IN THE HIGH COURT OF KARNATAKA AT BANGALORE 8767

DATED THE 28TH DAY OF JUNE 2008

S. Siddappa

BEFORE

THE HON'BLE MR. JUSTICE V.GOPALAGOWDA

AND

THE HON'BLE MR. JUSTICE RAVI MALIMATH

Amn A. (1)

WRIT PETITION NO 7107 / 2008 (GM-RES)

07 JUL 2008

Petitioner

1 ENVIRONMENT SUPPORT GROUP
(TRUST REGISTERED UNDER INDIAN TRUST ACT) REP BY DR.ROBERT JOHN CHANDRAN, TRUSTEE S/O LATE MR. JOHN CHANDRAN, 105, EAST END B MAIN ROAD, JAYANAGAR 9TH BLOCK EAST BANGALORE 69.

2 MR LEO SALDHANA S/O S.J.SALDANHA
1, PEARL GARDEN,S VAJARAHALLI KANAKPUARA ROAD. BANGALORE 62.

3 CIVIC BANGALORE,REP BY ITS EXECUTIVE TRUSTEE MS.KATHYAYINI CHAMARAJ D/O DR.BN.LINGARAJU,57 Y, APT.#6,2ND FLOOR KASTURI APTS., 35/23, (OLD 35/11) LANGFORD ROAD CROSS,SHANTHINAGAR, BANGALORE 25.

By Sri S SIDDAPPA

Vs

Respondent

1 STATE OF KARNATAKA
VIDHANA SOUDHA, BANGALORE 1,
REPRESENTED BY ITS CHIEF SECRETARY,

2 DEPARTMENT OF URBAN DEVELOPMENT
MULTISTORYED BUILDING.
DR.AMBEDKAR VEEDHI BANGALORE 1,
REPRESENTED BY ITS PRINCIPAL SECRETARY.

3 DEPARTMENT OF FORESTS ECOLOGY & ENVIRONMENT
MULTISTORYED BUILDING.
DR.AMBEDKAR VEEDHI BANGALORE 1.
REPRESENTED BY ITS PRINCIPAL SECRETARY.

4 DEPARTMENT OF HOME AND TRANSPORT
VIDHANA SOUDHA, BANGALORE 560 001.
REPRESENTED BY ITS PRINCIPAL SECRETARY.

5 BANGALORE METROPOLITAN LAND TRANSPORT AUTHORITY DIRECTORATE OF URBAN
LAND TRANSPORT, ROOM NO.340. VIKAS SOUD.
BANGALORE 1. REP BY ITS MEMBER SECRETARY.

6 BRUHAT BANGALORE MAHANAGARA PALIKE
N.R.SQAURE BANGALORE 2,
REPRESENTED BY ITS COMMISSIONER,

7 DEPUTY CONSERVATOR OF FORESTS AND TREE OFFICER
BRUHAT BANGALORE MAHANAGARA PALIKE.
N.R.SQUARE, BANGALORE 2.

8 DEPUTY CONSERVATOR OF FORESTS
BANGALORE URBAN DIVISION,
KARNATAKA STATE FOREST DEPARTMENT,
ARANYA BHAVAN, 18TH CROSS, MALLESWARAM, BANGALORE 3.

[Cont'd...2/...]

Date of ... 13
Paper and Court ... charges of Rs. 15
is affixed

(2)

9 BANGALORE METRO RAIL CORPORATION LTD
3RD FLOOR, BMTC COMPLEX,
K.H.ROAD, SHANTHINAGAR, BANGALORE 27,
REPRESENTED BY ITS MANAGING DIRECTOR.

10 COMMISSION OF POLICE
INFANTRY ROAD, BANGALORE 1.

11 DEPARTMENT OF TOWN PLANNING
M.S.BUILDING, DR.AMBEDKAR VEEDHI
BANGALORE 1,
REPRESENTED BY ITS DIRECTOR,

12 BANGALORE DEVELOPMENT AUTHORITY
T.CHOWDAIAH ROAD, BANGALORE 20,
REPRESENTED BY ITS COMMISSIONER,

13 MINISTRY OF URBAN DEVELOPMENT
GOVERNMENT OF INDIA NIRMAN BAHVAN,
NEW DELHI 11000
REPRESENTED BY ITS SECRETARY.

14 MINISTRY OF ENVIRONMENT AND FORESTS
PARYAVARAN BHAVAN, CGO COMPLEX,
LODI ROAD, NEW DELHI,
REPRESENTED BY ITS SECRETARY.

