

(1998) 02 KAR CK 0040
In the Karnataka High Court
Case No : Writ Petition No. 20663 of 1997

B.R. Manjegowda

APPELLANT

Vs

State of Karnataka and Others

RESPONDENT

Date of Decision : 18-02-1998

Acts Referred:

Constitution of India, 1950 — Article 31 (2)

Mysore Religious and Charitable Inams Abolition Act, 1955 — Section 9

Citation : (1998) 3 KarLJ 68

Hon'ble Judges : G.C. Bharuka, J

Bench : Single Bench

Advocate : Shri N. Srinivas, for the Appellant; Shri S.V. Jagannath, A.G.A. and Sri Jayakumar S. Patil, for the Respondent

Judgement

1. The present writ petition is directed against the order dated 27-2-1997 passed by the Land Tribunal, Belur Taluk, Hassan District, granting occupancy right in favour of one B.M. Siddegowda (third respondent) in preference to the petitioner who had also made a similar claim. The Tribunal has purported to pass the order under the provisions of the Karnataka (Religious and Charitable) Inams Abolition Act, 1955 (in short "the Act") as amended by the Karnataka Inams Abolition Laws (Amendment) Act, 1979.

2. Earlier to the Amendment Act 26 of 1979 the power of adjudication of occupancy claims were given to the Deputy Commissioners as provided u/s 9 of the Principal Act, but by the above Amendment Act, the said power was vested in the Land Tribunal.

3. But subsequently this Court in its order dated 24-4-1992, i.e., Shri Kudli Sringeri Maha Samsthanam Vs. State of Karnataka, , has held that:

"Karnataka Inams Abolition Laws (Amendment) Act, 1979, Sections 3(9) and 4(2) Mysore (Religious and Charitable) Inams Abolition (Karnataka Amendment Act of 1979 including Sections 2, 3(6), 4(2) -- Denying compensation to

Inamdars beyond competence of State Legislature and colourable legislation -- Stillborn, null and a void Act, infringing Article 31(2) of Constitution of India -- 1984 Amendment Act superfluous".

The decision of this Court was questioned in SLP Nos. 3246 and 3247 of 1993 by the State Government and the Supreme Court dismissed the same in its order dated 8th August, 1996.

4. Further, this Court in Writ Petition Nos. 29071 to 29089 of 1994, decided on 14-2-1997, has held that the entire Karnataka Inams Abolition Law (Amendment) Act, 1979 has been declared as invalid without confining to any one or either of the Act namely Mysore (Personal and Miscellaneous) Inams Abolition Act, 1954 and the Mysore (Religious and Charitable) Inams Abolition Act, 1955. It has also directed the State Government to take steps and appoint such officer as the Deputy Commissioner within 4 weeks from the date of receipt of the order, in default of which the Deputy Commissioner may proceed and dispose of the same in accordance with the provisions of Act 1 of 1955.

5. Keeping in view the said developments the State Government under its letter No. RD 90 INH 97, dated 30-8-1997 have directed all the Deputy Commissioners of the concerned districts to take necessary steps to dispose of the pending applications filed under the respective Inam Abolition Acts in accordance with the provisions of those Acts as they stood before they were amended by the Karnataka Act 26 of 1979 and Karnataka Act 18 of 1985 pending amendment of the said Acts.

6. Keeping in view the aforesaid aspects since the impugned order of the Tribunal has been passed after the Amending Act was declared to be ultra vires, therefore it is without jurisdiction and it is accordingly quashed. The Deputy Commissioner, Hassan, is directed to secure the relevant files and documents and dispose of the applications filed by the contesting parties within three months from the date the certified copy of the present order is filed before him by either of the parties. Parties to appear before the Deputy Commissioner with a copy of the present order on 16-3-1998.

7. Writ petition is allowed to above extent only, No costs.