

Shankaragouda Vs. State of Karnataka and Others

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Court : Karnataka

Decided On : Mar-23-1990

Reported in : AIR1991Kant62

Judge : M.P. Chandrakantharaj Urs. J.

Acts : [Constitution of India](#) - Article 226; [Code of Civil Procedure \(CPC\), 1908](#) - Order 39, Rules 1 and 2

Appeal No. : Writ Petn. No. 6292 of 1990

Appellant : Shankaragouda

Respondent : State of Karnataka and Others

Advocate for Pet/Ap. : I.C. Gachchinamath, Adv.

Judgement :

ORDER

1. Petitioner claims to be owner of survey No. 247 (A+B+E+F) of Munavalli village of Saundatti Taluk. District Belgaum. He has alleged that the second respondent-Mandal Panchayat is contemplating construction of a building on a portion of his land. Petitioner further alleges that Mandal Panchayat cannot do such thing and therefore must be restrained from doing so. Entire activity of the Mandal Panchayat is motivated by mala fides. Mandal Panchayat is even trying to alter number of the property. In that circumstance, it is just and proper that this Court

under Art. 226 of the Constitution should issue a mandamus or a direction restraining the respondents 1 and 2 from building upon the land owned by him.

2. Ordinarily this Court exercising jurisdiction under Art. 226, will not interfere in matters which involve investigation of title. If petitioner is the owner and third parties are trying to encroach upon his land, only remedy available to him is to move the Civil Court having jurisdiction for injunction under O.39, Rules 1 and 2 restraining such unauthorised persons from entering upon his land and doing any activity prejudices his title.

3. Subject to the above observation, this petition is dismissed as not maintainable.

4. Order Accordingly.

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