(2013) 12 KAR CK 0254

In the Karnataka High Court

Case No : Writ Petition No''s. 36065-36066 of 2013 (LA-KIADB)

Sri. M.V. Ramachandra Murthy and Sri. Yogesh — APPELLANT

Vs

State of Karnataka and Apotex Pharmachem India Private Limited — RESPONDENT

Date of Decision : 05-12-2013

Acts Referred:

Karnataka Industrial Area Development Act, 1966 — Section 28(1), 28(4)

Citation : (2013) 12 KAR CK 0254

Hon'ble Judges : Anand Byrareddy, J

Bench : Single Bench

Advocate : N.R. Naik, for the Appellant; R.B. Satyanarayana Singh, Government Pleader for Respondent No. 1, Shri. P.V. Chandrashekar, Advocate for Respondent No. 2 and Shri. M. Muralidhar, Advocate for Murali and Company, for the Respondent

Final Decision : Dismissed

Judgement

Anand Byrareddy, J.—Heard the learned counsel for the petitioner and the learned counsel for the respondents. The petitions coming on for orders on the applications for dispensation, vacating stay and I.A. 7/2013 for injunction, the petitions are considered on merits having regard to the facts and circumstances.

2. The petitioners have preferred this petition questioning the notifications issued under the Karnataka Industrial Areas Development Act, 1966 (hereinafter referred to as ''the KIAD Act'', for brevity) u/s 28(1) on 22.07 2006 and u/s 28(4) as on 31.01.2007.

It is the case of the petitioners that they are the original residents of Kanakapura Taluk and that their lands have been notified for acquisition for development of industries. The petitioners are said to be defendants in the pending suit for partition in O.S. No. 158/2002 before the Court of the Civil Judge, Senior Division, Ramanagaram and the said suit has been decided holding that the petitioners are in fact the owners of lands in Sy. No. 532 measuring 5 acres 1 gunta and Sy. No. 533 measuring 6 acres 1 gunta of Harohalli village, Kanakapura Taluk, Ramanagar District. The grounds on which the present petition is filed is that though further steps have been taken pursuant to the acquisition proceedings and the respondents have deposited the compensation amount after it was determined by a price fixation committee through private negotiations in favour of the petitioner''s father who was shown as the kathedar of the property and thereafter, the compensation amount having been deposited before the Civil Court, the same continues to be in deposit. It is stated by the petitioners that they are not interested in the compensation amount and since it was their father who was notified and since the petitioners did not consent to the acquisition, they have raised objections as regards the lands not being suitable for acquisition since they are under cultivation, and that it would be appropriate to delete the same from the acquisition proceedings. It is in this vein that the grounds are raised.

3. This court in the first instance, while directing notice to the respondents, had directed the parties to maintain status quo regarding possession of the property referred to hereinabove. It is now pointed out that the petitioners have failed to indicate in the petition of the further proceedings that had actually taken place and that possession had already been taken and the same had been handed over to the ultimate beneficiary who has now filed an application I.A. 7/2013 seeking injunctory reliefs restraining the petitioners from interfering with their possession Therefore, it is evident that after the proceedings had attained finality, that the petitioners are before this court seeking to question the acquisition notifications. Having regard to the subsequent events and the fact that the petitioners were not the notified kathedars though the land was notified in the name of the father of the petitioners, any dispute as to their rights'' or claims in respect of the compensation amount would necessarily have to be worked out before the Civil Court in which is amount is deposited.

4. The State having taken possession of the land and having handed it over to the ultimate beneficiary, the question of the present petitioners seeking to question the propriety of the acquisition proceedings, is not tenable. Therefore, the petition is liable to be dismissed. Insofar as the contention that this court has allowed the petition of another land owner who was similarly situated, is also not found to be accurate, as the batch of petitions in W.P. No. 260/2010 and connected matters have been in fact dismissed on merits, while it is only in respect of one petitioner that this court, having regard to the special circumstances pertaining to that petitioner, has allowed the writ petition. The present petitioners cannot seek sustenance from the order passed in favour of the lone petitioner therein. The petitions are apparently filed after much delay and after the proceedings have attained finality. Therefore, the petitions are dismissed.

At this stage, the learned counsel for the petitioner makes a fervent plea that the petitioners are not interested in the compensation amount but would require land either, to set up their own industry and seeks that a direction be issued to the respondents to consider their case.

It is appropriate that if the petitioners claim as entrepreneurs in need of land to develop the industry, it is open for them to make application before the State and their application shall be considered along with other such similarly placed entrepreneurs.