
(1999) 11 KAR CK 0069
In the Karnataka High Court
Case No : Writ Petition No. 38660 of 1998

Smt. Honnamma

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 30-11-1999

Acts Referred:

Citation : AIR 2000 Kar 245 : (2000) 2 KCCR 1240

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : Hanumanthaiah, for the Appellant; T.M. Venkata Reddy, A.G.A. (for Nos. 1 to 6) and Rajana Shetty, (for No. 7), for the Respondent

Final Decision : Partly Allowed

Judgement

V. Gopala Gowda, J.—There is litigation between the petitioner and the 7th respondent in respect of land bearing Sy. No. 42 of Nettigere Village; in Uttarahalli Hobli. In the suit filed by the petitioner in O.S. No. 71/95 an order of temporary injunction was granted against the 7th respondent on 6-7-1996. M.A. No. 55/96 filed against the said order had been dismissed on 16-12-1996. In W.P. No. 20361/ 96 challenging change of mutation entries, this Court while granting stay, ordered to maintain status quo. The suit filed by the petitioner in O.S. No. 71/95 came to be dismissed on 17-9-1997 since both the parties were absent. In Misc. No. 39/97 filed seeking restoration of the suit, the order dated 17-9-1997 had been stayed and the same is pending. The 7th respondent also filed suit in O.S. No. 536/96 for declaration of title in respect of the aforementioned land and the same is also pending.

2. When the civil litigation between the petitioner and 7th respondent are pending adjudication, by the impugned order at Annexure F dated 27-11-1998 the 5th respondent Deputy Tahsildar directed the 6th respondent Sub-Inspector of Police to give police protection to the 7th respondent. On the basis of that, the 6th respondent issued the impugned notice at Annexure G dated 2-12-1998 calling upon the petitioner to settle the matter in the concerned Court and also

directing her not to go near the land in question. Being aggrieved by the same, the petitioner has filed this writ petition praying to quash both the impugned order and the notice at Annexures F and G respectively,

3. When the matter is sub-judice, either the 5th or 6th respondents have no power or authority to favour a particular person. The 5th respondent could not have directed the 6th respondent to give police protection to 7th respondent. The direction issued to the 6th respondent by the 5th respondent is wholly unwarranted.

4. Based upon the direction issued by the 5th respondent, the 6th respondent ought not to have directed the petitioner not to go near the land in question. Virtually it amounts to restraining the petitioner from entering upon the land by way of injunction, which power is not vested with the Sub-Inspector of Police. The 6th respondent could have ignored the direction issued by the 5th respondent. The 6th respondent has virtually usurped the powers of the Civil Court for preventing the petitioner from entering upon the land when the matter is ceased in the Civil Court. Such a conduct on the part of the 6th respondent is highly depreciable.

5. The learned Addl. Govt. Advocate was directed to keep the 6th respondent present in Court at 2.30 p.m. to explain under what authority he has passed the impugned order at Annexure 6. It is stated that though message had been left, the officer is not available. Be that as it may.

6. Since the impugned order at Annexure F and the notice at Annexure G are without the authority of law, the same are liable to be quashed. However, since the parties are already before the Civil Court, it is open to them to file necessary application for grant of appropriate interim relief. At the same time, it should be observed that the observations made in this order shall be taken note of by the Revenue Officers and Police Officers and restrain themselves from committing any such acts in future.

7. Accordingly, the writ petition is partly allowed quashing the impugned order at Annexure F and the notice at Annexure G subject to the aforesaid observations.

8. Let a copy of this order be sent to the Chief Secretary, Government of Karnataka, for circulating the observations to the concerned to avoid recurrence of such misuse of power.