
(2003) 01 KAR CK 0047
In the Karnataka High Court
Case No : Writ Petition No. 38307 of 2002

Bhimappa Bhagappa Bharmannavar	Vs	APPELLANT
State of Karnataka and Others		RESPONDENT

Date of Decision : 23-01-2003

Acts Referred:

Citation : (2003) 2 KarLJ 137 : (2003) 1 KCCR 77 SN

Hon'ble Judges : N.K. Patil, J

Bench : Single Bench

Advocate : Laxman T. Mantagani, for the Appellant; M.E. Prabhu, A.G.A. for Respondents 1 and 2, for the Respondent

Final Decision : Dismissed

Judgement

N.K. Patil, J.—This writ petition is directed against the order dated 13-9-1976 passed by the 2nd respondent in No. KLR/SDT/SRC/SR-8/76-77.

2. The case of the petitioner is that he is the tenant of the land bearing Block No. 588, measuring 3 acres 31 guntas situated at Teggihal Village, Soundatti Taluk, Belgaum District. The petitioner has further stated that, he is tenant under his father and since 1965, he is personally cultivating the land in question and his name has been entered in the revenue records. When the matter was pending consideration before the Civil Court, in view of the amendment to the Land Reforms Act, the land in question was vested in the Government. The Civil Court has referred the matter to the Land Tribunal to give a finding as to whether the petitioner proves that he is the tenant of the suit land. The Land Tribunal held that the petitioner is not the tenant of the land in question on the ground that the petitioner himself has admitted that he never cultivated the suit land as tenant. Assailing the said order passed by the Land Tribunal in the year 1976, the petitioner has presented this writ petition.

3. Heard the learned Counsel for the petitioner at considerable length of time. Perused the entire material available on the file and gone through the impugned

order carefully.

4. The principal submission canvassed by the learned Counsel for the petitioner is that, the impugned order cannot be sustained as the same is passed without notice to the petitioner, without recording the statement and without conducting the enquiry as required under the relevant provisions of the Land Reforms Act. It is further contended by him that the name of the petitioner has been entered in the revenue records as the tenant of the land in question and this fact has not at all been taken into consideration by the Land Tribunal and therefore, the impugned order is liable to be set aside.

5. In pursuance of the reference made by the Civil Court, the matter was taken up by the Land Tribunal. The petitioner himself was present before the Land Tribunal. He has stated that he advanced Rs. 2,000/- to one Smt. Dyamavva about 20 years ago with an intention to purchase the suit land but she did not execute a sale deed so far. He has further admitted that he commenced cultivating the land only after paying Rs. 2,000/- to Smt. Dyamawa. He has agreed that he obtained a pavati from her but he could not trace it out. He has further agreed that he never cultivated the suit land as tenant. In view of the categorical statement made by the petitioner, the Land Tribunal held that the petitioner is not the tenant of the suit land.

6. It is significant to note that the petitioner himself has stated in unequivocal terms that he is a tenant under his father. The said admission made by the petitioner itself shows that he is cultivating the land as a tenant under his own father. When this question was specifically posed by this Court to the learned Counsel for the petitioner, instead of answering the question, he has submitted that this Court can proceed with the orders on the ground that the Land Tribunal has not conducted the enquiry as required under the Act. Having regard to these facts, I do not find any justification to interfere with the impugned order.

7. Yet another reason on which the writ petition is liable to be dismissed is delay and laches. The petitioner has presented this writ petition on 8-10-2002 challenging the order passed by the Land Tribunal on 13-9-1976. There is inordinate delay of more than 2 1/2 decades and the same has not been explained by the petitioner. Further, the petitioner has not stated true facts. It is clear from the impugned order that the petitioner himself has admitted that he never cultivated the suit land as tenant. Further, it is relevant to note here itself that after passing the impugned order, the same was communicated to the petitioner. The petitioner received the same and put his thumb impression on 16-12-1976. The same is found at page 2 of the impugned order. Therefore, it is clear that the petitioner was aware of the order passed by the Land Tribunal as early as 16-12-1976 but this fact is intentionally and deliberately suppressed by him.

8. Having regard to the facts and circumstances of the case as stated above, the writ petition is liable to be dismissed. Accordingly, it is dismissed.