NC: 2023:KHC:27947
WP No. 16937 of 2023

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF AUGUST, 2023

BEFORE

THE HON'BLE MR JUSTICE SURAJ GOVINDARAJ

WRIT PETITION NO.16937 OF 2023 (LB-RES)

BETWEEN:

SHRI KUSHALA T K
S/O KORGU SHETTY,
AGED ABOUT 55 YEARS,
R/AT NO.67, MADHU KHETHNA,
VENKATESHA SWEETS,
KASTURIBA ROAD,
HARALENNEKERI,
SHIVAMOGGA CITY - 577 202

...PETITIONER

(BY SRI. H.C.PRAKASHA, ADVOCATE)

AND:

SHIVAMOGGA-BHADRAVATHI
URBAN DEVELOPMENT AUTHORITY
VINOBANAGARA,
SHIVAMOGGA - 577 204,
REP. BY ITS COMMISSIONER

...RESPONDENT

(BY SRI. A.V.GANGADHARAPPA, ADVOCATE)

Digitally signed by NARAYANAPPA LAKSHMAMMA
Location: HIGH COURT OF KARNATAKA

THIS WP IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO a) ISSUES A WRIT OF CERTIORARI OR ANY OTHER APPROPRIATE WRIT, ORDER OR DIRECTION TO THE RESPONDENT AND QUASH THE IMPUGNED ORDER ANNEXURE-A, BEARING NO.SHI.NA.PRA./NI.SHA.2/NI. NO.E-406/2011-12/2211, DATED 02.11.2021, ISSUED BY RESPONDENT AUTHORITY; b) ISSUE A WRIT IN THE NATURE OF MANDAMUS DIRECTING THE RESPONDENT AUTHORITY TO HONOR THE LEASE CUM SALE DEED EXECUTED BY THEM IN FAVOUR OF THE PETITIONER AND ALSO HONOUR THE ALLOTMENT OF SITE TO THE PETITIONER AND ETC.,

THIS PETITION, COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

1. Sri.A.V.Gangadharappa, learned counsel accepts notice for the respondent.

2. The petitioner is before this Court seeking for the following reliefs:

   a. *Issue a writ of certiorari or any other appropriate Writ Order or Direction to the Respondent and quash the impugned order Annexure-A, bearing No. Shi.Na.Pra/Ni.Sha.2/Ni.No.E-406/2011-12/2211, dated 02.11.2021, issued by Respondent Authority.*

   b. *Issue a writ in the nature of Mandamus directing the respondent authority to honor the Lease cum Sale Deed executed by them in favour of the petitioner and also honour the allotment of site to the petitioner.*

   c. *To grant such other relief as this Hon'ble Court deems fit on the facts and circumstances of the case in the interest of justice and equity.*

3. Both the counsel submit that the *lis* in the above is covered by the decision rendered by Co-ordinate Bench of this Court in WP No.14430/2022 dated 23.6.2023.

4. In view thereof, I pass the following;

ORDER

i. The writ petition is ***partly allowed.***

ii. The impugned order of cancellation of allotment of site passed by respondent-Shivamogga-Bhadravathi Urban Development Authority is quashed and set aside. The matter is remitted to respondent for reconsideration.

iii. Respondent shall issue show cause notice to the petitioner indicating the grounds for proposed cancellation of the allotment of sites within a period of 90 days from today.

iv. If no notice is issued, respondent shall not have any right to issue further notice. If a notice is issued, the petitioner shall reply to the same within a period of 30 days from the date of receipt of the said notice.

v. The respondent shall consider the reply submitted by the petitioner without being influenced by finding of the Hon'ble Lokyuktha or the State Government and pass a independent reasoned order within a period of 60 days of the receipt of reply from the petitioner.

Sd/-
JUDGE

MDS
List No.: 1 Sl No.: 29