



KARNATAKA LEGISLATIVE ASSEMBLY
FIFTEENTH LEGISLATIVE ASSEMBLY
ELEVENTH SESSION

**THE KARNATAKA MUNICIPAL CORPORATIONS AND CERTAIN OTHER LAW
(AMENDMENT) BILL, 2021
(LA Bill No. 48 of 2021)**

A Bill further to amend the Karnataka Municipal Corporations Act, 1976 and the Bruhat Bengaluru Mahanagara Palike Act, 2020.

Whereas it is expedient further to amend the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977) and the Bruhat Bengaluru Mahanagara Palike Act, 2020 (Karnataka Act 53 of 2020), for the purposes herein after appearing;

Be it enacted by the Karnataka State Legislature in the seventy second year of the Republic of India as follows, namely:-

1. Short title and commencement.- (1) This Act may be called the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2021.

(2) It shall be deemed to have come into force with effect from the 16th day of November, 2021.

2. Amendment of the Karnataka Act 14 of 1977.- In the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977), after section 299, the following shall be inserted, with effect from 4th day of September, 2015, namely:-

“299A. Levy of imposts, restrictions and conditions in respect of Bruhat Bengaluru Mahanagara Palike.- (1) The Commissioner may grant such permission to execute the work together with a site plan of the land, ground plan, elevations and section of the building subject to such restrictions and conditions, as may be specified in the zoning regulations or building bye-laws or he may refuse to grant such license subject to the conditions specified in section 303.

(2) The Commissioner may for approving or sanctioning the plan or grant of commencement certificate or completion certificate, charge and levy the following fee at such rates based on the guidance value fixed by the Department of Stamps and Registration under the provisions of the Karnataka Stamp Act, 1957, namely:-

- (a) fee for issuance of license;
- (b) fee for security of the building for which license granted;
- (c) fee for maintenance of public roads or storing of construction materials in public places during construction viz, ground rent;
- (d) security fee, ensuring that the construction is in accordance with plan sanctioned;

- (e) fee for commencement certificate;
- (f) fee for occupancy certificate;
- (g) penalty imposed at the time of issuance of occupancy certificate for not obtaining commencement certificate at the commencement of the construction;
- (h) penalty for regularization up to 5% of violation or deviation in the construction with respect to sanctioned plan or zonal regulation limit; and
- (i) such other fee as specified by the Government from time to time.

299B. Power of the State Government to exempt or reduce fee levied or charged or assessed in respect of the Bruhat Bengaluru Mahanagara Palike.-

(1) The State Government may, if in its opinion it is necessary in the public interest so to do, by notification and subject to such restrictions and conditions and for such period, as may be specified in the notification, exempt or reduce the fee payable under this Act, for any Board or Corporation or Organization owned or controlled by the Central Government or the State Government.

(2) The State Government may, by notification cancel or vary any notification issued under sub-section (1).

(3) Where any restriction or condition specified under sub-section (1) is contravened or is not observed by a person or a declaration furnished under sub-section (1) is found to be wrong, then such person shall be liable to pay by way of penalty, an amount equal to twice the difference between the fee payable at the rate specified by or under the Act and the fee paid at the rate specified under the notification on consideration in respect of which such contravention or non-observance has taken place or a wrong declaration is furnished.

(4) For removal of doubts, it is hereby declared that the levy of imposts, assessment and collection of fee or penalty under the Act as amended by the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2021 or any rules, notification, order, letter or guidelines shall be deemed to have always been levied and collected as levy of imposts.

(5) No penal proceeding shall be commenced against any person for any contravention of the provisions of Chapter-XV of the Act that may arise as a consequence of the retrospective amendment made by the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2021.

299C. Validation of levy and collection of fee.- Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority to the contrary levy, assessment or collection of any amount as fee or penalty for sanctioning plan or commencement certificate or occupancy certificate made or purporting to have been made under section 299A and any action or thing taken or

done, (including any notices or orders issued or assessment made) and all proceedings held and any levy and collection of fee or amount purported to have been collected by way of fee or penalty in relation to such levy, assessment or collection under the provisions of the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977) or any rules, notifications, order, guidelines or letters before the commencement of this Act shall be and shall be deemed to be valid and effective for all purposes as if such levy, assessment or collection or action or thing had been made, taken or done under the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977) as amended by the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2021 and accordingly:-

- (a) all acts, proceedings or things done or any action taken by the Government or the Bruhat Bengaluru Mahanagara Palike officers as the case may be in connection with the levy, assessment or collection of any amount as fee for all purposes be deemed to be and to have always been made, done or taken in accordance with law;
- (b) no suit or other proceeding shall be maintained or continued in any Court or Tribunal or before any authority for the refund of any such fee; and
- (c) no Court shall enforce any decree or order directing the refund of any such fee.”