15 DEPARTMENT OF ROAD TRANSPORT AND HIGHWAYS
UNION MINISTRY OF SHIPPING,
ROAD TRANSPORT AND HIGHWAYS,
TRANSPORT BHAVAN, 1,PARLIAMENT STREET,
NEW DELHI 110 001
REPRESENTED BY ITS SECRETARY(RT & H)

(Sri C.Jagadish for R12, M/s. Ashok Haranahalli Associate for R6 and 7, Sri K.Krishna for R9).

Whereas, a Writ Petition filed by the above named petitioner under Article 226 of the Constitution of India, has been registered by this court.

After hearing, the Court made the following:-

O R D E R

XEROX COPY OF ENTIRE ORDER DATED 28.06.2008 IS ENCLOS

HEREWITH SEPARATELY.

VS

HIGH COURT OF KARNATAKA BANGALORE

VGGJ & RVMJ: **WP 7107/2008**

28-6-2008

ORDER

This matter being moved by the learned counsel for the petitioners was taken up for consideration on 27.6.08 regarding the interim prayer sought for by the petitioners. At the request of the respondents' counsel, the matter was adjourned to 28.6.2008.

2. We have heard Sri Sunil Dutt Yadav, learned counsel for the first petitioner, the second petitioner, party in person and also the respondents' counsel.

3. The learned counsel for the first petitioner submitted that the interim order sought is to restrain the 6th respondent from acting in pursuant to Annexures AR-1 to AR-15, namely, the road widening permission as well as to restrain respondents No.6 & 7 from felling the trees in pursuant to Annexures AR-1 to

AT-17. The interim order sought for by the petitioners is only against respondent No.6. Since the permission to widen the roads in Bangalore City and the felling of trees has been ordered, by the 7th respondent an interim order as prayed for by the petitioners is just and necessary in public interest.

4. The learned counsel for respondent-6 submitted that he requires some more time to file his statement of objections to the main petition as well as the interim order sought for in this Petition. He contends that he would like to place on record his objections regarding the locus-standi of the petitioners and they are pursuing the private interest in these proceedings. It is also further contended that the impugned orders are appealable under the provisions of Karnataka Preservation of Trees Act, 1976, (hereinafter called as KPT Act), and therefore contended that no order need be passed in this case. He submitted that by virtue of the

notification dated 11.6.2008, the Govt. of Karnataka has constituted a Tree Authority who is the Appellate Authority under the Act in exercise of the powers upon it conferred under section 3 of the KPT Act. Therefore, the grievance of the petitioners regarding tree felling order passed by the Tree Officer is appealable to the Tree Authority in terms of the said Act. On the other hand, he submitted that notwithstanding the proposed objections he would like to place on record, that, the 6th respondent has no objection to hear the petitioners grievance and try to resolve the issue amicably if this Court is of the view that the public interest would suffer. He submitted that a Committee has been formed headed by Sri Yellappa Reddy, a Retd. IAS Officer, who is the Chairman of the said Committee, to regulate Ecology & Environment at the time of widening of roads in Bangalore City. The said Committee can look into the issues which are raised in this petition by the petitioners.

5. He submitted that identical public issues regarding pollution of lakes and potable water is presently being monitored by The President, Karnataka High Court Legal Aid Committee, Justice K.L. Manjunath. Therefore, he would submit that notwithstanding his objections to this petition as stated supra, the issues raised in this Petition could also be referred to the said High Court Legal Aid Committee, for its consideration to monitor the same and it can hear the grievances of the petitioners and pass such other suitable orders that may warrant in the circumstances of the case.

6. The learned counsel for the first petitioner and the second petitioner, party in person, while accepting the said proposal submitted that they would prefer to have four persons to assist the Committee headed by Mr.Yellappa Reddy, to resolve the issues concerning public at large and carry on with sustainable

development of widening of the roads in the City. Accordingly, four names were suggested by them in the memo submitted in this case. In addition, the counsel for the respondent No. 6, has added three more names, to include them as the Members of the said Committee while objecting to the 4th name as suggested by the petitioners. Therefore, both the counsels have now agreed that on behalf of the petitioners/public the following persons, may be included in the Committee:

1) Dr. Subbarayan Prasanna PhD.,
Retd. Prof. & Dean,
Urban & Regional Planning,
Indian Institute of Management,
271, Phase 2, Ideal Homes,
Bangalroe-560092.

