

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 23RD DAY OF FEBRUARY, 2005

BEFORE

THE HON'BLE MR. JUSTICE N. FUMAR

WRIT PETITION NO.3682/2005 (GM-PP)

BETWEEN

O KISHANCHAND
S/O OBA NAIK
52 YEARS
SPL LAND ACQUISITION OFFICER,
MALA PRABHA PROJECT III
DHARWAD

... PETITIONER

(By Sri R L PATIL M/S PATIL & PATIL)

AND :

1. STATE OF KARNATAKA
BY ITS SECRETARY TO THE DEPARTMENT
OF PWD (SERVICES)
M.S. BUILDING
BANGALORE 1
2. ASST EX ENGINEER PWD
NO 6 BUILDING SUB DIVISION
BANGALORE 1

... RESPONDENTS

(By Sri SATEESH M DODDAMANI, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER DATED 14.12.2004 PASSED BY THE 6TH ADDL. CITY CIVIL JUDGE, BANGALORE CITY IN M.A. NO. 93/2004 MARKED AS ANNEXURE 'F', ETC.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY THE COURT MADE THE FOLLOWING:-

ORDER

Learned Government Advocate is directed to take notice for the respondents.

2. By consent of parties, though the matter is listed for preliminary hearing, it is taken up for final disposal and is disposed of by this order.

3. The official quarters at Koramangala Sports Complex was allotted to the petitioner on 17.3.2003. On 28.6.2003 he was transferred from the post of Rent Controller, Bangalore, as Special Land Acquisition Officer. The second respondent has issued a notice on 17.7.2003 calling upon the petitioner to vacate the quarters. The said notice was issued under the

provisions of the Karnataka Public Premises (Eviction of Unauthorized Occupants) Act, 1974. When he did not vacate the premises, an enquiry was initiated and after enquiry, an order came to be passed by the second respondent on 20.7.2004. The petitioner challenged the said order by preferring an appeal in MA.No.93/2004. The said appeal came to be dismissed on 14.12.2004. Aggrieved by the said order, the petitioner has preferred this writ petition.

4. Learned counsel for the petitioner submits that the proceedings initiated against the petitioner are not in accordance with law. In fact notice was issued after initiation of the proceedings and therefore the entire proceedings initiated and the order passed in such proceedings are vitiated and they are liable to be quashed.

5. The learned Government submits that the proceedings are strictly in accordance with law and two authorities have concurrently held that

the petitioner is an unauthorized occupant. Under these circumstances, no case for interference is made out.

6. The premises was allotted to the petitioner when he was transferred to Bangalore. On his transfer to Dharwad, he was expected to vacate the premises which he did not do. Therefore, proceedings were initiated under the Act. He is an unauthorized occupant of the premises in question as he is now working at Dharwad. Two authorities after giving sufficient opportunity to the petitioner and holding an enquiry have held that the petitioner is an unauthorized occupant and that he is not entitled to continue in possession. I do not find any good ground to interfere with the said concurrent finding recorded by two authorities.

7. Learned counsel for the petitioner submits that as his children are attending schools, at least he may be permitted to continue

in possession of the schedule premises till the end of the academic year.

8. Taking into consideration the inconvenience that is likely to be caused to the children of the petitioner, he is permitted to continue in premises till 31.5.2005. Hence, I pass the following order:-

- i) Writ petition is dismissed;
- ii) The petitioner is permitted to continue in the premises till 31.5.2005 and he shall voluntarily deliver the vacant possession of the premises on 1.6.2005.

Sd/-
Judge

*ck/-

NKJ:**W.P.No.3682/2005(GM-PP)**

22-06-2005

ORDER ON I.A.II/05

By an order dated 23.2.2005 this Writ Petition came to be dismissed. However, petitioner was permitted to continue in the premises till 31.5.2005 on the ground that his children are attending schools and he need the premises till the end of the academic year. However, the present application is filed bringing to the notice of the Court that one of the sons of the petitioner is studying in 8th semester Mechanical Engineering in U.V.C.E for the academic year 2004-05. 8th semester examinations will be held during July/August 2005 and the practical examination will be held up to the end of August 2005. Therefore, a request is made for extension of time to vacate the premises till the end of 30.10.2005. In support of the contention a certificate issued by the Bangalore University is produced. Under these circumstances, accepting the cause shown in the affidavit filed in support

of the application, I deem it proper to extend the period as sought for in the application for vacating the premises. Hence, I.A.II/05 is allowed. Petitioner is granted time till the end of 30th October 2005.

Sd/-
Judge

ckl