

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 14TH DAY OF OCTOBER, 2008

BEFORE

THE HON'BLE MR. JUSTICE N.K.PATIL

WRIT PETITION No.3260 OF 2007 (GM-POLICE)

BETWEEN:

- 1 SMT MOHINI DEVI CHOPRA
W/O SRI.KISHANCHAND CHOPRA
AGED ABOUT 70 YEARS
NO.67, B.T. STREET
ANCHEPET, BANGALORE-560001
- 2 SMT REKHA RANI CHOPRA
W/O SRI.GOPAL CHARAN CHOPRA
AGED ABOUT 50 YEARS
NO.66, B.T. STREET
ANCHEPET, BANGALORE-01
- 3 SMT LATHA RANI CHOPRA
W/O SRI.LALIT KUMAR CHOPRA
AGED ABOUT 40 YEARS
NO.56, YAMUNA BAI ROAD
MADHAVANAGAR
BANGALORE-560001
- 4 SRI MAHENDRAKUMAR CHOPRA
S/O SRI KISHANCHAND CHOPRA
AGED ABOUT 42 YEARS
NO.263/230, MANIVILAS GARDEN
KAMALANAGAR
BANGALORE-79
- 5 SMT KUSUM RANI CHOPRA
W/O SRI.DINESH KUMAR CHOPRA
AGED ABOUT 50 YEARS
NO.58, YAMUNA BAI ROAD,
MADHAVANAGAR
BANGALORE-01

... PETITIONERS
(By Sri : PADMANABHA MALE, SENIOR COUNSEL FOR
SRI. RAMESH P KULKARNI , ADVOCATE)

AND :

- 1 DIRECTORATE OF CIVIL RIGHTS ENFORCEMENT
PALACE ROAD
BANGALORE-01
BY ITS DIRECTOR
- 2 GOVERNMENT OF KARNATAKA
VIDHANA SOUDHA, VIDHANA VEEDHI
BANGALORE-01
BY THE SECRETARY
DEPARTMENT OF HOME
- 3 THE POLICE INSPECTOR
DIRECTORATE OF CIVIL RIGHTS
ENFORCEMENT, PALACE ROAD
BANGALORE-01
- 4 MR B M MUNIYAPPA
S/O LATE.SRI.BALAPPA @ MALAPPA
AGED ABOUT 87 YEARS
NO.57, 3RD CROSS
SWIMMING POOL EXTENSION
MALLESWARAM, BANGALORE-03
- 5 MR ANNAPPA
S/O LATE.SRI BALAPPA @ MALAPPA
AGED ABOUT 80 YEARS
NO 162, 2ND CROSS
KAMALANAGAR
BANGALORE-79

... RESPONDENTS

(By Sri : H.T. NARENDRA PRASAD, HCGP FOR R1-3;
SRI.K.M. ESHWARAPPA AND
SRI. HAREESH BHANDARY, ADVOCATES FOR R4 AND 5)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH ANX-M-1 TO M-6(FIVE COMMUNICATIONS ALL DT. 5.12.2004 AND ANOTHER DT. 24.8.2004, RESPECTIVELY. ISSUED BY THE R5)AND ALL FURTHER PROCEEDINGS PURSUANT THERETO; DIRECT TO THE R4 & 5 NOT TO INTERFERE WITH POSSESSION AND ENJOYMENT OF PETITIONERS IN RESPECT OF THE SCHEDULE A & B PROPERTIES;

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, THE COURT MADE THE FOLLOWING:

O R D E R

Petitioners, questioning the correctness or otherwise of communications all dated 5th February 2004 and all bearing No.Arji/2/SP/DCRE/BC/2004 and another communication dated 24th August 2004 bearing No.Arji/2/SP/DCRE/BC/2004 respectively vide Annexures M1 to M6 issued by fifth respondent and all further proceedings pursuant thereto, have presented the instant writ petition. Further, petitioners have sought for a direction, directing the respondents 4 and 5 not to interfere with possession and enjoyment of petitioners in respect of the Schedule A and B properties.

2. I have heard Mr.Male, learned senior counsel appearing for petitioners and learned Government Pleader appearing for respondents.



3. Learned Government Pleader appearing for respondents 1 to 3, at the outset, on instructions from third respondent, who is present before the Court, submitted that, the prayers sought for by petitioners do not survive for consideration in view of withdrawal of the complaint given by fourth respondent. Therefore, he submitted that, the writ petition filed by petitioners may be disposed of as having become infructuous.

4. Per contra, learned senior counsel appearing for petitioners at the outset submitted that, in view of the request made by the fourth respondent for closure of the proceedings initiated by the competent authority at the behest of the complaint given by fourth respondent, the competent authority has sent a communication to the Additional Director General of Police which contains some warning given to petitioners. Learned senior counsel has taken serious objection to the said warning



words mentioned in the said communication and seeks withdrawal of the said warning by the concerned Officer. In the said communication issued by the Deputy Superintendent of Police to the Additional Director General of Police, Directorate of Civil Rights Enforcement, it is stated that, on the basis of the application/complaint filed by respondents 4 and 5, an enquiry has been conducted and the Inquiry Officer has submitted report stating that, the land in question has been granted by Government to the mother of respondents 4 and 5 and after her demise, respondents 4 and 5 have been enjoying the said property and in the meanwhile, the NTC factory Officers and one Sri. Venugopal and Sri. Chopra have created false documents for transfer of the said property in their name. Therefore, upon spot inspection, the said persons (petitioners herein) have been warned not to interfere with the activities of the applicants. Further, it is stated



that, the son of fourth respondent, one Sri. Chandrashekar has come to the Office personally and informed that, in view of the enquiry conducted, the problem has been solved and that, the Deputy Commissioner has directed to make khata in their name. Therefore, he has sought for closure of the proceedings pending on their file.

5. Learned senior counsel submitted that, the said warning viz. "petitioners are directed not to interfere with the activities of applicants" given to petitioners is one without jurisdiction and hence if the said warning is deleted/withdrawn by way of an affidavit, he has no objection for disposal of the writ petition, placing the said Affidavit on record.

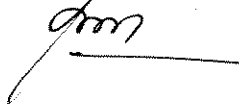
6. In the light of the submission made by learned senior counsel appearing for petitioners, learned Government Pleader appearing for respondents 1 to 3



has filed the affidavit of third respondent, who is present before the Court, stating that, the said observation made by the Deputy Superintendent of Police, Lokayuktha, Mandya in the communication dated 16th August 2008 is thereby withdrawn. The said statement is made at paragraph 3 of the Affidavit dated 14th October 2008. Thereafter, he has sought for disposal of the writ petition filed by petitioners placing the statements made in the Affidavit on record.

7. The statements made in the Affidavit dated 14th October 2008 are placed on record.

8. Having regard to the facts and circumstances of the case, as stated above, the writ petition filed by petitioners is disposed of in view of closure of complaint given by fourth respondent and also in view of withdrawal of the warning given to petitioners in the communication dated 16th August 2008, by the



competent authority. However, liberty is reserved to petitioners and respondents 4 and 5 to redress their respective grievance before the appropriate legal forum. All the contentions urged by both parties are left open.

Sd/•
Judge

BMV*