

Sharbappa Vs. State of Karnataka

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Court : Karnataka

Decided On : Nov-03-1993

Reported in : ILR1994KAR155; 1994(2)KarLJ172

Judge : Sreenivasa Reddy, J.

Acts : Karnataka Land Revenue Rules, 1966 - Rule 107

Appeal No. : W.P. No. 19174 of 1993

Appellant : Sharbappa

Respondent : State of Karnataka

Advocate for Def. : H.H. Kaladgi, H.C.G.P.

Advocate for Pet/Ap. : Veeresh B. Patil, Adv.

Disposition : Petition allowed

Judgement :

ORDER

Sreenivasa Reddy, J.

1. The petitioner has sought for issuance of a Writ in the nature of certiorari quashing the impugned notice dated 28.5.1993 issued by the second respondent as per Annexure-A demanding a sum of Rs. 7,200/- towards the conversion fine in

respect of an area measuring 60,000 sq. feet in Survey No. 5/2 of Honalli Village, Lingasugar TaluK, Raichur District.

2. The learned Counsel for the petitioner submits that Rule 107 of the Karnataka Land Revenue Rules, 1966 provides for levy of fine for conversion of agricultural lands for non-agricultural purposes as per the table of fine appended to Rule 107. According to said table, different rates of fine are prescribed for lands situated in different parts of the State of Karnataka.

3. The land in question falls under Serial No. 5 of the table i.e., 'other places'. The rate of fine prescribed under Rule 107 for conversion of land for residential purposes in respect of 'other places' is 0.03 ps. per square feet. According to the learned Counsel for the petitioners, respondent No. 2 could have levied conversion, fine of Rs. 1800/- i.e., at the rate of 0.03 paise per square feet. Instead the second respondent has directed the petitioner to pay a sum of Rs. 7,200/- as per Annexure-A which would work out to Rs. 0.12 paise per square feet.

4. On the other hand, Sri H.H. Kaladgi, learned High Court Government Pleader, submitted that since the conversion of the land in question is for formation of a layout and to sell the sites formed therein, the said conversions comes under the category of non-residential purpose and, as such the petitioner has to pay conversion fine at the rate demanded at Annexure-A.

5. In view of Rule 107 of the Karnataka Land Revenue Rules. 1965 and the table of fine attached thereto, the petitioner is liable to pay conversion fine at the rate of 0.03 paise only per square foot and not more than that. Whenever the statute or the Rules framed thereunder provide for levy of fine at a particular rate, it has to be levied or collected at that rate only and not in any other manner. The impugned notice - Annexure-A levying the conversion fine at a rate higher than the rate specified in the table attached to Rule 107 being impermissible in law has to be held as illegal and contrary to Rule 107. The second respondent was not justified in levying conversion fine at the rate of 0-12 paise per square feet to the land in question.

It is clear from Annexure-A itself that the petitioner filed the application for conversion of his land for residential purpose and not for non-residential purpose.

6. In the result, the Writ Petition is allowed. Annexure-A is hereby quashed. The second respondent is directed to levy conversion fine to the land in question at the rate of 0.03 ps. per square feet. If the petitioner has already paid any amount in excess of 0.03 paise per square feet to the second respondent towards the conversion fine the respondents shall refund such excess amount to the petitioner.

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