

**Shivappa Vs. The State of Karnataka**

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**Court :** Karnataka Dharwad

**Decided On :** Aug-18-2017

**Judge :** K.Somashekar

**Appeal No. :** WP 105492/2016

**Appellant :** Shivappa

**Respondent :** The State of Karnataka

**Judgement :**

:

1. : IN THE HIGH COURT OF KARNATAKA DHARWAD BENCH DATED THIS THE18H DAY OF AUGUST2017R BEFORE THE HONBLE MR. JUSTICE K. SOMASHEKAR WRIT PETITION NO.105492/2016 (GM-POLICE) BETWEEN SHIVAPPA S/O SIDDAPPA MALI. AGE:

75. YEARS, OCC: AGRICULTURE R/O: GADYAL, TALUK: JAMKHANDI, DISTRICT: BAGALKOT. ... PETITIONER (BY SRI. SHIVARAJ P. MUDHOL, ADV.) AND1 THE STATE OF KARNATAKA REPRESENTED BY ITS SECRETARY DEPARTMENT OF HOME M.S. BUILDING BENGALURU-1 THE SUPERETENDENT OF POLICE BAGALKOT, TALUK: BAGALKOT DISTRICT: BAGALKOT. THE SUB-INSPECTOR OF POLICE SAVALAGI POLICE STATION SAVALAGI, TALUK: JAMKHANDI, DISTRICT: BAGALKOT. SRI. RAMAPPA JEVANAPPA KORI AGE:

70. OCC: AGRICULTURE R/O: GADYAL, TALUK: JAMKHANDI, DISTRICT: BAGALKOT. GANGAPPA S/O JEVANAPPA KORI AGE:

65. OCC: AGRICULTURE 2 3.

4. 5.

6. 7. :

2. : R/O: GADYAL, TALUK: JAMKHANDI, DISTRICT: BAGALKOT. BASU S/O CHANNAPPA KORI AGE:

38. OCC: AGRICULTURE R/O: GADYAL, TALUK: JAMKHANDI, DISTRICT: BAGALKOT. ANNAPPA S/O CHANNAPPA KORI AGE:

35. OCC: AGRICULTURE R/O: GADYAL, TALUK: JAMKHANDI, DISTRICT: BAGALKOT. ... RESPONDENTS (BY SMT.K.VIDYAVATI, AGA FOR R1 TO R3, R4 TO R7 ARE SERVED) THIS WRIT PETITION IS FILED UNDER ARTICLES 226 & 227 OF CONSTITUTION OF INDIA PRAYING TO DIRECT THE RESPONDENTS NOS.2 & 3 TO PROVIDE POLICE PROTECTION TO THE PETITIONER AND HIS PROPERTY BEARING NEW SURVEY NO.65/2/2 (OLD SURVEY NO.65/5) MEASURING 8 ACRES 7 GUNTAS SITUATED AT GADYAL VILAGE JAMKHANDI DISTRICT: BAGALKOT, AS PER ANNEXURES-E, F, F1 AND G AND ETC. THIS WRIT PETITION COMING ON FOR

ORDER

S THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Heard the learned counsel for the petitioner and as well as the learned AGA for respondent Nos.1 to 3.

2. This writ petition is filed by the petitioner seeking to issue writ in the nature of mandamus, directing the respondent Nos.2 and 3 to provide police protection to the petitioner and his property bearing new Sy. No.65/2/2 (old Sy. No.65/5) measuring :

3. :

8. acres 7 guntas situated at Gadyal Village, Jamkhandi Taluk, Bagalkot District, as per Annexures - E, F, F1 & G.

3. Learned counsel for the petitioner in support of his case has placed reliance of the judgments of the Honble Supreme Court in the case of P.R.Murlidharan & others vs. Swami Dharmanand Theertha Padar & others and also in the case of Moran M. Baselios Marthoma Mathews vs. State of Kerala, wherein it is held that a writ petition for providing police protection is maintainable.

4. Learned AGA for respondent Nos.1 to 3 submitted that based upon the complaint filed by the petitioner vide Annexure - J, FIR dated 17.05.2016 vide Annexure - J1, came to be registered by the Sub Inspector of Police, Savalgi Police Station.

5. The petitioner has contended that there is a civil decree in favour of the petitioner herein and it has reached finality. In Execution Petition the encroached portion of the property was recovered with the help of Court warrant. But, in :

4. : order to defeat the order of the civil court decree, the respondent Nos.4 to 7 are illegally and high handedly are trying to interfere with the day-to-day agricultural operations and threatening with dire consequences. However, recourse of law is always available to the petitioner to approach this Court by way of writ petition in the nature of mandamus by seeking direction to the respondent Nos.2 and 3 in order to commanding them to provide Police protection to him and also to his property.

6. It is further contended that the Police authorities have not registered any case and not provided Police protection to him. However, learned AGA appearing for respondent Nos.1 to 3 submits that based on the complaint lodged by the petitioner FIR vide Annexure - J1 came to be registered by the Sub Inspector of Police, Savalagi Police Station. In view of the aforesaid reasons and in the facts and circumstances of the case, this Court is of the opinion, in view of registration of FIR, law has been set in motion based upon the allegations made in the

complaint. Moreover, the judicial order should not be implemented with the help of the Police unless :

5. : extraordinary circumstances are made out. Therefore, the writ petition has rendered itself infructuous and hence it is liable to be dismissed. Accordingly, the writ petition is dismissed. In view of dismissal of the writ petition as it has become infructuous, I.A. No.1/2016 filed for direction does not survive for consideration. Hence, the same is also hereby dismissed. Rsh SD/- JUDGE

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