

**(1979) 04 KAR CK 0016**  
**In the Karnataka High Court**  
**Case No : WP. 3218/79**

A.S. Venkatanarasimhachar

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

**Date of Decision :** 09-04-1979

**Acts Referred:**

Karnataka Land Reforms Act, 1961 — Section 48c

**Citation :** (1979) 2 KarLJ 70

**Hon'ble Judges :** Swami, J

## **Judgement**

1. By consent of parties, this matter even though posted for orders, was treated to be on the list for final hearing.

2. The petitioner who is the owner of the lands in question, has in this petition under Art. 226(1) (b) & (c) of the Constitution challenged the correctness of the order passed by the Land Tribunal, Krishnarajpet, in LRF. CR. 186 of 1978-79, produced as Exts. A and D. By the order dated Nil. produced as Ext. A the Chairman of the Tribunal alone has restrained the parties from entering into the lands in question. By the subsequent order dated 16-3-1979 produced as Ext. D. the Tribunal apart from confirming the stay order, has also appointed the Tahsildar who is the Secretary of the Tribunal as receiver in respect of the lands in question.

3. Shri B.G. Sridharan, the learned counsel appearing for the petitioner, contended that the order of the Tribunal produced as Ext-A is not sustainable inasmuch as it has been passed by the Chairman alone and not by the Tribunal and as far as the second order produced as Ext-D is concerned, it was submitted that the Tribunal in spite of noticing the fact that the RTC. stood in the name of the petitioner, has passed the second order appointing the receiver without there being any prima facie case in favour of the respondents 3 and 4 and without giving any reason.

4. The records of the case have also been received and on going through the records, it was noticed that the order dated nil. produced as Ext-A is passed by

the Assistant Commissioner and not by the Tribunal. The Tribunal consists of not only the Assistant Commissioner as its chairman, but also other members; therefore, the order produced as Ext-A cannot be sustained. As far as the order dated 16-3-1979 produced as Ext-D is concerned, the same also cannot be sustained inasmuch as there was no prima facie evidence whatsoever before the Tribunal to show that on the appointed day, namely, on 1-3-1974, the lands in question stood vested in the State Government. In such cases, the Tribunal is required to decide the question of vesting and the finding on that question will again depend upon the fact as to whether the land or lands in question were tenanted on or immediately before the date of vesting, these facts being jurisdictional facts required to be determined by the Tribunal. The entries in the RTC. are in favour of the petitioner who is the owner of the lands in question and these entries are presumed to be correct until the contrary is proved as per S. 133 of the Karnataka Land Revenue Act, 1964. That being so, without there being any evidence adduced by respondents 3 and 4 to displace the presumption arising out of the entries in the RTC., the Tribunal could not have passed the interim order appointing the Receiver.

5. The order of the Tribunal must contain reasons to justify the appointment of the receiver. In the instant case, the order does not contain any reason to justify the appointment of the Receiver. Consequently, both the orders are unsustainable and the same are hereby quashed. The case now stands remitted to the Tribunal for consideration of the application made by respondents 3 and 4 under Section 48C of the Act, in accordance with law and in the light of the observations made in this order and after affording an opportunity to the parties to adduce evidence and after hearing them. The records of the case be despatched to the Tribunal forthwith.

6. No order as to costs.