

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 8th DAY OF APRIL 2009

BEFORE

THE HON'BLE MR. JUSTICE MOHAN SHANTANAGOUDAR

WRIT PETITION No.17690/2007(BDA)

BETWEEN:

M.Narasimha Aithal, 64 years
S/o.late M.Lakshminaryana Aithal
C/o.Srilatha.N., EWS 687,
Sridevi Nilaya, 7th Main Road
Kengeri Satellite Town
Bangalore-560 060 ... PETITIONER

(By M/s.Jayaram and Associates, Advocates)

AND :

The Bangalore Development
Authority, T.Chowdalah Road
Bangalore, by its Commissioner. ... RESPONDENT

(By Sri:B.V.Shankaranarayana Rao, Advocate)

This writ petition is filed under Articles 226 and 227 of the Constitution of India praying to quash the endorsement dated 6.8.2007 vide Annexure-L to the writ petition etc.

This petition coming on for preliminary hearing "B" Group this day, the Court passed the following:-

ORDER


The petitioner had applied for site by getting his name registered with the respondent

in respect of 30x40 site in the year 1987 (one time) and 1988 (two times). He was not allotted site then. However, subsequently presumably because of the poverty, he got himself registered once again for getting a site in Economically Weaker Section Category in respect of 20x30 site. Under the fresh registration card bearing No.255838, he was allotted site measuring 20x30 ft. Thereafter, the petitioner deposited the entire sital value and got possession of the site in his favour. The Bangalore Development Authority has given "No objection Certificate" to the petitioner for raising loan by mortgaging the site in question to the Banks mentioned in the "No Objection Certificate", vide Annexure-"C" to the writ petition. About three years thereafter the impugned endorsement is issued as per Annexure-"L" cancelling the allotment of site made in favour of the petitioner on the ground that the BDA does not have information about the two attempts out of the three attempts already made by the petitioner for getting the site measuring 30x40 feet allotted in his favour.



2. The records of B.D.A. are produced by Sri. B.V.Shankaranarayana Rao, learned counsel appearing on behalf of Bangalore Development Authority. Page No.12 of the said records clearly reveal that the petitioner has made three attempts i.e. one attempt in the year 1987 and two attempts in 1988. Merely because the BDA has not got correct information as to when the petitioner had made two attempts, the petitioner cannot be blamed for the same. According to the petitioner, he has also lost the records during the interregnum.

3. Be that as it may, since the petitioner while applying for allotment of sites has not suppressed any material facts and since he is allotted site based on the facts situation, the same cannot be allowed to be cancelled after three years. During the interregnum, the petitioner might have raised loans. The interest of third parties also might have been created. The Bangalore Development Authority should have made adequate enquiries at the time of initial



allotment itself. Since the impugned endorsement regarding cancellation came to be issued three years after the date of allotment of site, this Court proposes to set aside the said endorsement particularly when the site in question is allotted under the Economically Weaker Section Category.

4. Accordingly, the following order is made:-

ORDER

The endorsement at Annexure-"L" dated 6.8.2007 by which the allotment of site made in favour of the petitioner is cancelled, stands quashed.

The writ petition is allowed.

**Sd/-
Judge**

*alb/-.