

(2005) 05 KAR CK 0020
In the Karnataka High Court
Case No : Writ Petition No. 24020 of 2001

Anil M. Puthran and Others	Vs	APPELLANT
The Land Tribunal and Another		RESPONDENT

Date of Decision : 31-05-2005

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 44

Citation : (2005) ILR (Kar) 3048 : (2006) 3 KarLJ 136 : (2005) 3 KCCR 1999

Hon'ble Judges : V. Gopala Gowda, J

Bench : Single Bench

Advocate : Pundalika Eshwar Bhat, for the Appellant; A.R. Sharadamba, HCGP for R1 and A. Krishna Bhat, for R2, for the Respondent

Final Decision : Dismissed

Judgement

Gopala Gowda, J.—Petitioners are the owners of 79 cents in Sy.No. 220/ICI of Narimogru village in Puttur Taluk. They have filed this writ petition to quash the impugned order at Annexure-A dated 29-1-1981 passed by the Land Tribunal granting occupancy rights in favour of the 2nd respondent in respect of the said land. It is their grievance that they were not made parties before the land Tribunal in Form 7. It is further contended that land is not tenanted and did not vest in the State Government u/s 44 of the Karnataka Land Reforms Act, 1961. The finding of the Tribunal that the land is tenanted, is erroneous and contrary to law. It is also stated that grant of occupancy rights in favour of the 2nd respondent is contrary to the terms of grant of land in favour of the mother of the petitioners.

2. The 2nd respondent has filed a detailed statement of objections denying the petition averments and praying for dismissal of writ petition solely on the ground of delay and laches alone.

3. The Writ Petition is liable to be thrown out for more than one reason. Firstly, the impugned order is dated 29-1-1981 whereas the writ petition was filed in the

year 2001, after a lapse of 20 years. Hence, it is liable to be dismissed on account of delay and laches alone.

4. Secondly, the grievance of the petitioners that they were not arrayed as parties before the Land Tribunal and hence the impugned order is vitiated, is wholly untenable and liable to be rejected. Petitioners themselves have admitted that their mother Smt. Devaki Madhava Puthran was the owner of the land. The second respondent has stated in the Form No. 7 application filed before the Land Tribunal that she is dead and he does not know her legal representatives to implead them as parties to the proceedings.

5. Thirdly, even (though the petitioner were not made parties before the Land Tribunal, they being persons interested in the land in question, ought to have appeared voluntarily in response to the public notice issued. They have not done so). This Court in the case of Manjappa M.L. v. Honnappa 1982 (1) Kar LJ 6 it is held that not bringing the L.Rs. of a deceased party formally on record in a proceeding before the Tribunal cannot be held to nullify such proceeding on that account. Hence, the grievance of the petitioners for non impleadment of the petitioners in the Form No. 7 application cannot be entertained at this juncture.

6. Fourthly, (rights of the 2nd respondent in respect of the land in question on the basis of the impugned order are settled long ago and the same cannot be disturbed at this juncture).

7. The Learned Counsel for the 2nd respondent has rightly relied upon the decision of the Apex Court reported in State of Rajasthan and Others Vs. D.R. Laxmi and Others, . In paragraph 10 it is held as under: -

"10. The order or action, if ultra vires the power, becomes void and it does not confer any right. But the action need not necessarily be set at naught in all events. Though the order may be void, if the party does not approach the Court within reasonable time, which is always a question of fact and have the order invalidated or acquiesced or waived, the discretion of the Court has to be exercised in a reasonable manner. When the discretion has been conferred on the Court, the Court may in appropriate case decline to grant the relief, even if it holds that the order was void. The net result is that extraordinary jurisdiction of the Court may not be exercised in such circumstances xxxxx."

8. For the reasons stated above, Writ Petition is dismissed as the same is devoid of merits.