

(2012) 01 KAR CK 0163
In the Karnataka High Court
Case No : CCC Civil No"s. 2130-2131 of 2011

Smt. Jayamma and Sri. A Muniyellappa	APPELLANT
Vs	
S A Ramprakash	RESPONDENT

Date of Decision : 04-01-2012

Acts Referred:

Citation : (2012) 01 KAR CK 0163

Hon'ble Judges : H S Kempanna, J;D.V. Shylendra Kumar, J

Bench : Division Bench

Advocate : S Y Shivalli, for the Appellant;

Final Decision : Dismissed

Judgement

D.V. Shylendra Kumar, J.—Writ jurisdiction is not one to confer rights but only to examine if any existing rights of petitioners have been affected in any manner by any public authority or statutory authority to the detriment of the persons seeking relief invoking writ jurisdiction.

2. Writ jurisdiction is also not meant for making good title to immovable properties which are in dispute and the proper forum if any person asserts right or title in any immovable property is the civil court.

3. Complainants claim that they had purchased in public auction, some sites said to have been auctioned by Hoskote Town Municipal Council way back in the year 1982. However, it appears that the so called auction sale is not followed up and it is not even clear as to whether the Municipality had executed any sale deeds and at any rate the municipal records did not depict this transfer of ownership of the property said to have been auctioned by the Municipality and purchased by the complainants.

4. It further transpires that the complainants were making efforts to put up some construction and it is the version of the complainants that for such purpose, they had given notice to the Municipality not only for change of khata to their name,

but also to approve the plan for construction as proposed by the complainants.

5. Feeling aggrieved that it had not elicited commensurate orders/response, the complainants had approached this court by filing writ petition in WP No. 14940 of 2008. The writ petition came to be ordered in the absence of any resistance or contest as per order dated 13.11.2009.

6. This was not the first round of writ litigation, but it appears the complainants had also approached this court earlier by filing writ petition No.3288 of 2007 which however had been disposed of with a direction to consider the application of the petitioners therein within three months. The Chief Officer of the Town Municipal Council, Hoskote, however by endorsement dated 31.3.2008 rejected the request of the complainants for the reason that no commensurate documents were forthcoming and khata was also not in the name of the petitioners - applicants and the subject land was in possession of the Government as per order of the Deputy Commissioner dated 29.9.1992 and in this view the request was rejected.

7. This endorsement came to be challenged by subsequent writ petition No. 14940 of 2008 wherein the following order was passed by the learned single Judge of this court.

I] The writ petition is hereby allowed.

II] The impugned order dated 31.03.2008 as per Annexure - V is hereby quashed.

III] The 1st respondent is directed to consider the petitioner's application for grant of license and sanction plan in regard to their sites bearing Nos.2107 & 36 in accordance with law and in terms of Judgement in WP No.27568/1991, within a time frame of six weeks from the date of receipt of copy of this order.

Ordered accordingly.

8. It is thereafter the present contempt petition is presented before this court on 8.11.2011 almost after a gap of two years.

9. Submission of Sri. Shivalli, learned counsel for the complainants is that notwithstanding quashing of the endorsement and direction to the respondents to consider the application of the complainants for grant of licence and sanction and even thereafter the Municipality itself having called upon the complainants to furnish necessary information/documents as per their intimation dated 21.1.2011 [copy at Annexure-P] and according to the complainants even this requirement also having been fulfilled and notwithstanding the response of the complainants as per communication dated 10.2.2011, there is still inaction on the part of the accused and therefore the present contempt petition.

10. Further submission of Sri. Shivalli, learned counsel for the complainants is that inaction is writ large on the part of the accused and therefore it is proper to exercise contempt jurisdiction to punish the accused.

11. We find the whole thing is rather hazy and uncertain, as what rights the complainants had acquired in respect of two sites said to have been auctioned by the Municipality way back in the year 1982 is not known and more so when it is disputed and the property in question is not available according to the Municipality, the question of sanctioning the plan in favour of the complainants in respect of property not in their possession/occupation/ownership does not arise.

12. We do not find any disregard or disobedience of the court directions/order and on the other hand, we clearly discern an attempt on the part of the complainants to get their rights certified in writ jurisdiction which is not the purpose of writ jurisdiction. At any rate, we are not enthused to exercise our contempt jurisdiction in a matter of this nature and therefore the application for condonation of delay as well as the contempt petitions are all dismissed.