

(2013) 07 KAR CK 0236

In the Karnataka High Court

Case No : Writ Petition No. 13488 of 2013 (KLR-REG-PIL)

D.V. Devarajegowda and Others

APPELLANT

Vs

The State of Kar. and Others

RESPONDENT

Date of Decision : 17-07-2013

Acts Referred:

Citation : (2014) 1 AKR 59 : (2013) ILR (Kar) 3683 : (2013) 4 KCCR 2895

Hon'ble Judges : D.H. Waghela, C.J.;B.V. Nagarathna, J

Bench : Division Bench

Advocate : Vishnu Bhat and Sri D.T. Nanjesh Gowda, for the Appellant; B. Veerappa, AGA for R1-R4 and Sri Kempegowda, Advocate for R-5 to 12, for the Respondent

Judgement

D.H. Waghela, C.J.—14 petitioners, posing as agriculturists and permanent residents of P. Dasapura village, Kasaba Hobli, Chennarayapatna Taluk, Hassan District, have approached this Court "for and on behalf of the villagers of P. Dasapura and public at large". It is specifically averred in the first paragraph of the petition that the petitioners have no individual claim or interest whatsoever in the subject matter of this petition. It is also averred at the outset that land bearing Sy. No. 31 and 34 to 40 of P. Dasapura village, measuring 111.2 acres including tank measuring 21 acres 10 guntas is a Government land reserved for public purpose, and 44 acres 8 guntas is classified as gomal land and that there are about 680 livestock of different kinds. It is alleged by the petitioners with a supporting affidavit that respondent Nos. 5 to 12 and several others have encroached on the vast extent of gomal land with an intention to grab it, while all of them are sufficiently owning agricultural land which disentitles them to claim regularization of their unauthorized occupation. It is acknowledged in the petition that respondent Nos. 5 to 12 have been approaching Revenue Authorities to enable them to regularize their unauthorised occupation since the year 1991 and litigations are being carried on in the appropriate for a till now. The grievance sought to be voiced in the petition is that, even after rejection of petition in respect of regularization, all the Revenue Authorities have failed to take any

action to evict respondent Nos. 5 to 12 and representations of the petitioners in that regard have gone in vain.

2. Upon the notice being issued to the respondents, affidavits are filed by some of the petitioners, as well as the respondents. It is stated on oath in the statement of objections of respondent Nos. 5 to 12, that petitioner No. 1 is not residing in P. Dasapura village and all the petitioners have personal interest in the subject matter of the petition, while no public interest as alleged is involved. Infact, petitioner Nos. 1, 4, 11, 12, 13 and 14 have filed their own applications in Form No. 50 seeking grant of lands in their own names and petitioner Nos. 5, 6, 7 and 9 have also filed claims for grants in their favour by application in Form No. 50 through their family members. That the petitioner No. 1 is the President of Bagur Grama Panchayath since 16.12.2011 and is in active politics. Besides agricultural lands, he also owns and possesses residential buildings in Chennarayapatna Town. The petitioner No. 12 is also an active politician and was the Chairman of Bagur Grama Panchayath during the year 2009. Similarly, petitioner No. 13 is also an active politician and was a member of Bagur Grama Panchayath. According to respondent Nos. 5 to 12, petitioner No. 2 is a fictitious person. Besides denying and disputing several averments of the petition, it is further stated that total number of cattle in P. Dasapura village are less than 362 and petitioner No. 14 has wrongfully obtained an order of grant in respect of land bearing Sy. No. 40 of P. Dasapura village, by an order of the Tahsildar made in the year 2000, which order was subsequently challenged and set-aside. It is specifically averred, that major part of the lands in question are not gomal lands and respondents are eligible for grant of such lands, which is otherwise in their occupation since the year 1990-91. With case numbers and details of the litigations, it is also stated that there are civil suits fought among the parties for a long period of time on the same subject matter of occupation of land. It is alleged by respondent Nos. 5 to 12 that the petitioners having failed in their attempts to get the grants in their favour, they have obtained a resolution dated 17.08.2012 by exerting their influence and prevented regularization of lands in favour of the respondents. Thus, in the guise of public interest, the petitioners have filed the present petition on false, fraudulent, mischievous and baseless allegations against the respondents only to settle their personal vengeance against the respondents, according to the respondents.

