



IN THE HIGH COURT OF KARNATAKA AT BENGALURU



DATED THIS THE 18TH DAY OF JANUARY, 2024

PRESENT

THE HON'BLE MR PRASANNA B. VARALE, CHIEF JUSTICE

AND

THE HON'BLE MR JUSTICE KRISHNA S DIXIT

WRIT APPEAL NO. 769 OF 2022 (KLR-LG)

C/W

WRIT APPEAL NO. 745 OF 2022 (KLR-LG)

IN WA No.769/2022:

BETWEEN:

SRI ADICHUNCHANAGIRI MAHA SAMSTANA MUTT.,
RELIGIOUS TRUST REPRESENTED BY ITS CHAIRMAN,
HAVING ITS OFFICE AT NO.CA. 17,
B MAIN ROAD, VIJAYANAGARA,
BENGALURU – 560 040.

NOW REPRESENTED BY PRESIDENT
SRI.NIRMALANANDANATHA SWAMIJI.

...APPELLANT

(BY SRI. VIVEK REDDY., SENIOR ADVOCATE FOR
SRI. SUBBA REDDY K N.,ADVOCATE)



AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
REVENUE DEPARTMENT, VIKAS SOUDHA,
DR. AMBEDKAR VEEDHI, BENGALURU 560 001.
2. THE DEPUTY COMMISSIONER,
KG ROAD, NEAR DISTRICT REGISTRAR OFFICE,
DR. AMBEDKAR VEEDHI,
SAMPANGI RAMA NAGARA, BENGALURU – 560 009.



NC: 2024:KHC:2354-DB
WA No. 769 of 2022
C/W WA No. 745 of 2022

3. SRI. NARAYANAPPA,
S/O LATE SRI KANAKAPPA,
AGED ABOUT 78 YEARS,
4. SMT. JAYAMMA,
D/O LATE SRI KANAKAPPA,
AGED ABOUT 73 YEARS,

RESPONDENTS No.3 AND 4 ARE
RESIDING AT KAMMANAHALLI VILLAGE,
COTTIGERTE POST, BEGUR HOBLI,
BANNERGHATTA ROAD,
BENGALURU SOUTH TALUK,
BENGALURU -560 083.

...RESPONDENTS

(BY SMT. SHWETA KRISHNAPPA., ADDITIONAL GOVERNMENT
ADVOCATE FOR R1 & R2;
SRI. SANDESH J CHOUTA., SENIOR ADVOCATE FOR
SRI. SAMMITH S., ADVOCATE FOR R3 & R4)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER DATED 18/07/2022 IN WRIT PETITION NO.49959/2019
AND DISMISS THE WRIT PETITION OF THE RESPONDENT
NOS.3 AND 4 HEREIN.

IN WA No.745/2022:

BETWEEN:

SRI ADICHUNCHANAGIRI MAHA SAMSTANA MUTT
A RELIGIOUS TRUST,
REPRESENTED BY ITS CHAIRMAN,
HAVING ITS OFFICE AT NO.C.A.17, B MAIN ROAD,
VIJAYANAGARA, BENGALURU-560 040.
NOW REPRESENTED BY PRESIDENT
SRI. NIRMALANANDANATHA SWAMIJI.

...APPELLANT

(BY SRI. VIVEK REDDY., SENIOR ADVOCATE FOR
SRI. SUBBA REDDY K N., ADVOCATE)



NC: 2024:KHC:2354-DB
WA No. 769 of 2022
C/W WA No. 745 of 2022

AND:

1. STATE OF KARNATAKA,
REPRESENTED BY ITS PRINCIPAL SECRETARY,
REVENUE DEPARTMENT, VIKASA SOUDHA,
DR AMBEDKAR VEEDHI, BENGALURU -560 001.
2. THE DEPUTY COMMISSIONER,
K G ROAD, NEAR DISTRICT REGISTRAR OFFICE,
DR.AMBEDKAR VEEDHI,
SAMPANGI RAMA NAGARA,
BENGALURU-560 009.
3. SRI. ARJUNAPPA,
S/O LATE SRI MUNISHAMAPPA,
AGED ABOUT 83 YEARS,
4. SRI. VENKATAPPA,
D/O LATE SRI MUNISHAMAPPA,
AGED ABOUT 78 YEARS,

RESPONDENTS No.3 AND 4 ARE
R/AT KAMMANAHALLI MAIN ROAD,
NEAR MARIYAMMA TEMPLE,
DODDAKAMMANAHALLI,
GOTTIGERE POST, BBMP,
BENGALURU-560B083.

...RESPONDENTS

(BY SMT. SHWETHA KRISHNAPPA., ADDITIONAL GOVERNMENT
ADVOCATE FOR R1 & R2;
SRI. SANDESH J CHOUDA., SENIOR ADVOCATE FOR
SRI. SAMMITH S., ADVOCATE FOR C/R3 & R4)

THIS WRIT APPEAL FILED UNDER SECTION 4 OF THE
KARNATAKA HIGH COURT ACT PRAYING TO SET ASIDE THE
ORDER DATED 18/07/2022 IN WRIT PETITION NO.49958/2019
AND DISMISS THE WRIT PETITION OF THE RESPONDENT
NOS.3 AND 4.

