
(2013) 12 KAR CK 0177

In the Karnataka High Court

Case No : Writ Petition No's. 4729-4746 of 2013 (GM-RES)

S. Ranganath Jois and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 12-12-2013

Acts Referred:

Citation : (2013) 12 KAR CK 0177

Hon'ble Judges : A.S. Bopanna, J

Bench : Single Bench

Advocate : S.V. Prakash, for the Appellant; H.V. Manjunatha, AGA. for R1-6, for the Respondent

Final Decision : Disposed Off

Judgement

A.S. Bopanna, J.—The objection statement filed on behalf of the respondents is taken on record. The petitioners are before this Court seeking for appropriate direction and declare the action of the respondents to demolish the house property belonging to the petitioners which is described in the schedule to the petitions as without jurisdiction and without authority of law. The petitioners are also seeking for direction to prohibit the respondents from demolishing the property without due process of law.

2. The petitioners are claiming to be the owners of the properties described in the schedule to the petitions. The said properties are facing the Soraba Main Road. The respondents with a view to widen the said road are seeking to demolish the property without following due process of law. The petitioners therefore contend that such action to deprive the petitioners of their property is contrary to the right guaranteed in Article 300A of the Constitution of India. The petitioners also refer to the fact that in respect of such demolition which was proposed by the respondents, even though no proper procedure of acquiring the property and fixing compensation was followed, certain consent letters were prepared fixing the compensation arbitrarily and the consent of the petitioners was sought. Since the petitioners did not consent to the same, the respondents

are taking high handed action of demolishing the properties without opportunity to the petitioners.

3. The respondents through their objection statement though have half heartedly contended that the petitioners have encroached the Government land without any further details in that regard, the tone and tenor of the objection statement itself would indicate that the respondents have stated that no action would be taken without due compliance of law.

4. While taking note of the rival contentions, it is also seen that certain other similarly placed persons were before this Court making out a similar grievance. This Court while disposing of W.P. No. 43779/2011 on 24.11.2011 has observed as hereunder:

6. Learned Additional Government Advocate, on instructions from the concerned Authority, submits that if the petitioner is not agreeable for the proposal given by the respondent-authorities, then they will not dispossess the petitioner or demolish the construction put up by the petitioner in the schedule land without following the due process of law.

7. In the light of the respective contentions, it is clear that if the petitioner is not willing to accede to the proposal given by the respondent-authorities and hand over possession of the property/premises constructed in the schedule land, then the respondent-authorities shall have to initiate appropriate action in accordance with law for acquiring the land and determining the compensation to which the petitioner is-entitled. Without resorting to such procedure as provided in law and without duly acquiring the land, the respondent-authorities cannot dispossess the petitioner or demolish the construction put up by the petitioner in the petition schedule property.

Similarly, certain other persons were also before this Court in W.P. Nos. 42081-83/2011 which were disposed of on 22.03.2012 with similar direction to the respondents.

5. In that view of the matter, even if the respondents were to arrive at a conclusion that there is any encroachment, the same cannot be done unilaterally and appropriate proceedings would have to be held and thereafter a conclusion should be reached.

6. On the other hand, if the contention of encroachment is not established and the ownership of the petitioners is evident, even in such circumstances, the respondents would have to follow the procedure as contemplated in law as already noticed by this Court in the orders passed which have been noticed above. In that view, these petitions are disposed of, with a direction to the respondents not to demolish any portion of the schedule properties belonging to the petitioners without following due process of law as indicated herein above.