3. By filing an affidavit of the Tahsildar of Chennarayapatna, it is stated and argued by Learned Additional Government Advocate Mr. B. Veerappa, that the petition is nothing but an abuse of the process of this Court for personal gain of the petitioners, as also to settle their scores against respondent Nos. 5 to 12. It is confirmed on oath that petitioner Nos. 3, 4, 9, 12, 13 and 14 have filed Form No. 50 and 53 in respect of lands bearing Sy. Nos. 36, 37, 38, 40 and 45 admeasuring 2 acres each of P. Dasapura village and the Committee for regularization of unauthorized occupation has by its order dated 17.08.2012 rejected their applications on the ground that there is no excess gomal land. All these facts have been deliberately suppressed by the petitioners, according to

the submissions of Tahsildar on oath. The other litigations in respect of the same lands are also briefly described in the reply.

4. Even as the petitioners have, after a perusal of the objections of the respondents, filed affidavits of some of the petitioners to deny, dispute and refute some of the charges levelled against them, there is no dispute about the fact that the lands in question are subject matter of number of litigations known to the petitioners and even as on date, respondent Nos. 5 to 12 are petitioners in another litigation pending before this Court, for asserting their right to regularization of their possession of the land. The orders in question in those petitions i.e., Order dated 17.06.2013 and 28.06.2013 of Tahsildar were the orders referred and relied upon by Learned Counsel for the petitioners to submit and pray that the petitioners having been satisfied with those orders, the petition was not required to be pressed for any order on merits. This stand is presumably calculated to strengthen the case of respondents in the pending petitions of respondent Nos. 5 to 12 herein.

5. The above summary of facts, without commenting upon the merits of rival claims on the lands in question, leads to the clear conclusion that the petitioners have not only not approached this Court with any bona fide intention, but have made an attempt at influencing the outcome of other litigation, without any public interest being involved. It is also clear that the petitioners are not persons who could be misguided into a misadventure and they are people having vested interest in seeing to it that maximum hurdles were put in the way of respondent Nos. 5 to 12, at the cost of public time of the authorities concerned of the Government and at the cost of public time of this Court. There is also no doubt about the fact that the petition suffers from suppression of material facts and suggestions of the public cause which was non-existent to the knowledge of the petitioners.

6. Unfortunately, such litigations not only take a big toll for the parties who are joined as respondents, but consume considerable public time of the Court and prevent the Court from taking up cases of the litigants, who might be waiting in the queue for years together for relief and redressal of their genuine grievances. Therefore, such spurious public interest litigations turn out, infact, to be litigations against public interest and they have to be dealt with accordingly.

As held by the Supreme Court in State of Uttaranchal Vs. Balwant Singh Chaufal and Others, :

143. Unfortunately, of late, it has been noticed that such an important jurisdiction which has been carefully carved out, created and nurtured with great care and caution by the courts, is being blatantly abused by filing some petitions with oblique motives. We think time has come when genuine and bona fide public interest litigation must be encouraged whereas frivolous public interest litigation should be discouraged. In our considered opinion, we have to protect and preserve this important jurisdiction in the larger interest of the people of this

country but we must take effective steps to prevent and cure its abuse on the basis of monetary and non-monetary directions by the courts.

....

181. We have carefully considered the facts of the present case. We have also examined the law declared by this Court and other courts in a number of judgments. In order to preserve the purity and sanctity of the PIL, it has become imperative to issue the following directions:

(1) The Courts must encourage genuine and bona fide PIL and effectively discourage and curb the PIL filed for extraneous considerations.

... ..

(8) The Courts should also ensure that the petitions filed by busy bodies for extraneous and ulterior motives must be discouraged by imposing exemplary costs or by adopting similar novel methods to curb frivolous petitions and the petitions filed for extraneous considerations.

In view of the above directions of the Supreme Court, in order to preserve the purity and sanctity of public interest litigation, it is not only justified but necessary to impose exemplary costs in appropriate cases, where abuse of the process of Court is ill-concealed and comes to the fore only after and at considerable cost to the respondents.

7. Having regard to the aforesaid facts and circumstances of the case, the issuance of notice to the respondents requiring them to appear before this Court through lawyers, attendance of the officers and filing of the affidavits for the respondents were all unnecessary and an avoidable waste of public and private resources caused by the petitioners in pursuit of their private vendetta and oblique purpose. Therefore, the petition was not permitted to be withdrawn as prayed by Learned Counsel and it is hereby dismissed with cost quantified at Rs. 1,40,000/-, out of which, each of the respondents from Nos. 5 to 12 and respondent No. 1 shall each be paid Rs. 10,000/- by way of cost and the remaining Rs. 50,000/- shall be paid to the Karnataka State Legal Services Authority at Bangalore, within a period of one month from today. The petitioner shall submit to the Registrar of this Court a report of compliance of the above order, with evidence of payment, within one month; failing which, the Registry shall place the matter before the Bench taking up contempt of Court matters, for necessary further action.