

IN THE HIGH COURT OF KARNATAKA
KALABURAGI BENCH

DATED THIS THE 31ST DAY OF MARCH, 2022

BEFORE

THE HON'BLE MS. JUSTICE JYOTI MULIMANI

WRIT PETITION NO.200786 OF 2022 (KLR-CON)

BETWEEN:

1. MOHAMMED WASIM
S/O. MOHAMMED IBRAHIM KHURESHI
AGE: 49 YEARS, OCC: AGRICULTURE
& BUSINESS, R/O. SHIVAPUR GALLI
HUMNABAD, DIST: BIDAR
2. MANSOOR AHMED
S/O. NASEERUDDIN KHURESHI
AGE: 48 YEARS, OCC: AGRICULTURE
& BUSINESS, R/O. SHIVAPUR GALLI
HUMNABAD, DIST: BIDAR

... PETITIONERS

(BY SRI SACHIN M. MAHAJAN, ADVOCATE)

AND:

THE DEPUTY COMMISSIONER
BIDAR-585401

... RESPONDENT

(BY SRI SHIVAKUMAR R. TENGLI, AGA)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, SEEKING CERTAIN RELIEFS.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, THE COURT MADE THE FOLLOWING:

ORDER

Sri Sachin M. Mahajan, learned counsel for petitioners and learned Additional Government Advocate for respondent have appeared in person.

2. Though the matter is listed for preliminary hearing, with the consent of learned counsel appearing for the parties, the matter is taken up for final hearing.

3. The facts are stated as under:

It is stated that Petitioner No.1 is the owner and possessor of land bearing Sy.No.199/1 and Petitioner No.2 is the owner and possessor of land bearing Sy.No.199/2, measuring 05 Acres and 04 Acres 05 Guntas respectively. The lands are situated at Dhummansur Village, Humnabad Taluka, Bidar District.

It is stated that the petitioners in order to develop their lands, applied for conversion of lands for residential purpose and accordingly, they submitted applications for conversion on 09.09.2021 along with necessary documents before the Deputy Commissioner - respondent.

It is also stated that unlike the earlier scheme of conversion in which the Deputy Commissioner would send requisition for reports and certificates from various authorities under him in order to issue conversion order, in the new and changed system, the conversions are carried out on affidavit-based system, in which there is a transaction report containing details of all the reports and no objection certificates from the concerned authorities.

It is further stated that as per the map submitted by the office of the Tahasildar, high-tension wire is passing through the edge of the land of petitioner No.1 bearing Sy.No.199/1 and it affects a very small portion of the land which is sought to be converted. Similarly, high-tension wire is passing through the land bearing Sy.No.199/2 also

covers a very small portion of land owned by petitioner No.2.

It is averred that the relevant rules and laws requires the land owners to make provision to exclude that portion of the area covered under the high-tension wire from the scheme of development at the time of formation of layout. However, there is no absolute bar as such for issuing order of conversion merely because high-tension wire is passing through the land which is sought to be converted.

The Deputy Commissioner, without even affording an opportunity to the petitioner and without passing a speaking order outright passed order in the form of an endorsements purported to be a system generated order mentioning the date as 01.07.2022 rejected the application.

Under these circumstances, the petitioners having left with no other alternative and efficacious remedy, have

filed this writ petition under Articles 226 and 227 of the Constitution of India.

4. Counsel Sri Sachin M. Mahajan for petitioners submits that the impugned endorsements issued by the Deputy Commissioner are illegal and same is liable to be quashed.

Next, he submitted that the endorsements issued by the Deputy Commissioner are contrary to the recommendations of both the taluka office as well as the office of the Deputy Commissioner himself, who have in fact approved the recommendations subject to the condition that the land over which the high-tension wire is passing should be excluded from the purview of conversion. Therefore, impugned endorsements are liable to be quashed.

It is further submitted that the petitioners submitted the applications on 09.09.2021 and the rejection order in

the form of endorsement is dated 01.07.2022 and hence, there is an error apparent on the face of record.

A further submission is made that the lands in question have lost the potential for viable cultivation and growth around the lands in question has made agriculture unviable. Hence, the order of conversion is necessary.

Counsel vehemently contended that the order passed by the Deputy Commissioner is in gross violation of Article 14 of the Constitution of Indian, inasmuch as, similarly placed lands through which high-tension wire is passing have already been converted.

Lastly, he submitted that the impugned endorsements may be quashed and an appropriate writ may be issued.

5. Learned Additional Government Advocate for respondent has justified the impugned endorsements issued by the Deputy Commissioner.

Next, he submitted that the Tahasildar has rightly observed that high-tension wire is passing through the edge of the lands of the petitioners. Therefore, it is not feasible to order for conversion. Accordingly, he submits that the writ petition is devoid of merits and the same is liable to be dismissed.

6. Heard the contentions urged on behalf of the parties and perused the writ papers with care.

7. The contention of the petitioners is that they are the absolute owners in possession of the property bearing Sy.Nos.199/1 and 199/2 measuring 05 Acres and 04 Acres 05 Guntas respectively.

It appears that as per the map submitted by the office of the Tahasildar, high-tension wire is passing through a small bit of the land which belongs to petitioners.

It is relevant to note that the Deputy Commissioner passed order in the form of an endorsement and rejected the application.

The order/endorsements dated 01.07.2022 are at Annexure-G and Annexure-H. I have perused the same with utmost care. It is purported to be a system generated order. It is named and styled as 'ENDORSEMENT ORDER'.

It is very pertinent to note that the basic parameters/principles of examining the petition/request from a citizen for a particular cause, have not been applied. Perhaps, this does not augur well given the fact that the subject matter is not a new subject to the agency concerned. In other words, the office of the Deputy commissioner deals with such cases day in and day out. Hence, it was not a difficult issue to deal with and dispose it off as per extant rules.

It is argued on behalf of petitioners that there is no impediment for the authority concerned to consider the applications and grant conversion order excluding the area where the high-tension wire is passing through.

I find considerable force in the said submission and contention.

Accordingly, the Writ Petition is ***allowed***. The impugned endorsements issued by the Deputy Commissioner - respondent at Annexures-'G' and 'H' are quashed.

It is needless to observe that the authorities concerned are directed to consider the applications of the petitioners for conversion of lands at the earliest.

**Sd/-
JUDGE**

Srt