

(2004) 09 KAR CK 0049
In the Karnataka High Court
Case No : Writ Petition No. 24559 of 2001

Venkataravanaji

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 21-09-2004

Acts Referred:

Citation : (2005) ILR (Kar) 1682 : (2005) 3 KCCR 166 SN

Hon'ble Judges : D.V. Shylendra Kumar, J

Bench : Single Bench

Advocate : G. Papi Reddy, for the Appellant; H.B. Narayana, HCGP for R1, R2 and 3 Sd., for the Respondent

Final Decision : Allowed

Judgement

Shylendra Kumar, J.—The writ petitioner is a person who had been given a vacant plot of land measuring 30X40" under the name and signature of the Block Development Officer and the Tahsildar, Srinivasapura Taluk, in terms of a site entitlement dated 20.1.1993. The Block Development Office and the Tahsildar were acting as a part of the Taluk House Committee constituted for the Purpose of distribution of sites to houseless persons.

2. It is in respect of such an allotment of house site that the authorities it appears have instituted further action at the instance of some disgruntled elements in the village who it appears had approached the Chairman and other persons of the Ashraya Yojane Housing Committee requesting the Committee to cancel the allotment in favour of the petitioner and to ensure that the site which had been allotted in favour of the petitioner to be retained as a play ground as the neighbouring land it appears had been earmarked and allotted for the purpose of construction of a school building. The allotment in favour of the petitioner having been cancelled in terms of the proceedings dated 11.4.2001 copy at Annexure-F which was presided over by the Member of the Assembly of the Constituency and on the premise that the petitioner in spite of issue of notice had failed to make good as to the basis on which the site had been allotted and

also as the records with the Committee did not indicate that the site of this nature had been allotted in favour of the petitioner, the petitioner has approached this Court praying for quashing of this endorsement and other incidental reliefs.

3. Sri Papi Reddy, learned counsel appearing for the petitioner submits that the very right of the petitioner is under the allotment letter dated 20.1.1993 that the petitioner was an applicant under the scheme praying for house site under the scheme that the very Committee had allotted a site measuring 30X40" in his favour but the petitioner was not allowed to put up a structure not only due to financial constraints but also due to the interference by other disgruntled elements particularly by one Sri Venkataramanappa because of whose interferences, the petitioner was constrained to file a suit in O.S.No. 300/1999 before the Court of Civil Judge (Jr.Dn.), Srinivasapura and the said suit was decreed in terms of an order dated 27.11.1999 and is thereafter that the person had started moving the authorities to ensure that the allotment in favour of the petitioner itself was cancelled and that he can grab the site by hook or crook and the proceedings at Annexure-F being without a valid notice and proper opportunity to the petitioner and having the effect of affecting the rights of the petitioner requires to be quashed and appropriate directions issued to the respondents.

4. Notices had been issued to the respondents and the writ petition was admitted by this Court on 3.12.2002. While the 1st respondent-State of Karnataka is represented by Sri. H.B. Narayana, learned Government Pleader appearing for the State, the 2nd respondent-Taluk Panchayat, Srinivasapura Village, is represented by its Executive Officer and the 3rd respondent -Taluk House Committee by its President though served are not represented. No statement of objections have been filed by the 1st respondent.

5. I have heard Sri Papi Reddy, learned Counsel appearing for the petitioner and Sri. Narayana, learned Government Pleader, appearing for the 1st respondent.

6. It is the submission of Sri. Narayana, learned Government Pleader appearing for the 1st respondent submits that the order at Annexure-F indicates the need and justification for passing the same, that the petitioner had been apprised of the hearing but had not cared to appear before it, that the order also indicates that the Committee had issued an endorsement dt.21.12.1999 to the effect that on a perusal of the records at the Office which did not reveal issue of any document in favour of the petitioner allotting a site measuring 30X40" as at of Annexure-A and as such it was inevitable to say that the document is a forged one and action was required to be taken on such premise. Learned Government Pleader submits that the records further reveal that a land measuring an extent of 70"X150" in the vicinity had been given free for construction of a school and as the land/house site allotted in favour of the petitioner in terms of Annexure-A is required to be retained as a play ground for the benefit of the school children, it is necessary to resume it by cancellation of the allotment etc.,

7. Petitioner is a person who claims to be a houseless and economically weak person residing in the village and had made an application for allotment of a house site under the Ashraya Housing Scheme. It is not in dispute that the scheme is meant for allotting not only house sites in favour of such houseless persons but also to financially assist them to build a house so that they can have a shelter over their head.

8. It is rather naive to believe that Annexure-A issued in favour of the petitioner as "Ashraya Yojane Niveshana Hakku Patra is a created or a forged document. The petitioner is not a person capable of such devices even if it is a forged document. It will be only at the instance of persons who had signed it in their capacity as Field Development Officer and as Tahsildar of this Taluk. The line of reasoning that it is a forged document is belied by the fact that the petitioner in fact has been put in possession of the site under the very document and had been in enjoyment of the same; that due to interference by third persons with such enjoyment he had been constrained to file a civil suit before the Court for relief. It is only because the petitioner has been given the site under Annexure-A that he is in possession of the same and not otherwise. Though Sri Narayana, learned Government Pleader appearing for the 1st respondent submits that the decree of the civil court for permanent injunction in favour of the petitioner is one which is not binding on the respondents, in this writ petition, the evidentiary value of the judgment and decree of the Civil Court cannot be ignored for the purpose of understanding that the petitioner was in possession of such a site. If the document at Annexure-A is really to be a forged document as is sought to be indicated in the order dated 20.1.1993 copy at Annexure-A, the petitioner could not have got into possession under the site allotment letter.

9. It is obvious that the petitioner has not been able to put up construction may be not only due to his own financial inability but also due to the continuous interference and harassment that he has faced by other disgruntled element in the village.

10. When the government comes up with such social benefit schemes for helping the economically weak it is proper that the scheme is implemented in a proper manner; that it will enure to the benefit of the deserving people and not left mid way. Sri Papi Reddy, learned counsel for the petitioner submits that in respect of sites allotted in the vicinity under the Ashraya Scheme the allottees are provided financial assistance ranging from Rs. 15,000/- to Rs. 30,000/- to enable them to put up a construction for their residential purpose. Though the allotment is of the year 1993, the petitioner has not been able to realise the benefit of the same so far. In the circumstances, it is not only necessary to issue a writ of certiorari quashing the impugned resolution dated 11.4.2001 copy at Annexure-F passed by the Executive Officer, Taluk Panchayat, Srinivasapura but also to restrain the respondents from taking any further action to disturb the allotment in favour of the petitioner. The 1st respondent-State is further directed to ensure that the petitioner is provided the financial assistance of not less than Rs. 15,000/- within

a period of three months from the date of receipt of a copy of this order in favour of the petitioner to enable the petitioner to put up a construction and to have a roof over his head.

11. Petition allowed. Rule made absolute.