THESE APPEALS COMING ON FOR ORDERS THIS DAY,
CHIEF JUSTICE DELIVERED THE FOLLOWING:



JUDGEMENT

These two intra-court appeals seek to lay a challenge to a learned Single Judge's common order dated 18.07.2022 whereby W.P.No.49958/2019 C/w W.P.No.49959/2019 filed by the private respondents herein having been favoured, the grant of subject site has been set at naught with a direction for the refund of allotment value to the appellant-Mutt.

2. Learned Sr. Advocate, Sri Vivek Reddy appearing for the appellant-Mutt made the following submissions:-

a) Rule 27 of the Karnataka Land Grant Rules, 1969 provides for allotment of site by way of an exception to the normative scheme for the grant; this aspect has not been appreciated by the learned Single Judge in the right prospective.

b) The writ petitioners namely, the private respondents herein lacked *locus standii* to call in question the orders of grant and this aspect of the matter has not been properly discussed and decided by the learned Single Judge.



c) The documents on the basis of which the writ petitioners had structured their claim, having been examined are held to be spurious by the Forensic Science Laboratory which conducted the exercise on the orders of the court. That being the position, they ought to have been non-suited on that ground itself.

d) The rulings cited on behalf of the appellant-Mutt ought to have been held to support its case; however, learned Judge wrongly opines to the contrary. This constitutes a legal infirmity to the detriment of the appellant-Mutt.

3. The learned Advocate Sr. Advocate appearing for the private respondents resists the appeal making submission in justification of the reasoning of the impugned order, contending that, order of the learned Single Judge purports to have been made under Article 227 of the Constitution of India and such orders are not ordinarily appealable. He also says that even otherwise, the scope of intra court appeal in matters like this is too restrictive and therefore, this court cannot undertake a deeper examination of the matter. He points out that equities in the case have been well balanced by the



learned Judge by directing refund of allotment value to the appellant-Mutt. He repels the submission of the appellant. Having so contended, he seeks dismissal of the appeals, which have common questions of law and facts.

4. Having heard the learned counsel appearing for the parties and having perused the appeal papers, we decline indulgence in the matters being broadly in agreement with the reasoning of the learned Single Judge.

Following is our discussions:

a) Firstly, these are intra-court appeals and therefore, the scope of examination is very restrictive, even if it is assumed that they are maintainable. What was challenged before the learned Single Judge was the grant/allotment of the subject property in favour of the appellant purportedly under the provisions of Rule 27 of 1969 Rules. Learned Single Judge having examined all aspects of the matters has faltered the grant since the appellant was chosen for a preferential treatment unilaterally and without giving an opportunity to other



similarly circumstanced entities; for such a preferential treatment, no reasons are forthcoming. This constituted the first infirmity in the grant orders that were put in challenge in the subject writ petitions, warranting interference of a learned Single Judge in writ jurisdiction.

b) The second contention that Rule 27 of 1969 Rules provides for preferential grant as an exception to the normal procedure, is arguably true. However, such a provision cannot be construed to authorise the Government to make the allotment on its own; secondly, it does not justify an action that favours one single entity when many other similarly circumstanced aspirants could have been in the fray. The said Rule has the following text:

*"27.Powers of the State Government :-
Notwithstanding anything contained in the preceding rules, the State Government may, suo motu, or on the recommendation of the Divisional Commissioner or the Deputy Commissioner, if it is of the opinion that in the circumstances of any case or classes of cases, it is just and reasonable to relax any of the provisions of these rules, it may, by order direct such relaxation, recording the reasons for such relaxation, subject to such conditions as may be specified in the orders and*



thereupon lands may be granted in such a case or classes of cases in accordance with such direction."

This provision apparently does not authorise the Government to make grant/allotment; it only provides for the relaxation of other Rules that would usually govern grant of the kind. The authority to grant is vested with the Revenue Officials by designation depending upon the extent of the land to be granted. Such officials are the jurisdictional Tahsildars, Assistant Commissioners & the Deputy Commissioners. The records do not disclose any order as contemplated under this Rule whereby, the Government has relaxed the usual conditions. Added, such a relaxation has to be preceded by a *prima facie* opinion of the Government that '*it is just & reasonable to relax any of the provisions of these Rules*'. This view gains support from a Co-ordinate Bench decision in **ST.ANNES EDUCATION SOCIETY VS STATE OF KARNATAKA**, ILR 2002 KAR 4096.

c) The vehement submission of Mr.Vivek Reddy, learned Sr. Advocate appearing for the appellant that the



