

(2014) 06 KAR CK 0076

In the Karnataka High Court

Case No : W.P. No. 37922 of 2011 c/w W.P. Nos. 20870-871 and
21047-49/2011, 29998-999/2013 c/w 25488-493/2013 (LB-BMP)

B.L. Srinivas

APPELLANT

Vs

The State of Karnataka

RESPONDENT

Date of Decision : 20-06-2014

Acts Referred:

Citation : (2014) 4 AKR 75 : (2014) ILR 5092 : (2014) 4 KCCR 2880

Hon'ble Judges : L. Narayana Swamy, J

Bench : Single Bench

Advocate : Yadunandana, K.N. Praveen Kumar, Shaik Ismail Zabiulla, K.N. Subba Redd and M.N. Sathya Raj, Advocate for the Appellant; D. Nagaraj, AGA, K.N. Puttegowda, B.V. Shankar Narayana Rao, K. Narasimha Murthy and S.N. Prashanth Chandra, Advocate for the Respondent

Judgement

L. Narayana Swamy, J.—Since the prayer in all these writ petitions is common, all these writ petitions are clubbed together and common order is passed.

2. It is alleged by the petitioners that the respondent - Corporation has allotted several shops bearing Nos. 9, 52 and 53, B-68, B-9, B-133, B-137, B-1, 123, 116 and B-8 and various other shops the K.R. Market Commercial complex, K.R. Market, Bangalore. There are various lapses and contravention of rules in the sanctioned plan. The petitioners have challenged the allotment made to the persons who are respondents in these writ petitions allotting the place which was meant for garbage collection. It is submitted that the Corporation has violated the sanctioned plan. The prayer in these writ petition is to set aside the allotment of shops made to the respondents. To substantiate the submission, the plan of city market shops was placed and attempt is made to prove that the place which is vacant is a place to collect the garbage. It is submitted that the allottees had approached this Court in W.P. No. 38558/98 in which the submission of the respondent - Corporation was recorded to the effect that the respondents - Corporation have not specified regarding allocation of place for garbage. In view

of the submission of the corporation, the Corporation has allowed some space to the respondents.

3. The learned counsel for the Corporation submitted that earlier that space was meant for garbage collection and the system of collecting garbage has been changed and submitted that the garbage will be collected from each shop and transported by lorry to the place where it is meant for dumping the garbage. So the place which was collecting place for garbage was vacant and in order to earn revenue, the corporation has allotted that place in favour of respondents and there is no error committed by the respondents. Hence sought to dismiss these writ petitions.

4. Before examination of the case of the petitioners, the locus-standi of these petitioners to file these writ petitions is examined. The petitioners themselves are licensees to carry on the business in the adjacent shops. They are the beneficiaries. When they themselves are beneficiaries, they should not obstruct others who are carrying on the business after obtaining the license. The reliefs prayed for in these writ petitions are not relief oriented and no injury is caused to the petitioners of their right as such.. They have only challenged the allotment made in favour of other persons for which they have no locus standi to question.

5. The allotment made in favour of the petitioners seems to be in contravention of allotment rules of Corporation and it is further seen that before allotment of shops, a notification has to be issued calling applications from the prospective persons. On priority and on the basis of reservations considering SC, ST, physically handicapped and economically weaker persons, women, the allotment of shops should be made. The allotment made in contravention of Corporation allotment rules is unknown to law. The license should be issued for a particular period. The allotment shall not be claimed as a hereditary right. After expiry of the license for allotment of shops, the public should be renotified afresh calling for applications and keeping the reservations criteria, the allotment should be made. Otherwise, the Corporation is losing revenue and public will be deprived of equal opportunity to carry on business.. This could be procured by issuing fresh notification calling applications for allotment of shops after expiry of the license where the license is granted for more than 5 years. The Corporation should comply with this direction within three months from today. The Respondent - Corporation shall issue notice to each shop owner, hear him or her and if it is found that the allotment is not in accordance with law, the respondents should pass necessary orders within four weeks. With these observations, the writ petitions are disposed of.

Registry is directed to forward copy of this order to the Commissioner of BBMP, Bangalore and Chief Secretary to Govt. of Karnataka. Vidhana Soudha, Bangalore.