

(2007) 09 KAR CK 0035
In the Karnataka High Court
Case No : Writ Petition No. 33331 of 2002

Anandaraya

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 21-09-2007

Acts Referred:

Citation : (2008) 4 KarLJ 369 : (2007) 4 KCCR 304 SN

Hon'ble Judges : Arali Nagaraj, J

Bench : Single Bench

Advocate : G.S. Visveshwara, Sdv, for the Appellant; Akkamahadevi, HCGP. for R1 and 2, K. Appa Rao, for R-10, 14, 4(a), 5(b), 5(c), 6(4), 8(a), 8(b) and 16(a), V.N. Madhava Reddy, for R-11 and Sharanagouda and G.S. Khannur for R7 and 9, R-13(j), R-3(a), R-5(a) and R-12(a), for the Respondent

Final Decision : Allowed

Judgement

Arali Nagaraj, J.—In this writ petition the petitioner has challenged the legality and correctness of the order dated 16.3.2002 (Annexure-F) passed by the Land Tribunal, Aland, District Gulbarga, in No. REV/LRY/DECL/SR/1199/74-75.

2. Stated in brief the facts leading to this writ petition are as under:

(a) The petitioner herein being the adopted son of one Dhulappa who died in the year 1970 or 1971 inherited through him certain properties including the lands bearing survey Nos. 56, 57 and 83 totally measuring 78 acres 9 guntas situate at Matki village in Aland Taluk, Gulbarga District. The natural father of the petitioner namely Kandappa, who is now dead and represented by his another son Parameswara (respondent No. 3(a)) was the owner of the agricultural lands bearing survey Nos. 11, 12, 59, 68, 69 and 79 totally measuring 83 acres 9 guntas and situate at Matki village.

(b) Since this petitioner was minor and his adoptive parents namely Dhulappa and Smt. Nagawwa, wife of Dhulappa were already dead, his natural father Kandappa filed two separate declarations before the Land Tribunal, Aland, in

respect of the lands held by himself and the petitioner.

(c) The Land Tribunal clubbed both the declarations and passed common order dated 8.10.1976 holding that 77 acres and 28 guntas of land were found surplus. Pursuant to the said order the Land Tribunal also passed another order dated 8.1.1977 distributing the said surplus land amongst the landless poor formers.

3. The said Parameswara (respondent No. 3(a)) who is another natural son of said Kandappa filed W.P.3595/78 before this Court claiming himself as the adoptive son of Dhulappa and challenging both the said orders dated 8.10.1976 and 8.1.1977. This Court, by order dated 11.7.83 allowed the said writ petition and remanded the matter to the Land Tribunal, Aland, for fresh enquiry and disposal in accordance with law.

4. After the matter was remanded to the Land Tribunal it held enquiry and passed its final order dated 2.8.1998 holding that the petitioner held 57 acres 18 guntas of land in excess over the ceiling limit. Aggrieved by the said order this petitioner filed W.P.10947/1989 and the same came to be allowed by order dated 05.12.1994 and the impugned order dated 02.08.1988 was quashed and the matter was again remanded to the Land Tribunal with a specific direction to consider both the said declarations separately and then dispose of the matter in accordance with law. After remand of the case for the second time the Tribunal passed the impugned order.

5. On plain reading of the impugned order it could be seen that the it came to be passed by the Land Tribunal by majority in total disregard to the directions issued by this Court in W.P.No. 10947/89 while remanding the matter to the Land Tribunal. This would be further clear from the operative portion of the order which reads thus:

6. It is quite clear from the impugned order as extracted above that the Tribunal passed the same without conducting proper enquiry as directed by this Court in W.P.No. 10947/89 and without giving its findings as to the relevant facts of the case. It passed the impugned order only on the ground that by that time the lands which were held surplus were already distributed among the poor landless agriculturists and therefore it would be proper on the part of the Tribunal to confirm its very order dated 08.10.1976 which, in fact, was set aside by this Court in W.P.3595/78. Therefore this impugned order cannot be sustained in law. If the matter is again remanded to the Land Tribunal it would be the third remand. It has been the experience of this Court that despite the orders of this Court in writ petitions remanding the cases to the Tribunals by issuing specific directions hoping that the Tribunals would comply with the same and thereby give finality to the cases, the Tribunals have been passing the same kind of legally unsustainable orders which necessitate further remands. Consequently, the cases do not reach finality even after several decades. In this regard, I feel it would be proper for me to quote the observations of the Hon''ble Sri Justice M.F. Saldhana, then judge of this High Court, in the case of Muninarasappa v. Smt.

