

(2016) 07 KAR CK 0054

KARNATAKA HIGH COURT (DHARWAD BENCH)

Case No: Writ Petition No. 107735 of 2015 (KLR-RES).

Bhimshi @ Bhimappa Shidaray
Khalate @ Shinde and Others -
Petitioners @HASH The Deputy
Commissioner, Belagavi and
Others

APPELLANT

Vs

RESPONDENT

Date of Decision: July 14, 2016

Acts Referred:

- Constitution of India, 1950 - Article 226
- Karnataka Land Revenue Rules, 1966 - Rule 108-Q

Citation: (2016) 5 KantLJ 449

Hon'ble Judges: A.S. Bopanna, J.

Bench: Single Bench

Advocate: Sri M.G. Naganuri, Advocate, for the Petitioners; Smt. Veena Hegde, Additional Government Advocate, for the Respondents

Final Decision: Disposed Off

Judgement

@JUDGMENTTAG-ORDER

A.S. Bopanna, J. - Learned Government Advocate to accept notice for respondents 1 to 3 and file memo of appearance in four weeks.

2. The petitioners are before this Court assailing the notice dated 2-7-2015 issued by the third respondent-Revenue Inspector as at Annexure-D to the petition.

3. The petitioner contend that they are in occupation of the land bearing RS No. 546 measuring 8 acres 34 guntas situate at Athani. The said land being in their occupation the petite-ness are stated to have made applications in Form 3-A under Rule 108-Q of the Karnataka Land Revenue Rules, 1966. Though the said application

has been filed on 30-8-2014, the respondents had not taken any action in that regard. The petitioners contend that despite the same, when there were efforts to interfere with the possession of the petitioner, a suit in O.S. No. 1472 of 2009 was filed, but the suit had been withdrawn. Despite the same, the respondents without taking any action on the application already filed by the petitioners or initiating any other proceedings have issued the notice dated 2-7-2015. Though it is issued in the form of notice, a specific direction has been issued to the petitioner to vacate from the land failing which they would be evicted. It is in that situation the petitioners are before this Court.

4. Learned Government Advocate would seek to sustain the action of the respondents. Though contentions are put forth in that regard, I am of the opinion that the details of the same need not be adverted to at this juncture inasmuch as all that is necessary to be considered herein is as to whether the respondents without considering the application filed by the petitioner, can action be taken. To that extent, a perusal of the notice dated 2-7-2015 would indicate that the action initiated is in view of the order passed in O.S. No. 1472 of 2009. To that extent it is seen that the suit in fact was filed by the petitioners seeking injunction against the respondent and the same had been withdrawn.

5. If that be the position, to evict the petitioners appropriate action in accordance with law would have to be taken and thereafter such consideration could be made. Before taking such action, the application filed by the petitioners if pending is to be taken note, a decision be taken and thereafter action is to be taken in accordance with law if need be.

6. In that view, no opinion with regard to the right as claimed by the petitioners is expressed as it is a matter to be considered by the Competent Authority before whom the application is stated to have been filed. The notice dated 2-7-2015 impugned herein not being sustainable at this juncture is however quashed.

7. Liberty is reserved to the petitioner to file a representation with the second respondent enclosing the copies of the application stated to have been filed by the petitioner. The second respondent shall verify the same and in fact if such applications have been filed and they are pending, the applications may be placed before the Competent Authority/committee for the purpose of consideration in accordance with law. Therefore appropriate action be taken based on the decision that would be taken therein. While examining the representation of the petitioners, if it is found that such application has not been filed by the petitioners in accordance with law, reasons therefor shall be assigned and thereafter appropriate fresh action could be taken by the respondents in accordance with law.

8. The petition stands disposed of in the above terms.