

SUPREME COURT OF INDIA

Bangalore Development Authority

Vs.

B.N. Ramalingaswamy

C.A.No.6492 of 2008

(Abhay Manohar Sapre and S.Abdul Nazeer,JJ.,)

20.09.2018

JUDGMENT

Abhay Manohar Sapre,J.,

1. This appeal is directed against the final judgment and order dated 05.09.2007 of the High Court of Karnataka at Bangalore in Writ Appeal No. 3390 of 2005(LA) whereby the Division Bench of the High Court dismissed the writ appeal filed by the appellant herein and affirmed the order dated 06.07.2005 of the Single Judge in Writ Petition No.28293 of 1991.

2. Few facts need to be mentioned infra for the disposal of this appeal, which involves a short point.

3. The dispute, which is the subject matter of this appeal, relates to land bearing No. 15/4, 16/4 and 16/8 situated in Jedahalli Village, Bangalore North Taluk, Bangalore measuring around 6 acres 3 guntas. The dispute is between the appellant herein, which is a statutory body called-Bangalore Development Authority (hereinafter referred to as “the Authority”) on the one hand and the private respondent Nos. 1 to 4 and two others on the other hand.

4. Respondent Nos. 1 to 4 and two others filed a writ petition (No.28293 of 1991) before the High Court of Karnataka (Bangalore) against the Authority, some private respondents, State of Karnataka and the Bangalore City Corporation. The writ petition was filed challenging the entire acquisition proceedings initiated by the Authority by issuance of the Notification dated 19.02.1976 by which the aforementioned land in question was acquired by the Authority and also Resolution No. 1051 dated 16.01.1976 passed by the Authority as being illegal, void and bad in law. The Authority contested the writ petition and supported the acquisition proceedings.

5. By order dated 06.07.2005, the writ Court (Single Judge), in substance, allowed the writ petition and, therefore, the Authority felt aggrieved and filed an intra Court appeal before the Division Bench. By impugned order, the Division Bench dismissed the appeal and affirmed

the order of the writ Court. Aggrieved by the said order, the appellant-Authority has filed the present appeal by way of special leave in this Court.

6. Having heard the learned counsel for the parties and on perusal of the record of the case, we are constrained to allow the appeal and while setting aside the impugned order remand the intra court appeal to the Division Bench of the High Court for its disposal afresh on merits in accordance with law.

7. In our considered view, the need to remand the appeal to the Division Bench for its decision afresh on merits has occasioned inter alia for the reason that it did not deal with any of the issues arising in the case and nor it seemed to have dealt with any of the submissions urged by the parties and, especially, the submissions urged by the Authority as an appellant in the said intra court appeal except to discuss the issue in Para 5 of the order which resulted in dismissal of the Authority's appeal.

8. In our considered opinion, the intra court appeal did involve factual and legal issues, which were decided by the Single Judge, therefore, once they were carried in intra court appeal by an aggrieved party and pressed in service while assailing the order of the Single Judge, it was incumbent upon the Division Bench to deal with all such issues urged and then record its findings one way or the other keeping in view the submissions urged and legal provisions applicable to the issues.

9. It was, however, not done by the Division Bench and in a cursory manner, the Division Bench disposed of the appeal.

10. We find ourselves unable to concur with such disposal and feel inclined to set aside the impugned order and remand the case to the Division Bench of the High Court with a request to decide the appeal afresh on merits in accordance with law.

11. Having formed an opinion to remand the case in the light of our reasoning mentioned above, we do not consider it proper to go into the merits of the case and, therefore, leave all the issues to be dealt with by the Division Bench for its decision on merits.

12. In view of the foregoing discussion, the appeal succeeds and is accordingly allowed. Impugned order is set aside. The case (intra court appeal) is remanded to the Division Bench of the High Court for its decision on merits uninfluenced by any of our observations in this order. We request the High Court to dispose of the appeal as expeditiously as possible preferably within 6 months.