

(2012) 09 KAR CK 0282

In the Karnataka High Court

Case No : Writ Petition No"s. 19831-19845 of 2011 (LA-UDA)

Sri. Guru Shanthappa and Others

APPELLANT

Vs

The State of Karnataka, The Mysore Urban Development
Authority (MUDA) and The Special Land Acquisition Officer,
Mysore Development Authority

RESPONDENT

Date of Decision : 28-09-2012

Acts Referred:

Karnataka Urban Development Authorities Act, 1987 — Section 17, 18 (3), 19

Citation : (2012) 09 KAR CK 0282

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : K. Raghupathy, Absent, for the Appellant; T.P. Vivekananda,
Advocate for Shri. P.S. Manjunath, Advocate for Respondent Nos. 2 and 3 and
Shri. H.T. Narendra Prasad, Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

Anand Byrareddy

1. The counsel for the petitioners remains absent. Though the matter was passed over, the counsel does not make an appearance. The learned counsel for the respondents was heard at length. It is pointed out that the petitioners have sought to question the preliminary notification dated 23.12.1991 and a final notification dated 10.12.1992 issued in respect of the lands bearing Sy. Nos. 108 and 109 measuring about 8 acres 28 guntas of Basavanahalli Village, Kasaba Hobli, Mysore Taluk and District, under Sections 17 and 19 of the Karnataka Urban Development Authorities Act, 1987 (hereinafter referred to as "the Act" for brevity).

It is the case of the petitioners that they are the absolute owners of the said lands and the lands are the ancestral properties of the petitioners in which they have grown Bananas, Jackfruit, and other trees and crops, apart from having constructed residential houses therein. It was their only source of livelihood. It

was their allegation that the respondents proposed to acquire the land in question as well as the other lands of Basavanahalli for formation of residential layout known as Vijayanagar IV Stage Layout under a scheme formulated by it. That the notifications were challenged by some of the land owners in writ petitions before this Court in W.P. No. 39705/1992 and connected cases, which were allowed by an order dated 24.08.1998 holding that the final notification issued is without sanction as provided u/s 18(3) of the Act and therefore, the final notification was quashed and the petitioners have thus continued in possession of their lands aforesaid, without any disturbance. The RTC continues to be reflected in their names and it is on the basis of the same situation that the petition is filed seeking to question the action on the part of the respondents in proceeding to form the layout over the years. The primary contention is that the layout ought to have been formed within a period of five years from the date of the final notification and since the final notification in this case was of the year 1992, and even as on the date of the petition, since the scheme had not been substantially implemented, the scheme would lapse and therefore, the petition be allowed on that ground.

2. The learned counsel for the respondents who has entered appearance and filed Statement of objections, has also produced a copy of the order passed in Annexure-R2 that notwithstanding the earlier disposal of several writ petitions referred to by the petitioners, and which pertained only to the lands covered under those writ petitions, a subsequent challenge was made in W.P. No. 16054/2004 in respect of the very same notifications and that petition was disposed of on 11.1.2005 while noting the extent of development of the layout that was formed after acquiring the lands by the respondents and the details of such development has been recorded in Paragraph 7 of the said order which clearly indicates that there was substantial development even as early as 2005 and as on date, the entire layout has been formed and sites have been allotted and particulars are sought to be furnished in the Statement of objections.

In that light of the matter, the petitions would not survive for consideration. In any event, since the counsel for the petitioners remains absent, the petitions are dismissed for non-prosecution.