

M. Narayana Vs. State of Karnataka and Others

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Court : Karnataka

Decided On : Jan-07-2000

Reported in : ILR2000KAR3920; 2001(1)KarLJ323

Judge : Chandrashekaraiyah, J.

Acts : [Constitution of India](#) - Articles 226 and 300-A

Appeal No. : Writ Petition No. 26309 of 1997

Appellant : M. Narayana

Respondent : State of Karnataka and Others

Advocate for Def. : Sri Ashok N. Nayak, High Court Government Pleader

Advocate for Pet/Ap. : Sri Jayakumar S. Patil, Adv.

Judgement :

ORDER

1. The properties belonging to the petitioner were brought to sale pursuant to an award obtained by the respondent 2 against the petitioner.
2. The case of the petitioner is that, during the pendency of these proceedings, he has paid a sum of Rs. 3,200/- in full discharge of the debt due to the 2nd respondent-Bank on 28-6-1977. Further, it is submitted that, even though the entire amount is paid, the execution proceedings continued and in the said

execution proceedings the property was purchased by the State Government as there were no bidders. Again the petitioner in order to get the sale set aside was called upon to pay a sum of Rs. 3,450/- which includes the loan and miscellaneous expenditure incurred by the Bank. The said amount was also paid on 30-3-1984. Again the respondent 2-Bank called upon the petitioner to pay 5% solatium of the sale consideration for the purpose of reconveying the property to the petitioner. This amount was also paid by the petitioner.

3. Thereafter, when the petitioner approached the Deputy Commissioner to reconvey the property, the Deputy Commissioner by his notice dated 23-5-1996 rejected the request of the petitioner on the ground that the said land has already been distributed to other persons. The statement made by the petitioner that he has paid the amount during the pendency of the execution proceedings and had also paid the amount once again even though he is not due on 30-3-1984 and the payment of solatium at 5% are not disputed by the respondents even though they are served.

4. When such being the case, there is no justification for the Deputy Commissioner to refuse the request of the petitioner for reconveyance of the property. The poor farmer having paid the money, is entitled for reconveyance even assuming it has been purchased by the State Government in the execution proceedings. Therefore, the notice issued by the Deputy Commissioner refusing to reconvey is liable to be quashed.

5. If at all the State Government has paid any amount to the 2nd respondent-Bank while purchasing the property, it is open for the Deputy Commissioner to recover the same from the 2nd respondent-Bank. But this right to recover shall not come in the way of Deputy Commissioner reconveying the property to the petitioner.

6. In the result, I pass the following order:

(1) Writ petition is allowed. The notice issued by the Deputy Commissioner as per Annexure-G is quashed.

(2) The 3rd respondent-Deputy Commissioner is directed to reconvey the property measuring 10 acres 39 guntas in Sy. No. 148/1 situated at Jalibenchi Village, Bellary Taluk and District within three months from today.

(3) If the Deputy Commissioner has put any person in possession of the property, he is directed to take possession and restore possession to the petitioner within three months after reconveying the property to the petitioner.

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