

,/
SLP(C)No. 17812-17813 OF 1999

ITEM No.201

Court No. 5

SECTION IVA
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Civil) No.17812-17813/1999

(From the judgement and order dated 17/03/1999 in RFA 153/95
and 154/95 of The HIGH COURT OF KARNATAKA AT BANGALORE)

FAZALLUNISA

Petitioner (s)

VERSUS

M. NANJUNDAIAH AND ANR.

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for c/delay in filing SLP)
(For Final Disposal)

Date : 23/02/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.T. THOMAS
HON'BLE MR. JUSTICE R.P. SETHI

For Petitioner (s) Mr. S. Ravindra Bhat.,Adv.

For Respondent (s) Mr. SK Kulkarni,Adv. for
No.2 Ms. Sangeeta Kumar,Adv.

For RR No.1 Mr. P.R. Ramasesha,Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T.....T.....T.....T.....T.....J
.SP2

Delay condoned.
Leave granted.
The Civil Appeals are disposed of.

.SP1

Hemalatha

(HK Bhatia)
Court Master

(signed order is placed on file)

.PL55

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS.....of 2001@@
CCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCCC
(Arising out of SLP(C) Nos.17812-17813 of 1999)

.....L.....I.....T.....T.....T.....T.....T.....T.....J

FAZALLUNISA .. APPELLANT

VS.

M. NANJUNDAIAH AND ANOTHER ..RESPONDENTS

.SP2

O R D E R@@
CCCCCCCC

Delay condoned.
Leave granted.

The appellant filed a suit in respect of Site No.8 in 5th Main, D-Block, Second Stage, Rajaji Nagar at Bangalore. By the time the litigation reached the High Court it was pointed out by the Law Officer of the Bangalore Development Authority (BDA in short) that as the said site had already been allotted to some other person it is impossible for the BDA to allot it to the appellant, whatever be the merits of her claim. The High Court then disposed of the matter by the impugned judgment. The learned Judge of the High Court directed the BDA to allot an alternative site to the appellant. At the same time the appellant was restrained from interfering with the use of Site No.8 which is allotted to another person.

During the pendency of these special leave petitions we ascertained from the respondent - BDA as to

:2:

whether any other convenient alternative plot can be found out for allotment to the appellant. It must be said to the credit of the Authority that they made all efforts to reciprocate the said query from the Court. A plot was found out in HAL, 3rd Stage and the Secretary of the BDA made an offer before this Court that the said plot can be allotted to the appellant as a substitute. The appellant raised an objection that the said plot is situated far away from the city. According to the appellant the distance of the said plot was 25 Kms. away from the city. We then suggested to the learned counsel appearing for the BDA to find out whether any other plot nearby can be found out for the appellant.

Today, the Secretary of the BDA has sworn to an affidavit in which he said that no vacant site is available either in Rajaji Nagar or in west of Cord Road, except a corner site. For certain technical reasons the aforesaid corner plot cannot be made available to the appellant.

At the same time the Secretary of the BDA has pointed out that the plot now offered to the appellant (situated at HAL, 3rd Stage) is a well developed locality and is lying adjacent to Jeevan Bheema Nagar where even

:3:

judicial officers have some quarters. He also said the distance of that place from Vidhan Souda is only 6-7 Kms.

Learned counsel appearing for the appellant under instructions submitted that he is not amenable to the said offer. Learned counsel also submitted that the appellant knows site of the plot and is rejecting the said offer. We record that the said offer will stand withdrawn once and for all.

The grievance of the appellant that he was not heard when the impugned order was passed, appears to be correct. It is necessary to hear the appellant and pass fresh order. We set aside the impugned order and remit the case to the High Court for disposal of RFA Nos. 153 and 154 of 1995 afresh.

The Civil Appeals are disposed of.

.SP1

.....J.
(K.T.Thomas)

New Delhi
February 23, 2001

.....J.
(R.P. Sethi)