

Karnataka High Court

M R Venkatesh Reddy vs State Of Karnataka on 24 November, 2009

Author: P.D.Dinakaran(Cj) & Byrareddy

IN THE HIGH COURT OF KARNATAKA AT BANGALORE

DATED THIS THE 24TH DAY OF NOVEMBER 2009

PRESENT

THE HON'BLE MR. JUDGE DINAKARAN, CHIEF

AND

THE HON'BLE MR. JUSTICE

WRIT PETITION NO. 42909 or V2063, (LB{1\$Es-MLj V'

Between

1. S1"i.M.R.Ve1'1kat.es11Reciciy,V_..__R:"v.. '

Son of Rangappa- '_ A

Aged about 44 Yearseeee '

2. S11.A.N.Thiru-maiaiah'* -- V

Soil of D}-'\.A.i.\TV.".r,l_v:*elyé1Vr'1;1_ R3&dd.y. _

Ageci 56301.1(' 4-':"§_VY'ez3.1-;=,s,_ . _ ' ~

3. S11.NLR.Nagé': 'ldf*:Tppéi';._ D

Son 0i"E?lalTgalp})a.'--._ ' "

a130u'{.,50 Ycarfs.

'."K2SI'i:fi§C'¢EiI11.11?l Raddy.

" =S_o'n_ t3f'»V1R.LA1{:iz*,ap}3a Raddy.

Years.

5. __Sr§ : M . 7I;;:RAa:d1'ar111.1 n 1..

S911 A of Th1'ppe':*L1C\$ra;)pa,

Ag;<:_d"21b0u't. 41 Years.

D * : 'S: 'i.iVE.C.}31'z1ke1E1.

Son of Late G.M.Channaljasavaiahfi

Aged aboui 36 Ye:;1T%

7. Sri . G . 'E.'.'v'isf1\>v21:1:a1 11.

Son of G.Thi1'1111'lappa.

Aged about 47 Years.

8. Srifi'. P. Pamshivam urthy.

Son of Puttaswalny.

Aged about 45 Ye-rars.

9. Sri.A.C.'i'llippeswaIlly, _
Son of Siriyappachary. V
Aged about 54 Years.

AH am msidems of
Marutixlagelr.

Ch1'l.1'adul-ga City. ;;r».fi,friTl(jf=1\I1%;Rs.

{By Shri . B. M.S1'ddappa, V&f1.{f0(\$z1'f.€ <3? }"eiivit'A.ir;~:j;er)
AND: V . V

1. "IE6 Statra Ot'.E\$af'llat'a.}{21"... ' '
By ':13 Chief .Se«;:*x-3l,21:-y?;' ~ . .
Vic1ha1';e1VMS<)Lidl1'a, = "
Ba.1'lgaIéJV:'c:V.' .

~ "Th;_e .ASm:.1*c:%'.a:'y 'tU"G0ve r1mlent.
E-{0'L1.si:lg'«a1Tld Urban Developmelli if)epa1'%.In<3n1.
~ V " via.1.{1a;1a S<;udha.
1:3;- '1'1*?) ' '

V _ 3. '"~..'I'h\$;'I)e}j'L:ty C0[1'11'I1iSSi0I'1€',I',

C.hiufad11rg"a Ii)-isi;ric~.t,.

x T Chi?Lrz1d111"g21.

" ~_ fResp()nde111.s 1.2 mad 3 deleted as per
[ha C0LiI'1', order dated 20.12.2001)

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Q.)

4. Th 6 s3e<~r'et:a1'y.

Chiiradurga Urban Detvelopmeiit. Au1,h01*it'y._
Charlnakeshavapura EXl.€il1Si() }1.
Chitradurga.

5. The C0'I1'1I1iSSi()}'1(:'1'. .
Cl'1i'i.1'alld11rg21 City MLmic1'pal C()).U'1"I(';il,.. ' 5
Cl1i[.1'adLi1*ga. I *

6. The Chief Engineer. _ _

Gauge C0i'}V€1'Sl0}'1. N0.
Millers Road.

Southern Railways.

