

(2019) 04 KAR CK 0016

In the Karnataka High Court

Case No : Writ Petition No. 25185, 25205 Of 2017

C.V. Nagarajsetty

APPELLANT

Vs

State Of Karnataka

RESPONDENT

Date of Decision : 05-04-2019

Acts Referred:

Karnataka Ancient And Historical Monuments An Archaeological Sites And Remains Act, 1961 — Section 4(1), 13
Constitution Of India, 1950 — Article 14, 19, 21, 300A

Citation : (2019) 04 KAR CK 0016

Hon'ble Judges : S.N. Satyanarayana, J

Bench : Single Bench

Advocate : S.P. Shankar, V Ranga Ramu, B.S. Budihal, A. Nagarajappa

Final Decision : Allowed

Judgement

1. Petitioners are inter alia seeking direction to the respondents not to act on Annexures 'M' and 'N' to the petitions, which are copy of letter dated 24.04.2017 addressed by Suvarna Kannada Rakashana Vedike (Reg.) to the Deputy Commisioner, Chamarajanagar, and copy of page No.8 of Kannada newspaper, Gorukana daily, Chamarajanagar edition, dated 13.05.2017 containing statement made by Deputy Commissioner, Chamarajanagar, with reference to land in Sy. No.700 situate at Chamarajanagar and not to take any action on basis of the aforesaid documents as it would affect their fundamental rights under Articles 14, 19 and 21 read with Section 300-A of the Constitution of India.

2. The brief facts leading to these writ petitions are as under:

2.1 Petitioner Nos.1 to 23 are said to be purchasers of several bits of land comprised in an extent of 01 Acre 27 guntas in Sy. No.700 situate at Chamarajanagar, kasaba hobli. Admittedly, in the said land, structure known as Janana Mantapa was built on the auspicious occasion of birth of Sri Chamaraja Wadeyar, the father of Sri Krishnaraja Wadeyar III, at Chamarajanagar in A.D.1774 and also a garden was maintained earlier. The said property was

belonging to Maharaja of Mysore.

2.2 Petitioners herein on the strength of sale deeds, which were executed in their favour by the aforesaid Palace Trust, are said to be in possession and enjoyment of different portions of land comprised in Sy. No.700 (janjar No.1360). It is also contended that the said land is provided municipal number by municipal council of Chamarajanagar and assessed to tax and it was neither a revenue land nor kharab / gomal land.

2.3 Petitioners have produced copy of registered sale deed dated 22.03.1971 vide Annexure 'E' to the petitions to show that the then Scion of Maharaja of the family through Yuvaraj Sreekanta Datta Narasimharaja Wadiyar's Trust, Palace, Mysore, represented by Sri H.N. Pallegar, I.A.S. (Retired), the Secretary, Mysore Palace Trusts, Mysore, sold certain sites (said to be part of Janana Mantapa and garden land attached to it) in favour of Sri C.V. Nagaraja Setty (original petitioner No.1), Sri G. Venkataswami Naidu, Sri C.M. Basavarajiah (petitioner No.2) and Sri S.V. Venugopala Rao (petitioner No.19). It is further stated that by the year 1999-2000, almost all the sites comprised in Sy. No.700 were already sold by Palace Trust in favour of various persons and petitioners herein are few of the purchasers of sites and buildings as per the particulars mentioned in the table shown in the memorandum of writ petitions.

2.4 When the matter stood thus, representation dated 24.04.2017 vide Annexure 'M' to the petitions was made by honorary President, other office bearers and members of an organization referred to by name 'Suvana Kannada Rakshana Vedike (Reg.)', Chamarajanagar District, to the second respondent - Deputy Commissioner, Chamarajanagar District, requesting him to remove all the constructions, which were put up in an extent of 01 Acre 27 guntas in Sy. No.700 of Chamarajanagar, and to observe the said land as a monument. Annexure 'N' to the petitions is copy of page No.8 of Kannada newspaper, Gorukana daily, Chamarajanagar edition, dated 13.05.2017 containing statement made by Deputy Commissioner in a function, to the effect that he had received a complaint that unauthorized constructions were put up in land measuring to an extent of 01 Acre 27 guntas in Sy. No.700 and the said land was Government land, and in that behalf, he had directed Tahasildar to measure the said land and issue notice to the concerned parties. In these petitions, petitioners are seeking direction to the respondents not to act on Annexures 'M' and 'N' to the petitions.

