

**(2009) 08 KAR CK 0058**

**In the Karnataka High Court**

**Case No :** Writ Petition No's. 7160 and 11975 to 11977 of 2009

K.N. Sakrappa and Others

APPELLANT

Vs

The Deputy Commissioner and Others

RESPONDENT

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**Date of Decision :** 04-08-2009

**Acts Referred:**

**Citation :** (2009) 5 KarLJ 720

**Hon'ble Judges :** A.S. Bopanna, J

**Bench :** Single Bench

**Advocate :** Mylaraiah Associates, for the Appellant; R. Kumar, High Court Government Pleader, for the Respondent

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## **Judgement**

A.S. Bopanna, J.—Issue a writ of prohibition prohibiting the respondent 3 from proceeding with putting up the construction of school building of Government Higher Primary School, in Gomal land bearing Sy. No. 23 of Diddige Village, Belachodu Hobli, Jagalur Taluk, Davanagere District, and thereby direct the respondent 3 to utilise the land gifted by the petitioner 1 and his son under the gift deed Annexure-A for the purpose of school building.

2. The case of the petitioner is that they are villagers of Diddige Village, Belachodu Hobli, Jagalur Taluk, Davanagere District. The petitioner 1 and Sri Basavarajappa, his son have jointly gifted the property bearing Sy. No. 88/6 measuring 35 guntas and Sy. No. 88/7 measuring 2 acres 12 guntas situated at Diddige Village, Belachodu Hobli, Jagalur Taluk, Davanagere District to the Government for construction of school building i.e., Government Higher Primary School. The grievance of the petitioner in the present petition is that, respondent 3 instead of utilising the said land, for more than one reason have constructed the school in the property bearing Sy. No. 23 gomal land which is even not adequate for feeding cattle, sheep, goats etc.

3. In this regard, the petitioners also relied on a circular of the Government to indicate that no construction could be put up in the gomal land. In that context,

the petitioners contend that respondent 3 ought to have constructed in the land donated by the petitioners and could not have utilised the gomal land. In this regard, the petitioners claim that they have submitted a representation dated 16-12-2008 to the Deputy Commissioner bringing these aspects to the notice. Instead of redressing the grievance of the petitioners, the respondents are said to have proceeded with the construction and therefore a direction as prayed in the petition is sought.

4. At the outset, on noticing the nature of the prayer made in the petition, such a relief cannot be granted in the present petition. At the same time, the petitioners claim also cannot be brushed aside lightly taking into consideration that the petitioner 1 and his son with the good intention have donated the lands as indicted above for the purpose of construction of a school. In this regard, they contend that the said land should be utilised and the gomal land should not have been utilised for construction of the school.

5. When the matter is taken up for consideration, the learned Government Advocate has pointed out to a letter received by him from the respondent 3 wherein reasons have been indicated by the respondents for the purpose of utilising an alternative land for construction of school. It is stated that, as the actual extent donated by the petitioner is insufficient since the guidelines require the minimum extent of land for school and playground, the present location has been chosen for construction of school.

6. Though it is ultimately the prerogative of the Government to construct the Government School depending on the need and considering all aspects of the matter, the grievance of the petitioner that the land donated by him is not utilised, needs to be addressed in an appropriate manner. Therefore, even though the prayer sought for cannot be granted, the respondent 1 to whom representation dated 16-12-2008 has been made by the petitioners, will have to hear the petitioners and consider their grievance and intimate them accordingly.

7. In this regard, the learned Counsel for petitioners also contends that, if ultimately they do not choose to utilise the land donated by petitioner 1, they would have to return the land to the petitioners and -this aspect also should be considered by the Deputy Commissioner.

8. Therefore, the present petition is disposed of with a direction that the respondent 1 shall hear the petitioners personally with regard to their representation dated 16-12-2008 and in that regard consider their grievance and thereafter intimate them accordingly with regard to the nature of utilisation of land as made by the Government. Further if it is permissible in law, respondent 1 shall also take steps for reversion of the land which has been donated by petitioner 1 so that their grievance would stand redressed.

With the above observations and directions, these petitions are disposed of.

No order as to costs.