

(2012) 08 KAR CK 0149

In the Karnataka High Court

Case No : Writ Petition No"s. 22872-22873 of 2012 (GM-PP)

H.L. Narasimha Murthy

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 08-08-2012

Acts Referred:

Karnataka Public Premises (Eviction of Unauthorised Occupants) Act, 1974 — Section 4 (1)

Citation : AIR 2012 Kar 172

Hon'ble Judges : Mohan Shantanagoudar, J

Bench : Single Bench

Advocate : E.R. Pankaja Mani, for the Appellant; Narendra Prasad, GP for R1 To R5, for the Respondent

Final Decision : Dismissed

Judgement

1. The vacant land measuring 27 x 121/4" belonging to diety of Sri Kashivishweswaraswamy Temple at Bangalore is the subject matter of these writ petitions. The State of Karnataka has leased the said vacant land in favour of the petitioner by the order dated 23.3.1965 for a period of 20 years on the ground rent of Rs. 200/- per annum. The lease deed was executed between the petitioner and the first respondent. The petitioner thereafter put up construction consisting three shops at his own costs. All the three shops were leased by the petitioner. Out of them, two shops were leased in favour of one Sri Aleem and another shop is leased in favour of Sri V.A. Lakshman Sa. The term of lease expired on 25.5.1985. However, the petitioner continued in possession of the property without there being any extension of lease. The 4th respondent herein issued show-cause notice dated 25.7.1990 u/s 4(1) of the Karnataka Public Premises (Eviction of unauthorised Occupants) Act, 1974 (for short hereinafter referred to as the "Act") and directed the petitioner to vacate the premises. The statement of objections were filed by the petitioner on two occasions. When the matter was pending before the competent authority, the petitioner filed a suit in O.S.No. 2724/1990 before the City Civil Court, Bangalore, seeking decree for

renewal of lease for further period of 20 years. The said suit came to be dismissed. The petitioner preferred RFA No. 209/1991. The said appeal also came to be dismissed on 28.5.2002. Subsequently, the petitioner approached this Court in W.P.No. 39469/2003(GM-PP) for certain reliefs. The said petition came to be dismissed on 11.9.2003, with an observation that it is only proper that proceedings initiated under the Act, should be allowed to reach its logical conclusion. this Court directed the 4th respondent herein to adjudicate the matter in accordance with law. Thereafter, the petitioner has filed a suit in O.S.No. 7506/2004 praying for eviction of Sri V.A. Lakshman Sa, the tenant, respondent No. 6 herein and for the arrears of rent. The said suit came to be decreed on 06.11.2006. Sri. V.A. Lakshman Sa, 6th respondent herein approached this Court by filing RFA.No. 95/2007, which came to be allowed on 28.9.2011 and consequently, decree passed by the Trial Court in O.S.No. 7506/2004 was set aside. In the said RFA also, it is held that the petitioner herein has no locus standi, much less right to seek for possession. Thus, it is clear that on more than two occasions, this Court has already rejected the contentions of the petitioner. Thereafter, the proceedings before the competent authority continued and the order of eviction is passed by the competent authority on 21.8.2007. Questioning the said orders, the petitioner filed two appeals, viz., MA.No. 36/2007 and MA.No. 42/2007. The said appeals came to be dismissed by the impugned judgment and orders and Annexures-T and U, both dated 7.6.2012.

2. Learned advocate for the petitioner submits that the judgments passed by the Court District Judge are illegal and arbitrary, inasmuch as, the petitioner had got right to continue in possession by obtaining order of renewal of lease in his favour. He further submits that opportunity of being heard is not granted to him by the competent officer while passing the original order and therefore the proceedings are vitiated. this Court does not find any ground to interfere with the impugned notices/orders. As aforementioned, the petitioner has been approaching the Courts in order to scuttle the process of eviction. Admittedly, the lease was for a period of 20 years from 26.5.1965 and which came to an end on 25.5.1985. Thereafter, the notice came to be issued by the competent authority u/s 4(1) of the Act for eviction of the petitioner. As it could be seen from the judgment passed by the" Appellate Judge (District Judge), it is observed in paragraph-19 of the judgement that the 4th respondent herein has followed the procedure as contemplated under the Act and enquiry is duly conducted. The detailed reasons are assigned in the impugned order. The order sheet is maintained by the original authority. Only after giving due opportunity of being heard to the petitioner the order is passed on merits. Thus, it cannot be said that the petitioner was not heard in the matter. Moreover, the petitioner's prayer for extension of lease is not granted. this Court in RFA.No. 209/1991 has confirmed the Judgment & Decree passed by the Trial Court in O.S.No. 2724/1990. Consequently, the petitioner's prayer for renewal of lease is rejected even by this Court. In the subsequent appeal also, i.e., RFA.No. 95/1997, this Court has

categorically given a finding to the effect that the petitioner has no locus standi, much less right to seek possession of the property. Admittedly, two shops are handed over by the sub-lessee in favour of the State of Karnataka voluntarily. What remains is only one shop and in respect of the said shop, the eviction order is passed.

Since, absolutely no valid reasons are forthcoming to quash the impugned notices/judgments and orders, no interference is called for. Accordingly, these petitions fail and same stand dismissed.