

(2016) 12 KAR CK 0062

In the Karnataka High Court

Case No : Writ Petition No. 108203 of 2016 (LB-RES)

Kaashawwa

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 14-12-2016

Acts Referred:

Constitution of India, 1950 — Article 226

Karnataka Municipalities Act, 1964 — Section 306

Citation : (2017) 2 KantLJ 142

Hon'ble Judges : G. Narendar, J.

Bench : Single Bench

Advocate : Sri. Jagadish patil, Advocate, for the Petitioner; Smt. Vidyavathi K. AGA, for the Respondent Nos. 1 and 3

Final Decision : Disposed Off

Judgement

G. Narendar, J.—Heard. The learned Additional Government Advocate accepts notice on behalf of respondents 1 to 3.

2. The petitioners are before this Court calling in question the resolution of the Bailhongal Town Municipal Council dated 28-9-2002.

3. It is contended on behalf of the petitioners that the petitioners are the owners of the land comprised in Survey No. 293/2, measuring 3 acres 17 guntas situated at Bailhongal Taluk in Belgavi District and that the petitioners had requested for applying the land for residential use and the same came to be sanctioned by orders of the Competent Authority bearing No. LNA:SR:53:98-99.

4. That the 4th respondent vide resolution bearing No. 110 has been pleased to grant free of cost, an extent of converted land measuring 1779 Sq. mtrs. in the above said areas, in favour of an organisation.

5. It is contended by the learned Counsel for the petitioners that the transfer of civic amenity site without notice to the petitioners is contrary to the law and more particularly contrary to the Government Circular bearing No.

POUNI:GPS:BEMVI:72;93-94, Bengaluru, dated 19-7-1993, whereby the said Government Circular, Town Municipal Councils and City Municipal Councils have been directed not to allot vacant sites in favour of individuals or organisations.

6. Per contra, the learned Additional Government Advocate would submit that the writ petition is not maintainable in view of an alternative remedy that is provided under the provisions of Section 306 of the Karnataka Municipalities Act, 1964 and that it is open for the petitioners to approach the Competent Authority and seek for suspension of the resolution passed by the Bailhongal Town Municipal Council vide Resolution No. 110, dated 28-9-2002. The learned Counsel for the petitioners would concede the same and would pray that an opportunity be granted to the petitioners to approach the Competent Authority.

7. The submission of the learned Counsel is placed on record.

8. Writ petition is disposed of by reserving liberty to the petitioners to approach the Competent Authority under the provision of Section 306 of the Act. This Court would not have granted the above relief in view of the delay but for the blatant act of violation of the Government order. The civil society must be governed by rule of law and acts of arbitrary exercise of powers must not be condoned and ought to be condemned.

9. The writ petition is disposed off accordingly in the above terms.