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indar Singh Vs. the Commissioner, Bangalore Development Authority,
Bangalore

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Bangalore

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Court : Karnataka

Decided On : Aug-04-1998

Reported in : 1998(6)KarLJ356

Judge : V. Gopala Gowda, J.

Acts : Bangalore Development Authority Act, 1976 - Sections 38; [Constitution of India](#) - Article 226; [Code of Civil Procedure \(CPC\), 1908](#) - Order 1, Rules 3 and 9

Appeal No. : Writ Petition No. 23219 of 1998

Appellant : indar Singh

Respondent : The Commissioner, Bangalore Development Authority, Bangalore

Advocate for Pet/Ap. : Sri Younous Ali Khan, Adv.

Judgement :

ORDER

1. The petitioner submitted an application on 27-6-1998 as per Annexure-A to the Executive Engineer of Bangalore Development Authority seeking permission to construct temporary pendal to conduct a Textile Mela for a period of one month in the site situated opposite Kamakya Theatre in B.S.K. III Stage, Bangalore, belonging to the respondent. On the said application the Executive Engineer of the

B.D.A. intimated the Manager, Canara Bank, B.D.A. Extension Counter to accept the payment of Rs. 15,000-00 towards ground rent vide Annexure-B. On 14-7-1998 the petitioner deposited the said amount as per the Challan at Annexure-C. It is stated that as informed, the petitioner gave an undertaking on 13-7-1998 that he will not put up any permanent structure and will not cause any disturbance to the neighbours. Thereafter the petitioner started putting up temporary sheds on the site in question. According to the petitioner, he has made all the arrangements for starting the Mela. At that juncture the petitioner was issued with the impugned letter at Annexure-G stating that the land where he proposes to conduct the Mela is not available as the same has been notified for bulk allotment. It is also stated that the intimation issued to him to pay the ground rent was erroneously issued without the orders of the competent authority. The amount deposited by the petitioner has been refunded and the petitioner was called upon to vacate the premises. The petitioner has sought for quashing of the said intimation in this writ petition on various grounds.

2. Learned Counsel for the petitioner contended that the impugned action of the respondent is contrary to law. According to him, the respondent should not have resorted to revoke the permission granted in favour of the petitioner.

3. The relief sought for by the petitioner cannot be granted. In the first place there is no permission granted to the petitioner to conduct the Mela. What is contained in Annexure-B is a request made by the Executive Engineer to the Branch Manager of the Canara Bank to accept the amount to B.D.A. accounts. No permission as such is given to the petitioner by anybody much less the Executive Engineer. The petitioner has wrongly construed the request in Annexure-B as permission granted to him but in fact it is not so.

4. In the second place, the Executive Engineer is not empowered to grant permission to anybody for any matter. Even if the contents at Annexure-B are construed as permission given to the petitioner, the same is by an incompetent authority. It is not a valid one. The petition is liable to be rejected on the ground that the impugned intimation is issued by an officer who has no jurisdiction. Under Section 13 of the Bangalore Development Authority Act the Commissioner is the

competent authority.

5. In the third place, the impugned letter is issued by the Engineer-Member of the B.D.A. Though the petitioner has sought for quashing of the same, he has not made the Engineer-Member a party-respondent. The petition is liable to be rejected for non-joinder of necessary party.

6. In the fourth place, Section 38 of the Act provides the manner in which the property of the B.D.A. shall be dealt with by lease, sale or otherwise transfer the properties belonged to it. The property in question is not dealt with in the manner provided therein. Hence, no right is accrued to the petitioner to approach this Court for seeking the relief claimed in this petition.

7. In the fifth place, the B.D.A. Act and the rules framed thereunder do not authorise to grant the land or site belonging to the B.D.A. for conducting Mela. The intimation at Annexure-B has been erroneously issued without the orders of the competent authority. No order granting permission or sanctioning the land in question in favour of the petitioner is produced. The impugned letter has been rightly issued and the same is perfectly valid. No right of the petitioner is infringed to exercise the power under Article 226 of the Constitution. There are no grounds to interfere with the impugned letter at Annexure-G and the petitioner is not entitled for any relief in this petition.

8. The petition is misconceived and the same is hereby rejected.

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