

(2010) 04 KAR CK 0252

In the Karnataka High Court

Case No : Writ Petition No"s. 11384 to 11404 of 2009

Rishab Mutha and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 05-04-2010

Acts Referred:

Citation : (2010) 4 KLJ 347

Hon'ble Judges : H.N. Nagamohan Das, J

Bench : Single Bench

Advocate : L. Venatarama Reddy, for the Appellant; M. Keshava Reddy, A.G.A. and Ramanjaneya Gowda, for the Respondent

Final Decision : Allowed

Judgement

H.N. Nagamohan Das, J.—In these writ petitions the petitioners have prayed for a writ in the nature of certiorari to quash the preliminary notification dated 8-4-2003 as per Annexure-D and the final notification dated 9-9-2003 as per Annexure-E.

2. Petitioners contend that they are the allottees of sites under the scheme called "Allotment of House Sites to the Families of Landless Workers in Rural Areas" pursuant to the Government direction dated 13-5-1972 as per Annexure-A. According to the petitioners the sites allotted to them are in Survey Nos. 38 and 39 of the Giddadakonenahalli, Yeshwanthpur Hobli, Bangalore North Taluk. According to the petitioners, they are in possession and enjoyment of these sites and some of them have put up constructions and they are residing with their families. When the matter stood at that stage, the respondents issued a preliminary notification as per Annexure-D and final notification as per Annexure-E acquiring the entire land in Survey Nos. 38 and 39. Some other site owners in these survey numbers questioned these preliminary and final notifications before this Court in W.P. Nos. 17026 to 17033 of 2008. Learned Single Judge of this Court vide order dated 17-8-2009 dismissed the writ petitions. Aggrieved by this order of the learned Single Judge the petitioners in the said writ petitions filed an

appeal in W.A. No. 997 of 2008 and connected matters before a Division Bench of this Court (Smt. Madamma Vs. The State of Karnataka and Others,). Vide order dated 17-10-2008 the writ appeals came to be allowed holding that the respondents have no right to initiate acquisition proceedings and in turn allot the same in favour of educational institutions. The judgment of Division Bench of this Court came to be affirmed by the Supreme Court in SLP No. 7408 of 2009 vide order dated 20-4-2009.

3. These writ petitions are in respect of different sites in the very same survey numbers and the notifications involved in W.A. No. 997 of 2008 and connected matters.

4. Heard arguments on both the sides and perused the entire writ papers.

5. Sri Ramanjaneya Gowda, learned Counsel for the fourth respondent-Bangalore Development Authority firstly contends that the allotments made in favour of the petitioners came to be cancelled by the third respondent-Tahsildar vide order dated 7-8-1993 as per Annexure-R2. A reading of Annexure-R2 specifies that no individual notices are served on the petitioners and there is no opportunity to each of the petitioners to defend their cases. A general order is made cancelling all the 795 sites allotted to various persons. It further specifies that what is cancelled under Annexure-R2 are sites allotted under the Ashraya Scheme in the year 1992. Therefore there is no order cancelling the allotment made in favour of petitioners and in-turn to resume the sites the allotted to them. Further it is seen from the record that Annexure-R2 was relied on by the respondents in W.A. No. 997 of 2008 and connected matters and the same was rejected. Therefore in view of the judgment in W.A. No. 997 of 2008 the impugned notification as found at Annexures-D and E insofar as petitioners are concerned are liable to be quashed.

6. Learned Counsel for the fourth respondent secondly contends that the lands covered under the impugned notifications at Annexures-D and E are entirely different from the sites in possession of the petitioners. If that is so the respondents are at liberty to conduct a survey, demarcate the sites in possession of the petitioners and proceed with the matter in accordance with law.

7. For the reasons stated above, the following:

ORDER

i. Writ petitions are hereby allowed.

ii. The impugned preliminary notification dated 8-4-2003 as per Annexure-D and the final notification dated 9-9-2003 as per Annexure-E are hereby quashed insofar as it relates to sites which are allotted and in possession of the petitioners herein in Survey Numbers 38 and 39 of Giddadakonenahalli. Ordered accordingly.