
(1999) 02 KAR CK 0059

In the Karnataka High Court

Case No : Writ Petition No. 1196 of 1989

Allasab Balaji Multhani (Deceased) By L.Rs.

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 12-02-1999

Acts Referred:

Citation : (1999) ILR (Kar) 1159 : (1999) 3 KarLJ 383

Hon'ble Judges : M.F. Saldanha, J

Bench : Single Bench

Advocate : Sri K. Shantharaj, for the Appellant; Sri B. Veerappa, Government Pleader and Sri V.T. Rayareddi and Sri B.S. Hadimani, for the Respondent

Judgement

1. I have heard the petitioner's learned Advocate, the learned Advocate who represents the contesting parties and the learned Government Advocate on merits. Before dealing with the case on merits, it is very necessary for me to point out that the Land Reforms Act was promulgated as a social welfare measure with a particular objective in mind. Between 1974 and the present point of time in the course of the last twenty-five years, the only purpose which this legislation has served is that it has kept the Courts extremely busy and from the type of persons who are appointed to preside over the Tribunals, I am quite confident that they will see to it that the High Court is kept well occupied for the next century. The statistics so far indicate that 1,32,900 cases relating to land reforms alone have come up to this High Court and gone back to the Tribunal, many of them several times, a few of them as many as six times. The process is endless because the Tribunal is a special forum invested with special powers and this Court has taken the view that the grant of occupancy rights is a power that can be exercised only by the Tribunal. As a result of this, every time an erroneous order is pointed out to the High Court, there is no option except to remand the case to the Tribunal with a direction that the procedure be followed, the law be observed and that a correct and proper order be passed. It is obvious to me from the quality of the orders passed by the Tribunals which I have had

the misfortune to have to deal with in the course of the last one year continuously, that the persons appointed to preside over these Tribunals are least interested in understanding the law nor are they interested in observing the procedure prescribed by law. Even in those of the instances where specific directions are given by the Appellate Authority or by this Court, special care is taken to ensure that those directions are not followed. It is very clear that there is a distinct pattern in what is happening to ensure that the litigation goes round in circles and that it never ends. I have repeatedly asked the learned Government Advocates who have been appearing in these cases as to whether there are any elementary guidelines for purposes of ensuring that persons appointed in these Tribunals have some legal qualifications and that they are persons of some worthwhile background and integrity. I find that there are absolutely no guidelines, no qualifications and no prerequisites for these appointments and that is the principal reason why orders of this type have been passed and continue to be passed. In my considered view, this is not only a travesty of justice but a "social crime" because these cases concern very poor farmers most of whom are very small land owners who cannot afford either the time or the expenditure of litigation before the Tribunals and Courts. If the Government is at all serious about ensuring the welfare objective behind having promulgated the Act, I would like to see corrective action taken along the following lines:

(a) By ensuring that duly qualified, experienced persons of integrity are alone appointed on the Tribunals;

(b) That the Government exercise strict monitoring and control as far as their performance is concerned to ensure that all orders that are passed are in conformity with law and nothing else. The majority of orders passed raise serious doubts about the integrity of the Tribunal members.

2. This case is another classic example of the horrifying state of affairs that this Court is required to put up with day in and day out when it comes to the orders passed by the Land Reforms Tribunals. The petitioner points out to me that he had applied for the grant of occupancy rights and that his claim is supported by documents. The Tribunal has passed a cryptic order which hardly runs into about six lines. The order starts with the narration that the petitioner who is the applicant has applied for the grant of occupancy rights, then states that the records have been perused and concludes with the statement that the rights are granted in favour of respondent 3. The respondent was not even an applicant before the Tribunal. It is not difficult for this Court to understand how and why these things happen and the Government would do well to examine the level of corrupt practices that are prevalent in these proceedings.

3. The order passed is thoroughly unsustainable and is accordingly quashed. Learned Advocate who represents respondent 3 submitted that her client has a claim and I do not desire to say a single word with regard to the respective contentions because the parties who are represented are directed to remain

present before the Tribunal on 5-4-1999 at 11 a.m. and if the Tribunal is busy on that date, some other date shall be assigned. The Tribunal shall hear the parties, peruse the records and re-decide the case fairly and correctly and in keeping with the procedure prescribed by law. The parties to maintain status quo in the meanwhile and if any interim orders are necessary, liberty to apply to the Tribunal. The writ petition succeeds.

4. The observations made in this judgment are intended to be correctives. The petitioner and the respondents who are before me are both poor agriculturists and they have been subjected to all this litigation, thanks to the manner in which the Tribunal has messed up the entire case. It will therefore be necessary to direct that the State shall be liable to pay costs not only of the petitioner but of the contesting respondent quantified at Rs. 1,000/- each. These costs will have to be paid to the parties when they appear before the Tribunal.

5. The learned Government Advocate submitted that even if the order is wrong that it would be extremely harsh to impose costs on the State Government and he submitted that sometimes, due to pressure of work or a variety of other reasons that an erroneous order may come to be passed and that this alone would not justify the imposition of heavy costs against the State. As far as this submission goes, I have pointed out to the learned Government Advocate that there exists a heavy responsibility on the part of the State Government to ensure that inefficient, unqualified or persons of doubtful integrity are not appointed on the Tribunals and if this is done, that the State will have to face the consequences for such wrongful acts.

6. The learned Government Advocate then advanced a submission that even if the High Court arrives at the conclusion that the Tribunal members have passed a wrong order, that the imposition of costs against the State would virtually amount to punishing the wrong party. In other words, he elaborated by pointing out that the appointments are made in good faith and if the Tribunal members do not function with a sense of responsibility, that it is their individual fault and not something for which the State should be penalised. As far as this argument is concerned, I have taken cognisance of the significance and conveyed to the learned Government Advocate that I have already indicated in this order that if the State were to be selective in choosing the candidates and in monitoring and supervising their work, that such situations could have been avoided. The fact of the matter is that the order in this case is so atrocious that it fully justifies the award of exemplary costs, inter alia because it shows favour to the party who is not even an applicant before the Tribunal and disregards the plea of the applicant. It would be extremely difficult to attribute any honesty to an order of this type and this case is representative of hundreds of thousands of such orders that have been passed with impunity. In this background, the Court has no option except to award the costs as quantified but in deference to what has been pointed out by the learned Government Advocate, the State is permitted to take steps, if the members of the Tribunal who had passed this order are traceable,

for the costs to be recovered from them on a priority basis.

7. The learned Government Advocate is requested to forward a copy of this order to the Secretary to Government, Revenue Department, with a request that the Department take serious note of the observations of this Court.