

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 24th DAY OF JUNE 2009

PRESENT

THE HON'BLE MR.JUSTICE RAM MOHAN REDDY

AND

THE HON'BLE MR.JUSTICE A.S.BOPANNA

WRIT PETITION NO. 11110/2008 (CS-RES-PIL)

BETWEEN :

N KESHAVA S/O DHRUVE
AGED ABOUT 50 YEARS
NO. 282, BSK 1STAGE,
2ND BLOCK, 80 FEET ROAD
SRINIVASANAGAR
BANGALORE-560 050

... PETITIONER

(By Sri: C LAKSHMINARAYANA RAO &
Sri: Y N NAGARAJA, ADVs)

AND :

1 STATE OF KARNATAKA
REP. BY ITS CHIEF SECRETARY
VIDHANA SOUDHA
BANGALORE - 560 001

2 THE PRINCIPAL SECRETARY
REVENUE DEPARTMENT
GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA
BANGALORE - 560 001

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- 3 THE PRINCIPAL SECRETARY
URBAN DEVELOPMENT DEPARTMENT
GOVERNMENT OF KARNATAKA
VIKASA SOUDHA
BANGALORE - 560 001
- 4 THE REGISTRAR OF CO-OP.
SOCIETIES IN KARNATAKA
H.O.NO. 1, ALI ASKAR ROAD
BANGALORE - 560 052
- 5(a) THE SECRETARY
KARNATAKA STATE JUDICIAL DEPARTMENT
EMPLOYEES HOUSE BUILDING CO-OP. SOCIETY
OPP: JAKKUR AERODROME
JUDICIAL LAYOUT, ALLALASANDRA
G.K.V.K. POST, BANGALORE-560 065
AND ALSO AT
- (b) # 7, SURYA COMPLEX, 1ST MAIN ROAD
2ND FLOOR, SESHADRIPURAM
BANGALORE-560 020
REPT. BY ITS SECRETARY
- 6 THE COMMISSIONER
BANGALORE DEVELOPMENT AUTHORITY
KUMARA PARK WEST, BANGALORE-560 020
- 7 THE COMMISSIONER
CITY MUNICIPAL COUNCIL
MYELAHANKA, BANGALORE NORTH TALUK
BANGALORE - 560 065
- 8 INSPECTOR GENERAL OF REGISTRATION &
COMMISSIONER OF STAMPS
'SHIMSHA BHAVAN', J.P. NAGAR,
BANGALORE
- 9 THE SUPERINTENDENT OF POLICE
CENTRAL BUREAU OF INVESTIGATION (CBI)
CBI CROSS, BELLARY ROAD
BANGALORE- 560 034



- 10 THE SPECIAL DY. COMMISSIONER
ENFORCEMENT CELL
DY. COMMISSIONER'S OFFICE
KEMPEGOWDA ROAD
BANGALORE-560 009
- 11 THE TAHASILDAR
BANGALORE NORTH TALUK
YELAHANKA UPANAGARA
YELAHANAKA
BANGALORE - 560 065
- ... RESPONDENTS
- (BY SRI: R DEVDAS, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLE 226 AND 227 OF THE CONSTITUTION OF INDIA, WITH A PRAYER TO; DIRECT THE R5 SOCIETY TO REFRAIN FROM ENTERING INTO ANY TRANSACTIONS SUCH AS AGREEMENT TO SELL, SALE, MORTGAGE, GIFT AWAY, LEASE ETC. CLAIMING FALSELY THAT THE LANDS DEALED IN ANX-A ARE VESTED IN ITS POSSESSION AND TO RETRACE ITS UNLAWFUL STEPS ALREADY TAKEN IN THIS REGARD ENABLING THE R6-BDA-AUTHORITY TO INITIATE RESUMPTION OF THE LANDS TO THE RESPECTIVE KHATEDARS WHO ARE FARMERS AS DETAILED IN ANX-A.ETC.,

This Petition coming on for Preliminary hearing, this day, RAM MOHAN REDDY, J., made the following :

ORDER

The petitioner, claiming to be a public spirited person espousing the cause of poor agriculturists, has preferred this petition alleging that the respondents have indulged in the actions contrary to rule of law in the matter of dealing with

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agricultural lands approximately measuring 30 acres in bits and pieces, in Allalasangra, Bangalore. According to the petitioner, the fifth respondent, Karnataka State Judicial Department Employees House Building Co-operative Society, without authority of law and jurisdiction clandestinely conveyed the lands to various associated members/allottees, formed sites in the agricultural lands belonging to farmers by illegal encroachments violating the Karnataka Land Reforms Act, The Karnataka Land Revenue Act, The Karnataka Land (Prohibition) Act, 2007 and other State statutes

2. A perusal of the averments in the memorandum of Writ Petition do not disclose relevant materials and particulars of the alleged illegal actions. The reference to Annexure -D series being the RTC pahanis issued under the Karnataka Land Revenue Act disclose transactions of the years 1991-92 onwards whereunder the name of the fifth respondent society is registered as the owner of portions of the lands.



3. The contention of the learned counsel is that on acquisition, the remaining bits and pieces of the lands belonging to agriculturists, are usurped and encroached upon by the Society without authority of law. There is not a titre of evidence to substantiate the said allegations. Keeping in mind that the lands are within the jurisdiction of Bangalore city and planning area, there is no reason to believe that the land owners would have taken no legal action, if truly the society did encroach upon their lands. It is not as if the land owners are left at the mercy of the Society since they have alternative and efficacious remedies under the Karnataka Land Revenue Act as well as to protect their possession by way of common law remedies. The learned counsel submits that the land owners have lodged several complaints in that regard, though material particulars are not forthcoming. Even otherwise, the legal services authority in the State of Karnataka, provides services to the low, downtrodden and the economically weaker section of society.

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4. It is no doubt true that W.P.No.40994/2002, another public interest litigation is instituted by the Residents of Judicial Layout calling in question the action of the Society over the use of open spaces and civic amenities in the layout at Allalasangra and that the petition is pending consideration. That, cannot be a cause of action for the petitioner to file this petition on behalf of the farmers and owners of the lands in and around the said layout.

5. Powers of this Court under articles 226 of the Constitution of India remain untrammelled despite the existence of statutory provisions controlling the powers of the executive. According to Sri Laxminaryana Rao, when it is found that despite existence of statutory provisions, the State and its functionaries were not taking recourse to the provisions thereof for remedying the grievances of the farmers, interference is called for. It is no doubt true that this Court in *pro bono Publico* proceedings intervenes when

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there is callous neglect as to policy of the State, a lack of probity in office/public life, and abuse of power in control and destruction of the environment.

6. In our considered opinion, the facts as set out in the memorandum of Writ Petition do not fall within the principles evolved by the Apex Court in the matter of public interest litigation. We find no public interest made out in this petition calling forth interference in exercise of writ jurisdiction.

The petition is accordingly rejected.

Sd/-
Judge

Sd/-
Judge

Akc/bms