

(2001) 05 KAR CK 0008
In the Karnataka High Court
Case No : Writ Petition No. 17089 of 2001

Megharaj

APPELLANT

Vs

The Commissioner, Karnataka Housing Board, Bangalore and
Another

RESPONDENT

Date of Decision : 31-05-2001

Acts Referred:

Citation : (2002) 2 KarLJ 320 : (2001) 3 KCCR 1876

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : B. Rudragowda, for the Appellant;

Final Decision : Dismissed

Judgement

V. Gopala Gowda, J.—The petitioner was an allottee of House No. 55 situated in II Stage. Kallahalli, Shimoga, by the Karnataka Housing Board. The said allotment had been cancelled under the impugned order at Annexure-A, dated 28-11-1998 on the ground that in the same layout another house bearing No. 56 had been allotted in favour of his wife. The order cancelling the house was challenged by the petitioner before the Principal District Judge, Shimoga, in Miscellaneous Appeal No. 25 of 1998. By the impugned order at Annexure-B, dated 24-3-2001 the said appeal had been dismissed. Petitioner is seeking to quash both the orders in this writ petition.

2. The cancellation of allotment of house is on the ground of ineligibility under Regulation 8 of the Karnataka Housing Board (Allotment) Regulations, 1983. Under the said regulation, a person is not eligible for allotment if his/her wife/husband has been allotted a site or house by the Board. Admittedly, there is no dispute in the instant case that the petitioner and his wife Smt. Bhavari Devi had been allotted House Nos. 55 and 56. As per the Allotment Regulations, any one of them is eligible or entitled for allotment of a house. Since houses had been allotted in favour of both, the cancellation had been made. No fault can be found with the said cancellation. The cancellation is in accordance with the Allotment

Regulations of the Board. The District Judge has rightly rejected the appeal filed by the petitioner against the order of cancellation. Hence, no interference is warranted in this case.

3. It is pertinent to note that after allotment of houses in favour of both, neither the petitioner nor his wife surrendered a house on the ground that allotment had been made in favour of the other. Even while applying for allotment of site both of them have failed to mention in the applications about each of them applying for allotment. Both of them failed to do so. Therefore, it is not a fit case for interference.

4. The contention of the learned Counsel for the petitioner that the cancellation order at Annexure-A is violative of principles of natural justice cannot be accepted as the Appellate Authority in paragraph 8 (page 6) of the order has observed that notices dated 16-7-1998 and 17-9-1998 were issued to the petitioner. It is also observed that on 21-9-1998 the petitioner submitted written reply admitting the position and requesting to allow him to retain the house. Even his wife also filed reply on the same day with similar request. Thus, opportunity was given to both husband and wife before cancelling the house. In the circumstances, the petitioner should not have any grievance against the cancellation of the house allotted in his favour. Writ petition is devoid of merit.

5. Writ petition stands dismissed.