

Munegowda Vs. State of Karnataka

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Court : Karnataka

Decided On : Aug-22-1990

Reported in : ILR1990KAR3668

Judge : Mohan, C.J. and ;M. Ramakrishna, J.

Acts : Karnataka Acquisition of Land for Grant of House Sites Act, 1972 - Sections 3(1) and 3(4)

Appeal No. : W.P. No. 9686 of 1985

Appellant : Munegowda

Respondent : State of Karnataka

Advocate for Def. : Chandrasekharaiah, Govt. Adv.

Advocate for Pet/Ap. : K.S. Subba Rao, Adv.

Disposition : Writ petition allowed

Judgement :

ORDER

Mohan, C.J.

1. This case affords the best illustration as to how callous the authorities incharge of the land acquisition would be, which deserves the highest condemnation by us.

2. A notification under Section 3(1) of the Karnataka Acquisition of Land for Grant of House Sites Act 1972 (hereinafter referred to as the Act) was issued as early as 6-4-1977. When notice was issued to the petitioner herein, he preferred his objections. Thereafter, the Deputy Commissioner passed an order on 6-2-1980 denotifying these lands. That was gazetted in the Karnataka Gazette dated 21-2-1980. Thereafter, the Deputy Commissioner issued a notification purporting to be under Section 3(4) of the Act on 9-4-1984 to complete the acquisition. Therefore, under these circumstances rightly it is argued by the learned Counsel for the petitioner that what has been done is not only contrary to all established law but even exhibited thorough ignorance of the proceedings and therefore he prayed that the notification proposing to acquire be quashed.

3. The learned Government Advocate though initially put forth a plea that the withdrawal notification dated 6-2-1980 gazetted on 21-2-1980 was not seen in his file, when confronted with the Gazette Notification by the learned Counsel for the petitioner, he is not in a position to controvert the same. Having regard to the above facts we are clearly of the view that the acquisition in this case has proceeded in a casual manner which requires to be condemned out right. This is not the case where the mighty power of eminent domain has to be exercised. There must be caution, circumspection as well as thinking before embarking upon these procedures which have been delineated under the Act. Where, therefore, there was a notification on 6-2-1980 which was gazetted on 21-2-1980 in the following terms:

'OFFICE OF THE DEPUTY COMMISSIONER,

BANGALORE DISTRICT, BANGALORE.

Cancellation Notification Dated

6th February 1980

No. RHS(2) 451/76-77. Whereas by Notification No. RHS(2) 451/76-77 dated 6th April 1977, published in the Karnataka Gazette Extraordinary dated 28th April 1977 in Part IX it was notified under Sub-section (1) of Section 3 of the Karnataka

Acquisition of land for grant of house sites Act 1972 that an extent of 1 acre 20 guntas of land in Survey No. I of Thimmegowdanahosahalli village, Devanahalli Taluk was required for the public purpose of granting house sites to the weaker section of the people.

Now it is hereby notified that the Deputy Commissioner, Bangalore District, Bangalore is pleased to direct that the said notification be cancelled.

Sd/- Adhip Chaudhuri,

Deputy Commissioner'

It cannot be proceeded with as if there was no such notification and then what has to be done is to pursue the earlier notification issued under Section 3(1) dated 6-4-1977. This is why we were obliged to remark as above which exhibits the utter callousness of the authorities concerned. We have no hesitation in quashing the notification dated 9-4-1984.

4. Accordingly, we allow the Writ Petition and quash the notification dated 9-4-1984 issued by the Deputy Commissioner, Bangalore District, Bangalore. The petitioner will be entitled to costs. Counsel fee Rs. 1,000/-.

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