(2012) 11 KAR CK 0016

In the Karnataka High Court

Case No : Writ Petition No''s. 84305 to 84394 of 2012 (APMC)

Shivayogappa and Others — APPELLANT

Vs

The Principal Secretary, Co-operation Department, M.S. Bldg., Vidhana Veedhi, Bangalore- 1 and Others — RESPONDENT

Date of Decision : 27-11-2012

Acts Referred:

Karnataka Agricultural Produce Marketing (Regulation of Allotment of Property in Market Yards) Rules, 2004 — Rule 4 (1), 4 (2), 5

Citation : (2012) 11 KAR CK 0016

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Veeresh B. Patil, for the Appellant; Sharanabasappa K. Babashetty, HCGP for R1 to R3 and Sri G.G. Chagashetti, for R4 and R5, for the Respondent

Judgement

S. Abdul Nazeer

1. I have heard Sri Veeresh B. Patil, learned Counsel for the petitioners, Sri Sharanabasappa K. Baba Shetty, learned HCGP for R1 to R3 and Sri G.G. Chaga Shetty, learned Counsel appearing for respondent Nos. 4 and 5. The Agricultural Produce Market Committee (''APMC'' for short), Market Yard, Gulbarga, had issued a notification as per Annexure ''B'' dated 12.4.2010 for allotment of shops/ vacant sites/go-downs within the market yard on lease-cum-sale basis. The contention of the petitioners is that they had applied for allotment of the shops/ vacant sites/go-downs. According to them, the value fixed by the APMC for allotment of shops/vacant sites/go-downs was too high. The New Vegetable Merchants'' Welfare Association (''Association'' for short), Gulbarga, filed a representation requesting the Hon''ble Chief Minister of Karnataka, Bangalore, as per Annexure ''C'' dated 10/11.5.2010 for reduction of the value of those shops/ vacant sites/go-downs.

2. The APMC by its resolution at Annexure ''D1'' dated 3.7.2010 had resolved that the value fixed by the APMC is too high and it should be reduced at least by

50%. The Association sent representations to the Director, at Annexures ''Q'' and ''R'' dated 6.3.2012 and 30.3.2012 to approve the resolution of the Committee at Annexure ''D1'' dated 3.7.2010. However, the second respondent has not considered the said representations. Therefore, petitioners have filed these writ petitions seeking the following reliefs:

(i) Issue a writ in the nature of mandamus thereby directing the respondents to accept the rates determined by the 3rd party evaluator as at Annexure ''G'' to the writ petitions and to allot the shops/open plots as per the rates fixed by the 3rd party evaluator in the interest of justice and equity.

(ii) issue any other writ, order or direction as this Hon''ble Court deems fit in the light of the facts and circumstances of the case stated above, in the interest of justice and equity.

3. The Karnataka Agricultural Produce Marketing (Regulation of Allotment of Property in Market Yards) Rules, 2004 provides for allotment of sites/shops, etc., on lease-cum-sale basis. Rule 3 provides for offer of sits, etc., for allotment on lease-cum-sale basis. Rule 4(1) provides for the determination of value of site, etc., which is as under:

4. Determination of value of site, etc.- (1) The Market Committee shall get a valuation certificate of the site, shop, go-down or shop-cum-go-down to be allotted on lease-cum-sale basis form the concerned Assistant Executive Engineer (Market Development Project) of the Department who shall give certificate having regard to the provisions of sub-rule (2). The Market Committee for valid reasons to be recorded in writing may enhance the value so fixed by the Assistant Executive Engineer. The value so fixed by the Assistant Executive Engineer or enhanced by the Market Committee shall be subject to the approval of the Director, Agricultural Marketing, who may give approval with such modifications after recording reasons.

4. Rule 4(2) lays down the guidelines for determining the value of the shops/ vacant sites/go-downs or shop-cum-go-downs to be allotted on lease-cum-sale basis. Rule 5 lays down the criteria for fixing the value of the site.

5. It is clear from the aforesaid Rules that the value fixed by the Assistant Executive Engineer or enhanced by the Market Committee shall be subject to the approval of the Director, Agricultural Marketing, who may give approval with such modifications after recording reasons.

6. It is also relevant to notice here that for determination of the market value, the matter was referred to the Department of Civil Engineering of Poojya Doddappa Appa College of Engineering, Gulbarga. The said Institution has sent its report dated 5.8.2011 and has assessed the value of the shops/vacant sites/ go-downs in a particular manner. As noticed above, the Committee has resolved to reduce the value at least by 50% under Annexure ''D1'' on the basis of the report. I am of the view that the Director, Agricultural Marketing, the second

respondent herein has to consider the representation at Annexure ''Q'' dated 6.3.2012 in accordance with law and pass appropriate orders thereon keeping in mind the resolution of the APMC at Annexure ''D1'' and also the report at Annexure ''G'' dated 5.8.2011 and fix the market value within a period of three months from the date of receipt of a copy of this order. Writ petitions are accordingly disposed of. Sri G.G. Chaga Shetty learned Counsel is permitted to file vakalath on behalf of respondent Nos. 4 and 5 within a period of eight weeks from today. No costs.

