
(2017) 01 KAR CK 0190
In the Karnataka High Court
Case No : 3513-3520 of 2015 (BDA)

Akash K Ranka

APPELLANT

Vs

Smt. Preeti Ranka, & Ors.

RESPONDENT

Date of Decision : 06-01-2017

Acts Referred:

[Karnataka Town and Country Planning Act, 1961](#), Section 69, Section 69(2)

Citation : (2017) 01 KAR CK 0190

Hon'ble Judges : Subhro Kamal Mukherjee, Budihal R.B.

Bench : DIVISION BENCH

Advocate : S S Naganad, Sunil Dutt Yadav, Udaya Holla, M.S. Rajendra, V Sreenidhi, Vasanth K, K Krishna

Final Decision : Dismissed

Judgement

1. These appeals are against the judgment and order dated July 24, 2015, together with an application for leave to prefer the appeals.
2. The appellant was not a party in the writ petitions. On the contrary, his application for addition of party was rejected by the learned Single Judge. However, these appeals are filed, as we have indicated hereinabove, with an application for leave to prefer the appeals.
3. It is an admitted position that the private parties are closely related and various litigations are pending between them.
4. However, in a comprehensive development plan a particular area was shown as a residential area. This particular area was earmarked for parks and open spaces by a subsequent revised master plan. A request was made by the respondents to the Government seeking permission to change the land use to residential. Said permission was granted on November 18, 2014. Subsequently, however, the Government withdrew the said permission on March 13, 2015. The subsequent order of the Government dated March 13, 2015 was impugned in the

writ petitions.

The Hon''ble Single Judge by the order impugned, relied upon the provisions of Section 69(2) of the Karnataka Town and Country Planning Act, 1961 ("Act" for short) and found as the property was not acquired by the State or the Bengaluru Development Authority, the designated use of the said land for use to parks and open spaces in the Revised Master Plan of 2015 has deemed to have been lapsed. Consequently, permission was granted to the petitioners to put to use the land in question for residential purpose.

5. The appellant is in no way connected with the layout, but he says that he has raised an objection in writing, in reply to the public notification.

6. Mr.S.S.Naganand, learned senior advocate appearing for the appellant in support of the contentions strongly argues that there are, already, decisions of the Court requiring the authorities to consider as to whether the land use as residential units has been permissible or not. Mr.S.S.Naganand draws attention to the amended provisions of Section 69 of the Act, which came into effect on September 10, 2016 wherein certain changes have been incorporated to sub-Section (2) of Section 69 of the Act. Mr.S.S.Naganand, learned senior advocate, further, submits that even before the amendment there was a circular issued requiring the Bengaluru Development Authority to consider the change in land use.

7. The order of the learned Single Judge was passed on July 24, 2015. Therefore, in our considered view, the amended provision has no application. It is an admitted position that within five years neither the State nor the Bengaluru Development Authority has acquired the area for the purpose of using it either as open space or park.

We do not find any merit requiring interference in the view taken by the Hon''ble Single Judge.

8. The application for leave is dismissed. Consequently, the appeals are also dismissed.

9. We make no order as to costs.