3. Amendment of the Karnataka Act 53 of 2020.- In the Bruhat Bengaluru Mahanagara Palike Act, 2020 (Karnataka Act 53 of 2020), after section 240, the following new sections shall be inserted, with effect from 11th day of January 2021, namely:-

“240A. Levy of imposts, restriction and condition.- (1) The Chief Commissioner may grant such permission to execute the work together with a site plan of the land, ground plan, elevations and sections of the building subject to such restrictions and conditions, as may be specified in the bye-laws or he may refuse to grant such licence, subject to the conditions specified in section 244.

(2) The Chief Commissioner while fixing the rates for levy of fee or penalty shall consider all the costs related to the issue and execution of the approval as he may deem fit.

(3) The Chief Commissioner may for approving or sanctioning the plan or grant of commencement certificate or completion certificate,-

(A) charge and levy the following fee at such rates based on the guidance value fixed by the Department of Stamps and Registration under the provisions of the Karnataka Stamp Act, 1957, namely:-

(a) fee for issuance of license;

- (b) fee for maintenance of public roads or storing of construction materials in public places during construction viz, ground rent;
 - (c) security fee ensuring that the construction is in accordance with plan sanctioned;
 - (d) fee for commencement certificate;
 - (e) fee for completion certificate; and
 - (f) such other fee as specified by the Government from time to time.
- (B) charge and levy any other deposit or fee or cess specified under any other law in force.

240B. Power of the State Government to exempt or reduce fee levied or charged or assessed.- (1) The State Government may, if in its opinion, it is necessary in the public interest so to do, by notification and subject to such restrictions and conditions and for such period as may be specified in the notification, exempt or reduce either prospectively or retrospectively, the fee payable under this Act for any Board or Corporation or Organization owned or controlled by the Central Government or the State Government.

(2) The State Government may, by notification cancel or vary any notification issued under sub-section (1).

(3) Where any restriction or condition specified under sub-section (1) is contravened or is not observed by a person or a declaration furnished under sub-section (1) is found to be wrong then such person shall be liable to pay by way of penalty an amount equal to twice the difference between the fee payable at the rates specified by or under the Act and the fee paid at the rates specified under the notification on the consideration in respect of which such contravention or non-observance has taken place or a wrong declaration is furnished:

Provided that, before taking action under sub-section (1), the person shall be given a reasonable opportunity of being heard.

(4) For the removal of doubts it is hereby declared that, the levy of imposts, assessment and collection of fee or penalty under the Act as amended by the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2021 or any rules, notification, order, letter or guidelines shall be deemed to have always been levied and collected as levy of imposts.

240C. Validation of levy and collection of fees.- Notwithstanding anything contained in any judgment, decree or order of any Court, Tribunal or other authority to the contrary, levy, assessment and collection of any amount as fee or penalty for sanctioning Building plan, Commencement Certificate, made or purporting to have been made under section 240A, section 246 and any action initiated or done, including any notices or orders issued or assessment made and

all proceedings held and any levy and collection of fee or amount purported to have been collected by way of fee or penalty in relation to such levy, assessment or collection, under the provisions of the Bruhat Bengaluru Mahanagara Palike Act, 2020 (Karnataka Act 53 of 2020) or any rules, notification, order, letter or guidelines, before the commencement of the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2021 shall be and shall be deemed to be valid and effective for all purposes, as if such levy, assessment or collection or action had been made, taken or done under the Bruhat Bengaluru Mahanagara Palike Act, 2020 (Karnataka Act 53 of 2020) as amended by the Karnataka Municipal Corporations and Certain Other Law (Amendment) Act, 2021 and accordingly,-

- (a) all acts, proceedings or things done or any action taken by the Government or the Bruhat Bengaluru Mahanagara Palike officers as the case may be in connection with the levy, assessment or collection of any amount as fee for all purposes be deemed to be and to have always been made, done or taken in accordance with law;
- (b) no suit or other proceeding shall be maintained or continued in any Court or Tribunal or before any authority for the refund of any such fee; and
- (c) no Court shall enforce any decree or order directing the refund of any such fee.”

