

(2011) 03 KAR CK 0220
In the Karnataka High Court
Case No : Writ Petition No. 5571 of 2009

Ullepadi Ganigarike Virodi Samithi (R)	APPELLANT
Vs	
Deputy Commissioner and Others	RESPONDENT

Date of Decision : 04-03-2011

Acts Referred:

Citation : (2011) 03 KAR CK 0220

Hon'ble Judges : J.S. Khehar, C.J.;A.S. Bopahna, J

Bench : Division Bench

Advocate : I. Taranath Poojary, for the Appellant; Basavaraj Kareddy, Prl. G.A. for R-1, 2 and 5, Ashok N. Patil, CGSC for R-3, C.K. Venkatesh, for R-4, Mahesh Shetty, for R-7 and 8 and K. Prasanna Shetty, for R-10 and 11, for the Respondent

Final Decision : Dismissed

Judgement

J.S. Khehar, C.J.—The Petitioner has raised the following prayers in the instant writ petition:

(A) Issue a writ in the nature of mandamus directing the authorities to cancel the license/lease granted to Respondents Nos. 7 to 13 and for initiation of appropriate action as per law for illegal mining and explosive activities by the Respondents, including an order as to compensation and damages to the affected parties.

(B) To pass any order or direction that this Hon"ble Court deems fit in the facts and circumstances of the case including exemplary costs, in the interest of justice.

2. While responding to the assertions made in the writ petition, in the joint statement of objections filed on behalf of Respondent Nos. 1, 2, 3 and 5, it is, inter alia, asserted as under:

5. It is submitted that the safe distance stipulated by the Karnataka Minor

Mineral Concession Rules, 1994 for quarrying is 50 mtrs. (without blasting) and 200 mtrs. (with blasting). From the latest survey report, it is evident that most of the houses and structures are beyond the safe distance range from the quarries.

6. It is submitted that, since the lessees are required to appoint persons who possess a blasting license, accordingly the lessees have appointed the concerned blasting license holders to blast rocks in their quarries.

7. These Respondents submit that from the field inspection, it has been found that the complainant-Krishna's house is at a safe distance of 200 mtrs. from the above said quarries. His house is a partly old structure with partly renovated portion under constructions. A small hair line fracture was noticed in the old portion of house wall, especially at the place where two separate phases of construction are joined together, leading to the inference that it is a constructional defect or joint. No fracture or cracks were found on the house in the renovated portion.

8. It is submitted that Smt. Teresa D'Souza's house is at a distance of about 70 mtr. from the quarry of Mr. Rajendra Shetty. There are no cracks in the house of Smt. Teresa D'Souza. Smt. Teresa D'Souza said there has been no trouble from these quarries. She has no complaints against the quarrying activities in spite of her house being closest to the Rajendra Shetty's quarry. Further, a public school is run in an old and poorly maintained building. However, no distinct cracks have been found. The school District Management Committee has given their consent in support of these quarries to continue their work.

9. It is submitted that there is a public (Zilla Panchayat) water, supply storage water tank on the road side near the complainant-Krishna's house. There are no cracks or leakage in the water tank, suggesting that the quarrying or blastings have had no side effects on it. The public in general have also given a letter in support of these quarries.

10. It is submitted that Mr. Jayaraj Shetty has informed the 2nd Respondent through his letter dated 8.12.2008 that a Criminal Case No. 80/2008 has been booked at Mulki Police Station against Mr. Krishna, Mr. Sanjeeva and Mr. Dinesh Hegde, Ullepadi. He has also mentioned that he has approached the Civil Court by filing a suit in O.S.No. 122/2008 against them. The said suit is pending. Thus, it could be inferred from these incidents, that there exists personal misunderstanding and grudge between Mr. Jayaraj Shetty, Mr. Krishna, Mr. Sanjeeva and Mr. Dinesh Hegde Ullepadi. Mr. Krishna has also approached the Lokayukta. He has sought information regarding these quarries from the 2nd Respondent from time to time. Later on he established a Forum by a name Ullepadi Ganigarike Virodhi Samiti seeking to close down these quarries.

3. In view of the factual position depicted in paragraphs 5 to 12, which has not been controverted at the hands of the learned Counsel for the Petitioner, we are satisfied, that the instant writ petition is wholly misconceived, since no public

loss is shown to have been caused at the hands of any of the private Respondents. Dismissed.