
(2000) 09 KAR CK 0082

In the Karnataka High Court

Case No : Writ Petition No's. 384, 21890 and 25364-25384 of 1997

Anjanappa and Others

APPELLANT

Vs

The State of Karnataka and Others

RESPONDENT

Date of Decision : 04-09-2000

Acts Referred:

Karnataka Land Revenue Act, 1964 — Section 94 A

Citation : (2001) 1 KCCR 136

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

Bench : Single Bench

Advocate : Santosh Gureddi, for the Appellant; K. Nagaraja, Government Advocate for Respondents 1 to 4, S.R. Anantha Krishna Murthy, for Respondent 5 and Basavaraj Belevangala, for Respondent 7, for the Respondent

Final Decision : Dismissed

Judgement

M.F. Saldanha, J.—This group of writ petitions have been filed by a set of persons claiming that they are in unauthorised occupation of small pieces of agricultural land in the Survey No. 3 which is the subject matter of the current controversy. They have assailed an order passed by the Land Reforms Tribunal on 23.9.1982. The petitions have been filed in the year 1997 which is approximately fifteen years after the Tribunal's order was passed. The grounds of challenge are common and hence, I propose to dispose of these petitions through a common order.

2. Briefly stated, the Petitioners have contended that they have been in unauthorised occupation of the plots of land that have been referred to by them and that they are cultivating these lands. The plea of unauthorised occupation has been put forward because the Petitioners have not and in fact are unable to produce any supportive documents either in respect of the possession or in support of their plea that they are cultivating the lands barring two documents which I propose to refer to. Normally, persons who claim rights in respect of agricultural lands and who claim that they have been in occupation and

cultivation for decades together which happens to be the case here, would have some records and some documents to rely on but in this case, what the Petitioners are relying on are two documents, the first is a report of the Revenue Inspector dated 12.9.1994 and the second one is an inspection report of a Committee which is dated 24.9.1994. Both these reports state that the Petitioners are in occupation and cultivation of the plots in question. The Petitioners contend that these proceedings arose by virtue of applications filed by them u/s 94A of the Karnataka Land Revenue Act, 1964 whereunder there are certain provisions enabling persons who are in unauthorised occupation to apply to the revenue authority for regularisation. According to the Petitioners, since they have been in occupation and cultivation for several years, they have applied for the regularisation and that the Revenue Inspector surveyed the lands and submitted his report on 12.9.1994 and this was followed by another inspection carried out by the Committee called the Regularisation of Unauthorised Occupation Committee which has not only indicated that the Petitioners are in cultivation of the lands but has also passed a very strange order which is almost unprecedented. It is a four line order whereby the Committee states that there has been no objection from any party that the occupation be regularised and then follows, in quick succession the notice dated 30.9.1994 whereby the Tahsildar calls upon the so-called applicants to pay land revenue on a tentative basis. Normally, I would not have commented a single word about these three documents because they are not really the subject matter of the controversy before this Court namely the question as to whether the order passed by the Tribunal on 23.9.1982 is required to be interfered with but it has become necessary because the Petitioners rely on these documents in support of their case and therefore the Court has to base its finding or otherwise on these documents. It is characteristic in government and revenue circles for officers and authorities to continue their bureaucratic procedures indefinitely and to drive applicants to frustration even in the simplest of situations. On the present occasion, the Revenue Department requires to be congratulated by this Court for the speed and "indecent haste" with which the entire procedure was completed in 18 days. What is of consequence is the fact that the lands in respect of which these orders have been passed are the subject matter of the Tribunal's order dated 23.9.1982 and occupancy rights was granted in respect of these lands in favour of Respondent No. 5 who in turn sold them to No. 6 who in turn sold them to No. 7. The same revenue authorities in total defiance of the Tribunal's order which has become final have produced documents in which they have contended that the Petitioners are in possession and cultivation and have thereafter acted on the basis of those documents and sought to create rights in favour of the Petitioners on the basis of some pittance collected as so called revenue receipts. The Petitioners are silent with regard to when the so called applications were filed by them in their petition and, this is for a significant reason, though the generalised statements have been made to the effect that the Petitioners are supposed to have been in occupation and cultivation for a very long period of time, though the so called applications for regularisation are not forthcoming

