

C.A.No. 1474-1476 OF 1998

ITEM No.101

Court No. 11

SECTION IVA

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.1474-1476/1998

M.E.I.Emp. Housse Building Coop. Society & Ors. Appellant (s)

vs.

State of Karnataka & Ors.
(With Office Report)

Respondent (s)

WITH

C.A.No. 4548-4549/1998(With office report)

SLP(C) No. 12153/2000 (With Appl.(s) for c/delay in filing SLP and with Office Report)

C.A.No. 5190/2002 (With Office Report)

Date:28/1/2004 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE BRIJESH KUMAR

HON'BLE MR. JUSTICE ARUN KUMAR

For Appellant (s) Mr. R.S. Hegde,Adv.
Mr. Chandra Prakash,Adv.
Ms. Savithri Pandey,Adv.
Mr. P. Devesh,Adv.
Mr. P.P. Singh,Adv.

For Respondent (s) Mr. Kavin Gulati,Adv.
Mr. Sanjay R. Hegde,Adv.
Mr. Anil K. Mishra,Adv.

Mr. Girish Anantha Murthy,Adv.
Mr. B.V. Deepak,Adv.

UPON hearing counsel the Court made the following

O R D E R

C.A.No.4548-4549/1999

One of the pleas which has been pressed before us is that there has been no proceeding for levy of conversion charges or fine as envisaged u/s 95(2) of the Karnataka Land

: 2 :

Revenue Act, 1964 read with Rule 107 of the relevant Rules. In connection with this plea our attention has been drawn to paragraph 5(C) of the SLP where it has been averred that the society had never applied before Deputy Commissioner for conversion and the usage of the land from agriculture to urban for residential colonies. It is submitted that it was not necessary since the land was acquired by the Government for that purpose and no such order was passed by the Deputy Commissioner. It is submitted that this plea was also raised in the writ petition but that question was not dealt with by the learned Single Judge since the writ petition was allowed on a different point, based upon an earlier decision of the Division Bench. The State went up in appeal against the order of the learned Single Judge which has been set aside. Hence, there has been no other occasion for consideration of the plea raised that no proceeding envisaged u/s 95(2) of the Karnataka Land Revenue Act had either taken place or no such order had been passed.

Looking to the provisions referred to above, it appears that the conversion charges or fine could be levied only by an order passed by the Deputy Commissioner under the relevant provision referred to above. The learned counsel appearing for the Respondent has drawn our attention to Annexure 'P-1' filed in one of the matters in the bunch namely C.A. Nos.

: 3 :

1474-1476 of 1998 to indicate that the demand notice which includes conversion charges refers to a letter of the Deputy Commissioner dated 27.8.1999. It is submitted that the said letter may indicate if any such order has been passed by the Deputy Commissioner for levying the conversion charges.

Since we feel that this fact may go to the root of the matter, it will be necessary to ascertain as to whether any order was passed by the Deputy Commissioner under Section 95(2) and Rule 7 of the Rules levying any conversion charges or penalty.

Four weeks time as prayed for is allowed to file additional counter affidavit of the factual position indicated in the order.

This information may be taken and affidavit may be filed in respect of other matters in the bunch listed today.

List after four weeks.

(Sarojbala)(Promila Nagpal)
PA to Addl.Registrar

Court Master