

MANU/KA/0874/2023

Equivalent/Neutral Citation: 2023/KHC/9447

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

Writ Petition No. 50646 of 2016 (LB-RES)

Decided On: 27.02.2023

Manje Gowda **Vs.** The State of Karnataka and Ors.

Hon'ble Judges/Coram:

Suraj Govindaraj, J.

Counsels:

For Appellant/Petitioner/Plaintiff: G.S. Venkat Subbarao, Advocate

For Respondents/Defendant: B.J. Somayaji and Narendra D.V. Gowda, Advocates

ORDER

Suraj Govindaraj, J.

1. The petitioner is before this Court seeking for the following reliefs:

a. Quashing the impugned order dated 16.1.2014 passed by the President, Zilla panchayath, Mandya District, Mandya in proceedings No. JiPanMan Appeal NO.7/2002-03 vide Annexure-A and consequently issue writ in the nature of certiorari quashing the impugned order dated 7.3.2002 C5 ಅಪಂ.ಪ್ರ.ಸಿಆರ್.:83:2001-02 passed by the President, Taluk Panchayath, Nagamangala Taluk, Nagamangala vide Annexure-L

b. Issue such other order or directions as this Hon'ble Court deems fit to grant under the circumstances of the case including costs, in the interest of justice and equity.

2. The grievance of the petitioner is that the orders at Annexure-A in Appeal No. 7/2023 dated 16.1.2014 passed by the Zilla Panchayat at Annexure-A and the order dated 7.03.2002 passed by the President, Taluka Panchayat at Annexure-L are without jurisdiction inasmuch as neither of them have powers under Section 237 of the Panchayat Raj Act, 1993 to cancel the katha issued by the respondent No. 4, Nagamangala taluka panchayat in favour of the father of the petitioner who had already deceased prior to the order being passed.

3. The contention of Sri. G.S.Venkata Subba Rao, learned counsel for the petitioner is that there is no such powers vested with the respondents under Section 237 of the Act for cancellation of the katha. If at all appropriate proceedings are to be taken under Section 269, which not having been done, these powers could not have been exercised by the authorities. That apart, the delay which has been caused in challenging the said order is on account of no particular information being made available to the petitioner about the next date the matter would be taken inasmuch as on several occasions there was no sitting of respondent No. 2 and the petitioner did not even know the next date, furthermore the order passed by respondent No. 2 was not even communicated to the petitioner. It is only when the 5th respondent sought to assert his right on the property

that the petitioner came to know of the claim made by respondent No. 5 being under the impugned order and thereafter certified copies were obtained and above petition filed.

4. None appears for respondent No. 5 though called twice. Hence, the matter is taken up for consideration.

5. Sri. B.J.Somayaji, learned counsel for respondents No. 2 to 4 fairly submits that respondent No. 2 to 4 did not have the power to pass Annexures-A and L. Similar is the submission made by learned AGA for respondent No. 1.

6. A perusal of Section 267 indicates that powers vested are only for the purpose of suspension of any particular action pending enquiry relating thereto and does not confer any power to cancel the khatha. Neither respondent No. 2 nor respondent No. 3 could have passed the impugned order. As such, the said order would have to be set-aside.

7. This Court is coming across several revenue proceedings in various jurisdictions where quasi judicial authorities are not holding sittings in a proper and required manner nor are the information being made available to the litigants and the lawyers. This is one more case in reference inasmuch as the impugned order dated 16.01.2014 was not to the knowledge of the petitioner until he made enquiries thereto and obtained certified copies in the year 2016.

8. The proceedings having gone on before 2nd respondent, as could be gathered from Annexure-N indicates that on most dates the matter was adjourned on the ground that 2nd respondent was otherwise busy with administrative work.

