education of the children of the residents, who would find it impossible to search for and get admissions in educational institutions near Marathahalli.

19. The impugned Police Notice dated 11-01-2020 and BBMP Notice dated 18-01-2020 is void for arbitrariness and for lacking the authority of law, and thus violating Articles 14 and 19 of the Constitution of India

- A. That the impugned Police Notice dated 11-01-2020 and the impugned Notice dated 18-01-2020 are void for being issued without authority of law. They must be struck down for being an arbitrary exercise of police power, that violates Article 14 of the Constitution of India. (***EP Royappa v. State of TN*** (1974) 4 SCC 3)
- B. That even if the impugned notices do have the authority of statutory law, they must be struck down for failure to state the provisions of law under which it has been issued.
- C. That the impugned notices have the effect of grossly depriving the freedoms of residents of the settlements under Article 19, and must thus be struck down as it is not a "law" having statutory force. It was held in ***Bijoe Emmanuel v. State of Kerala*** (1986) 3 SCC 615, 624-25, para 16:

"16. ... The law is now well settled that any law which may be made under clauses (2) to (6) of Article 19 to regulate the exercise of the right to the freedoms guaranteed by Articles 19(1)(a) to (e) and (g) must be 'a law' having statutory force and not a mere executive or departmental instruction."

This view is now settled law as evident from **the Constitution Bench decisions of this Court in *Kameshwar Prasad v. State of Bihar* AIR 1962 SC 1166 and in *Kharak Singh v. State of U.P.* AIR 1963 SC 1295, *Union of India v. Naveen Jindal*, (2004) 2 SCC 510, *State of M.P. v. Thakur Bharat Singh* AIR 1967 SC 1170.**

- D. In any event, the impugned notice does not state the basis for the allegation, and does not reference materials that form the basis of this averment against the residents of the settlements. The impugned notices only state as their basis the following:
- a. The Fifth Respondents have relied on "viral videos" which have no evidentiary value in the eyes of law and further indicate the arbitrariness of the impugned police action in the petition
 - b. The Sixth Respondents have relied on "oral complaints being received" that "illegal Bangladeshi residents have established unauthorised sheds, and that the said residents of sheds have converted the entire area in which they reside into slums". Oral complaints cannot form the basis of any state action, in the absence of further due process.

It is submitted that It may be noted that the residents of the property in question are migrant labourers from North Karnataka, whose government issued ID cards evidence their status as citizens of India. Thus, the impugned notices may be struck down for being arbitrary, lacking in application of mind and being based one extraneous and irrelevant considerations.

20. That a bare perusal of the said notice reveals that it is purportedly an eviction notice which the 5th respondent has no authority or jurisdiction whatsoever to issue. Further it appears to have been issued *suo motu* and there is nothing in the said notice that reveals the reason for its issuance. Furthermore, it acknowledges that the houses are on a private property before making any outlandish and baseless claim that all the houses are of "illegal Bangladeshi immigrants". There is no apparent basis for the issuance of the notice or for the wild allegations made therein.

