

(2021) 06 KAR CK 0031

In the Karnataka High Court

Case No : Writ Petition No. 10060 Of 2021 (KLR/RES)

N. M. Manjunath & Others

APPELLANT

Vs

Tahsildar & Others

RESPONDENT

Date of Decision : 11-06-2021

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 192A

Citation : (2021) 06 KAR CK 0031

Hon'ble Judges : B. M. Shyam Prasad, J

Bench : Single Bench

Advocate : P Mahesha, R.Srinivas Gowd

Final Decision : Disposed Of

Judgement

B. M. Shyam Prasad, J

1. The learned counsel for the petitioners and the learned Additional Government Advocate, who accepts notice for the respondents, are heard for

final disposal of the petition.

2. The petitioners, who are the owners of land in Sy.No.25/3 (Old Sy.No.25/1) of Nanjangud, Kasaba Hobli, Nanjangud Taluk, have filed this petition

impugning the show cause notice dated 07.06.2021 issued by the Tahsildar, Nanjangud, Kasaba Hobli, Nanjangud Taluk (the first respondent) alleging

that the petitioners have encroached about 0.01¼ guntas in the adjacent land in Sy.No.12 of Tahsildar, Nanjangud, Kasaba Hobli, Nanjangud Taluk.

3. The learned counsel for the petitioners submits that this impugned notice dated 07.06.2021 is issued on a purported survey which is without notice to

the petitioners; if the petitioners' lands in Sy.No.25/3 and the adjacent land in Sy.No.12 are measured, the allegation of encroachment of 0.01¼

would be shown to be wholly erroneous. Even otherwise, the first respondent could not have issued notice as the lands are within the local limits of

Nanjangud City Municipality. Therefore, the impugned notice dated 07.06.2021 cannot be sustained.

4. The learned Additional Government Advocate submits that only Show Cause Notice dated 7.06.2021 is issued and even according to the petitioners,

they have filed their response, but a decision is yet to be taken. The writ petition is premature. He also states that a prior notice is also issued on

05.04.2021 to the petitioner as per Annexure - F.

5. In the light of the rival submissions, and the undisputed fact that a decision is yet to be taken after issuance of Show Cause Notice dated 07.06.2021

and receipt of the petitioners response, in the considered opinion of this Court, it would be just and proper to dispose of the writ petition with certain

directions. As it is asserted that the petitioner's land and the adjacent land [a government land] are not measured with notice to the petitioner, and the

encroachment is 0.01¼ guntas, the first respondent shall ensure that both the lands are measured after due notice to the petitioners. The first

respondent shall consider the petitioners' objection in strict compliance with the Circular dated 08.09.2008 issued by the Government as a condition for

invoking the provisions of Section 192A of the Karnataka Land Revenue Act, 1964.

6. The first respondent shall also specifically answer the question of jurisdiction in the light of the assertion that the property is within the Nanjangud

Municipal Corporation and as such he would have no jurisdiction. The petitioners are permitted to file a certified copy of this order with the first

respondent and the first respondent shall decide in the light of the observations made hereinabove. The respondents shall not take any precipitous

action until consideration in terms of the orders of this Court.

The writ petition stands disposed of accordingly.