

(2012) 06 KAR CK 0004

In the Karnataka High Court

Case No : Writ Petition No's. 46734 - 46740 of 2011 (LA-UDA)

Shivanna and Others

APPELLANT

Vs

State of Karnataka and The Commissioner Mysore Urban
Development Authority, Mysore

RESPONDENT

Date of Decision : 01-06-2012

Acts Referred:

Citation : (2012) 06 KAR CK 0004

Hon'ble Judges : Mohan Shantanagoudar, J

Bench : Single Bench

Advocate : Ragupathy K, for the Appellant; Vijay A. Patil, HCGP for R1 T.P.
Vivekananda Advocate, for Sri. P.S. Manjunath for 2 and 3, for the Respondent

Judgement

Mohan Shantanagoudar

1. The petitioners have sought for quashing the Preliminary notification dated 23.12.1991 and final notification dated 10.12.1992 vide Annexures-J and K. They have also sought for a declaration that the acquisition notifications are null and void. Further direction is asked against the respondents to consider representation AnnexureS-H to H6 dated. 19.7.2011. The contention of the petitioners is that the scheme for which the lands are acquired is not implemented and consequently the same is lapsed.

2. The records reveal that the petitioners are the joint owners of the land bearing Sy. No. 33 in all measuring 3 acres 21 guntas situated at Basavanhalli village, Kasaba Hobli, Mysore Taluk. Said lands alongwith various other properties were acquired for formation of Vijayanagar 4th Stage layout for executing the scheme formed under the provisions of Karnataka Urban Development Authority Act, 1987 by 2nd respondent.

3. Similar question was raised before this Court by certain other landowners who have lost their lands in the very project of Vijayanagar 4th Stage layout before this Court in W. P. No. 16054 / 2004 (LA). Said contentions are rejected by this

Court by concluding that the scheme in question is substantially implemented.

4. The records maintained by Mysore Development Authority reveals that about 12,255 sites have been formed in different measurements i.e., 3,850 sites measuring 30" x 40", 2850 sites measuring 20" x 30", 3486 sites measuring 40" x 60", 1980 sites measuring 50" x 80". Out of the sites so formed, 1124 sites measuring 30" x 40" and 977 sites measuring 20" x 30" were already allotted in favour of eligible persons even prior to year 2005. Hakku patras have been issued in respect of such allottees. Further 1460 sites measuring 40" x 60" and 390 sites measuring 50" x 80" were also allotted and hakku patras in favour of eligible applicants were issued prior to 2005 itself. It is also borne out by the records that 90% of the work such as drainage facilities and electricity facilities have been provided prior to 2005. All the aforementioned factors are referred to by this Court in W.P. No. 16054/2004 at the time of disposal. Based on the material on record, this Court has concluded in the year 2005 itself that the scheme is substantially implemented. I respectfully agree with the reasons assigned and the conclusion reached by this Court in W.P. No. 16054/2004 by my learned brother in W.P. No. 16054/2004. Even otherwise, on facts I conclude that the scheme is already implemented substantially. Hence, the contention of the petitioners in this regard fails. The petitioners have approached this Court after long delay of 20 years. As aforementioned, acquisition notifications were issued as back as in the year 1991-1992. Absolutely no valid reasons are assigned for condoning such a long delay. Hence, the writ petitions are liable to be dismissed both on the ground of delay and laches as well as merits.

However, the prayer of the petitioners for a direction to consider the representation Annexures-H to H6 dated 19.7.2011 filed by the petitioners needs to be considered as per law. This Court while deciding W.P. No. 16504/2004 has directed MUDA to consider and allot suitable sites in favour of each of the petitioners therein, having regard to the economic and social status of the petitioners. However, said portion of the order was questioned by MUDA before the Division Bench in W.A.No,1849/2005. While disposing of the said writ appeal, this Court did not agree with the specific direction issued by learned Single Judge relating to allotment of site in favour of the petitioners therein. On the other hand, the Division Bench has concluded that the prayer of the petitioners therein are to be considered as per law at the discretion of Mysore Development Authority. Hence, the same direction needs to be granted in these writ petitions also. Accordingly, the following order is made:-

- a. It is held that the scheme in question is substantially implemented.
- b. Acquisition notifications impugned in these writ petitions are not interfered with.
- c. Respondent No. 2 is directed to consider the representation vide Annexures-H to H6 dated 19.7.2011 in the light of the observations made in W.A. No,1849/2005 and as per law as early as possible, but not later than outer limit

of four months from the date of receipt of this order.

With these observations, writ petitions stand disposed of.