

Smt. Uma N vs Shivamogga -Bhadravathi Urban Development Authority

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Court : Karnataka Orders

Decided On : Feb-29-2024

Judge : B M Shyam Prasad

Appeal No. : WP/6085/2024

Appellant : Smt. Uma N

Respondent : Shivamogga -Bhadravathi Urban Development Authority

Judgement :

-1-

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 29TH DAY OF FEBRUARY, 2024 BEFORE THE
HON'BLE MR JUSTICE B M SHYAM PRASAD WRIT PETITION NO.
6085 OF 2024 (LB-RES) BETWEEN:

1. SMT. UMA N W/O THIMMEGOWDA N S AGED ABOUT 68 YEARS,
NO.37, VISTA VERA APARTMENTS NO. 302, 6TH MAIN, 12TH
CROSS, MALLESHWARAM, VTC BENGALURU NORTH, BENGALURU
- 560 003.

2. GAYATHRI N W/O MANJEGOWDA T C., AGED ABOUT 66 YEARS
NO. 426/27, 33RD CROSS, 18TH MAIN ROAD, JAYANAGARA,

BENGALURU - 560041.

Digitally signed by NARASIMHA 3. DEVANANDA MURTHY VANAMALA S/O L NANJAPPA, Location: HIGH AGED ABOUT 63 YEARS, COURT OF KARNATAKA NO.03, SIDDAPURA, KONEHALLI POST, TIPTUR, TUMUKURU DISTRICT - 572201. PETITIONERS (BY SRI. PRAKASH H C., ADVOCATE) AND: SHIVAMOGGA -BHADRAVATHI URBAN DEVELOPMENT AUTHORITY, - 2- VINOBANAGARA, SHIVAMOGGA - 577204, REP. BY ITS COMMISSIONER. RESPONDENT (BY SRI.G. RAVISHANKAR., ADVOCATE FOR SRI. A.V. GANGADHARAPPA, ADVOCATE) THIS WP IS FILED UNDER ARTICLES 226 AND 227

OF THE CONSTITUTION OF INDIA PRAYING TO ORDER

OR DIRECT THE RESPONDENT AND QUASH THE IMPUGNED ORDER ANNEXURE-A, BEARING NO. SHI. NA. PRA/NI.SHA2/NI.NO.E-470/2011-12/1338, DATED DIRECTING THE RESPONDENT AUTHORITY TO HONOR THE LEASE CUM SALE DEED EXECUTED BY THEM IN FAVOUR OF THE PETITIONER AND ALSO HONOUR THE ALLOTMENT OF SITE TO THE PETITIONER. THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

The petitioners assert that they are the children of Smt. Nanjamma and Sri. L.Nanjappa, and Smt. Nanjamma is allotted the Site bearing No. A-38 in Atal -3- Bihari Vajpee (Malligenahalli) Layout, Shivamogga City. The petitioners have now been served with the order dated

01.10.2021 issued by the respondent, and by this order

they are informed that the allotment is cancelled. Sri. G. Ravishankar, the learned counsel for the respondent, proposes to support the cancellation contending that the respondent has issued the order for cancellation pursuant to the orders issued by the Lokayukta and the State Government after an enquiry, but he is unable to

controvert the assertion that the impugned order is issued without an opportunity to show cause against the cancellation. In fact, Sri. Prakash H.C, the learned counsel for the petitioners, relies upon the orders of this Court in W.P.No.28010/2023 [LB-RES], which is disposed of on 21.12.2023, and the orders in W.P.No.14430/2022 [LB-RES] and connected matters, which are disposed of on 23.06.2023, to assert that in similar circumstances the orders for cancellation of allotment are quashed restoring the proceedings for reconsideration. -4- The orders of this Court in the aforesaid writ petitions, are perused. Indeed on the ground of due opportunity to the concerned petitioners, this Court has allowed the corresponding writ petitions quashing the orders for cancellation of the allotment with the directions that reads as under:

iii. Respondent No.2 shall issue show cause notice to the petitioner indicating the grounds for proposed cancellation of the allotment of sites within a period of 90 days from today. iv. If no notice is issued, respondent No.2 shall not have any right to issue further notice. If a notice is issued, the petitioners shall reply to the same within a period of 30 days from the date of receipt of the said notice. v. The respondent No.2 shall consider the reply submitted by the petitioners without being influenced by finding of the Hon'ble Lokyuktha or the State Government and pass a independent reasoned order within a period of 60 days of the receipt of reply from the petitioners. Further, this Court has allowed for exclusion of the time taken by the concerned petitioners to furnish -5- a certified copy of such order to the respondent. In the circumstances of this case and for the reasons of parity, the petitioners must also be extended an opportunity after due notice, and hence, the following:

ORDER

i. The writ petition is partly allowed. ii. The impugned order for cancellation of allotment of site dated 01.10.2021 passed by the respondent - Shivamogga - Bhadravathi Urban Development Authority [Annexure-A] is quashed. The matter is remitted back to the respondent for reconsideration. iii. The respondent, within a period of ninety [90] days from the date of receipt of a certified copy of this -6- order, shall issue show cause notice to the petitioners indicating the grounds for

the proposed cancellation of the allotment of sites. iv. If the respondent fails to issue notice within the time as above, it shall not have any right to issue further notice. If a notice is issued, the petitioners shall reply to the same within a period of thirty [30] days from the date of receipt of the said notice. v. The respondent shall consider the reply submitted by the petitioners without being influenced by the finding of the Lokyutha or the State Government and pass an independent reasoned order within a period of sixty [60] days from the -7- date of receipt of the reply from the petitioners. Sd/- JUDGE RB

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