

(2012) 11 KAR CK 0080

In the Karnataka High Court

Case No : Writ Petition No"s. 37731-732 OF 2012 (BDA)

Mr. C. Joseph and Mr. C. Kannikaswamy

APPELLANT

Vs

State of Karnataka Urban Development Authority and
Bangalore Development Authority

RESPONDENT

Date of Decision : 22-11-2012

Acts Referred:

Citation : (2012) 11 KAR CK 0080

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : K. Shashikiran Shetty, for the Appellant; M. Karunakaran, Advocate for Respondent Nos. 2 and 3, Shri. K.S. Mallikarunaiah, Government Pleader, for the Respondent

Judgement

Anand Byrareddy

1. The learned counsel for the respondents would submit that insofar as the petitioners" claim that the land of the petitioners may not be required for the purposes of the formation of Arkavathi Layout since adjacent lands have been dropped from the proceedings and hence, the petitioners" land also may be considered for a similar consideration, has been addressed by the authority, namely the Bangalore Development Authority and a resolution has been passed. That the authority, by its resolution dated 18.10.2010, had recommended that the land of the petitioners may be considered for deletion from the acquisition proceedings. However, by a further resolution dated 16.05.2012, the authority has reconsidered its earlier resolution and has resolved that since the land in question had been formed into sites and such sites have been allotted in favour of third parties, and further, since the acquisition had been completed, in that, the land had vested in the State Government and thereafter the same having been handed over to the BDA which in turn having been allotted to third parties, the earlier recommendation was deferred from and the second resolution has also been passed. However, both the resolutions have not been placed before the

State Government for its further consideration and approval, either to delete the lands of the petitioners from the acquisition proceedings or to affirm the second resolution to the effect that the lands having been vested in the State and having been allotted to third parties through the medium of the BDA, it is no longer possible to delete the same from the acquisition proceedings. The learned counsel for the petitioners on the other hand would point out that the statements made on behalf of the counsel for the respondents are incorrect. Resolutions that are referred to by the learned counsel for the BDA are resolutions in respect of the entire extent of land that was sought to be acquired for the formation of the Arkavathi Layout. That insofar as the land of the petitioners are concerned, the same has never been taken possession of by the State, nor handed over to the BDA nor allotted to third parties. That on the authority of instructions that he has received and from material available on record, he would seek to substantiate the same at any length.

2. If this contention of the petitioner is to be accepted, then it would be open for the BDA to have recommended in the first instance that the land of the petitioners could be deleted from the acquisition proceedings and the State Government may very well accept such recommendation. In any event, the correctness or otherwise of the rival contentions are open for consideration by the State Government, which shall take an appropriate decision, on the BDA submitting the so-called resolutions for the approval and final decision of the State Government.

3. Recording the submission of the learned counsel for the BDA that resolutions have been passed insofar as the claim of the petitioners and others, in respect of the lands that are sought to be acquired for the Arkavathi Layout are concerned and that the said resolutions would be placed before the State Government for an ultimate decision, the present petitions are disposed of without prejudice to the claim of the petitioners, which shall be subject to the result of any decision that may be ultimately taken by the State Government on the basis of the submissions now made by the counsel for the BDA. The petitions are accordingly disposed of.