

Karnataka High Court

The City Municipal Council Nipani vs Rajendra Shivaputrappa Wali on 5 December, 2008

Author: N.Kumar

is THE H163 corner ms' KARKATAKA c1RcU;T._B.;E'mcH AT Bi-IARWAI) Dated this the SW day of Decemember", @()£i 8 ' ' ' M BI3i"+'ORE THE :~wx*BLE ism. J□ērie□N'. éuixvzaa " Writ Pctittian No. s9\$':3%»of 2695 ' ¢<:§:~;=1~«':<:5C;::%'' Between: _ The City Municipal Cc-xzixcil . V" "

Nipani H 33? its Commissim1.e:r V Taluka Chikocii ' - ' Bclgaum []1s\$trif3t.V-' =: A ' ,..P'e:t.it:ion.er _ .: ' Advecaie} RajenCitja"Shiva;3u.t1:appa;' s/o shivaputmppa%w*a:i%» Aged about <§i3yE:'ar's"~.

C'{£'f311}§€3l.11i€}11 B1,:sines\$ 'R'--e:'ei<i3,i11g"~:~;t' P:ran'B3;"Naga;r" _C\$hi1;.c:1iTa11_1k..

~. B\$1ga'u3é_z;.)if.£i1*ict ... R&.3pon,d€:nt " " This Wrij; Petition is filed under □rticrles 226 and 227 of " n the Cons□ntion of India, praying to quash the impugned ()I'd6I' V' _ passed by the icaxvatzd Civil Judge (Sr. D11), Chikodi in MA "'1'€<3. 14»/2005 dated 19»~1()-200353 Vida Annexure~El confummg ; the oxtier of the ieaxned Civil Judge (Jr.E)n.) Nippani on IA No. 1 ? in OS No.37] 2005 dated £23 -2005 vide {3\$.I11i€X11?."E':-D. Centending that the Licence granteci has " w:£thout foiioing the procedure lj3I'f)SCI'I':i'Z3fi(f1"" .:f%_::;1}'1\$;41:.tl%VV plaintiff □ed the prfzsent suit I-:f'c'>'i' '-.3 AV injunciion restraining the the consuuction activity. x¢x--;§.a."1;'e 'te}}npor£ii3} injunc□on was granfgd. 'a□erii appearance □ed objectionxm and séug□zt, arder. The ttiai Court on eonsid::'rat£o1;_ heir} that, when the licence ifs work has to be put up wi£}::1i11 Viaezmission is not granted the :_z t}V,é:3""~ ' }¢ 1:0' 1&1: up the censfzuc□on within the s□□z□atefi "□exwsfbze, granted an ordsr of izljunction. " the said order, the Muixicipa□ty 'V " an A.appc\$VsiIK£?}i□th came to be dismissed. Aggrieved by th:=<:\$&' the present Writ Petition is filed. uzxfbrtunate that the Courts beioh ham fa□ed to ' izGti{;e they should have considered whether they had the _ ' _'§Lv1V)f1»'3{£ii!C□(I1 to entertaixl the suits and pass mticrs which they .._If1E€\$f6 passed. when the plain: avarmelzts ciisciosrs: that the licence granted by the de::;E'endant~municipaiity is cancelsé and E/, the piainti□ was asked not to proceed with the C{.')Z1Sti'11CTi{)I."}, the Karnataka Mnnicipa□ies Act, 1964 and the I"gs':_ \$ frwned thereunder provide remedi□s by way of appeal . su<:h orders. At the sajnc tim□E\$e<.:i:ie::m Z2813 affine against its officers, szscrvants, et(_:,.....fQ_1f faith. it categorically states sf "

anything in gco□faith done";oi:_Vjn:c\$'x:z3\$§q~ {Q ' .é:3,£'3i:eVVv:Y'i1W¢x\ .§r€§.is Act against any munjcipai pr committee. constitutad undm" _Q□<:er or servant of a municipal council or 1{3é::"s<j'n_"21"c'i:1'ng tmder and in accefdanc□iiviih Ci<;i_1féC.'Q'uIxf:s of any such municipal coumrl, commifmé, .oi□Cer" §:'>r, or of a Magistrate. F1:::rther, §3e<.:;£:i01; 284- for a previous statutory notice. It " . fiat, no shall be instituted against any municipal V cc-21fn::i£;..£i1'f3¢::;€~serva11t or any person acfing u1}<:ie:r the ozgtier or di1_"e::cti<:m _ é::af such municipal Council, officer or servani in l'espEe.:;f{ 'of any act done or puzparting to have berm done in ',31.i£§3uancc of this Act or any rule or bye-iaw made there und□ Tiuntij the expiration of sixty days next after natice in writing, stating the cause of action, the naiture of the relief: sought, the . \./