

(2002) 10 KAR CK 0029
In the Karnataka High Court
Case No : Writ Petition No. 35937 of 1992

H.M. Muninarayana

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 24-10-2002

Acts Referred:

Karnataka Land Grant Rules, 1969 — Rule 27

Citation : (2002) ILR (Kar) 5114 : (2003) 1 KarLJ 261 : (2003) 1 KCCR 131

Hon'ble Judges : Kumar Rajaratnam, J;K. Bhakthavatsala, J

Bench : Division Bench

Advocate : Nanjunda Reddy, for G.V. Shantharaju, for Kesvy and Company and S.B. Pavin and P.M. Nawaz, in I.A. No. II, for the Appellant; Sheshadri, Government Advocate for Respondents-1 and 2, S.A. Nazeer, for Respondent-3 and D.S. Ramachandra Reddy, for Respondents-4(a) to (c), for the Respondent

Final Decision : Dismissed

Judgement

Kumar Rajaratnam, J.—This is a public interest litigation and has been placed before us for final disposal.

2. The writ petition is taken up with the consent of parties.

3. The petitioner has sought for quashing the order dated 25-/1991 at Annexure-A issued by the 1st respondent under Rule 27 of the Karnataka Land Grant Rules, 1969 (hereinafter referred to as the "Rules"), in according sanction of 4 acres of land in Sy. No. 63 of Hulimavu Village, Bangalore South Taluk in favour of the 4th respondent for a total sum of Rs. 9,80,752/-.

4. This is the second round of litigation. Earlier certain persons had challenged the same grant in favour of the 4th respondent.

5. The learned Single Judge in W.P. No. 33372 of 1992 by an order dated 22nd September, 1997 dismissed the writ petition. While dismissing the writ petition the learned Single Judge passed the following order.--

"Even assuming that the petitioners have locus standi what is required to be considered in this petition is whether the 3rd respondent is eligible for grant under the Land Grant Rules. In the instant case the land granted in favour of the 3rd respondent is not for agricultural purpose. The Government under Rule 27 of the Rules accorded sanction in relaxation of the Land Grant Rules. If that is the case, the provisions of the Land Grant Rules, imposing certain conditions have no application for grant of land for the purpose of establishing an industry. The 3rd respondent has been in possession of the land from 1971 onwards under a lease. If that is so, the 3rd respondent was excavating the soil/mud from the land in question for the purpose of manufacturing bricks. If that is so the Government has not committed any illegality in granting the land in favour of the 3rd respondent for a market price. Since the land that has been granted in favour of the 3rd respondent is for a market price, the revenue of the State has also not affected so as to say that the interest of the public has suffered.

Accordingly, writ petition is rejected".

6. Notwithstanding the writ petition being disposed of by the learned Single Judge, the impugned order at Annexure-A is sought to be quashed by the petitioner in the garb of public interest litigation.

7. It was submitted by the respondents that the petitioner has filed this writ petition on account of political rivalry. The petitioner and the 4th respondent belong to different political parties. The petitioner had contested for elections from the Uttaraballi Assembly Constituency. Earlier, the 4th respondent also contested from the same Constituency representing another political party.

8. The facts, very briefly, are the 4th respondent was in an unauthorised occupation of the land in question from the year 1962. He had applied for regularisation of unauthorised application by his application dated 1-6-1971 in Form 7 under Rule 3 of the Land Revenue Rules. The 4th respondent claimed that he was in continuous unauthorised occupation from 1966. The land was granted to the 4th respondent at an upset price. This order was set aside by the Deputy Commissioner in his order dated 5-8-1975.

9. Subsequently, the 4th respondent, who was in occupation of the land in question obtained the quarrying lease in the year 1977. The lease was valid upto 4-9-1991. The 4th respondent was quarrying the land for the purpose of manufacturing bricks. He was quarrying the land for a period of 20 years under a lease from the Mines and Geology Department and has established a brick factory.

10. Considering the nature of the work that was being done in the land in question, the 4th respondent made an application for grant of the land on the ground that he had invested huge amount of money for the development of the land and was employing a number of people in the brick factory. The application was referred to the Special Deputy Commissioner by the Government under letter dated 13-7-1990 seeking a detailed report.

11. The Deputy Commissioner examined the matter taking into account all the facts and circumstances and after making a spot inspection. The recommendation of the Deputy Commissioner was that the land can be granted to the 4th respondent on fixing the market value of the land. After ascertaining the valuation of the land from the Sub-Registrar the market value of the land was determined as Rs. 1,45,000/- per acre.

12. After getting the report, the entire matter was placed before the Cabinet. The Cabinet took a decision to grant the land at market value in favour of the 4th respondent,

13. Thereafter, the Government issued Annexure-A granting the land in question at market value of Rs. 1,45,000/- per acre and directed the Deputy Commissioner also to collect the conversion charges. A condition was also imposed that the 4th respondent should get the land use changed if the land use in the CDP is different from which the land is granted.

14. The Government also directed the delimiting of the gomal land as per Rule 97(4) of the Karnataka Land Revenue Rules and as such it is no longer a gomal land as was contended by the petitioner.

15. Ultimately, the proceedings culminated in the Government Order as per Annexure-A.

16. It is also common ground the land of the 4th respondent after grant has come within the fold of planning area of the Bangalore Development Authority by Gazette notification dated 18-10-1994. The 4th respondent has been in continuous possession and occupation and enjoyment of the land in question right from 1966.

17. It is also brought to our notice that the land is also sought to be acquired by the State Government under the provisions of the Land Acquisition Act for public purpose.

18. The process of the grant in favour of the 4th respondent does not suffer from any infirmity. The provisions of the Karnataka Land Revenue Act and the Rules made thereunder have been complied with, both in letter and spirit.

19. The learned Single Judge has upheld the impugned notification in his judgment dated 22nd September, 1997 and that judgment has become final since no appeal has been preferred against the said judgment.

20. For all these reasons there is no merit in the writ petition and the writ petition is accordingly dismissed. There will be no order as to costs.