

(2013) 11 KAR CK 0065

In the Karnataka High Court

Case No : Writ Petition No's. 5063 of 2009 and 9282 - 9287 of 2009 (LA-KIADB)

Sri. J. Nanda Kishore

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 25-11-2013

Acts Referred:

Karnataka Industrial Area Development Act, 1966 — Section 1(3), 28(1), 3(1)

Citation : (2013) 11 KAR CK 0065

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : Srivatsa, for Shri. B.V. Malla Reddy, for the Appellant; H.T. Narendra Prasad, Additional Government Advocate for Respondent No. 1, Shri. T.M. Venkata Reddy, Advocate for Respondent Nos. 2 and 3 and Shri. S. Vijayashankar for Shri. H. Srinivasa Rao, Advocate for Respondent Nos. 4 and 5, for the Respondent

Final Decision : Disposed Off

Judgement

Anand Byrareddy, J.—The facts as stated are as follows:- The petitioner is said to be the son of one A.N. Janardhana Reddy. The said Reddy was said to be the owner of lands bearing survey Nos. 34, 38, 39, 40, 41 and 42 of Agara village, Begur Hobli, Bangalore South Taluk and also land bearing Sy. No. 7 of Jakkasandra Village, Begur Hobli, Bangalore South Taluk. He had acquired the same at a partition in his family, which had been reduced to writing in the year 1969. There were appropriate revenue entries evidencing his ownership.

Janardhana Reddy is said to have had two wives, Jayamma and Sudamma, the petitioner is said to be the son of Sudamma. The petitioner's father is said to have died intestate, in the year 1990. Jayamma and Sudamma are said to have entered into an agreement of sale, to sell the above lands, except one item, with respondent No. 4, in the year 1992, (14-6-1992) when the petitioner was a minor.

It transpires that a preliminary notification under the provisions of Section 17(1)

and (3) of the Bangalore Development Authority Act, 1976 (Hereinafter referred to as the "BDA Act" for brevity) proposing to acquire the aforesaid lands came to be issued on 3.9.1992. This was followed by a final notification u/s 19(1) of the BDA Act, vide notification dated 29.5.1996.

As on 19.12.1992, notwithstanding the above notification, two sale deeds are said to have been executed conveying the above lands in favour of Respondent No. 4.

Respondent No. 4 had sought that the BDA may consider its claim to utilize the land in question under a Group Housing Scheme, in the year 1997 by way of a writ petition before this court, in WP 17836/1997. The same was allowed by an Order dated 11.9.1999, with a direction to the BDA to consider the claim of the petitioner therein. On 21.7.1999, the BDA appears to have passed a resolution to delete the lands in question from the acquisition proceedings.

It then transpires that the State Government had issued a notification u/s 1(3), 3(1) as well as Section 28(1) of the Karnataka Industrial Area Development Act, 1966 (Hereinafter referred to as the "KIAD Act", for brevity) dated 15.1.2001. The same is said to have been challenged by Respondent No. 4 before this court by way of a writ petition in W.P. 31937-945/2001. There was an order directing the parties to maintain status quo.

It is stated that the State Government withdrew the notifications issued under the KIAD Act as on 2.5.2002. This again is said to have been challenged by respondent No. 4 by way of a petition before this court in WP 26782/2002

On 10.2.2004, the State Government is said to have issued a notification withdrawing from the acquisition proceedings initiated under the BDA Act and directed the KIADB to proceed with the acquisition as proposed. Respondent No. 4 is said to have filed a memorandum dated 8.3.2004, withdrawing the writ petition in WP 26782/2002.

The State Government is said to have issued a notification u/s 28(4) of the KIAD Act as on 23.4.2004. The same was subject matter of challenge, by certain land owners in a writ petition before this court in WP 18918/2004 and connected petitions. The writ petitions were said to have been allowed by an Order dated 12.7.2005, the notification dated 23.4.2004 was quashed. The State was held to be at liberty to initiate fresh acquisition proceedings. This was challenged in appeal by M/s. Manipal Eta Infotech in W.A. Nos. 11702 of 2006 and 3774 of 2005. It transpires that on 9.2.2007, the division bench had, by consent of parties, recorded that the Order dated 12.7.2005 passed in W.P. No. 18918 of 2004 and connected petitions would be restricted to the respective petitioners therein.

The petitioner on attaining majority is said to have challenged the alienation of the lands in question by his mother and step mother, in the year 1992, by way of a civil suit in O.S. No. 5585 of 2007 before the City Civil Court, Bangalore, which

is said to be pending. The petitioner was not a party to any of the above proceedings and it is only in the year 2007 that he has surfaced.

The petitioner being under the impression that by virtue of the Order in W.P. No. 18918 of 2004, the acquisition proceedings had been quashed, had sought clarification from the second respondent whether the land in Survey No. 34 of Agara village, which was not the subject matter of sale by his mother, was free from acquisition proceedings. The second respondent having replied, that by virtue of the judgment rendered by consent of parties in the writ appeal in W.A. Nos. 1170 of 2006 and 3774 of 2005, the land having been deemed to be acquired, the present writ petition is filed.

2. After having heard the learned Senior Advocate Shri S. Srivatsa appearing for the learned counsel for the petitioner and the learned Senior Advocate Shri S. Vijayashankar, appearing for the learned counsel for respondents Nos. 4 and 5, as well the learned Government Advocate and other counsel appearing for the respondents, it is evident from the above sequence of events that the respective legal position of the parties stands determined by virtue of the judgment in the writ appeal in W.A. No. 1170 of 2006. The scope and effect of that judgment cannot be subjected to interpretation by this bench. For that matter no judgment can be subjected to interpretation. Any judgment is, expectedly, self explanatory and speaks for itself. The present writ petition would in effect require this bench to examine the intent and effect of the above judgment which has attained finality.

As such an exercise is impermissible, the writ petition is disposed of without prejudice to any remedy that the petitioner may have against the above judgment of the division bench.