

(2010) 11 KAR CK 0023

In the Karnataka High Court

Case No : Misc. W. 10751 of 2010 in Writ Petition No"s. 21186 and 23885-95 of 2010

R. Hanumaiah

APPELLANT

Vs

The State of Karnataka, The Bangalore Development
Authority and The Land Acquisition Officer
 In Re:
Citizen Action Group

RESPONDENT

Date of Decision : 16-11-2010

Acts Referred:

Civil Procedure Code, 1908 (CPC) — Order 1 Rule 10 (2)
Land Acquisition Act, 1894 — Section 4, 48

Citation : (2010) 11 KAR CK 0023

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : V. Anand, for R. Vijaya Kumar, for the Appellant; K. Krishna, for R2 and R3, Jayna Kothari, for proposed R4, for the Respondent

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—Writ petitions by a person who claims to be the owner of an extent of 6 acres 20 guntas of land, which had come to be notified for acquisition u/s 4 of the Land Acquisition Act, 1894 [for short, the Act] way back in the year 1959, for the purpose of forming what is known as Koramangala layout in the east of Cantonment-Hosur road, by the Bangalore city improvement trust board [CITB], who is now seeking for quashing of the notification No NA AAE-141 BEMAASI 2006 dated 13-11-2009 [copy at Annexure-AA to the writ petition], issued by the state government and the developments in between being, according to one version, the subject land had been taken possession by the CITB even in the year 1966 or thereafter and formed sites and allotted them in favour of many persons, the state government had come up with a notification issued u/s 48 of the Act withdrawing from such acquisition proceedings which had been initiated in the year 1959 sought to be in the background of unending litigation either at the instance of land owners or the development authority or

allottees before this Court as well as the Supreme Court, which, though was to the advantage of the Petitioner, had short-lived due to a subsequent state government notification mentioned above, by which, the state government went back on the withdrawal notification, as though there was no dearth of confusion or complications, a society going by name Citizen Action Group, Jawans Quarters, BDA Park, Double Road, Indiranagar I Stage, Bangalore represented by its authorized signatory Mrs. Nomita Chandy, has come up with the present application [Misc W No 10751 of 2010 Under Articles 226 and 227 r/w Order I Rule 10(2) & Section 151 of the Code of Civil Procedure, 1908, seeking for impleading it as an intervener in the present writ petitions.

2. The applicant claims to be a society registered under the provisions of Karnataka Societies Registration Act, 1960; that it has been formed by eminent citizens of Bangalore with an aim to protect the interests of the residents of the city and one of its primary objects is to preserve green environment, lung space, which has still available in Bangalore city and has been taking active steps for such purpose etc., has sought for impleadment in these petitions, contending, inter alia, that the present litigation has a long history; that in the understanding of the applicant-society, the outcome of the present writ petitions may have a bearing on the availability or otherwise of the extent of 6 acres of land, which is subject matter of withdrawal notification, for a park area and as a lung space for the residents of Koramangala layout; that it is the endeavour of the society to ensure that it is so retained and for such purpose, the society had also filed a public interest litigation writ petition before this Court in WP No 24768 of 2005; that the said writ petition for issue of certain directions to BDA and which can ensure that subject land is retained as a park area or playground etc.; that such writ petition is still pending before a Division Bench of this Court and even while such a petition is pending, if orders are to be passed in the present writ petitions, it could affect the interest of the applicant in getting relief in the pending PIL writ petition and therefore to apprise this Court and to educate this Court of all such developments and to impress upon the court the need for passing orders which can only ensure preservation of the area as a park or playground, the present application is being filed and it merits being allowed.

3. Appearing on behalf of the applicant, Ms Jayna Kothari learned Counsel, has made very spirited submissions to impress upon me that the applicant is a very bona fide public spirited litigant; that the applicant is espousing many public causes; that the applicant should be given an opportunity to intervene in the present proceedings and to assist the court to pass appropriate orders in the wake of the prayers made in the writ petitions etc.

4. Sri v. Anand, learned Counsel for the Petitioner, seeks a short accommodation to file objections etc.

5. Sri K Krishna, learned Counsel for the Respondent-BDA submits that he has not even been favoured with a copy of the application to respond. Same is the response by Sri Venkatesh Dodderi, learned AGA, appearing for the state.

6. Be that as it may, I find it is wholly unnecessary to order this application for the simple reason that in so far as the applicant is concerned, it is not the interest of the applicant which is in examination nor the question as to whether the subject land should be retained as a park area or playground or a green area, as, even according to the submissions of learned Counsel for the applicant, the very land is also the subject matter of a public interest litigation referred to above and if so, while it is open to the applicant to focus and concentrate and pursue its efforts in that writ petition pending before the Division Bench of this Court, where such a matter is pending, such a question can neither be examined in the present writ petitions nor is it necessary and in so far as the present writ petitions are concerned, the applicant is no more than a busybody and the intervention at the cost of the time of this Court is the time made available to the litigant public of the state under the Constitution of India is nothing short of an obstruction in the present proceedings as has been observed by the Supreme Court in the case of *Jasbhai Motibhai Desai Vs. Roshan Kumar, Haji Bashir Ahmed and Others*, Para 36, reading as under:

36. It will be seen that in the context of locus stand to apply for a writ of certiorari, an applicant may ordinarily fall in any of these categories: (i) "person aggrieved"; (ii) "stranger"; (iii) busybody or meddlesome interloper. Persons in the last category are easily distinguishable from those coming under the first two categories. Such persons interfere in things which do not concern them. They masquerade as crusaders for justice. They pretend to act in the name of Pro Bono Publico, though they have no interest of the public or even of their own to protect. They indulge in the past-time of meddling with the judicial process either by force of habit or from improper motives. Often, they are actuated by a desire to win notoriety or cheap popularity; while the ulterior intent of some applicants in this category, may be no more than spoking the wheels of administration. The High Court should do well to reject the applications of such busy bodies at the threshold.

There is absolutely nothing that the applicant is required to espouse or assist this Court in the context of the cause brought before this Court by the Petitioner and the examination is as to whether the writ Petitioner can get any relief as sought for in the prayer made in the petitions and examination in the petitions is strictly on the touchstone of the statutory and constitutional provisions and not based on any philanthropic approach or on such considerations, which does not enter in the examination in the exercise of jurisdiction of the court for judicial review of administrative action.

7. The application is nothing short of a frivolous application and it is rejected and it is only because the applicant has claimed that it is a society espousing public causes, it has escaped from being mulcted with costs.

8. Misc W No 10751 of 2010 is dismissed.