
(1997) 06 KAR CK 0070

In the Karnataka High Court

Case No : Writ Petition No's. 16221-16222 of 1995

G.R. Nagaraj and Another

APPELLANT

Vs

Bangalore Mahanagar Palike and Another

RESPONDENT

Date of Decision : 24-06-1997

Acts Referred:

Karnataka Municipal Corporations Act, 1976 — Section 231

Citation : (1997) ILR (Kar) 3083 : (1997) 4 KarLJ 348

Hon'ble Judges : Chandrashekaraiah, J

Bench : Single Bench

Advocate : K.N. Subba Reddy, for the Appellant; K.N. Putteswamy, for the Respondent

Final Decision : Allowed

Judgement

Chandrashekaraiah, J.—In this Public Interest Litigation, the petitioners have sought for direction to the respondents not to put up any construction on the public street together with the footways, drains, roadways, riding path, passage, thoroughfare including drains attached to public street located in between the Ashoka Pillar road and Circle of R.V. Road, 2nd Block, Jayanagar, Bangalore running east to west.

2. The case of the petitioners is that the respondent-Corporation is attempting to put up construction on the foot paths which is meant for the public use. This is not disputed by the Corporation. The contention of the Corporation is that with a view to construct new market building by demolishing the old market where some of the persons are carrying on the business, the Corporation has taken steps to construct shops on the footpath in order to rehabilitate them temporarily. In order to rehabilitate the persons who are asked to vacate the shop premises in the old market building the Corporation may take steps to construct the shops in a place where such construction is permitted under the Act and the Rules.

3. Section 321 of the Municipal Corporations Act, 1976 (the Act) confers power on the Commissioner to take action to remove the unauthorised construction if the said construction is contrary to the licence, approved plan or Building Regulations. The Corporation has also framed Bye-laws regulating the construction of buildings in the city of Bangalore. Neither the provisions of the Act, nor the building Bye laws permit construction of building on foot path either temporarily or otherwise. The Corporation is a corporate body conferred with the power to enforce law providing for construction of building. If that is so, the Corporation shall not be permitted to violate the law and construct building contrary to the building regulations. The proposed construction by the Corporation is on a foot path which is specifically meant for public use. Therefore, the footpath shall not be allowed to be used for any purpose other than the purpose for which it is meant to be used. Such being the case, the proposed construction by the Corporation on a foot path is unauthorised.

4. In the result, writ Petition is allowed directing the Corporation not to put up any construction on the public street together with the footways, drains, roadways, attached to the public street located in between Ashoka Pillar road and circle of RV Road, 2nd block, Jayanagar, Bangalore, running east to west. If the Corporation, has already put up construction on the above said area, it is directed to remove such constructions forthwith.