

(2000) 08 KAR CK 0030
In the Karnataka High Court
Case No : Writ Petition No. 6137/99

S. Putta Swamy

APPELLANT

Vs

The Municipality and Another

RESPONDENT

Date of Decision : 14-08-2000

Acts Referred:

Karnataka Municipalities (Guidance of Officers, Grant of Copies and Miscellaneous Provisions) Rules, 1966 — Rule 39
Karnataka Municipalities Act, 1964 — Section 72

Citation : AIR 2001 Kar 19 : (2000) ILR (Kar) 4777

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : S.K.V. Chalapathi, for the Appellant; Sriyuths P.S. Manjunath and H.C. Shivaram, for the Respondent

Final Decision : Dismissed

Judgement

V. Gopala Gowda, J.—By a Resolution at Annexure A dated 29-4-1982 a marginal land was allotted in favour of the petitioner by the respondents Town Municipality, Mandya. When the said resolution was sent to the Divisional Commissioner, Mysore for approval, the Divisional Commissioner ordered to allot half of the said site to one Smt. Rathnamma by an order dated 13-1-1986. The petitioner challenged the same in W.P. No. 2862/87. There were also civil litigation between the petitioner, the said Rathnamma and the respondents which was pending in R.S.A. No. 1207/94. By a common order both in the writ petition and Regular Second Appeal dated 30-5-1997 this Court dismissed the Regular Second Appeal filed by Smt. Rathnamma and quashed the order of the Divisional Commissioner challenged in the writ petition referred to supra. Thereafter, the Standing Committee of the Municipality by the impugned resolution at Annexure D dated 21-7-1998 cancelled the earlier resolution dated 29-4-1982 by which the site was granted in favour of the petitioner and to retain the same for the Municipality. The petitioner is seeking to quash the said resolution and to direct the Municipality to receive the value of the site and to execute the sale deed.

2. Detailed statement of objections is filed on behalf of the respondents justifying the impugned resolution. The short point for consideration is, whether the impugned resolution is legal, valid and justified ?

3. Undisputedly, the site in question belongs to the Municipality. A Division Bench of this Court in the case reported in 1992 (2) KLJ 245 has held that sale or allotment of municipal land shall be made by following the procedure prescribed in Section 72 of the Karnataka Municipalities Act, 1964 and also Rule 39 of the Karnataka Municipalities (Guidance of Officers, Grant of Copies and Miscellaneous Provisions) Rules 1966. Subsection (2) of Section 72 of the Act categorically states that no sale etc. of immovable property exceeding the value mentioned therein would be valid unless the previous sanction of the Government is obtained. When the resolution dt. 29-4-1982 was passed by the Municipality to allot the site in favour of the petitioner, the amount prescribed in sub-section (2) was five thousand rupees, and value thereof of site which sold in pursuant to the resolution was exceeding five thousand rupees, therefore prior sanction of the Government was required.

4. The site in question measures about 360 sq. meters. It was resolved to allot the same at Rs. 20.00 per sq. meter. Thus, the value of the site exceeds five thousand rupees. Since the previous sanction of the Government was not obtained as required u/s 72(2) of the Act, the sale or allotment of site in favour of the petitioner by passing the resolution by the first respondent was not valid. On this ground alone the petitioner is not entitled for the reliefs sought for in this petition.

5. The worst position of the petitioner is, except passing the resolution to allot the site, the process was not completed. As a result of this, no enforceable right accrued in favour of the petitioner. Therefore, the petitioner has no right to knock the doors of this Court for any relief.

6. The Municipality has decided to retain the site in question for itself. The petitioner has no right to as for quashing of the said resolution. The Municipality being the owner of the site, it can deal with the site in any manner it likes. No person, muchless the petitioner, has any right to question the same. The contention of the petitioner that the Municipality has no competency to pass the impugned resolution, is untenable and cannot be accepted.

7. Since no right is accrued in favour of the petitioner in respect of the site in question, question of hearing him does not arise. Petitioner has no right of hearing.

8. It is noticed from the Court proceedings that the petitioner in possession of the property which is the public premises as defined u/s 2(e) of the KPP (EOUC) Act. 1974 and therefore he shall be evicted from the property by resorting to the provisions of KPP (EOUS) Act and also recover the damages from him as provided u/s 7 of the Act. 1974. The entire process shall be concluded within four months from the date of receipt of the copy of this order.

9. Writ petition is misconceived and the same is dismissed.