4. Repeal and savings.- (1) The Karnataka Municipal Corporations and Certain Other Law (Amendment) Ordinance, 2021 (Karnataka Ordinance 08 of 2021) is hereby repealed.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the Principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Honorable High Court of Karnataka has passed the final order on 04.08.2021 in Writ Petition No. 4601/2020 (LB-BMP) and others as under,-

- (a) The bye-laws under which Ground Rent, Licence Fee, Building Licence Fee, Scrutiny Fee, Security Deposit are all held ultravires the Act and are resultantly rendered unenforceable.
- (b) The Circular bearing No. 000000/00000(en)/000003/000000/320/2015-16, 000000:04.09.2015 stands quashed.
- (c) The State or the BBMP is not precluded from bringing in the impugned levies under the provisions of the Act or the Rules by making suitable amendments to the act and the Rules.
- (d) Petitioners in all these petitions who have deposited certain amounts in terms of the interim order passed by this Court before this Court are entitled to refund of the amounts so deposited.
- (e) Insofar as refund in other cases who have paid to the Corporation under protest, they shall be entitled to such refund only if the same is not collected from the consumers of the apartments, businesses are the case would be.
- (f) Insofar as all other payments made, they would all be at liberty to give representation to the BBMP and the BBMP would consider the refund of the amounts, in accordance with law and findings of this Court.
- (g) If representations are made by the petitioners for refund, the BBMP shall pass appropriate orders within 12 weeks from the date of such representations.

Since the fee collected by the Bruhat Bengaluru Mahanagara Palike has already been utilized for various development works, refund of the same would incur a financial burden of Rupees 2362 crores (Two thousand three hundred and sixty two crores) to the Bruhat Bengaluru Mahanagara Palike.

Therefore, it is considered necessary to amend the Karnataka Municipal Corporations Act, 1976 (Karnataka Act 14 of 1977) and the Bruhat Bengaluru Mahanagara Palike Act, 2020 (Karnataka Act 53 of 2020) with retrospective effect for validation of fee and penalty collected by the Bruhat Bengaluru Mahanagara Palike at the time of sanction of building plan and grant of Commencement certificate and Completion certificate to buildings and also to provide exemption or concession to a Board or Corporation or an Organization owned or controlled by the Central Government or the State Government from the payment of such fee.

As the matter was urgent and both the Houses of the State Legislature were not in session, therefore the Karnataka Municipal Corporations and Certain other Law (Amendment) Ordinance, 2021 (Karnataka Ordinance 08 of 2021) was promulgated to achieve the above object.

This Bill seeks to replace the above ordinance.

Hence, the Bill.

FINANCIAL MEMORANDUM

There is no extra expenditure involved in the proposed legislative measure.

EXPLANATORY STATEMENT AS REQUIRED BY SUB-RULE (1) OF RULE 80 OF THE RULES OF PROCEDURE AND CONDUCT OF BUSINESS IN THE KARNATAKA LEGISLATIVE ASSEMBLY.

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- (b) The Circular bearing No. ಹನಿನಯೋಜೆಡಿ(ಉ)/ಡಿಎಂ3/ಪಿಆರ್/320/2015-16, ದಿನಾಂಕ:04.09.2015 stands quashed.
- (c) The State or the BBMP is not precluded from bringing in the impugned levies under the provisions of the Act or the Rules by making suitable amendments to the act and the Rules.
- (d) Petitioners in all these petitions who have deposited certain amounts in terms of the interim order passed by this Court before this Court are entitled to refund of the amounts so deposited.
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As the matter was urgent and both the Houses of the State Legislature were not in session, therefore the Karnataka Municipal Corporations and Certain other Law (Amendment) Ordinance, 2021 (Karnataka Ordinance 08 of 2021) was promulgated to achieve the above object.

BASAVARAJ BOMMAI
Chief Minister

M.K. VISHALAKSHI
Secretary (I/c)
Karnataka Legislative Assembly