Canioimient, . _ ' V
BarlgaI01'e~2. _ AAQRESPONDENTS

(By Shr1'..R.S.Ra\ri, Aclvoca i--i'c.)1}: 'vResp'Qn:cl.éy1i
Shri.S. Mahcsh, '.Ad«\f0(' .E1l€§;fbl'5 R_es;) 'Qzid. _ (;~nt.v.N. 5,
Sh.ri.M.S.Sein}ayg gg: 'wdzi., Ad\ 'io(:2lt_f; foif P.eS'p011d(~:ni.No.6]

Ti'l:.is Wirii}_l~'et'i.li(iI.1 filed praying to direct the
I'€Sj)()I'}Cl€Vi'--1_[S!'L0' 1_*c=€x1.ifoxie'*.aii'l.. "{l.le illegal consI.1'i.1ci'.ion
L111&tLz11lc)1'iséd_d_ l"1'.vL1SVV' '_'\4'LV"lCT:¥1.. "lu_l;';1\»'{" , been })L:. '1. up

wlfch i"uv11_s ea.s1;-1.Qlw'ést. in Maruthi Nagar layout. as Show in

'lithe &l;L)'f:)f€g'.§€{'l'vi.Al&lyL)Lil.v"'l"f1"lCl11l.I'E1ClI,li'ga City vide Axmexure

"._f._:iwlic;l'<:'..,(?.. "

ll ."f'llis.\jV'liili_ Apetiizion Coming up for hearirlg on this day.

CAVNAND B;YRAREDDY J., delivered the f0llow1'r1lg:_:--

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JUDGMENT

Heard the Counsel for the petitioners and the respondents.

2. The petitioners are said to be the _1'i:side'1'i't":s..t (:):7:?.T_ ' M211't1t.i11a1ga1', C}1it.1'adLn"g,'a
Town. It i5Mt.heir c?t)f1§;)1ati'nt'.tllzlit in Survey No.30/1B, 7 acres 6 gm1t.as;.._ c>£'g1:11;--3c1
was. §)"L1I'"Cl,ii'E}'. ___§:'s€"-';?:'_ ' by one G.N.Subash and two V:') :th.ers u'1'tfJe1' 21
1ré€gi.s:t,vt%1fedsale deed of the year 1984. They have g(O)t C(J I}')-,z.'€KI;l"€d the land from
agriaultttral usert 1102:~)~agrie'ut1't;t;i*e2t1_ user and have formed residential 1ay;c:-.t1 t"_. {☐
V""vét,}3}j31'({}\»*a1 of the Chit.rad1.11'ga Ut_4V1:)2tij'jevtDexzelopi□ient.'Atit1;J61'i--t;y' in the
year 1985. The saivdi a3'c-fa..}1VéI;§"-bfztc-:11'"i11eIuCi(? :Cl within the City I\i1.u'1i.eipa.1
1imit:'~3 o!' t,t11"c: A_CVi'1i11'2id_1iV1=ge1' Mt;1"i1(éipalit.y. tit t4h'e'1r. that i'.he1'e a railway line
tiowarde above residerltial layout, and there is also a }TC5~?1d"~f()1III t3d"~i(j :pVI'oVi.dC ingress
and egress to the I'€Sid€I11,S of ~V the 1"ayo":.1«i:. ' It their case that. there are cross-:3 roads u
'--.fL11}i1iI'1g ttorth to South and all the (:1'1'O)ss roads reach the T':

'.J"l main road which. runs east to west and the same mea:.sL1i'es about 30 feet.

4. 11 is c(i)ii.ei':ded that there ought. 10 iiave been 21 V'c'.1(' ,£{I'11i spa(:e 01' 100 feet mziintained
froni the railway 1mé:--.--_ In any event. the 30 feet roaci c<mi'1e<:i:ss the
I1E11i()!1§:1.E._'i'"i>E'gI" V. and all 211011;; the said 30 feet road. huiniems have which are erected

