

(2008) 07 KAR CK 0064

In the Karnataka High Court

Case No : Writ Petition No. 26240 of 2003

B.R. Shivarama Reddy, Since deceased by his L.Rs. Smt.
Narasamma Reddy etc., B.S. Krishnarjuna Reddy and B.S.
Nagarjuna Reddy

APPELLANT

Vs

The Land Tribunal Pavagada and State of Karnataka

RESPONDENT

Date of Decision : 07-07-2008

Acts Referred:

Karnataka Land Reforms Act, 1961 — Section 2 (18), 63 (2), 67 (2)

Citation : (2009) 5 KarLJ 657

Hon'ble Judges : B. Sreenivase Gowda, J

Bench : Single Bench

Advocate : S.K. Venkata Reddy, for the Appellant; R.B. Satyanarayana Singh, HCGP, for the Respondent

Final Decision : Allowed

Judgement

B. Sreenivase Gowda, J.—This writ petition is by the owners of land challenging the order of the 1st respondent-Land Tribunal dated 22/4/2003 passed in Nos. LRF.CR.264"74-75, LRF.CR.290:74-75 & LRF:CR:291:75-75 vide Annexure-"A" declaring certain extent of lands belonging to them as excess lands and ordered for resumption of the same in favour of the Government.

2. I have heard Sri S.K. Venkata Reddy, learned Counsel appearing for the petitioners and Sri R.B. Satyanarayana Singh, learned High Court Government: Pleader appearing for the respondents.

3. Few facts that are necessary for disposal of this writ petition are as under:

Late Sri B.R. Shivarama Reddy, and his two sons viz., Sri B.S. Krishnarjuna Reddy and Sri B.S. Nagarjuna Reddy filed declarations under Sections 66 of the Karnataka Land Reforms Act. (hereinafter referred to as "Act") in the prescribed Form No. 11 as per Annexures-B, C and D to the 1st respondent-Land Tribunal for declaration of the extent of lands held by them.

4. Sri S.K. Venkata Reddy, learned Counsel appearing for the petitioners submits that the Land Tribunal without considering the matter in accordance with the provisions of the Act particularly with reference to Sections 2(18), 63(2) and 67(2) by impugned order Annexure-"A" dated 22/4/2003 declared certain extent of land held by the petitioners as excess land and ordered for resumption of the same in favour of the Government.

5. The word "land" has to be understood in the context in which it is defined in Section 2 of Sub-section (18) of the Act. According to Section 2 of Sub-section (18) of the Act the Tribunal while calculating the extent of land held by the declarant ought not to have taken into consideration the house site or the lands, which are used exclusively for non-agricultural purposes.

6. The Land Tribunal after calculating the total extent of land held by the declarant in the light of Section 2 of Sub-section (18) of the Act is required to calculate the extent of land entitled to be held by the declarant in the light of Section 63(2) of the Act, which reads thus;

63(2) The ceiling area for a person who is not a member of a family or who has no family or for a family shall be ten units:

Provided that in the case of a family consisting of more than five members the ceiling area shall be ten units plus an additional extent of two units for every member in excess of five, so however that the ceiling area shall not exceed twenty units in the aggregate.

If the Land Tribunal after doing its exercise as contemplated u/s 2(18) and 63(2) of the Act, comes to a conclusion that out of the total extent of land held by the declarant certain extent of land is to be declared as excess, then it has to issue notice to the declarant asking him, out of total extent of lands held by him which of them he would like to surrender in favour of the Government as required u/s 67(2) of the Act.

7. Sri R.B. Satyanarayana Singh, learned High Court Government Pleader appearing for the respondents fairly conceded that the Tribunal has not considered the declaration tiled by the petitioners in the light of the provisions of Section 2(18), Section 63(2) and 67(2) of the Act.

8. I have gone through the record, and I have noticed an error apparent, in the impugned order Annexure-"A" that the Tribunal has not considered the matter in accordance with the provisions of Section 2(18) Section 63(2) and 67(2) of the Act, When that being so, it cannot be said the impugned orders are sustainable in law and therefore, I deem it just and proper to remit the matter to the Land Tribunal for reconsideration. Hence, the following:

ORDER

The writ petition is allowed. Rule issued earlier is made absolute. The impugned order Annexure-"A" dated 22/4/2003 passed in No. LRF:CR:264:74-75,

LRF:CR:290:74-75 & LRF:CR:291:74-75 are set aside and the matter is remitted to the Land Tribunal with a direction to reconsider the declaration filed by the petitioners viz., late Sri B.R. Shivarama Reddy and his two sons viz., B.S. Krishnarjuna Reddy and B.S. Nagarjuna Reddy in accordance with law, particularly with reference to Section 2(18), Section 63(2) and 67(2) of the Act, after issuing notices to the parties and after providing them an opportunity of hearing and if necessary, by permitting them to lead evidence in support of their claim that the total extent of land held by them is not excess.

Sri R.B. Satyanarayana Singh, learned High Court Government Pleader is permitted to file his memo of appearance within two weeks.