

(2012) 08 KAR CK 0227

In the Karnataka High Court

Case No : Writ Petition No. 27798 of 2012 (KLR-RES)

Fire Luxur Developers Pvt. Ltd.

APPELLANT

Vs

Junjappa and Others

RESPONDENT

Date of Decision : 14-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0227

Hon'ble Judges : B.S. Patil, J

Bench : Single Bench

Advocate : G. Sridhar, for M/s. Indus Law, for the Appellant; Hareesh Bhandary. T., for R1 and Sri. Vijay Kumar Patil, HCGP for R5 and R6, for the Respondent

Judgement

B.S. Patil

1. This writ petition is filed against the interim order passed by the Karnataka Appellate Tribunal. The Interim order passed is in the nature of a direction to the parties to maintain status quo as it obtained on the day, when the interim order was passed, until further orders. Petitioners are the purchasers of a land bearing Sy. No. 21 measuring 15 acres 9 guntas of Bagur Sonnahalli Village, Lakkur Hobli, Maluk Taluk of Kolar District. Respondents 1 to 4 claim to be the grantees of the land and it is they who have filed appeal before the Appellate Tribunal in Appeal No. 621/2012 challenging the order passed by the Deputy Commissioner on 25.10.2007 permitting conversion of the land from agricultural to non-agricultural purpose. The conversion order has been passed by the Deputy Commissioner at the request of the vendor of the petitioner herein.

2. The contention of the learned counsel for the petitioner is that respondents 1 to 4 have no right whatsoever over the land in question and that they have challenged the order of conversion passed by the Deputy Commissioner after a lapse of nearly five years and therefore the Tribunal could not have passed the ex-parte order virtually restraining the petitioner from enjoying the property in the manner permissible in law. It is his submission that the petitioner has having

obtained building licence started construction which is at an advanced stage and at this stage any interim order passed directing the petitioner to maintain status quo would certainly seriously affect the interest of the petitioner. He has drawn the attention of the Court to the Full Bench decision of this Court in the case of Lingamma v. State of Karnataka - AIR 1982 KAR 18 to contend that such an interim order could not have been granted by the Appellate Tribunal.

3. Per contra, learned counsel appearing for the caveator/respondents 1 to 4 submits that respondents 1 to 4 are the grantees and their names are deleted from the revenue entries without notice to them and therefore they are the aggrieved parties and have rightly challenged the order of conversion. He submits that since the petitioner has a remedy to approach the Tribunal and ask for vacating the interim order, this Court may not interfere in the matter.

4. Having considered the respective contentions and on perusal of the pleadings and the impugned order, I find that the Tribunal has posted the matter for consideration on 26.11.2012. As rightly submitted by the learned counsel for the petitioner the ex-parte order now passed by the Tribunal will certainly affect the interest of the petitioner who has purchased the land and who seems to have undertaken construction over the same pursuant to the order of conversion obtained by his vendor. Normally, this Court will not interfere with the interim orders passed by the Courts or Tribunals below. However, in this case, the interim order of status quo virtually restrains the petitioner from putting up any further construction and the next date of hearing is given after three months. The interim order passed is also an unconditional one. Though it is sought to be demonstrated by the learned counsel for the petitioner by showing the photographs that the construction is at an advanced stage, it is not necessary for this Court to go into the merits of the case. However, in the ends of justice and in order to ensure that the petitioner is heard in the matter before any interim order adverse to his interest is passed, I find it just and appropriate to direct both parties to appear before the Tribunal on 21.08.2012. The Tribunal shall hear the matter and pass appropriate interim order expeditiously, at any rate within a period of fifteen days from the said date. Both parties are directed to co-operate with the Court below for passing an expeditious order in the matter on the interim application. It is made clear that the Interim order granted by the Tribunal is restricted only till 21.08.2012 and it will be open to the Tribunal to pass orders, after hearing both parties on the next date.

Writ petition is accordingly disposed of.