by Liriauthoiisediperisongs'--.wii;h(.);;'it_ 1ea'VVi*ng"1 any vacant space including the spziee. {.o be 1:17: "a.10.ng»_ railway line. It is the peitiioiem, e.'oinpIaii=1i V1.hAa't_.'oy;vii'iue of this encroachment. they peiii.iiG'n--e_r's V'h,ave 110» access to Medehzilli road which is s.éiir_i' iri' E;JiL1,ti:'I':,(?5'd iLr>wa:"ds the west, of the ia_yoL1t.. .'i"i:e'-.1jiieiaCe"Oi"eiieroachment conEi1'lLies to esca.1ai.e a1□1_ i;he1'e afe iiiife ui'1aL1t'horiseCE p61'-So118 pL1i:i.irig up £:i.1_§i'thei* CO1"lé'l"?_L1CfJ£iO!. 'l=.9. The pet:it.ioners are said LO have i11'wj_e 1:'e;j'i'e:3ei1--tgii.i.on.s ifmm. i!."1C€p1,i.(O)I] to the fifth respondent. :I'I.(_)VcK'.§,T.I'.€'.}VV", 'i'1<)_ 'c'-l'.'.V":Vvi.'§'{')..I1 has been taken by the i'ifi.h respondent. A Iefgal f;fi'€3.ti'€_'.v'-5 wae also issLied in this :regard. SiI1(_'.€ the h V.'1"(1Sf,7_O)}diii"i"1.T has failed in his si.e'.1t.1.:Lory ciuty to preveril. the i' . <-:'.-i,Ifii?r<:ai_<:]:'1:11ei11, and continuesgreriiain 21 mute spectatio to the wazlton r:nCroaChme1'11, the pe1,i.1i(O)n<31's 2111? beJ'()re this CO1.11'1,.

5. Resp(md€z":t 110.4 has filed sia'1e111€m. of obv§ec1.1'ons to cm11'm'1d that ii'. has c<:.)n1<":' 111140 ex.i.s1enc.e only in £11e__§/ear 1988. ThougI.1 1\ia.1'L.1t.i N21ga1* within the ju1'%sd:'ctio:","'=_i§f7..□Ti1¢ Said 1*espo11dent.. ii. does not have the power o1' S1.,'1"}L3-(3I'V'i':§ié):'1'1.'div e execL11ing§ any Civil work and it is tL1e:...I.i£'1,h I'§?:E; ">V}")>C3E1{fl('il1't'~SUQYIG who is 1'ec§ui'ed to take steps 1'-._t.O) :""1e2':1O'V§.=_. 'vthe ' Cor1S'iru(:tions and the said I('";>%K]_)(1'.~Ij.€10':Il'[A'fiI1dQ1'S€5S' :~j:I'.I'v}\$.1H1 1'I.'.1€11? is a 1'e1mpam e11C1'oaCh111e1'11. ~,C(O1111.)'L-1i§'1t?d fiby the pe1'1'1'1io:1;e1's. A f2eS';:nV_1id<:1□. n'o.5 "i:ho'L.1ggh served amd 1'@,}3re:sc%r11'.ed by . C(Ou1:1:1§e1;,"A'L'r121:'anot': ('',1'1V(")". "E'5"C"IV1 to file any s1,atemer11 of ()bjeé(:1'i:(ms. 'j--\('e;:V(ii=d%11gE}r, in View of the :'espo1'1e:1cr1'11. 210.4 2:1L.s:o £fl1C§..O'f~§3iI1;_g5' □t'V§?(31I11)1£«1i1'i. o1' the pe't.it.Eo11e1's, it is a§,)1:Jr'op1'i211.(2

-- "£11211". i*s?s;?;Q11tié11t no.5 'take 1' I'I1I11(1'.Cii'¢'-Hit? a(*1"i(m fr)r r□noval of aii " '--.}'11'(?g'E'}] (ttins;I1"uc.£i(O)1'1s and (:1'1c1'(.).e1(711meni £18 (?})11'1plai11e(1 by 'the pet1'1:1'<:)1'1c1':s arlci 1.0 (;?1}SE.l1'C that no fi-3EE('h 431'1croa(?1'11nent t'a1<e.s; 13%;-xce in i.1'1e £'1.1t.1.11'c. The 1*Espo1'1dt?11'L shall initiate and Co1'np}el€ 1.119 pr()(:ec'd1'1'1g:: to ejem. the 1.11'1au1h.1'oisec§ Oc(:upa1'11's and to mmovc all C11c1'oz-xchIncms within 21 pé':fj() (I of six 1mm.'L.11s Jform the cialze of r'eCeip'L of 21 copy of *1":-« The 1.'c;'s[.]O111de1'1i shall <':nsu1'<: £11211 he compliesg' wi''.'h ' t1'1'€. proCedL11'es prescribed in law and 21(§-Lé§""si';?iA(:iIy in. ('_ :AT()m_p1ia5;1.1V.: 'e with the g31*ir1cig31es of na1.1.1.r2;1§ }'1.zst.1('e".jn'7(5I1g31yi::}g*~with order.

11'1C1~"f:X: \.r.'es./' 1'£.~_ ' We?) V 1*} o5.'; ii' Y-2S"/'N o L.iV _.