

(2012) 08 KAR CK 0083

In the Karnataka High Court

Case No : Writ Petition No. 34716 OF 2009 (LB-BMP)

Gulf Oil Corporation Limited

APPELLANT

Vs

The Asst. Executive Engineer Bruhat Bangalore Mahanagara
Palike, The Joint Commissioner Bruhat Bangalore
Mahanagara Palike, State of Karnataka and Bruhat Bangalore
Mahangara Palike

RESPONDENT

Date of Decision : 02-08-2012

Acts Referred:

Citation : (2012) 08 KAR CK 0083

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : Sundara Murthy, for the Appellant; N.B. Viswanath, Aga for R3 and
Sri. B.V. Muralidhar, Advocate, for R1, 2 and 4, for the Respondent

Judgement

Ram Mohan Reddy

1. Petitioner, owner of certain immovable property allotted to it by the Karnataka Industrial Area Development Board, for short "KIADB" in an industrial area aggrieved by the notice dt. 31.10.2009 Annexure-A of the respondent-Bruhat Bangalore Mahanagara Palike (BBMP) directing the petitioner to remove the encroachment on the Rajakaluve in Sy.No.155 and 167, has presented this petition. Petition is opposed by filing statement of objections of respondent-BBMP interalia stating thus:

It is submitted that a storm water drain (Rajakaluve) of the width of 8 feet runs on the government land bearing Survey No. 168, adjacent to the property of the petitioner and others. The said drain requires to be widened to 16 to 18 feet width by utilizing the government land available on either side of the existing drain. At that time of inspection by the Commissioner and the officials of the storm water drain department of the BBMP it is noticed that the Rajakaluve which runs from BSF compound to Dwarakanagar for a length of 1000 meters has been encroached by the petitioner and others. The storm water drain

department has submitted report to the Joint Commissioner of the BBMP, Yelahanka Zone, stating that 309 properties including that of the petitioner have encroached the Rajakaluve. Therefore the Joint Commissioner has passed an office order dt. 23/6/2009 directing removal of the encroachment and unauthorized constructions on the Rajakaluve and government land to facilitate widening of the Rajakaluve. Xerox copies of relevant extract of the village map of Kattigenahalli village showing the Government land where Rajakaluve is situated, and the said office order are produced herewith as ANNEXURE - "R1" & "R2", respectively.

2. In addition, it is further stated that Annexures- R1 to R4 support the claim of the respondent-BBMP over the allegation of encroachment of the Rajakaluve by the petitioner.

3. A bare reading of notice Annexure-A does not disclose all the averments set out in paragraph 3 of the statement of objections. In other words, respondent seeks to better its case in the statement of objections apparently not forthcoming from the notice, Annexure-A, depriving the petitioner of an opportunity to put-forth effective objections to the notice.

4. Sri. B.V. Muralidhar, learned counsel for BBMP submits that petitioner may consider the statement of objections and Annexures thereto as supporting the notice Annexure-A and file additional objections which would be considered and orders passed in accordance with law. Learned counsel hastens to add that if there are other relevant material with the BBMP over the allegation, copies of the same would be made available to the petitioner within a fortnight from today, whereafterwards the petitioner may file additional statement of objections to the notice Annexure-A. Recording the submission, the notice Annexure-A is read down as a show cause notice supported by statement of objections along with its annexures, entitling the petitioner to file additional statement of objections to the notice on or before the 15th September, 2012. It is made clear that if the BBMP were to furnish copies of any other records/material in respect of the allegation, petitioner would be entitled to file a comprehensive additional statement of objections to notice, Annexure-A which I have no reason to believe will not be considered by the respondent-BBMP.

Petition is ordered accordingly.