

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 18<sup>TH</sup> DAY OF JUNE, 2007

BEFORE

THE HON'BLE MR. JUSTICE N KUMAR

WRIT PETITION NO. 9321/2007(BDA)

BETWEEN:

K Manjunatha Swamy  
S/o late G N Krishnappa  
44 yrs, r/a No.444  
Shivamandir Main Road  
Udayanagar  
Behind Tin Factory  
Dooravaninagar  
Bangalore-560 016

— Petitioner

(By Sri D S Joshi, Adv.)

AND:

Bangalore Development Authority  
T Chowdaiah Road  
Bangalore  
By its Commissioner

— Respondent

This writ petition is filed under Article 226 and 227 of the Constitution of India, praying to direct the respondent to consider the request of the petitioner as in application dated 30-1-2004 bearing No.154650 as in Annexure-E for allotment of an alternative site.

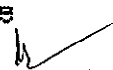
This writ petition coming on for orders this day, the Court made the following:



ORDER

The petitioner claims that he entered into an agreement of sale with one S M Manjunath on 12-9-1996 to purchase site bearing No.36 in Sy.No.46/1 of Gidadahalli, Yashwanathpur Hobli, Bangalore North Taluk. Because of the ban imposed for the registration of revenue sites formed in private layouts, sale deed cannot be executed. He has paid Rs.25,000/- towards sale consideration. Therefore, on 8-1-1997 he filed the suit for specific performance in O.S.No.303/1997 against the said Manjunath. On the very next day i.e., on 9-1-1997 on a petition under Order 23 Rule 3 CPC whereby, the said Manjunath consented for a decree of specific performance being passed. The respondent acquired the land bearing Sy.No.46/1 and other lands for formation of Sir M Visveshwaraiah Layout. In that regard,

a notice was issued to khatedars and also to the petitioner. The petitioner filed his objections on 29-5-2003. The various persons approached this Court. This Court upheld the validity of the acquisition and directed the Bangalore Development Authority to allot alternative sites to the persons who have lost revenue sites without considering the dimension of the sites earlier purchased by them. In pursuance of the same, respondent issued paper publication inviting applications from the affected persons on 9-1-2004. The petitioner registered with the Bangalore Development Authority for allotment of a site and subsequently made an application for allotment of a site. Thereafter, Bangalore Development Authority called upon the petitioner to appear before the Revenue Inspector, Surveyor and Assistant Commissioner of Acquisition along with the original sale




deed, original registration card and also layout plan showing the site which they have purchased, as per Annexure-F. The case of the petitioner is that the petitioner, who appeared before the concerned authorities, handed over all the documents but still he has not heard anything from them. Therefore, he has filed this petition seeking a writ of mandamus directing the Bangalore Development Authority to consider his request for allotment of alternative site and grant other reliefs.

2. I have heard the learned counsel for petitioner. From the aforesaid material, it is clear that petitioner has not acquired any title to the aforesaid site in question. He was only an agreement holder; by consent, decree for specific performance has been passed; in pursuance of the said decree, no sale deed is executed till today. The

aforesaid order of this Court as well as the notification issued by Bangalore Development Authority only call upon the owners of sites whose sites have been acquired by the authorities for formation of a layout, are entitled to consideration for allotment of site. Though the petitioner contends that all the documents sought for had been produced, conspicuously, copies of the said documents are not produced before this Court. The reason is obvious. The petitioner do not possess any registered sale deed showing his ownership in respect of the site in question and unless the petitioner is owner, the question of Bangalore Development Authority considering his request for allotment of site does not arise.

3. In that view of the matter, petitioner has not made out any case to issue writ of



mandamus to the respondent. Hence, the  
petition is dismissed.

Sd/-  
Judge

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