

High Court of Karnataka

Daily Orders of the Case Number: WP 7107/2008 for the date of order 03/10/2012

**Honble Justice VIKRAMAJIT SEN
(CJ) AND B.V.NAGARATHNA****03/10/2012****Order in WP 7107/2008****Present: IN W.P.NO.7107/2008:****Sri. S.Sunil Dutt Yadav, Adv. for
petitioners****Sri. Subramanya R. for M/s. Ashok
Harnahalli****Assts. Adv. for R-6 & R-7****Sri. B.Palakshaiah, CBC for R13-R15****Sri. Suman Baliga.M., Adv. R9****Sri. R.G.Kolle, AGA, for R1-R4, 8, 10 & 11****IN W.P.NO.7288/2011:****Sri. K.N.Phanindra, Adv. for****Ms. Vyshali Hegde, Adv. for petitioners****Sri. R.G.Kolle, AGA for R1-R3 & R5-R7****Sri. Subramanya R. for M/s. Ashok
Harnahalli****Assts. Adv. for R-4**

**Learned counsel appearing for BBMP
prays for an adjournment to enable him
to place the material on record to
indicate that careful thought goes into
any decision for felling a tree.**

Adjournment granted.

**We have had a cursory glance of the
Karnataka Preservation of Trees Act,
1976, especially so far as the availability
of an appeal is concerned. In the first
place, it appears to us that Section 8
postulates cases where an individual is
desirous of removal of a tree and not
wide scale felling of trees that are
necessitated when roads are sought to
be widened or highways are sought to
be created. Prima facie, we feel that the
public must be made aware of a
proposal for removal of trees by
issuance of public notice so that the
objections can be invited. The Act does
not provide any machinery in this regard.
Secondly, so far as the availability of an
appeal is concerned, it seems to us that
it may be futile and infructuous in those
instances where the Tree Officer grants
permission to fell a tree. Public
perception is that such orders are**

executed almost instantly and at night. The Act does not seem to cater for such eventuality. Furthermore, so far as the constitution of the appellate body is concerned, it comprises of three members such as a Mayor or President of the Municipal Corporation, the Municipal Commissioner or Chief Executive etc., who are in effect the persons proposing the felling of a particular tree. This may amount to a person being a judge in his own cause, which is an anathema in law. However, since the matter is being adjourned, we shall take up these considerations on the next date of hearing.
Re-notify on 12.10.2012.
Interim orders to continue till further orders to the contrary.

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