

(2001) 06 KAR CK 0080
In the Karnataka High Court
Case No : Writ Petition No. 15531 of 2001

C.R. Nirmala Gupta

APPELLANT

Vs

The Housing Commissioner, Karnataka Housing Board

RESPONDENT

Date of Decision : 29-06-2001

Acts Referred:

Citation : (2004) ILR (Kar) 1465 : (2004) 3 KCCR 348 SN

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : M.L. Danayand Kumar, for the Appellant; H.B. Narayana, for the Respondent

Final Decision : Allowed

Judgement

V. Gopala Gowda, J.—The petitioner is seeking to quash the impugned endorsement at Annexure-Q dated 6.9.2000 cancelling the site allotted in favour of her husband and forfeiting 25% of registration amount. The site was cancelled on the ground that no construction was put up in the allotted site within two years.

2. The impugned endorsement is liable to be quashed as the cancellation is not made by the Chairman who issued the allotment letter or Housing Board but by its Commissioner.

3. The allotment was made in the year 1976 and possession was handed over in the year 1977. The cancellation is made in the year 2000 after a lapse of 14 years. Such cancellation should have been made immediately after lapse of two years period prescribed for putting -- up the construction after, issuing notice. That has not been done. Cancellation made after 14 years is arbitrary.

4. In paragraph 3 of the Writ Petition it is stated that the petitioner applied for sanction of plan by the letter at Annexure-J dated 11.3.1999. Petitioner was called upon to comply with certain requirements and the petitioner has fulfilled those requirements as per the documents Annexures K, L, M, N and P. Such being

the position, instead of sanctioning the plan the impugned endorsement is issued cancelling the site. The action impugned is wholly illegal and arbitrary and unwarranted.

5. Writ Petition is allowed quashing the impugned endorsement. Respondent is directed to sanction the plan of the petitioner without any further delay and the petitioner shall complete the construction by one year's time from the date of sanctioning the plan and issuing the license.