Government having considered the application of Mutt has rightly exercised the power of grant that inheres in its officials, is difficult to countenance; power to relax the rigor of Rules is one thing and the power to grant land is another. This specific difference that lies in the text of Rule 27 cannot be ignored. Contention of the kind cannot be sustained without manhandling the text of the Rule. The subject Government Order dated 15.07.2019 specifically states that the Government has made the grant in question in terms of Rule 27 after relaxing the rigor of Rule 27A(2) of the 1969 Rules. This is absolutely without competence. Therefore, the impugned order of the learned Single Judge setting aside the said grant cannot be faltered. It hardly needs to be stated that what is required to be demonstrated for granting indulgence in appeal is not just that the impugned order is wrong; the appellant has to demonstrate that the same is unsustainable. This requirement is not met, despite vociferous submission of Mr.Vivek Reddy.



d) The next contention as to *locus standii* of the writ petitioners, as contested by the appellant does not much impress us and reasons for this are not far to seek: the writ petitioners are not strangers to the property; admittedly, they hold certain revenue records which contain entries in their names, even if certain documents which are held to be spurious by the Forensic Science Laboratory are excluded from consideration. Learned Single Judge having considered this aspect of the matter has found that the writ petitioners had the *locus standii*. In matters concerning illegal grant of State Largess, the Rule of *locus standii* is always liberally construed and that would serve the public interest. An argument to the contrary would do a lot of dis-service to the public interest inasmuch as no person other than a rival claimant can challenge the grant and therefore, even the grants that are otherwise unsustainable would go with impunity if the rival claimant takes refuge in silence. Writ courts in a sense, being the custodians of public properties cannot turn a Nelson's Eye to the apparent illegalities with which



the grant of public property is fraught with. This idea, of course in a different terminology, has animated the view of learned Single Judge that the writ petitioners do have the *locus & locum*. There is no reason to upset such a considered finding.

e) The vehement submission of Mr.Vivek Reddy, that the Rulings cited on behalf of the appellant-Mutt have not been duly considered by the learned Single Judge, is bit difficult to countenance. Several decisions have been referred to and discussed by him. Even the Apex Court decision in ***NATURAL RESOURCES ALLOCATION***, *in re* Special Reference No.1 of 2012 [(2012) 10 SCC 1], which Mr. Reddy vehemently pressed into service has also been discussed at internal paragraph 15 of the impugned judgement. Nowadays, it is not uncommon to see a plethora of decisions being cited at the Bar and many of them will be reiterative of the law declared therein. The Makers of Constitution in their collective wisdom have crafted Article 141 and it reads "The law declared by the



Supreme Court shall be binding on all courts within the territory of India". Conspicuously, the term employed in this provision is "the law declared" and not "the law repeatedly declared". Duplication of citations does not enhance precedential value of a decision. Citing a plethora of decisions of the Apex Court or of one single High Court on the very same point of law, is not desirable since one ruling is enough. Otherwise, much of judicial time would be avoidably wasted to the detriment of other deserving causes that have been languishing in the court cupboards, for years, with no hope of sighting the Sun.

f) The contention that the Report of Forensic Science Laboratory demonstrates petitioners' documents being spurious and therefore, they ought to have been non-suited, does not much impress us. Firstly, FSL Reports of the kind cannot be acted upon as being the gospels of truth, although they may enjoy some presumptive value. Whether a litigant has perpetrated fraud on the court or fabricated the documents, is a serious matter which courts



of law do not treat casually. Secondly, it is not that the FSL Report comments on all the documents as being spurious; apparently, it is confined to a few records with which we cannot readily hold the writ petitioners to be associated with. Thirdly, it is not in dispute that their names do figure in the Revenue Records which have a presumption of validity Vide section 133 of the Karnataka Land Revenue Act, 1964. No rebuttal material is produced by the appellant. The heavy reliance on FSL Report, thus does not much come to the aid in this regard. Even otherwise, there is a stark reality demonstrable by records that the grant of subject land has been made by the Government absolutely without any competence and in gross violation of scheme of 1969 Rules. As already observed above, a Writ Court which is duty bound to protect the public property, has found the grant illegal. We see no reason to turn down such a finding.

g) The grant of land was made by the Government vide Official Memorandum dated 15.07.2019. Writ petitions were filed laying a challenge to the same without



brooking delay. Any development, be it by way of construction or otherwise, shall be subject to result of such a challenge. In fact, the writ petitioners had specifically prayed for an *ad interim* relief which reads "*grant an interim direction to the third respondent not to carry out any development works/construction works in the Schedule 'B' property or changing the nature of Schedule 'B' property...*". No equity, therefore, can be pleaded on the basis of hurried developmental activities, mindlessly undertaken. Added, learned Single Judge has done equity & justice to the appellant-Mutt by directing the authorities to refund the allotment value. Further, it is not that the subject land has been allotted to the writ petitioners. Learned Judge has specifically observed "*...this does not preclude respondent Nos.1 & 2 to consider the case of respondent No.3 afresh along with similarly situated persons...*" for the grant of subject land. Even now, it is open to the appellant-Mutt who happened to the third respondent in the subject writ petitions to duly apply for the grant of said land.



**NC: 2024:KHC:2354-DB
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In the above circumstances, we find these appeals to be devoid of merits and accordingly dismiss the same, costs having been made easy.

**Sd/-
CHIEF JUSTICE**

**Sd/-
JUDGE**

Snb, KPS
List No.: 1 Sl No.: 14