21. The actions of the respondents are also violative of the rights of these residents under Article 19 (d) and (e) of the Constitution of India. Since most of them work in the neighbouring area, they will also be deprived of their fundamental right to livelihood, protected Article 19(1)(g).
22. That these persons have the right to movement protected under Article 19(1)(e) of the Constitution, which the respondents are threatening to violate. That the Hon'ble Courts have held that Article 19(1)(e) must be read along with Article 21 to give the proper interpretation and enforce the fundamental rights and statutory rights of the inhabitants of the slums in India such as the residents.
23. That the actions of the respondent is violative of the directive principles of state policy enshrined in Articles 38, 39(a), 39(f), 45, 46 and 47 of the Constitution.
24. Further, the eviction of senior citizens would be violative of section 22 of the Maintenance and Welfare of Parents and Senior Citizens Act, 2007, which mandates that the government must protect the life and property of senior citizens.
25. The eviction of minor children would be in violation of provisions of the Juvenile Justice Act, which mandate the care and safety of minors children in need of care and protection.
26. That the forced eviction are in violation of the National Resettlement and Rehabilitation Policy, 2007, which, *inter alia*, protects the interests of families displaced due to land acquisition or involuntary displacement for any other reason, and mandates that such families cannot be displaced without having been rehabilitated.
27. That the residents of the Property in question cannot be evicted in an arbitrary manner, without complying with the principles of natural justice and without following the procedure established by law. The entire process of eviction that has occurred and of which there is an imminent danger of occurring in the near future is being carried out in an arbitrary fashion and without following any due process of law, and if permitted to continue with result in the blatant violation of the constitutional and statutory rights of the residents.
28. `The actions of the respondent without the issuance of any notice or any form of hearing whatsoever is a gross violation of principles of natural justice. That it is legally imperative for the respondents to, at the bare minimum, comply with the basic principles of natural justice and seek an

explanation from the residents before bringing the grave action of eviction against them. It is established law that the principles of natural justice and the duty to act fairly applies to statutory authorities and that the persons affected must be informed of the case against them and a fair opportunity of meeting it must be given to them. Instead the respondents are attempting to evict the residents without affording them any opportunity whatsoever.

29. That the eviction not only means the removal of the residents from their houses but the destruction of their house itself and the destruction of a dwelling house is the end of all that one holds dear in life. As the Hon'ble Supreme Court has held, humbler the dwelling, greater the suffering and more intense the sense of loss. Hence, in regard to slum dwellers such as the concerned resident herein, the Hon'ble Supreme Court has held that it is legally imperative that principles of natural justice have to be complied with in regard to their eviction and an opportunity has to be afforded to them to show why the tenements should not be removed. The failure of the respondents to afford this opportunity to the residents vitiates eviction that has already taken place as well as that which is proposed.
30. That the poor of the city cannot be treated as 'secondary' citizens simply because they are migrants from another state who have migrated due to utter poverty and for the purpose of their livelihood. They are entitled to no less an access to basic survival needs as any other citizen. That the respondents have failed to ensure that these residents are provided with basic amenities and are now making attempt to throw them out of their homes into an even worse off situation.
31. That around 5000 residents of the Property in question are economically backward and earn meagre amounts through employment as security guards, drivers, housekeepers, domestic helps etc. The actions of the respondent would result in thousands of residents being thrown out of the Property in question, and they will be deprived of shelter and literally thrown to the streets.
32. That the residents of these areas are honest workers who contribute to the growth of the city and the country and cannot be deprived of their fundamental rights in any manner whatsoever.
33. That the threatened actions of the respondents would result in the deprivation of a bundle of rights of each member of the community and the households - the right to livelihood, to shelter, to health, to education,

to access to civic amenities and public transport and above all, the right to live with dignity, and the same is blatantly unconstitutional.

34. The actions of the BBMP and the Police are unconstitutional capricious, arbitrary, without jurisdiction and blatantly illegal. The residents of the area are completely at the mercy of these respondents who are attempting to evict extremely poor and helpless persons without due process. That the Petitioner is before this Hon'ble Court pleading for the residents to be spared this misery of eviction and dislocation, which will be debilitating and violate their fundamental right
35. The Petitioner reserves the liberty to raise additional grounds at the time of arguments.

GROUND FOR INTERIM PRAYER

The Petitioner submits that if the houses of the persons residing in the property in question are demolished thousands of persons along with their families and children will be rendered homeless and literally consigned to the streets. Those residents whose homes are already demolished are thrown to the streets along with children, in the middle of winter. The actions of the respondents in evicting these persons under the guise that they are from Bangladesh is absolutely illegal and arbitrary. These residents are citizens of India and are protected by the Constitution. Their fundamental right under Article 21 read with Article 19(1)(d) and Article 19(1)(e) and also Article 19(1)(g) is under grave threat. In the circumstances, there is a pressing need to prevent the respondents from taking any action to evict the resident of the property in question or disturb their possession in any manner whatsoever. The residents of the property in question shall suffer irreparable harm and the writ petition will be rendered infructuous if the Respondents are permitted to evict them. *Per contra*, no hardship shall be caused to the Respondents.

