

High Court of Karnataka

Daily Orders of the Case Number: WP 7288/2011 for the date of order 03/10/2012

Honble Justice

VIKRAMAJIT SEN (CJ)

AND B.V.NAGARATHNA

03/10/2012

Order in WP 7288/2011

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.

[Back](#)

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