

(2012) 08 KAR CK 0362
In the Karnataka High Court
Case No : Writ Appeal No. 16592 OF 2011 (LR)

Basthi Dindas Shenoy and Others

APPELLANT

Vs

Smt. Shariphamma and Others

RESPONDENT

Date of Decision : 06-08-2012

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 17

Citation : (2012) 08 KAR CK 0362

Hon'ble Judges : V. Suri Appa Rao, J;K.L. Manjunath, J

Bench : Division Bench

Advocate : Rajendra Prasad appearing For Sri Ravindranath Kamath, for the Appellant; R. Om Kumar, AGA, for the Respondent

Final Decision : Dismissed

Judgement

1. Heard the learned Counsel for the appellants and Government Advocate for respondent Nos.7 and 8 on admission. The appellants are challenging the legality and correctness of the order passed in W.P. No. 31231/2003 dated 26.08.2011. The appellants were writ petitioners before the learned Single Judge. The appellants claiming to be the legal representatives of one Susheela Bai, who was the wife of late Purushothama Shenoy, challenging the order passed by the Land Tribunal, Puttur in LRYT No. 1914/1974-75 dated 08.04.2003 filed the writ petition, wherein the application filed by one Kunhippa Beary in Form No. 7 has been allowed. According to the appellants, the dispute is in regard to two survey numbers viz, Sy. No. 271/3P measuring 3 acres 55 cents and Sy. No. 235/1 measuring 1 acre 75 cents of Kodimbala Village, Puttur Taluk, Dakshina Kannada District.

2. One Kunhippa Beary filed Form No. 7 claiming to be the tenant of one Smt. Susheela @ Lakshmi Bai by showing Srinivasa Shenoy as landlord in 1975, which application came to be allowed by the Land Tribunal on 13.06.1979. Susheela @ Lakshmi Bai filed a writ petition in W.P. No. 23698/1982 challenging the order passed by the Land Tribunal dated 13.06.1979. On account of amendment

brought into the Karnataka Land Reforms Act (hereinafter referred to as "the Act" for short), the writ petition was transferred to the Land Reforms Appellate Authority, Puttur LRAM No. 141/1986. Since Section 17 of the Act was again repealed, the appeals which were pending before the Land Reforms Appellate Authority came to be transferred to the High Court in C. P. No. 176/ 1990 which was later treated as W.P. No. 13745/1991. This Court on 11.06.1996 allowed the writ petition and remanded the matter to the Land Tribunal. During the pendency of the application before the Land Tribunal, Susheela @ Lakshmi Bai died on 18.11.1997. Later, on 08.04.2003 the application filed by the tenant Kunhippa Beary came to be allowed. Challenging the same, the writ petition was filed on the ground that after the death of Lakshmi Bai, legal representatives were not brought on record and they were not heard in the matter and that the land in question are punja lands and were not brought for cultivation. Therefore, granting of punja lands in favour of Kunhippa Beary was bad in law.

3. The learned single Judge after considering the arguments advanced by the parties came to the conclusion that notices were issued to the legal representatives of deceased Susheela and an Advocate was also engaged and therefore, the allegation that they were not heard in the matter and legal representatives were not brought on record is incorrect.

4. So far as the other point is concerned, considering the developments which have taken place, the learned Single Judge also held that it was not a punja land since the land was brought into cultivation. Accordingly, the writ petition has been dismissed. Challenging the same the present appeal is filed.

5. We have heard Sri M.S. Rajendra Prasad, learned Senior Counsel appearing for the appellants and the learned Government Advocate for the Land Tribunal.

6. Having heard the learned Counsel for the parties, we do not see any error committed by the learned single Judge in dismissing the writ petition for the following reasons:

Admittedly, when the matter was remanded by this Court to the Land Tribunal, Susheela @ Lakshmi Bai was alive. She died during the pendency of the matter before the Land Tribunal. On perusal of the records, it is clear that LRs have engaged the services of a Lawyer and the case is conducted as if it is a regular civil suit. Therefore, the contention of the appellants that they were not heard in the matter and they were not brought on record cannot be accepted by this Court. Even though the learned Counsel for the appellants contends that all LRs were not served, we notice that it was served on few LRs but an Advocate has been engaged by one of the LRs. If the LRs who were served with the notice by the Tribunal have failed to conduct the case and even if one LR has engaged the service of an Advocate and when it is not the case of the appellants that there was an inter se dispute among LRs of Lakshmi Bai, the contention of the appellants that all LRs were not heard in the matter cannot be considered by this Court. There is no rule that all LRs should be brought on record. As stated supra,

there is no inter se dispute amongst the LRs of Susheela @ Lakshmi Bai when one of the LRs had engaged the services of a lawyer and has represented the case of the entire family, the contention of the appellants cannot be accepted.

7. So far as the other ground is concerned, the learned Single Judge has given a categorical finding that punja lands were brought into cultivation and RTC shows the crops grown. When it is stated that paddy was grown in the lands, it cannot be considered as a punja land. Viewed from any angle, we do not see any merit in this appeal. Accordingly, the appeal is dismissed.