

State of Mysore and Others

Vs

Hutchappa and Another

Civil Appeal Nos. 2298 and 2734 of 1968

( V.R. Krishna Iyer, Syed M. Fazal Ali JJ )

25.01.1977

JUDGMENT

KRISHNA IYER, J. –

1. The short point which have been disposed of in the matter of minutes by this Court although somehow it has evaded adjudication since 1968 is as to whether a Deputy Commissioner within the meaning of Section 3(c) of the Mysore Land Acquisition Act includes an 'Assistant Commissioner' in charge of a Sub Division of a district.
2. Certain land acquisition was started by the State for the purpose of constructing a Harijan colony - a very laudable object indeed. In that behalf, the Assistant Commissioner in charge of the Bangalore Circle (a district) took action. The High Court quashed the acquisition proceedings on the ground that according to its construction of the definition of Section 3(c) of the Act, the Assistant Commissioner could perform the functions of a Deputy Commissioner only if he were specially vested with such power by a notification. The result was that the land acquisition proceedings were quashed.
3. We see no force in the argument which has appealed to the High Court. It is easy to see from a bare reading of Section 3(c) that the expression 'Deputy Commissioner' has been expressly made to include an 'Assistant Commissioner' in charge of Sub Division; only other officers are required to be specially appointed by the Government to perform the functions of a Deputy Commissioner. The Assistant Commissioner does not require such separate empowerment or authorisation. The High Court thus erred in its construction of Section 3(c) of the Act. We set aside the order of the High Court and allow the appeals.
4. We will be failing in our duty if we do not observe that the State should have, immediately on the judgment of the High Court against them, issued a notification empowering the Assistant Commissioner in charge of the Sub Division to perform the functions of a Deputy Commissioner so that while they were adjudicating the legal question in the High Court the urgent social objective of the construction of a Harijan colony need not be held up. Very often litigation becomes an alibi for official inaction. We hope that in this case the Harijan colony has come into being at least by now.
5. We allow the appeals but since the respondents are not represented, there will be no order as to costs.

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