Sharadamma and Ors. reported in 1999(1) KCCR 1. The relevant portion of the observations read thus:

As far as the remands are concerned, the sad story is that there has been one case which has been remanded as many as 12 times and multiple remands seems to be the order of the day. When a case is remanded by the High Court, the Tribunal is required as of necessity to realise that serious errors had been committed on the earlier occasion and to see to it that there is absolutely nothing that goes wrong thereafter. Unfortunately, this is not the case and it will be very necessary that the Tribunals be requested to take their work seriously and to see to it that the cases are disposed of in consonance with the legally accepted procedures and principles of law on the first occasion itself. If this is not done, the inevitable result would be that the Land Reforms Act cases which have not been disposed of even after the lapse of 24 years could easily be continued well into the middle of the next century considering that this was a social welfare legislation to my mind, it was very necessary for the Government to have ensured that this state of affairs did not take place. It is only hoped that proper corrective action will be taken at this point of time. For this purpose, the Registrar General shall forward a copy of this order to the Secretary to Government, Revenue Department. The covering letter shall request the concerned officer to very kindly read the order and to take all such steps that are necessary to create and improve the state of affairs including the circulation of a copy of this order to all the Land Tribunals.

7. I respectfully agree with the above observations which aptly apply to the present situation. Even after lapse of more than eight years from the date of disposal of the said case it is unfortunate that the situation has remained the same.

8. From the impugned order it appears that the Land Tribunal has passed the same order in ignorance of the consequences of non-compliance with the directions issued by this Court in the said writ petition and also in total ignorance of the relevant provisions of the Land Reforms Act. The dispute between the parties is pending ever since the first order of the Tribunal which came to be passed on 8.10.1976. Thus, more than three decades have already elapsed without there being any finality to the dispute. Having regard to the nature of the impugned order, this Court has no alternative but to remand the matter to the Land Tribunal hoping that the Tribunal would realise the importance of passing legally sustainable order and thereby give finality to the dispute.

9. In view of my foregoing discussions the present writ petition deserves to be allowed and therefore it is allowed. The impugned order dated 16.3.2002 passed by the Land Tribunal, Aland, confirming its earlier orders dated 8.10.1976 and 8.1.1977 is hereby set aside. The matter is remitted back to the Land Tribunal with directions that it shall hold enquiry separately in respect of both the declarations in strict compliance with the relevant provisions of the Land Reforms Act and Rules thereunder and then dispose of the matter in accordance with law

as expeditiously as possible, bearing in mind the observations made in this order. The original records shall be returned to the Land Tribunal concerned forthwith. There is no order as to costs in this writ petition.

10. Having regard to the nature of the orders that are being passed by the land Tribunals I feel that it is quite necessary for the Government to give proper training to the chair persons and members of the Land Tribunals in the State so as to enable them to conduct the proceedings and dispose of the case in consonance with the relevant statutory provisions and in the light of the principles laid down by the Hon"ble Supreme Court and this Court in various decisions. In this regard the Principal Secretary, Revenue Department, Government of Karnataka, shall take serious note of the situation and the need to give proper training to the chair persons and members of the Land Tribunals in the State in batches by organizing legal workshops, if possible, in collaboration with the Karnataka Judicial Academy, Bangalore so that, at least in future, the Land Tribunals would be in a position to pass legally sustainable orders and thereby give finality to the cases.

11. The Registrar General is hereby directed to send a copy of this order to the Principal Secretary, Revenue Department, Government of Karnataka, who shall send a copy of the same to each one of the Land Tribunals in the State and shall also take necessary steps in the matter.