

(2015) 02 KAR CK 0270

In the Karnataka High Court

Case No : Writ Petition Nos. 103213-103226/2013 (GM-KIADB) and
202961/2014

Sunita and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 02-02-2015

Acts Referred:

Karnataka Industrial Areas Development Act, 1966 — Section 14, 14(e), 2(7-a)

Citation : (2015) 02 KAR CK 0270

Hon'ble Judges : L. Narayana Swamy, J.

Bench : Single Bench

Advocate : Ravi B. Patil, for the Appellant; Shivakumar Tengli, A.G.A., Advocates
for the Respondent

Final Decision : Disposed off

Judgement

L. Narayana Swamy, J.—Petitioners state that they are the allottees of residential sites in Naubad Housing Area which are about 27 plots bearing Plot No. 390/1-27 as per Annexure-A. Different extent of sites have been allotted to the allottees namely 30" x 40" or 30" x 50". The petitioners have paid the requisite fee or charges and the sale deeds have been executed on 07.10.2011 which have been produced at Annexure-C series. By virtue of the registered sale deeds they have become absolute owners. The same could not be recalled or cancelled, without there being enabling power under the KIADB Act. Quite contrary to the same the respondent KIADB Bidar has issued notice of cancellation of housing sites at Naubad Housing Area Bidar. Hence, this petition.

2. Learned counsel for the petitioners submits that they are all industrialists pursuant to the allotment they have put up constructions and carrying on business. They are also industrialists and at the same time, the employees are also allotted the housing sites. The respondent-KIADB has allotted number of sites to those who are not employees in any factory and the said allotment is contrary to law. Under the circumstance, the impugned action of respondent in

issuing notice of cancellation to the petitioners is contrary to law and arbitrary. The allotment made pursuant to the resolution made by Board and the same was forwarded to the Deputy Development Officer of KIADB Bidar and in turn he allotted the sites. Hence, there is no illegality in the allotment of sites.

3. Learned counsel for the respondent - KIADB the DDO had committed an error in allotting housing sites without there being any approval of the Board. Hence, execution of the sale deeds is without there being any authority of law. Hence, rightly this cancellation order has been made. The Board has treated the impugned action of DDO as a misconduct and departmental enquiry has been conducted against him and enquiry is pending.

4. Learned Government Advocate supports the cancellation order issued by the Board.

5. The aims and objects of the Karnataka Industrial Areas Development Act, 1996 is for establishment and development of industries in the suitable area in the State. To achieve this object the Board has been constituted under the Act. The Board has got an absolute power under the Act and the same is enshrined in Section 14 of the Act. To fulfill the object of this Act the Board has got power to acquire and hold such property, both movable and immovable as the Board may deem necessary for the performance of any of its activities and to lease, sell, exchange or otherwise transfer any property held by it on such conditions as may be deemed proper by the Board. The Board has also got power to purchase by agreement or to take on lease or under any form of tenancy any land, to erect such buildings and to execute such other works as may be necessary for the purpose of carrying out its duties and functions. Section 14(e) of the Act, which also enables the Board to construct buildings for the housing of the employees of industries. 14(f) provides to allot to suitable persons including residential tenements in the industrial areas established or developed by the Board. By exercising the power under Section 14 of the Act industrial area has been earmarked. After acquisition where sites and plots have been allotted to industries for development. The allotment of sites to industries is not the subject matter in this writ petition. What is contended by the petitioners is, the industrial area allotted to them, they are entrepreneurs and they are carrying on business after putting up industrial establishment and the residential sites have been allotted to them by executing sale deeds. Basically Act provides for allotment of sites for the industries and its development and it is not basically fundamental duty to allot sites for the residential purpose. 14(e) of the of Act enables the Board to construct buildings for the housing of the employees of the industries. The construction of building has been interrupted in the allotted sites to the employees of the industries. For allotment of sites to the employees, the Board has to make a provisions and priorities for allotment of sites if they are entitled. It is not open to the Board for allotment of open sites to employees. The construction of buildings for housing of the employees for which appointment in any industry is the qualification From the list furnished it is seen that many

persons basically not employees but they have been allotted sites to that extent Board exceeded its power in allotting sites to such persons. Section 2(7-a) "Industrial Infrastructural Facilities" means facilities which contribute to the development of industries established in industrial area such as research and development, communication, transport, Banking, Marketing, Technology parks and Townships for the purpose of establishing trade and tourism centres; and any other facility as the State Government may by notification specify to be an industrial infrastructural facility for the purposes of this Act. But the said power shall not be stretched outside the performance for allotment of sites to the persons who are not employees. The case of the petitioners is that sale deed has been executed by the DDO which has been cancelled on the ground that procedures have not been followed. If that is the case Board has to examine whether the defect in the procedure is curable by the Board. If that is so, the Act which could be ratified or cured then Board has power under the provisions to do so. Without exercising the said power the cancellation order by the DDO is bad in law. Hence, I pass the following order:

The Board is directed to pass appropriate order and further directed to examine whether it could be ratified or cured as per provisions of the Act. It is also made clear that Board should take decision as to whether it has power to cancel the sale deed. This exercise has to be done within eight weeks. To enable the Board to pass such cancellation orders at D series are hereby quashed.

Petitioners are directed to treat the cancellation order as preliminary notice and file their representations to the Board with similar prayer within a period of two weeks. Board has to pass such orders within a period of four weeks from the date of representation or request.

Writ petitions are accordingly disposed of.