

(2005) 08 KAR CK 0007
In the Karnataka High Court
Case No : Writ Appeal No. 2547 of 2005

Abay Joseph

APPELLANT

Vs

The Tahsildar (ULC) Section, Special Deputy Commissioner
and Competent Authority and Others

RESPONDENT

Date of Decision : 23-08-2005

Acts Referred:

Constitution of India, 1950 — Article 136, 226, 227
Urban Land (Ceiling and Regulation) Act, 1976 — Section 10 (3), 10 (6)

Citation : (2005) 5 KarLJ 606 : (2005) 4 KCCR 283 SN

Hon'ble Judges : S.R. Nayak, J; C.R. Kumaraswamy, J

Bench : Division Bench

Advocate : B.L. Acharya, for the Appellant; S. Praksh Shetty, Government
Advocate, for the Respondent

Final Decision : Dismissed

Judgement

S.R. Nayak, J.—Admit. With the consent of the learned Counsels for the parties, the appeal was heard finally.

2. This writ appeal is directed against the order of the learned Single Judge dated 17th December, 2004 passed in W.P. No. 49442 of 2004. In the writ petition filed by the appellant herein, the order of the Competent Authority under the Urban Land (Ceiling and Regulation) Act, 1976, dated 23-9-1985 marked as Annexure-A and endorsement dated 23-8-2004 marked as Annexure-J issued by it was assailed on various grounds. The validity of those two orders has been assailed on the following grounds:

"13. The endorsement dated 23-8-2004 issued by the Deputy Commissioner is without authority of law. The notification issued u/s 10(3) by Deputy Commissioner on 23-9-1985, which is produced as Annexure-A was challenged, and no final order was passed on the appeal filed. When the exact amount of excess of land has not been finalised under the Section 10(3) of the ULC Act, the Deputy Commissioner without issuing notice to the petitioner or his vendor would

not have issued notification u/s 10(6) of the ULC Act. In view of it the endorsement issued as per Annexure-K is not in accordance with law.

14. The petitioner herein states that, admittedly as on 26-5-1999 the appeal filed was pending before the Deputy Commissioner, Mangalore and the matter was posted on 26-7-1999, the Urban Land (Ceiling and Regulation) Repeal Act, 1999 came into force on 22nd March, 1999. As on the date of Repeal Act came into force the matter was pending adjudication.

15. The petitioner herein states that the Deputy Commissioner has erred in not considering the Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999. As per Section 4 all proceedings before any Court, Tribunal or any authority shall stand abated. In view of the above section, the notification dated 23-9-1985 passed u/s 10(3) which was pending adjudication stands abated.

16. The petitioner herein states that as on today the possession of the property has not been taken and the petitioner is in possession of the property, the RTC extracts also produced to show that the petitioner is herein possession".

3. Sri B.L. Acharya, learned Counsel for the appellant would contend that the very grounds taken in paragraphs 13 to 16 of the memorandum of writ petition were urged before the learned Single Judge also in support of the writ petition during the course of the argument. The order of the learned Single Judge reads as follows.--

"Heard.

No grounds. Writ petition is dismissed".

Sri B.L. Acharya would contend that the learned Judge ought to have considered the grounds urged in support of the writ petition and should have given reasons to reject those contentions, if there is no merit in the writ petition.

4. We do not have the benefit of the reasons which weighed with the learned Single Judge in decision making. Even assuming that there is no merit in any of the contentions urged on behalf of the appellant-petitioner in support of the writ petition and ultimately the same result would have been reached by the learned Single Judge, nevertheless, with respect, we should say, it is expected of the learned Single Judge Bench to disclose the reasons in support of its decision. It is quite often held and reiterated by the Apex Court that when an order made by a Court does not attain finality and is subject to judicial review under Articles 226 and 227 or further judicial review under Article 136 of the Constitution before the Apex Court or where the correctness of such judgment could be questioned by way of an appeal, revision, review, etc., the decision making Court should disclose reasons. If the Judge does not disclose the reasons in support of his opinion, the "Court above" will be totally handicapped in knowing the factors or reasons which weighed with the decision making Judge. Apart from that, it is stated, the requirement of the disclosure of reasons prevents arbitrariness in the decision making and ensures application of mind and consideration of the issues

brought before the Court on merit. Looking from any angle, with great respect, we should say that the writ petition ought not to have been disposed of by merely saying "No grounds. Writ petition is dismissed". In the result, we allow the writ appeal, set aside the order of the learned Single Judge and direct the registry to post W.P. No. 49442 of 2004 before the learned Single Judge Bench having the roster to be dealt with the accordance with law. No costs.