

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO.1787 OF 2009
(Arising out of S.L.P. (C) No.5443 of 2007)

M.L. Lingaiah & Ors.

...Appellant(s)

Versus

Town Panchayath, Arkalgud & Anr.

...Respondent(s)

O R D E R

Leave granted.

Heard learned counsel for the parties.

Karnataka Housing Board (for short, “the Board”) constructed 32 houses under the subsidised rental housing scheme. The same were allotted to Town Panchayat, Arkalgud, District Hasan. The said allotment was cancelled on 22.2.1992 on the ground of default in the payment of instalments by the allottee. Thereafter, the Board allotted the houses to the appellants herein. Writ Petition No. 38853/1993 filed by R.K. Ramanna and others in the name of public interest litigation was allowed by the learned Single Judge and the order of cancellation as also the intimation of the allotment issued to the appellants were quashed. Thereafter, Town Panchayat filed writ petition no. 33117/2000 for being put in possession of 32 houses. The same was disposed of by the learned Single Judge with the observation that with the quashing of cancellation of allotment, the Town Panchayath will be deemed to be in possession of the houses and it is free to take appropriate

...2/-

action against the private respondents. Writ Appeal No. 8037/2003 filed by the appellants was disposed of by the Division Bench on 22.5.2005 with the direction that pending consideration of allotment of houses, the appellants shall not be dispossessed. However, on an application made by the respondent in the writ appeal, that order was recalled and the writ appeal was placed for fresh hearing. By the impugned order, the Division Bench disposed of the writ appeal with an observation that the order passed by the learned Single Judge will only amount to recognition of the right of the Town Panchayat as the allottee and to take appropriate action against its tenants.

Learned counsel for the appellant pointed out that during the pendency of the writ appeal, the Board had executed sale deeds in favour of the appellants but this fact has been overlooked by the Division Bench. He referred to copies of some of the sale deeds which have been filed with the special leave petition.

Since the High Court disposed of the writ appeal without considering the effect of the sale deeds, which are said to have been executed by the Board in favour of the appellants, the order under challenge is liable to be set aside with direction to the High Court to decide the writ appeal afresh.

Accordingly, the appeal is allowed, impugned order is set aside and the matter is remitted to the High Court for disposal of the writ appeal in accordance with law.

It is directed that, till the disposal of the writ appeal, the appellants shall not be dispossessed from the houses in question.

[B.N. AGRAWAL]J.

[G.S. SINGHVI]J.

New Delhi,
March 23, 2009.