3. In this proceedings, learned senior counsel, Sri S.P. Shankar, appearing for petitioners' counsel has drawn attention of this Court to the order dated 24.09.1999 passed by Division Bench of this Court in W.P. No.20302/1999. In the said Writ Petition, Division Bench of this Court while dealing with the question as to whether any construction could be made by the owners of the land around 'Janana Mantapa', the birth place of Sri Chamaraja Wodeyar at Chamarajanagar town or not, has observed that the notification issued by the Government barring to carry out any construction within 200 Sq. feet peripheral area declaring that area as 'Ancient monument' was quashed in W.P. No.26503/1997 and hence,

there was no bar for construction.

4. It is pointed out by learned senior counsel for petitioners that in earlier proceedings in W.P. No.34400/2001 (GM-RES) filed by Sri Srikantadatta Narasimha Raja Wodeyar before this Court, the preliminary notification issued by the State Government dated 10.08.2000 under Section 4(1) of the Karnataka Ancient and Historical Monuments and Archaeological Sites and Remains Act, 1961 (Karnataka Act No.7 of 1962) (hereinafter referred to as 'the Act') for declaring 'Janana Mantapa' situate in Chamarajanagar in Mysore as a 'Protected Monument' and the subsequent notification dated 11.06.2001 declaring the said 'Janana Mantapa' as a 'Protected Monument' were called in question. The said writ petition was clubbed with the other connected writ petitions filed by the owners of godowns and other properties adjoining 'Janana Mantapa' for similar reliefs and other consequential reliefs. A coordinate Bench of this Court, by its order dated 03.06.2003, has inter alia observed that 'Janana Mantapa' is a private property and same was not acquired by the Government under Section 13 of the Act and in that view of the matter, the said notifications issued by the State declaring 'Janana Mantapa' as a 'protected monument' were illegal, arbitrary and contrary to the provisions of the Act. Accordingly, coordinate Bench of this Court allowed the said Writ Petitions by quashing the said notifications declaring 'Janana Mantapa' as a 'protected monument' and consequential orders passed by respondent - authorities. The said order of learned single Judge was the subject matter of challenge in Writ Appeal No.5546/2003 (GM-RES) preferred by State and other connected appeals before this Court. In the said writ appeals, Division Bench of this Court, by its judgment dated 26.08.2008, held that the notifications declaring the 'Janana Mantapa' as a 'protected monument' and the surrounding area as a 'protected area' and consequential orders impugned in the writ petitions were unsustainable and the learned single Judge was justified in quashing the same and accordingly, dismissed the Writ Appeals as devoid of merit. The said judgment of Division Bench of this Court has become final.

5. Heard the learned senior counsel appearing for learned counsel for petitioners, learned High Court Government Pleader appearing for respondent Nos.1 to 3 and learned counsel appearing for respondent No.4. Perused the material on record.

6. It is seen that when these matters were taken up for consideration on 01/04/2019, learned senior counsel for petitioners brought to the notice of this Court several documents, which demonstrated that a building constructed 'Janana Mantapa', which is sought to be declared as 'heritage property', is in occupation of the authors of Annexure 'M', who are office bearers of 'Suvarna Kannada Rakshana Vedike (Regd.)', and that the said organization has taken electricity supply to the building without the consent of concerned municipal authorities. In this background, an order was passed on 01.04.2019 in directing the Commissioner, Chamarajanagar Municipal Council, to remove the name board, which was put up 'by Suvarna Kannada Rakshana Vedike (Regd.)' on the property which is referred to as 'Janana Mantapa' and also to disconnect the

