
(2013) 02 KAR CK 0025

In the Karnataka High Court

Case No : Writ Petition No's. 22541 to 22550 of 2012 (GM-Res)

Khadar Basha and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 27-02-2013

Acts Referred:

Citation : (2013) 3 KarLJ 282 : (2013) 4 KCCR 3188

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : P.B. Raju, for the Appellant; E.S. Indires, High Court Government Pleader, for the Respondent

Judgement

S. Abdul Nazeer, J.—I have heard the learned Counsel for the parties. The petitioners contend that they are the owners of properties on either side of Ramasagara and Sundarapalya Road within the limits of Sundarapalya Village, Bangarpet Taluk, Kolar District adjoining NH4. It is further contended that the respondents are illegally demolishing the buildings belonging to them for widening of the road. Therefore, petitioners have filed these writ petitions seeking a writ of mandamus directing the respondents not to demolish the residential/commercial establishments or other buildings of the petitioners situated on either side of the aforesaid road.

2. Respondent 8 has filed statement of objections contending that widening of Ramasagara Road Project has not been taken up either by respondent 8 or by the Zilla Panchayat, Kolar District. It is further contended that the apprehension of the petitioners is baseless.

3. Sri P.B. Raju, learned Counsel appearing for the petitioners submits that the respondents have decided to demolish the buildings. He points out various photographs produced along with writ petitions to substantiate his contention. Be that as it may.

4. The respondents cannot take action to demolish the buildings in question or

take possession of the properties in possession of the petitioners without due process of law. This Court in the case of Uttamchand and Others v State of Karnataka and Others, W.P. Nos. 1104 to 1110 of 2005 and other connected matters, disposed of on 5-4-2005 after considering the various contentions of the parties has held as under:

(1) Writ petitions are allowed.

(2) Respondents are hereby directed not to demolish the residential, commercial establishments, shops or other buildings of these petitioners and persons who are similarly placed which are situated on either side of India Gandhi Road, Mahatma Gandhi Road and Market Road in Chikmagalur Town.

(3) Liberty is reserved to the respondents to initiate appropriate action against the petitioners and others in accordance with the provisions of Sections 175, 179 and 187 of the Act.

(4) In the event the respondents intend acquiring the land belonging to these petitioners or others for widening the road, in order to bring it in conformity with the width of the road as mentioned in the CDP they shall issue notice to the petitioners and purchase/acquire the land belonging to them and only on such acquisition they shall widen the road.

(5) If the respondents are intending to demolish the projections and buildings beyond the regular line of the public street the same shall be done after complying with the mandatory requirements of Sections 179 and 181.

(6) If the respondents intend demolishing any constructions on the ground that the constructions are wholly unauthorised or the constructions are contrary to the sanctioned plan and licence or contrary to the Act, Rules framed therein, a notice to be issued u/s 187 in which they shall clearly specify the ground on which they intend taking action to enable the owners of the land/property to offer their explanation.

(7) As is clear from the statutory provisions the owners of the land be given a reasonable time, the minimum time being three days. Having regard to the fact that these petitioners are owning these properties for decades, in the circumstances of these cases it is reasonable to expect the respondents to grant thirty days time before they take any punitive action by way of demolition after passing of a final order so that if the petitioners are aggrieved they can agitate against those orders in an appropriate forum.

(8) Notice issued u/s 187 by the respondents are hereby quashed reserving liberty to issue fresh notice as stated above.

(9) In case the petitioners complain that already portion of the buildings have been demolished, liberty is reserved to those petitioners to approach Competent Civil Court claiming damages on proof of the demolition being conducted by the respondents in the light of the fact that the respondents stoutly deny any such

demolition.

(10) In the demolished portion as contended by the petitioners if any further action is taken by way of laying drainage, laying pipes, the same shall be done only after notice to the petitioners and compliance of the above directions.

The point in issue in these writ petitions is covered by the aforesaid decision of this Court. Writ petitions are disposed of in similar terms. No costs.