which is an aspect of grave suspicion. The references to the inspection on 12.9.1994 and 24.9.1994 are even stranger in so far as it is by that very department and that very authority namely the Tahsildar who had on their own records the order of the Tribunal dated 23.9.1982 granting occupancy rights in favour of Respondent No. 5 which order has assumed total finality. In my considered view, irrespective of whether the Petitioners applied for regularisation or not, the officers particularly the then Tahsildar who appears to be the centre point of the entire operation could not have so much as entertained the applications in respect of lands concerning which occupancy rights have already been granted by the Tribunal. It is quite elementary that the provisions in respect of regularisation only apply to unalienated Government land or for that matter also to land that is vested in the Government and this is precisely the title of Chapter VIII of the Karnataka Land Revenue Act. Where the lands are the subject matter of an order passed by the Tribunal, the land ceased to be Government land even if they were at some earlier point of time and consequently, no application could lie for regularisation in respect of any such lands irrespective of how the party came into possession. This provision of law is so very elementary that one does not require legal Pundits to explain it to the revenue authorities but we have before us a class of officers who have acted in flagrant breach of the provisions of the laws and the indecent haste with which they carried out the operation is such that I refuse to accept that there is even a modicum of honesty in the transaction. It is unfortunate that incidents of this type take place and it is even more unfortunate that the Government officers who are a party to frauds of this type are not only allowed to continue in Government service but are rewarded with promotions. The real difficulty that arises in the present proceeding is that this Court is not really concerned with the contents of those reports and inspection but with the fact that on a most elementary analysis of the law, it would be more than evident that none of the persons concerned had any jurisdiction to either entertaining those applications or pass any orders thereon. To my mind therefore, these documents on which the Petitioners base their case are of no consequence.

3. The Petitioners learned Counsel has submitted that the lands in question are categorised as Gomal lands in the revenue records and it is his submission that unless the lands are designated and defined as agricultural lands that they could not have been the subject matter of the grant of occupancy rights. The submission canvassed by the learned Counsel is correct in theory. The extension of this argument is that if the lands in question are not agricultural lands and the Tribunal has wrongly exercised jurisdiction or passed an order in the year 1982 that such an order cannot bind the Petitioners or the revenue authorities for that matter. I shall deal with the second limb of the argument first in so far as assuming in a given case that a Tribunal has passed an incorrect order, unless that order has been appealed against or unless that order has been set aside it assumes finality and once this stage has been reached, there can be no question of authorities of the level of a Tahsildar going behind a final quasi-judicial order,

sitting in judgment over it and proceeding as though the order is non-existent. The same position holds good in law as far as third parties are concerned in so far as if the lands in question were the subject matter of the Tribunal's order, then that order binds any person claiming any rights in respect of those lands and it is not open to them to advance arguments that proceedings for regularisation of unauthorised occupation which incidentally is an admission that the occupation is illegal, can be entertained. In this case, the Petitioners have contended that in certain civil proceedings a reference was made to the order of the year 1982 and that they came to know about the order only in the year 1996 and it is their contention that they have the locus to challenge the order because it is precisely that order which is coming in their way as far as the legality of the regularisation or any other rights which they are claiming are concerned. As far as this submission on behalf of the Petitioners is concerned, the Respondents's learned Counsel has submitted that the proceedings were going on in the year 1982 and upto that year that the lands in respect of which the Tribunal passed orders are extensive lands covering an area of about 187 acres and that consequently, there were such a large number of persons concerned with this set of cases alone that it would be absurd to contend that anybody around that area had no knowledge. There may be instances where a party obtains an order clandestinely or wrongly and the opposite party does not have knowledge for a considerable period but the facts of each case have to be individually examined and there is substance in what is pointed out that if the cases in respect of such a large area and as many as 57 different applications were being decided that everybody around would have certainly come to know. The answer perhaps lies in the fact that looking to the ages of the Petitioners, some of them were not even born at that time though they contend that they were in cultivation and occupation. The fact of the matter remains that on a scrutiny of the record what emerges is that none of these Petitioners some of whom are aged even 50 or 60 had at any time filed any applications before the Tribunal for the grant of occupancy rights, assuming they were in occupation and cultivation. We are really concerned with 1.3.1974 which is the material date and it would hardly be tenable for them to contend that they could not have filed applications for the grant of occupancy rights. If they contend that they have come into possession by whatever means at a later point of time then, they have absolutely no locus to challenge the present orders. The reason for this is because it is not for any interested person to present challenges to the Tribunal's order unless the aggrieved party was a party to the proceedings or unless the aggrieved party can demonstrate that the party did have a rival claim to the rights that have been granted by the Tribunal. In the present instance, the Petitioners were not parties nor can they have been parties to the original proceedings nor can they demonstrate that they had any rival claim to the land in question and consequently, I need to hold that they have absolutely no locus standi to present this petition.

