

(2010) 03 KAR CK 0117

In the Karnataka High Court

Case No : Writ Petition No. 12669 of 2007 and Miscellaneous W. 1772 of 2009 in
Writ Petition No. 12669 of 2007

Sri. A.C. Anantha Swamy

APPELLANT

Vs

The Commissioner, Bruhat Bangalore Mahanagara Palike, The
Assistant Executive Engineer, Chandra Layout Sub-Division,
Bruhat Bangalore Mahanagara Palike and The Junior
Engineer, Bruhat Bangalore Mahanagara Palike

RESPONDENT

Date of Decision : 15-03-2010

Acts Referred:

Citation : (2010) 03 KAR CK 0117

Hon'ble Judges : Ram Mohan Reddy, J

Bench : Single Bench

Advocate : R.V. Srinivasa Reddy Associates, for the Appellant; Ashok Haranahalli Associates, for the Respondent

Judgement

Ram Mohan Reddy, J.—The petitioner claiming to be the absolute owner of land measuring 24 acres 37 guntas in Sy. No. 47 of Pantharapalya on being conferred occupancy rights pursuant to the order dated 17-10-1964 of the Special Deputy Commissioner for Inams, Bangalore under the Karnataka (Personnel and Miscellaneous) Inams Abolition Act, 1954, the Pattanagere Grama Panchayath, South Taluk, aggrieved by the said order preferred appeal No. 1806/1971. whence the Mysore Revenue Appellate Tribunal, by order dated 17-07-1971, set-aside the order of the Special Deputy Commissioner for Inams, against which the petitioner preferred W.P. No. 1814/1971 which when allowed by order dated 26-02-1974 the proceeding was remitted to the Revenue Appellate Tribunal for consideration afresh. It is stated that in the family settlement the land in question having fallen-to the petitioner's share, is in peaceful possession and enjoyment. The Revenue Appellate Tribunal, by order dated 21-04-1977, set-aside the order of the Special Deputy Commissioner for Inams which when called in question in W.P. No. 5202/1977 this Court, by order dated 8-1-1980, allowed the writ petition and remitted the proceeding to the Special Deputy

Commissioner for Inams, for consideration afresh. The petitioner claims to have constructed a farmhouse, cattle shed and quarters for the labourers apart from borewell investing huge sums of money and is carrying on agricultural operations in the said land. The Tahsildar, Bangalore South Taluk, issued a notice of eviction which when called in question in W.P. No. 28730/1993 was quashed by order dated 13.01.1999. It is alleged that the Government of Karnataka initiated acquisition proceedings under the Land Acquisition Act and delivered possession of the land to the Karnataka industrial Area Development Board who in turn executed a Deed of lease dated 4.7.2002 of the land in question in favour of M/s. Nandi Infrastructure Corridor Enterprises (NICE).

2. Aggrieved by the said action of the State, the petitioner filed W.P. No. 33962/2001 whence this Court, by order dated 24.02.2006, allowed the petition and quashed the Government order dated 7.10.1999 according approval to lease the said land in favour of KIADB. It is the assertion of the petitioner that the Government could not take possession of the land and that Writ Appeal filed by NICE is pending consideration before the Division Bench.

3. O.S. No. 6029/2002 before the XXVII Addl. City Civil Judge, Bangalore, for relief of permanent injunction when instituted, with an application for temporary injunction was allowed by order dated 11.11.2002. That order when carried in M.F.A. No. 1619/2003 by the respondent - BBMP was dismissed by order dated 23.01.2004. It appears that the petitioner, aggrieved by the respondents efforts to lay a road on the land in question, filed W.P. No. 39337/2002, which, according to the learned Counsel for the respondent, was dismissed on 9-3-2009.

4. In these circumstances, the 1st respondent issued a notice dated 4-8-2007 Annexure "G" calling upon the petitioner to desist from interfering with the possession of the land and changing the nature of the land by use of JCB machinery. Hence this writ petition.

5. The petitioner's application for grant of occupancy rights is pending before the Special Deputy Commissioner, coupled with the pendency of the writ appeal relating to the effort to form a road on the land in question and the fact that, a Regular First Appeal calling in question the judgment and decree of the Civil Court dismissing O.S. No. 8029/2002 is also pending before this Court, hence without dwelling into the merit or demerit of the claim of the petitioner, over possession of the land in question., and leaving it open for the petitioner to secure orders thereon in the Regular First Appeal. It cannot be said that the BBMP was not-justified in directing the petitioner not to change the nature of the land in question by the notice impugned.

6. Reserving liberty to the petitioner to make necessary application in the Regular First Appeal for appropriate orders of temporary injunction and other reliefs as may be available to the petitioner over the claim of possession of the land in question> the Writ petition is accordingly, rejected.

In view of the rejection of the writ petition. Misc.W. 1772/2009 stands dismissed

as unnecessary.