PRAYER

WHEREFORE, the Petitioner respectfully prays that this Hon'ble Court may be pleased to –

1. Issue an appropriate Writ, order or direction restraining the Respondents from evicting the residents and from demolishing their homes in sheds in

Kariyammanaagrahara, Devarabeesanahalli, and Kundalahalli, Bellandur, Ward No. 151, near Mantri Espana Apartments, Bengaluru – 560103, including on Sy. No. 35/2, Kariyammanaagrahara, Bellandur Ward No. 151, behind Mantri Espana Apartments, Bengaluru without following the due procedure of law.

2. Issue an appropriate Writ, order or direction quashing the “Police Notice” bearing No. Maa Pi S/ CC/ 02/2020 dated 11.01.2020 (placed as Annexure – A) issued by the 5th Respondent as illegal, without authority or jurisdiction and violative of the fundamental rights of the residents.
3. Issue an appropriate Writ, order or direction quashing the notice dated 18.01.2020 bearing No. BBMP/SaKaaA/MaUVi/Va150/PiAr/264/2018-20, issued by the 7th Respondent (placed as Annexure – B) as illegal, without authority or jurisdiction and violative of the fundamental rights of the residents.
4. Direct the 1st respondent to take all necessary action against the 5th respondent, including initiating departmental enquiry and all consequential actions, for the issuance of the illegal “Police Notice” (placed as Annexure – A) leading upto the demolition of the homes in sheds in Kariyammanaagrahara, Devarabeesanahalli, and Kundalahalli, Bellandur, Ward No. 151, near Mantri Espana Apartments, Bengaluru – 560103, including on Sy. No. 35/2, Kariyammanaagrahara, Bellandur Ward No. 151, behind Mantri Espana Apartments, Bengaluru without following the due procedure of law.
5. Direct the 1st respondent to take all necessary action against the 7th respondent for the issuance of the notice dated 18.01.2020 bearing No. BBMP/SaKaaA/MaUVi/Va150/PiAr/264/2018-20 and leading the demolition of the homes of the resident in sheds in Kariyammanaagrahara, Devarabeesanahalli, and Kundalahalli, Bellandur, Ward No. 151, near Mantri Espana Apartments, Bengaluru – 560103, including on Sy. No. 35/2, Kariyammanaagrahara, Bellandur Ward No. 151, behind Mantri Espana Apartments, Bengaluru without following the due procedure of law.
6. Direct the respondents to ensure the payment of compensation to the families who have been evicted from the property in question
7. Direct the 1st, 4th and 5th respondent to provide basic amenities including sanitation, water, electricity and other necessary amenities to the Property in question.

8. Grant such or other reliefs as this Hon'ble Court deems fit in the facts and circumstances of the above case, including directing the 1st respondent to frame guidelines for evictions, as also compensation for their losses and costs in the above in the interests of justice and equity.

INTERIM PRAYER

Pending disposal of the Writ Petition, the Hon'ble Court may be pleased to restrain the respondents from evicting or disturbing the possession of the residents residing in in sheds in Kariyammaagrahara, Devarabeesanahalli, and Kundalahalli, Bellandur, Ward No. 151, near Mantri Espana Apartments, Bengaluru – 560103, including on Sy. No. 35/2, Kariyammaagrahara, Bellandur Ward No. 151, behind Mantri Espana Apartments, Bengaluru .

Place: Bengaluru

Date: 20/01/2020

Advocate for the Petitioners

Maitreyi Krishnan

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