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Court : Karnataka

Decided On : Jan-02-2013

Judge : Anand Byrareddy

Appeal No. : Writ Petition No. 24632 of 2012 (LA-BDA)

Appellant : M.V. Lalitha

Respondent : The Bruhat Bangalore Development Authority, Represented by Its Commissioner and Another

Judgement :

(This Writ Petition is filed under Article 226 of the Constitution of India praying to quash the endorsement Annexure-A dated 4.3.2011 issued by the respondent-BDA; direct the respondents to conduct the survey of the lands bearing Sy. Nos. 114, 115 and 117 of Mathikere Village, Kasaba Hobli, Bangalore North Taluk, now called Rajamahar Vilas II Stage and earmark the vacant sites and direct the respondents to allot a site in the layout formed by the BDA in Raj Mahal Vilas II Stage, pursuant to the resolution dated 26.6.1984.)

1. Heard the learned counsel for the petitioner and the learned counsel for the respondents.
2. The facts of the case briefly stated are as follows:

The petitioner was said to be the absolute owner of lands bearing Sy.Nos.114, 115 and 117 of Mathikere Village, Bangalore North Taluk. The lands in Mathikere, Chikkamaranahalli, Dyavasandra, Nagashetty Halli, Lotte Gollahalli, Geddalalahalli and Vyalikaval Villages were notified for acquisition, for the formation of the Raj Mahal Vilas II Stage residential layout, vide notification dated 3.1.1977 issued under the provisions of the Bangalore Development Authority Act, 1976 (hereinafter referred to as the 'BDA Act' for brevity). The acquisition proceedings were completed. However, there was a dispute between the land owners and the Bangalore Development Authority (hereinafter referred to as the 'BDA' for brevity), in many of them resisting to hand over possession of the lands and there was obstruction to the formation of the layout. It is also the petitioner's case that there was a settlement arrived at between the BDA and the land owners, whereby it was agreed that an extent of 95 acres of land would be voluntarily handed over to the BDA and the compensation fixed by the BDA would be accepted by the land owners, provided the BDA also allot a site measuring 40' x 60' for each acre of land surrendered, to each of the farmers who were parties to the settlement. However, this settlement was not approved by the State Government and therefore, the land owners had questioned the same before this Court in writ proceedings. A learned Single Judge of this Court having dismissed the petition, and a Division Bench having affirmed the same, the land owners had approached the Apex Court by way of a Special Leave Petition in SLP Civil No.9562/1991. The same was disposed of in the following terms:

"Even otherwise we are of the view that the resolution of the BDA did substantial justice to the appellants. A situation was created where it may not have been possible for the BDA to implement the scheme. The BDA entered into a settlement with the farmers and took a conscious decision to allot plots to them. It was neither fair nor just on the part of the BDA and the State Government to have gone back on their decision which was taken with an open mind and after discussion with the farmers. The BDA by passing the resolution in a way, accepted the demand of the farmers for enhanced compensation. The allotment of plots to them was to further compensate them for acquiring their land for the development scheme.

We therefore allow the appeals; set aside the impugned judgment of the Hon'ble High Court and direct the BDA to deliver the possession of the sites to the appellants and all others who are similarly situated. The learned counsel for the BDA has informed us that pursuant to this court's interim order, 90 sites have been kept reserved. We, therefore, direct the BDA to hand over possession of the sites to the appellants within two months. Although the sites are to be given to the appellants free of cost, if any development and other incidental charges are payable, the appellants shall pay the same. No costs."

3. It is the petitioner's case that notwithstanding the positive directions issued by the Supreme Court hereinabove and the admitted circumstance that the petitioner's lands have been acquired for the purposes of formation of the Layout as aforesaid, the petitioner is being denied the allotment of a free site as was clearly directed by the Apex Court and since the petitioner is similarly situated as the other land owners notwithstanding the fact that he was not a party to the proceedings before the Apex Court, the petitioner not having received any compensation amount in respect of the land so acquired, would be entitled to a free site in terms of the resolution that was originally passed by the BDA in favour of the land owners, which would certainly include the petitioner and therefore, would submit that though the earlier writ petition W.P.No.26195/2010 filed by the petitioner in this regard was disposed of on 30.08.2010 with a positive direction to consider the case of the petitioner, the BDA has now issued an endorsement that the petitioner is not entitled to the benefit of the order of the Apex Court or the original resolution of the BDA and is therefore, before this Court.

4. The learned counsel appearing for the BDA has filed Statement of objections and would point out that the petitioner admittedly was not one of the land owners who had originally entered into a settlement with the BDA. The settlement was specific in respect of those land owners who were even given Possession Certificates in respect of the sites that were agreed to be given as compensation in respect of the land acquired. Notwithstanding the intention of the BDA, since the State Government had not approved the same, the proceedings culminating in the order passed by the Apex Court is restricted to those land owners who were parties to the settlement with the BDA and it is only those land owners who are

entitled to the allotment of free sites. The petitioner admittedly was not one of them and even though the petitioner's land has been acquired, he is not in a position to claim the benefit of any settlement arrived at in terms of the order of the Apex Court. The mere direction by the Apex Court that other similarly placed land owners should also be taken into consideration, does not refer to all the land owners generally whose lands have been acquired for the formation of the layout and is restricted to those land owners who had entered into a settlement with the BDA and hence, would submit that the petitioner has not made out a case for allotment of a free site. On the other hand, the compensation payable in respect of the land acquired has been deposited by the BDA well in time and it is for the petitioner to avail the benefit of the same.

5. While the learned counsel for the petitioner by way of rejoinder would submit that it is incorrect to interpret the judgment of the Supreme Court to limit the direction to allot free sites only to those appellants who were before the Court. It is to be noticed that there were only 20 petitioners before the Supreme Court, whereas the settlement that was arrived at was in respect of a large number of persons and it is settled law that if benefit of any such direction issued to similarly placed land owners, it should extend to all and therefore, the petitioner's claim is tenable.

6. Given the above facts and circumstances, as evident from the text of the judgment of the Supreme Court itself, the sequence of events would indicate that the settlement arrived at between the BDA and the land owners was restricted to some of the land owners and not all of them. As can be seen above, the lands that were acquired were vast extents spread over several villages and the allotment of free sites is restricted to land owners who had entered into a settlement in the first instance and who were parties to the proceedings before this Court as well as before the Apex Court. It is also to be noticed that not all the land owners who had entered into a settlement with the BDA, were before the Apex Court. Therefore, the direction to consider other land owners similarly placed, was apparently restricted to those land owners who are parties to the settlement with the BDA and the petitioner cannot therefore, seek to draw sustenance from the order passed in the Special Leave Petition by the Apex Court. Therefore, the endorsement issued

by the BDA to deny that the petitioner is entitled to any such benefit, is not out of place. Since the petitioner has been granted compensation in respect of the land acquired, it cannot be said that there is any injustice.

The petition lacks merit and is dismissed.

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