
(2013) 11 KAR CK 0049
In the Karnataka High Court
Case No : Writ Petition No. 83927 of 2013

Siddarai	Vs	APPELLANT
The Belgaum Urban Development Authority and Another		RESPONDENT

Date of Decision : 05-11-2013

Acts Referred:

Citation : (2014) 1 AKR 259

Hon'ble Judges : L. Narayana Swamy, J

Bench : Single Bench

Advocate : B.S. Kamate, for the Appellant; M.A. Hulyal and K.S. Patil, for the Respondent

Judgement

L. Narayana Swamy, J.—Petitioner submits that Site No. 23 measuring 40" x 60" was granted to him in the year 1984 by BUDA and thereafter he has put up construction and residing there. Thereafter he made a representation to the respondent to issue sale-deed in his favour. In response to his request, Annexure "L" was issued informing the petitioner that the allotment of site in the year 1984 has been cancelled by its order dated 21/07/2006. Learned counsel for the petitioner submits that though it is stated by the respondent that notice dated 25/11/2005 as per Annexure "M" was issued to him, the same has not been served on the petitioner. Petitioner had no knowledge of cancellation. Under this circumstance, cancellation order dated 10/07/2008 as per Annexure "N" and consequently the order at Annexure "K" deed of cancellation, are in violation of principles of natural justice inasmuch as no opportunity was given to the petitioner before cancellation and right accrued to him from 1984 has been set aside without following the principles of natural justice.

2. Learned counsel for the respondent submits that the petition has to be dismissed since the impugned order has not been challenged within the reasonable time. He submits that though Annexure "M" was served on petitioner, he remained silent for 7 years.

3. Heard the learned counsel for the parties.

4. The impugned order dated 10/07/2006 does not specifically say as to whether petitioner was given an opportunity. When a right is accrued, before cancellation of the same, law demands that an affected person should be given an opportunity. The proceedings of the respondent is silent as to whether the principles of natural justice has been complied with. Under the circumstance, cancellation order dated 10/07/2006 is hereby set aside and consequently, deed of cancellation is also set aside and the respondent is directed to afford an opportunity to the petitioner before cancellation of grant made in the year 1984.

Reserving liberty to the petitioner as stated above, impugned orders Annexures "N" and "P" are set aside. Writ petition stands disposed of.