

B. Krishnappa Vs. State of Karnataka

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Court : Karnataka

Decided On : Feb-15-1994

Reported in : ILR1994KAR962; 1994(2)KarLJ680

Judge : Shivaprakash, J.

Acts : [Land Acquisition Act, 1894](#) - Sections 4(1) and 6(1)

Appeal No. : W.P. Nos. 43962 and 43963 of 1993

Appellant : B. Krishnappa

Respondent : State of Karnataka

Advocate for Def. : Bharathi Nagesh, H.C.G.P., G. Kasturi and G.R. Mohan,
Advs. for R-4

Advocate for Pet/Ap. : S. Vijay Shankar, Senior Counsel for ;Kaleemulla Shariff
and ;B.V. Prabhakar, Advs.

Judgement :

ORDER

Shivaprakash, J

1. The petitioners were the owners of the lands in question. The said lands were acquired for formation of a residential layout by the 4th respondent Co-operative Society. The possession of the lands has been taken and delivered to the 4th

respondent and as on today the ownership of the lands vests in the 4th respondent-Society.

2. The membership of the said Society is open only to the employees of the Railway Mail Service and Telephone Wings of P & T Department, as stated by the petitioner.

3. In these Petitions, the petitioners allege that even though the lands were acquired for formation of layout and allotment of sites to the members of the said Society, the Management of the said Society has been allotting sites to members, who are not employees of R.M.S. and Telephone Wings of P & T. It is also alleged that the Management of the Society has been allotting sites even to non-members.

4. Sri Vijaya Shankar, learned Counsel appearing for the petitioners, submitted that in view of the fact that the lands were acquired for a public purpose, to wit, for formation of a residential layout by the 4th respondent Society and for allotment of sites to its members who are employees of the aforesaid Department and since the Management of the Society has been allotting sites to others, the public purpose for which the lands were acquired is defeated, but, on the other hand, in the guise of public purpose lands were acquired and given to the Society which has been allotting sites to others who are not eligible for such allotment.

5. The relief sought in these Petitions is for quashing of 4(1) Notification and 6(1) Declaration pursuant to which the award was made and possession was taken of the lands in question.

6. In view of the fact that acquisition has been completed by taking possession and the petitioners have received full compensation, question of quashing of 4(1) Notification and 6(1) Declaration does not arise. In my view, those Notifications cannot legally exist in the eye of law, as on today since acquisition has been completed.

7. The learned Counsel for the petitioner relied on the Decision of a Division Bench of this Court in Mrs. BEHROZE RAMYAR BATHA vs . SPECIAL LAND ACQUISITION OFFICER : ILR 1991 KAR3556 , to emphasise that even after the

acquisition is completed, it is open for the petitioners to challenge the acquisition, if the lands are diverted for purposes other than the one for which the lands were acquired. The facts of that case are totally different from the facts of this case. In that case, even before the acquisition was completed, the acquiring body had entered into certain agreements with an individual to divert the lands for private purposes. It is in those circumstances this Court concluded that such a malafide exercise of power which is fraudulent cannot be sustained. The facts of that case clearly disclose even long before taking of possession, the acquiring body had entered into several agreements with an individual for selling of the land for private purposes.

8. I see no merit in these petitions. Beside, in my view, the petitioners have no locus stand sufficient interest to maintain these Petitions. Hence, the Petitions are rejected at the preliminary stage.

9. The learned Counsel for the petitioners submitted that the petitioners have not as yet received the compensation amount. If so, they are free to receive the same unless there is some legal obstacle.