
(2013) 09 KAR CK 0377

In the Karnataka High Court

Case No : Writ Petition No. 6626 of 2013 (GM-RES-PIL)

Sri Hoysala R.

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 27-09-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 143, 147, 148, 323, 324

Citation : (2013) 09 KAR CK 0377

Hon'ble Judges : D.H. Waghela, C.J.;B.V. Nagarathna, J

Bench : Division Bench

Advocate : S.K. Manjunath, for the Appellant; R. Devdas, A.G.A. for R1 to R5, Smt. Geethadevi M.P. Advocate for R6, Sri. S. Srinivasamurthy, for R8 and R9, for the Respondent

Final Decision : Dismissed

Judgement

D.H. Waghela, C.J.—Petitioner, filing the present petition in the nature of public interest litigation, is himself an Advocate practicing in Mysore. The petition opens with the statement that the petitioner is a practicing Advocate at Mysore, a responsible citizen and an enthusiastic social worker fighting for the good social causes. There is nothing on record to substantiate that claim. The prayer in the petition is to quash the order dated 9.1.2013 of the Department of Primary and Higher Education of the State Government, to hand over, free of cost, the New time Middle School Building and its premises to respondent Nos. 8 and 9, in all measuring, 36,591.66 square feet, situated at Narayana Shastri Road, Mysore. Learned counsel appearing for the petitioner submitted that the premises in question is a prime property where a Middle School educating children of poor parents was being run and it is now being closed down on account of the impugned order.

2. Notice having been issued to the respondents, detailed Statement of objections is filed on behalf of respondent Nos. 8 and 9, inter alia, stating that there are also coaching classes conducted in the school in question and the

institution conducting the coaching classes have a vested interest in retaining their facilities. The petitioner is stated to have been involved in a serious criminal case and after filing of the charge sheet for the offences punishable under sections 143, 147, 148, 323, 324, 427 and 506 read with section 34 of IPC, it has been withdrawn after a compromise. It is further stated that the petitioner has not taken up any public cause earlier or filed any public interest litigation and the present petition appears to have been filed at the instance of some vested interests.

3. It is also pointed out that the petition has been pressed for hearing even after being apprised of the fact that an earlier public interest litigation in respect of transfer of the same property has been dismissed as withdrawn by order dated 22.7.2013 in W.P. No. 16376/2013.

4. It was, however, elaborately argued for the petitioner that the petitioner has come with clean hands and approached the court only with a view to ensuring proper education of the children who had been studying at the Middle School which is handed over by the Government to a private entity, free of cost. It was, on the other hand, clearly conceded by learned counsel for the petitioner that no illegality or violation of any provision of law could be attributed or argued against the decision of the Government and the impugned order.

5. The case of respondent Nos. 8 and 9, as stated in the Statement of Objections, is that it was well within the power of the State Government to allot land or buildings for projects considered to be in public interest and for advancing public good. There is no allegation of any extraneous consideration in the facts of the present case. The respondents concerned are the office bearers of Sri Ramakrishna Math and Mission and the premises in question is the place where Swami Vivekananda, one of the greatest saints of recent times had stayed in 1892 during his travel throughout India as a Parivrajaka. At a Meeting of the National Committee on Commemoration of 150th Birth Anniversary of Swami Vivekananda, it was decided to set up a Memorial Centre for Swami Vivekananda to help spread his universal message of great relevance to humankind and particularly, the youth of India. A Committee comprising of eminent persons including the Prime Minister of India had thought it appropriate to chalk out various programmes and set up various projects pursuant to the 150th Birth Anniversary of Swami Vivekananda and as a part of that project, the premises in question was decided to be handed over to respondent Nos. 8 and 9 for the purpose of its development and use with the objective of commemorating and spreading the message of Swami Vivekananda.

6. It is also stated and has come on record that the students of the erstwhile school are being absorbed in the nearby school and they are unlikely to suffer any adverse consequence as far as their education is concerned. However, if any, children or students are deprived of education because of any decision of the Government, it is a different cause of action and it is not the subject matter of this writ petition.

7. Therefore, it appears to be a case of conflict of interest between one Institution running classes for the poor students and another Institution accredited with widespread public service and associated with the historic importance of the premises in question. There being no illegality or malafide attributable to the impugned order and the decision of the Government, the petition is liable to be dismissed and repeated attempts of dragging the respondents to the court without any cause of action and without any party who is actually aggrieved coming forward to take responsibility of proving or establishing any fact, has to be deprecated. Accordingly, the petition is dismissed with cost quantified at Rs. 5,000/- which the petitioner shall pay to respondent No. 8 within a period of four weeks.