

Karnataka High Court

Chandra Naik S/O Ramudu vs The State Of Karnataka on 29 May, 2023

Bench: S.Vishwajith Shettypresided Bysvsj

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WP No. 104187 of 2021

IN THE HIGH COURT OF KARNATAKA,
DHARWAD BENCH
DATED THIS THE 29TH DAY OF MAY, 2023
BEFORE
THE HON'BLE MR JUSTICE S.VISHWAJITH SHETTY
WRIT PETITION NO. 104187 OF 2021 (KLR-CON)

BETWEEN:

CHANDRA NAIK S/O RAMUDU NAIK,
AGED ABOUT 50 YEARS, OCC: AGRICULTURE,
R/O. KALLAHALI THANDA-583201,
TQ: HOSAPETE, DIST: VIJAYANAGAR.

... PETITIONER

(BY SRI. G.I. GACHCHINAMATH, ADVOCATE)

AND:

1. THE STATE OF KARNATAKA,
BY ITS SECRETARY TO REVENUE DEPARTMENT,
VIDHANA VEEDHI, BENGALURU-01.
2. THE DEPUTY COMMISSIONER,
BALLARI DISTRICT, BALLARI-583201.
3. THE ASSISTANT COMMISSIONER,
HOSAPETE DIVISION,
HOSAPETE, DIST: BALLARI-583201.
4. THE TAHASILDAR,
HOSAPETE, TQ: HOSAPETE,
DIST: BALLARI-583201.

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... RESPONDENTS

(BY SRI. VINAYAK S KULKARNI, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227
OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE
IMPUGNED ENDORSEMENT ORDER DATED 29-8-2021 BEARING NO.
NIL PASSED BY THE DEPUTY COMMISSIONER-RESPONDENT NO.2
PRODUCED AS ANNEXURE-C BY ISSUE OF WRIT OF CERTIORARI OR

ANY OTHER SUITABLE WRIT OR ORDER OR DIRECTIONS & ETC.

THIS PETITION, COMING ON FOR PERLIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

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ORDER

1. This writ petition is filed under Article 226 of the Constitution of India with a prayer to quash the endorsement dated 29.08.2021 issued by the 2nd respondent-Deputy Commissioner vide annexure-C and to further direct the 2nd respondent-Deputy Commissioner to grant conversion order in favour of the petitioner in respect of the land bearing Sy.No.150/3 measuring 2.42 acres situated at Kallahalli Village, Hosapete Taluka, Ballari District.
2. Heard the learned counsel appearing for the parties and also perused the materials available on record.
3. The petitioner, who claims to be the owner of the agricultural land bearing Sy.No.150/3 measuring 2.42 acres situated at Kallahalli Village, Hosapete Taluka, Ballari District had filed an application at Anneuxre-B dated 05.07.2021 before the 2nd respondent-Deputy Commissioner with a prayer to grant permission for conversion of the aforesaid land from agriculture purpose WP No. 104187 of 2021 to non-agriculture purpose. The said application has been rejected by the 2nd respondent-Deputy Commissioner vide the impugned endorsement at Anneuxre-C, dated 29.08.2021. Being aggrieved by the same, the petitioner is before this Court.
4. Learned counsel for the petitioner submits that the lands in question falls within the jurisdiction of Kallahalli Gram Panchayat and in this regard a certificate was issued on 02.10.2021 by the said Gram Panchayat and therefore, the 2nd respondent-Deputy Commissioner was not justified in calling for report from the planning authority. He submits that the adjacent land bearing Sy.Nos.149/1 & 149/2 situated at Kallahalli Village, Hosapete Taluka, Ballari District have been converted from agriculture to non-agriculture purpose by the order of the 2nd respondent-Deputy Commissioner, which was passed after obtaining necessary report from the jurisdictional Tahsildar. However, in the present case, for the reasons known to the 2nd respondent-Deputy Commissioner, he WP No. 104187 of 2021 has called the report from the planning authority, which is not permissible in law. Accordingly, he prays that the writ petition may be allowed.
5. Per contra, the learned AGA has argued in support of the impugned endorsement and submits that the 2nd respondent-Deputy Commissioner has rightly rejected the application of the petitioner by placing reliance on the report of the planning authority, wherein, it is said that the petitioner's land falls under agriculture zone.

6. The material on record would go to show that the 2nd respondent-Deputy Commissioner vide order at Annexures-E & F had approved the conversion of the adjacent land bearing Sy.Nos.149/1 & 149/2 situated at Kallahalli village from agriculture purpose to non- agriculture purpose. Learned counsel for the petitioner submits that even in respect of the property bearing Sy.No.150/2, the Deputy Commissioner has granted permission for conversion of the agricultural land to non-

WP No. 104187 of 2021 agricultural land. The material on record would go to show that the said orders have been passed after obtaining reports from the jurisdictional Tahsildar. However, the application of the petitioner in respect of the land bearing Sy.No.150/3 has been rejected by the 2nd respondent- Deputy Commissioner based on the report of the planning authority.

7. Certificate at Annexure-D would go to show that the land bearing Sy.No.150/3 is situated within the limits of Kallahalli Gram Panchayat. The Deputy Commissioner is required to consider the application for conversion of land in exercise of his power under Section 95 of the Karnataka Land Revenue Act, 1964. A perusal of the said provisions of law would go to show that the planning authority has no jurisdiction for raising any objection for consideration of the application by the competent authority, which is filed seeking conversion of land.

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8. The adjacent lands have been permitted to be converted from agriculture to non-agriculture purpose based on the report of the Tahsildar. In the circumstances, the rejection of the petitioner's application seeking conversion of his land bearing Sy.No.150/3 from agriculture purpose to non-agriculture purpose on the basis of the report of the planning authority cannot be sustained. Accordingly, the following:

ORDER

(i) The writ petition is partly allowed;

(ii) The impugned endorsement at Annexure-C, dated 29.08.2021 issued by the 2nd respondent-Deputy Commissioner is quashed and a direction is issued to the 2nd respondent-Deputy Commissioner to consider the application filed by the petitioner seeking conversion of his land bearing Sy.No.150/3 measuring 2.42 acres situated at Kallahalli Village, Hosapete WP No. 104187 of 2021 Taluka, Ballari District afresh in accordance with law as expeditiously as possible, but not later than two months from the date of receipt of a certified copy of this order.

Sd/-

JUDGE Vnp*/Ct:Bck