

(1978) 02 KAR CK 0021
In the Karnataka High Court
Case No : WPs. 3875 to 3877 of 1976

Basappa and Others

APPELLANT

Vs

Deputy Commr, Bangalore and Others

RESPONDENT

Date of Decision : 01-02-1978

Acts Referred:

Constitution of India, 1950 — Article 31

Karnataka Acquisition of Land for Grant of House Sites Rules, 1973 — Rule 6(3)

Citation : (1978) 1 KarLJ 427

Hon'ble Judges : Rama Jois, J

Judgement

1. The above three petitions are connected matters and are being disposed of by this common order.
2. The petitioners are owners of lands measuring 7 acres and 23 guntas in Sy No. 3 of Ijjur village, Ramanagaram Taluk. By notification dated 17-11-1975 issued under sub-section (1) of Sec. 3 of the Karnataka Acquisition of Lands for Grant of House Sites Act, 1972, (hereinafter referred to as "the Act"), the Deputy Commissioner, Bangalore District, proposed to acquire the lands belonging to the petitioners for purposes of granting house sites to the weaker sections of people. Therefore final notification dated 1-3-1976 was issued under sub-section (4) of Sec. 3 of the Act. Aggrieved by the acquisition of their lands, the petitioners have presented these writ petitions.
3. Though several contentions are raised, the petitioners are entitled to succeed on one of the contentions, namely, that the Chief Officer of the Town Municipal Council, Ramanagaram Town, was not heard with reference to the objections preferred by the petitioners.
4. Rule 6 of the Rules framed under the Act provides that when objections are filed by persons interested in the land proposed to be acquired under the Act, the Assistant Commissioner should fix a date of hearing and give a notice of hearing to the parties concerned. The Rule further provides that copies of the objections should be sent to the Block Development Officer or the Chief Officer as the case

may be. Sub-rule (3) of Rule 6 provides that on the date fixed for enquiry, the Assistant Commissioner, who conducts enquiry, should hear the objectors and the Block Development Officer or the Chief Officer as the case may be.

5. In the present case, it is not in dispute that the Assistant Commissioner should have heard the Chief Officer because the lands in question are situated within the area of the Town Municipal Council, Ramanagaram Town.

6. In the statement of objection, it is not disputed that the Chief Officer was not heard, but the contention raised is that the fact that the Chief Officer was not heard does not result in substantial failure of justice or cause substantial injury to the petitioners, which alone can give them a right to maintain a writ petition under Art. 226(1)(b) or (1)(c) of the Constitution.

7. The Act and the Rules framed thereunder prescribe the mandatory procedure for acquiring the lands belonging to any one. No property belonging to a citizen can be acquired except in accordance with law. Right to property is a fundamental right guaranteed under Art. 31 of the Constitution. Therefore, any acquisition of lands belonging to the petitioners without following the procedure prescribed by law not only results in the violation of the mandatory procedure prescribed by law, but also amounts to infringement of the fundamental right guaranteed under Art. 31 of the Constitution. Therefore, it cannot be contended that not following the procedure prescribed under Rule 6 does not result in any injury to the petitioners.

8. As the requirement of hearing of the Chief Officer or the Block Development Officer as the case may be is a mandatory requirement and the same has not been complied with in the present case, the final notification issued by the Deputy Commissioner is liable to be quashed.

9. For the reasons stated above, the rule is made absolute. The impugned notification dated 1-3-1976 issued by the Deputy Commissioner, Bangalore District (Exhibit B) is hereby quashed. The authorities under the Act are at liberty to proceed with the acquisition from the stage at which the illegality was committed.

10. No costs.