

(2017) 02 KAR CK 0207

In the Karnataka High Court

Case No : 1651 & 1652-1701 of 2015 & 1003 of 2016 (LB-RES)

MYSORE URBAN DEVELOPMENT AUTHORITY

APPELLANT

Vs

**SUBRAMANYA CONSTRUCTION & DEVELOPMENT COMPANY
LTD., & ORS.**

RESPONDENT

Date of Decision : 10-02-2017

Acts Referred:

Citation : (2017) 02 KAR CK 0207

Hon'ble Judges : Subhro Kamal Mukherjee, Budihal R B

Bench : DIVISION BENCH

Advocate : T P Vivekananda, K G Raghavan, A Sampath, V Sreenidhi

Final Decision : Dismissed

Judgement

1. These writ appeals are filed against the judgment and order dated January 27, 2015, passed by an Hon'ble Single Judge, inter alia, declaring that the preliminary notification for acquiring the property in dispute, issued under the provisions of the Karnataka Urban Development Authorities Act, 1987 [for short, the said Act], was non est and the acquisition stood lapsed.

2. A preliminary notification was issued under the said Act on October 6, 1997, by the appellant-Mysore Urban Development Authority [MUDA], seeking to acquire lands, including the land, which is subject matter of these appeals.

3. The first respondent-writ petitioner is a private institution. It intended to develop a residential project in Mysuru city and for such purpose, it raised a loan of Rs. 30.00 crore [Rupees thirty crore] only from HUDCO. The first respondent-writ petitioner acquired the subject land for the purpose of its residential project.

4. It is true that the first respondent-writ petitioner purchased the subject land from its original owners after the preliminary notification was issued. The preliminary notification was issued in the year 1997 and the first respondent-writ petitioner purchased the land in the year 2002. There was no period prescribed in the said Act for publication of the final notification. However, it is well settled

that such final notification should be issued within a reasonable timeframe, which is considered to be within two years from the date of issue of preliminary notification.

5. Admittedly, in this case, although the preliminary notification was issued in the year 1997, the final notification has not yet been issued.

6. Mr T P Vivekananda, learned advocate for the appellant-MUDA, vehemently, submits that as the first respondent-writ petitioner purchased the property in question after the preliminary notification, it had no locus standi to challenge the preliminary notification. To buttress his submission, Mr Vivekananda relies upon the decision of the Supreme Court in the case of V CHANDRASEKARAN AND ANOTHER vs ADMINISTRATIVE OFFICER AND OTHERS [(2012) 12 SUPREME COURT CASES 133].

7. The case in hand is a little different from the decision cited by the learned advocate for the appellant. In the present case, the preliminary notification was issued in the year 1997. It is true that the first respondent-writ petitioner purchased the land in question in the year 2002, as it was thought that the authorities of the appellant-MUDA were not serious in proceeding with the acquisition proceedings, inasmuch as the final notification was not issued within a period of two years from the date of the preliminary notification. Moreover, we, also, feel that the authorities are not serious in acquiring the property in question, as, even as on date, the final notification has not been issued by the MUDA.

8. The Hon"ble Single Judge has rightly distinguished the decision in the case of V CHANDRASEKARAN [supra], by holding that the said decision has not been applicable to the present case for the reason that the MUDA has not yet issued the final notification and that the acquisition has been assailed on that premises.

9. We do not find any merit in these appeals. Consequently, the appeals are dismissed.

10. In view of dismissal of the writ appeals, all pending interlocutory applications do not survive for consideration and they are, also, dismissed accordingly.

11. We make no order as to costs.