

**(2012) 06 KAR CK 0011**

**In the Karnataka High Court**

**Case No :** Writ Petition No. 823 of 2012 and 2975 of 2012

Sri. L. Muniswamy

APPELLANT

Vs

The State of Karnataka

RESPONDENT

---

**Date of Decision :** 01-06-2012

**Acts Referred:**

Karnataka Land Revenue Act, 1964 — Section 136 (3)

**Citation :** (2012) 06 KAR CK 0011

**Hon'ble Judges :** Aravind Kumar, J

**Bench :** Single Bench

**Advocate :** P.M. Narayanaswamy, for the Appellant; M. C. Akkamahadevi, AGA, for the Respondent

---

## **Judgement**

Aravind Kumar

1. Petitioners have called in question orders passed by the Special Deputy Commissioner, Bangalore District, Bangalore, in RRT/2/NA/CR/127/08-09 dated 16.11.2001 and RRT/2/NA/CR/ 116/08-09, Annexure-F & Annexure-G respectively. Sri. P.M. Narayanaswamy, learned counsel for petitioner contends that petitioner purchased the lands in Survey No3.119/1 and 119/711 situated at Mahadeva Kodigehalli Village, Jala Hobli, Bangalore North Taluk, under two separate sale deeds dated 16.03.2004 to an extent of 2 acres each from Sriyuths. Arunkumar Kanoria, Nandita Kanoria, Ananya Kanoria and Kum.Varuni Kanoria for valuable consideration and pursuant to same petitioner has been in possession and enjoyment of same. It is the contention of learned counsel for petitioner that suomotu proceedings came to be initiated by second respondent u/s 1.36(3) of the Karnataka Land Revenue Act, 1964 based on a report of the Jurisdictional Tahsildar i.e.; third respondent and doubting the correctness or otherwise of the entries standing in the name of the respondents therein viz., vendors of the petitioner. It is contended that petitioner was not made party to said proceedings and without issuing notice to petitioner impugned orders have been passed against the vendors of the petitioner, who admittedly did not have

any subsisting right, title and interest over the properties in question since the same had already been conveyed to the petitioners and as such, order impugned is violative of principles of natural justice and same is liable to be quashed.

2. It is also the contention of the learned Counsel appearing for petitioner that on account of lands in question having been converted for non agricultural residential purposes, revenue entries were not carried out by the authorities in the revenue records to the name of petitioner and as such name of the petitioner did not find place in the revenue records and contends that 2nd respondent Deputy Commissioner committed a serious error in passing the impugned orders against persons who did not have any subsisting right, title, interest over the properties and without verifying the registered documents impugned orders have been passed. He would also contend that impugned orders are liable to be set aside since documents produced along with the Writ Petitions would clearly go to show that petitioner alone is having right, title, interest and he is in possession over the lands in question and alternatively he prays that matter be remanded back to Special Deputy Commissioner - 2nd respondent herein for consideration afresh in the light of the material produced by petitioner before this court establishing the right of petitioner over the lands in question.

3. Smt. M.C. Akkamahadevi, learned Additional Government Advocate appearing for the State though would support the impugned orders does not dispute the fact that order is passed against persons who did not have any subsisting right, title and interest over the lands in question, since they had already sold the properties in question to the petitioners herein as evidenced from the documents produced along with Writ Petitions.

4. On perusal of the impugned order, it would clearly go to show that second respondent initiated suomoto proceedings under sub-section (3) of section 136 of the Karnataka Land Revenue Act, 1964, based on a report of -Jurisdictional Tahsildar on the premise that lands in question are Government lands and entries made in the revenue records are without any basis. Admittedly, as on the date second respondent initiated suo motu proceedings, revenue entries stood in the name of the vendors of the petitioner namely Sri. Arunkumar Kanoria and Smt. Nandita Kanoria as seen from the impugned order. The copy of absolute sale deed dated 16.3.2004 produced at Annexure-A in both Writ Petitions would clearly go to show that petitioner's vendors had sold or conveyed the properties in question in favour of petitioner for valuable consideration and he had been put in possession of these lands. A perusal of the recitals in the sale deeds would also go to show that lands in question had been converted to non agricultural residential purposes by the Assistant Commissioner, Bangalore District, Bangalore vide order No. ALN.SR.(ANA)22/95-96 dated 27.11.1995. Thus, right, title and interest over the properties in question had vested with the petitioner as on 16.03.2004 and the lands in question had lost the characteristics of being agricultural lands. Thus, it was incumbent upon 2nd respondent to ascertain as to whether any transactions had taken place in respect of these lands and if so

who is the present owner of the property so that notice could have been issued and ensured that there was no violation of natural justice. However, without carrying out such a exercise he has proceeded to issue notice to vendors of petitioner who had already lost their right, title and interest over the property in question by virtue of same having been sold by them to the present petitioner. Further, 2nd respondent has also not verified as to whether any orders have been passed by the revenue officers in respect of these lands. Had he undertaken such a exercise it would have come to light about Assistant Commissioner having passed order converting these lands to non-agricultural residential purposes. In that view of the matter also petitioner would be the aggrieved person and in the absence of any notice being issued to the petitioner before proceeding to delete previous revenue entries standing in the names of petitioner's vendors and without issuing notice to the petitioner, orders impugned in these Writ Petitions cannot be sustained. Said orders would also reflect that even the vendors of the petitioner have not appeared and contested the matter before the second respondent. Hence, on the ground of violation of principles of natural justice orders impugned in these Writ Petitions cannot be sustained. In the result, I pass the following:

#### ORDER

- i. Writ Petitions are hereby allowed.
- ii. Orders dated 16.11.2009 passed in RRT(2)NA/CR/127/2008-09 and RRT(2)NA/CR/ 116/2008-09 at Annexures-F and G are hereby quashed.
- iii. Matter is remanded back to the second respondent - Special Deputy Commissioner to redo the matter afresh.
- iv. It is also made clear that petitioner herein is deemed to have been arrayed as respondent in the above said proceedings initiated by 2nd respondent and there shall be no separate order passed in this regard.
- v. In view of the fact that petitioner is now aware of the proceedings before 2nd respondent, he shall appear before the second respondent in said proceedings on 22.6.2012 without awaiting for any further notice from second respondent.
- vi. Second respondent shall receive such material/ document that may be placed by the petitioner in support of his claim over the properties in question and shall pass orders in accordance with law and on merits without being influenced by any observation made in the impugned orders.
- vii. Ordered accordingly.