
(1988) 11 KAR CK 0016
In the Karnataka High Court
Case No : W.P. No. 27430/1981

A.G. Basavarajappa and Others

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 21-11-1988

Acts Referred:

Karnataka Land Revenue Rules, 1966 — Rule 95(4)

Citation : (1989) 1 KarLJ 101

Hon'ble Judges : H. G. Balakrishna, J

Judgement

Balakrishna, J.-The petitioners claiming to represent the grievances on behalf of the entire village community of Sripura in Channagiri taluk, Shimoga district, have sought for a writ of mandamus directing the respondents not to dispose of the Gomal land in Sy. No. 37 measuring 30 acres 3 guntas of Akkalikatte village, Channagiri taluk, Shimoga district, under Darkast and also direct respondents-1 to 4 evict the unauthorised occupants in the said survey number.

2. The facts, in brief, may be stated as follows: The total population of Sripura village is about 800 and it is stated that the total strength of cattle heads is 658, according to the Certificate issued by the Village Accountant of Bullasagara. But the copy that is produced before the Court, vide Annexure-A, does not bear the date of issue of the Certificate and does not disclose the year in which this information is referable. Sy. No. 37 of Akkalikatte village measuring 30 acres 3 guntas is reserved for cattle of Sripura village. According to Order No. ALR. 341/62-63 dated 26-2-1963, Sy. No. 37 of Akkalikatte village is reserved as Gomal land. The record of rights also support the factual position. Since a number of years, the villagers are making use of the Gomal land for grazing purpose. According to the petitioners, it is the only available land for the village cattle and grant of land out of this Gomal reserve would deprive the petitioner and the villagers of Sripura who have the right to use the Gomal land for grazing. It appears that representations were repeatedly made to the revenue authorities including the concerned Minister complaining against the disposal of land in favour of unauthorised occupants under Darkast from this Gomal reserve. The

petitioners also urged that unauthorised occupants should be evicted from the land and since no action was taken by the authorities, the petitioners have approached this Court for relief.

3. The question for consideration is: Whether the petitioners are entitled to a direction restraining the respondents from disposing of the Gomal land under Darkast and for eviction of the alleged unauthorised occupants?

4. The learned Government Pleader appearing for respondents-1 to 4, submitted that the law is very clear on the question of release of land from Gomal reserve and there is no prohibition either for grant of land from the Gomal under Darkast or for regularising the unauthorised occupation. It was submitted by the learned Government Pleader that the petitioners are under the wrong impression that the revenue authorities do not have the right to reduce Gomal land so as to enable the grant of land under Darkast to not only the applicants but also to those who have been in unauthorised occupation for quite some time. It was pointed out that under Rule 97(4) of the Karnataka Land Revenue Rules, 1966, the Deputy Commissioner is authorised to reduce the extent of free pasturage below the prescribed limit after taking all relevant circumstances into consideration, if he is of the opinion that such a reduction is warranted, in the circumstances of a case, subject to his recording reasons therefor.

5. The learned Government Pleader has also made available a copy of the proceedings of the Government of Karnataka relating to the subject of eviction of unauthorised occupants of Government lands, vide Order No.RD 105 LGP 77, Bangalore, dated 1st September 1977. The State Government by exercising its powers under Rule 27 of the Karnataka Land Grant Rules, 1969, has directed the Deputy Commissioner to take immediate action to grant lands to the landless unauthorised occupants in relaxation of the said rules fixing the limit as not more than 2 hectares of dry land or its equivalent as mentioned in the said order. It may not be necessary to set out the details with regard to the extent of land that could be granted for the landless unauthorised occupants.

6. It is not the case of the petitioners that the proposed reduction of the Gomal land or the grant of lands to the unauthorised landless occupants is prohibited by law. All that the petitioners complain is that the reduction of the total extent of Gomal reserve would deprive the villagers of their rights to use Gomal land for grazing purpose of their cattle.

7. It is no doubt true that in every village, under a Governmental policy, which has assumed the form of Legislative measure, lands are earmarked for the purpose of grazing of cattle and such lands are not meant to be given away under Darkast either to landless persons or to unauthorised landless occupants. However, if the Statute itself provides for exceptions either in the nature of the reduction of the Gomal and or in the nature of legitimisation of unauthorised occupancy, so long as the unauthorised occupants are termed as landless, the petitioners cannot have valid grievance, though in fact, the cattle are likely to

suffer for want of sufficient pasturage. With justifiable sympathy, I am prompted to observe that law has accorded primacy to the articulate needs of the rational animals, the landless; over the inarticulate interests of the dumb animals whose cause goes a begging.

8. According to Rule 95(4) of the Karnataka Land Revenue Rules, 1966, the concerned revenue authorities are competent to reduce the pasturage earmarked for the village cattle and according to the Government Order dated 1st September 1977, it is open to the authorities (Deputy Commissioners) to legitimise the unauthorised occupancy of landless agriculturists to the extent indicated in the said order. In the light of these provisions, the petitioners do not have any valid ground and much less legal right for grant of a mandamus.

9. For the reasons stated above, this writ petition fails and is, therefore dismissed.

In the circumstances, there will be no order as to costs. Writ Petition dismissed.