

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 6963 OF 2004

M. CHANNAPPA (DEAD) THROUGH LRS.

Appellant (s)

VERSUS

P.V. LINGAIAH & ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T. and prayer for interim relief and office report) (FOR FINAL DISPOSAL)

Date: 01/09/2009

This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.K. JAIN
HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s)

Mr. Basava Prabhu S Patil, Sr. Adv.
Mr. B Subrahmanya Prasad Adv
Mr. Ajay Kuamr M, Adv.
Mr. V.N. Raghupathy, Adv.

For Respondent(s)

Mr. Jaspal Singh, Sr. Adv.
Mr. Shantha Kumar Mahale, Adv.
Mrs. Usha Reddy, Adv.
Mrs. S. Usha Reddy Adv.

No. 1 -

Nos. 2 & 3 -

Mr. Ramdas, Sr. Adv.
Mr. Harish Hebbar, Adv
Mr. Srinivasamurthy, Adv.
Ms. Abha Jain, Adv.

UPON hearing counsel the Court made the following
O R D E R

Pursuant to our order dated 11th August 2009,
respondent Nos. 1 to 3 have filed their respective
affidavits. We are constrained to observe that except
for making a bald statement that the subject property,
being Survey No. 39/2A, had been acquired by the

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Bangalore Development Authority for formation of
residential layouts between Banashankari 2nd Stage and
Mysore Road, Bangalore, the respondents have not
stated as to who, in fact, is in possession of the said
premises. Learned counsel appearing on behalf of the
said respondents have reiterated before us that the
said respondents are not in possession of the
aforementioned property.

As directed by the said order, the Registrar General of Karnataka High Court has submitted his report. In the said report, it is pointed out that after issuing notices to the said respondents as also to the appellants herein, the Registrar General visited the spot with police assistance. Representatives of the parties as also their counsel were present at the site. The first respondent, namely, P.V. Lingaiah, who had filed three undertakings before the High Court in the form of affidavits dated 13th March, 2000, 27th July, 2000 and 10th August, 2000, made a statement before the Registrar General that he was not at all in possession of the property identified by the appellants and he was residing elsewhere. Similar statements were made by respondents Nos. 2 and 3. All of them, however, stated that they had no objection in handing over possession

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of the property if the identity of the property was established as being the same property which was mentioned in the three affidavits. The Registrar General has reported that at present no survey number, being survey No. 39/2A is in existence as the Bangalore Development Authority has acquired the said survey number; drawn up the layout plans and buildings have come up on the said survey number. He has, accordingly, sought instructions with regard to the measurements and the boundaries of the property in question.

As already noted above, respondent Nos. 1 to 3 have no objection to the taking over of possession of the property on Survey No. 39/2A. Their only objection seems to be that the said survey number is not in existence because it has been acquired by the Bangalore

Development Authority; they are residing elsewhere and therefore, not in a position to deliver its possession. Mercifully, they have not stated as to who is in actual physical possession of the property, which is stated to have come up on Survey No. 39/2A.

Faced with the

situation, learned counsel for the appellants referred to the aforementioned three affidavits filed by the first respondent by way of an undertaking to the High

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Court for delivery of possession of the premises under his occupation.

In all the three affidavits, the residential address of the first respondent is shown as

"tenement constructed in a portion of the

land bearing

Sy. No. 39/2A, Yediyur Village, Uttarahalli Hobli,

Bangalore South Taluk". Para 2 of the affidavit

recites that he is in occupation of the said tenement.

In para 3 of the affidavit, he has undertaken to

deliver vacant possession of the said tenement to the landlord immediately on the expiry of the time granted by the Court.

Learned counsel submits that confusion in the property number is sought to be created because after

the filing of the suit for eviction, the property

number was changed by the Bruhath Bangalore Mahanagar

Palike. It is alleged that the said respondents are

taking advantage of the change in number of the

property to somehow wriggle out of the aforementioned

three undertakings.

Without commenting at this stage on the conduct

of the respondents, who are present in

person, we

direct respondent No. 1 to be present at the site

mentioned by him in the said three affidavits on the

date and time to be fixed by the Registrar General,

..5/-

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Karnataka High Court, and identify the property in which he was admittedly in possession on 13th March, 2000; 27th July, 2000 and 10th August, 2000, when the said three affidavits were filed by him. On the property being identified, the Registrar General shall take possession of the said premises. However, if some new constructions have come up on the said land, the Registrar General shall take symbolic possession of the properties and record the statement(s) of the person(s) who are found to be in occupation of the property or the properties as the case may be, in order to verify their ownerships. We hereby direct the Commissioner of Police, Bangalore to depute a senior officer to render full assistance to the Registrar General in the implementation of this order. We also direct the Commissioner, Bruhath Bangalore Mahanagar Palike to depute the Deputy Commissioner(South), Bruhath Bangalore Mahanagar Palike to make available all the relevant records pertaining to Survey No. 39/2A of Yediyur Village, Uttarahalli Hobli, Bangalore South Taluk. Any change in the nature, title and possession of the said property shall be brought to the notice of the Registrar General.

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The office shall send a copy of this order to the Registrar General, Karnataka High Court for immediate compliance. The Registrar General shall submit his report within four weeks.

List on 4th November, 2009.

Respondents Nos. 1 to 3 shall remain personally present in Court on the said date.

[Charanjeet Kaur]

[Pushap Lata Bhardwaj]

