

(2014) 11 KAR CK 0207
In the Karnataka High Court
Case No : Writ Petition No. 16205/2013

Asha Bhupendra Mehta

APPELLANT

Vs

Bruhat Bangalore Mahanagara Palike

RESPONDENT

Date of Decision : 03-11-2014

Acts Referred:

Karnataka Municipal Corporation Act, 1976 — Section 114A

Citation : (2014) 11 KAR CK 0207

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : K.V. Lokesh, Advocate for the Appellant; B.V. Muralidhar, Advocate for the Respondent

Judgement

Ram Mohan Reddy, J.—Needless to state that if the name of husband of the petitioner was recorded in the assessment register of the respondent Bruhat Bangalore Mahanagara Palike in respect of a certain immovable property, consequent upon his death, petitioner being his widow, was entitled to have her name entered in the said register. Respondent Bruhat Bangalore Mahanagara Palike having not done so, led to filing WP No. 38858/2012, whence, a learned Single Judge by order dated 5.11.2012 Annexure-J, directed the Bruhat Bangalore Mahanagara Palike to consider petitioner's application for transfer of khata within three months, following which the Authority is said to have issued an endorsement dated 15.3.2013 Annexure-Q stating that the request cannot be conceded on the premise that on the property in question stands a public toilet complex and that property belongs to the respondent Bruhat Bangalore Mahanagara Palike. Hence this petition.

2. Petition is opposed by filing statement of objections of respondents 1 and 2, inter alia, contending that the public toilet complex was constructed in a portion of the land, some ten years ago, through the aegis of Infosys and Bangalore Agenda Task Force by spending huge amounts and that site in question is surrounded on the North by Children Park; West by Thimmesh Prabhu Park;

South by Subramanya Bharathi Road and; East by private property. It is further stated that the Children Park and Thimmesh Prabhu Park belonged to the respondent Bruhat Bangalore Mahanagara Palike, located adjacent to the property in question. According to the respondents, without a proper verification of documents, merely on the basis of a registered sale deed, had recorded the name of the petitioner's husband in the khata register and therefore khata in the name of husband of the petitioner does not confer valid title. Hence it is stated that on securing a report of the estate and engineering section of the respondent Bruhat Bangalore Mahanagara Palike, after extending an opportunity of hearing to the petitioner and considering the documents the request of the petitioner was rejected.

3. It is needless to state that section 114A of the Karnataka Municipal Corporations Act, 1976 governs cases of review of the entries made in the register relating to transfer of title, though, within a period of three years from the date of recording the transfer. If that is so, name of the petitioner's husband, when recorded in the register and such name having continued till the date of making the application for transfer of khata, which admittedly is beyond three years, it was not open for the respondent Bruhat Bangalore Mahanagara Palike to decline her request on the premise that the property belongs to the respondent Bruhat Bangalore Mahanagara Palike. If the property belongs to the Bruhat Bangalore Mahanagara Palike, it may take such action as is necessary in law to protect its title and possession and not by denying transfer of khata in favour of the petitioner, since according to the respondent Bruhat Bangalore Mahanagara Palike, recording the name of the petitioner in the khata register does not confer title.

4. In that view of the matter, the endorsement dated 15.3.2013 Annexure-Q is quashed and a writ of mandamus is issued directing the respondents to transfer the khata in the name of the petitioner.

5. Compliance by 30.11.2014. Petition is ordered accordingly.