2) Dr. Shird Prasad Tekur,
Community Health Specialist
Child Specialist,
804, Srinivas, 16th Main, 19th Cross,
Banashankari II Stage,
Bangalore-560070.

3) Dr. Carol Upadhya, Ph.D.,
Fellow, School of Social Sciences,
Social Anthropologist,

HIGH COURT OF KARNATAKA BANGALORE

National Institute of Advanced Studies
Indian Institute of Science Campus,
Bangalore-560012.

And three persons names on behalf of respondent No.6,suggested are as follows:

1) Dr. Parameshwar
Lake Side Hospital
Ulsoor Lake,
Bangalore.

2) Dr. Sharma
Ramky, Ennroo Engineers
Rajajinagar, Bangalore.

3) Dr. Shekar Mudhu
Civil Engineering Dept.,
Indian Institute of Science
Bangalore.

7. The learned Advocate General, on behalf of respondents 1 to 3 Sri Udaya Holla submitted that in the larger public interest the State and its Officers-respondents would welcome any suggestions that may be made to it by the public, provided it is in public interest and in conformity with law to see that respondent No.6 should carry on with its developmental

works to widen the roads in the City. He would have no objection for the above mentioned persons assisting the Committee in resolving the issues raised by the petitioners receiving the valuable suggestions from the persons whose names referred to above for the purpose of carrying on with the developmental works in the interest of public.

8. The suggestions made and its acceptance by all the parties before the court and the learned Advocate General and other counsel is a welcome sign with a view to find out workable solution to redress the public interest. This court is not only concerned with the public sensitivity regarding the felling of trees and the widening of roads on the one hand, but also with regard to the sustained economic and social development of society at large on the other. An ideal balanced view is therefore necessary in a matter of this nature. The Committee constituted by respondent No.6 under the

Statute are duty bound to take into consideration the views of the public before any developmental works is to be undertaken keeping in view the public interest. It is needless to mention that the suggestions, if any, by the public would necessarily have to be considered, provided they are in true larger public interest, within the realm of law and in furtherance of sustainable developmental works to be carried on by the Statutory Authorities. Larger public interest would therefore prevail over minor public interest. In view of the suggestions made and accepted by the parties, we do not think it appropriate to grant an interim order for the present. The above Committee constituted by the 6th respondent would pass such orders as are necessary by taking into consideration all the suggestions that may be offered by the above newly added Members as proposed by both the petitioners and 6th respondent's counsel keeping in mind the various legal grounds urged in the Petition and also to see that the

sustainable developmental works are carried out to widen the roads in the City in the larger interest of public.

9. For the reasons stated supra we pass the following order:

We refer this matter to the Karnataka High Court Legal Aid Committee headed by its President, Justice K.L. Manjunath for resolving the issues that are raised by hearing all the parties from time to time and monitor the sustainable developmental works to be executed by the 6th respondent.

1) The Committee would hear the parties, the Committee constituted by the 6th respondent to which we have directed to include the names of the six persons suggested as above and such state officials as required, to determine the issues regarding the widening of roads, the felling of trees and also trees re-planting in the City

as required under Section 8(5) of the Karnataka Preservation of Trees Act, 1976.

2) The persons who are included in the Committee headed by Mr.Yellappa Reddy shall offer suggestions to assist it in the decision making process to maintain Ecology and Environment in the Urban Area where the widening of roads work will be executed.

3) The parties are at liberty to request the Committee for an interim arrangement with regard to the widening of the roads and the felling and re-planting of trees in the Urban Area where the widening of Roads work is launched and executed.

4) The Committee, shall also take into consideration not only the felling of trees and the widening of roads to reach the International Airport but also such other incidental and related matters which result in traffic hazards and also in relation to public/private transport, senior citizens, physically

(13)

handicapped persons, children, ecology, environment & health.

In view of the larger public interest involved, we do hope and expect that the above mentioned persons would sincerely attend the Committee meetings as and when convened for an effective and satisfactory solution to the problems that are highlighted in this Petition.

"Copy"
B. Jay
Section officer 7/7/08

Sd/-
Judge

Sd/-
Judge

The Seal of the High Court of Karnataka Bangalore

'TRUE COPY'
7/7/08
Section Officer
High Court of Karnataka
Bangalore

a) The date on which the requisition was made ...30/6/08...
b) The date on which the copy was ready...7/7/08
c) The date on which the copy is ready for delivery .....
d) The date on which copy is delivered to the applicant ...7/7/08...

HIGH COURT OF KARNATAKA
BANGALORE