9. A perusal of the order sheet at Annexure-N gives a very sad situation where the matter listed on 10.05.2002, was adjourned to 15.06.2002 and thereafter to 18.02.2002, 17.08.2002, 19.09.2002, 19.10.2002, 28.11.2002, 4.01.2003, 13.02.2003, 28.03.2003, 30.05.2003, 10.07.2003, 19.07.2003, 29.08.2003, 17.10.2003, 21.11.2003, 19.12.2003, 7.02.2004, 26.03.2004, 5.06.2003, 31.07.2004, since the Presiding Officer was otherwise busy. On 9.09.2004 there was sitting but nothing had happened and the matter was adjourned to 28.10.2004, 10.12.2004, 22.01.2005, 26.02.2005, 8.04.2005, 28.05.2005 and 8.07.2005 when the matter was adjourned to 11.08.2005 since the counsel was not present. On 11.08.2005 due to lack of time, the matter was adjourned. On 15.04.2006 when the matter was listed both the counsel were absent, hence adjourned to 25.05.2006. On 25.05.2006, 1.07.2006, 25.08.2006, 6.10.2006, 23.11.2006, 29.12.2006, 3.2.2007, 15.03.2007, 19.04.2007, 26.05.2007 matter was adjourned because the Presiding Officer was otherwise busy. On 26.05.2007 since the counsel was not present, matter was adjourned to 16.08.2007. From 16.08.2007, the matter was listed on 22.09.2007, 26.10.2007, 01.12.2007, 17.01.2008, 23.02.2008, 29.03.2008, 15.05.2008, 19.06.2008, 19.07.2008, 23.08.2008, 26.09.2008, 31.10.2008, 04.12.2008, 09.01.2009, 05.02.2009, 05.03.2009, 02.04.2009, 12.06.2009, 10.07.2009, 07.08.2009, 10.09.2009, 24.10.2009, 03.12.2009, 02.01.2010, 16.01.2010, 19.02.2010, 20.03.2010, 23.04.2010, 04.06.2010, 02.07.2010, 29.07.2010, 28.08.2010, 25.09.2010, 29.10.2010, 04.02.2011, 04.03.2011, 07.04.2011, 20.05.2011, 18.06.2011, 21.07.2011, 20.08.2011, 24.09.2011, 29.10.2011, 26.11.2011, 29.12.2011, 28.01.2012, 01.03.2012, 31.03.2012, 04.05.2012, 07.06.2012, 06.07.2012, 10.08.2012, 07.09.2012, 05.10.2012, 09.11.2012, 20.12.2012, 18.01.2013, 23.02.2013, 30.03.2013, 18.05.2013, 28.06.2013, 08.08.2013, 19.09.2013, 17.10.2013 and was adjourned as the Presiding Officer was otherwise busy.

10. Finally, on 13.12.2013 noticing that the counsel was not present, the matter was posted for orders and thereafter order seems to have been passed on 16.01.2014.

11. A perusal of the above, would not indicate any information having been conveyed to the petitioner or his advocate about the adjournment. On most occasions, it is the Presiding Officer who is otherwise busy and did not discharge his quasi judicial function. When the petitioner was absent, matter was posted for orders. These administrative authorities are also discharging quasi judicial functions. It is but required that the administrative authorities give equal, if not more prominence to quasi judicial functions where the rights of the citizens are affected like in this case when the order has been passed without jurisdiction, but also without information to citizen in the matter.

12. It is but required that suitable directions are issued to the Principal Secretary, Department of Panchayat Raj, Rural Development to institute appropriate system and methodology to webhost all case proceedings including the daily orders and judgments on the relevant website of that particular authority in a similar manner as done by this Court as also the District Courts.

13. All details of the proceedings including the date on which the matter is posted, the daily orders which have been passed, evidence which has been recorded, directions which have been issued, as also the final Judgment which has been passed would be required to be uploaded on the relevant website. Necessary arrangements to be made to inform the litigants, as also advocates by SMS and/or e-mail, wherever e-mail id is provided about the orders passed like that done by this Court.

14. Whenever there is any adjournment which is made by quasi judicial authority, detailed reasoning to be given as to why the matter is being adjourned rather than laconic statement that the Presiding Officer is otherwise busy in administrative function. A suitable monitoring system to be established by the Prl. Secretary, Department of Rural development and Panchayat Raj to monitor the progress of all quasi judicial proceedings before the Authorities coming under his jurisdiction.

15. Comprehensive report, detailed project plan, as also detailed action taken report to be submitted within a period of eight weeks from date of this order.

16. Learned AGA is directed to bring to the notice of the Prl. Secretary, Department of Rural development and Panchayat Raj about the seriousness of the matter, more so, in this particular matter where proceedings were pending from 2002 to 2014 where more than hundred adjournments have been granted on account of the Presiding Officer being otherwise busy in administrative functions.

17. The Chief Secretary, Government of Karnataka is also directed to explore the possibility of appointing separate set of persons to deal with quasi judicial functions who is not required to discharge administrative functions, so that long pending matters can be completed at the earliest.

18. In this age when courts have also installed hybrid hearings through video conferencing, the Prl. Secretary to explore the possibility of making available similar facilities at all quasi judicial authorities so as to enable easy access to justice to the citizens of the country. Assistance of the Secretary, E-governance Department to be taken in regard to the directions issued.

19. In view of the above, I pass the following:

ORDER

i. The petition is allowed.

ii. The impugned order dated 16.01.2014 passed by the 2nd respondent in Appeal No. 7/2002-03 at Annexure-A and the impugned order dated 7.03.2002 passed by 3rd respondent at Annexure-L are hereby quashed.

iii. Liberty is however reserved to the 5th respondent to initiate such proceedings as may be available strictly in accordance with law.

20. Though the above petition is disposed of, relist on 17.04.2023 for filing compliance report as regards the above directions.

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