

(2014) 06 KAR CK 0049

In the Karnataka High Court

Case No : Writ Petition Nos. 203391 and 203392 of 2014 (LB-RES)

Govindrao

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 30-06-2014

Acts Referred:

Citation : (2014) 5 KarLJ 339 : (2015) 1 KCCR 53

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

Bench : Single Bench

Advocate : Sachin M. Mahajan, Advocate for the Appellant; Sriyuths Manvendra Reddy, Government Advocate, S.S. Kumman and Gourish S. Kashampur, Advocate for the Respondent

Judgement

B.S. Patil, J.—It is submitted at the Bar that in similar matters wherein action of respondents 2 to 4 in illegality attempting to demolish the properties situated in Court Road, Basavakalyan had been challenged, this Court has permitted the petitioners therein to file objections along with relevant documents before the 4th respondent-Commissioner, City Municipal Council, Basavakalyan within two weeks and appear before him on a particular date and that the Commissioner shall hear the petitioners therein and consider their objections and thereafter, pass a considered order regarding the alleged encroachment, if any, made by the petitioners therein over the public property. Petitioners herein, who are similarly placed and are the residents of the same locality, have come up with these writ petitions making similar grievance regarding the alleged illegal attempt for demolition of the house constructed by them in their own property.

2. This Court, in similar circumstances, in W.P. Nos. 203012 to 203016 and 203025 of 2014, disposed of on 11-6-2014, having regard to the fact that the petitioners therein had constructed their building long back, has passed the following order making following observations. The said observations and the directions contained in paragraphs 5 and 6 of the aforesaid order are usefully extracted hereunder:

"5. It is submitted at the Bar by both parties that the Commissioner, City Municipal Council, Basavakalyan may be directed to hear the grievances of the petitioners and pass appropriate orders by considering the documents that may be made available by the petitioners and also with reference to the public records maintained in this regard.

In the light of the above, I am of the view that the appropriate course is to permit the petitioners to file their objections along with relevant documents before the 4th respondent-Commissioner, City Municipal Council, Basavakalyan, within two weeks from today and appear before him on 26-6-2014 at 3.00 p.m. The Commissioner shall hear the petitioners and consider the objections and the documents produced by them along with all other relevant materials and thereafter, pass a considered order regarding the alleged encroachment, if any, made by them over the public property. If it is found that the petitioners have made any encroachment, they shall be given reasonable time to remove the encroachment or to avail the remedy of approaching the Appellate Authority or any other forum. Until then, the authority shall not take recourse to demolish the construction put up by the petitioners. The petitioners are directed not to put up any additional construction till the Commissioner passes an order. Two weeks time shall be granted to clear the encroachment or to avail the other remedies open to them in law. This order will not come in the way of the petitioners removing any encroachment on their own, if according to them, there has been some encroachment made inadvertently or otherwise. Accordingly, these writ petitions are disposed of".

In the light of the above, these writ petitions are also disposed of directing the respondent-Commissioner, City Municipal Council, Basavakalyan, to receive the objections, if any, along with relevant documents to be filed by the petitioners herein within two weeks from today. Petitioners shall appear before the Commissioner on 14-7-2014 at 3 p.m. The Commissioner shall hear the petitioners and consider their objections and the documents produced by them along with all other relevant materials and thereafter, pass a reasoned order. Until then, respondent-authorities are directed not to demolish the construction put up by the petitioners. Petitioners are also directed not to put up any additional construction till the Commissioner passes an order. Two weeks time shall be granted to the petitioners to clear the encroachment, if any, in case the Commissioner passes an order against the petitioners. This order will not come in the way of the petitioners removing any encroachment made on their own, if according to them, there has been some encroachment made inadvertently or otherwise. Accordingly, these writ petitions are disposed of.