4. I need to however deal with the submission canvassed by the Petitioners"

learned Counsel wherein he has raised the basic issue with regard to the character of the lands in question when he relied on the categorisation of the lands being gomal. His contention was that the lands would necessarily be vacant or barren Government lands and that if the Petitioners have unauthorisedly occupied them and thereafter converted them to agricultural use that they could present applications for regularisation but the thrust of the argument is against the order of the Tribunal in so far as it is contended that if the lands are gomal lands that the Tribunal could not have passed orders in respect of these lands. The learned Counsel has relied on parts of the Tribunal's order wherein the Tribunal has dealt with this aspect which is essentially factual and has relied heavily on the passage wherein the Tribunal has recorded that the A.D.L.R. has stated that the lands in question were gomal lands. The basis for this statement being made before the Tribunal is that when the original survey was done in the year 1981 these lands were categorised as gomal lands. The Tribunal has dealt with this aspect of the case and has pointed out that quite apart from the statements of the Petitioners who have contended that they are in occupation and cultivation and that the lands are agricultural lands, the Tribunal has relied on the department's own documents namely the revenue records and the Tribunal has recorded a clear cut positive finding that the lands in question are agricultural lands. It is not as though this aspect had escaped the notice of the Tribunal and consequently, to my mind it is impermissible for the Petitioners to contend that merely because the entries made in the year 1981 have not been updated or corrected or modified that the lands continued to be gomal lands. In actual fact, the Petitioners themselves contend that they are carrying out agricultural operations on those lands whereas they have no option except to admit that even though agricultural operations are being carried out that the revenue authorities still categorised them as gomal lands. On the basis of the material before the Court, there is unimpeachable evidence of the fact that the lands are not gomal lands and, the Court will have to go by the findings of the Tribunal which have assumed finality categorising the lands as agricultural lands. To my mind therefore, this ground will not avail the Petitioners. The Respondents have challenged the right of the Petitioners to approach this Court through the present set of writ petitions after a lapse of fifteen years. I have already held that the contention raised by the Petitioners that they were unaware of the Tribunal's order until the year 1996 is totally unacceptable. Under those circumstances, the unexplained delay of fifteen years alone is a ground on which this set of petitions are liable to be dismissed. I need to record here that this is one field of law in which the Court have made considerable allowance because in many cases where the working of the Tribunal is found to be wholly unsatisfactory and where several sharp and dishonest practices were indulged in, from the angle the interests of justice, Courts have in appropriate cases entertained belated cases. That is provided the Court is satisfied about the honesty of the Petitioner's case and the genuineness of the grounds on which the delay has been explained. In the present situation, the Petitioners satisfy neither of the two requirements.

5. It is in the aforesaid situation that I see no ground on which the present writ petitions can be entertained. The notice has been issued to the Respondents who have filed their objections and who have been heard and this Court has consequently evaluated the cases on merits and is therefore disposing of the group of writ petitions through a speaking order.

6. For the reasons indicated above, the petitions in question which are totally devoid of any merits are dismissed. I need to record here that on a careful consideration of the record before me, I find that those writ petitions are the off-shoot of certain other civil proceedings and after perusing the material before the Court the unfortunate finding that is required to be recorded is that the petitions are definitely motivated. It is in this background that the Court is required to award exemplary costs against the Petitioners. The petitions are dismissed and the Petitioners are directed to pay the costs quantified at Rs. 10,000/- per petition.

7. The Supreme Court had occasion to categorise litigation that is coloured, motivated and filed for oblique purposes as fake litigation. This petition answers to that description. What is even more serious is that there is a class of litigants who indulge in illegal activity with impunity and what is further horrifying is the fact that obviously under advice, litigation of the present type is used in order to legitimise illegalities and, shocking as it turns out, in the process the "justice" dispensation system is being perverted for an "unjust" objective. How atrocious the end result is can be fully demonstrated from the present case because the agricultural lands in question were awarded to the Respondents by the Land Tribunal. The 22 Petitioners unabashedly admit that they are in unauthorised occupation or in other words that they are trespassers who have forcibly occupied the lands in question and the only material that is relied upon in their support are a set of tainted documents emerging out of even more tainted acts on the part of thoroughly dishonest revenue officers and the Petitioners have the gumption to approach the High Court in exercise of its inherent powers with such a black record for an order that their occupation of the lands be confirmed. In sum and substance, the land grabbers have attempted to obtain a High Court order to change their status to that of legitimate land owners. In the face of such a record, it is manifestly essential that an example be made of such litigants and that the message goes out loud and clear that the High Court will not tolerate such tactics and it is for this special reason that this Court is awarding exemplary costs that have been quantified at Rs. 10,000/- per petition. It is absolutely essential that the Courts make an example of parties who, through unworthy litigation of this type, pollute the justice dispensation system and clog up the law Courts, impeding and obstructing the avenue of the large number of needy litigants who are waiting for justice.

8. The petitions accordingly fail and stand dismissed with costs.