
(1984) 02 KAR CK 0014
In the Karnataka High Court
Case No : Writ Petition No. 1538 of 1978

Sowcar

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 03-02-1984

Acts Referred:

Urban Land (Ceiling and Regulation) Act, 1976 — Section 20 (1) (b)

Citation : (1986) ILR (Kar) 3263

Hon'ble Judges : Doddakale Gowda, J

Bench : Single Bench

Advocate : R.U. Goulay, for the Appellant; B.J. Somayaji, HCGP for R-1, for the Respondent

Final Decision : Allowed

Judgement

Doddakale Gowda, J.—The order dated 29-12-1977 made u/s 20(1)(b) of the Urban Land (Ceiling and Regulation) Act, 1976 declining to exempt the land in question from the provisions of the Act is challenged in this Writ Petition.

2. The contention of Sri. R.U. Goulay, learned Counsel for the petitioners, is that having regard to the scheme and the object with which the Section is introduced, the State Government was bound to assign reasons for negating the claim after hearing the petitioners. In support of his contention, reliance is placed on a decision in Nandakishore Vs. State of M.P., . The Division Bench, after referring to the scheme and the object sought to be achieved by this Section states thus :-

"Where under the provisions of an Act an authority is empowered to grant exemption and a person has a right to claim it on fulfilment of statutory conditions, the authority is bound to hear him and pass a speaking order giving reasons in support of its finding that he is not entitled to the exemption."

The satisfaction envisaged has to be objective and cannot be subjective satisfaction.

"Having regard to the object which the provisions placed in Section 20(1)(b) have to achieve and also having regard to the serious consequences which will ensue in case the claim for exemption is rejected without hearing the claimant, it has to be held that the claimant has to be heard before refusal of his claim for exemption, so that he may show that there will be undue hardship to him, in case exemption is not granted. Section 20(1)(b) does not negate natural justice and in absence of express exclusion of the rule of audi alteram partem, it is fair, indeed fundamental, that the person claiming exemption should not be prejudiced by action without opportunity to show the contrary."

This principle is derived from the area of operation of principles of natural justice, that apply while adjudicating the rights of a citizen, I fully concur with the said principles.

3. in the instant case, the impugned order has been made by the Government without providing an opportunity to the petitioner. Moreover, no reasons are assigned for rejecting the claim for exemption. Hence, the impugned order marked as Annexure-B cannot be sustained in law and is liable to be quashed.

4. For the reasons stated above, this Writ Petition is allowed. Rule made absolute. The impugned order (Annexure-B) is hereby quashed reserving liberty to the Government to consider the same in accordance with the principles referred to above.