
(2014) 02 KAR CK 0049

In the Karnataka High Court

Case No : Writ Petition No. 4033 of 2014 (KLR-RES)

Jayanna

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 18-02-2014

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 94

Citation : (2014) 5 KarLJ 407

Hon'ble Judges : Jawad Rahim, J

Bench : Single Bench

Advocate : H. Maregowda, Advocate for the Appellant; D. Aswatappa, Additional Government Advocate, Advocate for the Respondent

Judgement

Jawad Rahim, J.—In this writ action, the petitioner has brought in question the legality of Annexure-E, order passed by the 2nd respondent in Case No. LND CR 609/2013-14 on 17-1-2014 calling upon the petitioner to show cause why action under the provisions of Section 94 of the Karnataka Land Revenue Act, 1964 should not be initiated against him to evict him from the land bearing Sy. No. 71 measuring 0.10 guntas of Ibsapura Village, Channarayapatna Hobli, Devanahalli Taluk. On preliminary hearing, Mr. D. Aswatappa, Additional Government Advocate, represents the respondent-State.

2. Learned Counsel for the petitioner would contend the petitioner is the owner of the land bearing Khaneshmari No. 176-145 measuring East to West 125 ft. and North to South 126 ft. situate in Ibsapura Village, coming within the jurisdiction of Channarayapatna Grama Panchayat, having acquired the property from its owner Junjappa under deed of gift vide Annexure-A.

3. To support his title, he has referred to Junjappa acquiring the property in the manner known to law and thereafter gifting it to him on 30-8-2010.

4. The contention of the petitioner is, he had applied to Channarayapatna Grama Panchayat, Devanahalli to bring necessary changes in the municipal records to

show him as owner by virtue of the gift deed vide Annexure-A. As there was no action by the Channarayapatna Grama Panchayat on his application submitted on 8-10-2010, he filed writ petition in W.P. No. 4355 of 2011 (LB-RES). This Court allowed the writ petition on 12-4-2011 directing the Secretary, Grama Panchayat, Channarayapatna to consider the representation of the petitioner within the outer limit of two months from the date of receipt of copy of the order of the writ petition.

5. The petitioner alleges while the High Court direction was pending compliance with the Grama Panchayat, the 2nd respondent-Tahsildar without any basis has issued the impugned notice vide Annexure-E describing him as "unauthorised occupant" threatening action under Section 94 of the Karnataka Land Revenue Act. When the material propositions in the pleadings are compared with the description of the property mentioned in Annexure-E, it could be noticed Annexure-E refers to petitioner's alleged unauthorised occupation of agricultural land bearing Sy. No. 71 measuring 0.10 guntas of Ibsaapura Village, whereas the petitioner claims owner of the non-agricultural land bearing Kaneshmari No. 176/145 measuring East to West 125 ft. and North to South 126 ft. of Ibsaapura Village coming within the Channarayapatna Grama Panchayat. Annexure-E issued by the 2nd respondent refers to land in Sy. No. 71 of Ibsaapura Village measuring 0.10 guntas. Learned Counsel for the petitioner was asked to respond how Annexure-E would apply to the property owned by the petitioner. Learned Counsel would submit though the petitioner has acquired property as described in Annexure-A, the Tahsildar in the guise of initiating action in respect of the land in Sy. No. 71 is likely to enforce it against the property described in Annexure-A. It is difficult to accept this submission. However, it is necessary to observe, if as alleged the petitioner owns property vide Annexure-A and is not in occupation of Sy. No. 71 then the proposed action by the Tahsildar would not affect him. Even otherwise, the petitioner can show cause action vide Annexure-E to the Tahsildar substantiated that he has acquired the property vide Annexure-A which is non-agricultural land bearing Khaneshmari No. 176/145 coming within the jurisdiction of Channarayapatna Grama Panchayat. Certainly, the Tahsildar will have to consider the said submission but if the petitioner is in occupation of the land in Sy. No. 71 even then the show cause statement will be considered by the Tahsildar. Therefore, I do not find any merit in the writ petition to quash Annexure-A. However, to safe guard the interest of the petitioner, the 2nd respondent is directed not to enforce Annexure-E, against the properties said to have been acquired by the petitioner vide Annexure-A and in this regard to consider the show cause statement of the petitioner and take further action in accordance with law.

With these observations the petition is disposed of.

Mr. Aswatappa D. learned Government Advocate is permitted to file memo of appearance within three weeks.