

(2010) 03 KAR CK 0176
In the Karnataka High Court
Case No : Writ Petition No. 12113 of 2009

Sri. Saibanna Takali

APPELLANT

Vs

The Commissioner, Bangalore Development Authority and
The Deputy Secretary, Bangalore Development Authority

RESPONDENT

Date of Decision : 19-03-2010

Acts Referred:

Bangalore Development Authority (Allotment of Sites) Rules, 1984 — Rule 13 (1), 30

Citation : (2010) 3 KarLJ 42

Hon'ble Judges : S. Abdul Nazeer, J

Bench : Single Bench

Advocate : Brijesh Patil, for the Appellant; G. Shankar Goud, for the Respondent

Final Decision : Allowed

Judgement

S. Abdul Nazeer, J.—The petitioner was allotted a site bearing No. 1727 measuring 9 x 12 meters, at 9th-Block, Further Extension of Sir M. Visveswaraiah Layout, Bangalore, as per the allotment letter dated 7.2.2004 at Annexure-A. The petitioner belongs to scheduled caste and the site in question was allotted to the petitioner under the said category. Since the petitioner did not pay the sital value within a period prescribed as per the relevant Rules at the time of allotment, the site was cancelled as per the order at Annexure-C dated 30.09.2004. The petitioner received an intimation from the BDA dated 20.07.2005 (Annexure-D) stating that three years period has been granted for payment of balance of sital value. He has deposited the entire sital value on 23.03.2007 as per Annexures-E and F respectively. He made a representation dated 20.12.2008 as per Annexure-J requesting the BDA to withdraw the order at Annexure-C. The BDA has issued an endorsement as per Annexure-L dated 7.2.2009 rejecting the representation on the ground that he has failed to pay the sital value within the prescribed period. The petitioner has called in question the said endorsement in this writ petition.

2. I have heard learned Counsel for the parties.

3. The allotment of site to the petitioner as per the allotment letter dated 7.2.2004 at Annexure-A under the scheduled caste category is not in dispute. The said allotment was cancelled by the BDA as per the order dated 30.09.2004 at Annexure-C. Pursuant to the intimation issued by the BDA as per Annexure-D dated 20.07.2005, the petitioner has deposited the entire sital value on 23.3.2007 as per Annexures-E and F. Thereafter, the petitioner requested the BDA to withdraw the cancellation order at Annexure-C. The representation of the petitioner has been dismissed by the BDA as per the endorsement dated 7.2.2009 at Annexure-L. Rule 13 of the BDA (Allotment of Sites) Rules, 1984 (for short "the Rules") provides for conditions of allotment and sale of site. A proviso has been added to Sub-rule 1 of Rule 13 of the Rules w.e.f. 30.04.2005 whereby three years time has been granted to the allottees for payment of sital value without interest, if they belong to SC, ST or BT or the family of a defence personnel killed or disabled during the hostilities and who has been allotted a site of 6 x 9 meters, 9 x 12 meters or 12 x 18 meters dimensions or belonging to economical weaker section of the society as notified by Government from time to time and who has been allotted a site of 6 x 9 meters dimension. The 2nd proviso to Sub-rule (1) of Rule 13 of the Rules which has also been added on 30.04.2005 states that in case of allotment made till the date of publication of the said Rules, the balance of the value of the site required to be paid under the Rule shall be paid by the allottees within a period of six months from the date of receipt of the notice.

4. Learned Counsel for the BDA has produced a copy of the notice dated 20.07.2005 issued to the petitioner informing him about extension of three years time for payment of balance of sital amount. The petitioner has paid the balance of sital value as per Annexures-E and F on 23.3.2007 in accordance with the notice dated 27.2.2005 issued by the BDA. In circumstances, the BDA ought to have recalled the order at Annexure-C dated 30.09.2004.

5. In the result, the writ petition succeeds and it is accordingly allowed. The order dated 30.09.2004 at Annexure-C and the endorsement dated 7.2.2009 at Annexure-L are hereby quashed. The respondent-BDA is directed to execute and register a lease cum sale deed in respect of the site in question in favour of the petitioner in accordance with the relevant Rules within a period of three months from the date of receipt of a copy of this order. No costs.