

IN THE COURT OF DEPUTY COMMISSIONER UTTARA KANNADA KARWAR

Present: Sri. S S Nakul,
Deputy Commissioner,
Uttar Kannada, Karwar.

No. RB/RTR/CR-37/14-15



Between

M/s Bharat Sugar Mills Ltd,
Formerly West Coast Paper Mills Ltd,
Registered office at: PB No.5 BangurNagar, Tq: Dandeli
Represented by its Executive Director K L Chandak R/o Dandeli
(Represented through Advocate Sri R V Naik)

.... Revision Petitioner

V/s

Smt. Sharada w/o Chandrakant Gudageri
R/o Kesarolli Tq: Haliyal.
(Represented through Advocate B N Pattekar)

.... Respondent

Sub: Revision Petition filed u/s 136(3) of Karnataka Land Revenue Act 1964 against the order of Assistant Commissioner, Karwar in file No. ಭೂಮಿ/ವಿವ-53/13-14 dated: 06-08-2014.

Preamble:

The instant revision petition has been filed against the order of Assistant Commissioner, Karwar in file No. ಭೂಮಿ/ವಿವ-53/13-14 dated: 06-08-2014. Notices were issued to both parties.

The brief facts of the case are as follows:

Land in Block No. 60/A, 60/B, 61 and 66/B of Kesrolli village in Haliyal Taluk was acquired in 1997 by KIADB for establishing the factory and it was handed over the West Coast Paper Mills for setting up sugar factory in the name of Bharat Sugars. Respondents land was also acquired for this purpose. However, the West Coast paper Mill Dandeli has not set up the Sugar factory. So the land owners including the Respondent started agriculture activity in the suit land for the last 5-6 years and they made application to Tahsildar Haliyal to enter their names in the 12(2) of the RTC of the suit land. After due enquiry Tahsildar submitted a report to Assistant Commissioner, Karwar for taking action to enter their names. Accordingly Assistant Commissioner, Karwar by his order dated: 06-08-2014 ordered to enter the names of concerned persons whose lands has been acquired for this purpose. Being aggrieved by this order the revision petitioner filed the instant revision petition before this court.

The argument of the petitioner is as follows:

1. The suit land is acquired by KIADB for industrial purpose and handed over to West Coast Paper Mill Dandeli to set up a sugar factory in the name of M/s Bharat Sugar Mills. The actual possession was handed under legal and valid possession certificate. So till date the petitioner hold the land legally.
2. The Respondent and others got compensation regarding acquisition of the land and they not in possession of the suit land. Due to technical reason the factory has not started.

4. The Respondent and others have also filed WP No. 61431 to 475/2011 before the Hon'ble High Court and the High Court by its order dated: 19-11-2012 rejected the writ petition. Again they filed Writ Appeal No. 31347 to 91/2012 before the Hon'ble Court and also the High Court by its order dated: 16-09-2013 dismissed the Writ Appeal.
5. As described above the acquired land has been in the possession of the revision petitioner and the Hon'ble Civil Judge granted Permanent Injunction for peaceful possession. The Hon'ble High Court has also rejected the WP and Writ Appeal.

Hence he requested to allow the revision petition and to set aside the order of Assistant Commissioner, Karwar.

The Advocate for the Respondent has not filed any oral or written argument though he was given plenty of opportunities dated 6-4-2015, 16-6-2015, 3-8-2015, 14-9-2015, 23-11-2015, 29-2-2016, 8-8-2016 and 24-10-2016. so it has been decided to dispose the case on the records available in the case.

On perusal of Lower Court records and written argument of the petitioner it reveals that in 1997 land in Block No. 60/A, 60/B, 61 & 66/B of Kesrolli village in Haliyal Taluk was acquired by KIADB for industrial purpose. It was handed over to West Coast Paper Mill Dandeli for setting up sugar factory in the name of revision petitioner. Respondents land also got acquired. It is evident from the report of Secretary Commerce and Industries Department regarding issue of Establishment of Sugar Factory by Bharat Sugars that the sugar factory has not been set up by the petitioner till today and also the Secretary Commerce and Industries Department suggested some recommendations to Government in this regard. The Respondents also filed Writ Petition and Writ Appeal before the Hon'ble High Court but the High Court rejected the Writ Petition and Writ Appeal.

Irrespective of the recommendations, the KIADB Act under which acquisition was made does not allow for any provision to revert back lands once acquired and allotted for industrial purpose. Further without formal denotification, it is incomprehensible on how assistant commissioner could take the decision of usage of land entry in RTC Column 12 (2) under the Karnataka Land Revenue Act 1964. This is a clear case where Assistant Commissioner, Karwar has exceeded her scope and passed orders. Further in the Writ Petition 61431-475/2011 orders by Hon'ble High Court, Karnataka the request for restoration of lands has been clearly dismissed. In view of the above reasoning I proceed as below.

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Date: 21-11-2016

Order

allowed

Revision Petitions is ~~upheld~~, Orders passed by Assistant Commissioner, Karwar No. No. ಭೂಮಿ/ವಿವ-53/13-14 dated: 06-08-2014 is hereby quashed.

(Order dated to the stenographer got computerized, verified and pronounced in open court on 21-11-2016)



S. S. S. S.
21/11/16
Deputy Commissioner,