power supply, which was provided to the said property without the permission of the concerned authority. Further, Commissioner was directed to file complaint against those persons who are illegally occupying 'Janana Mantapa'. The said order of this Court dated 01.04.2019 is implemented by the Commissioner of Chamarajanagar Municipal Council. In that behalf, an affidavit is filed by Sri Rajanna of the City Municipal Council, Chamarajanagar. Along with the said affidavit, photographs and other letters are produced. The same would indicate that the name board of Suvarna Kannada Rakshana Vedike (Reg.), which was put up at 'Janana Mantapa' was removed on 01.04.2019. In addition, there is also copy of the complaint dated 02.04.2019 given by Sri Rajanna M. as Commissioner of City Municipal, Chamarajanagar, to the District Superintendent of Police, Chamarajanagar District, to register criminal complaint against those who were unauthorizedly occupying the said 'Janana Mantapa'. A copy of the said letter would also indicate that the said complaint is registered pursuant to the order passed by this Court on 01.04.2019. Similar complaint is also given by Sri Rajanna to Inspector of Police, Town Police Station, Chamarajanagar. On the basis of the said complaints, F.I.R is registered in Crime No.45/2019 before Chamarajanagar Town Police Station on 03.04.2019 and copy of the said FIR is also produced.

7. In the light of submissions made by learned counsel for the parties and on going through the material on record, it is clear that 'Janana Mantapa' and the garden land attached to it were the properties belonging to Mysore Maharaja. The said properties have already been sold by descendent of Maharaja through Trust (referred supra) in favour of various persons including petitioners herein.

Therefore, possession of petitioners in respect of the property/ies in question appears to be lawful and same cannot be disturbed by anybody much less the respondents herein. In the light of the order dated 03.06.2003 passed by coordinate Bench of this Court in W.P. No.34400/2001 (GM-RES) and connected writ petitions, which was upheld by Division Bench of this Court in Writ Appeal in W.A. No.5546/2003 (GM-RES) and connected writ appeals by judgment dated 26.08.2008, it is clearly established that 'Janana Mantapa' and it surrounding area could not be declared as 'protected monument' and 'protected area' respectively or treated as public property/ies. The said judgment of Division Bench of this Court has become final in the absence of challenge by any of the parties. In that view of the matter, nobody can interfere with the possession and enjoyment of petitioners much less the busybody, namely, 'Suvarna Kannada Rakshana Vedike (Reg.)'. In fact, the documents on record would clearly disclose that the office bearers of the said Organization have broke open the said property at Jana Mantapa, illegally occupied the same and have also taken illegal power connection to the said property.

8. In this proceedings, on 01.04.2019, an order was passed by this Court directing the Commissioner, Chamarajanagar Municipal Council, to take appropriate action to remove the name board put up by 'Suvarna Kannada

Rakshana Vedike (Reg.)' to the property at 'Janana Mantapa' and also to file criminal complaint against them. The said order has already been complied by the Commissioner of Chamarajanagar Municipal Council. Therefore, this Court would hold that the present writ petitions are required to be allowed as prayed for.

9. If at all any proceedings are initiated against the petitioners, the same shall be proceeded after due notice to them and the said proceedings shall be disposed of by the competent authority in accordance with law after looking into the documents of title available with them and also in the light of the earlier order dated 03.06.2003 passed by coordinate Bench of this Court in W.P. No.34400/2001 (GM-RES) and connected writ petitions and in the light of judgment dated 26.08.2008 passed by Division Bench of this Court in Writ Appeal No.5546/2003 (GM-RES) and connected writ appeals.

10. At this juncture, learned High Court Government Pleader would bring to the notice of this Court that criminal complaints are filed against respondent Nos.3 and 4, namely, Tahasildar, Chamarajanagar Taluk and Commissioner, Chamarajanagar Municipal Council, by 'Suvarna Kannada Rakshana Vedike (Reg.)'. It is made clear that the offences alleged against respondent Nos.3 and 4 in the said complaint are not offences and the said act is pursuant to the order passed by this Court on 01.04.2019. Therefore, it is open for respondent Nos.3 and 4 herein to submit this order to the Investigating Agency to enable them to close the said complaint after looking into the contents of this order. With such observations these Writ Petitions are allowed.

11. Learned High Court Government Pleader is directed to file memo of appearance within two weeks from today.