
(2011) 09 KAR CK 0014

In the Karnataka High Court

Case No : Writ Petition No's. 33745-33752 of 2011

Sri A.P. Mohan Kumar and Others

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 22-09-2011

Acts Referred:

Citation : (2011) 09 KAR CK 0014

Hon'ble Judges : Mohan Shantanagoudar, J

Bench : Single Bench

Advocate : Ramesh Chandra, for the Appellant; M. Keshava Reddy, AGA for R1 and 3 and Puttige R. Ramesh, for F2, for the Respondent

Judgement

Mohan Shantanagoudar, J.—Petitioners are the owners of the schedule properties situated at Arakalagudu Town Hassan District. The schedule annexed to the writ petitions describes the properties in question to a major extent. The schedule properties shall be treated as part of this order.

2. According to the Petitioners, buildings are constructed by them more than 60 years back and such buildings are being used by them both for commercial and residential purpose. The apprehension of the Petitioners is that, the Respondent No. 2 will demolish the buildings of the Petitioners and take possession of certain portion of the properties belonging to the Petitioners illegally and without notice to them Sri Ramachandra, learned Advocate on behalf of the Petitioners submits that it is open for the Respondents to take possession of the properties after acquiring the properties.

3. Sri. Puttige R. Ramesh, learned Advocate for Respondent No. 2 submits that the Petitioners have not left sufficient set-back area at the time of construction of the buildings and that therefore the Petitioners have violated the building bylaws and rules. However, said submission is disputed by learned Advocate for the Petitioners by contending that the buildings are constructed about 60 years back.

4. If the Petitioners have encroached upon the public property, it is open for the

Respondents to take possession of such encroached portion either for widening of the road or for any other public purpose in accordance with law. If the Petitioners have not encroached upon the public property, it is open for the Respondents to acquire the properties of the Petitioners in accordance with law and thereafter take possession of the properties. However, it is also open for the Respondents to initiate action against the Petitioners in accordance with law, in case, if the Petitioners have violated the building bylaws regarding setbacks, It is needless to observe that while determining the setback areas, the then relevant building bylaws which were existing at the time construction of the buildings shall be taken into consideration.

5. With these observations, writ petitions are disposed of.