

(2015) 11 KAR CK 0176

In the Karnataka High Court

Case No : Writ Petition Nos. 16617-624, 9822-26, 49488-489 and 49758-770 of 2015 (LB-RES)

K.M. Monnappa and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 16-11-2015

Acts Referred:

Citation : (2015) 11 KAR CK 0176

Hon'ble Judges : Ravi V. Malimath, J.

Bench : Single Bench

Advocate : B.S. Basavaraju, Advocate, for the Appellant; V.G. Bhanu Prakash, AGA, for the Respondent

Final Decision : Disposed Off

Judgement

Ravi V. Malimath, J.—The subject matter in all these writ petitions being one and the same, at the request of learned counsels, they are taken up for consideration together.

2. The plea of the petitioners in these writ petitions is that they are the owners in possession of certain lands as mentioned in the writ petitions. That under the guise of widening the road, the properties of the petitioners have been marked by respondent Nos. 4 and 5. That consequently, the respondents are likely to demolish the said properties. Hence the instant writ petitions, seeking the following prayer:

"W.P. NO. 16617-24/2015:

"a. Issue a Writ of mandamus directing the respondent Nos. 2 to 6 not to demolish any portion any building bearing Door No. 1-34, Block No. 1 totally measuring 3049 sq.ft. situated in survey No. 34, 34/1, 34/2 belonging to the first petitioner, Door No. 1-22, Block No. 1, totally measuring 10890 sq.ft. situated in sy.no. 27/3, 27/3A, 27/1, 27/2, belonging to the 2nd petitioner. Door No. 1-31/1, Block No. 1 totally measuring 2286 sq. ft. in survey No. 32, 32/1, 33, 33/1

belonging to 3rd petitioner. Door No. 1-24, Block No. 1 totally measuring 16 cents in survey No. 29, 29/1, 29/2, 30 belonging to 4th petitioner. Door No. 1/45(1) & (2) Block No. 1 totally measuring 13504 sq.ft. in sy. No. 45, 45/1, 45/2 and Door No. 433(1 & 2) Block No. 4 totally measuring 3049 sq.ft. in survey No. 54, 55 belonging to 5th petitioner. Temple in survey No. 36, 36/1, 36/2 of Block No. 1 totally measuring 25 cents belonging to 6th petitioner. Door No. 1-23, Block No. 1 totally measuring 1742 sq.ft. in sy. No. 28, 28/1A belonging to 7th petitioner. Building and land totally measuring 1071 sq.ft. in Sy. No. 100 of Block No. 1 belonging to 8th petitioner situated at Mahadevpeta Road, Madikeri without acquisition and if at all if the respondents required the land of the petitioners acquire the same in accordance with law and pay the compensation in respect of their lands to widen the road and implement the resolution dated 15.12.2014 vide ANNEXURE-A passed by respondent No. 5 by acquiring the lands of the petitioners."

W.P. NOS. 9822-20/2015

(a) Issue a writ of mandamus directing the respondent Nos. 2 to 6 not to demolish any portion any building bearing door No. 59/1, block No. 4 belonging to the first petitioner, door No. 4-3(2) belonging to the 2nd petitioner door No. 5/28 belonging to the 3rd petitioner door No. 1/43/1 belonging to 4th petitioner and door No. 5/114 belonging to the fifth petitioner situated at Mahadevapeta Road, Madikeri without acquisition and if at all the respondents required the lands of the petitioners acquire the same in accordance with law and pay the compensation in respect of their lands to widen the road and implement the resolution dated 15.12.2014 vide ANNEXURE-A passed by respondent No. 5 by acquiring the lands of the petitioners."

W.P. NOS. 49488/2015

(a) Issue a writ of mandamus directing the respondent Nos. 2 to 6 not to demolish any portion any building in block No. 1 totally measuring 5772 sq.ft. situated in survey No. 35/1, 35/3, 35/4, 35/5 belonging to the first petitioner, door No. 1-11, block No. 1 totally measuring 13503 sq.ft. situated in sy.no. 15/1, 15/2, 16, 16/1, 16/2, 17, 17/1, 17/2, 18, 18/1, 18/2 belonging to the second petitioner situated at Mahadevapeta Road, Madikeri without acquisition and if at all the respondents required the lands of the petitioners acquire the same in accordance with law and pay the compensation in respect of their lands to widen the road and implement the resolution dated 15.12.2014 vide ANNEXURE-A passed by respondent No. 5 by acquiring the lands of the petitioners."

3. The learned counsel for the petitioners contend that the properties sought to be demolished by the respondents are the properties under the ownership and possession of the respective petitioners and that until and unless their properties are acquired in a manner known to law, the respondents cannot take away their properties under the guise of widening the road.

4. They further place reliance on the earlier proceedings involving the

respondents herein in W.P. No. 7770/2010, which was a public interest litigation. Therein the petitioners had sought to quash the resolution passed by the Town Municipality, as well as to consider their representations. The Municipality had filed the statement of objections, which was extracted in the order of the learned Division Bench at para-9, which reads as follows:

"9. The contention of the petitioner that the Respondents are contemplating to demolish buildings and structures is untenable. The Resolution only contemplates the widening of the roads and for that purpose removing unauthorized structures, temporary or permanent so as to maintain the Road width is only undertaken. The Municipality does not demolish any approved building or structures, which are outside the road margins. The petitioners cannot abuse the process of this Hon'ble Court to defend the encroachers of the public roads and perpetuate the illegal occupations causing public nuisance, which is detrimental to public interest."

It is therefore contended that notwithstanding such an undertaking they are attempting to demolish the properties.

5. On the other hand, Sri. N. Devadas, learned Senior Counsel appearing on behalf of the counsel for respondent Nos. 4 and 5, defends the impugned action. He contends that whatever action is sought to be taken by the respondents, is in accordance with Law. That they would abide by the undertaking given by them in the public interest litigation. That only those properties that are under the ownership of the Municipality would be taken by them in accordance with Law.

6. On hearing learned counsels, I'am of the considered view that there is no merit in these writ petitions.

7. The prayer sought for by the petitioners is a mandamus to direct the respondents not to demolish the properties, without acquisition and even if they do so, to pay the compensation in respect of the lands acquired to widen the road. Since the respondents contend that the undertaking given by them would be complied by them, I'am of the considered view that no further orders are required.

8. In terms of the undertaking given in the previous writ petition itself, the respondents No. 4 and 5 have further presently undertaken that necessary steps under the provisions of the Land Acquisition Act, or any other law would be followed and if there are encroachers of the respondents property, at the time of road widening, necessary steps would be taken in accordance with Law.

9. In view of the categorical undertaking of the respondents in the earlier writ petition, as well as their continued reiteration of the same in the present writ petitions, I'am of the considered view that the writ petition does not call for any orders. When the respondents have stated that whatever action that would be taken would be purely in accordance with Law, the same would be sufficient in order to protect the rights of the writ petitioners. It is needless to state that any

acquisition of any property would necessarily be in accordance with Law. Consequently, the petitions are disposed off.

Consequently, pending I.A.s stand rejected.